

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

**Crowne Plaza Hotel
Old Town, Alexandria, Virginia
May 6, 2010**

Board Approved: August 2010

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INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of February 2, 2010 by consent** (Page 1).
3. **Motion to approve the Florida Conservation Equivalency Proposal and exempt Florida from the 54-inch minimum fork length recreational size limit for blacktip sharks** (Page 3). Motion by Jessica McCawley; second by Spud Woodward. Motion carried (Page 3).
4. **Motion that the board begin development of an addendum to the Spiny Dogfish Management Plan that would establish state quotas in the north and south regions. Quota alternatives will reflect catch landings history, including some or all of the options described in the October 2008 Proposed Addendum III; and, intent for some within-region redistribution of quotas for this rebuilt stock. The 58/42 north/south regional allocation will not change** (Page 5). Motion by David Pierce; second by David Simpson.
5. **Motion to postpone action on this until the summer of the 2010 meeting** (Page 9). Motion by Terry Stockwell; second by Pat Augustine. Motion carried (Page 10).
6. **Motion to appoint Mr. Aaron Podey of Florida to the Coastal Sharks Plan Development Team and Plan Review Team** (Page 11). Motion by Jessica McCawley; second by Robert Boyles. Motion carried (Page 11).
7. **Motion to appoint Mr. Bryan Frazier of South Carolina to the Coastal Sharks Development Team and Plan Review Team** (Page 11). Motion by Robert Boyles; second by Wilson Laney. Motion carried (Page 11).
8. **Motion to adjourn by consent** (Page 13).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)
Doug Grout, NH (AA)
David Pierce, MA, proxy for P. Diodati (AA)
William Adler, MA (GA)
Sarah Peake, MA (LA)
Bob Ballou, RI (AA)
David Simpson, CT
Lance Stewart, CT (GA)
James Gilmore, NY (AA)
Pat Augustine, NY (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)
Peter Himchak, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Gil Ewing, NJ, proxy for Asm. Albano (LA)
Craig Shirey, DE, proxy for Patrick Emory (AA)
Roy Miller, DE (GA)

Bernard Pankowski, DE, proxy for Sen. Venables (LA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Jack Travelstead, VA, proxy for S. Bowman (AA)
Cathy Davenport, VA (GA)
Louis Daniel, NC (AA)
Bill Cole, NC (GA)
Robert Boyles, SC (LA)
Malcolm Rhodes, SC (GA)
Spud Woodward , GA (AA)
John Duren, GA (GA)
Jessica McCawley, FL (AC)
Wilson Laney, USFWS
Margo Schulze-Haugen, NMFS

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Nichola Meserve
Christopher Vonderweidt

Guests

Bob Ross, NMFS
Adena Leibman, Oceana
Sonja Fordham, Shark Advocates, Int'l.

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 6, 2010, and was called to order at 9:25 o'clock a.m. by Chairman Louis Daniel.

CALL TO ORDER

CHAIRMAN LOUIS DANIEL: Good morning. Welcome to the Spiny Dogfish and Coastal Shark Management Board Meeting.

APPROVAL OF AGENDA

CHAIRMAN LOUIS DANIEL: I would like to direct your attention to our agenda and ask if there are any other items that need to be placed on the agenda. Chris, you had one thing; I can't remember what it was.

MR. CHRISTOPHER VONDERWEIDT: I was asked to give a brief update, which is all that I can really do, on the updated spawning stock biomass reference points for spiny dogfish that was presented at the Mid-Atlantic Council a week and a half ago. I would like to do that under other business if that is okay.

CHAIRMAN LOUIS DANIEL: Without objection, we will add that to the agenda. Is there anything else? Is there any opposition to approving the agenda? Seeing none, that is approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN LOUIS DANIEL: You also have your proceedings from our February 2nd meeting. Are there any corrections or modifications needed for our minutes? Then without objection, those minutes are approved.

I will ask now if there is anyone in the audience that would like to comment during our public session on any item that is not on the agenda. Seeing no hands, we will move on. The next item on the agenda is Florida's Conservation Equivalency Proposal. I believe we will get a report from Carolyn Belcher on that.

FLORIDA CONSERVATION EQUIVALENCY PROPOSAL TECHNICAL COMMITTEE REPORT

DR. CAROLYN BELCHER: Good morning, everybody. I'm here to give you a report from the technical committee conference call where we reviewed the Florida Conservation Equivalency Proposal as it applied specifically to blacktip sharks. The proposal was submitted March 2, 2010, to the commission.

The technical committee reviewed it on March 30th. The FMP requires a 54-inch fork length for large coastals, and I think this was pretty much the crux of where they were actually seeking the equivalency. Their points specifically were a recreational bag limit and gear restrictions as they applied with the commercial fishery. They do not have a directed fishery, per se.

They have implemented regulations on the Gulf side. Average blacktip caught in Florida is a 26-inch total length. Also, SEDAR 11, which was done for large coastals, the stock status is currently unknown for the Atlantic stock, so there is no scientific basis on which to base a change in catch levels at this time.

There were shark researchers that were present at some of the public comment in hearings that they had down in Florida, and they argued towards a maximum size limit. Some characteristics of the recreational harvest in Florida state waters, under the MRFSS estimates they have fluctuated between 4,000 and 106,000 pounds since 2000.

The technical committee looked at if you remove the outliers in the time series, the average harvest is approximately 15,000 pounds or 1,700 blacktip sharks per year. The 54-inch size limit obviously would eliminate this harvest within state waters since the majority of sharks caught are well below that size.

In looking in terms of conservation lost, the equivalency is basically that 15,000 pounds or the 1,700 individuals. Atlantic blacktip stock status, again relative to SEDAR 11, the stock status is uncertain. There is no scientific basis for advising the change in catch levels at this time. The technical committee agreed that allowing the harvest of these 1,700 individuals is unlikely to significantly impact the stock.

We recommended exemption be revisited if it is granted after the next stock assessment or a significant increase in Florida recreational blacktip landings occurs. The most equivalent regulation that Florida currently has applied to its state waters, which helps them achieve this conservation equivalency, even though it is hard to quantify is basically related to the gill net and longline prohibition within their state waters.

It eliminates bycatch and directed mortality on the juvenile blacktip sharks by these gear types, and the bycatch reduction alone is likely equal to or greater than the average recreational harvest or that 1,700 individuals. The recreational possession limit actually applies to the commercial fishermen so therefore the impacts relative to a commercial fishery in state waters is kept at the recreational level, but it is unlikely to provide conservation equivalency because the fishery is quota managed.

The 33-fish possession limit is actually within the federal waters and not within the state waters. Obviously, the commercial fishermen would be held to the recreational possession limit, which is one shark per day. The large coastal fishery closes when the quota, which is currently set at 169.7 metric tons, is met. The mortality on the stock will be the same regardless of where taken, and this because it is a stacked quota relative to state and federal takes at 75 percent of annual harvest taken off of the Florida coast. I think that is relative to the commercial.

Again, the 33-fish possession limit applies in federal waters so chances are, too, that as a commercial fisherman going inside of state waters it doesn't really provide you a good opportunity as smaller fish are in the state water limits. The maximum size limits that were brought forward, managers should implement maximum size limits for large coastals to protect the breeding adults.

This was actually brought forward in the public hearings from some researchers that were present. The technical committee felt there is little or no scientific support for this. Studies currently show that those first sexually mature stages have the most reproductive value as senescence occurs in the older individuals and minimum sizes are effective at protecting these stages, and protected only the oldest and largest females could result in a dramatic population

decline; again, related to senescence or the loss of fecundity in later ages.

The minimum size limit, the concern from the proposal was that they had stated that the female size at maturity and male size at maturity as listed above, females mature between 60 and 61 inches; males at 54 to 57 inches. They felt that the 54 inches was not set for blacktips. It didn't actually line up with the maturity schedule for these animals and would have little to no benefit to the population.

However, this was more a function of basically comparing apples and oranges the issues of fork length and total length as part of the regulations, so this 54-inch fork length, which is part of our FMP, is actually equivalent to a 66-inch total length, which is what the size at maturity is based on, so you can see where that 66-inch total length actually does get at preserving those first stages of maturity for black tips.

It is sufficient, also, to protect juvenile blacktip sharks until maturity. The technical committee's biggest exceptions were relative to the goals of the FMP. The exemption may be contrary to two of the objectives as outlined. Number one of the two objectives is being number two in the FMP, which is protecting essential habitat areas, such as nurseries and pupping grounds to protect sharks during particular vulnerable life stages in their life cycle.

The majority of East Coast state waters tend to have large numbers of neonates and juveniles present, especially during the summer months; not so much relative to federal waters in terms of the nursery areas. There is still a lot to learn about that, but there are enough studies done on the east coast to pretty much say state waters are pretty plentiful in the summer for young sharks.

Number 3 is coordinating management activities between state and federal waters to promote complementary regulations throughout the species range, so, obviously, if we exempt them from the 54 inches, that consistency lacks. The regulation relative to the Gulf of Mexico; while the technical committee applauds the state for implementing these size limits in the Gulf of Mexico as well, currently that stock is managed as two distinct stocks.

You have the Atlantic and the Gulf of Mexico. This has been determined genetically. The

conservation equivalency measure basically needs to be applied to the same stock, so there really isn't a gain to the Atlantic stock by protecting those Gulf of Mexico fish. Some of the challenges the fishery pretty much faces are related to species identification.

This applies pretty much to all juvenile shark species. They can be very difficult to identify. Blacktips are easily confused with spinner sharks, and recreational anglers are most likely to misidentify these species. Also, it can be difficult for law enforcement to differentiate these. In conclusion, the technical committee recommended that the board approve the proposal with the understanding that we need to look and see what happens within the next stock assessment as well as to see what the trends and the landings are in Florida.

Conversation gained by eliminating the gill net and longline bycatch mortality likely exceeds the conservation loss from the recreational size limit exemption, which, again, relates back to 15,000 pounds or 1,700 individuals. The minimum size limit is very important and probably the only measure really designed to get at protecting the juvenile sharks. With that, I will take questions.

CHAIRMAN DANIEL: Carolyn, very nice presentation. Are there any questions for Carolyn on the nature of her report? If not, Jessica, would you like to comment on the proposal?

MS. JESSICA McCAWLEY: Mr. Chairman, I don't have a lot different from what Carolyn mentioned to add. As she mentioned, Florida has very restrictive shark regulations. We have actually had those in place since 1992. We constrain all shark harvesters to the one shark per person, two maximum per vessel, so basically there is no commercial shark fishery in state waters because everybody has to abide by the recreational limits.

We have prohibited longlines and gill and entangling nets in state waters. We have also done some other things such as we discussed at a prior meeting that we have prohibited the recreational and commercial harvest of lemon sharks in state waters because we found there is a significant aggregation in state waters that we're trying to protect with sharks returning there from the Caribbean and from other places along the Atlantic coast.

We're also investigating further state waters rule amendments that would include adding hammerhead sharks and tiger sharks to the prohibited species list for state waters and also looking at additional gear restrictions such as only allowing circle hooks for the harvest. I'm ready to make a motion or take any questions whenever you're ready, Mr. Chairman.

CHAIRMAN DANIEL: Are there any questions? If not, Jessica.

MS. McCAWLEY: I would like to move to approve the Florida Conservation Equivalency Proposal and exempt Florida from the 54-inch minimum fork length recreational size limit for blacktip sharks.

CHAIRMAN DANIEL: I have a motion; is there a second? Second from Mr. Woodward. Are there any questions? Is there any discussion on the motion? Anybody from the audience? If not, I will read the motion: move to approve the Florida Conservation Equivalency Proposal and exempt Florida from the 54-inch minimum fork length recreational size limit for blacktip sharks. Motion by Ms. McCawley; second by Mr. Woodward.

All those in favor of the motion please raise your right hand; all those opposed same sign; null votes; abstentions, one abstention. **The motion carries to exempt Florida from a 54-inch minimum fork length requirement on blacktip sharks.** Next, I'm going to turn it over to Chris to give us an update on state implementation of the coastal shark regulations.

UPDATE ON STATE IMPLEMENTATION OF THE COASTAL SHARK REGULATIONS

MR. VONDERWEIDT: I'm just going to quickly go through where we were the last time and the progress that states have made implementing the regulations for the coastal shark FMP. I'm going to make to it kind of quick because there are a lot of things that got added to the agenda in the 25th hour, so we've got a lot of business to cover in one hour.

For a recap of what happened at the winter ASMFC meeting, New Hampshire, Rhode Island, Maryland, North Carolina and South Carolina had all met or exceeded all

requirements of the FMP. As you remember, there were a bunch of states that have made a lot of progress implementing the regulations, but we're missing one or two regulations. There were a couple of states that were really close to having all the regulations in place.

Maine had a de minimis proposal that was approved preemptively by the board. They had a February 22nd implementation timeline at the last meeting, and they effectively implemented it on February 22nd. Terry submitted those regulations. Massachusetts originally did not include the dealer permit requirement, but they enacted an emergency regulation that was effective on April 1. It requires all dealers who purchase sharks have to get a federal dealer permit.

Connecticut agreed to close all applicable fisheries while their regulation package was implemented. I have been working with Dave Simpson on that and they have closed the large coastal shark commercial fishery January 1, small coastal shark commercial fishery February 1. They have closed both the smooth dogfish recreational and commercial on February 10th. The process that they put that through allows for a maximum of 240 days.

They have also closed sandbar recreational and commercial on February 10th. Remember, sandbar is one of the drivers of our plan. Their new implementation goal for all the regulations is January of 2011. Then two notes is their current prohibited list – and I haven't seen the prohibited list on the new regulation, but I've made David aware of this is that they list bigeye sixgill as *Hexanchus vitulus* instead of *Hexanchus nakamurai*.

It is a recognized scientific name for bigeye sixgill, but the more recent one is *nakamurai*. It is kind of a small detail, but that might be something that he would want to consider changing. Currently the large coastal shark and small coastal shark recreational fishery is not under a moratorium.

Moving south to New York, their current regulations mirror the federal regulations. They're taking public comment on a regulation package which ends on June 1 and then adoption should be shortly after. I don't know if there are smooth dogfish regulations in place right now

for New York, but everything else should meet or exceed the regulations.

Then New Jersey, as of February 2nd, the last board meeting, they had not initiated rule making, so the process went through and the Spiny Dogfish Board, the Policy Board and the Full Commission all recommended that the secretary finds New Jersey out of compliance. On February 4th Vince sent a letter to Secretary Locke, Salazar, and also Governor Christie. On March 25th New Jersey DEP was successful in closing their large coastal shark fishery.

This was important because it was consistent with the large coastal shark closure that is May 15 through July 15, which is designed to protect sandbar sharks and it closes all large coasts because of the bycatch that would be associated with that. They effectively closed that, and that was the Delaware Bay, which is an important sandbar breeding ground as identified by the technical committee.

Currently New Jersey is in the process of rulemaking, and the National Marine Fisheries Service published a rule indicating that they will close shark fisheries off the coast of New Jersey July 30th. I'm not sure where New Jersey is specifically, but I think it is going to be awfully close, but they might in fact make it.

Delaware was originally missing federal dealer permits and allowed harpoons as authorized commercial gear. The recommendation from the PDT was that you probably don't need to change the harpoons, but Delaware was very proactive and said they wanted to implement this regulation. They have had a summer implementation goal as of the last meeting. They have initiated rulemaking for the changes, and they are on schedule for late August. Scott Newlin from Delaware has been working with me, and the language in the regulation seems like it is going to cover everything effectively.

The Virginia regulations originally allowed filleting at sea for smooth dogfish. This was kind of a remnant of the Smooth Dogfish Addendum I that was going through and they weren't sure exactly how smooth dogfish would be regulated under that. Originally they allowed filleting at sea, and on March 1 they have prohibited that regulation.

They also originally didn't require that if a shark is taken for display purposes and sent to an aquarium, that aquarium has to report annually throughout the life of the shark so that we know that it doesn't get shipped somewhere else and turn into sharkfin soup. They have also implemented that reporting requirement.

Georgia was originally missing the federal dealer permit and recreational permitted gear, and then April 14th it became effective requiring federal dealer permits and that recreational anglers could only use rod and reel and handline. That concludes the update of where states are.

CHAIRMAN DANIEL: Thank you, Chris. Pete.

MR. PETER HIMCHAK: Mr. Chairman, I'll give you an update on where New Jersey is on this issue of non-compliance. As Chris said, we were successful in closing the large coastals, including the sandbars, by notice of administrative change. It is a limited regulatory mechanism that we were able to utilize. If we could have accommodated all the shark provisions, we would have done it but we could not.

We have the closure well in advance of May 15th. We have a public hearing next week, May 13th, which is within the 60-day commenting period. We are targeting a publication date in the New Jersey Register of July 15th, which would be two weeks after the public comment period closes. We have everybody's attention in state government that this is a priority, and we will turn around a document as soon as that public comment period closes.

I think one of the contributing factors in allowing this to go through July 30th is you have to remember that every commercial and recreational fisherman in effect has a highly migratory species permit and is already bound by the rules and regulations in federal waters, whether they fish in federal waters or state waters. It seemed like a generous timeframe until July, but again they're still bound by all the federal regulations at this period. That is where we are and I hope this chapter is closed in August. Thank you.

CHAIRMAN DANIEL: Thank you for that update. Any other questions for Chris? Mr. Adler.

MR. WILLIAM A. ADLER: Chris, in general, are these regulations – I'm trying to remember – are these rules that are going down the coast here; are they pretty much in line with what the federal rules are?

MR. WONDERWEIDT: Yes, they're awfully close. The exception is that we do not have a size limit for all small coastal shark species while there is a size limit for sharpnose and bonnethead, I believe, in federal waters. I'm getting confused; I haven't looked at it in a little bit, but we don't have a size limit on the small coastals and the National Marine Fisheries Service has a 54-inch size limit for all small coastals. The other difference is in our Addendum I, while actually technically there is no federal management of smooth dogfish, but the regulations that I'll go over in a minute, smooth dogfish, you would have to land it with the fins attached.

MR. ADLER: If I may, Mr. Chairman, so, in other words, our recreational fishermen along the coast pretty much are going to be bound by the combination of the state and the federal rules when they go out looking for sharks pretty much, right? Okay.

CHAIRMAN DANIEL: Any other questions? Margo.

MS. MARGO B. SCHULZE-HAUGEN: Just to clarify; the federal recreational limit for small coastals is for blacknose and finetooth. Sharpnose and bonnethead do not have a minimum size.

CHAIRMAN DANIEL: Thank you for that clarification. Anything else before we move on to the next item? All right, Dr. Pierce is going to lead us through a discussion on spiny dogfish state shares.

DR. DAVID PIERCE: Mr. Chairman, I have a motion to make and after it is seconded, I will speak to the motion. I believe that Chris has it on the board. **All right, I move the board begin development of an addendum to the Spiny Dogfish Management Plan that would establish state quotas in the north and south regions. Quota alternatives will reflect catch landings history, including some or all of the options described in the October 2008 Proposed Addendum III; and, intent for some within-region redistribution of quotas for this**

rebuilt stock. The 58/42 north/south regional allocation will not change.

CHAIRMAN DANIEL: All right, we've got a motion on the floor; is there a second? Second by Dave Simpson.

DISCUSSION ON SPINY DOGFISH STATE SHARES

DR. PIERCE: Mr. Chairman, to the motion, back in October of 2008 the board took action on Addenda II and III. The outcome was preservation of the 58/42 north/south split, but with North Carolina having 16 percent of the south portion. That was a very appropriate action for this board to take. I believe it had widespread support, and certainly I supported that initiative as well. No other state shares were established at the time.

There wasn't an appetite for any other state shares. The concern was primarily about interest expressed by concerns elaborated by North Carolina. Well, that meant from May 1, 2009, through April 2010 we continued with the regional allocation, but no specific shares in the north, and, of course, the other states in the south were fishing on sharing the common pool; that 42 percent.

It became a wait-and-see situation, what would happen with that management strategy, with all states having the 3,000 pound landing limit that we collectively, the board, decided was an appropriate limit to be in place come May 1, the beginning of each fishing year. During that fishing year Massachusetts continued with the status quo for our waters. We continued with the 600 pounds May 1, and then we went to 2,000 pounds on September 1.

We did that largely because of concerns expressed by the industry in our state that that was the best approach to provide for the highest prices to the fishermen and also to enable them to take advantage of fall markets overseas. Well, the end result, as we suspected they would be, was – well, it is inequity, inequity between the difference states in that some fishermen from other states were shipping in 3,000 pounds to be processed in Massachusetts where the processing capabilities are, and yet Massachusetts fishermen were restricted to 600 pounds; 3,000 versus 600. We had to deal with that.

In addition, when we went to 2,000 pounds come September 1, the fishery closed down rather early because the northern region quota was taken. Well, this year we have begun on May 1, last week, we began the season at 3,000 pounds, to be consistent with the other states, and we suspect that will mean a rather early closure of the northern region, perhaps a closure midsummer.

It is tough to say. Again, it is a wait and see. Even with the increase in the quota from 12 million to 15 million that we all share as a group of states, we suspect that is going to happen. We consider that to be really an undesirable situation. This motion makes it very clear that we have no intent to go back and revisit the north versus south shares. That remains as is.

If this motion was to pass, the states in the south could address the issue if they cared to and come up with some other way to share that 42 percent. It is completely up to the southern area. In the northern area we would get together and we would determine what might be done, and we would use the previous work done by council staff for Addendum III that didn't go anywhere, but nevertheless a lot of work was done relative to that.

It will also give us an opportunity to develop some creative management approaches, sharing approaches for the northern area. There are no specifics in this motion relative to what shares would be, but it sets us down the road towards coming up with a strategy that would eventually enable us to give states some independence.

In the north, specifically, to which speak, it would give the states some independence for us to deal specifically with our state-specific objectives, with the industry concerns that may be specific to the individual states, and also to prevent an early closure of the northern region, which would disadvantage other states; specifically, the state of New Hampshire and Maine. We don't want to return to that situation. That is the reason for the motion, Mr. Chairman, and I, of course, urge board members to support it.

CHAIRMAN DANIEL: Thank you, Dr. Pierce. Jack.

MR. JACK TRAVELSTEAD: First a question of the maker of the motion and an expression of

some concern. Although I think I do support the motion, I think we're now in a period of increasing quotas which suggests it might be a good time to start talking about state-by-state shares, the one concern I have, which I've mentioned before, is the fact that in several states – certainly, Virginia is one of them – the historical record of catch or landings data is quite poor.

In fact, there are years where Virginia shows no landings at times when we know we had a fishery, and that would certainly cloud the ability to develop accurate state shares if it is based on long-gone historical data. I guess under your number one in your motion I'm hoping that your mention of catch history would also include recent history of how the fisheries have operated so that we would see those kinds of options in there as well as those that were presented in the previous addendums.

DR. PIERCE: To Jack's question, the intent of the motion is to give states a great deal of flexibility as to how they deal with state shares. States can reference and use the work already done and described in Addendum III or it can go in an entirely different direction and come up with some creative approaches.

For example, looking at the different options that were in Addendum III, I noted back then and I continue to note now that if we were select any of those particular options relative to the north region, we would benefit Massachusetts but put New Hampshire at a disadvantage; benefit Rhode Island; not do much for Maine; and vice versa. None of the options really in Addendum III are that palatable.

I suspect they would not be palatable to the northern states collectively, which is why I seek some creative solution or creative approach that would result in more equity and a willingness on the part of all the states in the north and perhaps in the south to agree to a strategy that all states could sign on to and not a strategy that would disadvantage one state in the grouping versus the other states. I don't want to go in that direction; it would make no sense. I'm very sensitive to your concerns, Jack, and the motion would not put Virginia in a position where your lack of a catch history would put you at a great disadvantage.

MR. DOUGLAS GROUT: While I don't oppose this motion in exploring these possibilities, I do express some concern now and will as we go through this development of a – potentially a development of a new addendum is allocation is always a very difficult issue, whether we're dealing with it at the commission or at the councils.

I think that is one of the reasons, as you probably realize, that we didn't go with Addendum III because it was going to be a very difficult decision. I was wondering if there might be some merit to having some additional options that might get at some of the concerns that Dr. Pierce has. I know we've tried – and specifically is there some way that we could try and include some options that would involve creative distributions of trip limits within the states that would accomplish the same thing of extending the quota. I know I've heard concerns between the states about that. If there is sentiment to do that, if you'll give me a few moments I would be willing to try and craft an amendment to this motion.

MR. TERRY STOCKWELL: Thank you, David; I support the concept of the motion and certainly underscore flexibility and equity, but actually I'm opposed to initiating action today. For a number of reasons Maine has been opposed to, as Jack said, going down this road in the past, but I can see real value to it in the future.

We don't have enough meat on the bones of this action here to make me feel comfortable. I think, as Doug was just referring, he wants a little bit more time to think about and I do, too. I would feel much more comfortable about taking action on this at the summer meeting. If the time is appropriate after further discussion, I plan to make a motion to table action until the summer meeting.

MR. BOB BALLOU: I support the concept of the motion, but I do have a question for Dr. Pierce through the chair, and that is could you please explain the intent of first sentence under two in your motion, please?

DR. PIERCE: As it stands right now, all the options before us at least in Addendum III give Massachusetts the lion's share of the quota in the north. My intent is for us to come up with some creative solutions that would actually involve a

redistribution of that quota within the north to benefit the states adjacent to Massachusetts and, of course, the state of Maine.

I haven't got any approaches yet to offer, but the motion makes it clear that the Commonwealth of Massachusetts is willing to go in that direction in the interest of our coming up with some set of shares, some options that would be acceptable to the other states because, clearly, if I don't work in that direction I'd never get the support of the other states.

This is for the greater good because the greater good will involve our not having what I suspect will happen this year repeated in 2011, and that is the fishery begins on May and it shuts down on July 1. What is that – that is poor fisheries management. I want to away from that, so the Commonwealth is willing to work towards a redistribution of the percent share that we otherwise would get to the other states in the interest of coming up with some support for the approach.

Creative approaches need to be developed and that is what this will end up – I hope it will end up in our developing those creative approaches that Rhode Island would find supportable as well as New Hampshire, the state of Maine, Connecticut as well.

MR. DAVID SIMPSON: Yes, I support the motion largely because of the possibility it offers for exploring a new way of sharing catch. As I talked with Dr. Pierce in the hallway before the meeting, some further exploration of a concept that has been out there for other species; namely, that the current allocation be shared based on historical shares as it is, but as the stock grows, that that new biomass is shared differently.

Certainly, there is a lot of work to do to develop those specifics and maybe that's where we use Doug's suggestion of some informal meetings between now and August in this case to work those out and maybe this species could serve as a model for some of the other species where we have ongoing concerns about allocations of catch that are based on 20 to 30 year old history. We're going to get very quickly – Tom Fote will be here, but 50 years down the road we'll be sharing based on what happened back in the 1980's and it is going to sound very peculiar to people, so I think we have to explore this.

MR. HIMCHAK: Mr. Chairman, I'll support the motion. Quite frankly, New Jersey was disappointed when we did not come up with state-by-state percentages under Addendum III previously. I think that the state would welcome knowing in advance what percentage of however many millions of pounds are available so that we could again design a state waters' fishery, and perhaps with the expansion of the population maybe there would be some other avenues for shoreside processing other than North Carolina processes its own and the Massachusetts processors take care of everything else. It would certainly benefit the states to know ahead of time what their allocation is and to plan appropriately.

CHAIRMAN DANIEL: Thank you. That is who I had in the first round and some hands have gone up since then, and I have somebody from the audience that I'll get to before we take a vote on this. I'm hearing a sense of in favor, so I would like to take some comments from those that are opposed. Craig.

MR. CRAIG SHIREY: When it comes to state shares or catch shares and quota histories, it is fine if your state has a good history and have taken advantage of certain species, but it really puts a disadvantage to the state that does not have a history. I think it's important to note that fisheries change; fish distributions change; fisheries economics change.

A lot of times fishermen choose to fish for a particular species, one over the other. The incentive is not there to fish for spiny dogs, say, for instance, if you're busy catching weakfish; and you're busy catching weakfish, say you're not fishing for flounder, so you don't have an opportunity to develop very good histories, and then the distribution of the fish changes, and a fisherman is ready to shift to something else and he realizes that he has no or very small quota to work with and it sort of handcuffs him. There are problems with this kind of a management strategy, especially for those states that may not have had a very good catch history in the past.

CHAIRMAN DANIEL: I would take one more that wanted to speak in opposition to the motion. Roy.

MR. ROY MILLER: I would just add to Craig's comments that conceptually I wouldn't oppose the idea of this motion, but the devil is in the details. My recollection of the October 2008

Addendum III details many of those details would prevent Delaware fishermen from participating in the spiny dog fishery, and that is my concern at this point in time.

I think I would be much more comfortable if I saw a specific proposal. Delaware voluntarily closed their spiny dog fishery for a good number of years when the perception was that stock was in trouble; and now that stock appears to be if not entirely rebuilt then rapidly rebuilding, I think it would be unfortunate if Delaware fishermen, as Craig said, were not given an opportunity to participate.

CHAIRMAN DANIEL: Is the board satisfied with the debate? The last word is from Tom Fote.

MR. THOMAS FOTE: Vince O’Shea and I had an interesting conversation on how do we handle increases in quota when we were talking about summer flounder, but I’m looking at this as maybe this is where we should set the example. You start a base where the quota is or up to a certain point and then when that quota is reached and you go beyond, then any increase in quota is divided equally among the states.

We had a workshop years ago and that is what we were going to do when we saw summer flounder increased and we saw scup increasing and that never happened because everything went the other direction under the new Magnuson Act and everything else. Maybe this is where we could look at something like that to do that; so if we went beyond a certain point, then every state would have equal – now they could transfer their quotas out if they didn’t feel like harvesting or things like that, but then states wouldn’t be penalized for not having a history because they put in moratoriums and things like that; and when the quota got big enough, that we could split those increases equally among the states and then decide from there.

CHAIRMAN DANIEL: Good point. I didn’t mean to cut you off if you have an amendment to the motion, Terry. Is that what you raised your hand for?

MR. STOCKWELL: Yes, sir. Actually, I have a motion to table action on this until the summer of the 2010 meeting.

CHAIRMAN DANIEL: I think the correct word would be “postpone”.

MR. STOCKWELL: Okay, I’ll rephrase that; **I move to postpone until the summer of the 2010 meeting.**

CHAIRMAN DANIEL: All right, I need a second to that motion. Pat Augustine seconds. All right, is there discussion on the motion? Terry.

MR. STOCKWELL: I’m in favor of the main motion. I don’t want to rush through something that will fundamentally change how we’re doing business right now. I want to do it right and I think we need to further develop the alternatives and come back with some more substance that we can feel comfortable about moving ahead. If we were to move ahead with the addendum today, we’d start a ticking clock that would take off; and if we do a bad job, then it would be a disappointment. I think the postponement would be worth it.

CHAIRMAN DANIEL: I think now I ask if there is objection to the motion. Okay, now I’ll go to the audience.

MS. SONJA FORDHAM: Sonja Fordham, Shark Advocates, International. The first time I’m saying that so it is very nice to be here. I’m sorry for not indicating a desire to speak before. I am in the process of getting back up to speed on this, and it is nice to be back. I wanted to make a bit of a point, but actually ask a question of clarification.

Going to the phrase “this rebuilt stock”, one of the first things my new organization did was file spiny dogfish comments on Monday regarding the federal specifications. I recall that a Federal Register Notice talked about how – I believe it was the SSC of the Mid-Atlantic Council had indicated that the stock was not fully rebuilt and actually pointed out that the stock is predicted to decline starting in the near future, to decline again.

My question was if this phrase that the stock is rebuilt is accurate for this forum and is that because the ASMFC target might be lower than what the scientists are looking at or perhaps based on the final results of the new assessment, which I have not yet seen?

CHAIRMAN DANIEL: Based on our plan, the stock is declared rebuilt.

MR. BEN MARTENS: Mr. Chairman, Ben Martens; I work for the Cape Cod Commercial Hook Fishermen's Association. I work with a number of small boat fishermen who normally target groundfish, but I think moving forward spiny dogfish are definitely playing a much bigger part of their business plans. Under this new sector system, it allows fishermen to develop business plans.

I really want to thank Dr. Pierce for bringing this up and just really emphasize a point that he made and a couple of other people around the table have made in that it is about making sure that this stock and this fishery stays open for a long period of time. One of the issues that we have is dogfish prices are extremely low and it is because there is not a market for them because of some overseas issues. If we can extend this fishery throughout the summer and into the fall as just opposed to just having huge landings as soon as it opens, which is going to be in the spring this year, probably, we need to make sure that we can establish a market for this fish so that we're not just killing and throwing away fish without getting a good price for them.

I think this a great step and I think it is a way for states like Massachusetts, which took some steps last year to try and extend the quota, but were kind of undermined by some other decisions that were made by processors throughout the country. I thank you, Dr. Pierce, and hopefully we can move forward. I think that postponing it to the summer we'll actually start to see some of the potential – what is happening within the fishery now that we're under the sector system.

CHAIRMAN DANIEL: Thank you. Is there anyone else from the audience? I don't see any other hands up. The motion is to postpone until the summer 2010 meeting. The general sense I got around the table was that there is support for looking into this in a more detailed way, but that we're not quite ready to start the process yet.

That is generally the sense that I get around the board and from the discussion. With that said, all those in favor of the motion raise your right hand; those opposed same sign; null votes; abstentions, two abstentions. **That motion carries and we are postponed until the summer meeting.** Bob.

MR. ROBERT E. BEAL: Just a question on what the board would like to see happen between now and the summer meeting. From the discussion it sounds like the staff and the plan development team should work with the chair and the states to come up with these creative options, as they have been called, in addition to what was included in Addendum III and bring those back as a white paper or sort of a strawman document at the August meeting. Is that what you had in mind?

CHAIRMAN DANIEL: That is what I had in mind. I was intrigued, though, by what Mr. Fote said and wondering if that is not the type of thing that we might want to start looking at establishing as well for some of these states. I hate to see a state like Delaware penalized for being proactive and not seeing shares. I think that should be an option that is considered, at least in my opinion and view from around the table and seeing heads nodding in agreement, that would be a good approach to look at as well. Is there any objection to that? Tom.

MR. THOMAS O'CONNELL: I was going to comment in regards to how we follow up and I think Bob's idea is really good. This is an issue that Maryland is very concerned about. We've lost some of the opportunity that we've had historically and would be very interested in revisiting the state-by-state allocation.

CHAIRMAN DANIEL: Staff will send out the Addendum III draft next week to the board to give you sort of a starting point to start looking at some of these issues. Mr. Adler.

MR. ADLER: I was just going to say to Bob that in order to get ready for August, there needs to be something by August so we can then have something to chew on for the possible addendum to move forward, if we approve an addendum. I think Bob had it – somebody has got to do some work between now and August. That would be good.

CHAIRMAN DANIEL: It will be done. Doug.

MR. GROUT: I think this is a good direction to go in with a white paper and having the Addendum III as a basis plus some creative solutions concerning the harvest that Dr. Pierce was alluding to, Mr. Fote's concern and maybe looking at creative options with either reduced consistent trip limits between the states without

any kind of state-by-state allocation or maybe variable trips limits between the different times of year, maybe having reduced trip limits during one period and then when the value of the fishery is higher having higher trip limits.

CHAIRMAN DANIEL: So everybody is happy? All right, thank you, Dr. Pierce, for leading that discussion. Next on the agenda is a presentation on the final Amendment 3 to the HMS Fishery Management Plan, and Chris is going to start that and certainly if Margo has anything to add, she will be recognized.

PRESENTATION ON THE FINAL AMENDMENT 3 TO THE HMS FISHERY MANAGEMENT PLAN

MR. VONDERWEIDT: I would just like to point out that HMS offered to come and give a more lengthy presentation and a more thorough one, and I think we're going to try and take them up on that at the next meeting, but people wanted to know what was in the rule right now. Given the limited amount of time, I'm just to give a snapshot of what the regulations are.

This is for Amendment 3, the final environment impact statement. It was released on March 11th and it is going to publish after a 30-day waiting period. This overlaps with our plan for smooth dogfish and small coastal sharks. The specific regulations that overlap with us are small coastal sharks. There is a 221.6 metric ton quota, which is the average from '04 through '08 average landings.

Then aside from the small coastal shark quota, there is a blacknose quota, a 19.9 metric ton quota which is a 64 percent reduction of blacknose landings from '04 to '08. You probably remember the last assessment said that we needed a serious reduction in blacknose mortality. It does not prohibit the recreational retention of blacknose. That was the preferred alternative that would have required some of our states to change their regulations, but it does not prohibit that so no change is necessary there.

For smooth dogfish the measures will be delayed until 2012 when a quota of 715.5 metric tons will be implemented, which is the average landings from 1998-2007 plus two standard deviations up of those landings. I looked at the landings

briefly and I think the high years were about 550 metric tons, so it is higher.

As far as what does this mean for our ASMFC FMP, right now states will not have to change any of their regulations if nothing changes between now and the 30-day waiting period. There are less significant small coastal shark and blacknose reductions than the preferred alternative in the draft environment impact statement. We have the ability to set a smooth dogfish quota, so if it was the preference of the board to set a quota in 2012 that would align with highly migratory species quota, we would have the ability to do that through our existing regulations. That's it.

COASTAL SHARK PLAN DEVELOPMENT TEAM AND PLAN REVIEW TEAM MEMBERSHIP

CHAIRMAN DANIEL: Thank you, Chris. Are there questions regarding Amendment 3? All right, next on the agenda is the coastal shark plan development team and plan review team membership. We've got a couple of nominations, I believe. Jessica, we've got a nominee from Florida; and, Robert, we have a nominee from South Carolina. We'll take Florida first.

MS. McCAWLEY: Are we speaking about **Mr. Aaron Podey**?

CHAIRMAN DANIEL: Yes, ma'am.

MS. McCAWLEY: **He is actually our senior biologist in the Division of Marine Fisheries Management and he has been our lead on shark issues for some time, and we would like to nominate him.**

CHAIRMAN DANIEL: I'll take that in the form of a motion; is there a second? Second from Mr. Boyles. Is there discussion on the motion? Is there any objection to the motion? Seeing none, that motion carries. Robert.

MR. ROBERT H. BOYLES, JR.: **I'll make similar comments about Bryan Frazier of our staff, our senior shark biologist; but given where we are budget-wise, I will be happy to point out he is younger than I am, but very passionate and very knowledgeable and does a**

number of things, not the least of which is the longline survey for coastal sharks and red drum and other things. We think he would be a great member of the plan review team and the PDT. **I would like to make a motion that we appoint him.**

CHAIRMAN DANIEL: Motion by Mr. Boyles; seconded by Dr. Laney. Is there discussion on that motion? Seeing none, is there any objection to the motion? Seeing none, the motion carries. We have two new members. Chris, do you want to take us through our other business item on the spiny dogfish update.

OTHER BUSINESS

MR. VONDERWEIDT: This is a follow up to the 2009 spiny dogfish TRAC meeting, the assessment and the review meeting which did not produce any results. There was an all-day conference call on a Friday and the following Tuesday Paul Rago presented the results to the Mid-Atlantic Fishery Management Council. I'm just going to give a quick snapshot of what those results were.

There are no official documents. I pulled this out of the draft, which is not official, but this is what he presented. It will come out shortly. There will be a New England Fishery Science Center reference document. It is not going to be a TRAC report. As an overview, key model parameters were updated. Probably the most important is the selectivity of the fishery, which has major impacts on the F rate and what the target F and threshold F should be.

In 2008 our F was 0.11, which everybody here remembers is the rebuilding fishing mortality rate. We have been at that for some time, right around 0.11. Previously the target was 0.284 and it was lowered with this new update to 0.27, which is considerably higher than the 0.11 that we have been fishing under.

The threshold was lowered from 0.39 to 0.325. For the spawning stock biomass we're still above the target and the threshold. There is a new lower target of 159,288 metric tons, which was previously 167,000 metric tons; and the threshold, that is just simply half the target. It is now 79,000 or 80,000 instead of 83,500.

The caveat with this is that there are some weak year classes that are going to reduce the spawning stock biomass. I have spoken with NMFS staff and they've assured me that NMFS is going to consider this a peer-reviewed assessment and the process is in line with what they need to include this as their new target so that they can declare the stock rebuilt. As far as what the quota response to that will be will be published, and we will find out what that is, but they can and plan on declaring the stock rebuilt.

I asked the question what about the SSC because the SSC recommended consistent with 0.11. They don't have to follow what the SSC says; the councils do. That was the response there. The spawning stock biomass; this is the new target and threshold. The blue line is where the actual SSB is and you can see in '08 it was a little bit higher and then 2009 just a little above target, but it is still above the target.

The next slide shows the spawning stock biomass. This was referenced in the draft center reference document that was sent out, and this is from the book, "Biology and Management of Dogfish Sharks," which is a 2009 American Fisheries publication, and there is a chapter, "Scientific Challenges to Spiny Dogfish Recovery Program."

This doesn't have the updated selectivity. It is an old rebuilding F, but what it shows is that there is going to be a dip around 2015. We don't know what the actual projections are and those will be included in a more thorough report, but the takeaway is that there is still going to be this dip. The magnitude is going to depend on what the quota is.

As far as action, whether or not this merits an increase in quota, I don't have the answer to that question, but I can kind of give you the timeline. Federal and state fisheries open May 1, 2010. NMFS has not implemented a quota, but their possession limit of 3,000 pounds carries over into the next fishing season. We have a 15 million pound quota in place.

Last year there was a 12 million pound quota, and the northern region closed September 27 with the same possession limits. The next step, as far as the National Marine Fisheries Service will follow, is that they need to get the reference document from the science centers and then they

will prepare the final rule with a 30-day comment period. Possibly they can waive this.

I was told that July is probably a realistic timeline. Our next meeting is August 2nd where we could have the benefit of a full report from Paul or one of his staff members. We could also get input from industry, the advisory panel and the technical committee. The fishery, if you look at historical landings, is likely to remain open. That concludes the update.

CHAIRMAN DANIEL: Thank you, Chris; questions for Chris? Dave.

MR. SIMPSON: Just one for fun; did you say that the National Marine Fisheries Service indicated that they don't have to comply with SSC recommendations?

MR. VONDERWEIDT: That is what I was told over the phone because I was wondering if the recommendation of the 11 million pound quota following the F equals 0.11 was going to hold them, but that is what I was told.

MR. SIMPSON: Well, we share something in common, then.

DR. PIERCE: Just a reminder, we discussed this at the last board. The reason why the Mid-Atlantic Council adopted the quota that it did was that the SSC felt compelled to use the lower fishing mortality rate as a way to recommend or set quota through the next fishing year. They did not have the benefit of the fact that there was a – well, they did not know that the stock was rebuilt; because when the stock is rebuilt, then a higher fishing mortality rate can actually be used.

Now, ASMFC did that at our last meeting because according to our biomass target we are rebuilt. Finally, the federal government now has – NMFS has a biomass target reference point. I understand that has come out of all this assessment work. Using that assessment, using that reference point, they've concluded that we were rebuilt, so now we will wait to see what the final outcome is with the National Marine Fisheries Service as they move forward with their process as you've just described, Chris; and hopefully they'll conclude that, yes, we are rebuilt and they can use that fact that they're not obliged to live with SSC advice – interesting –

and we'll end up with a higher quota, consistent with ASMFC's approach.

ADJOURNMENT

CHAIRMAN DANIEL: Let's hope. Any other questions for Chris on the update? Is there any other business to come before this body? If not, I would accept a motion to adjourn. We are adjourned.

(Whereupon, the meeting was adjourned at 10:32 o'clock a.m., May 6, 2010.)