

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

**Radisson Plaza-Warwick Hotel
Philadelphia, Pennsylvania
October 25, 2012**

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1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 9, 2012 by consent** (Page 1).
3. **Move that the spiny dogfish quota for 2013 and 2014 be set at 40.842 million pounds; 2014 to 2015 be set at 41.784 million pounds; and for 2015 to 2016 be set at 41.579 million pounds; and the RSA be set at up to 3 percent starting in 2014 and 2015** (Page 10). Motion by Pat Augustine; second by Terry Stockwell. Motion carried (Page 15).
4. **Move for a 4,000 pound trip limit for the 2013 and 2014; 2014 and 2015; 2015 and 2016 fishing seasons** (Page 13). Motion by Pat Augustine; second by Terry Stockwell. Motion carried (Page 15).
5. **Move to adopt the coastal shark specifications for 2013 as proposed by the National Marine Fisheries Service Highly Migratory Species Office** (Page 16). Motion by Pat Augustine; second by David Pierce. Motion carried (Page 17).
6. **Motion to adjourn by consent** (Page 20).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
Doug Grout, NH (AA)	Roy Miller, DE (GA)
G. Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Bill Goldsborough, MD (GA)
Rep. Sarah Peake, MA (LA)	Jack Travelstead, VA (AA)
Bob Ballou, RI (AA)	Rob O'Reilly, VA, Administrative proxy
Rick Bellavance, RI, proxy for Rep. P. Martin (LA)	Cathy Davenport, VA (GA)
Bill McElroy, RI (GA)	Louis Daniel, NC (AA)
David Simpson, CT (AA)	Bill Cole, NC (GA)
Rep. Craig Miner, CT (LA)	John Duren, GA (GA)
Lance Stewart, CT (GA)	Robert Boyles, SC (LA)
Pat Augustine, NY (GA)	Patrick Geer, GA, proxy for S. Woodward (AA)
Jim Gilmore, NY (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Tom Fote, NJ (GA)	Wilson Laney, USFWS
Peter Himchak, NJ, proxy for D. Chanda (AA)	Peter Burns, NMFS
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Karyl Brewster-Geisz, NMFS HMS
John Clark, DE, proxy for D. Saveikis (AA)	

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

Ex-Officio Members

John Tulik, Law Enforcement Committee Representative

Staff

Bob Beal	Melissa Paine
Toni Kerns	Danielle Chesky
Marin Hawk	

Guests

David Pierce, MA DMF	Mark Alexander, CT DEEP
Nichola Meserve, MA DMF	Greg DiDomenico, GSSA
Dan McKiernan, MA DMF	Rick Tobins, MA FMC
Sean McKeon, NCFE	Amanda Keegan, OCEANA
Raymond Kane, CHOIR	Hetti Brown, HSUS
Tom McCloy, NJ, proxy for D. Chanda (AA)	Janice Plante, Commercial Fisheries News

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Radisson Plaza-Warwick Hotel, Philadelphia, Pennsylvania, October 25, 2012, and was called to order at 10:30 o'clock a.m. by Executive Director Robert E. Beal.

CALL TO ORDER

EXECUTIVE DIRECTOR ROBERT E. BEAL: We'll call the Spiny Dogfish and Coastal Shark Management Board together.

APPROVAL OF AGENDA

EXECUTIVE DIRECTOR ROBERT E. BEAL: The first order of business is to review the agenda. We're going to switch Items Number 4 and 5. We're going to move Number 5 ahead, which is the update of Amendment 3 to the Federal Spiny Dogfish FMP.

We will do that before we do dogfish specifications. It is probably a more logical flow to things and we can see where the Mid-Atlantic Council is going with their amendment and then we can consider ASMFC specifications for the following year. With that change, are there any other changes or other things that need to be added to the agenda? Seeing none, the agenda stands approved.

I guess before we get too far I should make the comment that Mark Gibson is the chair of this management board. Mark tweaked his knee last night so he is heading home early to have a doctor look at it or at least get some pain killers. He is not here today to chair the meeting and this board does not have a vice-chair at this time.

We will elect one at the end of today's meeting; but as the Charter states, the senior staff from ASMFC can step in and chair a board meeting when the chair is unable to be there, so that is why I am up here.

APPROVAL OF PROCEEDINGS

Moving on through the agenda, the proceedings from August 9th of this year; are there any changes or modifications for those minutes?

Seeing none, is there any objection to approving those minutes? All right, seeing none, those stand approved.

PUBLIC COMMENT

EXECUTIVE DIRECTOR ROBERT E. BEAL: Public comment; is there any public comment before the Shark and Spiny Dogfish Management Board? Seeing no hands in the back of the room, we will keep moving through the agenda.

UPDATE ON DRAFT AMENDMENT 3 TO THE FEDERAL SPINY DOGFISH FMP

EXECUTIVE DIRECTOR ROBERT E. BEAL: We are going to now tackle the update with Draft Amendment 3. Jim Armstrong has come over from the Mid-Atlantic Council. Thank you, Jim, for coming over and I think you spared Paul Rago a trip down from New England on the spiny dogfish assessment stuff, so thank you for that.

MR. JIM ARMSTRONG: I'm sure Paul appreciates that, too. I'm going to go fairly quickly through this presentation. It is the same one I gave to the Mid-Atlantic Council at our meeting in Long Branch. Then there was discussion and the council chose its preferred alternatives and approved the amendment. Since that doesn't have to happen, I can hop through it a little quicker. There are four issues in Amendment 3; research set-aside, updating EFH, dealing with delays in rulemaking and the quota allocation, which is probably the most important issue in there.

There were three alternatives under the RSA issue; do nothing, allow for a 3 percent set-aside or allow for up to a 5 percent set-aside. The 5 percent set-aside was rationalized by the low value of dogfish. During the auction process, the marginal benefit for bidding on dogfish was thought to be perhaps enhanced by a higher quantity there.

What I'll do when I go through this is I have green checkmarks – this amendment has also been approved by the New England Fishery Management Council, so a green checkmark indicates their preferred alternative. Then if something is circled in red, it indicates that there was support for that during public hearings.

You see there that 1B, the 3 percent set-aside, which is the same as all the other Mid-Atlantic FMPs, was supported by both groups. EFH is

something that we just have to update periodically for dogfish. There is not really a no action alternative on this because you have to at least review EFH. The action then was to actually update the EFH definitions based on the latest biological data.

Here we have a figure showing juvenile dogfish EFH and that is fairly extensive on the coast there and the EEZ. Here we have the updated definition so that is also a lot of area. Adult EFH and then updated. It is not a new world we're living in with that. The EFH definitions are life-stage specific.

So for dogfish, because there are juvenile and there are adult dogfish, but those designations – the designation of adult dogfish is sex-specific and size-specific. There was some difference in the updates as well in the math and how the ranking was done for the ten-minute squares, and the temperature, salinity and depth preferences were modified slightly.

There was support in public hearings for the no action alternative. Some folks I guess saw it as a waste of time. There was support by the New England Council for the action alternative to go ahead and update using the latest data, and there were some public comments supporting that as well.

Delayed implementation; if there is a delay at the beginning of the fishing year in implementing the new management measures, the effective date, in other words, of the final rule is after May 1st, then the only thing that is retained between May 1st and that effective date is the trip limit. That is just kind of a little administrative hiccup that we're going to fix by making sure that all management measures are maintained until replaced by the new measures. That received support.

Quota allocation; this is kind of the crown jewel of the amendment. As you are all probably aware, there is a conflict in federal and interstate FMPs with regard to how the coast-wide quota is allocated. The federal quota is still allocated seasonally under two periods; Period 1 getting 57.9 percent of the quota and Period 2 getting 42.1 percent of the quota. That is a proxy for geographic allocation.

While the commission has gone ahead and adopted geographic allocation directly, the

federal plan is now conflicting with that so that state fisheries could be open, the Federal Period 1 quota gets caught and then federal waters close and state waters are still open. For federal permit holders, if they want to continue fishing in state waters, they have to drop their federal permit.

Because they're in possession of a federal permit, you cannot be in possession of dogfish when the federal fishery is closed, so there is that kind of problem there. The idea here is to minimize the conflict between the two plans. The two ways of doing that are to either not allocate the federal quota at all or to match identically the interstate allocation of the quota.

So 4B is to just have a coast-wide quota and 4C is to match the geographic allocation. 4C is bit more complicated because there is just a lot more to it. It would require regional accountability measures. The federal plans now are required to have accountability measures in case the annual catch limit is exceeded.

Because of the timing of the federal data and the federal cycle in specifying things, we typically would have a one-year lag, so payment for an overage this year would not be until two years from now. Because of the periodic review under the interstate plan, the federal plan would also – because there is the potential for adjusting the allocation under the interstate plan under that review and just the speedier process that the commission uses, that was a shortcoming of this alternative under the federal plan, and so the idea was to make it a framework adjustment so that we can do it as quickly as possible to keep pace with the changes in the interstate plan.

Like the interstate plan, there would have been trading of the quota. However, it would not have accommodated the overage provisions that are in the interstate plan. Here you have your percentages that I'm sure you all know very well. The percentages are from Addendum IV. What this table shows me – and if we spend enough time on it, it might be evident to you as well – is that with the geographic allocation of the quota beginning I believe in 2009, but what we have basically is 2000, the first year in this time series, is when the federal plan went into place and then go through 2010 and we see a shift to the I guess optimized split of the coast-wide landings; 58 roughly to 42. It is not perfect but it is getting close.

The potential for continued problems even under either of the action alternatives are when the quotas are different because ideally you would have, under either one, the final state closing and federal waters closing on exactly the same day; but if the quotas are different, then that closure is going to occur at different times.

So, no matter how we fix it, anytime the quotas are different there is still going to be some problems. I think that because of the idea that would happen for every state and region versus just at least once at the end of the year under Alternative 4B was part of the reason for the matching one not getting as much support.

So, what the New England Council and some of the public supported was the elimination of an allocation scheme within the federal plan, to just specify a coast-wide quota. We had hearings where you got written comments. We're hoping for a May 1 implementation date. Basically, the motion that was put in place by both the New England Council and the Mid-Atlantic Council was to support the B alternatives under all the issues; so 3 percent RSA, update EFH, to maintain all management measures after the start of the fishing year until replaced by the new measures, and to eliminate the seasonal allocation or coast-wide quota. That will do it for me for a little bit.

EXECUTIVE DIRECTOR BEAL: Thank you, Jim. Are there questions of Jim on where the Mid-Atlantic Council and the New England Council recommendations are going for Amendment 3? David.

DR. DAVID PIERCE: Not so much a comment but just a conclusion; the conclusion is that both councils have determined that ASMFC management of spiny dogfish by geographic region is the way to go and that the council should follow ASMFC's lead because the way we're handling it, which is a very effective way of handling it, and we deal with the specific objectives that the councils have had for so many years; that is, protecting the interests of the southern states and the northern states by geographic distribution. So, it is a very good outcome and I'm pleased with what was done by both councils.

EXECUTIVE DIRECTOR BEAL: Thank you, David, and I think Jim made an important point in one his last slides, which is if the ASMFC and

the councils and the federal government starts out with different quotas at the beginning of the year, there are still going to be problems no matter how the fishery is allocated. If both groups are on the same page, things will work a lot better. Pete.

MR. PETER HIMCHAK: Yes, just an observation on the alignment of the plans has the benefit of reducing management uncertainty and quota monitoring. New Jersey went over 180,000 pounds for the 2011/2012 season and that was due because of the confusion on who to notify about what closure, and it affected them. I'm very happy to see this amendment and quota overages are not likely to occur by any substantial amount.

EXECUTIVE DIRECTOR BEAL: Thank you, Pete; you're right, there have been examples of problems with the differing allocation schemes that we've have. Are there any other comments on Amendment 3 or questions for Jim? All right, seeing none, we will move on to what was originally Agenda Number 4, and Jim Armstrong is going to give us an update on the stock assessment and reference points.

SET 2012/2014 SPINY DOGFISH SPECIFICATIONS

SPAWNING STOCK BIOMASS AND REFERENCE POINT UPDATE

MR. ARMSTRONG: This is another presentation that was for the council's use. This is a flow chart that shows the federal process. Once we get an assessment update, which is the first step in that – so up here we're dealing with our SSC scientific uncertainty going from an overfishing limit that is a product of this assessment update.

It is a catch level corresponding to the F to Fmsy, and then scientific uncertainty is taken into account such that the confidence that overfishing limit will not be reached is acceptable, and that is acceptable biological catch. We then acknowledged that there is a Canadian fishery, not much of one anymore, but they're going to catch what they're going to catch.

Since the unit stock extends into Canadian waters, we take what we think is going to be caught there out to get a domestic ABC. We set

that equal to our annual catch limit. Then the Monitoring Committee considers sources of management uncertainty and establishes a buffer if necessary to come up with an annual catch target. The catch includes landings and discards, so we take discards out to get our TAL.

Then we split it out into recreational and commercial components from there. Just a history of spiny dogfish catch, in the mid-nineties there was an unregulated fishery that targeted mature females. The stock was declared overfished in 1997 and a federal FMP was implemented in 2000. Landings were greatly reduced through very restrictive trip limits and very low quotas.

The management approach during that period was to have just a bycatch allowance, a very low bycatch allowance. Landings were greatly reduced during that period. In 2010 we got a letter from NMFS noting that the 2008 and 2009 biomass estimates were both above B_{msy} and so the stock was officially declared rebuilt then.

The quotas were expanded. Actually the first expansion was in 2009, prior to that letter being received achieving the F rebuilding fishing mortality rate, even the quota was tripled, I believe. Here is the history of biomass estimates since 1982, and there are three types here, an average, a three-year average and a stochastic estimate – I'm sorry, a point estimate, three-year average and a stochastic estimate.

This reflects the catch history. You see this decline here in the mid-nineties during that unregulated fishery, then a low period when even after the fishery was eliminated, and then the current high period. Some of the jumps in biomass here are actually biologically unreasonable, going from this low to a high in such a short period of time given what we believe we know about the life history and growth rates for this species.

But, the general trend of high/low/high is probably pretty dependable. For 2012 we have a biomass estimate – this is actually the distribution of stochastic estimates of spawning stock biomass or mature female biomass. The median value or modal value there relative to this vertical blue line is how high above the B_{msy} target we are.

The green vertical line is the biomass threshold, so the stock is definitely not overfished. Here is the latest stochastic estimate of fishing mortality. The F_{msy} , which would define overfishing, is 0.2439, so that is off the charts and there is almost a zero percent chance of overfishing occurring right now, or in 2011.

In summary the stock status is that spiny dogfish are not overfishing and overfishing is not occurring. SSB and effort are stable now. Actually SSB has increased. The point estimate of SSB is 215,444 metric tons, which you compare that to the 160 or so thousand metric ton B_{msy} target. Fishing mortality $F-1$, which is the F on mature females or exploitable females is 0.114, much below the 0.2439 F_{msy} value.

That is the information that was used to get us into this stage of the process. Actually another step that we have come up with in the federal process is to go to our AP and develop a fishery performance report. It provides the SSC in the absence of an abundance of biological data with other sources of information to consider that might be driving at least landings.

It was observed that the fishery has underperformed early in this year. The word along the waterfront is that was because the water was warm and the fish were offshore. Given their low value, there wasn't a lot of interest in going way offshore to catch dogfish. The economy in Europe, where most of the product ends up, is not well and that may be constraining demand. The market right now is not ready for huge increases in dogfish supply, but it is possible with larger quotas over a multi-year timeframe that other processors may get into the business. Longer term specifications are considered to be desirable for planning.

Of course, in North Carolina, the closure of the Inlet, with the problems there, may have been reducing the landings there outside of either availability or potential effort. There was a recommendation for developing models to look at a male dogfish fishery. That has been something that has been around since the federal fishery management plan first came up.

Male dogfish are typically not a large component of the overall landings. There are plenty of male dogfish out there and probably at least at a two to one and maybe four to one ratio to females. If somebody could come up with a way to market

those things, they would have a lot dogfish to land.

There was also interest expressed at the AP in limited entry. The fear is that if trip limits are increased dramatically that new entrants may flood the fishery and some of these may be less skilled or less able to avoid protected resources and things like that. This is from the quota monitoring page that the northeast regional office maintains.

Two figures; the top is 2011 and what you see in the blue line are the actual landings. The green line is what the landings would be if they were constant and started at zero and then achieved the Period 1 quota on October 31. Then the yellow line is the previous year's landings trajectory. You can see here in 2011 that the steepness of the landings, you know, harvest rate basically was greater than that constant rate, and so we got to a period where the fishery had to be closed prior to the end of Period 1.

If we look at the current year, then what we have is that lag that I spoke about from the AP where landings were coming in at a pretty low rate and then finally started to pick up. Had they been at the rate they are currently from the beginning, we'd probably have been right on catching the whole quota, but right now it looks like it is on target to underharvest the Period 1 Quota.

Okay, at the council meeting John Boreman hops in at this point and gives the SSC presentation. I'll just say that our SSC designated this assessment as a Level 3 Assessment and then applied the risk policy accordingly. They came up the following ABC recommendations and the request, because under the federal plan we can specify management measures for up to five years – there is no harm really in finding out how many years we can get out of the SSC, so we asked for five and they gave us three, so we have ABC recommendations at roughly 25,000 metric tons constant from 2013 through 2014.

Then there are various sources of uncertainty and stuff like that. Those ABC recommendations are taken to the Monitoring Committee that meets jointly and overlaps, for the most part, with the commission's technical committee. We discuss what the appropriate quota and other management measures if necessary would be based on that total catch.

So ABC for next year would be a little under 25,000 metric tons, which is roughly 54 million pounds. That is quite a bit more than we have been landing lately. That is total catch, though, of course. It includes discards. The Canadian landings; what we did is we took the average of 2009 through 2011 because the Canadian fishery kind of fell off the table in 2009, so we consider ourselves to be in that regime or era, stanza, whatever the word is.

So we take those Canadian landings out and get our domestic ABC. I think proposed to the Monitoring Committee that we use a management uncertainty buffer based on the overages that occurred since 2010. 2010 is kind of the effort stanza that we have been operating under. It is related to the big transitions and effort that occurred after the transition to sectors in New England.

I proposed that we deduct that actually as a percentage. The average of the overages for 2010 and '11 was 3.99 percent, and I took that out of the ACL to get an ACT, and then I took discards out to get total landings, and then we take recreational landings out and we get our quota. Well, the Monitoring Committee and technical committee thought that those quota overages would better be deducted from the quota; that if we went through this process and didn't take management buffer out and came up with a quota, then take those overages out from that resulting quota because it wasn't catch.

That is a huge component and you are nearly doubling the deduction there. That was considered to be the most appropriate way to do it, so what we did was we kind of went through it that way and then put it back in at the top and worked it out and we came up with a 40.8 million pound quota for 2013.

The sources of management uncertainty that we were looking at; here are the four panels that show landings versus quota; we had an underage in 2010 and then an overage in 2011. A lot of that was that kind of unusual occurrence with the unlicensed transporter that was discovered in Massachusetts, and that has been fixed there since.

In terms of other sources of removals or other types of removals like discards, Canadian and recreational, we have tended to overestimate those. When we look at the total catch, we

haven't really in recent years, anyway, have been exceeding that, but nevertheless we couldn't accept that management uncertainty is zero, so we applied that average there.

Here we have just the fishing mortality compared to the threshold to show that whatever we have been doing has not been resulting in overfishing. This thing back in 2004 was kind of a fluke and that was during rebuilding when the quota was really low and it had to do with very large fish getting caught. Only Paul Rago can explain that.

Another issue we talked about was discards, and we observed that discards, which is the blue line here, total dead discards has been very flat since about 2002 or so or even before then, but it is very flat in recent years. We also noted that the discard to landings ratio has actually been declining.

This is dead discards compared to – let's see, the open circles are dead discards compared to landings and the blue squares are total discards compared to landings, but you can see that even as we have been increasing the quotas, discards have remained flat, which means that discard to landings ratio has been going down.

The Monitoring Committee and technical committee chose to take a long-term average based on this period of time here. We went back ten years and took the average of the discards and deducted it by that. We are fairly confident that trend was going to continue. That first table I showed you where we worked from the top, from OFL down to the commercial quota, did that for three years, and then – yes, I'll summarize those values for you after I deal with trip limits. There was a discussion of trip limits in an analysis that was done by folks at the northeast regional office, Toby Curtis, Mark Brady and Mike Pitney. They wanted to see if the current trip limit for federal waters – that is 3,000 pounds – was constraining and provide insights into the trips that might be impacted if the trip limit was changed.

Here is a histogram of the number of trips, 20,350 for two years, 2010 – well, two years and some – two and a half years. What you see is this big spike over here at 3,000 pounds. It turns out that about a third, roughly, in each of those years of the landings are right at the trip limit, so it is likely that regulatory discarding is occurring for those trips.

Those trips would probably continue to fish or retain dogfish if the trip limit was higher. Their conclusions were that the current 3,000 pound trip limit was constraining a significant portion of dogfish trips; and if it were increased, it would impact a large portion of the trips. They did a hypothetical where they said, well, if the landings rate in 2011 was maintained for these 40 million pound quotas and that was under a 3,000 pound federal trip limit, would the total quota have been caught, and it looks like, yes, it probably would have been caught.

The 2010 rate or the 2011 rate come in fairly close to catching the entire quota at status quo trip limits. Then, of course, you consider the trajectory that we're currently on and it may be that the quota wouldn't get caught, so it kind of unclear. The fishery may be able to land a 40 million pound quota with a 3,000 pound trip limit, but trip limits significantly higher than 3,000 pounds would probably result in a closure of the fishery before the end of the year.

Then, again, these tables, the same one I showed you for 2013 times three, in readable form I have the ABCs which are equal to the ACLs, the management uncertainty accounted for to get the ACTs for three years, the TALs, and then the quota. And then because both councils had approved Amendment 3 to allow for RSA, we kind of missed the boat on 2013 for RSA, but the councils went ahead – or the Mid-Atlantic Council went ahead and approved a deduction of the commercial quota for RSA, so that would be 3 percent of the quota.

There was a comment made wouldn't that be 3 percent of the TAL? No, because the recreational catch is not regulated. It is just a deduction based on expected recreational landings. If you did it off the TAL, you would take 3 percent of that larger number, then you take the same recreational deduction, anyway, and you would end up with a smaller commercial quota. I just wanted to clarify that. Then the council also recommended an increase from the current 3,000 pound trip limit to 4,000 pounds in all of the specification years. I have those motions but I'll just leave it up on this slide.

EXECUTIVE DIRECTOR BEAL: Thank you, Jim. Are there questions for Jim on the stock assessment as well as the actions taken by the Mid-Atlantic Council? Doug Grout.

MR. DOUGLAS GROUT: Jim, when Dr. Rago has come here before, he has made us quite aware of several years of poor recruitment that we went through. I remember from last year's assessment that while we were on an upward trajectory that some time in the near future there was going to be a temporary downward trajectory in the abundance of spiny dogfish. Looking at the three recommended quotas through 2015 and 2016, I don't really see anything like that happening. Has there been any change in that expectation that we're going to see a temporary downturn here in the future?

MR. ARMSTRONG: I shouldn't have breezed through that. I said, well, we tried to get five years out of the SSC and we got three, but I didn't say why, and that is exactly why. The downturn or the ratio of biomass over Bmsy is expected to be less than 1. It is supposed to go down below SSBmax, which is our Bmsy proxy in I believe it is 2017, but they didn't want to go ahead and go right up to the brink in 2016.

They backed off of that and gave us three years. The other important thing is that both the Monitoring Committee and the SSC over this multi-year specification period want to look at as much information as they can to monitor the performance about the fishery and the stock. In fact, the level of detail that the SSC wanted to examine would necessitate an assessment update in every year. It is tough on Paul but easy on me kind of, you know, assuming that it keeps saying what it is saying. We both anticipate that downturn in about four years, and we're ready, if it happens sooner.

MR. ROB O'REILLY: I think this is a followup to that. In terms of the risk analysis, I'm not really clear when the SSC met and wanted to hold short to three years. Did they then have some type of probability associated with having the three-year quota stanza? In other words, is there some type of information that SSB would be expected to decline a certain amount even within that three years before 2017 but by 2015 and the fishing mortality rate was expected not to increase by some probability. Is that part of what they do or how does that work?

MR. ARMSTRONG: Well, it wasn't really quantitative in terms of relationship to some – you know, like the proximity of SSB to Bmsy, you know, crossing some threshold, except for the B over Bmsy less than 1. Like I said, they

didn't want to have that be expected the following year so that when they make ABC recommendations, that they're on the last year where that ratio is above 1.

They wanted to be able to come in earlier, so it was just – it was really a judgment call on their part to back off of that. There is – and it is reflected in the ABC values that 2014 is supposed to be the peak and then there is a bit of a decline; but then as that decline continues and goes below 1, the ratio goes below one 2017, but you can see the ABC for 2015 being less than 2014.

MR. O'REILLY: I guess listening to Jim I wasn't sure when you talked about the three-year assessment; is that going to be the approach and what type of – is that the approach? The Monitoring Committee; what information will they review during these three years as a matter of course? I guess maybe you can just tell me if the assessment is scheduled now for three years hence.

MR. ARMSTRONG: I don't think there is. Actually, I don't think spiny dogfish is even on the assessment planning horizon. That was one of the constraining factors for some of the other multi-year management measure limitations like a two or a one or three-year for I think summer flounder, scup and black sea bass. I know bluefish only got two years because we're expecting an assessment in that third year or maybe the second year. What was the other part of your question?

MR. O'REILLY: Jim, I guess the other part was the Monitoring Committee will meet, I assume, all through this period that the quotas are recommended and will have certain criteria they will review. Could you talk about that a little bit?

MR. ARMSTRONG: Yes, just as the SSC is looking for signpost changes in discard to landings ratios or the size composition, distribution, just anything that says something is kind of changing that is an important level or large scale in the fishery, the Monitoring Committee would I guess more be focused on the quota performance or the fishery performance.

Our discussion of taking another look even during a multi-year specification period was

really related to the trip limit. The Monitoring Committee didn't make a trip limit recommendation because it is not really a biological issue. It is considered to be a policy call, whether you want to risk an in-season closure or not or for whatever economic reasons do you want one trip limit or another.

However, the Monitoring Committee did review this trip limit analysis and discussed the potential for an increased trip limit and came to the conclusion that we'd rather see another year at least of the fishery performing at – operating under these high quotas with the trip limit not changing just to see what effect the current trip limit is going to have, because the fishery typically closes at some point during the year. I guess just from an analytical standpoint they wanted to see if indeed it wouldn't close and then we could make more of an informed comment on the constraining effect of the trip limit.

DR. WILSON LANEY: Mr. Chairman, Doug asked the first question that I was going to ask Jim about the low recruitment window there. You made a comment when you were reviewing the assessment that some of the jumps in biomass were unreasonable given the life history of the spiny dogfish. I was just wondering if the technical committee or Monitoring Committee had an alternate explanation for how the biomass could jump that much.

MR. ARMSTRONG: Well, we basically think that there is a lot of uncertainty in these estimates and that the general direction of the changes is probably more – there is greater confidence associated with that than with the absolute magnitude of the value at any point in that time series.

DR. LANEY: Jim, relative to the fact that we are fishing on much higher quotas now; is the Center – I guess is Paul looking at the age structure of those older females? I'm asking that question from the perspective of we got into that low recruitment stanza before because the fishery was targeting very large, mature females; so is there some likelihood that we could wind up getting there faster again because we are raising the quotas and we're sort of possibly – I guess I'm asking the question are we cropping off females that would be moving into those older age classes and helping to rebuild that

spawning stock biomass before they're able to do so?

MR. ARMSTRONG: One slide from Paul's presentation that I didn't include was the recruitment time series; and that 1997 to 2003 period where recruitment was really low, there hadn't been anything like that since then. In fact, the recruitment for the estimates for 2012 – and it is for 2012 because it is from a spring trawl survey – are I think the third highest in the time series.

MR. HIMCHAK: Mr. Chairman, on this species, I like to focus on good news because we seldom get very much. Lund's Fishery, I learned last week they're exploring the possibility – seriously exploring processing spiny dogfish, which would be a big boon to some of the southern region states.

The second item, many people may already be aware of this, but the Marine Stewardship Council Certification was awarded to the Western Atlantic Spiny Dogfish Stock. This may open up the avenue to exports to the European Union. The third item I would like to bring up is that the Mid-Atlantic Council also will receive a presentation from the Northeast Fisheries Science Center at our December meeting on the predatory impacts of spiny dogfish on any and all other species that can be pulled out of the Northeast Fisheries Science Center Food Web Data Base. I just want to give you a couple nuggets of encouragement here. Thank you.

EXECUTIVE DIRECTOR BEAL: Thank you, Pete; I don't think there was a question for Jim in there but good information. Are there other comments or questions? Bob.

MR. ROBERT BALLOU: Jim, you referenced with regard to the trip limit analysis the fact that at 3,000 pounds there was likely to be a fair amount of regulatory discards. Did the analysis then look at what an increased trip limit would do with regard to discards? Was there any sort of quantitative analysis of that issue?

MR. ARMSTRONG: No; or if was, it wasn't done by me. I was just given that presentation. If they had gone that route, I guess you could have actually quantified the discards and then maybe said at least at current effort levels what an upper trip limit might be or what range of trip

limits the catches might have resulted in; you know, a good trip limit to reduce those regulatory discards. That wasn't presented so I assume it wasn't done.

DR. PIERCE: Since you said comments or questions, I have a couple of comments to add some information that would maybe help some of the questions around the table relative to what was just recently asked. Well, actually, Jim made the point that the biomass in his presentation had dropped off rather dramatically back in the 1990's.

That was because there were no restrictions back then and the U.S. government as well as the states encouraged commercial fishermen to go after dogfish and to reduce their abundance dramatically in light of scientific information that indicated that groundfish rebuilding probably wouldn't be successful because of the abundance of the elasmobranchs, dogfish being one of the principal predators there.

The fishery was encouraged to expand and to take as many as they wanted, and then, of course, the catch got high, Magnuson kicks in, we need a management plan and we ended up where we are right now. Regarding the bigger females being abundant and maybe being cropped off, that is not going to happen now because of a hard quota being implemented that is very sensitive to the scientific information and guidance that has been given.

Regarding the anomaly, let's say, that was shown in one of the figures about biomass being up high and then drop down; that is the bottom trawl survey information. As we all know, that is one of the main tools for assessing the abundance of spiny dogfish, the amount in the bottom trawl survey.

In order to deal with spikes in survey information, we do the three-year moving average, which the smoothing of the data, which is a wise way to go, so we no longer see those sorts of swings in abundance coming about from one year or another in bottom trawl survey results. Regarding our being below the target and being concerned that we might drop below the target, that is no problem here because even if we drop below the target we're not going to be anywhere near the threshold, according to the projections, and then we rebuild back up above the target in not too many years.

So, all the projection information is very favorable so that is very good news. Actually that reference about dropping below the target is provided on Page 2, the specification recommendations from the ASMFC technical committee, and then finally great recruitment. Finally we have great recruitment, so encouraging; great recruitment that bodes very well for the future. We're rebuilt, so above the target, and I can see no reason for us to be hesitant in any way to adopt what the Mid-Atlantic Council has adopted for quotas.

EXECUTIVE DIRECTOR BEAL: Thank you, David. Well, we have appeared to have transitioned into comments and starting to support positions on next year's specifications. Are there any other specific questions for Jim? Not seeing any, I'll ask Danielle to give a summary of the decisions that the board needs to make regarding specifications for next year.

Before she does that, following the Policy Board's decision yesterday about increased transparency, one of the lists of actions taken by boards is setting specifications; so under the new roll call or transparency provisions, we will intend to record the votes. If the board is close to unanimous, I'll just record the dissenting states. If we need a roll call vote, we'll take that.

TECHNICAL COMMITTEE RECOMMENDATIONS

MS. DANIELLE CHESKY: I will be giving the technical committee update on the recommended specifications for spiny dogfish. It was a joint technical committee/monitoring committee meeting, as Jim referenced. It was in October in Warwick, Rhode Island, and we reviewed the SSC update that you all just received as well as their recommendations for ABC and the quota.

As Jim already mentioned, the status of the stock is not overfished and no overfishing is occurring, which is good news. In terms of the recommendations, the technical committee concurs with the monitoring committee recommendations for setting quota levels for three years, the 2013 to 2015 seasons. SSB is going to remain above the target projected through 2016, as Jim mentioned, and so that gives a year of buffer, and the technical committee was very supportive of that.

There is no recommendation on the trip limit. The technical committee does, however, recommend that the board task the technical committee with reviewing in 2013 how the 3,000 pound trip limit worked in the 2012/2013 season that we're currently in due to the fact there was such a large increase in quota from 2011 to 2012.

In summary, these are the 2013 to 2015 recommended quotas. These are in millions of pounds. As you can see, this is higher than the 35 approximately million pounds that is currently in place for 2012 to 2013. This would take into account the following considerations and reductions as mentioned. Total harvest is based upon that P-star of 40 percent method. The board received an additional paper and recommendations on it last year.

This was used to set the quota for the 2012 and 2013 season, and it does prevent the SSB from dropping below the target and threshold due to that concern with the 1997 to 2003 recruitment deficit. The same method was used for setting the federal and state quotas, which is a very positive advance forward. This allows for better consistency in quotas across the state and federal lines.

In terms of discards, as Jim mentioned, the average of the past ten years was used to account for the discards. The reason that the technical committee went forward with this is the constant level of discards that they've seen over the past years despite the increase in quotas that they have used. Also taken out were the Canadian recreational landings.

The Canadian landings have seen significant declines in recent years, so the average of 2009 to 2011 was used for the reduction. The recreational fishery itself is very small traditionally and account for only about 1 to 2 percent of the total; and so the average landings since 2010 were used.

Additional considerations that were included were management uncertainty. Jim mentioned that this was the level of 4 percent and this is the average from 2009 to 2011 overages. This 4 percent was taken as a percentage of the actual TAL itself. Additionally as perhaps of concern for the board, this may also provide an additional buffer for rollovers.

As you know, within the interstate fishery management plan, a rollover is allowed up to 5 percent if a state or region does not fully harvest its quota. There has been concern brought up about this provision, especially in terms of the accountability measures that are included within the federal plan, so this 4 percent level may help to take care of any concerns with those accountability measures.

In summary, the technical committee does concur and recommends setting the specifications for 2013 to 2015. The total quotas here are listed. There is no recommendation on possession limits. One other thing that has arisen since the technical committee has met has been the inclusion of the RSA within the Amendment 3 to the fishery management plan.

Just as sort of an FYI for the board, there are a couple of different ways that the board could approach this. One is to initiate an addendum that would include an RSA within the quotas that the fishery management board here sets that parallel the council's. One other option would be is if the council doesn't end up setting an RSA for a year, which isn't mandated as of right now – it just has the option for it – this board could then look at what amount of quota is left after the RSA has been taken out and then just use that as a starting quota level for distribution and allocation among the states. Thank you.

EXECUTIVE DIRECTOR BEAL: Are there questions for Danielle on the decisions the board needs to make? Obviously, decisions need to be made on should it be multi-year specifications or single-year specifications; what level do you want to set for those periods; how do you want to handle RSAs; and what do you want to do about trip limits? I think those are the specification decisions that need to be made. Mr. Augustine.

MR. PATRICK AUGUSTINE: **Mr. Chairman, I move that the spiny dogfish quota for 2013 – do you have it already up so I can just read it off – 2013/2014 be set at 40,842,000 pounds; the season or quota for 2014/2015 be set at 41,784,000 pounds; and for season 2015/2016 set at 41,579,000 pounds; and that the research set-aside be set at 3 percent.** If I can get a second to that; and then treat the daily limit at another motion.

EXECUTIVE DIRECTOR BEAL: Is there a second to that motion; Terry Stockwell. Are

there comments on the motion? One thing I think we want to clarify, Pat, is that the Mid-Atlantic Council did not recommend a research set-aside for the first year, the 2013 to 2014 time period. They only recommended a 3 percent research set-aside for the two out-years within this provision. Is that consistent with the way you would want the motion to be handled?

MR. AUGUSTINE: Mr. Chairman, could we change the motion to include that, that it applies for the latter two years.

EXECUTIVE DIRECTOR BEAL: We will work on that. Are there comments on the motion?

MR. HIMCHAK: I had a question, really. Typically we set one year's specification, correct, at the ASMFC level; and with the Mid-Atlantic Council there is the opportunity to revisit Years 2 and 3 before the council automatically accepts. The motion would lock in values that may change maybe not by much, but in Years 2 and 3, if there was a change, say, in management uncertainty, that 3.99 percent; do we run into trouble now with committing to actual numbers?

EXECUTIVE DIRECTOR BEAL: Pete, the FMP allows the commission to set multi-year specifications, so we definitely have the flexibility at this board. The board also has the ability to go back and revisit those decisions on an annual basis if they need to and make any changes that they might need to. Rob.

MR. O'REILLY: A couple of quick items, I guess, to the multi-year specification; that was part of the council's discussion and the information was, well, there is adaptive management. Even in that process, there are ways to adjust so certainly the commission, I agree, can go forward that way as well.

On the RSA, I just wanted to point out there was also a pretty good discussion on the need for starting that in the second year. There were also some questions that George Darcy answered because it wasn't clear to everyone – and it wasn't to me at the time – but any underages in the RSA I think everyone knows would go back to the total pool, as it was put by George of RSA, but there is also the stipulation that if an investigator, for example, does not complete a project, that it goes without completion, the same

happens. Those types of situations I think are a good reason why starting off fresh, there needs to be some time to allow RSA proposals to develop, and that was a good reason that the council went for the second year.

EXECUTIVE DIRECTOR BEAL: Thank you, Rob. I think the ASMFC has handled RSA in a similar fashion where if the proposals don't total the full 3 percent, then only the amount is taken off the quota for a given year. Just to clear, the second and third years that are included in this motion will be reduced by up to 3 percent for RSA, so the numbers up here are the starting quotas that will be slightly reduced by the 3 percent number.

Danielle just clarified that technically the ASMFC plan does not have research set-asides included, so this really is just a recognition that the Mid-Atlantic Council may allocate a portion of the quota to RSA, and we're reducing our initial quota to reflect that. This does not establish an ASMFC RSA Program or anything of that sort. It is just recognizing some fishery are coming off the top here to fund some research through the Mid-Atlantic Council process.

Are there any other comments on the motion? The motion is that the spiny dogfish quota for 2013 and 2014 be set at 40.842 million pounds; 2014 to 2015 be set at 41.784 million pounds; and for 2015 to 2016 be set at 41.579 million pounds; and the RSA be set at up to 3 percent starting in 2014 and 2015. Motion by Mr. Augustine; second by Mr. Stockwell. Are there any comments on this motion from the audience before we vote? Yes, sir.

MR. JOHN WHITESIDE: My name is John Whiteside. I'm an attorney in New Bedford, Massachusetts, and I represent the Sustainable Fisheries Association. My clients asked me to be here today to address comments to two different issues facing the dogfish fishery. I'll respond to both simultaneously now with anticipation that the trip limit is going to be the next motion coming up. I could reserve that and come back but they're interlocked.

EXECUTIVE DIRECTOR BEAL: Just do both of them now, John.

MR. WHITESIDE: Thank you. The Sustainable Fisheries Association, as you know, are

processors in Massachusetts and very likely in other states within the very near future. At this time we would not support an increase to the annual quota or to the trip limits. The rationale is that, as Jim had brought up in his presentation, this was, as many of you know, not a normal fishing year where the dogfish didn't come in until very late in the season.

What I have been hearing is the same as what Jim was hearing down on the docks is that was due to the warm water and they stayed offshore. We would like to see one normal year at 3,000 pounds and 35 million pounds and maintain the status quo just to see what that would be like. We're at maybe 70 percent now and we're looking at having a season that doesn't have a closure, so that we don't have the discards that we have had in past years when the fishery did close.

The second part of that is if we do go to a 40-million-plus pound annual quota, we will have effectively doubled the quota within two years. Even though, as it was brought up, the Sustainable Fisheries Association received MSE certification for the fishery about seven weeks ago, we have not seen any increase in the price. If anything, it seems like we're really trying very hard to hold price at where it is. We have not built up demand.

That may just be because it has been less than two months and we need time to really be able to market and work with that. However, if the annual quota is bumped to the level that we're talking about here, simple economics would seem to dictate that we're talking about a significant increase in the quota.

Our concern, and it is a real one, is that buyers are going to look at that and say, you know, we're not going to pay what we're paying now; so we would be looking a reduction in boat prices and a reduction on our end. Lastly, what I'm hearing anecdotally from the processors is that they're seeing this season saw a lot more smaller fish, females that were the size of males, so we're not getting the yields that we traditionally have gotten. That is something that impacts again on the price that is being paid.

Our costs are fixed so it is not like if we get smaller fish that we're able to cut down on the cost that it takes to process it. With increased processing costs from all of the different

regulatory demands and other things, it is a drop in price for us. That is our main concern here. I thank you for that.

MR. SEAN McKEON: Sean McKeon, North Carolina Fisheries Association. I would respectfully disagree with everything my colleague, John, just said. We think that the problem in this fishery has been for so long there has not been any continuity and consistency that others would develop processing facilities up and down the coast in different places, whether it is North Carolina, Virginia or other places.

Our concern is that there would be a consideration of management based on one person's group of clients who would like to see a stabilization in their prices. We have been in discussions for a long time about having something just like these multi-year specifications where people could start to make business decisions and a long-term plan.

This fishery is causing untold destruction, as many of you have alluded before, in other fisheries and the quotas needed to be reduced. There are opportunities for others who would consider getting into that process and business to do so in the near future should we pass this type thing and remain consistent. We would recommend and we certainly support the motion.

We think it is a good motion. There is built-in monitoring all along the way, as I know Jim talked about, and anytime they can intervene if there is a problem. We think this sends a very strong signal to the industry that we are going to have some consistency and some continuity in this fishery. I appreciate support for the motion. Thank you.

MR. GREG DIDOMENICO: Greg DiDomenico, Garden State Seafood Association. I will be brief and I will just speak to the two issues; one being the motion regarding the quota and the other being the possible increase of the possession limit from 3,000 pounds to 4,000 pounds. We support the motion and we support the increase in the possession limit, and I'll tell you why.

I had the opportunity to sit through the entire SSC discussion that deliberated extensively over the increase in quota and the benefits of the multi-year increases. Like I said, it was an extensive discussion, a very thorough discussion

with a lot of people involved. Of course, the implications of this quota is very encouraging for the commercial fishing industry.

I can tell you that this is scientifically justified, so that is why we support it. As far as the increase in trip limit, it is just a matter of making it a little bit more profitable regardless of what the price reduction or possible increase may be. An additional 1,000 pounds to offset probably some rising fuel costs will be helpful. Essentially when you provide this type of small increase in a fishery that is large, we hope that is going to be a very sustainable, very stable way to go to prosecute this fishery. We support both those motions and thank you very much.

EXECUTIVE DIRECTOR BEAL: Back to the management board; based on the limited number of comments on the motion, I'm going to assume the board was pretty close on this one and not go through the full roll call vote. If we're not close, we can go back to the roll call votes. With that, let's see the hands that are in favor of the motion that is up on the board; those opposed to the motion that is on the board, no opposition; abstentions, 1 abstention, U.S. Fish and Wildlife Service; any null votes, no null votes. I think it worked; I think we have a good record of how folks voted.

With that, let's move into the trip limit discussion. Before you get too far, just keep in mind when the ASMFC does a trip limit, it is only for the northern region, so it is from the states from Connecticut through Maine. The southern states, North Carolina through New York, establish their own trip limit since they have the state-by-state quotas. Pat.

MR. AUGUSTINE: Mr. Chairman, point of information; the New England and Mid-Atlantic, they went with 4,000. **I'll make a motion and if someone wants to change it, please do so. I move for a 4,000 pound per day trip limit be set** – do we do it one year or all three years, Mr. Chairman?

EXECUTIVE DIRECTOR BEAL: It is up to you; it is your motion.

MR. AUGUSTINE: One year, 2013 and 2014; and do you want me to say on there for the northern region? I don't think it is necessary; I think it is inferred.

EXECUTIVE DIRECTOR BEAL: Before I get a second, Danielle, can you clarify one thing?

MS. CHESKY: Yes, I just wanted to clarify, Pat, that only the Mid-Atlantic Council has voted on these specifications so far, and so the Mid-Atlantic Council did vote for a 4,000 pound trip limit. The New England Council is going to be voting in November.

MR. AUGUSTINE: Thank you for that information; I'll still go with the 4,000 pounds; and if someone in the northern region wants to challenge it or change it, please do so. Otherwise, it is 4,000.

EXECUTIVE DIRECTOR BEAL: Is there a second to the motion: Mr. Stockwell. Are there comments on the motion? Terry.

MR. TERRY STOCKWELL: Mr. Chairman, just a question probably for Jim or Danielle; did the Mid-Atlantic vote for three years for 4,000 or just for one year?

MR. ARMSTRONG: It was for all three years.

MR. STOCKWELL: May I make a motion to amend; that the 4,000 pound trip limit be 2013 through – for similar language that we had in our first motion.

EXECUTIVE DIRECTOR BEAL: Pat, are you comfortable with making that change to your motion, adding the second and third year or do you want to take –

MR. AUGUSTINE: Yes, I'm comfortable with it. The Mid-Atlantic could change anytime they want and the following year they may go to a different number; but if that is what you want, then that is fine.

MR. STOCKWELL: Thank you for feeling friendly.

EXECUTIVE DIRECTOR BEAL: So we will short-circuit the parliamentary process and skip the motion to amend and take that as a friendly amendment unless anyone on the board objects to that process. Seeing none, the motion is to raise the trip limit for the northern region to 4,000 pounds for the three-year period that the board is talking about. Are there any comments on the motion? Bob.

MR. BALLOU: Mr. Chairman, question for Danielle. Can you remind me why the technical committee deferred on this particular issue?

MS. CHESKY: The technical committee's conservation was that it was a policy decision to be made by the board. More of the impact comes in terms of regulatory discards or how long the season is going to be. There was some support, as I said, for the technical committee to review how the 3,000 pound limit was used during the 2012 to 2013 season that we're currently in next year because there was such a large increase in quota.

The technical committee will be reviewing, hopefully with the board's blessing, that trip limit and how it impacted the length of the season for the 2012 to 2013 season. If the board wishes, the northern region has been tracking and projecting when the season will close, and we do have the most recent graph that we can show to the board if you wish.

EXECUTIVE DIRECTOR BEAL: Are there other questions or comments on the motion? Bill.

MR. WILLIAM A. ADLER: I think Dave explained it to me; but if you're doing it for three years, wouldn't it be easier if you said 2013 through 2016, because that is what you've got on this thing here?

MS. CHESKY: The way that the seasons are done, it is the 2013 season starts May 1, 2013, and then runs theoretically to April 1, 2014. We certainly can change the language if the board wishes. The previous implications like the 2015 season would be 2015 through the end of it, which would be in 2016. There just would be concern that if we said 2013 to 2016, it might imply four fishing years instead of three.

EXECUTIVE DIRECTOR BEAL: It is going to make the motion more cumbersome, but put in the years for those three fishing seasons so there is no confusion if we're straddling seasons and doing anything different. We will change the motion accordingly and then vote on that. Are there any other comments on the motion? Dr. Daniel.

DR. LOUIS DANIEL: Just to comment on the previous motion; it says "roll call" and I don't think you did a roll call.

EXECUTIVE DIRECTOR BEAL: Thank you; we will reflect that change. Rob.

MR. O'REILLY: I think there are sort of competing economic information that I listened to, and I'm not sure how to judge that, but I do think there is also an efficiency built into the higher trip limit, fuel costs and things of that nature. I do think the one comment I heard that is worth finding out about is the discards in the closed season so we will have some information with the higher trip limits to be able to look at that. I think that would be some good information for everybody.

EXECUTIVE DIRECTOR BEAL: Is everyone comfortable with tasking the technical committee to look into the discards during closed seasons as well as the effects of the trip limit, the tasking that they essentially asked that you give them? Is there any objection to asking the technical committee to look at that? All right, seeing none, we'll move that forward.

Are there other comments on the motion? **I'll read that in while the states caucus; move for a 4,000 pound trip limit for the 2013 and 2014; 2014 and 2015; 2015 and 2016 fishing seasons.** Motion by Mr. Augustine; seconded by Mr. Stockwell. Yes, Louis.

DR. DANIEL: Bob, just to make absolutely clear this is for the northern region; this is not for states with a state-by-state quota share?

EXECUTIVE DIRECTOR BEAL: Yes. Ritchie.

MR. G. RITCHIE WHITE: Mr. Chairman, when we get the report back from the technical committee, if we feel that their report raises issues with going to 4,000 pound, would we be able to change that 4,000 pound prior to or during the 2013 and 2014 season?

EXECUTIVE DIRECTOR BEAL: Yes, the board can change any of the specifications it is setting. It would take a two-thirds vote to do that, but the board can do that if there is obviously compelling information to do it. Are there any comments on the motion? Is there a need to caucus any longer?

Seeing none, I think we're in the same spot here where there is probably close to unanimous opinion on this motion, so we will try to not do

the full roll call vote and see if we can get away with that. With that, those in favor of the motion please raise your right hand; those opposed like sign; abstentions, 1 abstention, U.S. Fish and Wildlife Service; any null votes. **The motion on the trip limit carried unanimously with one abstention.**

I think we have a good record of how folks voted again. It worked out and it didn't slow the process down too much. With that, I think that is all there is to do on the spiny dogfish specifications. Danielle is nodding her head so that makes me feel more comfortable. With that, we will move into Agenda Item Number 6, which is setting the 2013 coastal shark specification, and I will ask Danielle to give background on that.

SET 2013 COASTAL SHARK SPECIFICATION

MS. CHESKY: We're going to be reviewing the 2013 specifications for the coastal sharks. The coastal sharks' technical committee met on October 15th via conference call. This is reviewing the highly migratory species proposed rule for these specifications that was issued. Significant changes that were included in the proposed rule for 2013; the first one has to do with the porbeagle fishery. It is proposed to be closed for the 2013 season.

This is due to a combination of reasons. One is that there were quite a bit of overages and so that has reduced the quota for 2013. The overage was about 259 percent for the porbeagle fishery in 2012 before it was closed. There is also concern stemming from that that there is an inability to keep the catch under its limit.

Additionally, there is the five-year quota reduction that was included in Amendment 2. It will expire at the end of December 2012. That will increase the possession limit for the non-sandbar large coastal sharks in the sandbar fishery to 36. It has been set at 33 for the past years. Additional changes that have been included in the proposed rule and that were reviewed by the technical committee include the fact that all seasons will open on or about January 1, 2013, obviously except for porbeagle which is proposed to be closed.

This is a contrast to past seasons, especially the non-sandbar large coastal complex that had

delayed openings. Additionally, the non-blacknose small coastal quota was adjusted to account for the overage. There are no other adjustments to quotas due to the stock status. The rule does state that in-season trip limit adjustments will be used if needed to ensure access to all fishermen.

Finally, here are your quotas. This was included in the supplemental report as well. The comparison here is between the 2012 and 2013 quotas, and these are in metric tons. As you can note, porbeagle is noted to be closed. The technical committee's recommendation is that the board approve these measures for the 2013 coastal shark specifications. That is the end of my report. Thank you, Mr. Chairman.

EXECUTIVE DIRECTOR BEAL: Are there any questions for Danielle on the presentation of the coastal shark specifications for 2013? Louis.

DR. DANIEL: This may be more Karyl, but I am concerned about this January 1 opening when North Carolina again – I will get back to my little issue of that closure off North Carolina. We're closed until August. This is going to greatly advantage Florida and there is going to be high likelihood that those fish are going to be caught before we even have an opportunity to fish for them unless we go back and reopen state waters to large coastal sharks. I can't support approving a January 1 start date for these fisheries. It is going to disadvantage 90 percent of us around the table.

EXECUTIVE DIRECTOR BEAL: Karyl, can you respond to that?

MS. KARYL BREWSTER-GEISZ: Certainly. This is for the board to know; this is the first time I think the board has been able to meet during the comment period for the specifications. If the board has comments, the comment period closes on the 28th. We are proposing to open January 1.

If you remember a couple of years ago a number of shark fishermen from North Carolina, Florida and the Gulf of Mexico got together at our advisory panel meeting and actually suggested to us that we could open January 1 if we had the flexibility to reduce or even close the fishery as needed to make sure that people later on in the season in those more northern climates had the chance to fish as well.

E-dealer or electronic dealer reporting, which is how we monitor the shark fishery, comes online January 1, and we are expecting to be able to monitor the fishery more closely and use those flexible trip limits to reduce trip limits if needed to make sure that North Carolina fishermen and other fishermen later in the season are not disadvantaged by the January 1 opening. That is our intent.

DR. DANIEL: That sounds good but it is not said anywhere. Is that in the document that that is the plan?

MS. BREWSTER-GEISZ: That is in the proposed rule that we are intending to use that.

DR. DANIEL: Okay, so 50 percent – I mean is there a set number? I'm sorry I haven't read it; but if you save 10 percent or you save 50 percent, it is going to make a big difference.

MS. BREWSTER-GEISZ: We did not set a specific number, but I think the intent is to be right around there, the 50 percent, so that would actually be 40 percent because we close when we reach 80 percent of the quota.

DR. DANIEL: Okay, that is better.

EXECUTIVE DIRECTOR BEAL: Are there any other questions or comments on the proposed specifications for 2013? There are really two actions that the board can consider today. One is approving the specifications for the ASMFC plan, and the other is should ASMFC submit comments to the National Marine Fisheries Service Highly Migratory Species Office. Is there a motion on the 2013 coastal shark provisions? Pat.

MR. AUGUSTINE: Mr. Chairman, move that the board approve these measures as presented – do you want to refer to something because it says “these measures” and it doesn't give you any body, so how do you want to cover that – these measures or those measures as noted in the technical committee's recommendation. I think it has to have a little more meat on that when it goes out to the public that it was approved, Mr. Chairman. I'm looking for your advice.

EXECUTIVE DIRECTOR BEAL: I'll give advice. I think if you want to support what was discussed in this presentation, **you want a motion that would read to adopt the coastal**

shark specifications for 2013 as proposed by the National Marine Fisheries Service Highly Migratory Species Office.

MR. AUGUSTINE: That was good; I'll second that motion. (Laughter)

EXECUTIVE DIRECTOR BEAL: You're making the motion. Is there a second to that motion; Dr. Pierce. All right, are there comments on the motion? Pete.

MR. HIMCHAK: I had a question on the motion. The matrix that gives all the quota amounts, and we have a very specific recommendation on the daily possession limit, the trip limit on large coastal sharks from 33 to 36; so is that 33 or 36 included?

MS. CHESKY: Yes, the increase in the possession limit would be included in that as it was included in the document.

DR. DANIEL: I appreciate Karyl's clarification, but I still feel like that these seasons could be handled better to make sure that everyone has an equal opportunity at the same time. I think the way it has been operating, we lose two weeks by opening July 15th but that really gives just about everybody the opportunity to start fishing when the quota becomes available and not have to worry about overages or problems with e-Dealer or whatever happens. I'm probably a large minority but I'm going to vote in opposition to the motion because of the January 1 start date of the fishery.

EXECUTIVE DIRECTOR BEAL: Are there other comments on the motion as it is up on the screen? Rob O'Reilly.

MR. O'REILLY: Mr. Chairman, the second thing you mentioned, the ASMFC recommendation to NMFS, couldn't that address North Carolina's situation and probably some other states? I can't say right now all the openings, but certainly that does seem to be starting off on the wrong foot; that some states are left out and others aren't.

EXECUTIVE DIRECTOR BEAL: Rob, are you making a suggestion about specific things to include in a letter to the National Marine Fisheries Service?

MR. O'REILLY: Well, I'm wondering whether something like that would be accepted by Louis as a way to – since this is in the process – as a way to sort of go forward at least without just leaving it cold that this motion gets adopted and it doesn't really help some of the states which would be affected with a January opening.

EXECUTIVE DIRECTOR BEAL: Louis, could you craft some wording either to put up on the screen or to work into a letter that would make you more comfortable and be acceptable by the board?

DR. DANIEL: Sure. I thought that was going to be the second motion. You said we had to issues to deal with, but I would hope that everybody would be supportive of a letter. But then it gets kind of back a little; if you're all supportive of the letter, why are we approving the motion? I'm not exactly sure how to handle that.

I don't want to be disruptive, but I do know that there are going to be winners and losers with that January 1 start date even with the flexible plan; and having the season start at a time when everybody can have access at the same time, North Carolina, Florida, Virginia, Maryland, Delaware, whoever is interested in fishing for these things, to me is a much fairer option.

But if Florida is allowed to catch the fish beginning January 1, and they will, and they close it at 40 percent and then they reopen July 15th or August 1st or whenever, I'm assuming Florida is going to be able to continue fishing so they're going to get basically the first 40 percent and then they're going to get a part of the second 40 percent.

That just doesn't seem fair to me. I don't know how all the rest of you – what your shark fisheries look like, but you're certainly going to be disadvantaged by that January 1 opening with the exception, I think, of Florida. I'm sorry they're not here but – yes, they are. I mean that is my biggest concern.

EXECUTIVE DIRECTOR BEAL: Well, let's dispose of this motion with the understanding we're going to come back to that wording in a minute and we'll try to either come to a consensus or put together a motion on what a letter to the National Marine Fisheries Service would include. With that, unless there is any

objection we will vote on the motion that is on the screen. Is there a need to caucus?

(Whereupon, a caucus was held.)

EXECUTIVE DIRECTOR BEAL: I know Louis has noted he is going to vote in opposition to this motion; but if that is the only dissenting vote, we can probably not go through the lengthy roll call process. Let's try that first; but if we get a lot of votes going different ways, we may revert back to the roll call.

Those in favor of the motion please raise your right hand; those opposed like sign, two states in opposition, North Carolina and Virginia; any abstentions, two abstentions, National Marine Fisheries Service and New Hampshire; any null votes. **Seeing none, the motion carries with 12 votes in favor, two in opposition and two abstentions.** All right, now the second issue of a letter to the National Marine Fisheries Service. David Simpson.

MR. DAVID SIMPSON: Maybe Dr. Daniel can help me a little bit to understand the fishery better. You're closed until August. I don't understand the pattern of the fishery or why you're closed when you think it might disadvantage you.

DR. DANIEL: Well, I don't know how to do this nice but I'm going to try. We basically are the only state that the National Marine Fisheries Service deemed the area off of North Carolina was a nursery ground, and so the feds actually closed the area off of North Carolina from January through July and so we can't shark fish.

Even though we were the first state to implement the closure at NMFS request the closure to the state waters to shark fishing, we also had our federal waters closed as well. We now have a plan in place that closes state waters by the ASMFC plan so I don't have really the flexibility I used to have where I could have just said to heck with you, I'm going to just open state waters.

I can't do that anymore. I'd like to be able to do that but I can't and still be in compliance with the ASMFC plan. We were one of the developers of the shark fishery but now we're essentially cut out of the fishery and not just the seasonal reasons but because of the trip limits.

We do have folks that are interested in participating in the shark fishery.

What has been happening up until this proposal was a July 15th opening of the large coastal shark fishery. What that did was that still didn't give us access for the two weeks while we were still closed. We're working on that right now to try to get that backed up a little bit so that we can fish during the second half of the year.

But we're the only ones in that boat with the closure, but the problem also is that the fish tend to be down south first; and so when you're open January 1, I don't know how much Georgia and South Carolina shark fish, but certainly we know Florida is a major player, North Carolina is a major player, so we have to sit and wait for eight months in order to start fishing for them.

I kind of felt like at least that with the July 15th opening or an August 1st opening they're available to everybody then, and so nobody is disadvantaged. They're available in Virginia, they're available north of Virginia, they're available in North Carolina, South Carolina, Georgia and Florida.

I understand that some fishermen got together and said that would be okay, but I just still don't think that is the fair way to do it. I would certainly support a letter – I mean it is kind of difficult now with a twelve to two vote supporting the January 1 fishery, so that is why I don't know how to do it. I guess we could say that we have adopted the specifications but disagree with them and would like to see them modified to more fairly and accurately depict the seasonality of the fishery for everybody.

But again, it is that whole disadvantage by geography thing that we dealt with in dogfish, that we have dealt with – we're dealing with a lot in the South Atlantic and I just see it perpetuating with this. I'm not trying to be critical of that decision. I understand why they made the decision that they did. I just don't agree with it.

EXECUTIVE DIRECTOR BEAL: Well, Louis, I think there is room to comment even though the motion was passed and the specifications were approved. I think sort of providing additional information on the distribution of the catch throughout the year is I think what you would like to do or at least request that of the

National Marine Fisheries Service as they move through the final implementation of this proposed rule. The motion we passed has a start date of January 1. It doesn't discuss anything beyond that, so there is probably room to provide some feedback to the National Marine Fisheries Service on distribution throughout the year. Ritchie.

MR. WHITE: Does the Service have the ability to close Florida once the 50 percent is caught thereby allowing the states to the north to have half of it as opposed to Florida getting 50-plus?

EXECUTIVE DIRECTOR BEAL: I don't know but I'll ask Karyl.

MS. BREWSTER-GEISZ: Our flexible trip limits are not state-specific; we would be closing everything or reducing the trip limit down to zero for everyone up and down the coast. We wouldn't be closing Florida; we'd be closing everybody until the fish have migrated. That is the issue, the migration of the fish. They start in Florida and they move up; so come July they aren't available in Florida, at least not the sharks the fishermen want to take.

EXECUTIVE DIRECTOR BEAL: Comments are due the 28th of October, Karyl, which is Monday?

MS. BREWSTER-GEISZ: Correct.

EXECUTIVE DIRECTOR BEAL: So there is not a lot of time to – is that a Sunday, Karyl, or Monday?

MS. BREWSTER-GEISZ: I believe Monday is what we intended.

EXECUTIVE DIRECTOR BEAL: Well, Sunday is the 28th, but we will work through that. Either way, we don't have a lot of time to craft a letter and get that circulated. We can write a letter but I don't think we have a lot of time for redrafting and wordsmithing by the full board. What are your thoughts on how to get that letter pulled together in the next three days and have a comfortable statement in there? Is it just asking the National Marine Fisheries Service to essentially implement a closure at 50 percent, which is essentially a 40 percent closure with the 80 percent provision, or is it more detailed than that? Louis.

DR. DANIEL: I think it might be more detailed than that. I think the recommendation by someone to look at the distribution of the catches seasonally would be a good approach. We could ask NMFS to start looking at state-by-state quotas. That would resolve it. It may be too late at this particular juncture; but I do think if we could craft something simple that just expresses our concerns over the fair and equitable distribution of the shark quotas and ask NMFS to consider those concerns that they have heard here today and see if there is way to be more specific, I guess, in how it is going to be handled to make sure that – I mean, I don't want to disadvantage Florida either. They're the big player. There just needs to be some way to do it that is not too subjective. If everybody can agree to that being the content, then I think that is fairly innocuous and it just asks for additional review.

EXECUTIVE DIRECTOR BEAL: Is there anyone that objects to that type of letter being generally worded, that it won't have necessarily specifics for the upcoming 2013 season, but it may be more an in-depth look moving forward in future years. Is everyone comfortable with that letter moving forward? We can draft it at the staff level and circulate it through Louis in the next 48 hours somehow. Yes, Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, at the risk of complicating things I was just reminded we don't have a Policy Board session this afternoon, and I think it has been our custom that letters that are generated by the commission do go to the Policy Board. I just remind the body of that.

EXECUTIVE DIRECTOR BEAL: Yes, I was going to make that comment. The good news is this is essentially a coast-wide board; and if folks here are comfortable with that, we maybe can skip that. The only state that is not here is Pennsylvania. If there is essentially unanimous consent by this group, we will draft a letter pretty quickly and we will get that turned around.

We'd probably have to circulate it tomorrow some time; and if you get a chance to look at it, you do; and if you don't, well, I think it is going to be fairly generic and not really impact any fishery this year, but it is going to hopefully spark a discussion for future seasons. It looks like we've got a course of action there and everybody seems to be nodding their head. Rob.

MR. O'REILLY: Well, I just wondered the time limit seems to be driving this, but I was sitting here just a little while ago thinking that after a couple of comments that there might be a situation where the information that Louis is suggesting on the distribution, that that would precede getting to this motion, but I assume now that time is driving this motion with the 28th as sort of the deadline, and I think that is unfortunate because I'm not sure I could tell you every situation around the table where this may be beneficial or not beneficial. I'm not sure why that type of conversation wasn't available or is it just a matter of time.

EXECUTIVE DIRECTOR BEAL: I think it is a timing issue for the most part, unfortunately. Are there any other comments in addition to Rob's? Seeing none, we will try to pull together a fairly generic letter pretty quickly and get that to the National Maine Fisheries Service. Pete.

MR. HIMCHAK: A quick question for Karyl; different animal, same theme, though. We have a draft addendum on the back burner addressing smooth dogfish state-by-state quotas should a coast-wide smooth dogfish quota be implemented by the National Marine Fisheries Service. I know it has been delayed for a number of years. What is the expected timeline or is there one for a coast-wide quota on smooth dogfish?

MS. BREWSTER-GEISZ: If you will remember, about a year ago I said that we were delaying the effectiveness of the regulations indefinitely. I believe it was last spring I was fairly optimistic that we would have a proposed rule out some time this year. I will just say that my optimism is not to what it once was and I do not have a timeline at this point.

EXECUTIVE DIRECTOR BEAL: All right, are there any other comments on specifications or anything related to this agenda item? Seeing none, we move on to the election of the vice-chair. Pat Augustine.

ELECTION OF VICE-CHAIR

MR. AUGUSTINE: Mr. Chairman, at this time I would like to nominate Adam Nowalsky as the new vice-chair. I would like to second it myself with my left hand and then close all nominations and cast one vote, but I don't think I can do that.

EXECUTIVE DIRECTOR BEAL: Let's try for a more legitimate second than that. Is there a second to Pat's motion; Bill McElroy, thank you. Any objection to Mr. Nowalsky becoming the vice-chair of the Shark Board? Seeing none, **congratulations, Adam.** (Applause) I think that brings us to the end of our agenda.

ADJOURNMENT

Is there anything under other business that has come up during the meeting? We will close the Shark Board.

(Whereupon, the meeting was adjourned at 12:22 o'clock p.m., October 25, 2012.)