

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

**Crowne Plaza - Old Town  
Alexandria, Virginia  
August 6, 2014**

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**\* ATTENDANCE**

**Board Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)	Lance Stewart, CT (GA)
G. Ritchie White, NH (GA)	Rep. Craig Miner, CT (LA)
Doug Grout, NH (AA)	James Gilmore, NY (AA)
Rep. Sarah Peake, MA (LA)	Tom Fote, NJ (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Adam Nowalsky, NJ, proxy for
Bill Adler, MA (GA)	Asm. Sgt. Andrzejczak (LA)
Mark Gibson, RI, proxy for B. Ballou (AA)	John Clark, DE, proxy for D. Saveikis (AA)
Rick Bellavance, RI, proxy for Sen. Sosnowski	Tom O'Connell, MD (AA)
(LA)	Bill Goldsborough, MD (GA)
David Simpson, CT (AA)	Rob O'Reilly, VA, proxy for J. Bull (AA)

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

**Ex-Officio Members**

**Staff**

Robert Beal  
Toni Kerns

Marin Hawk

**Guests**

Michael Pentony, NMFS  
Raymond Kane, CHOIR  
Sonja Fordham

Leo Arnold  
John Whiteside, Sustainable Fisheries Assn.  
Chris Zeman, NJ, MAFMC

**\* Original Sign-In Sheet not available.  
Names listed here are general recall as  
provided by M. Hawk**

The Spiny Dogfish Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 6, 2014, and was called to order at 3:30 o'clock p.m. by Chairman Mark Gibson.

### **CALL TO ORDER**

CHAIRMAN MARK GIBSON: I'll bring the Spiny Dogfish Board to order. This is the meeting of the Spiny Dogfish Board. My name is Mark Gibson of Rhode Island; and I'm the board chair. The first issue is the agenda; and under other business we'd like to add a report from NOAA Fisheries on the dogfish possession limits.

You will remember that there was a discrepancy or a divergence between the two councils on the recommendation for the possession limit; and, of course, the commission is at 4,000 pounds. I believe there has been a decision made by NOAA Fisheries on the federal possession limits; so we'd like a report from NOAA Fisheries on that.

Is there anything else to add or change in the agenda? Seeing none; is there any objection to approving the agenda as modified? Seeing none; the agenda stands approved with that addition.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN GIBSON: We next have proceedings from our May 2014 session. Are there any requests for edits to those proceedings?

Seeing none; is there any objection to approving those proceedings as presented? Seeing none; the proceedings are approved.

### **PUBLIC COMMENT**

CHAIRMAN GIBSON: The next item is the opportunity for public comment on items that are not on the agenda. No one signed up and I'm seeing no one indicating a wish to speak to the board.

### **DRAFT ADDENDUM V FOR PUBLIC COMMENT**

CHAIRMAN GIBSON: Now we'll move right to Draft Addendum V which we're considering for public comment; and we'll turn to Marin.

MS. MARIN HAWK: This presentation is very brief. Draft Addendum V; today we are considering approving it for public comment. Here is the process. Back in May is when this addendum was developed. As I just mentioned, we review the addendum today and the board approves it for public comment.

Then it goes out to public comment and public hearings, which would be this fall; and then in October we would come back and consider it for final approval. Just a little background; the Shark Conservation Act of 2010 requires all sharks except smooth dogfish be landed with fins naturally attached; and our Spiny Dogfish FMP allows processing at sea as spiny dogfish with a maximum fin-to-carcass ratio of 5 to 95.

The problem with this is that key goal of the Spiny Dogfish FMP is to maintain consistency between federal and state management of the species. Addendum V was initiated to address these inconsistencies. There are two options and just one issue. Option A is status quo; fins of spiny dogfish may be removed at sea. If fins are removed, the corresponding carcasses must be retained. The ratio of the wet weight of fins to dressed weight of carcasses on board the vessel cannot exceed 5 to 95.

Option 2, which is the fins naturally attached policy; removing any fin of spiny dogfish at sea is prohibited, including the tail. Any spiny dogfish must be landed with fins naturally attached to the corresponding carcass. Gutting and processing fish at sea is permitted so long as the fins remain attached by a portion of uncut skin.

If this is approved for public comment, as I mentioned, we would have a 30-day public comment period, hold public hearings in the states that would like public hearings, and reconsider this for final approval in October. That's my presentation.

CHAIRMAN GIBSON: Does anyone on the board wish to comment on the draft addendum before we entertain a motion to move it out for public hearing? I don't see anybody who wants to comment. Would somebody like to make that motion? Terry.

**MR. TERRY STOCKWELL: Mr. Chair, because we're all running late, I move to approve Draft Addendum V for public comment.**

CHAIRMAN GIBSON: Seconded by Rick Bellavance. Any board discussion on the motion? Is there any objection to the motion? **Seeing none; the motion carries unanimously.**

#### **REPORT FROM NOAA FISHERIES ON DOGFISH POSSESSION LIMITS**

CHAIRMAN GIBSON: Okay, under the item we added, NOAA Fisheries, could you speak to us about the possession limit?

MR. MICHAEL PENTONY: As indicated and as you know, as I spoke at the last meeting of the board, we published a proposed rule trying to find a place between the two councils. The Mid-Atlantic Council had recommended a 4,000 pound possession limit for spiny dogfish as part of 2014 and '15 specifications. The New England Council had recommended no possession limit or unlimited catch of spiny dogfish.

We proposed unlimited mainly in an attempt to garner as many comments as possible to inform a decision at either end of the spectrum or somewhere in between. As you all recall, this board considered a motion to increase the commission's possession limit to 7,000 pounds and it failed for lack of super majority; but there was clearly some interest among the state representatives for at least a modest increase in the possession limit.

Actually for a proposed rule on dogfish specifications, we received quite a number of comments on that proposed rule. The final rule will publish on Friday. It has already filed so it is public, but it will publish on Friday, so you can find it in the Federal Register. It is effective

on September 8. In that final rule, we are increasing the quotas for 2014 and '15 consistent with the recommendation of the council and increasing the possession limit from 4,000 pounds per trip to 5,000 pounds per trip.

CHAIRMAN GIBSON: Are there any questions from the board for NOAA Fisheries? Seeing none; we already have a 4,000 pound possession limit. It is my understanding that we wouldn't revisit that until February for the quota specifications – possession limit specifications in February of 2015. When does the federal limit take effect?

MR. PENTONY: September 8.

MR. DAVID V. BORDEN: Mr. Chairman, I'll make this really brief. The problem that this sets up is once again we end up with a disconnect between the state and the federal regulations. The addendum we just approved for public hearing; one of the goals is to make consistent state and federal regulations. It's an awkward position.

We had this vote at the last meeting and I won't go back and regale anyone with the agony of the vote. If anyone that voted on the negative side of that vote or abstained on that vote was willing to change their position, then we could make a motion to increase the possession limit to 5,000 pounds and have consistent regulations. Thank you.

CHAIRMAN GIBSON: I'm not sure we have time on the agenda nor does the agenda contemplate a substantive action or reconsideration of that. I'm not seeing anybody – Walter.

REPRESENTATIVE WALTER A. KUMIEGA, III: Would it be out of order or out of policy to include that in the addendum that we just voted – to reconsider the addendum and include that?

MS. TONI KERNS: The board can change their specification that they set; and because you're not in the same meeting, you don't need the person that was on the prevailing side. You can just revisit your quota or your trip limit. You have the ability to set trip limits through board

action so it doesn't be through the addendum process. If it's the will of the board to change the trip here today, then it is a possibility.

CHAIRMAN GIBSON: Mike, you said this becomes effective in September. David Pierce.

DR. DAVID PIERCE: It was my understanding that the state of Rhode Island is putting together a proposal regarding trip limits. I thought that was going to be offered up today; but apparently you're not quite ready; so I assumed that you were going to bring it forward at our annual meeting. Therefore, it makes sense to me to wait on trip limits until the annual meeting when Rhode Island will have a proposal to bring forward and then we can discuss that.

I would not want to make a change in the limit today and then make another change in the limit or the approach in a month and a half of so. That would be my suggestion; that the board wait until Rhode Island offers up what it is preparing and then we can discuss that. Of course, at that time we get the input from the processors, from the fishermen up and down the coast, and they'll made aware ahead of time of what might happen as opposed to a relatively small increase that frankly isn't worth the effort to go through in terms of regulatory changes and the like. That would be my suggestion, Mr. Chairman. I know that you and David Borden and others are working on this, so I'd like to see what you're going to be presenting.

CHAIRMAN GIBSON: Yes, certainly this decision complicates the viability of our proposal given that we were talking about an aggregate weekly limit, which would now be precluded with the exception of state fishermen. I certainly like that advice that Rhode Island certainly needs some more time to think about how we should react to that. I would be very nervous about the board jumping into this issue right now again. It is up to the board, though. John, you wanted to speak to this.

MR. JOHN CLARK: Mr. Chair, I just had a quick question. I just wanted to make sure that we're just talking about the states that are covered by the possession limits in the plan and

that's Maine through Connecticut, correct, that you're –

MS. HAWK: The northern region has a trip limit that is 4,000; so this would be yes.

MR. ROB O'REILLY: I know based on last April when there was a conference call, well attended by industry, that the 5,000 is probably not even a middle ground, but it's getting close. I know in Virginia the struggle right now is even a little different than the federal/state imbalance. It is a situation where in order to gain harvesters, you need something more than 4,000.

I'd be in favor of waiting until October, but I think we all had a pretty good discussion about just what is involved in terms of moving forward. The situation in Virginia, from what I understand, is one where you have to entice the harvesters a little bit to make sure you can get the product on top of all the other situations that we know about.

MR. DOUGLAS E. GROUT: I just want to make the point that it was more than just Rhode Island that was interested in having an increase in the trip limit here. While I respect the fact that Rhode Island is trying to put together a proposal, we're not trying to put together a proposal. We would just like to be able to have a 5,000 trip limit.

We were hoping higher, but even 5,000 pounds will help because as was put together in public comment for us, right now a 4,000 pound trip at the prices they were getting is not economically viable, particularly during the winter when there is not other species associated with that trip. I would like to at least try right now to see if we can increase trip limit to 5,000 pounds. **I'm going to make a motion to increase the trip limit to 5,000 pounds; and if I can get a second.**

CHAIRMAN GIBSON: Is there a second to that motion; Terry Stockwell. I'm advised that this will require a two-thirds majority roll call vote. The motion is to increase the trip limit to 5,000 pounds in the northern region. Motion by Mr. Grout; seconded by Mr. Stockwell. Rick.

MR. RICK BELLAVANCE: Mr. Chairman, I just had one quick question. Is it something that would be important to put a time of effectiveness on that to coincide with the federal action or just leaving it the way it is?

MR. GROUT: I could go either way. I think we could make it effective right now. Okay, for the purpose of remaining consistent with our federal counterparts, we'll have it effective September 8.

CHAIRMAN GIBSON: Are there any other comments on the motion? David Borden.

MR. BORDEN: Mr. Chairman, rather than have all of us repeat what we did at the last meeting, I would suggest that we limit the debate here and allow for like a one-minute caucus or a two-minute caucus so we can talk to a few people and then call the question. Thank you.

CHAIRMAN GIBSON: I'm going to go to the audience given that this is sort of an unexpected outcome of the board meeting for me anyway. Does anyone in the audience wish to comment on this motion? Yes, sir.

MR. JOHN WHITESIDE: Attorney John Whiteside representing the Sustainable Fisheries Association, who are the three processors in Massachusetts still doing spiny dogfish. We would be in support of the 5,000 pound trip limit whether it was at this point or at the next meeting.

CHAIRMAN GIBSON: Anyone else wish to comment? Seeing none; I'll go back to the board; have you had enough time to discuss this? Representative Peake.

REPRESENTATIVE SARAH K. PEAKE: I'd just like to support the comments made by my colleague earlier. I think we're going to have a more comprehensive discussion over trip limits in October and rather than nibble away at it now and then look at something perhaps larger with the Rhode Island Proposal in October, I think we should let sleeping dogs lie – every pun intended – for now and just take this up at the October meeting. Thank you.

CHAIRMAN GIBSON: Anyone else from the board? Dave Borden.

MR. BORDEN: Just so everyone is clear, the context of the Rhode Island discussions is to come up with a conservation equivalency proposal that operates within the context of whatever trip limit is in place. If this board authorizes 4,000 pounds, we're going to try to craft a Rhode Island Proposal around that or if it's 5,000 pounds we're going to craft a proposal around 5,000 pounds. They're really separate issues. Thank you.

CHAIRMAN GIBSON: Okay, I'm going to have Marin call the roll. Is there any objection to the motion? Yes, there is.

MS. HAWK: Maine.

MAINE: Yes.

MS. HAWK: New Hampshire.

NEW HAMPSHIRE: Yes.

MS. HAWK: Massachusetts.

MASSACHUSETTS: No.

MS. HAWK: Rhode Island.

RHODE ISLAND: Yes.

MS. HAWK: Connecticut.

CONNECTICUT: Yes.

MS. HAWK: New York.

NEW YORK: Yes.

MS. HAWK: New Jersey.

NEW JERSEY: Yes.

MS. HAWK: Delaware.

DELAWARE: Yes.

MS. HAWK: Maryland.

MARYLAND: Yes.

MS. HAWK: Virginia.

VIRGINIA: Yes.

MS. HAWK: North Carolina. (No response)  
U.S. Fish and Wildlife Service.

U.S. FISH AND WILDLIFE SERVICE:  
Abstain.

MS. HAWK: NOAA Fisheries.

NATIONAL MARINE FISHERIES SERVICE:  
Yes.

CHAIRMAN GIBSON: **The motion carries  
ten yes, one no, one abstain, one absent.**

#### **ADJOURNMENT**

CHAIRMAN GIBSON: Anything else to come  
before this board? Motion made to adjourn and  
seconded by everybody. We are adjourned.

(Whereupon, the meeting was adjourned at 3:50  
o'clock p.m., August 6, 2014.)

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