

Atlantic States Marine Fisheries Commission

Spiny Dogfish and Coastal Shark Management Board

May 3, 2012
8:30 a.m. – 10:30 a.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*) 8:30 a.m.
2. Board Consent 8:35 a.m.
 - Approval of Agenda
 - Approval of Proceedings from February 9, 2012
3. Public Comment 8:40 a.m.
4. Elect Vice Chair **Action** 8:45 a.m.
5. Consider Massachusetts Coastal Sharks *de minimis* request (*C. Vonderweidt*) **Action** 8:50 a.m.
6. Preliminary 2012/2013 Spiny Dogfish Quotas (*C. Vonderweidt*) 9:00 a.m.
7. Update of 2012/2013 Federal Quota and Possession Limit (*C. Vonderweidt*) 9:10 a.m.
8. Discussion of Northern Region State Shares (*M. Gibson*) 9:20 a.m.
9. Consider Approval of Addendum IV to the Spiny Dogfish FMP for Public Comment (*C. Vonderweidt*) **Action** 10:00 a.m.
10. Spiny Dogfish Quota Transfer Update (*C. Vonderweidt*) 10:25 a.m.
11. Other Business/Adjourn 10:30 a.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

Monday, May 3, 2012

8:30 a.m. – 10:30 a.m.

Alexandria, Virginia

Chair: David Simpson (CT) Assumed Chairmanship: 08/10	Vice Chair: Vacant	Law Enforcement Committee Representative: Hanlon/Frampton
Spiny Dogfish Technical Committee Chair: Vacant	Spiny Dogfish Advisory Panel Chair: Vacant	Previous Board Meeting: February 9, 2012
Coastal Shark Technical Committee Chair: Greg Skomal (MA)	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 February 9, 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.

4. Elect Vice Chair (8:40-8:45 a.m.) Action
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Background

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| <ul style="list-style-type: none"> • David Simpson from Connecticut assumed the Chair in August 2010. • The two year term will expire in August 2012. • Vice Chair position is vacant. |
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Board actions for consideration
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| <ul style="list-style-type: none"> • Nominate and elect Vice Chair. |
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5. Consider Massachusetts <i>De Minimis</i> Proposal for Coastal Sharks (8:50-9:00 a.m.)
Action
<p>Background</p> <ul style="list-style-type: none"> Massachusetts submitted a <i>de minimis</i> proposal requesting an exemption from closures to the large coastal sharks (LCS) fishery. The proposal suggests that closing the LCS fishery is unnecessary because these species are rare and there is no active fishery/landings for them in Massachusetts state waters (Briefing CD). The TC reviewed the proposal in March 2012 and unanimously recommends the Board approve the LCS closure exemption for Massachusetts (Briefing CD).
<p>Presentations</p> <ul style="list-style-type: none"> Overview of proposal and Technical Committee report by C. Vonderweidt.
<p>Board actions for consideration</p> <ul style="list-style-type: none"> Approve Massachusetts <i>de minimis</i> proposal for coastal sharks.

6. Preliminary 2012/2013 Spiny Dogfish Quotas (9:00-9:10 a.m.)
<p>Background</p> <ul style="list-style-type: none"> Addendum II & III allocate the annual quota with 58% to states from ME – CT and state shares for NY – NC with the remaining 42%. Overages are paid back by the region or state responsible for the overage. Rollovers up to 5% are allowed when spawning stock biomass is above the target. 2012/2013 preliminary quotas will be calculated in late April 2012 and presented to the Board at this meeting. Final quotas may change as 2012 landings are audited.
<p>Presentations</p> <ul style="list-style-type: none"> Preliminary 2012/2013 quotas by C. Vonderweidt

7. Update of 2012/2013 Federal Quota and Possession Limits (9:10-9:20 a.m.)
<p>Background</p> <ul style="list-style-type: none"> The NMFS has published a proposed rule to implement a 35.6 million pound quota with 3,000 pound possession limits for the 2012/2013 fishing season. The public comment period closed on April 18 (Briefing CD). The ASMFC Board set the 2012/2013 quota at 30 million pounds with a 3,000 pound Northern Region (ME – NY) possession limit of 3,000 pounds.
<p>Presentations</p> <ul style="list-style-type: none"> Update of 2012/2013 Federal quota and possession limit by C. Vonderweidt

8. Discussion of Northern Region State Shares (9:20-10:00 a.m.)
<p>Background</p> <ul style="list-style-type: none"> Addendum II & III allocate the annual quota with 58% to states from ME – CT and state shares for NY – NC with the remaining 42%. Some commissioners from Northern Region states have expressed interest in developing Northern Region state shares.
<p>Presentations</p> <ul style="list-style-type: none"> Discussion of Northern Region state shares by Mark Gibson.

9. Consider Approval of Addendum IV to the Spiny Dogfish FMP for Public Comment (10:00-10:25 a.m.) Action

Background

- 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. This definition was adopted from the Mid-Atlantic Fishery Management Council's (Council) FMP in 2002.
- The Council updated their overfishing definition in Framework 2 and the Commission and Council definitions are now inconsistent.
- The Board initiated an addendum to update the Commission's overfishing definition at the February meeting following recommendations from the Spiny Dogfish Technical Committee (**Briefing CD**).
- Draft Addendum IV for Board Review includes options to revise the overfishing definition consistent with the best available science and Council.

Presentations

- Draft Addendum IV for Board Review by C. Vonderweidt

Board actions for consideration

- Approve Draft Addendum IV for Public Comment.

10. Spiny Dogfish Quota Transfer Update (10:25-10:30 a.m.)

Background

- Addendum III allows states from NY – NC to transfer or combine their spiny dogfish quota under mutual agreement.
- Delaware has transferred 100,000 pounds of spiny dogfish to Maryland under mutual agreement.

11. 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
February 9, 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 November 10, 2011 by consent** (Page 1).
3. **Move to amend the board's previous decision and set a spiny dogfish quota of 35.694 million pounds for the May 1, 2012, through April 30, 2013, fishing season consistent with recommendations of the technical committee and consistent with quotas adopted by the New England and Mid-Atlantic Fishery Management Councils now under review by the National Marine Fisheries Service** (Page 6). Motion by David Pierce; second by Mark Gibson. Motion defeated (Page 8).
4. **Move to initiate an addendum to revise the Addendum III quota rollover provision with the following the options; one, status quo, states can roll over unused quota up to 5 percent of their final allocation; two, in excess of 5 percent with board approval; and, three, only with board approval. These would only apply when the stock is rebuilt** (Page 8). Motion by Tom O'Connell; second by Jack Travelstead. Motion carried (Page 9).
5. **Move to initiate an addendum to update the spiny dogfish overfishing definition consistent with the spiny dogfish technical committee recommendations as stated** (Page 11). Motion by Pat Augustine; second by Louis Daniel. Motion carried (Page 12).
6. **Move to accept the SEDAR report as presented today for management use** (Page 15). Motion by Pat Augustine; second by Rick Bellavance. Motion carried (Page 15).
7. **Motion to adjourn by consent** (Page 25).

ATTENDANCE

Board Members

Terry Stockwell, ME, proxy for P. Keliher (AA)
 Steve Train, ME (GA)
 Doug Grout, NH (AA)
 David Pierce, MA, proxy for P. Diodati (AA)
 Jocelyn Cary, MA, proxy for Rep. Peake (LA)
 Mark Gibson, RI, proxy for B. Ballou (AA)
 Bill McElroy, RI (GA)
 Rick Bellavance, RI, proxy for Rep. Martin (LA)
 Lance Stewart, CT (GA)
 James Gilmore, NY (AA)
 Pat Augustine, NY (GA)
 Brian Culhane, NY, proxy for Sen. Johnson (LA)
 Peter Himchak, NJ, proxy for D. Chanda (AA)
 Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
 Roy Miller, DE (GA)

Bernie Pankowski, DE, proxy for Sen. Venables(LA)
 David Saveikis, MD (AA)
 Stewart Michels, MD, Administrative proxy
 Tom O'Connell, MD (AA)
 Bill Goldsborough, MD (GA)
 Russell Dize, MD, proxy for Sen. Colburn (LA)
 Jack Travelstead, VA, proxy for S. Bowman (AA)
 Louis Daniel, NC (AA)
 Michelle Duval, NC, Administrative proxy
 Robert Boyles, SC (LA)
 Spud Woodward , GA (AA)
 John Duren, GA (GA)
 Aaron Podey, FL (AA)
 Wilson Laney, USFWS
 Bob Ross, NMFS

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

Ex-Officio Members

Greg Skomal, Technical Committee Chair

Staff

Vince O'Shea
 Bob Beal
 Toni Kerns

Mark Robson
 Christopher Vonderweidt

Guests

Rick Robins, MAFMC
 Lewis Gillingham, VMRC
 Patrick Geer, GA DNR
 Merry Canhi, WCS, Brooklyn NY
 Sonja Fordham, Shark Advocates Int'l, D.C.
 Angel Willey, MD DNR

Rob O'Reilly, VMRC
 Janice Plante, Commercial Fisheries News
 Sarah Laputz, NMFS HMS
 Jennifer Cudney, NMFS HMS
 Peter Burns, NMFS
 Dick Brame, CCA

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, February 9, 2012, and was called to order at 1:05 o'clock p.m. by Mr. Robert E. Beal.

CALL TO ORDER

MR. ROBERT E. BEAL: I'll go ahead and call the Spiny Dogfish and Coastal Shark Management Board to order. The chairman of the board is David Simpson. However, he has taken an earlier train home so he's not here. This board currently does not have a vice-chair, so I'll be pinch hitting and chairing this meeting today.

APPROVAL OF AGENDA

MR. BEAL: The first item is approval of the agenda. Are there any changes to the agenda? Dr. Pierce.

DR. DAVID PIERCE: Mr. Chairman, rather early on the agenda, perhaps after the description of the spiny dogfish fishery performance, I would like to raise an issue regarding landings of spiny dogfish, what the Division of Marine Fisheries has encountered and uncovered, I need to provide the board with some of that information, and then I'll have a motion to make relative to the 2012/2013 quota.

MR. BEAL: Thank you, Dr. Pierce. We'll insert that in the agenda after Item Number 4, so between numbers four and five on the agenda, if that works for you. Any other changes to the agenda? Seeing none, the agenda stands approved with that one modification.

APPROVAL OF PROCEEDINGS

MR. BEAL: Any changes or additions to the proceedings from November of last year at our annual meeting? Seeing no hands, those minutes stand approved.

PUBLIC COMMENT

MR. BEAL: Public comment; are there any folks in the audience that want to comment on anything for the Spiny Dogfish and Coastal Shark Management Board that is not on the agenda?

Seeing no hands, we'll move right into Item Number 4.

REVIEW OF THE 2011/2012 SPINY DOGFISH FISHERY PERFORMANCE

MR. BEAL: Chris Vonderweidt is going to give us a review of the 2011/2012 spiny dogfish fishery performance. This is a fishery that began May 1st, 2011, and runs through August 30, 2012. Chris.

MR. CHRISTOPHER VONDERWEIDT: Just for a little bit of background of why I'm presenting this today, basically staff was asked to put together a review of this year's ongoing fishery due in large part to a concern about the northern region overage. I've put together a white paper that was on the supplemental materials, but staff is also passing that out.

It's just basically intended to provide data on the landings to help you guys discuss the performance of the fishery. This presentation is just going to follow the white paper that is being handed out. Federal management this year, we're at a 20 million pound quota with 3,000 pound possession limits in federal waters for federal permit holders. They use a seasonal quota allocation.

Period 1 is May 1 through October 31; allocated almost 58 percent of the coast-wide quota, but it's not 58 percent. It's 57.9 percent, which is 11.5 million pounds. Period 2 is November 1 through April 30; 42.1 percent of the quota. The landings in federal waters – and I included last year's closure date for Period 1 and 2, and you can see that the landings were about 12.8 million from May 1 through October.

The quota was 11.5 so that's roughly an overage of 1.2 million pounds. I just want to point out that all these landings are from the SAFIS data base, so they're not from the data warehouse. They're preliminary and all confidential numbers will appear with triple asterisks. They were pulled on January 31st of this year; so any landings that have come in since then, this presentation and the white paper won't reflect that.

Back to this chart, there is about a 1.2 million pound overage. They closed August 26th, which

is a day earlier than they closed last year. For Period 2, there is an 8.4 million quota; however, they closed early so that they wouldn't go over the overall quota. Landings as of last week were 19.7 million pounds of that 20 million pound quota, so fairly close.

Now, in the state waters, ASMFC management, we also set a 20 million pound quota. We have a northern region, which is Maine through Connecticut, that gets 58 percent of the coast-wide quota, which is 11.6 million pounds. This is before any overages, and I'll show you the numbers for overages on the next slide.

The northern region is the only region that has a board-specified possession limit, and the board set that at 3,000 pounds consistent with federal waters. This year was the first year under the Addendum III state shares for New York through North Carolina. These states were given their own quota allocations. They are able to manage them however they want.

They have to pay back any overages, and they aren't restricted by commission possession limits. Overages are to be paid back by the region or the state the following season. However, we can exceed the 20 million pound quota; so if the northern region is over by a million pounds, that doesn't mean states that haven't landed their share yet in the same fishing season can't continue to land so we might have a slight overage of one fishing season, let's say 21 million pounds, but the next fishing season that will be paid back, so total landings would be 19 million pounds, and so it's adjusted.

The technical committee was fine with that because the species is long-lived; and as long as there is kind of a consistent F rate achieved. The point here is that the southern region states can still land in state waters even if it exceeds the quota. If a state doesn't land their full allocation, they can roll over up to 5 percent of that.

ASMFC landings – and like I said before, this is following the white paper that was handed out, so if it's hard for you to read up there you can just open your white paper. The northern region is highlighted there basically because I was asked to provide a review of the northern overage. You can see that there was about a 1.2 million pound overage in that column that says 2011 and 2012 remaining quota.

Any negative value there indicates an overage; so if you look, New Jersey had a slight overage, 34,000 pounds; Virginia had a slight overage, 80,000 pounds; so that will be reduced or subtracted from their quota next season. You can see that New York is still open; Delaware is still open; Delaware is still open; Maryland is still open. North Carolina kind of micromanages their quota so that is variable. They might open it for a day here and there, and I don't know what the current status is and that's why it says variable.

The total landings so far are 19.7 million pounds this season, and there are a couple of states that have some lingering quota. Maryland has about 218,000 pounds; New York has about 187,000 pounds left; and Delaware 157,000 pounds. If you look at the overages, which is kind of the whole point of this exercise, in previous years we've had overages and generally we've always thought that it was because of late reports and then increased catch rates the week following the closure notice going out.

So, fishermen see the notice and they might take full advantage of their last opportunity to harvest dogfish for this fishing season. They are generally lower amounts, though; and as a result we never really parsed out the data to try and get to the bottom of what it was. This the beginning of the regional quota allocation and this is just the northern region; about 50,000 pounds in 2008/2009; about 430, about 450; and then in 2011/2012 there was a pretty significant spike.

The quota has increased significantly since that time, from 8 million to 20 million pounds, but it's still 11.5 percent of the northern quota, which is the highest in the time series, and it's also 6.4 percent of the coast-wide quota. It's the biggest overage we've had. Kind of the hypothesis is that it's due to landings rates and late reports – late landings.

So, look at the landing rates; and the arrows here, the shorter arrows are the NMFS closure notice is the first arrow and then the second arrow is when the actual closure happened, so essentially that would be the time period where landings rates would increase significantly. The taller arrows there are the ASMFC closure notice and then the actual closure.

You can see the blue line is the weekly landing rates, and you can see the landing rate actually

went down that last week. I don't know if people were paying attention to the weather, but we had some storms that week, so the landings rates were lower. We still had that overage, so it doesn't look like an increased rate of landings was the culprit.

What about late landings, and the way landings work is they go in the data base. It's an honor system when dealers say they were landing when they enter it into the SAFIS system; so if you look at all the landings that came after the ASMFC closure of September 1st, very few landings, about 5,000 pounds, so it doesn't look like late landings as entered into the data base are the culprit.

Looking at late reports, the way the dealer reporting requirements are established, and all states either follow this schedule or have biweekly reporting, which is more restrictive, or all their landings come from federal dealers, so this should encompass all state landings. I've communicated with staff from every northern region state and they've explained the reporting requirements to me.

What happens is for Sunday through Saturday of a week those landings need to be reported by Tuesday of the following week at midnight in order to be compliant with the federal regulations, so what this is, is a maximum of nine days possible under that scenario. If you look up at the board, you've got August 7 through August 13 would be the landing week. That needs to be reported by August 16th, Tuesday of the following week; so between August 7 to August 16, nine days maximum, so it should be smaller than that to comply.

Let's look at the late reports. This is just for the week before the closure. On the left-hand column there, August 31st through present, that's the landings for the week of the NMFS closure, the Tuesday after that, so all those reports would be late for that final week. If you look, those are a total of 1 million pounds that were reported late for just that one week.

And if you look at just the ASMFC part it, there was about 383,000 late reports for that week, so it looks there is a significant amount of late reports that came in just that last week. So from there, what if you look at the late reports for the entire fishing season by state by month, and you

can sort of see where a lot of late reports are coming from.

This is important because we base closures on the average weekly landing rates and try and figure out what that landing rate is going to be based on the amount of quota that is left; so if our landing rates are off, our projections are going to be off. If you look, there are some pretty significant landings. Massachusetts had 2.4 million late reports. A lot of those came July in August.

The total is 2.8 million pounds were reported late for this fishing season in the northern region. And then if you look at just what the numbers are, so that was the pounds of all those late reports; but the number of late reports there was over 1,800 late reports for the northern region states in that fishing season, so it seems like late reporting is definitely something that is impacting that could have led to the overage.

So what are some possible solutions? Well, obviously, if states can reduce their late reports; and talk to their dealers and then there is also, for those of you on the Atlantic Herring Board and possibly other species, the quota closes at 95 percent. There is a little bit of a buffer there; so as staff, when we run the projections, we can't take the leeway and say, well, it might make sense to close at 95 percent.

We close when a hundred percent is projected to be harvested because that's what is in the FMP. One potential would be to direct us to close with a little bit of a buffer. There is a 5 percent rollover provision in the FMP; so if you're 5 percent shy one year, you can get that back the next year. That's it.

MR. BEAL: Thanks, Chris. There is a recommendation to go to 95 percent rather than a hundred percent; and what that would be is when the staff projects the quota to be at 95 percent, that's when the closure would go in effect. We'll come back to that in a minute. Are there any questions of Chris about his presentation? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I think one of the I think perceptions by some folks maybe in the industry was that there was a difference between when ASMFC closed and when the National Marine Fisheries Service closed, and that was the cause

of the overage. I was just wondering if you could clarify that.

MR. VONDERWEIDT: That was a footnote in one of my slides, but I forgot to say it. There was actually only 282,737 pounds that were landed between the NMFS closure of August 26th and September 1st, so there are some landings but not 1.2 million pounds by any means.

EXECUTIVE DIRECTOR O'SHEA: And the reason ASMFC stayed open was because there was still state quota that hadn't been taken?

MR. BEAL: Yes, some of the northern region quota was available. The federal government closed because a portion of the landings that had occurred early in the year came from the southern states, so that allowed some of the northern states' quota still to be available. The commission stayed open so they could fully utilize that. Tom.

MR. THOMAS O'CONNELL: Mr. Chairman, it seems like there are two problems and a lot of the emphasis in the presentation was focused on how do we get a better handle on tracking this report in a more timely manner. The other problem that I would like to spend a little bit of time on is focusing on how this problem impacted states like the state of Maryland.

Because of the overage in the northern region, the federal government shut down the fishery. While in Maryland the season is still open, we don't routinely have fish in state waters, so the Maryland fishermen lost about 20 percent of their quota, a little over 200,000 pounds. It seems like unless we work to address this problem it could potentially be an ongoing situation.

I have at least one question that I would like to ask Mr. Ross. It is my understanding that the federal government is looking at an amendment to the spiny dogfish plan, and I'm just trying to get a sense of what the schedule timeline when there might be the possibility of having compatible quota management systems?

MR. BOB ROSS: Yes, it's my understanding that actually the Mid-Atlantic Council agenda next week may have discussions on I believe it's Amendment 3 to the – Amendment 1, I believe. I lose track of the numbers, but the bottom line –

I'm sorry, Rick Robins is here if he would like to discuss further. Thank you.

MR. RICK ROBINS: Mr. Chairman, indeed, we are scheduled as a council to take this issue up on the morning of Wednesday, the 15th. That's going to be at 9:00 a.m., and we are taking it up under Amendment 3. I think the key issue is going to be developing an alignment solution that prevents the disconnects we have now between the spatial differences and you've got a regional arrangement within ASMFC and we've got calendar year breaks or fishing year breaks within the federal plan, and that's part of the problem.

I think getting some sort of reasonable alignment between those is obviously one of the things that's being considered in Amendment 3. One of the things that delayed the development of the amendment, though, was consideration of developing limited access permits within that fishery. This is clearly a problem.

I heard an earful about this when I was in Ocean City not long ago about the problem from a reporting standpoint about how this impacted Maryland's quota and fishery. Obviously, that's something that does need to be corrected. One of the possible courses of action next week would be to take some of these items out of the amendment and actually try to put it on a fast track to at least address this concern, because I think this is one of the pressing concerns in terms of the differences between the FMPs.

MR. BEAL: Rick, but even the Mid-Atlantic was to fast track this, it appears they would obviously not get it in place for the 2012/2013 fishery. Probably the 2013/2014 year would be the first fishing season.

MR. ROBINS: Bob, given the amount of time it takes to complete an amendment and get that approved, you're probably right, but I think we will have to put it on a fast track and basically strip down some of those other elements of the amendment to go ahead and move it to address this problem.

MR. MARK GIBSON: Mr. Chairman, I just wanted to bring to the board's attention some potential difficulties that Rhode Island is having with the current management system, and you can see the early closures here. We have heard from at least one segment of our industry that

there are significant quantities of dogfish available in the late fall and wintertime, well past these closure dates, and they are unable to harvest them.

We have to do some more work at home in terms of understanding how widespread that perception or position is, but we could be coming to you asking for some sort of action. Perhaps Rhode Island could secede from the north and join the southern states and have our own quota or perhaps the commission's ASMFC Northern Program could be broken into separate or half, similarly to the way of the federal program because there seems to be some lack of access going on for at least a segment of our industry, but we need to do a little more work back home and find out how widespread that is. I just wanted to bring that up. Thank you.

DR. PIERCE: Well, it's not a question of Chris, but it's information I would like to provide to add to the consternation regarding the amount of dogfish that have been landed in excess of what was allowed through the quota. I would like to get into that fairly soon. I know that Terry Stockwell has to leave to catch a flight, and this is an issue of interest to him as well, plus, of course, the motion I intend to take. It's also relevant to his concerns, too. I look to you for your guidance as to when I should get into this.

MR. BEAL: It sounds like it's definitely relevant. It doesn't sound like it's good news either, but I had Tom O'Connell and then Terry, and then we'll come back to you, David.

MR. O'CONNELL: Bob, again before we move on to the next agenda item, I would like to have an opportunity to provide an option for the board's consideration on how to address the concerns that Maryland experienced with the early closure of our fishery.

MR. BEAL: Can we come back to that after we hear from Terry and then David?

MR. TERRY STOCKWELL: I'll be real brief because as you know we're on a tight timeline, but I did have the opportunity to sidebar with Mark while the previous board was meeting. I just want to throw the flag up of the discussion we had yesterday on sturgeon and the potential for consequences in Southern New England. When these factors all come into play, we may

be looking at a brand new way of doing business with dogfish.

PRESENTATION BY DR. DAVID PIERCE

MR. BEAL: Thank you, Terry. I think where we are is the 2011/2012 fishery didn't go that well in the north. It seems to be a multi-dimensional problem which stems from a disconnect between the way the states manage the fishery and the federal government manages the fishery. There was a significant amount of late reporting that occurred, and Dr. Pierce is going to comment on that.

There is very little buffer between the way the projections are done and the rate at which this fishery occurs that results in significant overages. It seems to be sort of three different dimensions that resulted in this last winter not going very well. With that, we'll go to Dr. Pierce.

DR. PIERCE: Clearly, reliance on SAFIS and our waiting too long to close the fishery in the north has had some adverse consequences that need to be addressed, and I think that can be done by our just closing earlier, projecting earlier and closing earlier to prevent the consequences of what obviously has happened through late reporting; a significant overage in the northern area with much of that overage being from Massachusetts.

Now with that said, there is more of an overage. The Division of Marine Fisheries has, as we always have, taken a close look at the landings of dogfish in Massachusetts to ensure to the extent that we can that we will live within the overall quota. We have trip reporting in our state; so we don't rely solely on SAFIS we have trip reporting.

We do investigations with that particular information trying to see what is being reported on a trip-by-trip basis versus what actually is being reported to us through SAFIS. We discovered this year, not too long ago, that there was a dealer with no state or federal dealer permits, so he wasn't a dealer.

He purposed an estimated 1.3 million pounds of dogfish in 2011, so this dogfish went unreported against the 2011 quota, the one we're talking about now. The 1.3 million pound estimate is based on fishermen reported landing on state trip-level reports as of February 3, 2012. More

landings may come in on late reported trip-level reports; so it's 1.3 million and it could be higher than that.

This issue was discovered, as I said, during the 2011 spiny dogfish season, July/August 2011, because the fishermen reported trip-level reports that contained the non-permitted dealer. They thought they were selling to a permitted dealer. He was not permitted. Therefore, we caught this guy because of the nature in which the landings were reported to us by fishermen identifying a dealer, and we found out he was not dealer.

The division is now working with our state law enforcement, with our environmental police on this particular issue. It's an ongoing investigation. We expect it will come to a satisfactory conclusion some time very soon. So, a significant overage, and I have a suggestion on how to deal with this overage and also the overages that have occurred in the other states.

That's why, Mr. Chairman, I indicated that I would like to make a motion to address this particular problem for this year certainly with an anticipated significant reduction in the significance of the problem with again earlier projections, earlier closures, and now obviously our need and the division's need to put a lot more time into the trip-by-trip landings of fishermen just to make sure we don't have in the future anymore fishermen or truckers who claim they are dealers but are not.

MR. BEAL: Go ahead and get your motion on the board and then we can have the board discuss that, please, David.

DR. PIERCE: All right, I'm sure everyone recalls that back in Boston we discussed what the overall quota should be for spiny dogfish in the fishing year. We were given a lot of guidance from the Mid-Atlantic Council that did indeed follow scientific advice provided to them by the SSC; 35.694 million pounds. That was the quota they adopted consistent with that scientific advice.

The New England Council at that time, at our ASMFC board meeting in Boston had not yet met to discuss what the quota should be. After our hearing what the Mid-Atlantic Council did and what ASMFC did, for that matter, the New England Council also adopted the higher quota of 35.694 million pounds consistent with the

scientific advice and also consistent, frankly, with the ASMFC Technical Committee recommendation as to what amount should be allowed.

In order to deal with the overage and in order not to penalize states that did not contribute to the overage, be they in the north or be they in the south, I suggest that one way to do that is to increase the quota from the 30 million pounds that we adopted back in November of last year up to the amount that was adopted by the New England and the Mid-Atlantic Council, and it is a number that is being reviewed now by the National Marine Fisheries Service.

I would move to amend the board's previous decision and set a spiny dogfish quota of 35.694 million pounds for the May 1, 2012, through April 30, 2013, fishing season consistent with recommendations of the technical committee and consistent with quotas adopted by the New England and Mid-Atlantic Fishery Management Councils now under review by the National Marine Fisheries Service.

MR. BEAL: Is there a second to that motion; Mr. Gibson. Just to be clear, this is a motion to amend the previous final decision made by this board, so it will take a two-thirds vote. There are 16 voting members on this board, so it will need 11 votes in favor for this motion to pass. With that, are there comments on the motion? Doug Grout.

MR. DOUGLAS GROUT: First of all, Bob, shouldn't it be a motion to reconsider?

MR. BEAL: No.

MR. GROUT: Okay, thank you for that advice. Just to remind the board of some of the discussion that went on back in our meeting in Boston as to the reason that this board went forward with the 30 million pound quota was that in the out years, as we start getting into the years of poor recruitment recruiting to the fishery, it was going to result in a less of a reduction in biomass than what we would have under the 35.6 million.

The reason that I supported this was that we were already getting a substantial increase from 20 million to 30 million pounds in the quota; and in the out years, three or four years from now, the

reduction in quota that will probably happen will be somewhat less, so we were looking at more of a stable fishery. Clearly, going up like this will result in greater decreases in the quotas in the out year.

The other reason was that we had some input provided by some of the dealers that having a quota this high could affect the prices negatively, and they were very concerned about that and the aspect of potentially providing too much product to the market.

Clearly, if you take into consideration the overage that we have documented and the potential overage based on the dealer in Massachusetts that hasn't reported, we may not have quite as much quota. This will clearly be reduced by at least 2.5 million pounds and maybe more so we may be close to that 30 million pound quota, anyway, with the overages that have occurred. So, just a reminder as we debate this.

MR. PATRICK AUGUSTINE: I do recall what happened in Boston and I do recall the emotion that came from the audience and I do recall the fact that we have an SSC that was created by the Magnuson that said that they basically would have almost the absolute authority, God-like if you will – when I used that expression, Dr. Boreman from across the table blessed me and said, “Thank you, Child.” He was being smarty about it.

But the fact of the matter is we have a technical committee that reviewed the in-years and out-years, the data we have, the status of the stock, the growth since 2000 or 2001 since we've put draconian measures in where we went from 50 million pounds plus being sold overseas to 2 million pounds. In the meantime we see the decline of a lot of other stocks, including haddock, cod and whatever, as the spiny dogfish has improved in stock size.

The frosting on the cake was several years ago when Jimmy Ruhle was fishing out in deep water – I think he said 800 feet – and hauled back and had about 800 pounds of little spiny dogfish, which are not supposed to be in that deep water. They should have been inshore at the time. Hopefully, he didn't get ticketed for it but I thought he was because he brought in a bunch of them of about that size (indicating) and enforcement folks said we have to give you a

ticket because you are in retention of something that has a closed season right now.

I'm trying to make light of a very serious here. Here we are out of step again not only with the Mid-Atlantic but also out of step with the New England Council. I'm not sure we want to go down that road. For all the reasons that some of us might have that are being driven emotionally or by our backyard economics, I think we've got to look at the matter of the fact.

We're still doing single-species management and this guy is a predator and he is a big predator. If it's having any deleterious affect on our sub-stock below that are either rebuilt or rebuilding, shame on us for not stepping up to the plate and making the right decision. We in New York supported this motion in Boston.

We listened to the cries around the table and we appreciate those folks' concerns and their comments, but the reality of it is this animal grows and multiples like ants and again it's out of control to a degree. The stock is supposedly rebuilt. The female population is doing extremely well. I think the science committee and the technical committee have agreed that this stock is not only rebound but is rebuilt. Therefore, Mr. Chairman, I would support this motion.

MR. BEAL: Before I go to the other speakers, keep in mind that the board did have a lengthy discussion on this at the annual meeting, and there is not really any new scientific or stock assessment information. I think the same information that was available at the annual meeting is available now and folks can make up their mind based on that. I'll go through my list. I've got three other speakers and then we'll see if we're ready to vote on this. Wilson.

DR, WILSON LANEY: Mr. Chairman, I was going to say what Doug said; but in view of Mr. Augustine's comments I will respond to Pat by saying that I don't think the reproductive cycle of spiny dogfish is quite like ants, Pat. They have a two-year gestation period and they don't produce nearly as many offspring.

I concur with Doug's point that you've got that seven-year gap in reproduction there. It's going to hit you, so it's like pay me now or pay me later. You can either exercise precautionary management by going with a lower quota and

reducing the pain that you're going to have to experience later on or you can jack it up now and then increase the risk of having to pay more later.

MR. STOCKWELL: Mr. Chair, I'm going to be very brief because we've got to leave in about two minutes. I support the motion to amend. I like the idea of consistency. We've been all talking about the need for safety valves in other fisheries. Gulf of Maine cod is a huge one, and this will greatly help the fishing industry.

MR. PETER HIMCHAK: Mr. Chairman, I'll be very quick. I supported the higher quota wholeheartedly at the Mid-Atlantic Council and at the Boston meeting. As far as paying me now versus paying me later, I did my quickie economic analysis on New Jersey gill netters; and by going with the 30 million pounds, I mean, low-balling market costs, they're losing the potential for getting \$11,000 a year, which they could use like right now. I would wholeheartedly support the higher quota.

MR. BEAL: Any other board comments that have to be made on this one? Tom.

MR. O'CONNELL: Yes, I'll be quick. I can understand the purpose and probably support the motion. The one thing that I'll just comment on is just the perception on how we have a problem and how it's being addressed. The problem being addressed is you're increasing the quota for the guys that behaved poorly and I just have some concerns with that.

MR. ROSS: NMFS obviously is very much aware of the recommendations by the two councils and the commission at this point. NMFS is in rulemaking at this time on developing the rule package. There is flexibility but I just wanted to notify the board that I will be abstaining from this vote. Thank you.

MR. WILLIAM A. McELROY: I'm supportive of this motion, and the only comment I have is that the concern that the dealers expressed about overloading the market, I think with our daily limits staying at the 3,000 pounds kind of keeps that from happening. Essentially what would happen is you just have a few extra days in the season rather than more landings on a given day.

MR. BEAL: Any other comments before we vote? Need to caucus? All right, 30-second caucus.

(Whereupon, a caucus was held.)

MR. BEAL: Is everyone ready to vote? All right, all those in favor of the motion please raise your right hand; those opposed like sign; abstentions; null votes. **The motion fails for lack of a super majority; eight to seven with one abstention.** Tom, you mentioned that you had some additional comments or maybe a motion regarding this issue.

MR. O'CONNELL: Yes, just going back to the impacts of the overage, the state of Maryland, which is a little over 200,000 pounds left, there is the 5 percent quota rollover provision, but that's only going to satisfy about 60,000 pounds. I have been trying to brainstorm some ideas to take back home as they have been pretty worked up about this.

Recognizing that the National Marine Fisheries Service plan is probably not going to be resolved in any time soon, I asked staff to draft a motion for me that would basically allow by board approval to allow a quota transfer rollover larger than 5 percent. If the staff can put that motion on the screen, I'll read it.

Move to initiate an addendum to revise the Addendum III quota rollover provision with the following the options; one, status quo, states can roll over unused quota up to 5 percent of their final allocation; two, in excess of 5 percent with board approval; and, three, only with board approval. These would only apply when the stock is rebuilt. If you get a second, I'll just make a couple of more comments.

MR. BEAL: Is there a second to that; Jack Travelstead, thank you. Tom, go ahead.

MR. O'CONNELL: The only other comment is that I really see this as an interim measure until the federal government develops a plan that is compatible with the ASMFC plan.

MR. AUGUSTINE: I agree, Mr. Chairman and Mr. O'Connell, but is there an upper bounds for that year? I mean, 5 percent and go 50 percent, I don't know, and we're talking about 60,000 versus 200,000. Do you want to put a Delta in

there or do you just want to leave as open-ended.?

MR. O'CONNELL: Yes, that's something I have been considering on whether or not that would be part of the board's discussion. In looking at the past plans of this commission, it was 5 percent collectively. Perhaps we could set an upper bound of 10 percent. That's something that could be amended to the motion if it would be helpful or it can be just part of the board's discussion if it comes up.

MR. GROUT: I have a question that will help me decide how to vote on this. One of the things that is of concern here is that the staff has to project when we're going to close based on when the actual harvest may hit the quota.

I'm wondering if in their projections they can take into consideration the data that they have here about late reports; so that if we have a certain percentage that are considered late reports from the data that occurred in 2011, that you could use that and say if we have 10 percent late reports that we should actually start closing when we're projected to be at 90 percent or something like that. Is that possible? I know we do it in shrimp.

MR. BEAL: Yes, I think it is possible. Chris and I have been in contact with the staff at the Northeast Regional Office and talking about how they project quotas for their landings rates. I think all those ideas are fair game for this. The other staff recommendation that we'll get back to at the end of this discussion is should we close at 95 percent of the quota rather than a hundred percent of the quota.

I think those are all different approaches for putting a little bit more buffer in here so we don't have a 1.2 million pound overage or that significant percentage in the future. Any other comments on the motion to initiate an addendum? Seeing none, folks ready to vote on this or do you need to caucus?

All right, I don't see a need for a caucus. Those in favor of the motion on the board please your right hand; those opposed like sign; abstentions; any null votes. **The carries twelve in favor, one opposed, two abstentions.** I think the final point of this discussion was a staff recommendation. This doesn't necessarily need

a motion unless there is some disagreement at the board level. \

Is the board comfortable with staff using a 95 percent threshold to project and close the quota when it's projected to hit 95 percent? I think the important point here is that the plan already includes a provision that 5 percent of the quota can be rolled over from year to year if there is an overage.

If the staff does project at 95 and then there is fish left over, those fish could be rolled over into a subsequent year and harvested at that time. Is there any objection to us using 95 percent? All right, seeing none, we will use that for quota projections. Okay, that moves us on to our agenda item, which is Chris is going to provide the background on overfishing definitions and technical committee recommendations.

REVIEW OF SPINY DOGFISH OVERFISHING DEFINITION & TC RECOMMENDATIONS

MR. VONDERWEIDT: This is kind of an item that has been on the back burner for the technical committee. However, the specifications meetings, the joint meetings with the monitoring committee and other things have kind of prevented the technical committee from addressing this but it hasn't really impacted quota management.

It's kind of an administrative thing so with that said, the current overfishing definition for spiny dogfish goes back to the 2002 fisheries management plan, which was adopted from the Mid-Atlantic Fishery Management Council's I believe 1999 FMP. We took it verbatim and established that the F threshold is the fishing mortality rate that coincides with one pup per female that recruits to the stock.

The F target is 1.5 pups per female that recruits to the stock. Then we were under F rebuild for a while and F rebuild was two pups per female that recruits to the stock. This is important because our quota is derived based on the F rate; so when the monitoring committee and technical committee get together they say what is our target F rate, what quota amount will get to that, so that gives you your total harvest amount.

Then you subtract the projected discards, Canadian catch and recreational harvest. We went over this in pretty good depth in November, so I won't belabor the point. Since that time, in 2009 the Mid-Atlantic Council updated their FMP as part of Framework 2, removing an F target and establishing an F threshold only that's equal to Fmsy or a reasonable proxy thereof as a function of predictive capacity and based upon the best scientific information consistent with National Standards 1 and 2.

Basically, this is a more flexible definition that coincides with the best available science. Currently we have a spiny dogfish overfishing definition that is based on the Mid-Atlantic Council's plan. However, they have since adopted a different overfishing definition. The technical committee discussed this on a conference call, and they agreed that the current definition is outdated. It's not based on the best available science.

Never in the history of spiny dogfish technical committee or monitoring committee quota recommendations have they actually used the F threshold or F target definition. There are a number of reasons for that, but the biggest one is that we were at F rebuild until 2008, and then the recommendation based on 2008 were rebuilt and that went to the 2009/2010 fishing season.

For that season they used 75 percent of the F threshold and this is because there were questions about selectivity that needed to be updated in the assessment but never formally happened, so we used 75 percent of the target rather than an actual target. Then at the last monitoring committee and technical committee meeting they used Fmsy and then actually used the P-star of 40 percent approach in the Omnibus Amendment.

The main point is that these are different and we've got starting points for the monitoring committee and the technical committee to establish a quota which are different for this cooperatively managed species, so starting at the same point would be beneficial to improve the complementary management.

As you can see there, the ASMFC threshold based on these definitions is 0.207 and the Mid-Atlantic Fishery Management Council is 0.243. That didn't prevent consistent quota recommendations this year, but it didn't help

them. Specifically the technical committee recommends that the board initiate an addendum to update the spiny dogfish overfishing definition with two options.

The first one would be for F threshold and status quo would be an option and then the second one is based on the Mid-Atlantic Framework 2 definition of Fmsy or reasonable proxy thereof as a function of productive capacity and based upon the best available science. The difference there is that it doesn't say consistent with National Standard 1 and 2. That amount is currently 0.2439, and that's what our current quota recommendation from the technical committee was based on.

They do recommend establishing an F target even the Mid-Atlantic Council doesn't have one. The comment from the TC is that this gives you a metric to derive whether or not you achieved the F rate that you set out to achieve because you can compare landings to what the quota amount is and you could say did we go over or did we go under, but that doesn't tell you if you achieved the F rate.

The goal is the F rate so it doesn't tell you based on the current status of the population or recent recruitment; so if you establish an F target based on that quota you can look at the recruitment and find out if you achieved that, so how effective was your management. Specifically the options that the TC came up with for the F target would be status quo, allow for the production of – there are spelling mistakes in the FMP, but it would be productive of 1.5 female pups per female that recruited to the spawning stock biomass. Another option would be the F target equals 75 percent of the threshold, which is what the technical committee recommended a few years ago or based their quota recommendation on.

The third one there is C. This is a very commonly used one, so the technical committee was just kind of trying to come up potential options to include in an addendum. It is the level where the slope of the yield curve is 10 percent of the slope at F equals zero. Then the fourth one would be that the technical committee would recommend an F target when making their annual quota recommendation.

Essentially they might say we recommend a 40 million pound quota; and if you implement this 40 million pound quota, that coincides with the F

rate that would be, you know, point whatever, so you could go back in later years and you could say, well, based on recruitment and all that we achieved that F rate. Those are the options. Thank you.

MR. BEAL: Thanks, Chris. We appear to have a disconnect between the ASMFC FMP and contemporary science and the Mid-Atlantic Council's reference points. The technical committee is recommending an addendum be initiated to fix that discrepancy. Are there questions of Chris or comments, maybe even a motion on their recommendation? Dr. Pierce.

DR. PIERCE: Just to get a clarification, Chris, in looking at the report it says specifically the TC recommends the following options for F threshold and F target and you have gone over those, but we just have a series of options. Did the technical committee recommend any specific option as being the one that is best or are we supposed to pick from the group now as part of the addendum or have the public comment on it? It seems a bit strange that we don't have a specific TC recommendation for a threshold and a target, at least from what I read in front of me right here. Could you elaborate?

MR. VONDERWEIDT: Yes, Option D would be the preference of the technical committee, but they wanted to provide the board with a range of alternatives to go out in the public comment document consistent with other documents to get public comment on it.

DR. PIERCE: Okay, so the TC is recommending for the F threshold B, not the status quo, right, and is recommending D for the F target?

MR. BEAL: Yes. Other questions or comments? Pat Augustine.

MR. AUGUSTINE: Thank you; I thought you were ready for a motion.

MR. BEAL: Yes, please.

MR. AUGUSTINE: Based on the recommendation from the technical committee, **I would move to initiate an addendum to update the spiny dogfish overfishing definition consistent with the spiny dogfish technical committee recommendations as**

stated. Are we going to list them on there or do I have to repeat them?

MR. BEAL: No, I think they're clear in the record. Is there a second to Mr. Augustine's motion; Louis Daniel. Any questions or comments on the motion? Dr. Laney.

DR. WILSON LANEY: Well, just a question, Bob, and that is do we really think that we would get a lot of meaningful public comment on this one and would it be possible to just do a technical addendum? Would that help to conserve limited resources and avoid the staff having to go out and do public hearings where I imagine not very many people will be in attendance unless we're coming them with something else; just a question.

MR. BEAL: It's a good question. The Charter language that deals with technical addenda is very specific. It really is to correct the errors or omissions in previously done documents. While this addendum is very technical, it's not technically a technical addendum. Wilson, all the commission is required to do is have a 30-day public comment period. We don't have to have public hearings unless the states request those hearings. Doug Grout.

MR. GROUT: Just one question that I should have asked Chris; with that Option D that said that you would be recommending, what was it, the target or the threshold?

MR. BEAL: Target.

MR. GROUT: Target; then it would mean that the board would establish it based on a technical committee recommendation, correct?

MR. VONDERWEIDT: Yes, that's exactly right, the board would approve a quota and the F target at the same time.

MR. GROUT: And secondly is this addendum something that could be wrapped into the other addendum or would it be better to keep it separate?

MR. BEAL: I was going to make that comment after we decide if we want to move forward with this one or not. Any other comments on this motion? Do you need to caucus? Seeing none, those in favor of the motion to initiate an addendum please raise your right hand; those

opposed like sign; any abstentions; null votes.
Seeing none, the motion carries unanimously.

The question that Mr. Grout brought up a minute ago is valid. I think the board through the last two motions has initiated two issues that need to be brought forward in an addendum. Is the board comfortable with staff and the plan development team drafting those in one document and bring that back at the May meeting and the board can decide at that time if they want to split the issue.

I think both of these issues are technical and somewhat bookkeeping in nature and don't have a lot of impact necessarily on the way the fishery is prosecuted or the allocation of the fishery. I don't expect a whole lot of public comment on either of these issues; but once we get to the May meeting, if the board sees a draft, they can decide how they want to move forward.

Is the board comfortable with that approach? I see heads going up and down so we'll bring you back something at the May meeting. With that, that brings into the next agenda item, which is results of the 2011 SEDAR on dusky, sandbar, blacknose sharks. Greg Skomal is going to give an overview of those assessment results.

2011 SEDAR 21 DUSKY, SANDBAR AND BLACKNOSE SHARKS

ASSESSMENT OVERVIEW AND TECHNICAL COMMITTEE REVIEW OF RESULTS

MR. GREGORY SKOMAL: I am going to present the results for the stock assessments for dusky, sandbar and blacknose sharks. I think it's important that you know we were not involved in this assessment; and as such in an ideal world I would have someone from the Highly Migratory Species or actually the Southeast Fisheries Science Center up here to present these, but they could not be available, so I ask you to bear with me.

These are the actual output slides from the assessments, and I've kind of abbreviated them as much as I can. They will be a bit burdensome; I apologize beforehand. I'll try to get through each species in about ten minutes, but bear with me. The dusky shark assessment, because we feel that catch data are not very reliable, SEDAR used an age-structured catch-

free model, which incorporates life history information, indices of abundance and then other input regarding observations and knowledge from biological parameters, et cetera.

The model itself is scaled relative to unfished virgin levels or unfished biomass, and it comes up with an initial unfished age structure. By the way, the other two sharks we do use catch data. The dusky is unique. The reason catch data aren't considered very reliable is largely because of identification problems with this particular species.

Historical abundance is also estimated using this model. Recruitment parameters are generated using largely the Beverton-Holt Spawner-Recruitment Curve. The slopes are calculated and such. The data were divided into three historical eras; the first one being 1960-1969 when there was little to no bottom longline fishery. There was some recreational effort and very little pelagic longline effort catching the species.

And then the two modern eras; one spanning 1980-1999 and then 2000-2009. '80 to '99 was ramping up the bottom longline fishery in addition to recreational fishing effort, and the modern era represents the time when the dusky shark was prohibited from landing in federal waters. Fishing mortality was calculated for each one of these eras using the methods displayed here.

I'm not to get too deep into this unless someone – and I recommend, by the way, if you want to get deeper into these assessments I absolutely think you should go to the SEDAR Website and look at the 400-page documents for each of them. A number of sensitivity runs for each of these species was conducted where mortality was altered, various catch indices were weighted and a number of other parameters were played with to look at the sensitivity of the assessment to these various parameters.

Projections into the future were also conducted. The population was projected forward using the same set of equations from the stock assessment and a number of statistical techniques were done to look at the robustness of those – and the projections under a variety of scenarios from the current estimated fishing mortality rates to no fishing mortality to a fishing mortality of constant MSY, et cetera, et cetera.

The results of the base run – I think all you need to really look at here are these top numbers – is that overfishing is occurring or still occurring for the dusky shark and the population is overfished. If we look at the sensitivity analysis, we see that most of these data points are in that upper left-hand box, which does indicate both overfishing is occurring and the population remains overfished. Keep in mind that this species has been prohibited from retention since 2000.

Some of the projection results under the current fishing mortality estimate indicate that recovery is not optimistic over the next eighty to a hundred years. Under no fishing or a zero fishing mortality estimates it's a little bit more optimistic, but we're still looking at over fifty years for recovery for the dusky shark.

And then after review by independent experts, they wanted SEDAR to run an additional seven sensitivity scenarios to look at the robustness of these estimates. These scenarios are indicated here, again looking at selectivity for each of the data sets and time series, looking at productivity of the population, both high and low, variance, et cetera.

Again, as you can see, the bulk of the estimates come again in that overfished with overfishing occurring box, indicating that the base results are pretty good. I don't know well you can see this up there. If you can see the fifth column down, really what is important is the rebuilding year here, and we're looking at anywhere – I mean, the base is somewhere around 2099 but it can go up to 2190, 2257.

We're talking about a long timeframe for rebuilding under a no fishing scenario – actually a fishing mortality rate of zero scenario. The technical committee went through this assessment. We met about a month ago. We agree with the findings. We believe that the population of dusky sharks, which is both Atlantic and Gulf of Mexico, is overfished and overfishing is occurring. The stock is highly depleted, will not rebuild in fifty years even at a zero fishing mortality rate.

We found the current estimate of the fishing mortality rate on this prohibited species to be somewhat alarming considering that you're not allowed to bring this in. We discussed to a certain degree where some of the sources of this mortality probably has to deal with poorly

quantified bycatch mortality. That's for the dusky shark.

MR. BEAL: Greg, let me interrupt you and let's take questions on each species if that okay with you. Any questions on the information that Greg just presented on dusky sharks? It sounds like it's a long time to rebuild under any scenarios is all I got out of it. Thank you, Greg, and keep going, please. We've got two more species.

MR. SKOMAL: Moving on to the sandbar shark, in the case of the sandbar shark we've pretty good catch data and used an age-structured states-based production model. It has been used in recent years for a lot of shark species. It includes not only catch series data, commercial and recreational sectors, discard rates, discarded catch, as well as Mexican landings in addition to an indices of abundance from some of the same time series data that are used for the dusky shark, from bottom longline observer programs, the Virginia longline, et cetera.

We have time series data coupled with catch and landings as well as standard biological inputs from the latest publications on life history information for the sandbar shark. The model itself uses catch data that spans from 1981 and then the earliest CPU index goes back to 1975. Catches from 1960-1980 were estimated because of the problems association with catch data during that time period.

The base model and the results considers virgin conditions to have existed in 1960; some of the other model parameters, the estimated historical catches, new biological parameters from recent studies, et cetera, et cetera; some of these weighting that was done on some of these historical catches and the recreational catches as well. Base model results, and what this graphic shows is the 2010 base run compared to the last assessment in 2006, which both show that the population is currently overfished but the big change from 2006 is that overfishing is not occurring.

At least that's a movement in the right direction. Again, as is the case with all these assessments, there are a number of sensitivity analyses all looking at tweaking the CPUE series or changing reproductive cycles, et cetera, mortality estimates, et cetera. In this case with the sandbar sharks we had 16 sensitivity analyses that were

conducted modifying various parameters of the model.

Again, a familiar graphic, except that in the case of the sandbar shark we see that while the population is overfished, overfishing is not occurring. Most of the data points the estimates occur in that lower left-hand box. Stock projections were conducted as well using Clay Porch's PRO-2 BOX published model.

It allows for process error; it uses bootstrapping, et cetera, to project the stock forward, a variety of parameters using these model outputs. The projections there are for both fishing mortality rates based as well as total allowable catch based using various strategies and allowing for probabilities of 50 and 70 percent of rebuilding.

Management for all these scenarios will start in 2013, et cetera, et cetera. Here is a projection model showing that the old rebuilding target, which was again from the previous stock assessment, was somewhere around 2070. Given that overfishing is not occurring, the new rebuilding target is now 2051.

In the case of these long-lived species, whenever you have your – your rebuilding years is not necessarily exactly at where F equals zero. You add a generation time on top of it so in the case of the sandbar shark it's 20 years, the dusky is 40 years, and the blacknose is 9 years, so you always get this additional number of years that tacked on to the rebuilding schedule at F equals zero.

Again, independent review indicated there were two items that they wanted addressed; the consideration of seven sensitivity scenarios; look at the assessment in terms of its robustness; and then an alternative projection methodology other than the PRO-2 BOX Method. Here are the additional sensitivities taken to consider high catches, high productivity, low catch, low productivity, and then varying reproductive cycles.

Again, we see that the plot of these results with the exception of the low productivity, which is really unrealistic, fall within that lower left-hand box indicating that overfishing is not occurring, but the stock is overfished. Again, the projection results, if we look at the year or rebuild, show that rebuilding can occur in the case of the base scenario 2066, but it's all basically with the

exception of the productivity, which is 2360, falls from 2057, 2050, right up to 2083.

The results are a bit more optimistic for the sandbar shark. The technical committee met and agrees with the results that the population is overfished and overfishing is not occurring. We believe that the reduction in fishing mortality probably coincides with 2009 management measures and those management measures leading up to that. Currently there is a research fishery only and sandbar sharks are prohibited from retention in other sectors' fishing industry. Any questions regarding the sandbar shark stock assessment?

MR. BEAL: I don't see any, Greg, so keep going, if you will.

MR. SKOMAL: In the case of the blacknose shark two assessments were done, one for the Gulf of Mexico and one for the South Atlantic. I understand the results from the Gulf of Mexico stock assessment were not valid and were not accepted and therefore do not exist. However, for the South Atlantic stock we do have meaningful results.

Again this an age-structured production model like that which was conducted on the sandbar shark so much of the same similar methodology was used. In the case of the blacknose shark the time series data was split into historic spanning 1950-1971 and then the modern time period which spans more recent years when, of course, the data are presumed to be more abundant.

Fisheries input, there is catch series data again from the commercial sector as well as recreational in addition to the shrimp bycatch estimates. These are catches in the South Atlantic or estimates for the blacknose shark, and again none of this includes the Gulf of Mexico. Base case settings, virgin conditions were presumed in 1950, the modern period begins in 1972, catches are fit twice as well and the data are not back-calculated, et cetera, et cetera.

The UNC time series was down weighted by 10 due to initial fitting problems. Results indicate that overfishing is occurring and the population is overfished. If you look at the estimate of F 2009 or Fmsy, a lot of overfishing is occurring. Projection scenarios – now NMFS set a 19,200 total acceptable catch for the combined stocks,

so that had to be broken out for the Gulf of Mexico versus the South Atlantic.

For the projection scenario, no fishing mortality with the interim total allowable catch, and they had to find a TAC that allowed stock to recover by a rebuilding year so the projections were somewhat similar to what was done with the sandbar shark and found that with a 70 percent probability rebuilding could occur with a TAC of 21,500 pounds, I'm assuming – is that pounds or tons, Karyl? – 21,500, I would think that's pounds – by 2031; and at a mortality rate of zero by 2022.

Again, without boring you all to death, a number of sensitivities were run regarding the base case in the models, again varying catch, et cetera, indices, and the phased plot of the sensitivities indicates that the points fall all in that upper box. Like the dusky shark overfished and overfishing is occurring.

A number of requests from the independent experts, four additional sensitivity analyses in addition to different sensitivity runs for the projections. These are the sensitivity runs; again modifying productivity and catch and some of the reproductive cycles and the variance. Again, regardless these dots all end up where we really don't want them, in the overfished and overfishing is occurring.

The experts also requested a new projection methodology where it allows for variability and biomass and fishing mortality as well as generating some TAC-based scenarios. Again, the projection results indicate that the year of rebuild at a zero fishing mortality rate is anywhere from 2033 to 2086, 2086 being somewhat unrealistic; the base case saying somewhere around 2043. At the current mortality rate there is zero probability of rebuilding by 2027.

The technical committee discussed these findings, agreed with them that overfishing is occurring and the population is overfished. There was some concern about extrapolating Gulf of Mexico bycatch to the South Atlantic. They felt it might overestimate bycatch for a couple of reasons. Nonetheless, they felt the findings were robust enough to support the current status of the stock. Any questions regarding blacknose?

MR. BEAL: Questions around the table? Dr. Daniel.

DR. LOUIS DANIEL: Thank you, Greg. A couple of questions just from an overall standpoint – I know the information on sharks often leaves much to be desired in assessments. When the technical committee reviewed this, you guys were comfortable with the aging information, the landings data, the information that was used to go into the assessment; is that a fair statement?

MR. SKOMAL: Yes, I have to rely heavily on the folks in attendance and that participate in the TC. They felt confident and we also had a SEDAR representative there that explained a lot about the input data. My sense is it was a consensus that the TC indeed agreed that the input data was good.

MR. BEAL: Any other questions? Not seeing any, is there a motion to accept the SEDAR 21 results for these three species? Pat Augustine.

MR. AUGUSTINE: **Mr. Chairman, move to accept the SEDAR report as presented today.**

MR. BEAL: And that's acceptance for management use, Pat?

MR. AUGUSTINE: **For management.**

MR. BEAL: Is there a second to that motion; Rick Bellavance, thank you. Any comments on the motion to accept the findings for these three species? The motion is move to accept the SEDAR report as presented today for management use. Motion by Mr. Augustine; second Mr. Bellavance. Any comments or need to caucus on this motion? Seeing none, is there any objection to approving this motion? **Seeing none, it stands approved.** Dr. Daniel.

DR. DANIEL: I'm going to abstain.

MR. BEAL: All right, it stands approved with one abstention. The next agenda item was the technical review of results and I think Greg kind of weaved that into the presentation that he just gave, so we are very efficient there. Thanks again, Greg, for studying up on those. We know you weren't part of the process and it took a while to figure that out, so thank you. With that, it leads us to Karyl Brewster-Geisz is going to give us an update on how the HMS is going to

react to the information essentially that Greg presented.

HMS RULEMAKING TO IMPLEMENT SEDAR 21 RESULTS

MS. KARYL BREWSTER-GEISZ: Thank you, Mr. Chairman. What I'm going to present today is what I presented to the technical committee meeting about a month ago. If remember in the November meeting, I came and we were in the middle of scoping for Amendment 5 and I presented a lot of this information as well. Scalloped hammerheads, that is the stock that did not go through the SEDAR process and so it was not discussed at the technical committee, but it is something that HMS has decided we need to move on.

We declared it to be overfished with overfishing occurring last April based on Hayes et al stock assessment that went through publication in a professional journal. There are a number of concerns and challenges when you're talking about rebuilding scalloped hammerhead. They have very high at-vessel mortality rates in the bottom longline and gill net fisheries, talking almost 90 percent, sometimes over 90 percent at-vessel mortality rate when the sharks are brought back to the vessel.

There are also a lot of recreational landings that happen in these fisheries. If you remember last summer, HMS prohibited the retention in ICCAT fisheries, thus all hammerhead sharks except for bonnetheads are prohibited if you're using pelagic longline gear. Also if you are recreational fishing and you have tunas, swordfish or billfish on board, you are not allowed to have any hammerheads on board.

If you are fishing recreationally for sharks, you are allowed to have that one shark that is greater than 4-1/2 feet be a hammerhead. Taking all these in consideration, we did look at various management options during scoping. Obviously, establishing a quota was one of them; a number of gear restrictions such as soak time; longline; number of hooks; gear tending.

Gear tending is important particularly for the bottom longline fishery as a number of the shark fisheries for a number of years have gone out, they set their gear, they pull up the trip limit – used to be 4,000 and is now 33, next year will 36, but they pull whatever that trip limit was, put

the gear back in the water, land the trip limit and then go back out, so gear tending is something we're looking at along with soak time.

Gill nets are already required in federal waters to be tended, so we don't have that issue there. We looked at whether or not we should be linking scalloped hammerhead quota to another quota such as the non-sandbar large coastal shark quota so both of those fisheries would close if landings were close to taking the full amount.

Looking at time area closures, as I said, high at-vessel mortality rates for scalloped hammerheads, so time area closures definitely come into it to reduce interactions along with adjusting bag limits and quotas for both commercial or recreational fisheries; looking at whether or not we should add it to the prohibited species list; maybe add it to the shark research fishery.

That is primarily for sandbar right now, but we could add it for scalloped hammerhead; along with looking at gear technology such as the weak hooks that we currently require for bluefin tuna in the Gulf of Mexico on pelagic longline. That's what we looked at in scoping for scalloped hammerhead.

Dusky shark, the challenge here is this species has been prohibited for over ten years now. It is still considered overfished; not a surprise. At the last stock assessment we thought it would take 400 years, so 100 years in this stock assessment is much better, even though it's still pretty poor. But the big surprise is that overfishing is still occurring. In fact, we need to reduce fishing mortality by two-thirds.

Looking at how to do that when you already have a stock that's not allowed to be landed is quite a challenge. As with scalloped hammerheads, it also has high at-vessel mortality rates, right around 80 percent. There still continue to be reported landings in recreational fisheries that we are looking into. We looked at much the same type of management options, trying to find ways to explore ways to reduce those interactions with the fishing gear at all.

Sandbar shark was our one bright spot. Yes, it's still overfished; yes, it will still take a long time, but overfishing is no longer occurring, which is a great thing. The stock assessment showed that under current management we have a greater

than 70 percent chance of rebuilding, so the question we asked during scoping was do we want to try to alter that or do anything of top of that?

Blacknose sharks, this is another one where we will differ a little bit from Atlantic States. While the Gulf of Mexico stock assessment was not approved, we still have an unknown status there and we'll need to take action somehow. Of course, Atlantic is overfished with overfishing occurring.

Our current total allowable catch is 19,200 sharks, so the main question here is how do we split that current 19,200 sharks between the Atlantic and Gulf of Mexico. We have a recommendation for a total allowable catch for the Atlantic of 7,300 sharks, so do we just take 19,000 and subtract 7,300 to come up with the Gulf total allowable catch or do we use that percentage breakdown, which is what they used in the stock assessment to break up the landings between the two regions.

Ever since we implemented the blacknose quota, we have been having requests to delink it or make sure that the blacknose quota can continue if the small coastals are caught and vice versa. We looked at that as well. These are just some of the comments we received during scoping. The comment period closed on December 31st.

Generally, as expected, we received the comment the science is not reflecting what fishermen are seeing on the water. NMFS needs to provide more information about catch, species distribution, contribution of each gear type. We need to examine incidental mortality. We also had comments that we need to speed up implementation of Amendment 6 and apply catch shares to address mortality issues throughout the fishery.

Scalloped hammerheads, there was support for looking at time area closures. There was also support for adding all the hammerheads and not just scalloped to the prohibited species list. Dusky sharks, continued support for time area closures and also noting that the fishing mortality reduction could be achieved solely through the recreational fishery.

Sandbar sharks, an indication that we should take no additional action and that fishermen in the research fishery are seeing high catch-per-unit

effort for sandbar sharks. And then blacknose, agreement on both methods for how to set the total allowable catch between the regions; agreement to delink those two quotas; and reconsider the policy discouraging blacknose landings just because there could still be mortality on the stock.

Some support for reducing soak times but also indication that soak time is difficult to enforce, so that's on the last slide. Gear tending, gear tending reduces incidental mortality and we need to study the feasibility of tending bottom longline and bottom buoy gear. And then gear modifications, go back and look at circle hooks and see if they would work and look at weak hooks and other new gear technology.

Right now scoping is over. We have our advisory panel meeting coming up in about a month. We hope to have a pre-draft of Amendment 5 available for the advisory panel members to look at and comment at that advisory panel with the proposed rule next summer.

MR. BEAL: Thanks, Karyl. Questions for Karyl? Dr. Daniel.

DR. DANIEL: Karyl, where is my closure; is that in this one? Where is my amendment?

MS. BREWSTER-GEISZ: Yes, looking at the time area closures, particularly the one off North Carolina, will happen in this amendment.

MR. BEAL: Any other questions of Karyl on her presentation? She will be giving another presentation in a minute on where they're going with some other shark management actions.

TECHNICAL COMMITTEE MANAGEMENT RECOMMENDATIONS

MR. BEAL: Seeing no questions, we'll go back to Greg Skomal from the technical committee and they'll provide their suggested management response.

MR. SKOMAL: Well, this should be short and sweet. We're not exactly recommending much with regard to the results of the SEDAR at this time. We do acknowledge that there will be some need for a management response regarding blacknose and dusky given the status of their stocks, but we do believe it's premature to do

anything at this time until the federal response through Amendment 5 is looked at.

We're going to examine that when it comes out with regard to their proposed management of these species. Dusky shark is currently prohibited under our plan. We acknowledge that bycatch reduction may be necessary. Federal measures may be sufficient though at this time. I think in the interim a lot of the technical committee discussed something we could do at a state level is promote education with regard to the dusky shark, and that's largely hinged on proper identification.

Blacknose, the mortality rate is controlled through federal quotas, and we open and close with federal waters. We feel that a federal quota reduction might suffice. The recreational size limit is inconsistent thought between state and federal waters, and we feel it's something we might need to look at in the future. That is it.

MR. BEAL: Thank you, Greg. Questions? Dr. Daniel.

DR. DANIEL: Remind of the recreational bag limit on small coastals; is it one per vessel?

MR. VONDERWEIDT: Yes, one blacknose per vessel. I think it's the finetooth and the sharpnose that each angler gets one of those, but blacknose is one per vessel.

DR. DANIEL: I'm just trying to think of what we can do with blacknose. One of the big concerns that I have there is at least in North Carolina that's probably our most abundant shark in inside waters. They get very difficult to identify if you don't really know what you're looking for, because that smudge on their nose starts to fade and it's very difficult to tell on a large fish what they actually are. I think some kind of outreach particularly on blacknose, because that's going to be the one that most anglers are going to encounter is the blacknose. If we need to do more with that, so be it, but I think that's a very important fishery for us, and I'd hate to see it – because it's a huge catch-and-release fishery, but obviously they need to be careful.

MR. BEAL: Okay, thank you. The technical committee, other than the outreach efforts, is recommending that the management board sort of hang tight until we see final outputs of

Amendment 5 from the HMS. Are there any suggestions or recommendations to do anything different than that?

It doesn't look like it, so this management board will wait until we see the final results of Amendment 5 and then decide what reaction the commission and the interstate plan should have, if any, to the contents of Amendment 5. That brings us back to Karyl for a presentation on upcoming HMS shark activities.

UPCOMING HMS SHARK MANAGEMENT ACTIVITIES

MS. BREWSTER-GEISZ: Okay, I will be talking very briefly about Amendment 6, which is our amendment to implement or consider implementing catch shares in the Atlantic Shark Fisheries. I will then just summarize what happened for the 2012 shark specification. If you remember the last time we had them proposed when I came in November. I will then go over real briefly the other actions we're doing.

Moving on to catch shares, this whole process started about two years ago now where we first discussed with our advisory panel about the future of the shark fishery. We made note to them that there were a number of issues in the shark fishery that we felt needed to be fixed, and we were looking for their take on how to fix them.

Some of those issues had to do with the really short seasons and just how fast all the seasons went and the landings and the very small quotas and the fact that we do have species that have very long rebuilding time periods where there were other species that appeared to be healthy, and how should we handle this?

Based on their advice, in the summer of 2012 we went out with an advanced notice of propose rulemaking where we asked for comments on three various ways of handling all these issues in the shark fishery. We had the shark quota structure, should we keep the current quota structure of large coastals and small coastal pelagics prohibited with certain species having specific quotas, should we change some of the complexes, should we break out and do species-specific.

We also had everybody look at the permit structure, whether or not we should keep the limited access in the commercial fisheries or directed incidental, and then recreational permits as well. Should we look at permit stacking where people could stack permits and land multiple trips at the time? Should we look at a use or lose or if you don't use your permit within a certain amount of time you lose it? Maybe it goes out to everybody else, maybe it just goes away.

And then also looking at catch shares in the fishery, which we see is sort of a mixed between those quota structure changes and the permit structure changes. We had a variety of comments on all of them, but for many of them, while people didn't really like the idea of catch shares, they particularly didn't like the name, but what people were suggesting basically resulted in us going and looking at it and saying they really want us to look at catch shares. They don't know specifically what in the catch shares, but we should look it.

During this time period we also received specifically from the Gulf of Mexico stakeholders a very specific proposal to implement an individual fishing quota program in the Gulf of Mexico Fishery, so a specific catch share program. It was based off the reef fish and snapper grouper IFQ programs currently in the Gulf of Mexico.

We summarized these comments and went back to the advisory panel last April. Our advisory panel was generally supportive of us going out and looking at a catch share program for the sharks. They were very strong that if we were to do this fishermen need to know there is landings history before we propose anything so they would know where we are and that NMFS needs to hear from all constituents before moving forward with this catch share program.

We agreed and part of the reason I'm here is to make sure that Atlantic States as one of our constituents is involved in this. We do have fishermen who fish only in state waters for sharks. If we implement catch shares in federal waters, because those allowable catches are the same for federal and state waters, it's very important to have the states on board and to have your advice and suggestions on what we do for a state water share moving with catch shares.

That's what I'm here for and hoping to get along with thoughts on what other things we should look at. Hearing from our advisory panel last September, we put out a notice of intent and requested comments, saying we are considering implementing a catch program; we would like your thoughts on this catch share program. We implemented a control date of September 16th.

We also asked fishermen at this time not to run out and start asking the permits office and the logbook people what their landings were. For federal fishermen we are doing that right now, and we will provide that information to them so they will have a chance to look at what we have and we'll talk through all that before we propose anything.

We also have looked and gone to a number of workshops and we still have one more workshop left in Manteo next week along with a couple of councils to get to and the Gulf States Commission beginning in March. The comment period ends March 31st. I'm going to very briefly go through just some of the things we're asking people and looking at.

One of those is what regions? As I said, we got a very specific proposal from Gulf of Mexico, so the question is do we continue catch shares just in the Gulf of Mexico; do we want to bring it into the Atlantic; and if so do we want to split the Atlantic into regions? What species or species complexes should we look at?

If we put in catch shares, we don't necessarily have to implement catch shares for all the species. There are some species that don't seem to have the same issues such as pelagic sharks; whereas, large coastals are closed all the time, very short seasons, very small quotas. Do we want to look at all the species, some of complexes, some specific aggregates of species?

The next slide is about gears, the same thing, what gears do we want to include and who should be in the catch program? Do we want to look at directed permit holders, incidental permit holders, recreational permit holders? If you look at our total allowable catch, it's currently split into commercial landings, which includes the state landings, dead discards and then recreational landings, which also includes state landings.

Whatever we do, we're going to cut that total allowable catch up into different shares and possibly smaller ones if we go forward with a catch share program. Allocation, this seems to be the sticking point with everybody. They want to know what their landings were and how are we going to allocate that total allowable catch.

If we take the commercial quota, for example, we could split it up equally among all the permit holders and just hand it out, everybody gets a really small amount. We could go forward and look at catch history so people who have been landing a lot of sharks over a large period of time would get a large amount of the share; whereas, everybody else would get small or maybe nothing.

We could look at level participation which would be more of how many years has somebody been fishing or we could look at some sort of combination. A lot of questions have come up over time regarding this. We went from a 4,000 pound trip limit that included sandbars to a 33 shark trip limit that does not include sandbars, so people want to know, well, if you go back and you include the 4,000 pounds I wasn't fishing then, I was only fishing with the 33.

Other people are the exact opposition. Then most people had a lot of sandbars and now that they're not allowed sandbar, how would we split up that allocation? Would we consider the sandbar, would we consider the sandbars that are landed now in the recreational fishery? There are a lot of questions about this. I just want to make sure you were aware of some of those issues.

Beyond that initial allocation we have a lot of other issues to consider; how long the catch share program lasts; the transferability, whether we'd allow people to buy right away or transfer permits right away. Monitoring and data recovery, the logbook system, requiring VMS, requiring hail in and hail out or specific offloading times, these are all things that have been done in other fisheries that we're looking at and considering.

And, of course, another question that comes up all the time is the cost recovery. If we implement a certain type of catch share program, we are required to have a cost recovery program as well. These are the specific questions we're

going to each and every workshop with. I'm not going to read them all through.

The specific question I have for all of you is if you have advice on how we would implement catch shares and still provide ASMFC and the other state water fishermen some part of the pie. We're in scoping right now. The scoping period ends March 31st. We have a catch shares webpage specific about this that has all the details.

It has a white paper, it has the full presentation that we've been giving at all the workshops, and any other information you might. The timing on this is not very specific. We're thinking we might possibly get a pre-draft out some time this year, but our priority is Amendment 5. That's all I have on catch shares.

MR. BEAL: You posed a number of questions throughout there, Karyl, and we can see if there is any response to those questions before you go on. Dr. Pierce.

DR. PIERCE: You mentioned that you'd be looking at a number of issues, cost recovery being one. In light of NOAA's Catch Share Policy and the heavy emphasis on the need to consider a requirement for royalties – that is fishermen should pay for what they get – have you incorporated any of that discussion or any of that inquiry into your progress; what about royalties? It's in the catch share policy.

MS. BREWSTER-GEISZ: Are you talking about the cost recovery, the 3 percent?

DR. PIERCE: Well, there is recovery and then there are royalties; so again a heavy emphasis on royalties in the NOAA Catch Share Policy that was developed a year or so ago, so how are you addressing that aspect of the catch share program?

MS. BREWSTER-GEISZ: We have descriptions of all those issues in our white paper that goes into all the details. We are not focusing a lot of that right now because there are so many other issues that we feel we need to get through before we even hit going into those nitty-gritty details.

MR. HIMCHAK: I want to the scoping meeting in Barnegat, New Jersey. Yes, the fishermen there were – their greatest concern was that the

magnitude of their landings may not get them significant catch share allowances, but the performance over a number of years in the fishery is essentially they're opportunistically catching primarily thresher sharks in state waters and landing them. They wanted some kind of a combination between the magnitude and performance so that they would be able to retain the harvest that they currently experience, which is not significant but it's still important to them.

MR. AUGUSTINE: Is there any concern about this is a new catch share program or will this catch share program qualify under the original pack of catch share programs that have been authorized? I understood that some time last year was it just legislation had been suggested or recommended and put forth to stop all new catch programs; is there any validity to that? Could you kind of clarify that for us?

MS. BREWSTER-GEISZ: I believe you're talking about the Jones Act.

MR. AUGUSTINE: Yes, that was it. Was that just a lot of words?

MS. BREWSTER-GEISZ: No, it was not just a lot of words, but it did not – no, it didn't mention highly migratory species catch shares. It mentions a lot of other catch shares from a lot of other councils, mainly the east coast councils, but it did not talk about HMS.

MR. AUGUSTINE: Well, I was on the advisory panel for the HMS and we all concurred that it's the right thing to do and get the information that we're going for. Thank you for your work.

DR. DANIEL: Just a couple of I guess questions or comments on a catch share program; I think if North Carolina were to get a catch share that we could manage ourselves, we could probably support that, but I don't think you're going to get – I know you're not going to get support from North Carolina fishermen for catch shares, and you know that, too.

The thing that comes up in my mind, when we talk about this and history, is there are some things that have occurred in these fisheries that I think you need to be aware of when you start looking at catch shares. For example, we got the request back in '94 to close state waters as a pupping area.

If folks are going to qualify for catch shares in state waters fisheries that were requested to close, I don't think the folks that did close should be disadvantaged because of that. I also am very concerned about the impacts that the recent regulations have had where some of the highliner shark fishermen just got out of it at 33 fish.

I'm much less concerned about the current 33-fish guys than I am about the ones that had the equipment and had to give it up because they couldn't make it practicable. I think there are some things that we need to look at how the regulations have affected catch history and some of the regulations that have been place. Particularly I'm thinking of the North Carolina closure to state waters for 15 years while some folks are going to be getting a catch history from when we couldn't. Those would be my comments on it for now.

MR. BEAL: Any other comments for Karyl on catch shares or response to the questions that are up on the screen? Not seeing any, Karyl, do you want to go ahead and continue with the presentation?

MS. BREWSTER-GEISZ: The 2012 shark specifications, getting the final rule out was a little bit delayed; so except for large coastals all the shark fisheries open on January 24, 2012. That includes pelagics, small coastals, all of them. The Gulf of Mexico is going to open on February 15th and the Atlantic once again on July 15th or the effective date of the electronic dealer reporting rule, whichever comes first.

I will caution however that eDEALER rule appears to be taking a little bit longer and we are not expecting it at this point to go before July 15th, but ever the optimist we left it in the way we proposed it, and we can always hope. If there are any questions or concerns about that; if not, I can move on to the others.

MR. BEAL: Questions for Karyl? Keep going, Karyl, thanks.

MS. BREWSTER-GEISZ: At the November meeting I presented a chart with sort of all those shark-related actions we're doing. A number of you seemed to like that so we kept the same format this time. So eDEALER I just mentioned; we are busy working with all the different electronic systems throughout the Atlantic, Gulf of Mexico and Caribbean.

It turns out there are quite a lot between the different states, the councils and the commissions where dealers have to report and trying to work out same language or at least same meanings for gear types, even market codes, and making sure that all those systems work well is really what is taking the delay. At this point we're hoping for implementation this fall.

Once again, this is the requirement that all shark, swordfish and BAYS – that is bigeye, albacore, yellowfin and skipjack tuna dealers report electronically, and that will allow for more real-time reporting and hopefully will help some of the issues we've had over the years with the shark seasons and closing when the landings are at 80 percent of the quota.

The Vessel Monitoring System is another rule. The final rule published in December of last year. This would require vessels that need VMS to have electronic monitoring units installed and start requiring declarations by this March, only a few weeks away. The shark fishermen that need it would be shark fishermen bottom longline fishing around the closed area, Louis' closed area, along with all of our gill net fishermen up and down the coast.

If you have questions about that, and we've had a lot of questions from fishermen, just let me know. We are working on revising the compliance guide for this to address some of those questions. The Shark Conservation Act, the last time I came we had just implemented a delay delaying the implementation of our management measures and the quota.

We still have this underway. We are still waiting for a biological opinion so we do not yet have a draft proposed rule or EA but are hoping for it at some point this year. The shark research fishery, we actually just issued the shark research fishery permits yesterday. There are a number of changes on how we're doing the research fishery this year.

We only issued five permits because we do not have the budget for more observers. For each vessel, they will be limited to 150 hooks per vessel, but they're allowed to keep any of the sharks that come up except for prohibited species. If they're very lucky, they'll get 150 sandbars and they'd be allowed to keep them all.

We split the research quota up between those five vessels so they are limited by that quota. Because of the changes and because of other issues that cropped up last year, we want to make sure everybody was aware we are having a captains' meeting next Friday. We're still working on getting the time published so I'll be sure to let Chris know in case anybody wants to come. It's a conference call so anybody can listen in.

The Southeast Data Assessment and Review, people here probably aren't as interested in this. This is going to be for the Gulf of Mexico blacktip sharks. We have a webinar week and then the assessment itself is happening in March. The advisory panel nominations, I think we have announced the nominations last week. The advisory panel meeting is coming up in mid-March. That's it.

MR. BEAL: Thanks, Karyl. Any questions on those last couple of slides that Karyl presented? Karyl, I have a quick question. The next agenda item that this board is going to tackle is the Shark Conservation Act. I think you mentioned you're still waiting on the biological opinion and you hope to have a biological opinion and the EA published some time this year. Can you narrow that down at all or is it still pretty wide open on your end?

MS. BREWSTER-GEISZ: It's pretty wide open. We are waiting for the biological opinion. I've heard you heard had a discussion about sturgeon. That's likely to slow down our biological opinion because they now need to assess sharks with sturgeon. This is one rule – most of our rules don't trigger this, but this is one rule that triggered significantly under Office of Management and Budget; so once NMFS drafts our rule we have to then give it to the Office of Management of Budget, who does a federal government interagency review, which can take at least 90 days. We can't publish it until that's done. Assuming we have a biological opinion April/May timeframe, I would say we could expect a proposed rule by the end of the year.

REVIEW OF THE SHARK CONSERVATION ACT OF 2010

MR. BEAL: Any other questions for Karyl on any HMS activities? Seeing none, that moves us into Agenda Item Number 8, which is a review

of the Shark Conservation Act of 2010, and Chris is going to through that and then we'll decide what the board wants to do with that information after he has finished up.

MR. VONDERWEIDT: It's a pretty straightforward Act. You'll notice it says 2010 but we're in 2012 and basically what happened was we ran out of time at three or four previous meetings, so it was sort of in triage until this point. The provisions in the Act are that it amends the Magnuson-Stevens Act to prohibit the removal of any fins of a shark, including the tail, at sea; possession of shark fins at sea unless they are naturally attached to the carcass.

It prohibits transferring any such fins from one vessel to another or landing any such fin that is not naturally attached to the carcass. However, as Karyl mentioned there is a savings clause where the amendments do not apply to individuals who are engaged in commercial fishing for smooth dogfish if they're between shore and 15 nautical miles from shore, if an individual holds a valid state commercial fishing license and if the total weight of the fins do not exceed 12 percent of the total weight of the smooth dogfish.

How does that apply to our management plan? Our FMP requires that all shark fins must remain attached naturally through landing. However, Addendum I kind of put in our own little savings clause that allows commercial fishermen to remove smooth dogfish fins from March 1 through June 30th and the fin-to-carcass ratio cannot exceed 5 percent. The dorsal fin has to remain attached for the rest of the year and not from March 1 through June 30th. As Karyl mentioned, they plan to implement the savings clause provision of the Act. That concludes it.

MR. BEAL: Questions of Chris? Pat Augustine.

MR. AUGUSTINE: What was the reason, Chris, if you don't mind refreshing our memories, why we agreed they should have the dorsal fin still attached? I don't recall a discussion on that and I didn't see it in the advisory panel at the HMS. I never saw it come up anywhere. Could you enlighten us on that one?

MR. VONDERWEIDT: We have different regulations than HMS on smooth dogfish, but basically the technical committee thought that at a minimum having the dorsal fin attached would

aid identification, so just for identification. I think they wanted all the fins to remain attached in the report. I can e-mail you that report if you want.

MR. AUGUSTINE: Okay, if you would. The real question was would that eventually, if they do get to take off the dorsal fin – let's assume this conservation act goes through and then fins are allowed to be taken off as long as they exceed 12 percent, if that passes we'd have to amend ours or we could still have a differential between the 12 and 5?

In other words, I believe according to the HMS one or the conservation act they would be able to remove the dorsal fin, but that would be cumulative to the 12 percent, I believe. I think that's what that meant; is that true?

MR. BEAL: Well, the way the ASMFC plan is written right now it is more conservative than the language that's in the conservation act. There are a couple of options before the board right now, I think. One is to wait for the National Marine Fisheries Service to see what their final rule looks like under the timeline that Karyl just mentioned. The other is this board obviously initiated an addendum at this meeting with two issues in it.

Some of these provisions could be included in that addendum to move forward, but it's a little bit of an unknown exactly where the National Marine Fisheries Service is going to end up on this. There is a little bit of risk there that the commission and the National Marine Fisheries Service don't end up in the same place. Those seem to be the two options; wait on NMFS or do something now through the document that this board is working on. Pat.

MR. AUGUSTINE: To that point, I recall several of the fishermen coming to the HMS meeting who had been ticketed because of the question of the cumulative weight of the 5 percent on other species of fish, and it has been a very touchy subject. I think North Carolina could probably speak to this a little better than I could.

It seems to me if there is a possibility within the next 12 months or so that this will come along through HMS, that I would think is we put it in as an optional part of this addendum with a caveat in it that says if it doesn't happen this line

is automatically dropped and we remain at 5 percent. Otherwise, you've got to start a new one whenever that occurs and it may cut down on the amount of work. A suggestion, Mr. Chairman.

MR. BEAL: The Act has passed congress. It's the law right now and the National Marine Fisheries Service is implementing that law, so there is going to something at the federal level that incorporates these provisions that are in the Act. It's definitely going forward and we just have to decide how we want to react to that and what timeline we want it to be.

Are there any other thoughts on how to move forward with this? The way we could do it is the plan development team is getting together to deal with the other issues, the 5 percent rollover provision and the biological reference points. They could draft some language for this board to review in May, and then at the May meeting this board can decide if they want to delete that language and not move forward with it at that time or they can incorporate that language and continue moving forward with the public hearing process. It's up to the board.

In May we may have a better signal about the biological opinion with the status of that and then where things are there. It's really up to the pleasure of the group if you want to move forward or stay where you are. Jack Travelstead.

MR. JACK TRAVELSTEAD: A question for Karyl; what latitude does the Service have in implementing the provisions of the law? You're held to those provisions, correct? It says, for instance, 12 percent of the total weight; can you come back and say, no, we want 6 percent or 8 percent?

MS. BREWSTER-GEISZ: We are held to what is in the Act, so the 12 percent is pretty clear. There are other portions of that savings clause, however, that are not as crystal clear, and that's where our proposed rule is looking at very different alternatives on how to implement those sections. That's where you might see differences come up between what we're looking at and what ASMFC wants to do.

MR. TRAVELSTEAD: My fishermen haven't said anything recently to me about this, although I know they were involved in getting this law changed. It seems to me the best thing to do

would be to wait until we see what the Service comes out with and then decide if we want to proceed with an addendum to liberalize what we have now and be more along the lines of what is here and what the Service comes up with.

DR. DANIEL: I can live with what Jack just said.

MR. BEAL: So we've got two comments that say we'll just hold onto this thought for a while and we'll see what the National Marine Fisheries Service comes up with and what the timeline for that is and then the board will review that information at that time and then react accordingly. Is that where you are? It looks that way. All right, we'll wait to see what comes out of the Service on this one. We're at our final agenda item, which is a couple of technical committee appointments. Chris.

SPINY DOGFISH AND COASTAL SHARKS TECHNICAL COMMITTEE APPOINTMENTS

MR. VONDERWEIDT: Just an update of appointments; no action is necessary. Holly White from North Carolina Division of Natural Resources has been appointed to the Spiny Dogfish Technical Committee and the Coastal Shark Technical Committee. Tobey Curtis of the National Marine Fisheries Service was appointed to the Spiny Dogfish Technical Committee.

OTHER BUSINESS

MR. BEAL: Any concerns or questions about that? Seeing none, any other business to come before the Shark Management Board. I have one hand in the audience; Sonja, please come forward.

MS. SONJA FORDHAM: Sonja Fordham, Shark Advocates, International. I appreciate the opportunity. I just wanted to say a few words about an overarching issue and some growing concerns that we have for smooth dogfish. I just wanted to remind the group that at a time when we're looking at really heightened awareness and public concern for shark conservation and perhaps more importantly at a time when the U.S. is leading a number of really key international initiatives for shark conservation, we do have targeted and perhaps now growing

unregulated shark fishery here in the Mid-Atlantic.

It is of great concern to me and a lot of my colleagues. We also have no real idea what is sustainable, recognizing it's a relatively fast-growing shark but we don't have an assessment as far as I can tell. Despite many pleas we don't have any plans to have an assessment for smooth dogfish.

The data are not what they could be because of the delays in the federal management. Of course, it's also a concern what we talked about today that the federal initial quota that we've waited several years for has now been delayed I guess apparently indefinitely. Then we also have what are very troubling exceptions to the fins-attached rule under the state regulations and possibly under the federal measures.

This has actually global implications and sort of really undermining our international arguments that fins attached is clearly the best practice for enforcing finning bounds. I just want to take this opportunity because we have NMFS here and we've all been talking about these issues and to again urge the National Marine Fisheries Service to prioritize an assessment for smooth dogfish, to urge the states to get creative to think about what they could do to help in an assessment process. If there is a proxy that some other state or some other entity could do, that would be very helpful, and to go ahead and urge the states as a commission and individually to really consider some precautionary catch limits like you had on the table when we started this process; and at the very least have the plan development team and other staff maybe characterize the fishery to maybe a white paper on what we know about the landings and the markets of where these fish are going and better information on what is happening in the fishery for some dedicated time at maybe the next commission meeting or as soon as possible. Thank you for your consideration.

ADJOURNMENT

MR. BEAL: Thanks, Sonja. Any comments or questions? Anything else to come before this board? Seeing none, we stand adjourned.

(Whereupon, the meeting was adjourned at 3:10 o'clock p.m., February 9, 2012.)



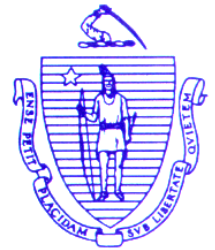
Paul J. Diodati
Director

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Division of Marine Fisheries

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Deval Patrick
Governor
Timothy P. Murray
Lt. Governor
Richard K. Sullivan, Jr.
Secretary
Mary B. Griffin
Commissioner

February 3, 2012

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

Dear Chris,

The Commonwealth of Massachusetts submits a request for *de minimis* status for the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Coastal Sharks; in particular, an exemption from closures to the non-sandbar large coastal shark (LCS) commercial fishery is sought. Massachusetts has implemented all other required elements of the plan (with the exception of the non-sandbar LCS commercial possession limit which the Commonwealth was exempted from implementing in November 2011 as part of a prior *de minimis* request). All dealers purchasing sharks in Massachusetts must be federally permitted, effectively limiting any commercial landings to the federal season.

Additionally, non-sandbar LCSs are not landed in any significant quantity in Massachusetts. National Marine Fisheries Service data demonstrate that from 1950 – 2009 only 4 pounds of nurse shark (1992), 14 pounds of tiger shark (1997) and 414 pounds of blacktip shark (2002) have been landed for commercial purposes in the Commonwealth. Implementing non-sandbar LCS seasonal closures for the sole purpose of compliance on paper alone would be burdensome to the Division of Marine Fisheries (DMF), as the Massachusetts regulations do not authorize the Director to declare commercial shark fishing seasons and therefore regulations must be implanted through the prolonged formal rule making process.

If the Spiny Dogfish and Coastal Sharks Management Board exempts Massachusetts from non-sandbar LCS commercial fishery closures, by approving this *de minimis* request, DMF would continue to monitor Massachusetts' landings of all species managed under the plan and provide this information to the Management Board via annual compliance reports. If landings patterns change in Massachusetts for non-sandbar LCSs, DMF will work with the Plan Review Team, Technical Committee, and Board to implement applicable commercial regulations via rule making to avoid jeopardizing attainment of plan objectives. An approved *de minimis* request would not absolve Massachusetts from implementing additional new or modified regulations under the Management Plan (other than non-sandbar LCS possession limits and fishery closures) unless a revised *de minimis* request specific to the additional regulations is submitted and approved.

I have attached the text of Massachusetts' current coastal shark rules to assist the Plan Review Team and/or Management Board in their consideration of this request.

Sincerely,

Paul J. Diodati, Director

322 CMR 6.00: REGULATION OF CATCHES

6.37 Coastal Shark Conservation and Management

(1) Purpose. 322 CMR 6.37 seeks to ensure coordinated state and federal management towards establishing healthy self-sustaining populations of Atlantic coastal sharks. Coastal shark conservation and management is interstate and state-federal in nature; effective assessment and management can be enhanced through cooperative efforts with all Atlantic state and federal scientists and fisheries managers. 322 CMR 6.37 creates two groups of sharks: Permitted Species that are allowed to be harvested, and Prohibited Species that are protected and may not be harvested unless specifically authorized by the Director or NOAA Fisheries.

For purposes of 322 CMR 6.37, coastal sharks do not include spiny dogfish, *Squalus acanthias*, which are managed separately under 322 CMR 6.35.

(2) List of Species by Groups. The following sections contain the species categorized as prohibited or permitted. Each species is listed as its common name along with its associated taxonomic name.

(a) Permitted Shark Species. The following species are allowed to be harvested under the provisions of 322 CMR 6.37(3):

Atlantic sharpnose (*Rhizoprionodon terraenovae*)
Blacknose (*Carcharhinus acronotus*)
Blacktip (*Carcharhinus limbatus*)
Blue (*Prionace glauca*)
Bonnethead (*Sphyrna tiburo*)
Bull (*Carcharhinus leucas*)
Common thresher (*Alopias vulpinus*)
Finetooth (*Carcharhinus isodon*)
Great hammerhead (*Sphyrna mokarran*)
Lemon (*Negaprion brevirostris*)
Nurse (*Ginglymostoma cirratum*)
Oceanic whitetip (*Carcharhinus longimanus*)
Porbeagle (*Lamna nasus*)
Scalloped hammerhead (*Sphyrna lewini*)
Shortfin mako (*Isurus oxyrinchus*)
Smooth dogfish (*Mustelus canis*)
Smooth hammerhead (*Sphyrna zygaena*)
Spinner (*Carcharhinus brevipinna*)
Tiger (*Galeocerdo cuvier*)

(b) Prohibited Shark Species. the following species are prohibited from harvest under the provisions of 322CMR 6.37(3):

Atlantic angel (*Squatina dumeril*)
Basking (*Cetorhinus maximus*)
Bigeye sand tiger (*Odontaspis noronhai*)
Bigeye sixgill (*Hexanchus nakamurai*)
Bigeye thresher (*Alopias superciliosus*)
Bignose (*Carcharhinus altimus*)
Bluntnose sixgill (*Hexanchus griseus*)
Caribbean reef (*Carcharhinus perezii*)
Caribbean sharpnose (*Rhizoprionodon porosus*)
Dusky (*Carcharhinus obscurus*)
Galapagos (*Carcharhinus galapagensis*)
Longfin mako (*Isurus paucus*)

Narrowtooth (*Carcharhinus brachyurus*)
Night (*Carcharhinus signatus*)
Sandbar (*Carcharhinus plumbeus*)
Sand tiger (*Carcharias taurus*)
Sharpnose sevengill (*Heptranchias perlo*)
Silky (*Carcharhinus falciformis*)
Smalltail (*Carcharhinus porosus*)
Whale (*Rhincodon typus*)
White (*Carcharodon carcharias*)

(3) Regulation of Catches.

(a) Permitted Species Size Limits.

1. Recreational Fishing Size Limits. For recreational fishermen, the size limit for Permitted Species shall be 54" measured from the tip of the snout to the fork of the tail. Exception: there shall be no minimum size for the following species: Smooth Dogfish, Atlantic sharpnose, Bonnethead, Finetooth, and Blacknose.

2. Commercial Size Limits. For commercial fishermen, there shall be no minimum size for any of the Permitted Species.

(b) Permitted Species Possession Limits.

1. Recreational Catch Limits. A recreational shore angler may harvest only one fish among all Permitted Species and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per trip. A recreational vessel may possess on board or land only one fish among all Permitted Species per trip regardless of the number of recreational fishermen aboard, and one additional Bonnethead, one additional Atlantic sharpnose, and one additional smooth dogfish per person.

2. Commercial Catch Limits. Commercial fishermen shall not retain:

a. more than 100 pounds of smooth dogfish per trip or per day, whichever is the longer period of time; or

b. any quantity of a Permitted Shark Species after the Director has announced a commercial fishery closure.

(c) Gear Restrictions.

1. Recreational Gears. Recreational fishermen may take coastal sharks only by rod and reel or handline.

2. Commercial Gears. Commercial fishermen may take coastal sharks by rod and reel, handlines, gillnets, trawl nets, pound nets, fish traps, and weirs. It shall be unlawful to fish for, possess on board, or land coastal sharks taken by a longline of any length.

(d) Catch Disposition.

1. It shall be unlawful for:

a. any fisherman to fillet sharks at sea;

b. any fisherman to remove fins or tails from sharks;

c. recreational fishermen to possess on board or land sharks whose heads, tails, and fins are not attached naturally to the carcass;

d. commercial fishermen to possess on board or land sharks whose fins and tails are not attached naturally to the carcass. Exception: Commercial fishermen may cut fins as long as the fins remain attached to the carcass with at least a small portion of uncut skin.

2. Commercial fishermen may eviscerate sharks and remove the heads.

3. All sharks caught incidental to fisheries directed toward other species must be released in such manner as to ensure maximum probability of survival.

(e) Authorization to Possess Prohibited Species. The Director may authorize persons to land and possess certain Prohibited Species for research or other scientific purposes. Commercial fishermen who possess authorization from NOAA Fisheries to harvest certain species from federal waters may fish for, possess on board, or land those species in Massachusetts provided said fish were taken lawfully from federal waters.

(f) Dealer Measures. All dealers purchasing Atlantic Coastal Shark species from commercial fishermen must obtain a federal Commercial Shark Dealer Permit from the National Marine Fisheries Service.

Atlantic States Marine Fisheries Commission

Coastal Sharks Technical Committee/Plan Review Team

REVIEW OF MASSACHUSETTS *DE MINIMIS* PROPOSAL

March 8, 2012

Present: Russ Babb (NJ DEP), Matt Gates (CT DEP), Karyl Brewster-Geisz (NMFS HMS), Wilson Laney (USFWS), Tina Moore (NC DMF), Jack Musick (VIMS), Eric Schneider (RI DFW), Greg Skomal (MA DMF, Chair), Holly White (NC DMR), Brent Winner (FLFWC), and Chris Vonderweidt (ASMFC Staff).

The Coastal Sharks Technical Committee (TC) and Plan Review Team (PRT) held a conference call to review a Massachusetts *de minimis* proposal that requests an exemption from the fishery closure provision of the Interstate FMP for Atlantic Coastal Sharks (FMP) for species in the non-sandbar large coastal shark (LCS) group. Upon review, the TC/PRT recommends approval of the *de minimis* proposal to grant Massachusetts an exemption from *Section 4.3.4 Quota Specification* of the FMP as it relates to species in the LCS species group.

***De minimis* guidelines in the FMP**

The Interstate Fisheries Management Plan for Atlantic Coastal Sharks (FMP) did not establish specific criteria to exempt a state from regulations in the plan, but allows exemptions to be determined on a case-by-case basis. To receive a *de minimis* exemption for a regulation, a state must submit a proposal for review by the TC and PRT. Upon review, the TC/PRT recommendations are forwarded to the Spiny Dogfish & Coastal Sharks Management Board (Board) who consider approval of the proposal at their next meeting.

Proposals are evaluated based on whether implementation of a regulation is necessary for attainment of the FMP's objectives and conservation of the resource.

Goals and Objectives of the FMP are as follows:

2.2 Goal

The goal of the Interstate Fishery Management Plan for Coastal Sharks is:
"To promote stock rebuilding and management of the coastal shark fishery in a manner that is biologically, economically, socially, and ecologically sound."

2.3 Objectives

In support of this goal, the following objectives proposed for the Interstate Shark FMP:

1. Reduce fishing mortality to rebuild stock biomass, prevent stock collapse, and support a sustainable fishery.
2. Protect essential habitat areas such as nurseries and pupping grounds to protect sharks during particularly vulnerable stages in their life cycle.

3. Coordinate management activities between state and federal waters to promote complementary regulations throughout the species' range.
4. Obtain biological and improved fishery related data to increase understanding of state water shark fisheries.
5. Minimize endangered species bycatch in shark fisheries.

Massachusetts *De Minimis* Proposal

The Massachusetts proposal requests an exemption from closures to the LCS commercial fishery. *Section 4.3.4 Quota Specification* of the FMP requires that states close their fishery for any species in the LCS, small coastal, smooth dogfish, and pelagic species groups when the fishery is closed in federal waters. Accordingly this request would exempt Massachusetts from *Section 4.3.4 Quota Specification* of the FMP as it relates to species in the LCS species group.

The proposal states that opening and closing the LCS fishery is a regulatory burden because LCS species are not landed in significant quantities in Massachusetts; from 1950 – 2009 only 4 pounds of nurse shark (1992), 14 pounds of tiger shark (1997), 414 pounds of blacktip shark (2002), and 0 pounds of other species in the LCS group have been landed for commercial purposes in the Commonwealth. Additionally, Massachusetts has implemented all other measures in the FMP sans the LCS possession limit. The Board previously approved a *de minimis* exemption from the LCS possession limit based on similar reasoning to the current request.

The proposal also states that all dealers purchasing sharks in Massachusetts must be federally permitted, effectively limiting any commercial landings to the federal season.

Finally, the request states that Massachusetts will continue to monitor its LCS landings. If landings change they will work with the PRT, TC, and Board to implement applicable commercial regulations via rule making to avoid jeopardizing attainment of the plan objectives.

Technical Committee Discussion and Recommendation

The TC is not opposed to the exemption and unanimously recommends that the Board approve a LCS closure exemption for Massachusetts. They agree that for the Commonwealth of Massachusetts, closing the LCS fishery when federal waters are closed is unnecessary for attainment of the FMP's objectives and conservation of the resource. The group easily came to this conclusion agreeing that LCS are rarely landed in Massachusetts waters making a LCS closures unnecessary. In fact, some members suspected that the minimal LCS landings in Massachusetts waters since 1950 were actually misidentified non-LCS species. TC members commented that the large shark species most commonly found in Massachusetts waters are sandbar, dusky, and sand-tiger whose retention is prohibited without a research permit.

The TC did clarify one misstatement in the report regarding federal dealer requirements. Federal dealers are allowed to purchase sharks from non-federally permitted fishermen even if federal waters are closed—as long as the sharks were harvested according to state laws.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 120213130–2129–01]

RIN 0648–XA973

Fisheries of the Northeastern United States; Proposed 2012 Spiny Dogfish Fishery Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This rule proposes a catch limit, commercial quota, and trip limit for the spiny dogfish fishery for the 2012 fishing year. The proposed action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. The proposed management measures are supported by the best available scientific information and reflect recent increases in spiny dogfish biomass. The proposed action is expected to result in positive economic impacts for the spiny dogfish fishery while maintaining the conservation objectives of the Spiny Dogfish Fishery Management Plan.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on April 18, 2012.

ADDRESSES: An environmental assessment (EA) was prepared that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the EA and the Initial Regulatory Flexibility Analysis (IRFA), are available on request from Dr. Christopher M. Moore, Executive Director, Mid Atlantic Fishery Management Council, Suite 201, 800 N. State St, Dover, DE 19901. The EA/IRFA is also accessible via the Internet at <http://www.nero.noaa.gov>.

You may submit comments, identified by NOAA–NMFS–2012–0016, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “Submit a Comment” icon, then enter “NOAA–NMFS–2012–0016” in the keyword search. Locate the document you wish to comment on

from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- **Fax:** (978) 281–9135, Attn: Tobey Curtis.

- **Mail:** Daniel S. Morris, Acting Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Spiny Dogfish Specifications.”

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273; fax: (978) 281–9135.

SUPPLEMENTARY INFORMATION:**Background**

Spiny dogfish (*Squalus acanthias*) were declared overfished by NMFS in 1998. Consequently, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) required NMFS to prepare measures to end overfishing and rebuild the spiny dogfish stock. The Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) developed a joint fishery management plan (FMP), with the MAFMC designated as the administrative lead. The FMP was implemented in 2000, and the spiny dogfish stock was declared to be successfully rebuilt in 2010.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying an annual catch limit (ACL), commercial quota, trip limit, and other management measures for a period of 1–5 years. The annual quota is allocated to two semi-annual quota periods, as follows: Period 1, May 1 through October 31 (57.9

percent); and Period 2, November 1 through April 30 (42.1 percent).

The MAFMC’s Scientific and Statistical Committee (SSC) reviews the best available information on the status of the spiny dogfish population and makes recommendations on acceptable biological catch (ABC). This recommendation is then used as the basis for catch limits and other management measures developed by the MAFMC’s Spiny Dogfish Monitoring Committee and Joint Spiny Dogfish Committee (which includes members of the NEFMC). The MAFMC and NEFMC then review the recommendations of the committees and make their specification recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to ensure that they are consistent with the FMP and other applicable law. NMFS then publishes proposed measures for public comment.

Spiny Dogfish Stock Status Update

In September 2011, the Northeast Fisheries Science Center (Center) updated spiny dogfish stock status, using the most recent catch data and biomass estimates from the 2011 spring trawl survey. Updated estimates indicate that the female spawning stock biomass (SSB) for 2011 is 169,415 mt, about 6 percent above the target maximum sustainable yield biomass proxy (SSB_{max}) of 159,288 mt. Additionally, the Center revised the fishing mortality rate (F) reference points that were approved by the SSC. The 2010 F estimate for the stock was 0.093, well below the overfishing threshold (F_{MSY}) of 0.2439. Therefore, the spiny dogfish stock is not currently overfished or experiencing overfishing. However, while recruitment has increased in recent years, poor pup production from 1997–2003 is projected to result in significant declines in SSB from 2014–2020.

The SSC subsequently recommended an ABC for spiny dogfish for the 2012 fishing year. The ABC recommendation was based on an overfishing level of median catch at the F_{MSY} proxy, and the Council’s risk policy for a Level 3 assessment (probability of overfishing = 40 percent). The resulting 2012 spiny dogfish ABC is 44.868 million lb (20,352 mt), which represents a 34-percent increase from the 2011 ABC.

Council Recommendations

The Spiny Dogfish Monitoring Committee and the Atlantic States Marine Fisheries Commission’s (Commission) Spiny Dogfish Technical Committee met on September 22, 2011, to determine the resulting specifications

following the Annual Catch Limit (ACL) and Accountability Measures Omnibus Amendment process (September 29, 2011; 76 FR 60606). After deducting the projected Canadian catch (131,175 lb (59 mt)), the domestic ACL for spiny dogfish would be 44.737 million lb (20,292 mt). No additional deductions were recommended to account for management uncertainty. Following additional reductions for projections of U.S. discards (8.997 million lb (4,081 mt)) and recreational landings (46,000 lb (21 mt)), the final 2012 commercial quota for spiny dogfish would be 35.694 million lb (16,191 mt) (a 78-percent increase from 2011).

The MAFMC met October 11–13, 2011, to recommend spiny dogfish management measures for the 2012

fishing year. The MAFMC voted to recommend that the commercial quota for spiny dogfish be set at 35.694 million lb (16,191 mt), with a daily commercial trip limit of 4,000 lb (1,815 kg). Both of these recommendations represent increases over the 2011 quota (20 million lb (9,072 mt)) and trip limit (3,000 lb (1,361 kg)).

However, several spiny dogfish processors expressed concerns that the dramatic increase in quota and trip limits could lead to unstable market conditions (e.g., low or fluctuating prices), and may not be in the best long-term interests of the fishery (due to the projected future decline in SSB). Additionally, the increased trip limit would likely result in mid-season closures, rather than allowing vessels to

land dogfish continuously throughout the fishing year.

In response to these concerns, at its November 7–10, 2011, meeting, the Commission voted to implement a 30-million-lb (13,608-mt) commercial quota for state waters, and maintain the current 3,000-lb (1,361-kg) trip limit for the 2012 fishing year. Additionally, when the NEFMC met on November 17, 2011, it recommended a third alternative of a 35.694-million-lb (16,191-mt) quota with a 3,000-lb (1,361-kg) trip limit (Table 1). NMFS must select its preferred alternative for the 2012 spiny dogfish specifications from among the range of alternatives not rejected by both Councils.

TABLE 1—FISHING YEAR 2012 SPINY DOGFISH COMMERCIAL QUOTA AND TRIP LIMIT RECOMMENDATIONS

Alternative	Commercial quota	Trip limit
MAFMC	35.694 million lb (16,191 mt)	4,000 lb (1,815 kg).
NEFMC	35.694 million lb (16,191 mt)	3,000 lb (1,361 kg).
Commission	30.000 million lb (13,608 mt)	3,000 lb (1,361 kg).
Status Quo	20.000 million lb (9,072 mt)	3,000 lb (1,361 kg).

Proposed Measures

NMFS proposes that the spiny dogfish ACL be set at 44.737 million lb (20,292 mt) for the 2012 fishing year. If this ACL is exceeded, the accountability measures described at § 648.233 would be implemented. Additionally, NMFS has reviewed the recommendations of the Councils and Commission and concluded that, despite industry concerns about the higher quota recommendations, there is not a significant biological basis for a lower quota in 2012. The Councils' recommendations favor short-term yield over potential long-term stock stability, but are still not projected to result in overfishing. If spiny dogfish SSB declines in coming years, as projected, catch limits would be appropriately reduced in those years.

Therefore, NMFS proposes to impose a commercial quota of 35.694 million lb (16,191 mt) and to maintain the status quo trip limit of 3,000 lb (1,361 kg) for the 2012 fishing year (consistent with the NEFMC recommendation). Based on the percentage allocations specified in the FMP, quota Period 1 (May 1 through October 31) would be allocated 20.667 million lb (9,374 mt), and quota Period 2 (November 1 through April 30) would be allocated 15.027 million lb (6,816 mt). The significant quota increase in conjunction with the status quo trip limit should help avoid prolonged fishery closures, extend the fishing season, reduce regulatory discards, and

maximize revenues for vessels that land spiny dogfish.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The MAFMC prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the MAFMC (see ADDRESSES).

The Small Business Administration (SBA) considers commercial fishing entities (NAICS code 114111) to be small entities if they have no more than \$4 million in annual sales, while the size standard for charter/party operators (part of NAICS code 487210) is \$7 million in sales. All of the entities (fishing vessels) affected by this action are considered small entities under the SBA size standards for small fishing businesses. Although multiple vessels

may be owned by a single owner, ownership tracking is not readily available to reliably ascertain affiliated entities. Therefore, for the purposes of this analysis, each permitted vessel is treated as a single small entity and is determined to be a small entity under the RFA. Accordingly, there are no differential impacts between large and small entities under this rule. Information on costs in the fishery is not readily available, and individual vessel profitability cannot be determined directly; therefore, expected changes in gross revenues were used as a proxy for profitability.

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed increase in the spiny dogfish commercial quota would impact vessels that hold Federal open access commercial spiny dogfish permits, and participate in the spiny dogfish fishery. According to MAFMC's analysis, 2,942 vessels were issued spiny dogfish permits in 2010. However, only 326 vessels landed any amount of spiny dogfish. While the fishery extends from Maine to North Carolina, most active vessels were from (in descending order)

Massachusetts, New Jersey, New Hampshire, Rhode Island, New York, North Carolina, and Virginia.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

The alternatives considered and analyzed by the Councils are summarized in Table 1 above. The proposed action reflects the recommendation of the NEFMC. The purpose of the proposed action is to increase spiny dogfish catch limits and landings, consistent with the best available science, thereby extending the duration of the fishing season and increasing revenue relative to the status quo. The proposed action is expected to maximize the short-term profitability for the spiny dogfish fishery during the 2012 fishing year, without jeopardizing the long-term sustainability of the stock. Therefore, the economic impacts resulting from the proposed action as compared to the other alternatives are positive.

The proposed action is almost certain to result in greater revenue from spiny dogfish landings, which would be up to 78 percent higher than the status quo quota. Based on recent landings information, the spiny dogfish fishery is able to land close to the full amount of fish allowable under the quotas. Total spiny dogfish revenue from the 2010 fishing year was approximately \$3.119 million. Assuming the 2010 average price (\$0.21 per lb), landing the proposed quota of 35.694 million lb (16,191 mt) would result in revenues of approximately \$7.655 million in 2012. The Commission's quota alternative of 30 million lb (13,608 mt) would result in revenues of approximately \$6.434 million, which is also an increase over the Status Quo/No Action alternative of approximately \$4.289 million in revenue. The expected increases in spiny dogfish revenue should benefit those ports that are more heavily dependent on spiny dogfish revenue than other communities, including Virginia Beach, Virginia; Hatteras, North

Carolina; Rye, New Hampshire; Chatham, Massachusetts; and Ocean City, Maryland.

The proposed commercial trip limit of 3,000 lb (1,361 kg) is equal to the Status Quo/No Action alternative trip limit, and should therefore have no additional economic impacts. The MAFMC's alternative with a 4,000-lb (1,815-kg) trip limit could result in greater short-term revenue per trip, but result in a shorter fishing season due to fishery closures once the quota was reached. Therefore, the proposed trip limit is expected to prolong the fishing season and the positive impacts to communities over the course of the fishing year.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 13, 2012.

Alan D. Risenhoover,
*Action Deputy Assistant Administrator For
Regulatory Programs, National Marine
Fisheries Service.*

[FR Doc. 2012-6576 Filed 3-16-12; 8:45 am]

BILLING CODE 3510-22-P

Draft Document for Board Review. Not for Public comment.

Atlantic States Marine Fisheries Commission

**DRAFT ADDENDUM IV TO THE INTERSTATE FISHERY
MANAGEMENT PLAN FOR SPINY DOGFISH FOR BOARD
REVIEW**



This draft addendum was developed for Management Board review and discussion. It is not intended to solicit public comment as part of the Commission/State formal public input process. Comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. If approved, a public comment period will be established to solicit input on the draft addendum.

ASMFC Vision Statement:

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

March 26, 2012

Draft Document for Board Review. Not for Public comment.

Draft Document for Board Review. Not for Public comment.

Public Comment Process and Proposed Timeline

In January 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.

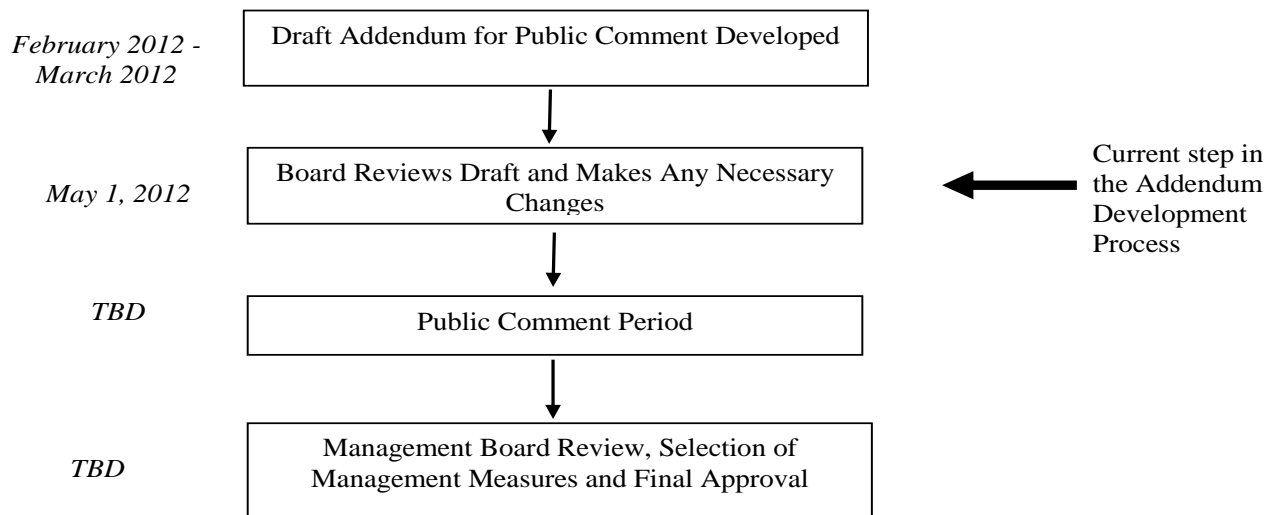
This draft addendum presents background on ASMFC's management of spiny dogfish, the addendum process and timeline, and a statement of the problem. This document also provides options of spiny dogfish management for public consideration and comment.

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 [Month] [Day], 2012**. The Board will be considering final action on this addendum during the week of [Month] [Day], 2012 at the ASMFC [Season] 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: cvonderweidt@asmfc.org
(Subject: Addendum IV)
Phone: (703) 842-0740
Fax: (703) 842-0741



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1.0 Introduction

At its January 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 [Month] [Day], 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 these 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 Source: SAFIS Dealer reports and personal communication with NC DMF queried on April 12, 2012.

	Landings	% Allocation	2011/2012 Allocation (Pounds)	Over+/Under- (Pounds) Negative Value Indicates Overage
Northern Region	12,426,253	58%	11,145,453	-1,280,800
NY	407,001	2.707%	538,698	131,697
NJ	1,625,678	7.644%	1,521,170	-104,508
DE	20,769	0.896%	178,306	157,537
MD	1,197,643	5.920%	1,228,091	-19,552
VA	2,225,366	10.795%	2,148,224	-77,142
NC	2,717,108	14.036%	2,738,552	21,444

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. 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.

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

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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 $75\%F_{\text{target}}$ (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

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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

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 $F_{\text{threshold}}$.

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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

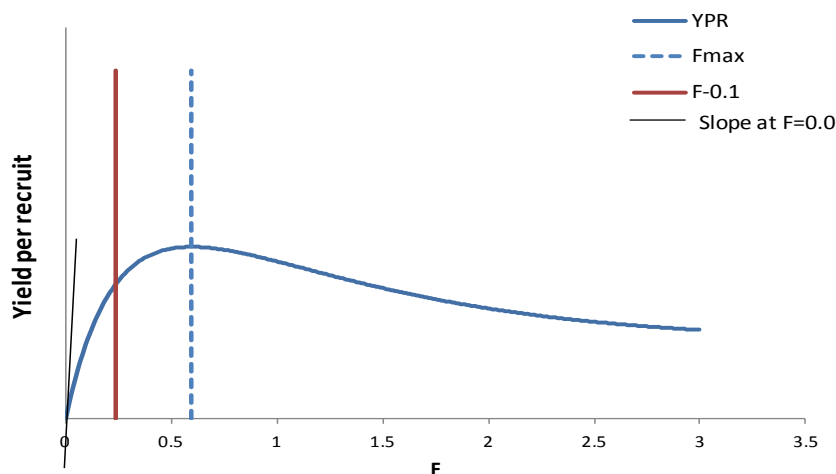
The F_{target} or catch target is defined as a fishing mortality rate or catch level that corresponds to an acceptable likelihood of preventing F from exceeding the threshold by accounting for scientific and management uncertainty. The Board is not required to specify an F_{target} and if specified,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

The TC recommends the Board remove Option C and D from the document before approving it for public comment. TC members clarified that the $F_{0.1}$ and $F_{75\%}$ F_{target} options (C & D) were included solely to give the Board examples of how F_{target} s are specified in other FMPs but do not advocate their use for spiny dogfish management. Specifying $F_{\text{target}} = F_{0.1}$ or $F_{75\%}$ would yield an F rate that is inconsistent with the current approach to calculate the annual quota recommendation. Option B gives the TC flexibility to recommend an $F_{\text{threshold}}$ based on $F_{0.1}$ or $F_{75\%}$ if future methodologies change so removing these options from the draft does not preclude their use.

OPTION C: $F_{0.1}$

The F_{target} will be equal $F_{0.1}$. Defined as the F level where the slope of the yield curve is 10 % of the slope at $F = 0.0$ (Figure 1). $F_{0.1}$ is a common F reference point definition.



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~~Figure 1. Fishing mortality rate where $F = 0.1$~~

~~Option D: 75% of $F_{\text{threshold}}$~~

~~The F_{target} will be set at 75% of the $F_{\text{threshold}}$. For example, if the $F_{\text{threshold}}$ is set at 0.20, the F_{target} would equal 0.15. $F_{75\%}$ was used as the starting point when the TC calculated their annual quota recommendations for the 2011/2012 fishing season.~~

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.

Atlantic States Marine Fisheries Commission

Spiny Dogfish Technical Committee

December 19, 2011

Review of the Spiny Dogfish Fishing Mortality Reference Points

Present: Holly White (NC DMR), Angel Willey (MD DNR), Jim Armstrong (MAFMC), Scott Newlin (DE DFW), Matt Cieri (ME DMR), Toby Curtis (NMFS), Carly Bari (NMFS), Eric Schneider (RI DFW), Wilson Laney (USFWS), Greg Skomal (MA DMF) and Chris Vonderweidt (ASMFC Staff).

The Spiny Dogfish Technical Committee (TC) met to review the overfishing definition for spiny dogfish and make recommendations to the Spiny Dogfish & Coastal Sharks Management Board (Board). The call was convened because 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 (Council) updated their overfishing definition in 2009 as part of Framework Adjustment 2 to the Spiny Dogfish Fishery Management Plan (Framework 2). Accordingly, updating the ASMFC overfishing definition may be necessary to establish an F_{target} that maintains the SSB_{target} and reconciles differences between the Council and ASMFC reference points for this complementarily managed species. The TC met in September 2011 but there was insufficient time to review fishing mortality reference points at that time.

The call began with ASMFC staff presenting the TC with the history of the ASMFC overfishing definition and review of the Council's current definition (see attached memo for more detail). In 2002, the ASMFC adopted the Council's target, threshold, and rebuild fishing mortality rates in the ASMFC FMP. The FMP defines the target fishing mortality rate 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". Rebuild is not defined in the ASMFC FMP but was defined in the Council plan as "allowing for the production of 2 female pups per female that recruit to the SSB". Initial values were $F_{target} = 0.082$, $F_{threshold} = 0.11$, and $F_{rebuild} = 0.03$. These estimates were most recently updated in the Northeast Fisheries Science Center's (NEFSC) 2010 Biological Reference Points for Spiny Dogfish Report to be $F_{threshold} = 0.325$ and $F_{target} = 0.207$.

In 2009, Framework 2 revised the Council's status determination criteria to define $F_{threshold}$ 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 does not include a F_{target} value. The August 2011 NEFSC's Estimation of an F_{MSY} Proxy Reference Point for Spiny Dogfish report calculated F_{MSY} as 0.2439.

The TC unanimously recommends the Board initiate an addendum to update the overfishing definition consistent with the best available science and Council's $F_{threshold}$ definition. The TC and Monitoring Committee calculate quotas using an F rate as a starting point and inconsistent $F_{threshold}$ s add to the likelihood of inconsistent state and federal quotas for this complementarily managed species. The TC recommends establishing a less rigid definition based on F_{msy} or a reasonable proxy that allows for adaptive management based on the best available science (Option B below). The TC is in favor of establishing a F_{target} and came up with four possible options that could be included in an addendum. TC

members agreed that F_{targets} provide a metric to measure the performance of management measures that accounts for the current status of a population and recent recruitment (as opposed to comparing landings to a quota). A loose definition (Option D below) could complement the federal plan.

Specifically the TC recommends the following options for $F_{\text{threshold}}$ and F_{target} :

$F_{\text{threshold}}$

- A. Status quo: Allows for the production of 1 female pups per female that recruit to the spawning stock biomass. Currently 0.207.
- B. Consistent with Framework 2 definition: F_{MSY} (or a reasonable proxy thereof) as a function of productive capacity, and based upon the best available science. Currently 0.2439

F_{target}

- A. Status quo: Allows for the production [of] 1.5 female pups per female [that] recruit to the spawning stock biomass.
- B. $F_{\text{target}} = 75\%$ of $F_{\text{threshold}}$
- C. $F_{0.1}$: F level where the slope of the yield curve is 10 % of the slope at $F = 0.0$
- D. The TC will recommend an F_{target} when making annual quota recommendations.



Atlantic States Marine Fisheries Commission

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MEMORANDUM

December 9, 2011

TO: Spiny Dogfish Technical Committee

CC: Spiny Dogfish & Coastal Sharks Management Board

FROM: Chris Vonderweidt, FMP Coordinator *CV*

SUBJECT: Spiny Dogfish Overfishing Definition

In recent years, spiny dogfish quotas were not calculated based on the overfishing target and threshold values as defined in the Interstate Fishery Management Plan for Spiny Dogfish (FMP). Annual quotas have often been set to achieve a lower fishing mortality rate (F) than the target or threshold F values. The Mid-Atlantic Fishery Management Council (Council) 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} that maintains the SSB_{target} and reconciles differences between the Council and ASMFC reference points for this complementarily managed species. The TC met in September 2011 to review updated SSB estimates and make recommendations to the Board for the 2012/2013 quota but there was insufficient time to review fishing mortality reference points at that time. The Spiny Dogfish Technical Committee (TC) will hold a conference call to discuss the overfishing target and make recommendations to the Spiny Dogfish Management Board (Board) on December 19, 2011 at 1:00 p.m. The call in number is (888) 394-8197 and the passcode is 815277. This memo is to provide background and context for that call.

In 2002, the ASMFC adopted the Council's target, threshold, and rebuild fishing mortality rates in the ASMFC FMP. The FMP defines the target fishing mortality rate 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". Rebuild is not defined in the ASMFC FMP but was defined in the Council plan as "allowing for the production of 2 female pups per female that recruit to the SSB". Initial values were $F_{target} = 0.082$, $F_{threshold} = 0.11$, and $F_{rebuild} = 0.03$. These estimates were most recently updated in the Northeast Fisheries Science Center's (NEFSC) 2010 Biological Reference Points for Spiny Dogfish Report to be $F_{threshold} = 0.325$ and $F_{target} = 0.207$.

In 2009, Framework 2 revised the Council's status determination criteria to define $F_{threshold}$ 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 does not include a F_{target} value. The August 2011 NEFSC's Estimation of an F_{MSY} Proxy Reference Point for Spiny Dogfish report calculated F_{MSY} as 0.2439. As such, the Council and ASMFC plans have different overfishing definitions, which could obstruct complementary management of spiny dogfish in state and federal waters.

Historically, target and threshold F definitions and values were immaterial because the ASMFC FMP specifies that the stock will be managed under Frebuild until SSB reaches the target. Accordingly, quotas from 2002 – 2008 were based on Frebuild. The stock was declared rebuilt in late 2008 when SSB 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 Frebuild 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 Frebuild because of concerns that selectivity in SSB estimates were not accurately reflecting the current fishery. The TC noted that results from a TRAC assessment would be available in early 2010 and the Board could increase the quota if the updated information allowed for it. The 2009 TRAC assessment updated key model parameters (including selectivity) and revised the F_{target} and $F_{threshold}$ (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 Frebuild. 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 2009 TRAC gave the TC F_{target} and $F_{threshold}$ values that accurately represented the fishery for the first time since the stock was declared rebuilt. The TC remained uncomfortable using the full $F_{threshold}$ value and recommended the 2011/2012 quota be based on 75% F_{target} because this amount allowed for a considerable increase in quota (5 million pound or 25% increase) and minimized future SSB 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 initially considered this approach to promote consistent quota recommendations between the MAFMC Monitoring Committee (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 Council's $F_{threshold}$. The TC agreed to use an F_{MSY} reduction because the approach would likely allow for consistent future quotas (as opposed to annual fluctuations).

For reasons detailed in this memo, the ASMFC overfishing definition needs review and will be discussed by the TC on December 19, 2011. Please feel free to contact me with any questions (703-842-0740; cvonderweidt@asmfc.org).

M11-94



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfmc.org

Paul J. Diodati, (MA), Chair

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

John V. O'Shea, Executive Director

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

April 13, 2012

Mr. Thomas O'Connell
Director, Fisheries Service
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, Maryland 21401

Mr. John Clark
Fisheries Administrator
Delaware Division of Fish and Wildlife
89 Kings Highway
Dover, Delaware 19901


Dear Mr. O'Connell and Mr. Clark,

I have reviewed the request to transfer an additional 50,000 pounds of spiny dogfish quota from Delaware to Maryland as required by the Fishery Management Plan (FMP). The request is consistent with the FMP requirements; therefore the two states' quotas will be adjusted to reflect the transfer. Through a copy of this letter, I am notifying the Spiny Dogfish and Coastal Shark Management Board of this transfer.

As of April 12, 2012 Delaware had approximately 120,000 pounds remaining (20,769 pounds landed and 50,000 transferred to Maryland in March 2012) from their 2011/2012 allocation. The new allocation for Delaware and Maryland for the 2011/2012 fishing season are 78,306 and 1,278,091 pounds respectively. Section 3.2 of Addendum III also specifies that once quota has been transferred to a state, the state receiving quota becomes responsible for any overages of transferred quota.

Please let me know if you have any questions about this matter.

Sincerely,


John V. O'Shea

cc: Spiny Dogfish & Coastal Shark Management Board

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Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

John H. Clark
Delaware Division of Fish and Wildlife
89 Kings Highway
Dover, DE 19901

April 12, 2012

Dear John,

I am writing to formally request a transfer of 50,000 pounds of Delaware's commercial spiny dogfish quota to Maryland. This transfer will allow Maryland's commercial spiny dogfish fishery to extend further the open season for spiny dogfish.

Thank you for your prompt response to this request. If you have any questions, please call me at 410-693-0875.

Sincerely,

A handwritten signature in black ink that reads "Thomas O'Connell".

Thomas O'Connell
Director, Fisheries Service

*P.S. Our watermen are
very appreciative of
Delaware's support of
our quota transfer
request. Tom*



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
89 Kings Highway
Dover, Delaware 19901

Mr. Thomas O'Connell
Director, Fisheries Service
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, MD 21401

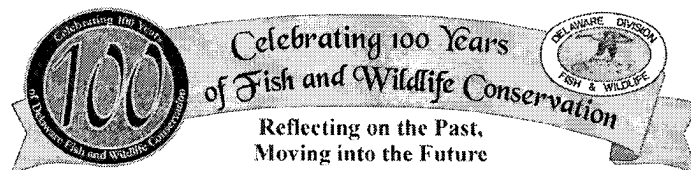
April 5, 2012

Dear Mr. O'Connell,

Delaware Division of Fish and Wildlife authorizes the immediate transfer of 50,000 pounds of Delaware's 2011/2012 spiny dogfish commercial quota to Maryland. Delaware is thus transferring 100,000 lbs. of 2011/2012 spiny dogfish quota to Maryland.

Sincerely,

John H. Clark
Administrator, Fisheries Section





Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfmc.org

Paul J. Diodati, (MA), Chair Dr. Louis B. Daniel, III, (NC), Vice-Chair John V. O'Shea, Executive Director

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

April 3, 2012

Mr. Thomas O'Connell
Director, Fisheries Service
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, Maryland 21401

Mr. John Clark
Fisheries Administrator
Delaware Division of Fish and Wildlife
89 Kings Highway
Dover, Delaware 19901

Dear Mr. O'Connell and Mr. Clark,

I have reviewed the request to transfer 50,000 pounds of spiny dogfish quota from Delaware to Maryland as required by the Fishery Management Plan (FMP). The request is consistent with the FMP requirements; therefore the two states' quotas will be adjusted to reflect the transfer. Through a copy of this letter, I am notifying the Spiny Dogfish and Coastal Shark Management Board of this transfer.

As of March 27, 2012, Delaware had approximately 150,000 pounds remaining (20,769 pounds landed) from their 2011/2012 allocation. The new allocations for Delaware and Maryland for the 2011/2012 fishing season are 128,306 and 1,228,091 pounds respectively. Section 3.2 of Addendum III specifies that once quota has been transferred to a state, the state receiving quota becomes responsible for any overages of transferred quota.

Please let me know if you have any questions about this matter.

Sincerely,

A handwritten signature in blue ink that reads "John V. O'Shea".

John V. O'Shea

cc: Spiny Dogfish and Coastal Shark Management Board



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
89 Kings Highway
Dover, Delaware 19901

Mr. Thomas O'Connell
Director, Fisheries Service
Maryland Department of Natural Resources
580 Taylor Avenue
Annapolis, MD 21401

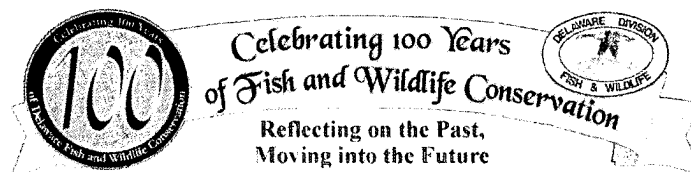
March 26, 2012

Dear Mr. O'Connell,

Delaware Division of Fish and Wildlife authorizes the immediate transfer of 50,000 pounds of Delaware's 2011/2012 spiny dogfish commercial quota to Maryland.

Sincerely,

John H. Clark
Administrator, Fisheries Section





Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

John H. Clark
Delaware Division of Fish and Wildlife
89 Kings Highway
Dover, DE 19901

March 26, 2012

Dear John Clark,

I am writing to formally request a transfer of 50,000 pounds of Delaware's commercial spiny dogfish quota to Maryland. This transfer will allow Maryland's commercial spiny dogfish fishery to extend the open season for spiny dogfish.

Thank you for your prompt response to this request. If you have any questions, please call me at 410-693-0875.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. O'Connell". The signature is written in a cursive, flowing style.

Thomas O'Connell
Director, Fisheries Service