

Atlantic States Marine Fisheries Commission

Spiny Dogfish and Coastal Shark Management Board

August 9, 2012
10:15 a.m. – 12:45 p.m.
Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*D. Simpson*) 10:15 a.m.
2. Board Consent 10:20 a.m.
 - Approval of Agenda
 - Approval of Proceedings from May 3, 2012
3. Public Comment 10:25 a.m.
4. Spiny Dogfish Draft Addendum IV for Final Approval **Final Action** 10:30 a.m.
 - Review Options (*D. Chesky*)
 - Public Comment Summary (*D. Chesky*)
 - Technical Committee Report
 - Advisory Panel Report (*L. Gillingham*)
5. Technical Committee Review of New Jersey Smooth Dogfish Request 11:15 a.m.
(*B. Winner*)
6. Discussion of State Shark Fin Possession Prohibition Bills 11:50 a.m.
7. Other Business/Adjourn 12:45 p.m.

The meeting will be held at the Crowne Plaza Hotel Old Town, 901 N. Fairfax St, Alexandria, VA;
(703)-683-6000

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015

MEETING OVERVIEW

Spiny Dogfish and Coastal Shark Management Board Meeting

Thursday, August 9, 2012

10:15 a.m. – 12:45 p.m.

Alexandria, Virginia

Chair: David Simpson (CT) Assumed Chairmanship: 08/10	Vice Chair: Mark Gibson (RI)	Law Enforcement Committee Representative: Tulik/Frampton
Spiny Dogfish Technical Committee Chair: Vacant	Spiny Dogfish Advisory Panel Chair: Vacant	Previous Board Meeting: May 3, 2012
Coastal Shark Technical Committee Chair: Greg Skomal	Coastal Shark Advisory Panel Chair: Lewis Gillingham	
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, NMFS, USFWS (16 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceeding from May 3, 2012

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

9. Spiny Dogfish Draft Addendum IV for Public Comment (10:30-11:15 a.m.) Final Action

Background

- Draft Addendum IV for Public Comment includes options to revise the overfishing definition consistent with the best available science and Councils. **(Briefing CD).**

Presentations

- Overview of options by D. Chesky
- Public comment summary by D. Chesky
- Technical Committee Report
- Advisory Panel Report by L. Gillingham

Board actions for consideration

- Select management options and implementation dates.
- Approve Addendum IV.

5. TC Review of New Jersey Smooth Dogfish Request (11:15-11:50 a.m.)

Background

- Addendum I allows commercial fishermen to completely remove the fins of smooth dogfish from March through June of each year and prohibits removal of the dorsal fin from July through February.
- New Jersey fishermen have asked that the Board allow commercial fishermen to remove all fins at sea at all times of the year. **(Briefing CD).**
- The Board tasked the TC to review the New Jersey request **(Briefing CD).**

Presentations

- Technical Committee review of New Jersey request by B. Winner.

Board actions for consideration

- Initiate addendum.

6. Discussion of State Shark Fin Possession Prohibition Bills (11:50 a.m.-12:45 p.m.)

Background

- Several state Legislators have proposed bills to prohibit possession of shark fins, in an attempt to prevent finning (removing fins, discarding carcass at sea).
- The ASMFC FMP requires that fins remain attached naturally to the carcass through landing to prevent finning.
- It is unclear why current regulations are insufficient to prevent finning.

Presentations

- None

7. Other Business/Adjourn

DRAFT

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

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

These minutes are draft and subject to approval by the Spiny Dogfish & Coastal Shark Management Board. The Board will review the minutes during its next meeting.

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INDEX OF MOTIONS

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

ATTENDANCE

Board Members

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

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Mike Waine
Christopher Vonderweidt

Guests

Cheri Patterson, NH F & G

Rob O'Reilly, VMRC

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

CALL TO ORDER

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

APPROVAL OF AGENDA

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

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

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

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

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

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

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

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

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

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

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

ELECTION OF VICE-CHAIRMAN

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

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

DISCUSSION OF MASSACHUSETTS COASTAL SHARKS DE MINIMIS REQUEST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRELIMINARY 2012/2013 SPINY DOGFISH QUOTAS

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

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

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

UPDATE OF 2012/2013 FEDERAL QUOTA AND POSSESSION LIMITS

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

MR. VONDERWEIDT: Yes, November.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIRMAN SIMPSON: Thanks for that perspective. Bill Adler.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Whereupon, a caucus was held.)

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

MR. VONDERWEIDT: Maine.

MAINE: Yes.

MR. VONDERWEIDT: New Hampshire.

NEW HAMPSHIRE: Yes.

MR. VONDERWEIDT: Massachusetts.

MASSACHUSETTS: Yes.

MR. VONDERWEIDT: Rhode Island.

RHODE ISLAND: Yes.

MR. VONDERWEIDT: Connecticut.

CONNECTICUT: Yes.

MR. VONDERWEIDT: New York.

NEW YORK: Yes.

MR. VONDERWEIDT: New Jersey.

NEW JERSEY: Yes.

MR. VONDERWEIDT: Delaware.

DELAWARE: Yes.

MR. VONDERWEIDT: Maryland.

MARYLAND: Yes.

MR. VONDERWEIDT: Virginia.

VIRGINIA: Yes.

MR. VONDERWEIDT: North Carolina.

NORTH CAROLINA: Yes.

MR. VONDERWEIDT: South Carolina.

SOUTH CAROLINA: Yes.

MR. VONDERWEIDT: Georgia.

GEORGIA: Yes.

MR. VONDERWEIDT: Florida.

FLORIDA: Yes.

MR. VONDERWEIDT: Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE: No.

MR. VONDERWEIDT: National Marine Fisheries Service.

NATIONAL MARINE FISHERIES SERVICE: Abstain.

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

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

DISCUSSION OF NORTHERN REGION STATE SHARES

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

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

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

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

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

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

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

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

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

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

overfishing definition, so we're currently inconsistent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. VONDERWEIDT: Right.

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

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

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

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

MR. ADLER: I'll second it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Whereupon, a caucus was held.)

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

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

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

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

DR. PIERCE: No.

CHAIRMAN SIMPSON: That's not the one?

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

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

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

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

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

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

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

(Whereupon, a caucus was held.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Whereupon, a caucus was held.)

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

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

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

SPINY DOGFISH QUOTA TRANSFER UPDATE

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

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

OTHER BUSINESS

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

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

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

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

ADJOURNMENT

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

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

Draft Addendum for Public Comment.

Atlantic States Marine Fisheries Commission

**DRAFT ADDENDUM IV TO THE INTERSTATE FISHERY
MANAGEMENT PLAN FOR SPINY DOGFISH FOR PUBLIC
COMMENT**



ASMFC Vision Statement:

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

May 2012

Draft Addendum for Public Comment.

Draft Addendum for Public Comment.

Public Comment Process and Proposed Timeline

In February 2012, the Atlantic States Marine Fisheries Commission's (ASMFC) Spiny Dogfish & Coastal Sharks Management Board (Board) approved a motion to initiate the development of an addendum to the Interstate Fishery Management Plan (FMP) for Spiny Dogfish to consider allowing greater than 5% quota rollover from one year to the next and update the overfishing definition.

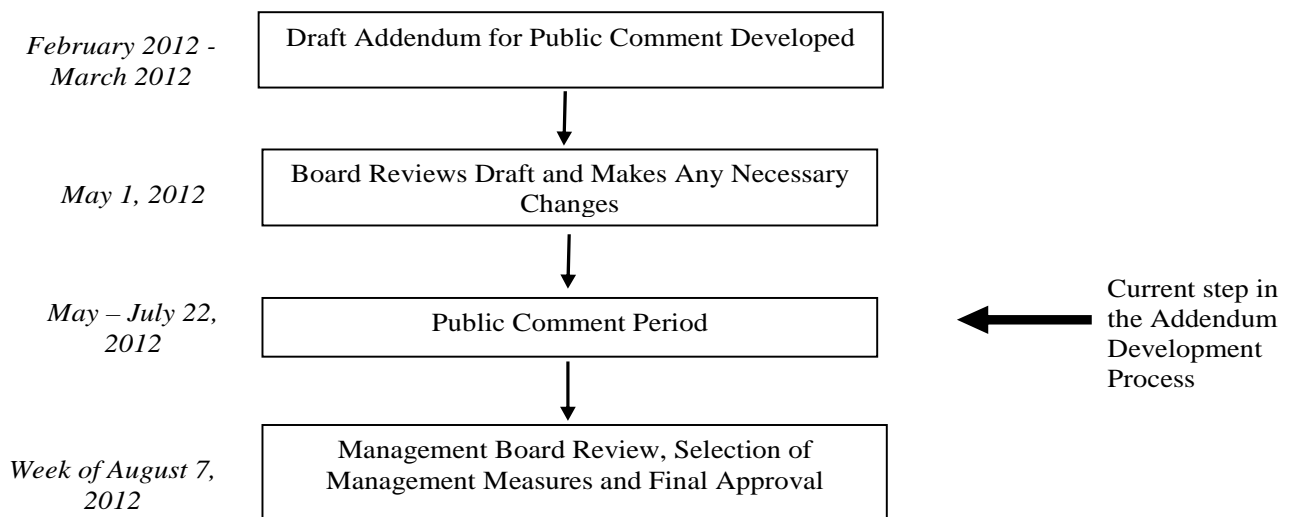
This draft addendum presents background on ASMFC's management of spiny dogfish, the addendum process and timeline, and a statement of the problem. This document also provides options of spiny dogfish management for public consideration and comment.

The public is encouraged to submit comments regarding this addendum during the public comment period. Comments will be accepted until **5:00 pm (EST) on June 22, 2012**. The Board will be considering final action on this addendum during the week of August 7, 2012 at the ASMFC Summer Meeting.

Comments may be submitted by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

Mail: Chris Vonderweidt
Atlantic States Marine Fisheries Commission
1050 N. Highland Street, Suite 200 A-N
Arlington VA. 22201

Email: comments@asmfc.org
(Subject: Dogfish Draft Addendum IV)
Phone: (703) 842-0740
Fax: (703) 842-0741



Draft Addendum for Public Comment.

1.0 Introduction

At its February 2012 meeting, the Spiny Dogfish & Coastal Shark Management Board (Board) initiated an addendum to modify the Spiny Dogfish FMP to: 1) allow greater than 5% spiny dogfish commercial quota rollover from one year to the next with Board approval and 2) update the spiny dogfish overfishing definition consistent with Technical Committee (TC) recommendations.

The Final Draft for Public Comment was approved by the Board on May 3, 2012.

2.0 Management Program

2.1 Statement of the Problem

5% Rollover Provision:

The FMP allows quota rollovers from one fishing year to the next, up to 5% of a state's or region's commercial allocation, when the stock is above the biomass target. In the 2011/2012 fishing season, several states had more than 5% of their commercial allocation remaining when federal waters closed on January 13, 2012. If states are unable to harvest significant amounts of dogfish after federal waters have closed they could leave part of their share unharvested. Allowing for consideration of rollovers in excess of 5% could allow these states to fully utilize their state allocations.

Overfishing Definition:

In recent years, spiny dogfish quotas have not been calculated based on the overfishing target and threshold values as defined in the Interstate Fishery Management Plan for Spiny Dogfish (FMP). Annual quotas have been set to achieve a lower fishing mortality rate (F) than the target or threshold F values. The Mid-Atlantic Fishery Management Council (MAFMC) updated their overfishing definition in 2009 as part of Framework Adjustment 2 to the Spiny Dogfish Fishery Management Plan (Framework 2). Updating the ASMFC overfishing definition may be necessary to establish an F_{target} based on the best available science and to reconcile differences between the MAFMC and ASMFC reference points for this complementarily managed species.

2.2 Background

5% Rollover Provision

Under Addenda II and III, 58% of the annual quota is allocated to states from Maine – Connecticut (Northern Region) and 42% divided into state shares for states New York – North Carolina. Overages to a region or state are paid back the following fishing season by the region or state responsible for the overage. States that are allocated an individual quota (NY – NC) are responsible for opening and closing their fisheries as best meets their needs. The payback provision is intended to hold a state or region accountable for harvesting more than their share. Additionally a state or region may rollover up to 5% of its unharvested quota to the next fishing season. For example, a state allocated 100,000 pounds in the 2012/2013 fishing season could rollover up to 5,000 pounds of unharvested quota into the 2013/2014 fishing season.

The 5% quota rollover provision was included in Addendum III as a buffer to allow states to close their fisheries in a timely manner without losing access to quota. If a state does not harvest its full allocation, it does not lose access if a small amount goes unharvested, because its fishermen can land the remaining

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quota the following fishing season. Without a rollover provision, states have incentive to err on the side of harvesting slightly more than their share because they will lose any unharvested quota.

The 5% maximum rollover provision was carried over from the 2002 FMP which allowed for 5% rollovers by season (replaced by Addenda II & III regional/state allocations) when the stock is rebuilt. When taking final action on Draft Addendum III for Public Comment, the Board limited rollovers to 5% of a state's final allocation (including transferred quota) to prevent states from stockpiling quota.

Specifically, Section 3.3 Quota Rollover of Addendum III specifies that:

A state or region may roll any unused quota from its final allocation (including transferred quota) from one fishing year to the next. The maximum total rollover may not exceed 5% of a state or regional allocation for the fishing year in which the under-harvest occurred. For example if a state's final allocation is 1.5 million pounds and that state only lands 1 million pounds during the fishing season, the state may only roll 75,000 pounds (5%) into the subsequent fishing season.

For federal waters, the annual quota is distributed seasonally: 57.9% of the quota is allocated to Period I (May – October) and 42.1 % allocated to Period II (November – April). However, the fishery closes when the overall coastwide quota is harvested, independent of seasonal allocations. In other words, overages in Period I result in less dogfish being available during Period II causing a shift in the seasonal allocation. Due to a roughly one million pound Period I overage¹, Period II landings accounted for only 38.7% of the coastwide quota in the 2011/2012 fishing season (Table 1 & 2).

Table 1. Federal waters 2011/2012 seasonal allocation open dates, quota allocation (based on 20 million pound federal quota), landings and percent of landings (values provided in pounds). Landings Source: SAFIS Dealer reports queried on April 12, 2012 and personal communication with NC DMF.

	Open Dates	Quota Allocation	Landings	Over+/Under-	% of Landings
Federal Period I (May 1– Oct. 31) 57.9%	May 1 – Aug. 26, 2011	11,580,000	12,615,003	1,035,003	61.3%
Federal Period II (Nov. 1 – Apr. 30) 42.1 %	Oct. 1, 2011 – Jan. 13, 2012	8,420,000	7,953,446	-466,554	38.7%

¹ There was a roughly 1.3 million pound ASMFC Northern Region (ME – NY) overage in 2011/2012.

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Table 2. State waters 2011/2012 regional allocation of quota, landings, and % allocation. Landings were queried on May 2, 2012. Source: Landings in Maine – Virginia during May 1 – December 31, 2011 are from the ACCSP data warehouse. Landings in Maine – Virginia during January 1 – April 24, 2012 are from SAFIS dealer reports. North Carolina’s landings are from a direct communication with North Carolina Department of Marine Fisheries staff.

	Landings	% Allocation	2011/2012 Allocation (Pounds)	Over+/Under- (Pounds) Negative Value Indicates Overage
Northern Region	12,504,506	58%	11,145,453	-1,359,053
NY	407,710	2.71%	538,698	+26,935
NJ	1,622,678	7.64%	1,521,170	-101,508
DE	30,670	0.90%	178,306	+3,915
MD	1,264,978	5.92%	1,228,091	+13,113
VA	2,236,660	10.80%	2,148,224	-88,435
NC	2,717,708	14.04%	2,738,552	+20,844

Overfishing Definition:

The spiny dogfish fishery is managed complementarily by the MAFMC and New England Fishery Management Council in federal waters (with MAFMC taking the lead for federal management), and ASMFC in state waters. While the quota allocation schemes differ (seasonal in federal waters, regional in state), the process to set the annual quota is similar and includes a joint meeting between the ASMFC TC and MAFMC Monitoring Committee (MC). Each fall, the TC and MC review the best available science and make quota recommendations to the Board/MAFMC for the following fishing year’s quota. The first step to making a quota recommendation is to calculate a harvest level that coincides with the appropriate F rate ($F_{\text{threshold}}$, F_{target} , F_{rebuild} , etc).

In 2002, the ASMFC adopted the MAFMC’s target, threshold, and rebuild fishing mortality rates in the ASMFC FMP. The FMP defines the F_{target} as “allows for the production [of] 1.5 female pups per female [that] recruit to the spawning stock biomass” and the threshold as “allows for the production of 1 female pup per female that will recruit to the spawning stock biomass”. F_{rebuild} is not defined in the ASMFC FMP but was defined in the MAFMC plan as “allowing for the production of 2 female pups per female that recruit to the SSB”. Initial values were $F_{\text{target}} = 0.082$, $F_{\text{threshold}} = 0.11$, and $F_{\text{rebuild}} = 0.03$. These estimates were most recently updated in the Northeast Fisheries Science Center’s (NEFSC) 2010 Biological Reference Points for Spiny Dogfish Report to be $F_{\text{threshold}} = 0.325$ and $F_{\text{target}} = 0.207$.

In 2009, Framework 2 revised the MAFMC’s status determination criteria to define $F_{\text{threshold}}$ as “ F_{MSY} (or a reasonable proxy thereof) as a function of productive capacity, and based upon the best scientific information consistent with National Standards 1 and 2” and did not include an F_{target} value (full text in appendix). The August 2011 NEFSC’s Estimation of an F_{MSY} Proxy Reference Point for Spiny Dogfish Report calculated F_{MSY} as 0.2439. From this point forward, the MAFMC and ASMFC plans have had inconsistent overfishing definitions.

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Historically, target and threshold F definitions and values were immaterial because the ASMFC FMP specifies that the stock will be managed under F_{rebuild} until SSB reaches the target. Accordingly, quotas from 2002 – 2008 were based on F_{rebuild} . The stock was declared rebuilt in late 2008 when spawning stock biomass exceeded the target for the first time since the ASMFC began managing spiny dogfish.

The rebuilt status triggered consideration of quotas based on the F_{target} (or threshold) when the TC made recommendations to the Board for the 2009/2010 annual quota. The TC recommended the Board set the 2009/2010 quota based on F_{rebuild} rather than F_{target} because of concerns surrounding the rebuilt determination (truncated size structure, recruitment deficit payback) and the Board followed the TC's advice. In 2009, dogfish continued to not be overfished, but the TC again recommended a quota (for 2010/2011) based on F_{rebuild} based on concerns that selectivity in spawning stock biomass estimates were not accurately reflecting the current fishery. The TC noted that results from the Transboundary Resource Assessment Committee (TRAC) assessment would be available in early 2010 and the Board could increase the quota if the updated information allowed for it. The 2010 TRAC assessment updated key model parameters (including selectivity) and revised the F_{target} and $F_{\text{threshold}}$ (0.207 and 0.327 respectively).

The September 2010 meeting was the first time the TC gave full consideration to a quota based on F_{target} rather than F_{rebuild} . Previously, concerns about model parameters that may not reflect the current fishery, annual SSB increases that were biologically unlikely given the life history of dogfish, and a looming recruitment deficit payback made TC members uncomfortable recommending a quota based on F_{target} even if the rebuilt status allowed for it. The 2010 TRAC provided F_{target} and $F_{\text{threshold}}$ values that the TC believed accurately represented the fishery for the first time since the stock was declared rebuilt. The TC recommended the 2011/2012 quota be based on 75% F_{target} (rather than the full $F_{\text{threshold}}$) because this amount allowed for a considerable increase in quota (5 million pounds or 25% increase) and minimized future spawning stock biomass decreases.

In September 2011, the TC recommended a quota based on F_{MSY} (rather than the F_{target} as defined in the FMP) to calculate the 2012/2013 quota recommendation. The TC considered this approach to promote consistent quota recommendations between the MAFMC MC and the ASMFC TC. The MC is bound by the recommendations of the Science and Statistical Committee who set the acceptable biological catch as a reduction from F_{MSY} — the MAFMC's $F_{\text{threshold}}$. The TC supported use of F_{MSY} reduction because the approach would likely allow for consistent future quotas (as opposed to annual fluctuations).

In December 2011, the TC reviewed the ASMFC overfishing definition and recommended to the Board that it initiate an addendum to update the overfishing definition consistent with the best available science and MAFMC's $F_{\text{threshold}}$ definition. The TC noted that quotas are calculated using an F rate as a starting point and inconsistent $F_{\text{thresholds}}$ between the MAFMC and ASMFC add to the likelihood of inconsistent state and federal quotas for this complementarily managed species. Specifically, the TC recommended establishing a less rigid definition based on F_{MSY} or a reasonable proxy that allows for adaptive management based on the best available science

Draft Addendum for Public Comment.

3.0 Management Options

ISSUE 1: Quota Rollover

OPTION A. STATUS QUO. 5% MAXIMUM QUOTA ROLLOVER.

The maximum total quota rollover for any state or region may not exceed 5% of that state or regions final allocation (including transfers).

OPTION B. 5% MAXIMUM QUOTA ROLLOVER WITH EXEMPTIONS THROUGH BOARD ACTION.

The maximum total quota rollover for any state or region may not exceed 5% of that state's or region's final allocation (including transfers) without Board approval. The Board may grant exemptions to the 5% maximum rollover provision on a case-by-case basis through Board action. Quota rollovers are prohibited when spawning stock biomass is below the target biomass.

OPTION C. QUOTA ROLLOVER PROHIBITED WITHOUT BOARD ACTION

Quota rollovers are prohibited without Board approval. The Board may allow rollovers for a state or region on a case-by-case basis through Board action. Quota rollovers are prohibited when spawning stock biomass is below the target biomass.

ISSUE 2: Fishing Mortality Threshold

The Board may select one or more of the following Options.

OPTION A. STATUS QUO

The threshold fishing mortality rate is defined as “allows for the production of 1 female pup per female that will recruit to the spawning stock biomass.” Currently $F_{\text{threshold}} = 0.325$ under this definition.

OPTION B: F_{MSY} (OR A REASONABLE PROXY THEREOF)

The threshold fishing mortality rate is defined as F_{MSY} (or a reasonable proxy thereof) and based upon the best available science. The maximum fishing mortality threshold (F_{MSY}) or a reasonable proxy may be defined as a function of (but not limited to): total stock biomass, spawning stock biomass, total pup production, and may include males, females, both, or combinations and ratios thereof which provide the best measure of productive capacity for spiny dogfish. This definition is consistent with the federal Spiny Dogfish FMP. Currently $F_{\text{MSY}} = 0.2439$.

Overfishing is defined as an F rate that exceeds the $F_{\text{threshold}}$.

OPTION C: UPDATE $F_{\text{THRESHOLD}}$ THROUGH BOARD ACTION

The Board may change the $F_{\text{threshold}}$ value through Board action following updates to the peer reviewed science determining the overfishing threshold.

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ISSUE 3: Fishing Mortality Target

While the federal plan does not specify an F_{target} and quotas are calculated based on F_{MSY} ; specifying an F_{target} can provide a level of catch that accounts for management and scientific uncertainty to help prevent overfishing.

OPTION A: STATUS QUO

The F_{target} is defined as an amount that “allows for the production [of] 1.5 female pups per female [that] recruit to the spawning stock biomass”. Currently $F_{\text{target}} = 0.207$ under this definition. The MAFMC does not specify an F_{target} .

OPTION B: SET ANNUALLY BASED ON TC RECOMMENDATIONS

The F_{target} or catch target is defined as a fishing mortality rate or catch level that corresponds to an acceptable likelihood of preventing F from exceeding the threshold by accounting for scientific and management uncertainty. The Board is not required to specify an F_{target} and if specified, an F_{target} would apply to one fishing season only.

Under this option, the TC will annually make an F_{target} recommendation when it develops quota recommendations for the Board. The Board is not required to implement the TC recommended F_{target} and can choose to not specify an F_{target} instead.

4.0 Compliance Schedule

The options in this document will provide future clarification and flexibility only. The measures are not anticipated to require states to change their current regulations.

Draft Addendum for Public Comment.

Appendix

Overfishing definition from Framework Adjustment 2 to the Spiny Dogfish Fishery Management Plan:

The maximum fishing mortality threshold is defined as F_{MSY} (or a reasonable proxy thereof) as a function of productive capacity, and based upon the best scientific information consistent with National Standards 1 and 2. Specifically, F_{MSY} is the fishing mortality rate associated with MSY. The maximum fishing mortality threshold (F_{MSY}) or a reasonable proxy may be defined as a function of (but not limited to): total stock biomass, spawning stock biomass, total pup production, and may include males, females, both, or combinations and ratios thereof which provide the best measure of productive capacity for spiny dogfish. Exceeding the established fishing mortality threshold constitutes overfishing as defined by the Magnuson-Stevens Act.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

20 2012

Mr. Robert E. Beal
Acting Executive Director
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200 A-N
Arlington, VA 22201-2196

Dear Mr. Beal:

My staff has reviewed the Atlantic States Marine Fisheries Commission's (Commission) draft Addendum IV to the Interstate Fishery Management Plan for Spiny Dogfish (Commission Plan). Draft Addendum IV proposes to allow greater than a 5-percent commercial rollover of quota from one year to the next year, on a state (or regional) basis, if a state is unable to harvest its entire quota allocation within the current fishing year. The Commission Plan currently prohibits rollovers in excess of 5-percent of a state's allocation. In addition, the addendum proposes updating the overfishing definition for spiny dogfish to reconcile biological reference point differences between the Mid-Atlantic and New England Fishery Management Councils (Councils) and the Commission.

I am concerned about the proposal to allow greater than a 5-percent rollover of unused quota in this draft addendum because this would create inconsistencies between the Federal and state management programs for spiny dogfish. Large rollovers may also increase the risk of overfishing the stock, and provide incentives for states to stockpile quota, particularly in the face of expected decreases in quota in coming years. As you know, the Councils are moving forward with development of Amendment 3 to the Federal Spiny Dogfish Fishery Management Plan (Council Plan), with the intent to address various inconsistencies. The Council Plan does not include any quota rollover provisions, and there are no plans to add quota rollovers to Amendment 3. Inconsistencies between the Commission and Council Plans create confusion for fishing vessel owners and operators and complicate effective state and Federal enforcement. Therefore, for Issue 1, NOAA's National Marine Fisheries Service (NMFS) supports *Option A -- Status Quo*. However, NMFS would also support an option to completely do away with quota rollovers in the Commission plan.

I support efforts by the Commission to update its overfishing target and threshold definitions to be based on the best available science, and to reconcile differences with the Council Plan. While the spawning stock biomass is currently increasing, data continue to indicate that the biomass is likely to decline within a few years as older and larger females leave the fishery. I remain concerned about the condition of the stock, especially because data indicate that females are more likely to predominate in the catch when the fishery is conducted inshore rather than offshore. For Issue 2-Fishing Mortality Threshold, NMFS supports *Option B - F_{MSY} (or a reasonable proxy thereof)*. Option B would provide the Commission's Plan with greater flexibility going forward to address future stock projections and



assessment improvements. For Issue 3-Fishing Mortality Target, NMFS supports *Option B-Set F_{target} Annually Based on Technical Committee Recommendations*. While Option B would provide the Commission greater flexibility in setting the F_{target} , unlike the Councils' Plan, it does not appear to provide a process to adequately address scientific or management uncertainty. Therefore, I am concerned that the current option outlined in Issue 3 may not adequately address the risk to the resource, and may continue a management program that may be inappropriate for the future condition of the stock.

I appreciate both the Commission's continued work on the management of spiny dogfish in state waters, and your consideration of the points outlined above in your decision-making process. If you have any questions, or if you would like to discuss our comments on Draft Addendum IV in more detail, feel free to contact Bob Ross (978) 281-9234 or Michael Pentony (978) 281-9283 of my staff.

Sincerely,



cc Daniel Morris

Acting Regional Administrator

Cc: Dr. Christopher Moore, MAFMC Executive Director
Capt. Paul Howard, NEFMC Executive Director

Fw: Dogfish Draft Addendum IV
Tina L Berger to: Chris Vonderweidt

06/12/2012 01:20 PM

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ASMFC Vision: Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

----- Forwarded by Tina L Berger/ASMFC on 06/12/2012 01:20 PM -----

Robert Berg
<RBerg@mdpcelaw.com>
06/12/2012 10:08 AM

To "comments@asmfc.org" <comments@asmfc.org>,
cc
Subject Dogfish Draft Addendum IV

Greetings. As a fisherman running out of New York for nearly five decades, I have experienced the prolific population of spiny dogfish and the detrimental effect this large population has had on the local groundfish population. Dogfish abundance has severely curtailed the population of the codfish population off the East End and South Shore of Long Island. Sometimes, when codfishing or blackfishing, it is virtually impossible to catch one of the targeted species because of the aggressive and over abundant dogfish. Indeed, virtually all fishermen consider the dogfish to be a destructive pest species. Accordingly, I am strongly in favor of increasing the quota for spiny dogfish and for allowing commercial fishermen, in particular, to cull the population substantially. Very truly yours, Robert J. Berg.

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Fw: Dogfish Draft Addendum IV
Tina L Berger to: Chris Vonderweidt

06/12/2012 01:20 PM

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ASMFC Vision: Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015.

----- Forwarded by Tina L Berger/ASMFC on 06/12/2012 01:20 PM -----

Michael Feenan
<michael.feenan@gmail.com To comments@asmfc.org,
> cc
06/12/2012 11:01 AM Subject Dogfish Draft Addendum IV

To Whom it May Concern,

I would like to offer my comments regarding the proposed increase in the quota rollover for the Fishery Management Plan for the spiny dogfish. I am highly in favor of a significant increase in the quota rollover, allowing for a greater annual harvest of the spiny dogfish. Although currently there seem to be no accurate scientific population estimates, I am one of many seasoned observers who can say with confidence from firsthand experience that there is an overwhelming abundance of spiny dogfish in the coastal waters of Massachusetts during summer months. The spiny dogfish population seems to be so large that it is affecting populations of other predatory species such as cod, mackerel and striped bass. The risk of allowing spiny dogfish numbers to continue growing at current rates is that they will simply overwhelm and displace other native species.

The spiny dogfish's voracious and varied appetite is well documented. If all species are competing for the same food source and territory, and one species' population simply grows to a size so dominant that other species cannot access the food supply, the other species will instinctively move to friendlier waters. This is the current situation the spiny dogfish is imposing on the ecosystems of Boston Harbor, Cape Cod Bay and Stellwagen Bank. If quotas are not increased, the spiny dogfish population will continue to grow until it eventually displaces the cod, striped bass and other native carnivorous species.

Dogfish population problems have also been well documented in the waters of the Gulf of

Maine:

"Voracious almost beyond belief, the dogfish entirely deserves its bad reputation. Not only does it harry and drive off mackerel, herring, and even fish as large as cod and haddock, but it destroys vast numbers of them. Again and again fishermen have described packs of dogs dashing among schools of mackerel, and even attacking them within the seines, biting through the net, and releasing such of the catch as escapes them. At one time or another they prey on practically all species of Gulf of Maine fish smaller than themselves, and squid are also a regular article of diet whenever they are found."

http://www.gma.org/fogm/Squalus_acanthias.htm

It is well within the powers of the Atlantic States Marine Fisheries Commission to increase spiny dogfish harvest quotas. In the interest of preserving the variety of precious species that share the same ecosystem as the spiny dogfish, I believe it is your duty to do so.

Thank you for your time and consideration.

Respectfully,

Michael Feenan

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Michael Feenan

Cell: (857) 526-2659

www.atainsurance.com

www.quincyforquincy.org

Atlantic States Marine Fisheries Commission

Spiny Dogfish Technical Committee

May 11, 2012

Review of Draft Addendum IV to the Interstate Fishery Management Plan for Spiny Dogfish for Public Comment

Present: Matt Cieri (ME DMR), Tobey Curtis (NMFS), Holly White (NC DMF), Jack Musick (VIMS), Eric Schneider (RI DFW), Kathy Sosebee (NEFSC), and Chris Vonderweidt (ASMFC Staff).

The Spiny Dogfish Technical Committee (TC) met to review Draft Addendum IV to the Interstate Fishery Management Plan for Spiny Dogfish for Public Comment (Draft Addendum IV) and provide feedback to the Spiny Dogfish & Coastal Shark Management Board (Board) regarding the proposed measures. The TC's discussion of each Issue is as follows:

ISSUE 1: Quota Rollover

The TC agrees that all quota rollovers should be prohibited without exception. Of the specific options included in Draft Addendum IV, the TC prefers Option A status quo, because the other options create the potential for unlimited rollovers.

TC members expressed three main concerns with allowing quota rollovers: 1.) negative biological impacts, 2.) potential misalignment with the federal plan, and 3.) potential for the Board to allow excessive rollovers.

Regarding negative biological impacts of rollovers, TC members commented that allowing rollovers can increase the quota in the subsequent year causing an increase in F for that year. They consider rollovers to be a risk prone strategy, especially with the projected SSB decline (when the 1997 – 2003 record low year classes recruit to the fishery). One TC member noted that the 1997 – 2003 year classes have already begun to recruit to the fishery; and the anticipated precipitous SSB decline has been buffered because previous regulations allowed other year classes to fill the recruitment void.

Regarding coordination with the federal plan, the TC agrees that allowing rollovers creates a potential for future/increased misalignment. Members are unsure how future quotas will align if the ASMFC allows rollovers and the federal plan does not have a rollover provision. One member expressed concern that NMFS could proactively close the federal waters quota early if they anticipate an overage in state waters. The NMFS TC representative commented that they have considered this approach but it is only effective if dogfish are not available for harvest in state waters (is not effective if closing federal waters does not slow or stop harvest because fishermen can still catch dogfish in state waters).

The TC is also concerned that federal accountability measure (AM) paybacks could be triggered if rollovers cause landings to exceed the federal quota. For example, if the quota in 2012/2013 is set at 10 million pounds in both state and federal waters, and there is an additional 500,000 pounds of ASMFC rollovers from the previous fishing season, landings in federal and ASMFC waters could end up at 10 and 10.5 million pounds respectively. If the additional 500,000 pounds triggers AM paybacks, the state and federal quota would be further misaligned. The NMFS TC representative explained that the accountability measure paybacks in the federal plan are for the overall domestic annual catch limit (domestic-ACL) which includes commercial landings, recreational landings, and discards. A payback is triggered in the federal plan if combined commercial landings, recreational landings, and discards exceed the domestic-ACL. Following this clarification, members of the TC commented that the domestic-ACL would most likely not have been exceeded in previous years.

Finally, the TC is concerned that there is no cap for exemptions to the 5% rollover provision, and this allows the Board to grant future exemptions that are contrary to the intent of the rollover provision. With no cap, a state or region could be allowed to stockpile quota and large rollovers are possible. Other comments regarding the absence of a cap included:

- Do not necessarily buy into the idea that states will close early (rather than err on side of overharvest to prevent loss of quota) if they can roll quota over.
- Early closure may increase discards.
- How will this impact transfers?
- Unsure that Board has thought through all of the implications.

ISSUE 2: Fishing Mortality Threshold.

The TC unanimously supports Option B (F_{MSY} or a reasonable proxy thereof). The TC developed this option with broad language to provide flexibility and allow the Board to quickly and easily implement the best available science. Members do not see the need for Option C and are unsure how it differs from Option B or the process that the Board already follows when adopting new reference points. The TC suggested to add “peer reviewed” to the Option B language if the Board is concerned that Option B does not specify a peer review process. Specifically, the first sentence of Option B could be amended to read (suggested change bolded):

*The threshold fishing mortality rate is defined as F_{MSY} (or a reasonable proxy thereof) and based upon the best available **peer reviewed** science.*

ISSUE 3: Fishing Mortality Target

The TC unanimously supports Option B (set annually based on TC recommendations). TC members reiterated that Option B is intended to add flexibility and promote a complementary approach between state and federal waters. Specifying the F_{target} can help to manage with a risk averse approach that accounts for uncertainty. The plan has always included an F_{target} and would continue to do so even if no action (Option A) is exercised. Any F_{target} is a precautionary reduction from the $F_{threshold}$. Option B would replace the existing static definition of the F_{target} with one that uses the latest information on uncertainty from the assessment, projections, and management. Option B would allow the TC to annually evaluate and inform the board about those sources of uncertainty.

As an example of how an F_{target} could be specified, the TC used the 2012/2013 quota recommendations to generate a theoretical F_{target} as follows:

When making recommendations for the 2012/2013 fishing season, the TC initially calculated the amount of harvest allowed under $F_{MSY} = 0.2439$ (equivalent to MAFMC overfishing limit (OFL)). Then, a P^* approach from the MAFMC's Omnibus Amendment was used to reduce for scientific uncertainty, giving the total catch (equivalent to MAFMC's allowable biological catch (ABC)). The final 2012/2013 commercial quota recommendation of 35.6 million pounds was derived by subtracting estimated discards, Canadian landings, and recreational landings from the total catch.

Catch level that corresponds to $F_{MSY} = 0.2439$	25,131 mt
Total catch $P^*40\%$	20,352 mt
Estimated dead discards	-4,081 mt
Estimated Canadian landings	-59.5 mt
Estimated recreational landings	<u>-21 mt</u>
	= 16,190.5 mt (35.6 million pounds)

After reviewing their 2012/2013 quota recommendation, the TC agreed that a reasonable F_{target} recommendation would have been 20,352 metric tons, which is equivalent to the MAFMC's ABC.

Atlantic States Marine Fisheries Commission

Spiny Dogfish Advisory Panel

Conference Call Summary

June 4, 2012

Present: Eric Brazer (CCCHFA)

The Spiny Dogfish Advisory Panel (AP) met to review Draft Addendum IV to the Interstate Fisheries Management Plan for Spiny Dogfish for Public Comment (Addendum IV). One member of the AP joined the call. He offered the following comments on each issue in Addendum IV as follows.

Issue 1: Quota Rollover

The Member supports Option B, 5% maximum rollovers with exemptions through Board Action, to allow for maximum flexibility. He elaborated that allowing for exemptions will not lead to overfishing because rollovers are prohibited when SSB is below the stock. Additionally, the allowance for flexibility establishes a good precedent when scientifically-justified and may minimize year-end overages.

Issue 2: Fishing Mortality Threshold

The Member does not support Option C as he feels it is not clearly distinguished from Option B. While the Member continues to support alignment between state and federal management along with the ability to make real-time management decisions, he believes there was not enough information available at the time to clearly evaluate Option B including but not limited to the process for evaluating a “reasonable” proxy, how to define “best available science,” and whether or not peer-review is/should be required,. The Member generally supports the concept of Option B; however, for the purpose of this recommendation, he formally supports Option A until such time as the details of Option B can be further fleshed out.

Issue: 3: Fishing Mortality Target

The Member supports Option B. He supports regular and frequent reviews of a fishery in order to ensure the most real-time information is used. He further supports a transparent TC process for discussing and determining these recommendations.

3/6/12

Commissioner Bob Martin
NJ Dept. of Environmental Protection

Dear Mr. Martin,

My name is John Breittling. I am a commercial gillnet fisherman in Barnegat Light, NJ. I, along with other New Jersey commercial fishermen, net fish for sand sharks in the New Jersey state waters of the Atlantic Ocean. We clean these fish at sea, as they are caught, and put them in ice water because they spoil quickly. The cleaning results in the removal of the head, entrails, fins and tails. The sand sharks, which are also called smooth dogfish, are trucked from our docks to New York and sold to federally regulated fish dealers. The dealers send the shark meat to Europe for fish and chips in their pubs and restaurants. The dealers also sell the three fins of the sharks, one dorsal and two pectorals, to Asian markets for soup.

We get paid roughly 50 to 60 cents a pound for the meat, 45 cents a pound for the tails, (I don't know what they do with the tails) and 3 dollars a pound for the fins. As you can see the fins are a very important part of our income.

Here is the problem: after July 1st of each year NJ state law requires that we leave the dorsal fin attached to the meat portion of the shark. Since the fin is not separate from the meat we don't get paid for the fin at 3 dollars a pound. So we lose at least one third of our fin money for the second half of the season. This lost income really adds up.

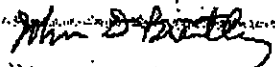
I understand that leaving the fin attached is for state law enforcement officers to be able to identify the shark as a smooth dogfish. This ensures that fishermen are not catching and shipping protected species such as sand bar sharks.

We the fishermen can tell the difference between dogfish meat and other cleaned sharks. I propose that the officers receive training such as using fish identification books. Dogfish are slender fish. The other sharks, sand bar or brown sharks are much stronger and stouter and bigger. Or, on each fishing trip we could leave one dogfish whole so officers could compare the whole fish to the cleaned fish.

We are New Jersey small businesses. We are incorporated. We employ people. The price of diesel, ice and freight are up with the recession the price of fish are down. Can you please change the law so we can remove all the fins of the smooth dogfish year round.

Thank you for your attention to this matter.

Sincerely,



John D. Breittling
F/V Sea Tiger II #624588
16 Vernetta Lane
Medford, NJ 08055
856 287 2614

HOME PORT:
LIGHT HOUSE MARINA
6th ST.
BARNEGAT LIGHT, NJ

On the back is signature page of supporting fishermen.

CC. Gov. Christy

CC, SENATOR CHRISTOPHER J. CONNORS
ASSEMBLYWOMAN DIANNE C. GOVE
ASSEMBLYMAN BRIAN E. RUMPF

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Rick Lucatke F/V Traveller II 609-713-8343

Mike Chiappetta F/V "Lucky 13" 609-271-3995

Rick Moacs F/V Frances Anne 609 729 2039

Atlantic States Marine Fisheries Commission

Coastal Sharks Technical Committee

Review of Smooth Dogfish Year Round Processing At Sea Request

June 15, 2012

Present: Russ Babb (ND DEP), Carolyn Belcher (GA CRD, VC), Bryan Frazier (SC DNR), Karyl Brewster-Geisz (NMFS HMS), Julie Neer (SAFMC), Eric Schneider (RI DFW), Greg Skomal (MA DMF, Chair), Holly White (NC DMF), Chris Vonderweidt (ASMFC Staff), Angel Willey (MD DNR), and Brent Winner (FWC).

The Coastal Sharks Technical Committee (TC) held a conference call to review a request by New Jersey commercial fishermen to allow the removal of all smooth dogfish fins at sea at all times of the year. Section 2.3.1 of Addendum I, Smooth Dogfish Processing at Sea, allows commercial fishermen to completely remove all smooth dogfish fins at sea from July – February with a max 5% fin to carcass ratio; and the dorsal fin and tail must remain attached naturally to the carcass from March – June. The Board initially discussed this request during their meeting in May, 2012 but requested TC review prior to initiating any management measures. The TC's recommendations follow.

Background:

The meeting began with ASMFC staff providing a review of the ASMFC smooth dogfish commercial processing at sea regulations and the history of their development. The 2008 Interstate Fisheries Management Plan for Atlantic Coastal Sharks (FMP) initially required that commercially caught smooth dogfish have all fins attached naturally to the carcass through landing. The current regulations that allow processing at sea from July – February were developed in Addendum I as a combination of a hybrid option developed by the TC, and a North Carolina analysis.

During Addendum I development, the TC expressed concern that juvenile sandbar sharks could be misidentified as smooth dogfish, thereby resulting in mortality of sandbar sharks. Rebuilding the sandbar population was a major driver behind the FMP's final regulations that classify sandbar shark as a research-only species with commercial harvest prohibited. However, the TC also understood that commercial fishermen need to gut and ice smooth dogfish quickly to prevent spoil. As a hybrid option, the TC recommended allowing commercial fishermen to remove the pelvic, pectoral, anal, and second dorsal fins, but keep the tail and dorsal fin attached. The TC believed that fishermen would be able to quickly gut the fish by cutting down the belly (removing the pelvic and pectoral fins); the dorsal fin and tail would allow law enforcement to distinguish smooth dogfish from sandbar sharks.

Around this time, North Carolina submitted a memo with an analysis showing that sandbars are not landed in North Carolina from July – February, so classifying smooth dogfish as sandbars would not be an issue during these months. The TC reviewed the memo and expressed concern

that the seasonality of the sandbar fishery varies by state and the North Carolina data are not applicable for management of the entire coast.

Addendum I final measures are as follows:

2.3.1 Smooth Dogfish Processing at Sea

This Addendum replaces *Section 4.3.1.1 Finning and Identification* of the FMP with the following language, which grants commercial fishermen a limited exemption from the fins attached rule for smooth dogfish only.

4.3.1.1 Finning and Identification

All sharks, with the exception of smooth dogfish, harvested by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. Sharks may be eviscerated and have the heads removed. Sharks may not be filleted or cut into pieces at sea.

Commercial fishermen may completely remove the fins of smooth dogfish from March through June¹ of each year. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel. This ratio is consistent with the Shark Finning Prohibition Act of 2000.

From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing². Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

In addition to covering the history and development of Addendum I smooth dogfish regulations, ASMFC staff reminded the TC of provisions in the Shark Conservation Act of 2012 (SCA), which the NMFS Highly Migratory Species Division (HMS) intends to implement in an upcoming rulemaking. Specifically, the SCA amends the Magnuson Stevens Act to prohibit:

- Removal of any fins of a shark (including the tail) at sea.
- Possession of any shark fin at sea unless it is naturally attached to a corresponding carcass.

¹ Sandbar sharks are generally not landed during these months. See section 2.1.2 and Table 2 for more information.

² Historically, both sandbar and smooth dogfish have been landed during these months. During the development of this addendum, concern was raised that juvenile sandbars can be confused with smooth dogfish and allowing removal of all fins could open enforcement loopholes. The Technical Committee strongly supported requiring the dorsal fin to remain attached because doing so makes identification quick and accurate, and is necessary with a high volume fishery.

- Transferring (or receiving) any such fins from one vessel to another unless the fins are naturally attached to a corresponding carcass.
- Landing any such fin that is not naturally attached to carcass or landing a shark carcass without fins that are naturally attached.

The SCA also includes a smooth dogfish-specific savings clause specifying:

- The above amendments do not apply to individuals engaged in commercial fishing for smooth dogfish
- Between shore and 50 nautical miles from shore.
- If individual holds valid state commercial fishing license.
- And total weight of fins does not exceed 12% of total weight of smooth dogfish carcasses.

Following the summary of the SCA, the NMFS HMS TC member updated the TC the rulemaking progress. She informed the TC that the HMS Management Division is working out some of the details of the SCA related to the enforcement action that is triggered when the 12% is exceeded as well as what constitutes a “valid state commercial fishing license” or “engaged in commercial fishing”. Additionally, there are other issues such as completing a Biological Opinion under Section 7 of the Endangered Species Act for the smoothhound fishery the Agency is working through before this rule will be published. As a result, the SCA rule regarding the smoothhound fishery may not be implemented until 2013.

TC Discussion and Recommendations:

The TC discussed the request in two parts: 1) Smooth dogfish identification, if smooth dogfish logs (fins, head, and tail removed) can be differentiated from sandbar logs; and 2) Appropriate fin to carcass ratio.

Smooth Dogfish Identification:

With proper training, smooth dogfish logs are distinguishable from sandbar and other shark species. Specifically, smooth dogfish can be identified based on the length of the second dorsal fin base, which is $\frac{3}{4}$ the length of the first dorsal fin base; the second dorsal fin is much larger than the anal fin. In contrast, the second dorsal fin in the sandbar sharks is much smaller than the first dorsal fin and about the same size as the anal fin.

As long as enforcement is adequately trained to identify smooth dogfish logs, the TC does not oppose allowing commercial fishermen to remove all smooth dogfish fins at sea. However, the ***TC strongly opposes allowing processing at sea if the fin to carcass ratio is set too high.*** Establishing a fin to carcass ratio that is greater than the ratio specific to smooth dogfish creates a loophole that allows fishermen to fin (cut off and keep fins, throw carcass overboard) additional sharks. For example, if the fin to carcass ratio is set 4% greater, a fisherman could add an additional 4% weight of fins from other species of sharks. The smooth dogfish commercial fishery is high volume and exceeding the appropriate fin to carcass ratio by even 1% could allow for a significant weight of additional fins to be landed. Currently the appropriate smooth dogfish fin to carcass ratio is unknown.

Appropriate Fin to Carcass Ratio

As described above, allowing commercial fishermen to process smooth dogfish at sea with an inaccurate smooth dogfish fin to carcass ratio would create a loophole that allows for finning. Unfortunately, there are no robust analyses that have looked at smooth dogfish fin to carcass ratios to guide the TC's recommendation. The TC discussed the paper "Preliminary Reassessment of the Validity of the 5% Fin to Carcass Weight Ratio for Sharks" by Cortes and Neer (2006) and a North Carolina memo that discusses smooth dogfish fin to carcass ratios. The former paper begins by explaining how the 5% fin to carcass ratio was included in the 1993 U.S. Fishery Management Plan (FMP) for Sharks of the Atlantic Ocean based on the wet fin to carcass ratio of 12 sandbar shark specimens. The paper presents fin to carcass ratios for several shark species and calculated a 3.51% fin to carcass ratio for smooth dogfish (*Mustelis canis*) based on 6 samples.

The TC does not endorse 3.51% as the appropriate smooth dogfish fin to carcass ratio with a sample size of only 6 fish. However, the results are considerably lower than the 12% in the SCA which may indicate that the correct ratio lies somewhere in between.

The North Carolina Memo presents an analysis of NC Trip Ticket fin and carcass weights by trip from 2004 – 2009 and finds that the fin to carcass ratio varied from 9.8 – 10.4%. The TC does not endorse the results of the NC trip ticket because the weights were not observed by North Carolina Department of Marine Resources staff and was calculated from the bulk sum of all fish caught on a trip (as opposed to weighing each individual fish). However, similar to the Neer and Cortes paper, the TC agrees that the NC Memo results indicate that the correct ratio is likely different from the current 5%.

Development of an Appropriate Fin to Carcass Ratio

TC members from Massachusetts, New Jersey, North Carolina, and South Carolina agreed to begin weighing individual smooth dogfish as a comprehensive study to determine a scientifically valid smooth dogfish fin to carcass ratio. Members from these states will develop a method to collect weights and will work with industry to cut the fins as commercial fishermen do. Members agreed that this study could be completed in 3 – 6 months and hope that managers postpone action on smooth dogfish regulations until after the correct weight is determined.

Preliminary discussions indicate that the following will be considered and possibly incorporated into methodology of the study:

- Work with fishermen to determine how smooth dogfish are processed at sea and mimic that technique.
- Standardization of processing techniques (in absence of regional cutting differences). Differences such as a straight or curved cut can impact %.
- Look at fin to carcass ratios of individual animals. This will provide estimates of variability between individuals.

Atlantic States Marine Fisheries Commission

**ADDENDUM I TO THE INTERSTATE FISHERY MANAGEMENT
PLAN FOR ATLANTIC COASTAL SHARKS**



*ASMFC Vision Statement:
Healthy, self-sustaining populations for all Atlantic coast fish species or successful
restoration well in progress by the year 2015*

September 2009

1.0 Introduction

This Addendum modifies the Interstate Fishery Management Plan for Atlantic Coastal Sharks (FMP) to allow commercial fishermen limited processing of smooth dogfish at sea and removes recreational possession limits for smooth dogfish, as well as the 2 hour net check requirement for commercial fishermen using large mesh gillnets.

Currently, smooth dogfish are not managed in federal waters by the National Marine Fisheries Service (NMFS). However, The Shark Finning Prohibition Act of 2000 prohibits finning (the act of cutting off the fins and discarding the body at sea) of smooth dogfish and other sharks in the economic zone (EEZ). This Act also requires that the total wet weight of the shark fins cannot exceed 5 percent of the total dressed weight of shark carcasses found on board a vessel.

Smooth dogfish is included as one of the 40 species managed in the Commission's FMP. All regulations in the FMP apply to smooth dogfish except where an exemption is specifically listed (i.e. recreational possession limits, quota specification, etc.). A list of all regulations that apply to smooth dogfish can be found in the Appendix of this Addendum. In the absence of a stock assessment, the Board has not set a commercial quota or possession limits for smooth dogfish.

The FMP established recreational possession limits for smooth dogfish in *Section 4.2.7.1 Recreational Shore-Angler Possession Limits* and *4.2.7.2 Recreational Vessel-Fishing Possession Limits* of the FMP. These measures restricted shore anglers to a maximum of 2 smooth dogfish per calendar day and vessels to 1 smooth dogfish and 1 smooth dogfish per angler onboard the vessel. These possession limits were established based on recreational possession limits for Atlantic sharpnose which have a similar life history to smooth dogfish.

Section 4.3.10 Bycatch Reduction Measures of the FMP required fishermen using large mesh (> 5") gillnets to check their nets every 2 hours. This provision was implemented by the NMFS in federal waters to reduce gillnet interactions off the coasts of Georgia and Florida. It was included in the FMP to achieve complementary regulations in state and federal waters. Gillnets are currently prohibited in state waters of Georgia and Florida.

2.0 Management Program

2.1 Statement of the Problem

This Addendum modifies the FMP to allow limited smooth dogfish processing at sea, remove smooth dogfish recreational possession limits, and remove gillnet check requirements.

Smooth dogfish processing at sea.

The FMP requirement to leave smooth dogfish fins attached to the carcass through landing would have significantly impacted an entire fishery. There are only a handful of fishermen who participate in the large scale directed commercial fishery for smooth dogfish, but this fishery comprises a significant part of their annual income. The seasonal processing allowance (*Section 2.3.1*) will allow these fishermen to continue their operations without undermining the conservation goal of the FMP.

Section 4.3.1.1 Finning and Identification of the FMP requires that all sharks harvested by commercial fishermen within state waters have the tail and fins attached naturally to the carcass through landing. This rule was adopted to protect species in the large coastal (LCS), research, pelagic, and prohibited species groups that have been the target of illegal finning activities because their fins can bring several hundred dollars per pound. For these species, the consequences for finning relative to the financial incentive are not sufficient to deter finning. The directed commercial LCS fishery is mixed, with fishermen landing several species in each trip. Keeping the fins attached helps law enforcement with identification and anti-finning efforts. It was deemed necessary due to the mixed species nature of this fishery and high value of the fins. In addition, commercial fishermen may only land a maximum of 33 LCS and cutting the fins partway on a small number of sharks is only a small burden compared to the benefits of leaving the fins attached.

The smooth dogfish commercial fishery is vastly different from the commercial fisheries for other species managed in the FMP. This fishery is concentrated off the coast of Virginia and North Carolina, is not mixed, and lands thousands of pounds of smooth dogfish exclusively. Unlike other shark species, smooth dogfish are valued for their meat which is often exported to Europe. Smooth dogfish fins are currently worth around \$2.50 per pound with a meat value of around \$0.70 per pound. The different nature of this fishery makes finning unlikely due to the risk of large fines and/or loss of license compared with the small value of the fins.

Recreational smooth dogfish possession limits.

In the absence of a smooth dogfish assessment or other metric which indicates that recreational possession limits are necessary for a sustainable smooth dogfish fishery, limiting recreational possession is unnecessary. Currently there are no possession limits in the commercial fishery and limiting only the recreational fishery without evidence that doing so is necessary to sustain the stock may be unfair to recreational fishermen.

2-hour large-mesh gillnet checks.

Addendum I removes this provision because it is extremely difficult to enforce and impacts fishermen in other fisheries who may catch an occasional coastal shark.

Commercial fishermen targeting king mackerel and bluefish often set large-mesh gillnets overnight and may incidentally catch a small number of sharks. The Commission's Law Enforcement Committee (LEC) reported that requiring 2-hour net checks force these gillnetters to either discard any sharks they incidentally catch, or tend their nets overnight. Fishermen are unlikely to tend nets overnight to keep a handful of sharks because the value of the sharks does not exceed the cost of operating the boat overnight. Staying with a net overnight is also dangerous to fishermen if shrimp trawlers are working the area. These fishermen are more likely to simply discard any sharks that they incidentally catch rather than comply with this regulation. The net check requirement would likely result in discarding of sharks that are incidentally caught in other gillnet fisheries.

The LEC also considers the 2-hour net check requirement to be resource prohibitive to enforce. In order to effectively monitor a fishing vessel, an officer has to sit and watch it for 2 hours

straight and may need to videotape the incident to effectively prosecute the fishermen in the court of law. It is likely that the fisherman would see the officer and alter their behavior to comply with all regulations. In addition, natural resource enforcement often lacks a sufficient number of officers necessary to enforce all laws and regulations. Asking an officer to stand by and watch a single vessel for 2 hours is an inefficient use of their time.

2.2 Background of Smooth Dogfish Fishery

The smooth dogfish fishery is largely commercial with recreational landings averaging 9.4% of overall harvest over the last decade (Table 1). The commercial smooth dogfish fishery is high volume, labor intensive, and requires a very fresh product. Vessels need a large crew to cut the fins as soon as the sharks are on deck and must immediately place the carcass into the refrigeration system to keep the meat from spoiling. Fish that die in the nets are too poor of quality to sell. The majority of commercially caught smooth dogfish are exported.

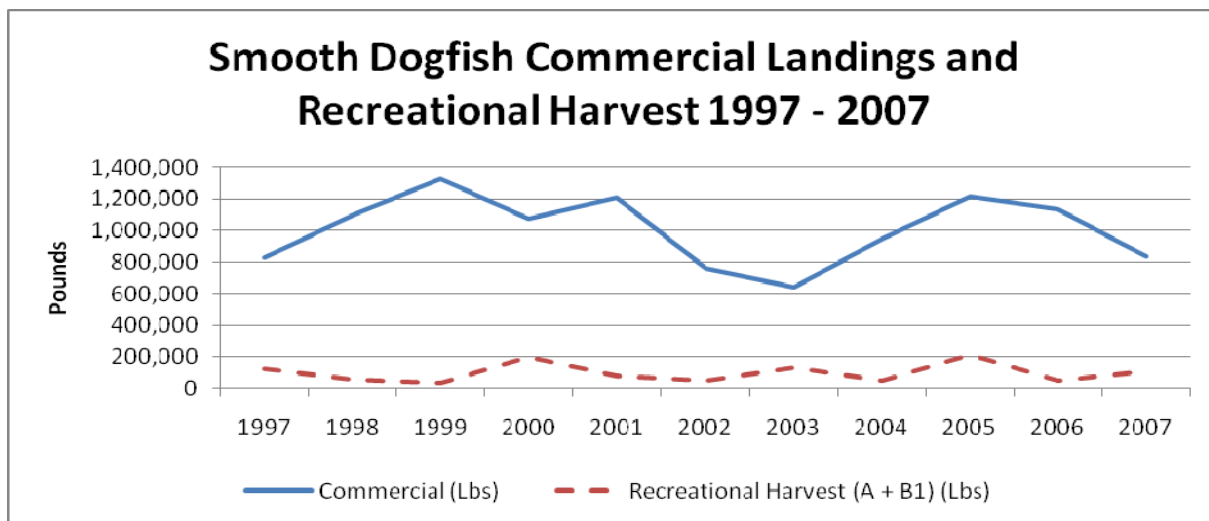


Figure 1. Commercial Landings and Recreational (A + B1) Harvest 1997 – 2007. Source: Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division, Silver Spring, MD

Table 1. Percent harvest for each sector of the smooth dogfish fishery 1981 - 2007. Commercial harvest is based on landings and recreational harvest includes A + B1 fish. Source: Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division, Silver Spring, MD.

	% Commercial	% Recreational
1981	0.3%	99.7%
1982	9.8%	90.2%
1983	3.3%	96.7%
1984	0.2%	99.8%
1985	1.5%	98.5%
1986	1.2%	98.8%
1987	9.6%	90.4%
1988	0.5%	99.5%
1989	0.0%	100.0%
1990	70.3%	29.7%
1991	74.8%	25.2%
1992	87.7%	12.3%
1993	69.8%	30.2%
1994	98.7%	1.3%
1995	92.9%	7.1%
1996	90.6%	9.4%
1997	86.7%	13.3%
1998	94.9%	5.1%
1999	97.3%	2.7%
2000	84.4%	15.6%
2001	93.7%	6.3%
2002	93.8%	6.2%
2003	82.7%	17.3%
2004	94.5%	5.5%
2005	84.9%	15.1%
2006	95.5%	4.5%
2007	88.2%	11.8%

An analysis performed by the North Carolina Department of Environment and Natural Resources using Trip Ticket data from 2004 - 2007 showed that landings of sandbar sharks in the targeted smooth dogfish fishery does not occur (Figure 2). Smooth dogfish landings are concentrated during the months of March and April while sandbar landings are nonexistent during those months.

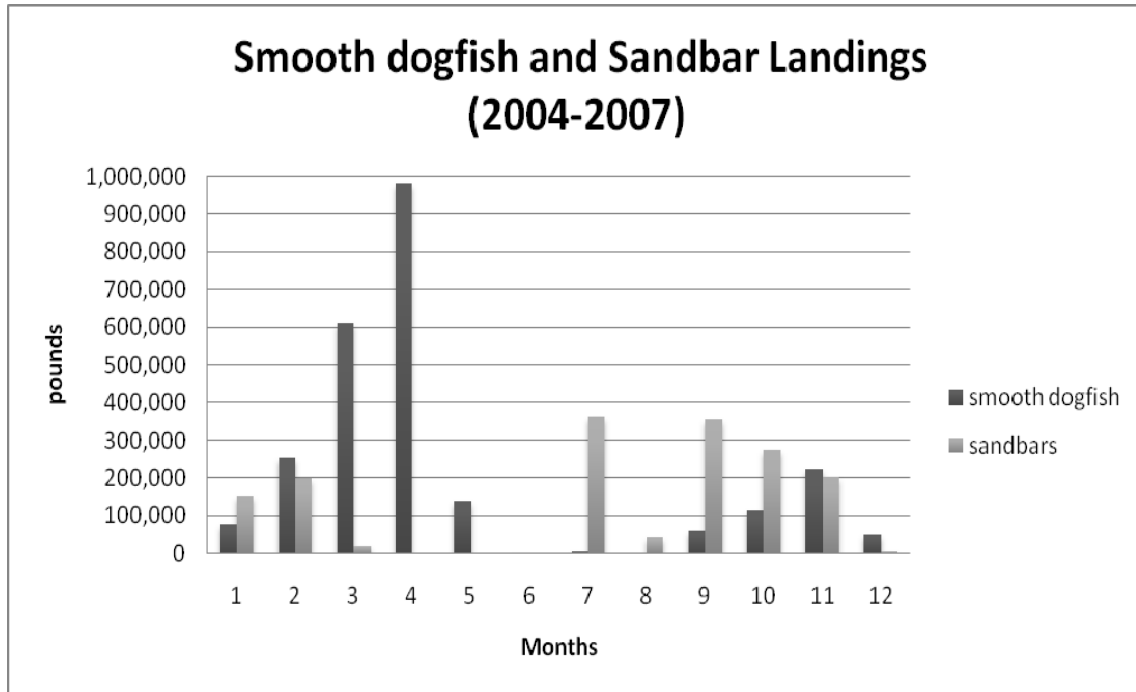


Figure 2. Monthly landings from all the commercial gears used to land smooth dogfish and sandbar sharks in NC from 2004 to 2007. Data source: NCDMF Trip Ticket Program.

2.3 Management Measures

2.3.1 Smooth Dogfish Processing at Sea

This Addendum replaces *Section 4.3.1.1 Finning and Identification* of the FMP with the following language, which grants commercial fishermen a limited exemption from the fins attached rule for smooth dogfish only.

4.3.1.1 Finning and Identification

All sharks, with the exception of smooth dogfish, harvested by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. Sharks may be eviscerated and have the heads removed. Sharks may not be filleted or cut into pieces at sea.

Commercial fishermen may completely remove the fins of smooth dogfish from March through June¹ of each year. If fins are removed, the total wet weight of the shark fins may not exceed 5

¹ Sandbar sharks are generally not landed during these months. See section 2.1.2 and Table 2 for more information.

percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel. This ratio is consistent with the Shark Finning Prohibition Act of 2000.

From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing². Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

2.3.2 Smooth Dogfish Recreational Possession Limits

This Addendum replaces *Section 4.2.7.1 Recreational Shore-Angler Possession Limits* and *4.2.7.2 Recreational Vessel-Fishing Possession Limits* of the FMP with the following language, which removes all recreational possession limits for smooth dogfish.

4.2.7.1 Recreational Shore-Angler Possession Limits

Shore fishing is defined as any fishing that does not take place on board a vessel. The terms ‘shore-fishermen’ and ‘shore-angler’ are synonymous, describing any person engaged in shore fishing.

Each recreational shore-angler is allowed a maximum harvest of one shark from the federal recreationally permitted species (*Section 4.2.2, Table 4.2*), per calendar day. In addition, each recreational shore angler may harvest one additional bonnethead and one additional Atlantic sharpnose per calendar day. Smooth dogfish harvest is not limited in state waters and recreational shore-anglers may harvest an unlimited amount of smooth dogfish.

Sharks that are transported by a vessel are considered ‘boat assisted’ and are regulated under the more restrictive vessel-fishing possession limits regardless of where they were caught.

4.2.7.2 Recreational Vessel-Fishing Possession Limits

Vessel fishing is defined as any fishing conducted from a vessel. The word “vessel” includes every description of watercraft used or capable of being used as a means of transportation on water except for non-displacement craft and seaplanes.

Recreational fishing vessels are allowed a maximum harvest of one shark from the federal recreationally permitted species (*Section 4.2.2, Table 4.2*) per trip, regardless of the number of people on board the vessel. In addition, each recreational angler fishing from a vessel may harvest one bonnethead and one Atlantic sharpnose per trip. Smooth dogfish harvest is not

² Historically, both sandbar and smooth dogfish have been landed during these months. During the development of this addendum, concern was raised that juvenile sandbars can be confused with smooth dogfish and allowing removal of all fins could open enforcement loopholes. The Technical Committee strongly supported requiring the dorsal fin to remain attached because doing so makes identification quick and accurate, and is necessary with a high volume fishery.

limited in state waters and recreational vessel-fishermen may harvest an unlimited amount of smooth dogfish.

Sharks that are transported by a vessel are considered ‘boat assisted’, and are regulated under the more restrictive vessel-fishing possession limits regardless of where they were caught.

2.3.4 Bycatch Reduction Measures

This Addendum strikes the following language from *Section 4.3.10 Bycatch Reduction Measures* of the FMP, to remove the 2-hour net check requirement for commercial fishermen using large mesh gillnets.

Large-mesh gillnets (defined as having a stretch mesh size greater than or equal to 5 inches) must be shorter than 2.5 kilometers ~~and nets must be checked every two hours.~~

3.0 Compliance Schedule

States must implement Addendum I according to the following schedule to be in compliance with the Coastal Sharks FMP:

January 1, 2010: States implement regulations.

Appendix A: Smooth dogfish management measures from FMP

Recreational Fisheries Management Measures (4.2)

Landings Requirements (4.2.3)

All sharks caught by recreational fishermen must have heads, tails, and fins attached naturally to the carcass. Anglers may still gut and bleed the carcass by making an incision at the base of the caudal peduncle as long as the tail is not removed. Filleting sharks at sea is prohibited.

Recreational Minimum Size Limits (4.2.4)

Sharks caught in the recreational fishery must have a fork length of at least 4.5 feet (54 inches) *with the exception of Atlantic sharpnose, blacknose, finetooth, bonnethead, and smooth dogfish.*

Authorized Recreational Gear (4.2.5)

Recreational anglers may catch sharks only using a handline or rod & reel. Handlines are defined as a mainline to which no more than two gangions or hooks are attached. A handline must be retrieved by hand, not by mechanical means.

Recreational Fishing License (4.2.6)

States are encouraged, but not required, to adopt a marine fishing license to collect, among other things, recreational data on sharks.

Recreational Possession Limits (4.2.7)

This FMP establishes different possession limits for shore-anglers and vessel-fishermen. When aboard a vessel, anglers are bound by the more restrictive vessel-fishing possession limits, regardless of the location where the sharks were caught.

Recreational Shore-Angler Possession Limits (4.2.7.1)

Shore fishing is defined as any fishing that does not take place on board a vessel. The terms ‘shore-fishermen’ and ‘shore-angler’ are synonymous, describing any person engaged in shore fishing.

Each recreational shore-angler is allowed a maximum harvest of one shark from the federal recreationally permitted species (*Section 4.2.2*), including smooth dogfish, per calendar day. In addition, each recreational shore angler may harvest one additional bonnethead, and one additional Atlantic sharpnose, and one additional smooth dogfish per calendar day.

Sharks that are transported by a vessel are considered ‘boat assisted’ and are regulated under the more restrictive vessel-fishing possession limits regardless of where they were caught.

Recreational Vessel-Fishing Possession Limits (4.2.7.2)

Vessel fishing is defined as any fishing conducted from a vessel. The word “vessel” includes every description of watercraft used or capable of being used as a means of transportation on water except for non-displacement craft and seaplanes.

Recreational fishing vessels are allowed a maximum harvest of one shark from the federal recreationally permitted species (*Section 4.2.2*), including smooth dogfish, per trip, regardless of

the number of people on board the vessel. In addition, each recreational angler fishing from a vessel may harvest one bonnethead, and one Atlantic sharpnose, and one smooth dogfish per trip.

Sharks that are transported by a vessel are considered ‘boat assisted’, and are regulated under the more restrictive vessel-fishing possession limits regardless of where they were caught

Commercial Fisheries Management Measures (4.3)

Commercial Fishing Year (4.3.1)

The commercial shark fishery shall operate on a January 1 – December 31 fishing year. All annual fishery specifications begin on January 1 of each fishing year.

Commercial Species Groupings (4.3.3)

This FMP establishes six commercial ‘species groups’ for management: Prohibited, Research, Smooth Dogfish, Small Coastal (SCS), Non-Sandbar Large Coastal (LCS), and Pelagic. These groupings apply to all commercial shark fisheries in state waters.

Smooth Dogfish, Small Coastal, Non-Sandbar Large Coastal, and Pelagic Species Groups (4.3.3.2)

Commercial fishermen may harvest any sharks in the Smooth Dogfish, Small Coastal, Non-Sandbar Large Coastal, and Pelagic Species Groups as long as they are in compliance with all rules and regulations contained in this plan.

The Smooth Dogfish Species Group consists of smooth dogfish sharks.

The Small Coastal Sharks Species Group consists of Atlantic sharpnose, finetooth, blacknose, and bonnethead sharks.

The Non-Sandbar Large Coastal Sharks Species Group consists of silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead sharks.

The Pelagic Species Group consists of shortfin mako, porbeagle, common thresher, oceanic whitetip, and blue sharks.

Quota Specification (4.3.4)

The Spiny Dogfish & Coastal Sharks Board will not actively set quotas for any species contained in the SCS, Non-Sandbar LCS, or Pelagic species groups but will close the fishery for any species in these groups when NOAA Fisheries closes the fishery in federal waters. When NOAA Fisheries closes the fishery for any species, the commercial landing, harvest, and possession of that species will be prohibited in state waters until NOAA Fisheries reopens the fishery. Upon receiving notification of a federal quota, the FMP Coordinator for Coastal Sharks will notify ASMFC states about which species can no longer be harvested. The state waters fishery will reopen only when NOAA Fisheries reopens the fishery for that species or species group in federal waters.

The Board has the authority but is not required to set an annual quota for smooth dogfish as it finds appropriate (*Section 4.3.7*). In the event that an annual smooth dogfish quota is set, and when an annual quota is harvested or projected to be harvested, the commercial landing, harvest, and possession of smooth dogfish will be prohibited in state waters.

Seasons (*4.3.5*)

The Board is not required, but has the option, to split the annual quota among seasonal periods for all groups.

Possession Limits (*4.3.6*)

Possession limits for commercial shark fisheries will be set annually through the specification setting process described in *Section 4.3.7*. The Board may use number of fish or weight to set the possession limit. Vessels are prohibited from landing more than the specified amount in one twenty-four hour period.

Display and Research Permit holders may be exempt from possession limits restrictions (*Section 4.3.8.2*) depending on their permit agreement.

Annual Process for Setting Fishery Specifications (*4.3.7*)

The Spiny Dogfish & Coastal Sharks Management Board may set a quota for the Smooth Dogfish species group; and possession limits for the Smooth Dogfish, Small Coastal, Non-Sandbar Large Coastal, and Pelagic species groups as follows.

The Coastal Sharks Technical Committee (TC) will annually review the best available data, and based on this review, will make quota and possession limit recommendations to the Board. Specifically, the TC must recommend a quota for the Smooth Dogfish Species Group and possession limits for the Smooth Dogfish, SCS, Non-Sandbar LCS, and Pelagic Species Groups. The TC may recommend not setting a quota for Smooth Dogfish or trip limits for any species group as they find appropriate. The Coastal Sharks TC's recommendations will be forwarded to the Board for final approval.

The Board will consider the TC's recommendations and determine the quota and possession limits for the following year. The Board has the option, but is not required, to set a quota and trip limits as it finds appropriate.

In addition, the Board has the option, but is not required to set the specifications for up to 5 years. Multi-year specifications may be useful for fishing industries to set long term business strategies. Specifications do not have to be constant from year to year, but instead are based upon expectations of future stock conditions as indicated by the best available scientific information during the year in which specifications are set. Under this management program, if a multi-year commercial quota and/or possession limit is implemented, annual review of updated information on the fishery and stock conditions by the Technical Committee and Management Board is required. As part of the annual review process, the specified management measures will be evaluated based upon updated scientific information of stock conditions. If scientific review finds that no adjustment to the subsequent year's specifications is needed, then the existing management measures will be considered adequate and implemented the following year. If,

however, updates to stock conditions determine that specified measures should be modified, then the Spiny Dogfish & Coastal Sharks Board will be presented with this information and a new specification setting process will be initiated.

All specifications shall remain in place until changed by the Spiny Dogfish & Coastal Sharks Management Board. All states must implement measures contained in the final decision made by the Board.

In summary, the steps for setting fishery specifications are:

1. The Technical Committee reviews the most recent stock status data and makes fishery specification recommendations to the Management Board.
2. The Board considers the recommendations of the Technical Committee and establishes fishery specifications.

Permit Requirements (4.3.8)

Fishermen are required to hold the following permits in order to harvest more and/or different species than the recreational regulations contained in this FMP allow.

Commercial Permit (4.3.8.1)

Commercial shark fishermen must hold a state commercial license or permit in order to commercially catch and sell sharks in state waters. This requirement does not require that states establish a new “shark” permit or license.

Display and Research Permits (4.3.8.2)

States may grant exemptions from the seasonal closure, quota, possession limit, size limit, gear restrictions, and prohibited species restrictions contained in this plan through a state display or research permit system. Exemptions may only be granted for display and/or research purposes. States must report weight, species, location caught, and gear used for each shark collected for research or display as part of their annual compliance report. States are required to include annual information for all sharks taken for display throughout the life of the shark. These reporting requirements are necessary to ensure that sharks taken under the auspice of ‘display’ are not sold in illegal markets.

Dealer Permit (4.3.8.3)

A federal Commercial Shark Dealer Permit is required to buy and sell any shark caught in state waters.

Authorized Commercial Gear (4.3.9)

Commercial fishermen can only use one of the following gear types (and are prohibited from using any gear type not listed below) to catch sharks in state waters. Fishermen with a federal shark permit who are fishing outside of state waters are not restricted to these gear types and may land sharks using any gear that is in accordance with the rules and regulations established by NOAA Fisheries.

The following gear types are *the only* gear authorized for use by commercial fishermen to catch sharks in state waters:

- **Rod & reel**
- **Handlines.** Handlines are defined as a mainline to which no more than two gangions or hooks are attached. A handline is retrieved by hand, not by mechanical means, and must be attached to, or in contact with, a vessel.
- **Small Mesh Gillnets.** Defined as having a stretch mesh size smaller than 5 inches
- **Large Mesh Gillnets.** Defined as having a stretch mesh size equal to or greater than 5 inches.
- **Trawl nets.**
- **Shortlines.** Shortlines are defined as fishing lines containing 50 or fewer hooks and measuring less than 500 yards in length. A maximum of 2 shortlines are allowed per vessel.
- **Pound nets/fish traps.**
- **Weirs.**

Bycatch Reduction Measures (4.3.10)

Vessels using shortlines and large-mesh gillnets to catch sharks must abide by the following regulations. Any vessels that employ these gear types and do not follow the bycatch reduction measures may not land or sell any sharks.

Any vessel using a shortline must use corrodible circle hooks. All shortline vessels must practice the protocols and possess the recently updated federally required release equipment for pelagic and bottom longlines for the safe handling, release, and disentanglement of sea turtles and other non-target species; all captains and vessel owners must be certified in using handling and release equipment. Captains and vessel owners can become certified by attending a Protected Species Safe Handling, Release, and Identification Workshop offered by NOAA Fisheries. Information on these workshops can be found at <http://www.nmfs.noaa.gov/sfa/hms/workshops/index.htm> or by calling the Management Division at (727)-824-5399.

Large-mesh gillnets (defined as having a stretch mesh size greater than or equal to 5 inches) must be shorter than 2.5 kilometers and nets must be checked once every two hours.

Finning and Identification (4.3.11)

All sharks harvested by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. Sharks may be eviscerated and have the heads removed. Sharks may not be filleted or cut into pieces at sea.



Atlantic States Marine Fisheries Commission

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Paul J. Diodati, (MA), Chair

Dr. Louis B. Daniel, III, (NC), Vice-Chair

Robert E. Beal, Acting Executive Director

Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015

July 3, 2012

Rebecca Regnery
Deputy Director of Wildlife
Humane Society International
2100 L St., NW
Washington, D.C. 20037

Dear Ms. Regnery,

I am writing on behalf of the Atlantic States Marine Fisheries Commission's (Commission) Spiny Dogfish & Coastal Sharks Management Board (Board) regarding proposed state legislation on the possession of shark fins. The Board invites you to its next meeting to provide your perspective on the need for additional restrictions on shark fin possession and shortcomings of the current interstate management program for coastal sharks.

The Board is tentatively scheduled to meet during the Commission's Summer Meeting on August 9, 2012 in Alexandria, Virginia. The agenda will be finalized in early July and my staff will pass along the date and time of the meeting when available.

The Commission's member states developed and implemented the Interstate Fishery Management Plan (FMP) for Atlantic Coastal Sharks to complement federal management measures and provide a comprehensive management program throughout the species' range. The Commission continues to monitor the effectiveness and enforceability of the Coastal Shark FMP. The Board is interested in hearing your point of view on deficiencies in the regulations that could result in shark finning.

Thank you for considering this invitation.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Beal", written over a horizontal line.

Robert E. Beal

cc: Spiny Dogfish & Coastal Shark Management Board



Paul J. Diodati
Director

Commonwealth of Massachusetts

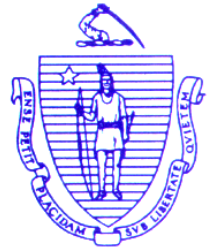
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Lt. Governor

Richard K. Sullivan, Jr.
Secretary

Mary B. Griffin
Commissioner

MEMORANDUM

TO: ASMFC Spiny Dogfish and Coastal Sharks Management Board
FROM: David Pierce, Deputy Director
CC: Robert Beal, ASMFC Acting Executive Director
DATE: July 23, 2012
SUBJECT: 2011 Spiny Dogfish Quota – Unreported Landings

I'm writing to inform the Board that the Division of Marine Fisheries (DMF) has documented a large amount of spiny dogfish landed in Massachusetts during the 2011/2012 season that was unreported. The unreported landings total 2,189,611 pounds.

During the 2011/2012 fishing year, a non-permitted transportation company based in Massachusetts purchased a significant amount of spiny dogfish directly from fishermen. The product was then shipped and sold to permitted Massachusetts seafood processors. Because the transportation company was operating without state or federal permits, none of the fish bought by this company entered the Standard Atlantic Fisheries Information System (SAFIS) that is used to monitor and quantify harvest levels relative to annual/seasonal quotas. Under Massachusetts regulations, it's the responsibility of the primary buyer (not the secondary buyer) to report purchases.

DMF identified the problem with our trip-level reporting system that collects landings data from harvesters towards the end of 2011. Subsequently, after extensive review of fishermen records, dealer transactions, and bank records, we determined 2,189,611 lbs of spiny dogfish went unreported in SAFIS dealer data and therefore was not counted against the 2011/2012 Northern Region quota of 11,145,453 lbs. The 2011/2012 Northern Region quota, according to earlier reports provided by ASMFC, was already exceeded by approximately 1.3 million pounds (without factoring in this unreported Massachusetts fish).

There remains an ongoing criminal investigation of this matter and DMF's fishermen/dealer reporting conditions have been modified to allow earlier detection of these kinds of problems in the future. Specifically, fishermen must now record the permit number of the dealer they sell their landings to on their trip-level reporting forms (as opposed to the dealer's name); and wholesale truck dealers acting as primary buyers are prohibited from buying quota managed species.

The Commonwealth is prepared to work with the Commission to address the 2011/2012 spiny dogfish quota overage.