

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
May 21, 2013

Approved August 8, 2013

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1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of February 2013 by consent** (Page 1).
3. **Move to develop an addendum to address the new species groupings and also to address the recreational size limit changes** (Page 4). Motion by David Pierce; second by Jim Gilmore. Motion carried (Page 4).
4. **Move that the board adopt the following options under Addendum II to the Atlantic States Marine Fishery Management Plan for Atlantic Coastal Sharks: Issue 1 would be Option C, historical landings 1998 through 2010; Issue 2, Option B, allow quota transfer; Issue 3, Option A, status quo; Issue 4, Option B, state-specified possession limits; Issue 5, Option A, no three-year reevaluation of state shares. Issue 6, Option B, at-sea measures consistent with the Shark Conservation Act of 2012** (Page 11). Motion by Pat Augustine; second by Peter Himchak. Motion carried (Page 14).
5. **Move** to approve the dates of July 15th that the states are to submit their plan; at the August meeting consideration of the proposals by the states; and January 2014 for implementation of the addendum (Page 15). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 15).
6. **Move to approve Addendum II as modified today** (Page 15). Motion by Bill Adler; second by Rick Bellavance. Motion carried (Page 16).
7. **Motion to adjourn by consent** (Page 19).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Steve Train, ME (GA)	Roy Miller, DE (GA)
Sen. David Watters, NH (LA)	Bernie Pankowski, DE, proxy for Sen. Venables (LA)
G. Ritchie White, NH (GA)	Tom O’Connell, MD (AA)
Rep. Sarah Peake, MA (LA)	Bill Goldsborough, MD (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Bill Adler, MA (GA)	Rob O’Reilly, VA, proxy for J. Travelstead (AA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Kyle Schick, VA, proxy for Sen. Stuart (LA)
Rick Bellavance, RI, Proxy for Rep. Martin (LA)	Louis Daniel, NC (AA)
David Simpson, CT (AA)	Bill Cole, NC (GA)
Dr. Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (AA)
James Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA)	Spud Woodward, GA (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Jim Estes, FL, proxy for J. McCawley (AA)
Adam Nowalsky, NJ, proxy for Asm. Albano (LA)	Margo Schulze-Haugen, NMFS
Tom Fote, NJ (GA)	

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

Ex-Officio Members

Lewis Gillingham, Coastal Shark Advisory
Panel Chair

Staff

Robert Beal
Toni Kerns

Marin Hawk

Guests

Greg DiDomenico, GSSA
Anthony Rio, Ofc. of Sen. Boyle, NY

Arnold Leo, East Hampton Baymen’s Assn

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 Old Town, Alexandria, Virginia, May 21, 2013, and was called to order at 1:15 o'clock p.m. by Chairman Mark Gibson.

CALL TO ORDER

CHAIRMAN MARK GIBSON: I am going to bring the Spiny Dogfish and Coastal Shark Management Board into session. My name is Mark Gibson and I chair this board. I am with the Rhode Island Division of Fish and Wildlife. Before I go to the agenda, I wanted to make an announcement.

John Tulik from the Massachusetts Division of Law Enforcement and long-time member of Law Enforcement Committee and a law enforcement advisor to this board is retiring. This will be his last meeting, so I would like the board to give him a round of applause for his efforts. (Applause)

APPROVAL OF AGENDA

CHAIRMAN GIBSON: The first item on the agenda is the agenda itself. I am aware that we need to make one adjustment for Item 7. We need to include dusky sharks in that agenda item. Are there any other changes or additions to the agenda? Seeing none; is there any objection to approving the agenda as modified? Seeing none; the agenda stands approved with the addition of dusky sharks under Item 7.

APPROVAL OF PROCEEDINGS

CHAIRMAN GIBSON: That brings us to our proceedings from the February 2013 meeting. Are there any requests for edits, changes or adjustments to those proceedings? Is there any objection to approving the proceedings from the February 2013 meeting? Seeing none; those stand approved.

PUBLIC COMMENT

CHAIRMAN GIBSON: Our next item is public comment. This is an opportunity for individuals to address this board on issues that are not on the agenda.

I am aware of an interest in addressing the board when we're under consideration of Addendum II; but is there anything anyone wants to address this board for items not on the agenda? Seeing none; then we will move on to the meat of agenda. Marin will take us through the 2013/2014 dogfish quotas.

REVIEW OF PRELIMINARY 2013/2014 SPINY DOGFISH QUOTAS

MS. MARIN HAWK: These are the preliminary 2013 and 2014 spiny dogfish quotas. NMFS approved the 40.842 million pound coast-wide quota. In 2012 and 2013 there were no overages, so each state was able to roll up to 5 percent over into this year's quota. Up here on the slides you have the preliminary quotas. Thank you, Mr. Chairman.

CHAIRMAN GIBSON: Are there any questions on that report? Seeing none; we will move on to the next agenda item, which is update on HMS Amendment 5A.

UPDATE ON HMS AMENDMENT 5A

MS. KARYL BREWSTER-GEISZ: For those of you who don't know, I am Karyl Brewster-Geisz. I work with the Highly Migratory Species Management Division of the National Marine Fisheries Service. I'm going to speaking today about giving you an update on Amendments 5, along with giving you a little bit of information about CITES listings and ESA petitions relating to sharks.

Amendments 5 to the HMS FMP, for those of you who remember, in November of last year we issued a proposed rule and a draft environmental impact statement. In that proposed rule we had new quotas and quota

linkages for a number of shark species. We proposed increasing the recreational size limit from 54 to 96 inches fork length.

We also proposed several time area closures for pelagic longline fishermen or mainly for pelagic longline fishermen off the Atlantic Coast. We had a number of public hearings. We went around and went to a number of the councils along with going to – we had a face-to-face HMS Advisory Panel Meeting in January.

All of the written comments we received are available on line if somebody wants to go and look at them. After considering all the public comment we had, and there was a lot of it particularly relating to the dusky shark measures, we decided to split Amendment 5 into two actions, so we now have Amendment 5A, which deals with scalloped hammerheads, blacknose, Gulf of Mexico blacktip and sandbar sharks. We also have Amendment 5B, which deals with dusky sharks.

For Amendment 5A, I will be talking about that in the next few slides. We had the final environmental impact statement publish at the end of April, and we hope to release the final rule in just a few months. Amendment 5B was relating to dusky sharks. Dusky sharks, we had a change in status or continuation of status, overfished and continued overfishing despite the fact that it had been prohibited for over ten years now.

We are going to be releasing a new proposed rule and new draft environmental impact statement later this year, and we will do our best to make sure that the comment period for that amendment overlaps with either the August or October ASMFC meeting, so you all will have a chance to comment on it.

Amendment 5A, as I said before, deals with scalloped hammerheads, which has a change of status for overfished and overfishing occurring. Blacknose sharks; this was split into two different stocks; one in the Atlantic and one in the Gulf of Mexico. The Atlantic

stock is overfished with overfishing occurring. The Gulf of Mexico blacktip is a healthy stock.

Sandbar sharks, where we are overfished but overfishing is no longer occurring, so the rebuilding plan we have for sandbar sharks is working, and we did not make any changes to that rebuilding plan in Amendment 5A. What we did do for Amendment 5A, for the commercial end was we established new management groups and new quota linkages.

Now, the quotas and the management groups are not really all that different from what we have right now. This picture shows what we did commercially in a nutshell. On the left-hand side you have the Gulf of Mexico Region and regional quotas. On the right-hand side you have the Atlantic Region quotas. In the middle you have the new management groups being split off.

The gray boxes around the quotas indicate quota linkages. A quota linkage is where if the landings of one quota reach 80 percent or greater, we close both quotas. For the management groups, we are separating out the hammerheads and creating a new hammerhead shark management group comprised of scalloped, smooth and great hammerheads, and then we are creating an aggregated large coastal group.

If you remember, we used to have large coastals and then we had non-sandbar large coastals. Well, now we have aggregated large coastals. For the Atlantic, they are comprised of bull, lemon, nurse, silky, spinner, tiger and blacktip sharks. Those quotas, if you go over to the Atlantic, hammerheads would be 27.1 metric tons and the aggregated large coastals is 168.9 metric tons dressed weight. Those quotas are linked so they will close together.

Moving down to the small coastals, blacknose, as I mentioned, is split between the Atlantic and the Gulf now, and then we made a corresponding split for the rest of the

small coastals, sharpnose, bonnethead and finetooth. Then the blacknose and the small coastal quotas will continue to be linked. They were already linked before.

We would like to suggest that ASMFC might want to consider changing the management groups in the ASMFC Coastal Shark Plan to match the management groups in our FMP. As this said, this isn't quite final. The final rule will be released in the next couple months. The other thing Amendment 5A does is the recreational minimum size.

We changed what we proposed and are going forward with a 78-inch fork length only for the hammerhead sharks, for the great, smooth and scalloped hammerheads. The minimum size and trip limits for all the other species remain the same. Once again, we would like to suggest that ASMFC may want to consider changing the minimum size to match our minimum size.

There are other shark issues occurring. Then HMS Management Division does not have lead on these issues. For CITES, the U.S. Fish and Wildlife Service has the lead; and for petitions to list sharks under the Endangered Species Act, the NMFS Office of Protected Resources has the lead. We are involved where we can be, but we are not the lead so I am just providing you information. If you have really detailed questions, I can make sure to put you in contact with the right person.

In regard to CITES, in March of 2013 the plenary of the parties decided to list oceanic whitetip, porbeagle and hammerhead – that is the scalloped smooth and great hammerheads – under Appendix 2. This does not stop trade. This increases trade monitoring; so anyone who anyone wants to trade in any of these species, fins, meat, any of the parts or products, needs to apply through the Fish and Wildlife Service for an export permit.

They also need to work through specific ports within the United States. Those new trade restrictions and trade controls will be effective September 2014. There are a lot of shark species that have recently been petitioned to list under the Endangered Species Act. The first one that came out is the scalloped hammerhead sharks.

The agency released a proposed rule in the beginning of April that listed six distinct population segments or DPSs. Of those six, four of them are proposed to be listed as either endangered or threatened. The scalloped hammerhead population or DPS right off the Atlantic Coast at this time is not proposed for listing; but as I said, this is a proposed rule and the comments are due June 4th. If you have any comments on that, it would be good to hear from you.

Regarding great hammerhead and dusky sharks, the agency recently released positive 90-day findings on these species. That means that the agency found that the petitions contained sufficient information that may warrant action, and the agency is currently undergoing two status reviews; one for great hammerhead and one for dusky sharks.

The comment periods for those 90-day findings are June 25th and July 16th. The last one is in regard to whale sharks. We have received a petition and we are in the process of reviewing whether or not we want to do a positive or negative 90-day finding for that shark. That is all I have; so if you have questions, I would be happy to take them.

CHAIRMAN GIBSON: Are there questions and then we have to take up the recommendations for commission action. Pete Himchak.

BOARD DISCUSSION OF HMS AMENDMENT 5A

MR. PETER HIMCHAK: I was having difficulty reading under the aggregate, but I

believe the pelagic group is not involved in any of this aggregate procedure?

MS. BREWSTER-GEISZ: That is correct; we did not touch pelagic sharks except for the – no, we didn't touch pelagic sharks.

MR. MALCOLM RHODES: Under the ESA listing for the scalloped hammerhead, it had Eastern Atlantic? The next to the last slide, the DPA – so we would be the Western Atlantic; correct?

MS. BREWSTER-GEISZ: It is the South Atlantic and eastern stock, so it overlaps a little bit with the Caribbean, but it is not the one right off of our coast. It is Eastern Atlantic; not Western Atlantic.

CHAIRMAN GIBSON: Are there any other questions? Okay, we have recommendations for the commission to initiate an action based on some of the recommendations. I guess the first question for Toni is the commission's priorities and budget and would it support such an action.

MS. TONI KERNS: The commission did not plan for an additional addendum for the Coastal Sharks Plan outside of the one that we currently did, so we'd have to look into the budget to see if we could hold hearings. We could do an addendum. I think we could have the staff time to do it, but it is whether or not we would be able to pay for staff to go out for public hearings to move forward.

CHAIRMAN GIBSON: What would be the timeline if we initiated an action today? Would it be an addendum?

MS. KERNS: We can make these changes through an addendum so we can draft an addendum and bring it back to the board for your consideration in August and then have hearings over the fall and then come back at the annual meeting and finalize that addendum; or if it is the will of the board, we can fast track the addendum. I know a lot of commissioners have had some concerns with some of the fast tracking that

we have done recently. If we did that, then we do either a conference call or an e-mail vote to approve the addendum and then have hearings over the summer and then finalize in August, depending on how quickly you think this needs to be taken up.

CHAIRMAN GIBSON: So the bottom line financial question is about the conduct of the hearings and whether states could handle those – those that need them, handle them on their own? Okay, are there comments or thoughts from the board on the Service's request?

DR. DAVID PIERCE: **I would move that we develop an addendum to address the new species groupings and also to address the recreational size limit changes.**

CHAIRMAN GIBSON: Seconded by Jim Gilmore. Are there comments on the motion? Jim.

MR. JAMES GILMORE: Just a question for Toni; Toni, if the states do the hearings, staff will still be able to put a presentation together for us?

MS. KERNS: Yes, staff will be able to put a presentation together, give you all the materials that you need to conduct your hearings and then pull together the addendum for you.

CHAIRMAN GIBSON: Is there anything else on the motion? Is there any need to caucus? Louis.

DR. LOUIS DANIEL: Is it just the species groupings and the size limit change, and that is it?

CHAIRMAN GIBSON: They're nodding their heads yes. Is there any discussion on the motion? Seeing none; I'll call the question. **All those in favor please raise your hand, 15; any opposed; any abstentions or null votes. The motion carries.** Toni.

MS. KERNS: And just to get on the record that this is for changes that are being proposed by HMS since it doesn't say it in the motion? Don't put it in the motion, but just on the record that is what we're doing.

DRAFT ADDENDUM II FOR FINAL ACTION

CHAIRMAN GIBSON: That is every one's understanding. Okay, the next agenda item is Addendum II, consideration of final action. I am aware that several NGOs who have made written comments would like to comment to the board prior to this action. They have assured me that they have consolidated their comments into an efficient statement and that it also includes some new information that the board wasn't aware. I am going to ask Sonja to come up and make those comments to us before we begin discussion on this action.

PUBLIC COMMENT

MS. SONJA FORDHAM: Mr. Chairman, I have a brief statement on behalf of the Shark Advocates, International; Wildlife Conservation Society; and the Humane Society. I am Sonja Fordham. Our groups, along with Project Aware, did submit and encouraged comments during the public comment period. I also participated in the advisory panel call on this addendum.

We appreciate the opportunity to underscore our strong opposition to the proposed 12 percent fin-to-carcass ratio for smoothhound sharks or smooth dogfish and to offer some addition information. First, increasing the ratio from 5 to 12 percent has little scientific basis. In fact, a comprehensive 2005 study of such ratios for 14 species of sharks that was conducted by the National Marine Fisheries Service, the University of Florida and the Florida Fish and Wildlife Research Institute calculated the smooth dogfish fin-to-carcass ratio at 3.5 percent.

The 12 percent fin-to-carcass ratio would be the highest and therefore the most lenient in

the world, drawing unnecessary negative attention to the ASMFC Coastal Shark Plan. We also highlight that the advisory panel report that you have before you has little if any support for the 13 percent ratio.

Moreover, however, fin-to-carcass ratios are notoriously difficult to enforce and that is why NMFS switched to the best practice of keeping shark fins attached in 2008 and the ASMFC followed suit for all other species of sharks. Since that time, a growing number of countries around the world, with encouragement from the United States, including shark-fishing powers like Spain and Taiwan are moving increasingly towards a fins-attached approach.

While we appreciate the desire to achieve consistency with the federal waters regulations, we need to stress that the language in the Shark Conservation Act, the savings clause that suggests that there should be a 12 percent for smooth dogfish is still being interpreted by NMFS. The resulting regulations have not yet been proposed and it is still not clear how this confusing and problematic text will be implemented for federal waters.

I will note, however, that on the passage of the Shark Conservation Act in 2010, NOAA Fisheries Assistant Administrator Eric Schwaab told the Washington Post that the bills carve out for one specific shark fishery presents major enforcement and implementation challenges and we need to work to fix this loophole.

In the FEIS for the HMS Amendment 3, NMFS stated that requiring smooth dogfish fins to remain naturally attached to the carcass is necessary to maintain consistency with other domestic shark regulations and US. International shark conservation positions and to facilitate enforcement and species identification "as the dressed carcass and detached fins of a smooth dogfish could be misidentified as a dressed carcass or detached fins of a small coastal shark,

juvenile large coastal shark or a spiny dogfish.”

In their 2008 rulemaking, the National Marine Fisheries Service summarized the benefits of the fins-attached strategy by saying that they would improve enforcement, species identification, data quality for future stock assessments and will further prevent the practice of shark finning. We remind you that the smooth dogfish are increasingly targeted and yet catches are still unregulated, so we feel that this species should therefore be the absolute last choice when considering exceptions for existing coast-wide safeguards.

In summary, adopting this exceptionally lenient finning enforcement measure would risk finning of smooth dogfish as well as other sharks, invite widespread criticism and threaten U.S. efforts to combat shark finning around the world. We respectfully urge the board to reject any increase in the smooth dogfish fin-to-carcass ratio and to instead initiate the process for proposing and adopting of fins naturally attached requirement for smooth dogfish and thereby eliminating all exceptions to a sound ASMFC shark finning ban. Thank you very much, Mr. Chairman.

CHAIRMAN GIBSON: Thank you for that. Okay, I am going ask Marin to begin the review of options in Addendum II.

REVIEW OF OPTIONS

MS. HAWK: As you all know, we are in the final approval stages for this addendum, so today you will review the different options and select the measures that you would like to approve. The purpose of this addendum is to allocate state shares of the upcoming coast-wide smoothhound quota and also to adjust the fin-to-carcass ratio so that it is consistent with the government’s plan.

Issue 1 deals with smooth dogfish state shares. Option A is status quo, which would

be no smooth dogfish state shares. Option B is historical landings based on landings from 1998 to 2007. Option C is historical landings based on landings from 1998 to 2010. Option D is a five-year moving average, which would use the most recent five years of available landings to calculate that year’s average; so the 2013 quota shares would have been calculated based on landings from 2008 to 2012.

Issue 2 deals with state quota transfer. Option A would be no quota transfer. Option B would allow quota transfer. Issue 3 deals with quota rollovers. Option A is status quo; states may not roll over the quota. Option B would allow a rollover of quota, but it specifies that transferred quota may not be rollover. Option C is a maximum 5 percent quota rollover.

Issue 4 deals with possession limits. Option A would be a board-specified possession limit. Option B would be state-specified possession limits so the state could set the limits that best meet their individual needs. Issue 5 is a three-year reevaluation of state shares. Option A would be no mandatory three-year reevaluation. Option B would be a mandatory three-year reevaluation.

Issue 6 deals with smooth dogfish processing at sea. Option A is status quo, which allows commercial fishermen to remove all fins with a maximum fin-to-carcass ratio of 5 percent from March through June, but they must keep the dorsal fin naturally attached through landing for the rest of the year.

Option B are measures consistent with the Shark Conservation Action, which would be commercial fishermen may remove all smooth dogfish fins. If fins are removed, the total wet weight of the shark fin may not exceed 12 percent of the total dressed weight of the smooth dogfish carcasses which are landed or found on board the vessel.

PUBLIC COMMENT SUMMARY

There were four public hearings held in New Jersey, Virginia, Maryland and North Carolina. There eleven attendees total at the New Jersey and North Carolina public hearings. Maryland and Virginia did not have any attendees. A majority of the public comment that was received at the public hearings supported historical landings from 1998 to 2010; allowing the rollover of state quota; and no three-year reevaluation of state shares.

There was also unanimous support for quota transfer; state-specified possession limits; and measure consistent with the Shark Conservation Act. Attendees specified that only the fin-to-carcass ratio from the Shark Conservation Act should be included and not any other measures that may be found in the Shark Conservation Act proposed for final rules.

In addition, 147 other individual public comments were received. Fifty-eight of those public comments encouraged a fins' naturally attached policy and fifty-three of them requested that the commission ban shark finning. Of those fifty-three, eight asked that the commission close any finning loopholes that are currently in the regulations. In addition, two letters were received from organizations. One letter was signed by six different organizations; Sharks Advocates, International; Wildlife Conservation Society; Project Aware, the Humane Society of the United States; and Humane Society International. The second letter was received from NOAA Fisheries.

The first letter supported state shares of the coast-wide quota, but there was concern with the at-sea processing of smooth dogfish because it creates a loophole that allows finning and undermines the U.S. as a leader in shark conservation. This letter also supported a fins' naturally attached rule. The writers of this letter opposed allowing transfer or rollover until a scientific-based quota is implemented.

The NOAA Fisheries comments just wanted to point out to the board that the federal smoothhound shark quota will include landings from the Atlantic, the Gulf of Mexico and the Caribbean; so if landings in other areas increase, the amount that is available to the Atlantic States may be affected. Also, since NOAA Fisheries does not allow rollovers for stocks with unknown status, the states allowing rollovers could result in exceeding the federal quota.

In addition, the North Carolina Study was completed that looked into the fin-to-carcass ratios. It found that depending on fins kept, the ratio ranged from 9.55 percent to 11.98 percent. Since this happened last week, the technical committee has not had a chance to have a formal review of the studies, but they did want to make sure that the board knew of these studies and they are included in your supplemental materials. If this addendum is approved, the board must specify a compliance schedule. Thank you, Mr. Chairman.

CHAIRMAN GIBSON: Are there any questions? Pete Himchak.

MR. HIMCHAK: I had a question and then a comment. The New Jersey data, the ratio of fins-to-carcass; was that not 12 percent; and that was done some time ago?

MS. HAWK: That was a range of 7 to 12 percent based on the fins kept, and that was included – the material that you were given was actually a compilation of both New Jersey and North Carolina data; so the 9.55 to 11.98 includes North Carolina and New Jersey data.

MR. HIMCHAK: Okay, thank you on that point. I had a comment on the public commenting process. Yes, it is unfortunate that the public hearings were not better attended. Well, I'm not surprised at the number of comments particularly focusing on Issue Number 6. I think we're blurring the lines here between Atlantic coastal sharks and smooth dogfish.

Unfortunately, they're in the same addendum; so that any mention of finning at sea under this addendum kind of like blurs the lines and includes a lot of sharks in it. Personally, I think the opening commentary prior to the proceedings were inappropriate as far as trying to influence the board under the guise of new information. I didn't detect anything new to me.

MR. PATRICK AUGUSTINE: Mr. Chairman, I thought it was a good report. I reviewed the whole thing and I questioned similar to what Pete did, but I don't know how we fix that or address it at this late date. When you're ready for a motion, I'd like to move forward with selecting options.

CHAIRMAN GIBSON: Well, we still have an advisory panel report to go through, but I had David Pierce.

DR. PIERCE: Marin, could you put the comments from the National Marine Fisheries Service back up on the screen? Okay, this is something I hadn't appreciated. They're saying that the smooth dogs – the quota includes landings from all the areas, Atlantic, Gulf of Mexico and Caribbean; and then they highlight that if landings in other areas increase, the amount available to the Atlantic states would be affected.

Is this a new consideration? It is unclear to me how this upsets the applecart, how it turns it over because if we're working with quotas for smooth dogs and if we're working with state shares, that would be smooth dogs caught from the Atlantic. Is it possible then that smooth dogs caught in the Gulf and from the Caribbean would actually shut down federal waters fisheries for smooth dogs because of the way the National Marine Fisheries Service is controlling catch, monitoring catch. I guess I'm seeking clarification as to what this means short term and long term for ASMFC in our management of smooth dogs through quotas and state shares specifically.

CHAIRMAN GIBSON: Thanks, Dave, for asking that question. It was puzzling me as well. It is the first time I think I have heard that and maybe just because of my naiveté about shark management in general. Margot, could you comment on that?

MS. MARGO SCHULZE-HAUGEN: Smoothhounds occur as a single species in the Atlantic and the Gulf and some in the Caribbean as well. When we established in Amendment 3 that we were going to manage smoothhounds, part of the reason we called them smoothhounds was to bring in those other regions in a single terminology and a quota for them would be at this point as a single quota, and so all landings would go against that.

If in a stock assessment we found out that there were two species or sub-species, then we would probably follow suit with different quota management. Right now it is a single species, it would be a single quota and all landings would count against that regardless of region. The fishery right now is Atlantic only; but given that they do occur in other regions, that can change and that was the point that we were trying to alert the commission to.

DR. PIERCE: So for now it doesn't appear that it will be a problem; but if the landings occur from those other areas, it would be a problem for us. Okay, fine enough, this could be a fuse that is burning that would eventually cause great grief for ASMFC if indeed smooth dogs are caught in the other areas.

Now I have no appreciation for the potential for smooth dogs being caught in the other area and to what extent are smooth dogs frequenting those areas so that we might end up with a U.S./Canadian like situation for some of the stocks. We deal with groundfish stocks; we deal with where U.S. fishermen are penalized. In this particular case it would be a region of the United States. Fishermen would be penalized for catch in other areas. I guess it is just

something to consider in some way by ASMFC down the road.

CHAIRMAN GIBSON: Thanks, David. I think you're right; you can conceivably have a federal closure and at the same time have states have allocation remaining, but it doesn't seem like that is eminent. Does anyone else wish to comment? Peter.

MR. HIMCHAK: I had a question for HMS on the timetable on the stock assessment and the likelihood of when a total quota for this stock would be implemented; and then at that point would you have the option to do it regionally like Atlantic Coast, Gulf of Mexico, and things like that?

MS. SCHULZE-HAUGAN: If you recall in Amendment 3, we had proposed quotas that were based on landings to date with some room based on standard deviations so that the quota would be higher than what the actual landings were. That is based on landings, obviously, and not a stock assessment.

The stock assessment I believe is scheduled for 2014. It is through the SEDAR process, so it is several months likely before we would have the results and then we'd likely need to do rulemaking unless magically the quota recommendation was the same as what we had on the books to then implement that. Depending on what the assessment says, it could require an amendment or not, so we really don't know if regions would be an option there or not. It is certainly something we could look into at that time.

CHAIRMAN GIBSON: Okay, I'm going to move on to the advisory panel report. Rob.

ADVISORY PANEL REPORT

MR. ROB O'REILLY: Mr. Chairman, is it acceptable to ask about some of the data tables at this point? There was a pretty quick rendition of the addendum, but I had a particular question and then a comment after that.

CHAIRMAN GIBSON: Sure; we can back up.

MR. O'REILLY: Well, first of all, a comment before that even. I was disappointed about the turnout for the public hearing as well; but what I understand right now, as we have seen with spiny dogfish lately at least in Virginia – I don't know anywhere else – there has been a little bit of a lull in the marketability and that certainly weighs on fishermen's minds when they think about coming to investigate exactly what the ASMFC addendum is, but I mean that seems like a practical situation.

But on Table 3 I think I understood all of that with the exception that once there was a quota set, since they're moving averages on different schemes of years, once that is set I assume it is no longer moving? That is fixed as the quota; is that how that is derived?

MS. HAWK: I think what you're getting at is once the quota is set, even though is revisited annually, it will basically go towards whatever the quota set at; correct?

MR. O'REILLY: Yes; so that is the point that starts the process for the quotas?

MS. HAWK: Right, so that is a consideration, yes, but that is what would happen.

MR. O'REILLY: Okay; and then one other item, Mr. Chairman, which is the comments from Sonja Fordham. If NMFS is interpreting this 12 percent for the ratio at this time and that is going on, it would seem that we're in sort of a situation where to just flat out not say anything about the 5.95 percent may be better on a wait-and-see situation than to really just turn that down. I think that goes along with an earlier comment that you made, Mr. Chairman, about can we afford to go forward with this, what the process can be. I can see two situations developing. One, we make a decision; the National Marine Fisheries

Service makes their decision finally, and we have to backtrack and start all over again. I just wanted to put that on the record.

CHAIRMAN GIBSON: This board has already made a decision to initiate an addendum, so could you clarify what you meant by that?

MR. O'REILLY: Clarify that parts of the addendum may need to wait, perhaps – that is one option, which is the ratio of the percentage – until we know what the federal government is going to do. That is all I was mentioning.

CHAIRMAN GIBSON: Are there anymore comments on the public summary before I go to the advisory panel report? We will go to the advisory panel report. Louis.

MR. LEWIS GILLINGHAM: Thank you, Mr. Chairman. On April 29th the advisory panel held a conference call. Although only seven members participated, we did have what I call all three of the stakeholders. We had two individual conservation groups represented. Unfortunately, we just had one commercial fisherman, but he has quite a bit of experience in shark fishing, both smoothhounds and other sharks. Plus, he is also a self-marketer, so he is almost somewhat like a dealer/processor as well. The other four members were state people.

Issue 1, advantages of implementing individual state shares; the group kind of looked at the broad picture before they focused and they listed advantages and disadvantages. One, it seems like it is a way to equitably allocate the coast-wide quota and therefore preventing one state from ramping up or being able to catch the quota at the beginning of the quota year and the other states don't have an opportunity.

It would also increase accountability for each state and it gives states flexibility to both monitor and have their fishery perform most efficiently. The one downside they initially identified was the idea that it would

lock a state into a certain percentage; but as time went on, they realized that the plan already exists and has a means in effect to reshuffle the deck, so to speak, on the individual state shares.

When they looked at the options, they recommended Option C. One, it had the longest historical period of the four options – actually three options. It also was during a time when the fishery was relatively stable in terms of total coast-wide harvest, and they felt this would give the most equitable distribution amongst the states.

Issue 2, quota transfer, there was no clear consensus on this issue. I mean, they identified one or the other. Allowing a transfer would further the management plan's objectives by helping states stay under the coast-wide quota. On the other hand, quota transfers could tend to maximize the harvest. Several participants indicated that is probably not advisable without a stock assessment.

Issue 3, quota rollover, the option of a rollover with no limits was quickly discarded. Some members felt that Option C, which is the 5 percent maximum rollover, was the best option. Others reiterated that rollovers, much like the quota transfers, would tend to allow for maximum harvest and in the absence of a stock assessment could potentially jeopardize the management options.

Issue 4, possession limits, there was no clear consensus on this. It is clear that having the board- specified possession limits would ensure consistency across the range of smooth dogfish, which could be the way to go. Yet it was clear also that with state-specified possession limits, it would allow the states more flexibility and the ability to harvest the fish when they were the most available and maybe when the market was the best.

Issue 5; the group did not feel very strongly about this, especially in lieu of Marin

brought forth the section in the existing plan that covers this that under adaptive management, that state shares could actually be reevaluate or revisited by this board at any time. They also questioned how you would evaluate reevaluation. They basically didn't see any purpose for an automatic trigger at three years or any specified time.

Issue 6, at-sea processing, as you probably can guess, this was the most polarizing issue that we discussed. Actually, there was concern from almost everyone of the participants. At that time we weren't appraised with this updated information on the fin-to-carcass ratio, and no one felt that we had the information to say it should 12 percent or should be 5 percent, but they did indicate that those that were for some of a fin-to-carcass ratio that 5 percent was clearly too low, but they didn't feel like they could tell what was the best number.

Yet there was concern that having it too high could set the table for something we didn't want to happen, and that would be fins from other species of sharks dumped in with the smooth dog fins. Again, down here we listed we didn't have available the supplemental information. That is really all I have and I'll be happy to answer any questions.

CONSIDER FINAL APPROVAL OF DRAFT ADDENDUM II

CHAIRMAN GIBSON: Thank you, Lewis. Are there questions for our AP? Seeing none; thanks for that report. Now we are at a point of considering approval of Addendum II. We have gone through the issues. There would seem to be some, in my mind, that probably are easily decidable by this board and there are probably some that perhaps are not easily decidable. I would like to hear some discussion the board or a motion to get us started. Pat Augustine.

MR. AUGUSTINE: Mr. Chairman, **I would like move that the board adopt the following options under Addendum II to**

the Atlantic States Marine Fishery Management Plan for Atlantic Coastal Sharks. Here they are: Issue 1 would be Option C; historical landings 1998 through 2010. Issue 2, Option B; allow quota transfer. Issue 3, Option A; status quo. Issue 4, Option B; state-specified possession limits. Issue 5, Option A; no three-year reevaluation of state shares. Issue 6, Option B; at-sea measures consistent with the Shark Conservation Act of 2012. That is my motion, Mr. Chairman,

CHAIRMAN GIBSON: Is there a second to that motion? Seconded by Pete Himchak. Is there board discussion? We just want to get the motion squared away; hang on.

MR. AUGUSTINE: Mr. Chairman, I think Issue 2 is Option B.

CHAIRMAN GIBSON: Pat, before you get in discussion; could you just confirm that we have up there what you asked for? That was a bit of a big motion. I hope this doesn't trigger the Pierce Rule, but it is something we affectionately have at the New England Council. It doesn't fit on the page and we have stop.

MR. AUGUSTINE: Do you want to just split it and maybe we do the first three issues and go that way so we don't get the Dr. Pierce Option? Mr. Chairman, I want a clarification one more time from Ms. Schulze. I am concerned about the rollover. If we do a rollover by states and it shows up anywhere on the record; would that be a conflict with the HMS regulation that says they do not allow for rollover? Does it create a conflict for us or not if we to allow a rollover? That is the reason I selected the option I did.

MS. SCHULZE-HAUGEN: I think it could if most states were at quota; but if you weren't and then they rolled over, the state quotas could add up to more than the federal quota.

MR. AUGUSTINE: Thank you for that clarification, so I'll stick with the status quo on that one.

CHAIRMAN GIBSON: Is there any further discussion? Adam.

MR. ADAM NOWALSKY: I am going to pass right now; thank you, Mr. Chairman.

MR. JOHN CLARK: I just had a question about 6B. It says measures consistent with the Shark Conservation Act. For now that would mean the 12 percent fin-to-carcass ratio. If the ruling on the Shark Conservation Act that is – I guess it would be the next one and not the current one – finds that there shouldn't be any dogfish processing at sea; would this automatically change our addendum or would we just have to go to a new addendum to change that?

MS. HAWK: We would have to do a new addendum to change that.

MR. O'REILLY: Mr. Chairman, one question is it would be a help if you could put that figure up there, Marin, that you have in the document. Since Issue 1 is now a motion for the historical, I think it would be important for everyone to see what the different options show pictorially there. That would be one question I would have, if you could do that.

While that is going on, I just would comment on the 12 percent; that there is the flip side to what I was talking about earlier which is depending on where this goes on the federal level, we're right back looking at this again as a potential as well, so I just want to mention that. I know from Sonja Fordham's information that certainly there are a lot of sharks – I think she mentioned 14 that ranged from in the threes to maybe as high as six, but there are also other sharks, and there is documentation from ASMFC on the New Jersey and the North Carolina percentages, and they're certainly higher, but I'm just thinking this 12 percent

is going to be an issue that needs to be talked about a bit more.

CHAIRMAN GIBSON: We don't have your information yet, so I am going to go to Louis while we're still looking.

DR. DANIEL: I'm sympathetic with the comments on the option for Issue 6, but at the same time I can only go by the information that I have. I think that the work with the photographs in the document that was handed out to the commission from New Jersey and North Carolina make it pretty clear – and I think all you really have to do is look at that photograph that shows the core and all the fins to see to even suggest that it is 3 percent just doesn't pass muster with the photograph.

There have been some differences in the New Jersey fish being a little smaller, the North Carolina fish being a little bigger. That gets into semantics to some degree, but we know that smooth dogs have large fins and they also mark at the caudal fin, which is fairly unique. That is one of the other reasons why you see the higher percentage.

The bottom line that I'm hearing, though, is the fins attached, and that was the goal and the intent of the commenters is the need to require that. I just feel like it is important to point out that this is a large-volume fishery; and to have to process or handle those fish twice would result in product quality problems.

If they have got five or ten thousand pounds on the boat – if you're talking 33 coastal sharks, that is fairly easily to process when you get to the dock. If you're talking several thousand sharks, it is much more difficult and the quality of the product diminishes when they haven't been brined right away.

I believe it will have a substantive and negative impact on the industry if we don't allow them to process them at sea. I know that is inconsistent with some of the other

practices that we have on coastal sharks, but I think this is a unique circumstance. I don't want us to put ourselves in a bad light in the international community with this, but at the same time I think we have the justifiable information to make that recommendation.

I think we have been able to provide that information to NMFS so that when they make the decision I hope it will be based on that science as well and be consistent with that science. I just felt like that as one of the study authors I wanted to at least provide those points but not discount the concerns that were raised from the audience.

MR. HIMCHAK: Mr. Chairman, the ASMFC under a prior addendum already endorsed the processing at sea of smooth dogfish, all fins completely for a three-month period and then the requirement of keeping on this first dorsal fin after July 1st because we were concerned about juvenile sandbars and problems with differentiating one from the other.

Then the fishermen came back to us and asked about the feasibility of removing that first dorsal fin as of July 1st, and that is what prompted this issue to come before the board again. Three months of the year you can fully process all the fins off the smooth dogfish, for three months. What prompted this addendum was that first dorsal and, yes, we never did come up with a ratio for the smooth dogfish fishery, but we knew it wasn't 5 percent, and then we asked the technical committee to go out and get the data and come back to us and give us a number, which they did.

Again, the whole intent is so that when July comes around, they don't have to leave that first dorsal on and bring it back to the dock and then take every one of those carcasses out of the ice and remove the fin because it is money to them. I think this has been kind of like blown up into a little bit more than it was intended to from the very beginning. As I said, I mean processing smooth dogfish at sea we have already justified the need and

the lack of problems and the reasoning behind it. I support the motion as written.

CHAIRMAN GIBSON: Are there any other comments on the motion? Rob, did you find the information you were looking for?

MR. O'REILLY: I do have the information here. I just thought it might be of benefit to everyone to see what it is. I'm remembering the spiny dogfish conversations that everyone had; and although this is a little bit different, nonetheless, depending on which baseline you choose, there are haves and have-nots to some extent.

If everyone is looking at that document, then you can pretty much figure out what they are. For example, if it were 1998 to 2010, then you're looking at most of the states fairing better except for Massachusetts and Virginia compared to 1998 to 2007. It goes on like that; but if everyone has looked that over, that is fine.

MR. THOMAS O'CONNELL: In regards to Issue 6, at-sea processing, if I understand that it would be consistent with the Shark Conservation Act, right now it is 12 percent; we heard that NMFS is further interpreting that. If NMFS had rulemaking that suggests that 12 percent would change; does that automatically change to whatever it is or does it still –

CHAIRMAN GIBSON: No, I think we discussed that earlier and concluded we would need an addendum action to react to that when John asked a similar question. Is there anything else on the motion? Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: On that same issue, Mr. Chairman, given that there is some concern around the table, and I certainly share it, that we'd be locking in something that the federal government is still evaluating, might it make sense to split this motion and split Item 6 off for separate consideration?

CHAIRMAN GIBSON: We certainly can do that; are you making a motion to split the question?

MR. GOLDSBOROUGH: If that is what it takes, yes, Mr. Chairman, I will make that motion.

CHAIRMAN GIBSON: Okay, is there a second to that? Seeing no second; that motion dies for lack of a second, so we're back to the original motion. Time to caucus? Thirty seconds to caucus.

(Whereupon, a caucus was held)

CHAIRMAN GIBSON: Okay, the motion is move to adopt the options: Issue 1, Option C, historical landings, 1998 through 2010; Issue 2, Option B, allow quota transfers; Issue 3, Option A, status quo; Issue 4, Option B, state-specified possession limits; Issue 5, Option A, no reevaluation of state shares; Issue 6, Option B, at-sea processing measures consistent with the Shark Conservation Act. Motion by Mr. Augustine; seconded by Mr. Himchak.

Are you ready for the question? **All those voting in favor raise your hand, 13; any opposed; abstentions, 1; null votes. The motion carries.**

MS. HAWK: We need to choose some dates. The first date is the date that the states will submit proposals to meet the requirements for Addendum II. The second date is the date that the management board will review and take action on the state proposals. The third date is the date that the states will implement regulations.

CHAIRMAN GIBSON: Okay, is there board discussion and input on the appropriate dates for these, keeping in mind your own regulatory frameworks and timelines that you need.

MS. HAWK: Toni, do you have any recommendations for this?

MS. KERNS: I think most measures in here are pretty straightforward. If the states could put proposals together by July 15th, the management board could review for the August board meeting and then implement by January 1. I will throw that out there for discussion.

CHAIRMAN GIBSON: So you're suggesting the submission by July 15th and there would be consideration of the proposals at the summer board. Okay, take action on the proposals and states implement regulations by January 1, 2014. What does the board think of that?

MR. HIMCHAK: Well, Mr. Chairman, I was wondering if we could accelerate the timetable because, again, we were targeting July 1st to take that dorsal fin off. We have already had our council conditionally approve a notice of administrative change where we could put into our regulations by July 1st. That was the rush for getting the data for the addendum. Without getting a plan approved by the board, I'm getting the impression that we could not do anything this calendar year; is that correct?

CHAIRMAN GIBSON: The board doesn't meet again until August. Dave Pierce.

DR. PIERCE: What would need to be approved by the board?

MS. HAWK: The state proposals; their management regulations.

DR. PIERCE: Proposals for what?

MS. HAWK: The addendum.

DR. PIERCE: What in the addendum would require a specific proposal to be approved by the board?

MS. KERNS: Just your ability to manage your quota; how you would manage your quota and implementation of all of the measures; fin-to-carcass ratio, to ensure that

you would be able to monitor that and enforce it.

CHAIRMAN GIBSON: Similar to what we just went through for menhaden, submission of implementation plan's ability to manage quotas and so on. Adam.

MR. NOWALSKY: Is there any input that staff could provide on a way that we could submit something, have it approved in some capacity for our state's fishermen for the summer fishery?

EXECUTIVE DIRECTOR ROBERT E. BEAL: I think if the states want to implement the fin-to-carcass ratio, which I think is the measure that the states would want to accelerate, that is pretty straightforward. The ratio is set in the addendum once it is approved. If the states want to go ahead and implement that, I don't think they have to have a proposal to do that approved by the board.

I think the ability to manage their quota and some of the other – you know, potential for quota transfers and those sorts of things; I think those are the provisions that are kind of new and different for the states. New Jersey already has a fin-to-carcass ratio, I believe, so you would be modifying the existing fin-to-carcass ratio. I think that could be done essentially immediately and then have the other provisions effective January 1, 2014.

My understanding – and maybe I missed it – is the states' shares that are going to be implemented through this addendum wouldn't be implemented sort of midyear for a quota. They would be implemented at the beginning of the fishing year or calendar year and it would apply to that year. It is kind of hard to fish a portion of the year and then have state-by-state shares implemented midyear. That is kind of my thoughts and I don't know if the board agrees or not.

CHAIRMAN GIBSON: It sounds like you have – I don't see anybody at the board

disagreeing and you have like full speed ahead on the issue of concern. Do we need a motion to adopt these dates? Okay, Bill Adler.

MR. WILLIAM A. ADLER: **All right, should I make a motion to approve these dates, which are July 15th that the states are to submit their plan; at the August meeting consideration of the proposals by the states; and January 2014 for implementation of the addendum.**

CHAIRMAN GIBSON: Pat Augustine seconds. Adam.

MR. NOWALSKY: Do we need a suggestion for a friendly amendment to do what we did, "immediate implementation of the finning consistent with the Shark Conservation Act" or just having it on the record at this point sufficient?

CHAIRMAN GIBSON: I think having it on the record is fine with no disagreement from the board for states moving ahead with that issue given that they already have a significant investment in it. **Is there any opposition to this motion? I didn't think there would be. Seeing none; that motion is approved without opposition.** Is there any other business? Bob.

EXECUTIVE DIRECTOR BEAL: You need one sort of final wrap-up motion to approve the addendum as modified today, and that will be a final action.

MR. ADLER: **I would like to make a motion to approve the addendum as approved today as a final action for this addendum.**

CHAIRMAN GIBSON: That was seconded by Rick Bellavance. Louis.

DR. DANIEL: I just wanted to make one clarification for myself before the final vote. There were about a hundred and some public comments, I believe, and there were 53 that encouraged us to stop finning. I

think we have a communication problem. We don't allow finning already, so somehow we need to get the word out on that because to have that many people making that statement that is just incorrect and that concerns me.

CHAIRMAN GIBSON: Okay, do we have to have a roll call vote on this? The motion is move to approve the addendum as modified today. Motion by Mr. Adler and seconded by Mr. Bellavance. We will go through the roll.

EXECUTIVE DIRECTOR BEAL: Not presupposing the outcome, but if there is no objection to this, you won't need a roll call because it will be unanimous. You can sort of query that first.

CHAIRMAN GIBSON: **Is anyone opposed to approving this final action? Seeing none; we don't need a roll call vote and it is done.** Thank you.

MS. SCHULZE-HAUGEN: Mr. Chairman, can I get on record to abstain?

CHAIRMAN GIBSON: The motion carried with one abstention. Dave Simpson.

MR. DAVID SIMPSON: So what would the quota be next year?

MS. HAWK: That is up to NOAA Fisheries and they tell me that it will be implemented sometime around October, but you can ask them about that.

MS. SCHULZE-HAUGEN: Maybe October 2014. Where we are at is we had been waiting for a biological opinion for this fishery for quite some time. We now have that opinion and so we are moving into the proposed rule development stage knowing now what the opinion requires. The caveat that I have on timeline is that this rule has been deemed significant by the Office of Management and Budget, and so our timelines are often extended when OMB has to review. We are a little less certain over

when that will happen and so then we would have a comment period and then final rulemaking, so we're still some time out. January 2014 is unlikely.

MR. SIMPSON: Then that sort of begs what we're going to put in our proposals in two months to meet a quota that is of unknown quantity.

MS. HAWK: The state shares wouldn't apply until NOAA Fisheries implements their coast-wide quota.

MS. KERNS: We would just want to know what your reporting requirements would be so that we would know that you were monitoring your quotas in some form is what we would need to know. If you were not monitoring at all, then we would know that would maybe be difficult to monitor a quota or manage a quota; but if you're monitoring on a monthly basis or a week basis, that type of information.

MR. HIMCHAK: Just a suggestion; in our regulations we typically put language in the quota for Species X or, you know, as determined by the ASMFC so that every year as it changes, it is what we would do for smooth dogfish.

CHAIRMAN GIBSON: Okay, that is exactly what we have in Rhode Island, so I don't really see this as a big issue. We have one more agenda item, a report an update on endangered species listing of great hammerhead and dusky sharks by Marin.

UPDATE OF ENDANGERED SPECIES LISTING OF GREAT HAMMERHEAD AND DUSKY SHARKS

MS. HAWK: Karyl touched upon this so I will make this very brief. There were two petitions received by NOAA Fisheries from Wild Earth Guardians and the Natural Resources Defense Council. They were concerned about great hammerhead sharks and dusky sharks. Their 90-day finding was that this is a substantial finding so now they

will do a status review and a 12-month finding of warranted, not warranted or warranted but precluded.

Just to briefly go over why the petitions were found to be substantial, for great hammerhead sharks the global fisheries are impacting great hammerhead shark populations to a degree that raises concerns of a risk of extinction and current regulatory mechanisms may not be adequate to protect the great hammerhead populations from extinction risk.

For dusky sharks, there were threats from overutilization by commercial and/or recreational fisheries. Current regulatory mechanisms may not be adequate to protect the Northwest Atlantic population from extinction risk, and the biological vulnerability of the species may be a threat since the population is already severely depleted and is still experiencing levels of fishing pressures that may be of concern.

The public comment period for great hammerheads is open until June 25th and for dusky sharks it is open until July 16th. NOAA Fisheries is interested in any scientific or commercial fisheries information that could aid their status review specifically related to bycatch of these species. Thank you, Mr. Chairman.

CHAIRMAN GIBSON: Are there any questions for Marin on that report? Seeing none; is there any other business to come before this board? John.

MR. CLARK: Mr. Chairman, I just had a quick question. Delaware is one of the states that just recently passed a ban on the sale of shark fins. I saw in the recently proposed ruling on the Shark Conservation Act that the wording in there – I just want to make sure I'm interpreting correctly that the National Marine Fisheries Service is saying those shark fin bans – sale bans won't apply to sharks caught in federal waters under the Magnuson-Stevens Act; is that correct.?

MS. HAWK: This will be discussed tomorrow during the Policy Board Meeting.

CHAIRMAN GIBSON: Is there any other business for this board? Toni.

MS. KERNS: Sorry to go backwards, but what we need to find out from the board is whether or not we want to have the commission follow up with comment on either of these two issues or if the states want to just provide comment individually.

MS. HAWK: In the past the commission has sent all the data from the states to NOAA Fisheries when these reviews are ongoing; just so you know.

CHAIRMAN GIBSON: Is that satisfactory to the board with this situation? I'm not seeing anybody disagree with that, so, Toni, are you all set? Okay, any other business before this board? Louis.

OTHER BUSINESS

DR. DANIEL: I guess I'm concerned, though, about – I mean, considering the way we handled sturgeon where we all individually provided our comments, I think a lot of us had that information available at the state level through partnerships with our own agencies and our inland fisheries, if we're not combined.

Just simply providing the data to NMFS, I think they have that information already. I'm wondering just because of the ramifications of a listing of hammerheads and duskies to the overall shark fishery and the impacts to the commercial and the recreational fisheries coastwide in some degree; is this not something that we want to elevate to a little higher comment level and consider having our technical committee provide us with some information. I know the timing is short and we're not going to meet again, but I think the potential of this having huge impacts on the coast are pretty significant.

CHAIRMAN GIBSON: So I understand you're suggesting a commission letter based on technical committee advice?

DR. DANIEL: Yes; I mean, I don't know if this is the right thing to do or not. I'm not so sure the folks that asked for it are either. It is the same group that sort of – I don't know anybody in these groups, so I'm not trying to be personal, but they're asking to list everything they can think of. They were behind the sturgeon listing and I think they're behind the herring listing.

I don't know what else they've got in the hopper to add to the list, but NMFS found their issue compelling enough to deem it substantial; and so does the technical committee agree with that finding, first, by NMFS and, second, is there any information in any of the states that is either supportive or contrary to a listing as threatened or endangered?

I don't know the answer to that question, and I think that is a question that we probably all need to know the answer to. The only way I know to get it is to ask our technical committee to review it and provide us with feedback before the deadline. Then if the Chair decides to send a letter, so be it. I mean that would be my suggestion, Mr. Chairman.

CHAIRMAN GIBSON: The first question is what is the deadline and what is the technical committee's capability to do that?

MS. HAWK: I believe the technical committee could have a conference call to review this issue within the allotted time, before the public comment period is over.

CHAIRMAN GIBSON: I would like to have board discussion at this point. Margo.

MS. SCHULZE-HAUGEN: Just a point of clarification for me; are you talking specifically about great hammerheads or are you also talking about scalloped or am I just confused?

DR. DANIEL: I don't care about scalloped because they're not in our area. I'm thinking greats and duskies are the two that are eminent potential issues for us at the commission level. Mine would be for greater hammerhead and dusky sharks; only those two.

CHAIRMAN GIBSON: I have only heard from Louis at this point on a technical committee task.

MR. KYLE SCHICK: I think it is a good idea for this body to be proactive on all of these listing requests and technical committee input is important. Just providing information to NMFS isn't giving the full story from how this body may feel not just on this issue but any possible listing.

I think we need to have a full impact of what it will do to other fisheries and to states and to economic impacts and all of the things. Not only is the information available; is it correct in our technical committee's opinion; so I definitely think – we don't want to be caught with our pants down again and I think we have to be proactive.

CHAIRMAN GIBSON: Is there any difference in opinion at the board relative to a technical committee charge, which I understand would have to be done quickly via conference call to turn the information around in time for a June 25th comment? I'm not seeing anybody objecting to that.

MS. HAWK: So the board would like the technical committee to review all the information available and then they would also like to review that technical committee review; is that correct?

DR. DANIEL: Yes.

MR. AUGUSTINE: Mr. Chairman, I think Kyle has the right idea, but here we are at the late juncture again. You're going to have a conference call from the technical committee and they're going to respond for two shark species, the duskies and the great

hammerhead. I think in the future, Kyle, you're right, I think the issue should be brought to our attention immediately and that it should be a part of our board discussion as a part of regular business under the ISFMP Policy Board.

In this case, I think, Marin, you will bring together a technical committee through a conference call, you will develop a white paper, if we can call it that, a position paper regarding our concerns and what we feel the impact, negative or otherwise, is going to be on our fisheries on a state-by-state basis or in total and then copy us later, after the fact, so we will have a hard copy of it through e-mail or some such way. Thank you, Mr. Chairman.

CHAIRMAN GIBSON: Does anyone else on the board wish to comment on this? Seeing none; I am going to let Arnold Leo – he has been waving his hand at me frantically – speak to this.

MR. ARNOLD LEO: Arnold Leo, speaking on behalf of the East Hampton Baymen's Association today. The listing as endangered of a species is an extremely radical step to take in fisheries management, especially when no consideration has been given to what is the problem with the species under question; in this case, various shark species. To list great hammerhead and dusky as endangered just has a radical effect on fisheries practices.

What happened off the east end of Long Island, declaring sturgeon endangered, immediately meant that our monkfish fishery had to be closed. There just is no justification for it. There is no justification until other management steps have been examined; what might be the problem with the hammerhead fishery or the dusky fishery.

Maybe the problems can be addressed in some other way and then some time, a reasonable time of three years or so can go by and see if the measures taken have a

positive effect on the population count of those shark species. These are things that should be done in a sane and reasonable approach to fisheries management and not immediately leap to this endangered species tactic. Thank you.

ADJOURNMENT

CHAIRMAN GIBSON: Thank you, Arnold. I think we have a course of action on the technical committee charge. Is there any other business to come before this board? Motion to adjourn; seconded by everyone. We stand adjourned.

(Whereupon, the meeting was adjourned at 2:40 o'clock p.m., May 21, 2013.)