

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

**Atlantic Sands Hotel  
Rehoboth Beach, Delaware  
October 22, 2008**

Board Approved: February 2, 2009

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## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of August 21, 2008 by consent** (Page 1).
3. **Motion to maintain status quo in the smooth dogfish fishery and monitor the landings** (Page 5). Motion by Bill Johnson; second by Tom O'Connell.

**MOTION REWORDED ON PAGE 5: Move to maintain status quo, no trip limit, in the smooth dogfish fishery and continue to monitoring. If the three-year running average of landings exceeds 25 percent in a given year, it triggers board review and consideration of action.** Motion carried on Page 5.

4. **Move to; (1) retain the current north and south regional splits of the spiny dogfish quota; (2), allocate 16 percent of that quota to North Carolina; (3) deduct the North Carolina quota from the southern 42 percent share with the balance being unallocated to the other southern states (New York through Virginia); and, (4), retain the 58 percent northern share of the dogfish quota with no portion being allocated to any individual state (Maine through Connecticut) at this time** (Page 13). Motion by David Pierce; second by Jack Travelstead.

**ABOVE MOTION REWORDED ON PAGE 17: Move to, (1) retain the current north/south regional split of the spiny dogfish quota; (2) allocate 16 percent of the quota to North Carolina; (3) deduct the North Carolina quota from the southern 42 percent share with the balance being available to the other southern states (New York through Virginia); (4) retain the 58 percent northern share of the dogfish quota with no portion being allocated to any individual state from Maine to Connecticut at this time; five, when the quota allocated to a region or North Carolina is exceeded, the amount over the allocation will be deducted from the corresponding region in the subsequent fishing year.** Motion carried (Page 17).

5. **Move that the board approve a 12 million pound quota for the 2009/2010 fishing season and also approve possession limits for the 2009/2010 fishing season to be set at a maximum of 3,000 pounds** (Page 26). Motion by Pat Augustine, second by Vito Calomo. Motion carried (Page 27).
6. **Move that the current fishing year quota have an in-season adjustment from 8 to 12 million pounds to be distributed according to the approach just adopted for Addendum II (Page 27).** Motion by David Pierce; second by Mike Johnson. Motion failed (Page 29).
7. **Move that the current fishing year quota have an in-season adjustment from 8 to 10 million pounds to be distributed according to the approach just adopted for Addendum II (Page 29).** Motion by Vito Calomo; second by Pat White. Motion failed (Page 31).
8. **Motion to adjourn by consent** (Page 32).

## ATTENDANCE

### Board Members

T. Stockwell, ME proxy for George Lapointe (AA)	Roy Miller, proxy for Patrick Emory, DE (AA)
Pat White, ME (GA)	Bill Goldsborough, MD (GA)
Doug Grout, NH (AA)	Tom O'Connell, MD (AA)
Ritchie White, NH (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Dennis Abbott, NH (LC)	Kyle Schick, VA, proxy for Catherine Davenport (GA)
Paul Diodati, MA (AA)	Steve Bowman, VA (AA)
William Adler, MA (GA)	Louis Daniel, NC (AA)
Vito Calomo, MA, proxy for Anthony Verga (LA)	Bill Cole, NC (GA)
Mark Gibson, RI (AA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
David Simpson, CT	John Frampton, SC (AA)
Fred Frillici, CT, proxy for Lance Stewart (GA)	Robert Boyles, SC (LA)
James Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Pat Augustine, NY (GA)	Spud Woodward, GA (AA)
Brian Culhane, NY proxy for Sen. O. Johnson	John Duren, GA (GA)
Peter Himchak, NJ, proxy for David Chanda (AA)	Mitch Needleman, FL (LA)
Erling Berg, NJ (GA)	Margo Schulze-Haugen, NMFS
Gil Ewing, NJ, proxy for Asm. Fisher (LA)	Harry Mears, NMFS

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

### Ex-Officio Members

John Tulik, Law Enforcement Committee Chair

### Staff

Chris Vonderweidt  
Robert Beal

Brad Spear  
Vince O'Shea

### Guests

Jack Travelstead, VMRC  
Kelly Place, VA  
Sean McKeon, NCFA  
Red Munden, NC DMF  
Patricia Kurkul, NMFS  
Wilson Laney, USFWS  
Greg DiDominico, GSSA  
Scott MacDonald, Spot Fish Co., VA  
Bob Ross, NMFS  
Dan McKiernan  
Susan Olsen, NMFS

Rob Winkel, NY State Fed. of Sportsman's Club  
Tom McCloy, NJ DFW  
M.C. Bambery, AFWA  
Chris Rilling, NMFS  
Angel Bolinger, MD DNR  
Eric Brazer, CCCHFA, MA  
Janice Plante, Commercial Fisheries News  
Chip Lynch, NOAA  
Michelle DuVal, NC DMF  
Dr. David Pierce, MA DMF  
William Sharp, FL FWC

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Swan Ballroom of the Atlantic Sands Hotel, Rehoboth Beach, Delaware, October 22, 2008, and was called to order at 9:45 o'clock a.m. by Chairman Louis B. Daniel, III.

### **CALL TO ORDER**

CHAIRMAN LOUIS B. DANIEL, III: Good morning. If everybody will take their seats, we will begin the Spiny Dogfish and Coastal Management Board. You should have all of your materials at hand. I would like to thank everybody for being here timely.

### **APPROVAL OF AGENDA & PROCEEDINGS**

CHAIRMAN LOUIS B. DANIEL, III: The first items that we need to dispense with are the approval of the agenda and the proceedings by consent. Are there any comments or changes to the agenda or the minutes? Seeing none, with consent they are approved.

### **PUBLIC COMMENT**

CHAIRMAN LOUIS B. DANIEL, III: The next item on our agenda is public comment. Is there anyone from the audience that would like to speak? Seeing none, we will move right into our agenda to review the smooth dogfish management measures.

### **SMOOTH DOGFISH MANAGEMENT MEASURES REVIEW**

CHAIRMAN LOUIS B. DANIEL, III: I am going to ask Chris to put up on the screen what we looked at last meeting, and then I'll give a brief introduction on this issue.

Let me just remind you all of this issue. You should have all received an e-mail from me about concerns regarding the thousand pound trip limit that we approved in the specifications for smooth dogfish and the assumption that it would maintain status quo. I have heard from several states and a lot of fishermen concerning the impacts of that thousand pound trip limit.

In fact, it would essentially eliminate the directed fishery for smooth dogfish for a lot of our states, and I don't believe that was the intent of the board when we approved the thousand pound trip limit under the guise of status quo. That is the reason why I asked that this issue be brought back up for discussion at the board to make certain that we understood what we did last meeting and make any necessary corrections if the board deems it appropriate. Chris.

MR. CHRISTOPHER VONDERWEIDT: Thank you, Mr. Chairman. The letter from North Carolina explaining their predicament was on the CD, and also staff is handing out the report from the technical committee that was on the CD at the last meeting. You can look at this just as a reference, and I'm just going to go through the exact same presentation that was given by Dr. Musick at the last board meeting. You'll notice his name on the title slide.

It was a very long meeting. The specifications were set at the end so this is just for a refresher. Basically, the technical committee wanted to set precautionary limits that would not impact significantly the existing fishery. Some of the issues here are that fishermen have been intercepting primarily female smooth dogfish, and the technical committee is worried that it might get into the same predicament as with spiny dogfish.

The life cycles are different, but removing that female portion of the population over and over again has created a discrepancy between the science and what the fishermen see, the amount of fish versus the amount spawning stock. In the absence of an assessment they felt that the best way to cap this is to look at the trip limits and maybe contain the effort that way.

What was done was an analysis of the trip data from 1994 through 2007. All this data came from the ACCSP Data Warehouse, so it only included landings that were in that database. What they did is they started by looking at the mean landings per trip that were less than 500 since 2001. Pretty much right away they realized that this is not the most appropriate way to go at it because what is a directed trip, what is the threshold level that would be appropriate to use as the cutoff, taking the average, because you're going to have those low numbers included in there, and then it's going to pull down the maximum.

So they basically said, "We're not going to use the average of any kind. We're just going to look at the frequencies, how many trips were landed at certain levels, so the two that made the most sense to the technical committee to look at were 500 pounds and less and then 1,000 pounds and less. After looking at the frequencies of trips, just the number of trips that landed that amount or higher, 88 to 90 percent of all trips from this data source were less than 500 pounds, and 93 to 95 percent of all trips were below a thousand pounds.

If you look at this figure here, this is the frequency of landings, and here is the thousand pounds right here, and basically these are the trips that landed more than a thousand pounds, and then everything to the left falls below that. The recommendation was a thousand pound maximum trip limit based on the fact that it would cover between 93 and 95 percent of all the existing trips over the last three years, '04 through '07, while being precautionary and trying not to push anybody out of this fishery.

They did throw around the idea of the 500 pound trip limits having a greater impact to the stock, but I don't think that is really going to be discussed today. That's simply a factual review of what was done to get that recommendation, and the board set the possession at a thousand pounds at the last meeting based on this information.

CHAIRMAN DANIEL: Thank you, Chris. Questions for Chris? Dave.

MR. DAVID SIMPSON: I guess 5 to 7 percent of the trips are a thousand pounds or greater. What proportion of the landings comes from those trips?

CHAIRMAN DANIEL: Based on some analysis that was done for North Carolina, about 20 percent of the landings are with trips greater than a thousand pounds. I can't speak for the other states, but we have a lot of 20 and 30,000 pound trips in North Carolina, and I understand Virginia as well, from talking to Virginia, but those are the only two states that I'm aware of, Dave. What is your pleasure? Jack.

MR. JACK TRAVELSTEAD: Thank you, Mr. Chairman. You're certainly right, this applies equally to Virginia as it does to North Carolina. Obviously, a thousand pound trip limit is

certainly precautionary, but as I recall it was presented to us at the last meeting what we were attempting to do with the trip limit was to more or less maintain status quo, and what we actually have achieved is elimination of the directed fishery on smooth dogs with a 1,000 pound trip limit.

It's certainly going to allow a lot of bycatch trips to continue to occur, but the directed fishery in Virginia typically lands around 3,000 pounds per trip. I'm not sure that a trip limit is the way to go to maintain status quo with the way the fishery is prosecuted in Virginia and then even differently in North Carolina.

I don't think you can come up with one trip limit to sort of maintain that status quo. I think we ought to think about perhaps setting some type of trigger on landings that would allow the fishery to move forward the way it has been, but if it exceeds some level of average recent landings, that that would trigger further action by the board down the road.

MR. PETER HIMCHAK: Thank you, Mr. Chairman. I would just like to add in that at the Spiny Dogfish Forum in Philadelphia this issue was brought up by a couple of New Jersey fishermen as well insofar as the thousand pound trip limit didn't represent, in their instance, the status quo. It had a severe impact on them. It appears that it's a small but certainly a substantial part of the landings. Thank you.

MR. TERRY STOCKWELL: Thank you, Mr. Chair. I'm certainly not in favor of eliminating another directed fishery. Have the landings remained somewhat consistent over the last three or four years? We're starting to look at a potential for a cap.

CHAIRMAN DANIEL: I can speak to North Carolina. At least from there, yes, they have. I mean our range over the last three years has been between about 620 to 630,000 pounds, so it's not at the level that the spiny fishery was, obviously, but it has been very consistent for us for the last three years. I can't speak to the other states' landings.

MR. STOCKWELL: And the number of harvesters remains fairly consistent?

CHAIRMAN DANIEL: They've actually, like everything else, have gone down pretty

dramatically, actually, from 221 in 1995 to 98 in 2007, so over a 50 percent reduction in the number of fishermen participating in this fishery. For those of you that aren't aware of this fishery, it is, for some, a high-volume fishery. They cut the fish at sea and brine them. It's a very labor-intensive practice. I don't think we're going to see a lot of people get into it because it is so labor-intensive, but for the guys that are involved in it, it is a major portion of their income.

MR. VONDERWEIDT: Terry, I just pulled up the commercial landings. This is just coastwide, but it looks like it's around 1.4 or 1.5 million. Well, it fluctuates from 1.4 to 1.6, so about 1.5 million since 2002 to 2007 coastwide. As far as by state, I don't have that in front of me.

CHAIRMAN DANIEL: It looks like very consistent landings, very little variation in the last five years on the landings of smooth dogfish. Mike Johnson.

MR. MIKE JOHNSON: Thank you, Mr. Chairman. Looking at the room this morning, I don't see a lot of people that think we have a real problem other than hooks. We have a real problem, but I think the solution to this for us in North Carolina would be to go back to maintain status quo and monitor, and I would be willing to make a motion that we do that, if you're ready for one.

CHAIRMAN DANIEL: Absolutely; it always facilitates discussion to have a motion on the table. I have got a motion from Mike Johnson to maintain status quo in the smooth dogfish fishery and monitor the landings. Is there a second?

MR. THOMAS O'CONNELL: Second.

CHAIRMAN DANIEL: Seconded by Tom O'Connell. Further discussion on the motion? Pete.

MR. HIMCHAK: I have two questions. One is that voting on this motion; would it not procedurally require two-thirds to overturn –

CHAIRMAN DANIEL: That is correct.

MR. HIMCHAK: Okay, and then the other question is could we clearly define "status quo" in the motion?

CHAIRMAN DANIEL: Status quo meaning no trip limit. Pat White.

MR. PATTEN D. WHITE: I guess that answers my question, and I don't know if we need to be more specific about it than that, but for me it has to be that there would not be a trip limit.

CHAIRMAN DANIEL: I believe that's the intent of the motion maker. Mr. Johnson.

MR. JOHNSON: Absolutely, that is the sole intent.

MR. TRAVELSTEAD: Obviously, in support of the motion I don't want to amend it, but I would just add that we should encourage our technical committee or plan review team to continue to monitor the situation; and if they note any changes, to bring them back to us as quickly as possible.

One last point; I think part of the reason we're in the predicament that we are with this is that the specification that was offered at the last meeting did not get a review by the advisory panel. I think that was just an oversight and the speed with which we were moving ahead on these issues. I would just request that in the future these things get pushed by the advisory panel for review before they come to us.

CHAIRMAN DANIEL: That's an excellent point and one I meant to make myself. Mr. Miller.

MR. ROY MILLER: Thank you, Mr. Chair. Just taking off on something that you mentioned; would we want to consider some trigger for additional board consideration in this motion; something like if landings exceed the three-year average by 25 percent or something of that nature, it would trigger board consideration in the following year, something of that nature.

CHAIRMAN DANIEL: Based on the report from the technical committee and their concerns, I think that would be – I personally believe that would be appropriate as a specification to the monitoring requirements that if the landings exceed the three-year average by 25 percent, that would kick in some further review by this board, if that's desire of the board. We can set it up to where it is on an annual review; set it for five years and just say that we're going to monitor it and have an annual review of the landings, and

then we can make the decision ourselves when we get the landings' data in on an annual basis. Mark.

MR. MARK GIBSON: Mr. Chairman, I note in the technical committee information that was passed out they noted a decline in the mean landings per trip in the past few years and suggested that to be a symptom of a declining stock. My question is do we have – is that data here; does Chris have that and can he comment on the likelihood that landings per trip are related to stock size as opposed to regulatory changes and that sort of thing? That seems to be the only piece of information we may have on stock status.

MR. VONDERWEIDT: To answer your question, not really. What is contained in that report was done mostly by Greg Skomal, who is the new technical committee chair. We were hoping that he was going to come this morning, but you know how the Bay Bridge traffic can be and all that. If the board so wished, there could be a further analysis done by the technical committee to answer some of these questions. I think the fact that there is no assessment and no hard analysis of any of this kind of leaves some of these questions.

CHAIRMAN DANIEL: I have that analysis, Mark, and I think one of the issues was the way the analysis was done by the technical committee by using all trips and not defining the directed smooth dogfish trips. It makes a huge difference in the analysis. If you look at just trips that landed smooth dogfish, any amount of smooth dogfish, there does appear to be some decline in the catch-per-unit effort.

But if you define a smooth dogfish trip as a trip that catches a hundred pounds or more of smooth dogfish, the CPUEs are actually very flat and have inflected up in the last couple of years. It make a big difference how you do the analysis both to determine the appropriate trip limits if you want to set them and determining how the fishery operates.

MR. GIBSON: Can I follow up on that? That's what would be expected if you have hyperstability, that those that are fishing for the fish know where to go find them; whereas, those that are just running into them, their CPUE is more likely to be related to abundance than those that are actually searching for them.

I would just point out that we had some discussions earlier about what to do in the face of lack of stock assessment information in terms of precautionary principles and so on, and this doesn't seem to be moving in that direction.

CHAIRMAN DANIEL: Further discussion on the motion? Jack.

MR. TRAVELSTEAD: Just another point related to the motion; is the one-fish recreational limit in the plan on smooth dogfish? I guess I'm wondering how this motion affects that, if at all.

MR. VONDERWEIDT: The possession limit for the recreational fishery is one permitted species, which could be a smooth dogfish, and then in addition to that you could have a second smooth dogfish, so potentially any recreational fisherman could have two or a vessel could have one, and then all the fishermen on the vessel could in addition have one, so two is the maximum that they could have and this would not impact the commercial regulations at all.

MR. TRAVELSTEAD: Okay, so the motion applies only to the commercial sector at this point?

CHAIRMAN DANIEL: That I think is the intent. Yes, from the motion maker, it is. Further discussion on the motion? Vito.

MR. VITO CALOMO: Thank you, Mr. Chairman. I was just reading the same thing here that also no decline in mean landings per trip in the past few years. I don't quite understand. Does that mean per vessel or does that mean per average trip of all vessels that landed that time?

MR. VONDERWEIDT: That's per vessel; per one vessel trip, the average of that.

MR. CALOMO: You've answered my question; thank you.

CHAIRMAN DANIEL: Further discussion or questions on the motion? Roy.

MR. MILLER: Mr. Chairman, having heard the uncertainties we have in defining what is a smooth dogfish trip and therefore catch per trip as something that we should use as a trigger, it sort of, by default, leaves us with landings to use as a trigger. I wonder if the maker of the motion



would view as a friendly amendment the addition of some wording to the effect of if a three-year running average is exceeded by 25 percent, then that would trigger board review in the subsequent year.

CHAIRMAN DANIEL: To the maker of the motion.

MR. JOHNSON: I don't see anything at all wrong with that. That goes to the monitoring part and it just gives us a trigger, so I would say that would be a prudent thing to have in it.

CHAIRMAN DANIEL: And the seconder is okay with that? Okay, thank you, Roy, that is included in the motion. Any other questions or comments about the motion? If not, I'll read it: Move to maintain status quo, no trip limit in the smooth dogfish fishery and continue to monitoring. If the three-year running average of landings exceeds 25 percent in a given year, it triggers board review and consideration of action. Ritchie.

MR. G. RITCHIE WHITE: Thank you, Mr. Chair. Is the intent to only review when there is 25 percent over or would the board want the option of reviewing if it's less than 25 percent? You just might want to clarify that.

MR. ROBERT E. BEAL: Each year the board will get the FMP Review, which will have the landings in it, so the board is going to hear what the landings are each year. Either way, I think this trigger is just something that will have the plan review team highlight that the board may want to consider action here based on this trigger. So, with or without this clause in the motion, the board will get a read every year on how things are going.

CHAIRMAN DANIEL: Thank you, Bob. Anything further? I don't think I need to read again. We'll take a minute to caucus.  
(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, are we ready? Remember, we need a two-thirds majority to override the previous specifications. All those in favor, signify by raising your right hand; opposed, same sign; abstentions, 2; null votes. The motion carries 12 to 1. I guess the assumption would be that this would be an annual specification because we'll have to

review it for the coastal sharks next year as well because those are annual specifications.

MR. VONDERWEIDT: They were set for five years.

CHAIRMAN DANIEL: They were set for five years. Without objection, we did the thousand pound trip limit for a five-year period of time, so it would be my assumption that the intent would be to maintain this for five years, like the other specifications, but we will review it if the trigger is met. Is that the understanding of the board? Mark.

MR. GIBSON: I just suggest that there be some thought given to how this moving average is computed relative to the landing year of interest. It's not clear to me whether the landing of record that you're looking at for a trigger is imbedded in the moving average and not whether it's the three years prior to that or the three years including the one of record.

It may bear on whether or not the trigger can actually be activated or not if the year of record is included in the average, so there needs to be some thought given to that. I didn't want to tangle up the motion any worse, but we need to think about how that's going to be computed and the comparison is going to be done.

CHAIRMAN DANIEL: Yes, I would say the three previous years to the year in question to avoid that incestuous relationship, to quote my friend Vic Crecco. Anything else on this issue? All right, let's move into our addenda, and we'll take them in order, so we'll start with Addendum II. Chris will give us the public hearing summary.

## **DRAFT ADDENDUM II AND III**

### **PUBLIC HEARING SUMMARY**

MR. VONDERWEIDT: I was just going to give the public hearing summary for – I mean, the way it's set up.

CHAIRMAN DANIEL: Just the whole thing; that's fine.

MR. VONDERWEIDT: Thank you, Mr. Chairman. Right now staff is handing out two documents. One of the documents contains the

updated landings, including state landings, from 2003 through 2007. There is a table in there, and the only change is for Option H, which is the 2000 to 2007 years. It shows what the changes were with the new data.

There is a landings' table that has – the state landings shaded in gray are the states that had changed landings. Delaware turned in landings; however, they contained single minimum and single maximum values, either/or for certain years, so they weren't included. It changed the three-year landings by 41 pounds, so I don't think it would have changed the landings either way.

And also included – and this wasn't included in the original addendum, and it seemed like something the board might want to look at through the consideration, but it's just the coast-wide landings from 1981 through 2007. There was a lot of talk about what the heyday of the directed fishery was, so there is landings' information for you to consider. I'd also like to point out that the public comment didn't end until Thursday so that's why you haven't seen any of this information until right now.

That being said, I'll probably go into a little bit more detail than you're used to seeing, but I'll try and move it right along. I'm going to start with a refresher of Addendum II and Addendum III and then just go into the hearings. Addendum II is the one where you're just using a regional allocation instead of the semi-annual quota allocation as we're doing right now.

There is Option A and Option B. There would be paybacks by region, north-south, instead of the seasonal allocation right now. Addendum II is more complicated. There are three issues here. There is the minimum threshold or the amount that would be allocated to states before the base year percentages were given out. Issue 2 is what base years should be used for the state quotas. Issue 3 is whether or not transfer of quota should be allowed.

For Addendum III there is a variety of options. For the minimum threshold, it's from 1 percent to all states; 25 percent to all states, and then added at the last board meeting was 1 percent to Delaware and 1 percent to Connecticut because these states haven't harvested 1 percent over this time period, since status quo.

For the base year options there is a variety of base years, and I'll let you refer to the actual documents for that rather than wasting your time, but they include all the years 1981 through 2007. The final part of Addendum III is whether or not to allow quota transfer. It's pretty simple.

The public hearing summary, which is a document that was just handed out to you, the writeup goes chronologically. I am going to go geographically starting from north to south. In New Hampshire, which was actually the last hearing last Wednesday, they prefer the Addendum II regional quotas. If they had to choose one addendum, they would choose Addendum II. However, they were concerned with regional overages because of one state and then the whole region gets penalized for that.

They would like to see some kind of state payback provision included as far as the logistics, and how this would happen they didn't really specify it, but they would like it if states would be held accountable for any overages. Addendum III was not preferred. I just want to make this perfectly clear. However, they did give a lot of input into the options included in this addendum; and you listened to the hearing recording for the first 60 percent of it, you would think that they were going to go with Addendum III.

So, basically, Addendum is not preferred, and one of the big reasons here is because the landings do not tell the whole story of the fishery and how it should be allocated. A lot of states were fishing in other states and then landing in other state ports. It might have been fishermen from the north landing in the south, and then the south gets credit for that.

They were generally okay with the 1 percent threshold allocation to Delaware and Connecticut. They thought that '94 through 2007, which is Option E, was the best because it encompasses the large-scale fishery and it has a large percentage for a large number of states. They would also like to allow quota transfer of the state quotas.

Massachusetts, there was no clear preference stated for Addendum II or Addendum III. Generally they felt that Addendum II, the regional allocation was better than the current seasonal allocation. They felt that the northern

region should be held accountable or be locked into that 58 percent if that is what the intent was.

As far as Addendum III they were generally okay with 1 percent for Delaware and 1 percent for Connecticut threshold. They liked Option H; and clearly put it gives them the largest quota. They said they would accept – and I've got it in quotes because I thought it was put forward – they would accept Option C, '88 through '99. They were not opposed to quota transfer. They obviously don't want to lose dogfish that were allocated to them.

They also felt the landings' data was an inappropriate indicator. They felt that there were a lot of fishermen from Massachusetts that went south to other states and fished and then landed in the southern states, and so the southern states are getting credit for the effort and the work of Massachusetts' fishermen.

New York, they prefer Addendum II. I wasn't at this hearing. Thank you to Toni Kerns for running it for me and also thanks to Bob for running Virginia. They prefer Addendum II. They would like a north-south split instead of the 58/42 proposal. They would also like quota transfers between the different regions. They didn't really specify the logistics of how they would handle that.

New Jersey, if they were going to choose between the addenda, they would go with Addendum III. They would choose a 1 percent threshold for Delaware and Connecticut. They also like the base years "94 through 2000. They felt that this is when the large-scale directed fishery existed. They would like to allow quota transfer. Addendum II was their preferred alternative, but they think that the regional allocation is better than the current system.

Maryland prefers Addendum III. They would not like to have a threshold. They would like to stay status quo, Option F. Their first choice would be 1981 through 1999, which is Option A. The second choice would be 1990 through 1997, which is Option F. The justification for Option F that they gave was that it encompasses the heyday of the fishery, and these years were used as the base years in the past. It was used in the FMP. They would like to allow quota transfer. They don't prefer Addendum II, but they do think it's better than status quo. They would like

to have some kind of a regional payback included.

Virginia, Bob ran this one, thanks, Bob. They prefer Addendum II over Addendum III. Basically all of the base years under Addendum III would put these fishermen out of the fishery. They would be out of business. What they would like to do is they would like to work out some kind of agreement amongst the states in the southern region. They kind of I guess understood they have had an advantage geographically as far as proximity to the processors.

They would rather work that out than go with a quota allocation system that puts them out of the fishery. They also felt the landings' data is a bad indicator of fishing effort. We've heard this from a few other states that fishermen from other states were landing in states where the fishermen weren't fishing and those states are getting credit for it. Also, with cutbacks in other fisheries in Virginia, these fishermen need the dogfish fishery to survive.

The North Carolina hearing was by far the largest turnout of any hearing that I attended. They had a second hearing, which I heard there was a lot of contention at and a lot people. Basically, the hearing that I went to, the buzz words were "16 percent" and "1.4 million pounds". Since the implementation of the plan, the North Carolina fishermen haven't really been able to fish. They just want to go fishing.

They prefer Addendum III because it gives them a guaranteed amount of landings. With Addendum III they would like to see no threshold. They like Option E, which is 1994 through 2007. They would like to allow quota transfer within the state quotas. Addendum II, it doesn't guarantee them a cut of dogfish so they're opposed to that.

To kind of summarize what are some of the common themes of these different hearings – and it's split right down the middle as far as who prefers which addendum. Three of the six prefer Addendum II and three of the six prefer Addendum III. Generally, Addendum II, actually all across the board, everybody that commented on it thinks that the regional system is better than the current semi-annual quota allocation that we use now, but it's not preferred by all. I just want to make that perfectly clear.

All the people that liked Addendum III, not surprisingly, everybody likes the base years. It gives them the largest percentage. There was the most support for the 1 percent Delaware and 1 percent Connecticut threshold. There was basically no support for any of the other thresholds. You know, this could be a symptom that we didn't hold the hearings in the states that don't have landings right now.

There was a lot of talk that landings is an inappropriate indicator of fishing effort and that there are going to be people in certain states that are getting credit for the work that the other states did during the time of the large-scale directed fishery. Of the state-by-state allocation base years, it's not overwhelming. I think it's about three out of seven, but there was the most support for 1994 through 2000, Option E. Across the board everybody is for allowing the flexibility of quota transfer. Before I go into the advisory panel and written comment summaries, are there any questions?

CHAIRMAN DANIEL: Good job, Chris. Questions for Chris on our public hearings? Yes, Doug.

MR. DOUGLAS GROUT: I have a question the North Carolina hearing. You said they didn't approve – no threshold. What is the threshold? You said preferred Addendum III, no threshold.

MR. VONDERWEIDT: Yes, that would be the status quo, Option F, to have no threshold allocation before the base years.

CHAIRMAN DANIEL: Anything else before we go into the advisory panel? Chris.

#### **ADVISORY PANEL RECOMMENDATIONS**

MR. VONDERWEIDT: Thank you, Mr. Chairman. Right now staff is going to hand out a summary of the advisory panel meeting, which happened last Wednesday, I think, before heading up to New Hampshire, but it's pretty straightforward. Hopefully, it's not a problem that they didn't have it earlier. Anyway, there were three participants who attended the conference call. There was one from Massachusetts, one from New Jersey and one from North Carolina.

All of the participants preferred Addendum III over Addendum II. They felt that it was the most fair because if people did the work in the heyday of the fishery from whatever time period you want to think about, from 1981 to 2007, then they should get the benefit of their efforts in the past rather than people that didn't go fishing during that time period.

They also agreed that it maximizes the efficiency of the fishery being that a state can wait to allocate their quota until the market is high or other factors where it can be the greatest benefit to the fishermen rather than having a race to fish, which might happen under other scenarios. Addendum II, they do think that it's better than the current system.

As far as specifically what do they like about Addendum III? For the threshold, they can support 1 percent to Delaware and 1 percent to Connecticut. However, they felt that the threshold should only be used to reduce discards. If anybody is using this allocation to get more quota for the directed fishery, they think that's inappropriate.

As far as the base years, two of the three members preferred Option E, which is '94 to 2000. They talked about this time period kind of coinciding with when the National Marine Fisheries Service encouraged fishermen to go shark fishing because sharks were thought of as an underutilized resource. The fishery and market took a little time to develop.

Around 1994 it really took off. Then the fishery was managed in 2000. The possession limits were cut back as well as the quota, which decreased the directed fishery. The member who did not state a preference for Option E, '94 to 2000, he abstained from commenting, but he didn't oppose. I asked him specifically and he did not oppose it. All the members would like to allow states the flexibility to transfer their quota. That concludes the AP summary.

CHAIRMAN DANIEL: Thank you, Chris. Questions for Chris? Pat.

MR. PATRICK AUGUSTINE: Thank you, Mr. Chairman. Excellent report, Chris, it's very clear and concise. You suggested that – or you didn't suggest; you indicated that the harvest could – I'm sorry, let's go back again – that most of the states that were landing spiny dogfish were

predominantly from an area that – I now want to say closer to Massachusetts or the northern part or southern being the North Carolina area.

Is there any consideration given to the fact that those are the major locations for processing facilities and that might have had a very major impact on those states in the middle that did not – you know, based on the fact that the price of the product was very – that they were getting for the product was not very high, and the competition for those folks from north and south, if you will, North Carolina and Massachusetts area made it almost impossible for them to really transport at a reasonable price.

So, you know, to make the statement that we should support one option over the other based on the fact that states within a given area seem to be catching and reporting most of the harvest, that kind of leads one to believe that we could do that in every single fishery if we applied the same mentality. So, is there any consideration or was there any consideration given to that fact that there are not processing facilities in the nearby areas, so just because states did harvest larger numbers, that they should get a greater share? Just food for thought.

MR. VONDERWEIDT: I think it's kind of on the opposite end of the spectrum. There were no real reports that there weren't a sufficient amount of processors to land dogfish during the heyday of the fishery. I think if you look at landings you might come up with the same conclusion.

However, since management started in 2000, basically all the processors except for three – there is one in New Bedford, one in Gloucester, and I forget where the third one is, but there all in the New England and Massachusetts area, and it has given the northern states an advantage. Under a 600 pound possession limit, they can still make profit by just coming in where they were going to land anyway. They don't have truck their dogfish a thousand miles up the coast. As far as since management started, I think it's a big issue. I think there were plants in North Carolina that closed because the 600 pounds just wasn't marketable; it wasn't profitable.

MR. AUGUSTINE: A follow-on question, Mr. Chairman. I noticed we're still working on that split of 58/42, and I know in New York our fishermen thought it might be more equitable to have a 50/50. The advisory panel didn't really

get into any detail addressing that. Did that subject come up at all with the advisory panel to warrant further consideration?

MR. VONDERWEIDT: No, they seemed pretty comfortable with the 58/42.

DR. WILSON LANNEY: Thank you, Mr. Chairman. Chris, could clarify exactly what issue the AP had with our current science being incorrect and why they felt the biology of spiny dogfish should be revisited?

MR. VONDERWEIDT: My answer would be because they're fishermen and they see a lot of spiny dogfish out there, and so they think the science is incorrect. It was just kind of general. At the end of the call I said, "Is there anything else that you'd like to talk about?" You know, the science is wrong, the biology is wrong, the whole way we're doing it is wrong kind of general statements.

MR. HIMCHAK: Thank you, Mr. Chairman. It was a little confusing presenting the two addenda at the public hearing at the same time. The sense I got out of it – and this may address some of Mr. Augustine's comments – is that under Addendum III, the shoreside investment is a key component in how you're going to prosecute a fishery.

I think the states would like to know ahead of time what the capabilities of their particular state's fisheries can be before either they invest in shoreside processing facilities, or in our case our fish are still going to go to New Bedford, from what I can see, regardless of how many we harvest, but we have to pass legislation to get a spiny dogfish license.

We have to pass regulations to essentially establish a fishery. I think the sense – and I may be overstating this. This is my sense from the public hearing is that Addendum III at least gives you an assurance that, yes, you can go ahead and make the investment, that there will be something on the plate for you to harvest and you can waiver that versus what you've got invested into setting up a fishery. Thank you.

#### **DISCUSSION OF WRITTEN COMMENTS**

CHAIRMAN DANIEL: Terry, and then we're going to go to the written comments and then we'll take final questions on all the comments.

MR. STOCKWELL: Thank you, Mr. Chair. Following up on Pat's comments, you don't have to be that far away from a processor and not to have a market. The state of Maine is a three- or four-ride to the Massachusetts markets, and we've digressed from a fairly robust fishery with processors in Portland to a very small fishery right now.

I'm concerned about all the options here in the table and pitting us against one another as we start looking at the alternatives. If the preferred option is E, it puts the state of Maine at 2 percent, and that is not an equitable percentage from our perspective.

MR. VONDERWEIDT: Thank you, Mr. Chairman. Now staff is going to hand out the written and e-mailed comments. The comment period didn't end until last Thursday so it wasn't possible to get these on the CD. Basically, what I did was I just went through and did a matrix of what the preferences were, not including issues outside of the specifics in the addendum. If somebody didn't like the science, that wasn't included because it's not specific, but just to kind of make you understand the general idea behind the comments.

I broke it down into the fishing groups. I guess the National Marine Fisheries Service isn't a fishing group, but they're opposed to both addenda. This represents going a different direction as far as dogfish management, and they're opposed to that. There are more specifics in their letter.

The Cape Cod Commercial Hook Fishermen's Association preferred Option 3. However, they mentioned that regional quotas would be better than the current seasonal allocation. The preference, number one, was for E, for 1 percent Delaware and 1 percent Connecticut threshold. The second one would be 1 percent to states with declared interest. Third would be 1 percent to all states.

They had two top choices for Issue 2, which was B and C; 87 to '97 or '88 to '99. They were opposed to Option C because it includes some data that could be considered not the best available, and that's the landings from 1981 through 1988, which aren't considered to be as robust as the landings after that. They also liked Option H, and this is the option that gives

Massachusetts the highest quota. Issue 3, they preferred allowing the transfer of quota.

The North Carolina Marine Fisheries Commission preferred Addendum III. However, they think that Addendum II, using the regional split would be better than the current system. They're okay with the 1 percent Delaware and 1 percent Connecticut. They prefer Option E, using 1994 through 2000 as the base years for the quota allocations. They would like to allow the transfer of quota between states.

As far as individual comments they're pretty much all across the board, except there were two – well, there were no comments on Addendum II specifically; and then Addendum III, they were kind of all across the board with one vote for A, one vote for C, one vote for E, and then two for H, which is 2000 through 2007. That's kind of the summary; not too many comments overall.

CHAIRMAN DANIEL: Thank you, Chris. Any comments or questions on the various public comments and letters? David Pierce.

DR. DAVID PIERCE: I can't help but notice that it's just interesting to see the three columns, the National Marine Fisheries Service, the Cape Cod Commercial Hook Fishermen's Association and the North Carolina Fisheries Commission. It's an interesting status. It all seems to be of equal status. It's just an observation. Chris, on Monday I made available to you a memorandum that I had prepared to provide to all board members regarding the dogfish quota shares.

MR. VONDERWEIDT: That's going out as we speak.

DR. PIERCE: All right, thank you. At the appropriate time, Mr. Chairman, I would like to address that memo, the views expressed therein, and a bit of rethinking that I have done since arriving here in Delaware.

CHAIRMAN DANIEL: Okay, Chris is going to continue.

#### **DISCUSSION OF ADDENDUM II AND III**

MR. VONDERWEIDT: So, kind of the last thing that I wanted to present to the board before any decision-making are points of clarification on the documents and if we're going to go forward with these options, making sure that

they include everything that is intended to be included.

Under Addendum II there is the regional allocation, and it says the southern region goes from New York through North Carolina, which excludes Florida, South Carolina and Georgia, three states who have been de minimis since the beginning of this plan. It excludes them from any allocation of the southern region. I just want to make sure that is the intent of the board, and it's clear that is how things would work.

As far as Addendum III, after thinking about the 1 percent Delaware and 1 percent Connecticut, it's very similar to de minimis status, which is 1 percent or less of the coast-wide fishery. What it would do is if Delaware or Connecticut wanted that amount and also wanted to add their allocation from the base years, they would be going from 1 percent, which is what they get under de minimis status, to 1.3 percent, and that would mean that they would have to implement new regulations.

I'm wondering if de minimis status under the current plan isn't the same thing as 1 percent Delaware and 1 percent Connecticut. There is no mention of paybacks for underages. Currently in the plan once the stock is rebuilt, 5 percent of the annual quota can be rolled over; so if the board wants to address that, it could be a consideration. Then, also, do you want to alter the possession limits if you go with state-by-state quotas? This is just some food for thought.

CHAIRMAN DANIEL: Thank you, Chris. All right, the memo from Dr. Pierce really deals with Addendum III. It's sort of up to the board, but it would seem to me that we would want to start discussions with Addendum II. Jack.

MR. TRAVELSTEAD: I would ask that you consider comments on both addenda. They are both solutions somewhat to the same problem but offer very different consequences depending upon which one you prefer. I think it's going to be very hard to talk about just the one without mentioning the other. I would just ask that you take that into consideration.

CHAIRMAN DANIEL: I'm fine with that approach if there is no objection from members of the board to talk about them in dual. A couple of points that I think I need to make to start off with, I think Addendum II was preferred by

some. That could be modified in some way, shape or form to address our concerns. Addendum III has a lot of support.

I see Addendum II as possibly a short-term or a long-term solution. I see Addendum III as being a solution that is more of the long-term solution. Now my understanding is that Addendum II we all agreed is retroactive to May of '08, so it is possible with any action on Addendum II would be in effect right away for this upcoming fishing year. Then if we do Addendum III, it would go into effect May 1 of '09. I think we need to have some statement for whoever makes the motion on Addendum III, assuming there is one, need to make it clear that it supersedes Addendum II and a start date. Is that fair? Jack and then Dr. Pierce.

MR. TRAVELSTEAD: Thank you, Mr. Chairman. Addendum II I think is very straightforward. It was designed to address the problem of the northern sector going over its quota and that overage affecting the fishery in the southern sector. I think it's very straightforward in that regard, and it solves that problem very clearly.

What it doesn't solve is the situation that North Carolina raised several months ago about its lack of opportunity to participate in the fishery, and that's where Addendum III comes from to help solve that problem. In my view, however, Addendum III goes a little bit too far too quickly. There is no question in my mind that North Carolina is disadvantaged in this fishery. It's a geographic disadvantage on two counts.

Number one, you're at the southern end of the range so you get the fish last, after everyone else has had a shot at them; and without some specific allocation to your state, you're basically helpless to participate in the fishery. On the second count you're the furthest state from the processors, which presents an additional difficulty for you.

I am very sympathetic to the situation that North Carolina finds itself in, but in trying to solve that problem you may very well disadvantage other states and Virginia in particular. That is where my concerns with Addendum III come in. We're moving very quickly on this; and with about an hour and half's worth of discussions we potentially could allocate these resources, and we

know from past experience that these allocations become permanent.

I think we're moving down the road too quickly to make those decisions here today, but I think there can be accommodations made to solve the overage problem that Addendum II raises and to solve North Carolina's problem. One of my specific concerns is with the quality of the data that you find in Addendum III. Well, the data are in both addendums.

If you look on Page 8, Appendix A of the first addendum, you will see the state landings. When we got back home, after this was published, and began to look at the numbers and began to get calls from our industry who have participated in this fishery, we began to get very concerned. Rick Robins, who most of you know, was a buyer in this fishery – and this is just one example – who went back through his records, in the mid-nineties, 1993 to 1996, and his records show that he purchased around 3 million pounds of dogfish in 1996; around 2.6 million pounds in 1997.

Those numbers are vastly different from what you see listed in the table. That prompted Rick to call some of the other processors in the state, and it prompted us to look at our own database and the NMFS database on landings, particularly during the periods from 2000 to 2007, which everyone would assume would be the absolute most accurate period of time for landings since every fisherman was required to report.

The first thing we noticed was that our numbers at VMRC do not at all match the numbers in the NMFS database. In some cases they're off by more a million pounds. In 2007, for example, the NMFS database shows 3.6 million pounds landed; my own database shows 2.5 million pounds; the ASMFC table shows 2.4 million pounds, and I can go through a series of years, but they're all illustrative of the same point I'm trying to make.

We've contacted some of our other buyers in the state and asked them to look at their more recent records, and they too are showing vastly different numbers. I don't want to belabor that point other than to say that the database that is presented in Appendix A with respect to the Virginia data and I suspect with respect to a number of other states is woefully inadequate to make a permanent allocation decision on.

To go back to the North Carolina problem, I think there is a way of solving this at least on a temporary basis. I would hope that we don't lock ourselves into anything that is permanent the way we have done in some other fisheries, but allow changes as the fishery changes. Mr. Himchak pointed to the fact that a state-by-state quota system helps fishermen plan for the future.

It gives them some ability to understand that, "Hey, I now have some part of the quota that I can begin to build my business on." New Jersey is in a situation where they don't now have a fishery but want an opportunity to build one. The situation is a little bit different in Virginia. We now have a healthy fishery.

We have many individuals who have made long-term investments and are now prosecuting that fishery; and in this case Addendum III has the ability to take those jobs away from people who have built those businesses. It comes at a very unfortunate time in Virginia when we're closing our crab fishery next week, right when the dogfish fishery would pick up.

Under all of the options essentially under Addendum III, Virginia will lose its dogfish fishery. I would remind the board that at one time Virginia was a major processor of dogfish, relying on landings from our own state and those from North Carolina. That's all going to disappear likely under Addendum III if it moves forward.

My suggested solution, Mr. Chairman, is that we look at Addendum II to provide the solution with some modifications. The addendum would provide 58 percent of the coast-wide quota to the northern sector. That's the states of Maine, Connecticut, Rhode Island, New Hampshire and Massachusetts. If it is the desire of those states today or at some later date to develop a state-by-state quota system, then I think they could be free to do that by dividing up that 58 percent of the quota, and that would have no effect on the southern sector.

To address the North Carolina problem, which I think is very real, I would suggest a modification to Addendum II to grant North Carolina 16 percent of the coast-wide quota, which would guarantee them something on the order of their recent historical catches. Then, finally, allocate 26 percent or the remainder to the other Mid-



Atlantic states, New York, New Jersey, Maryland, Delaware and Virginia.

That still allows New Jersey to build its fishery. It would be pursuing a quota along with the other South Atlantic states. It would allow Virginia fishermen to continue to operate the fishery it now has with minimal impacts. Down the road, if things change, if New Jersey develops a big fishery, that obviously very well could impact Virginia since they're going to see the fish before we do, but I would suggest that we continue to monitor this thing; and if we need to come back and make further repairs or reallocations, that we have an opportunity to do that. Thank you.

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

DR. PIERCE: Thank you, Mr. Chairman. In a memo that you now have I describe some of the early thoughts we had regarding how to deal with the dogfish quota, and in particular Addendum III and the state shares. We labored over this long and hard to figure out how we could offer up a suggestion that would involve an approach with the objective of states not supporting the option that gives them the greatest share; because by doing that, we do ourselves a disservice, especially since the addendum has logic for each particular option.

We had suggested in the memo that you now have before that we consider these different options by working with specific criteria; that is, we would consider options where landings' data were most accurate, 1988 through later years. This is notwithstanding the comments made by Jack Travelstead. I'm setting those comments aside for a second and just focusing on what is in the addendum; also, when the fishery was unregulated.

Those seem to be good criteria to use; and when using those criteria we winnow down the options in the addendum to B, C, D and F. However, when going over those particular options, it became very clear to us that there are winners and there are losers, and we'd like to avoid that outcome, winners and losers.

We operate many of our plans with state shares, and the discussion about state shares is always controversial and creates hard feelings as opposed to a sense of camaraderie working

towards common objectives, and that's what we need here, camaraderie and working towards some specific objectives for dogfish.

In this memorandum we had suggested that we begin discussion with Option F, which is 1990 through 1997, because it meets the criteria. However, once again, in looking at the numbers, how they fall out for the different states, we're still uncomfortable with what happens to our neighboring states to the north, Maine and New Hampshire, and to the south, in New England specifically, Rhode Island and Connecticut. Connecticut in particular usually comes up or generally comes up with a zero percent.

We actually have suggested that we take one of our percentages in Massachusetts and provide it to Connecticut to give them their one, but, still, that's 1 percent or zero percent. After listening to the comments by Jack and, of course, after discussing this issue with a number of board members over the course of this week, it certainly became clear to me that we need to go in a different direction, a direction that will address specifically the concerns expressed by Virginia and North Carolina, North Carolina, especially, because, after all, we went down this road primarily because of what happened last year and I guess what is happening this year, the situation with North Carolina versus Virginia.

It's certainly an unacceptable situation for the fishermen in both states and for Jack and for you, Louis. Therefore, I suggest a blending of the two addendums to accomplish an objective that I feel makes a great deal of sense, and that is to have us all on board, working together for improved management of spiny dogfish and for equitable sharing of the resource.

So, consistent with the points that Jack just made, I would offer this motion. I haven't given it to staff yet because I didn't have a disk to put it on. But, anyways, if you bear with me, I would move to; one, retain the current north and south regional splits of the spiny dogfish quota; two, allocate 16 percent of that quota to North Carolina; three, deduct the North Carolina quota from the southern 42 percent share with the balance being unallocated to the other southern states (New York through Virginia); and, four, retain the 58 percent northern share of the dogfish quota with no portion being allocated to any individual state (Maine through Connecticut) at this time.

That is the motion, Mr. Chairman, that I believe is consistent with Jack's points. If it isn't, then, of course, I'll consider that, but that's the motion.

MR. TRAVELSTEAD: Second the motion.

CHAIRMAN DANIEL: Motion by Dr. Pierce; seconded by Jack Travelstead. All right, for discussion purposes I've got Pete and then Pat.

MR. HIMCHAK: I'm not sure how this would play out. There certainly wasn't an option under the public hearing document, for one thing. The other issue is the southern distribution allocation and investment, and I'm wondering if Mr. Travelstead may have exaggerated the impact of options other than Option H where they will lose their fishery and put them out of business.

There are a number of options in Addendum III that allow for six and even seven percent of the allocation going to Virginia where you're presently under Option H or presently at eight percent. I just want to make that observation. The third part is if we delay the state-by-state quota allocation to another meeting, are we going to revisit the historical database, and, again, everybody can come up with different numbers.

When Chris sent out the e-mail to make any adjustments to the more recent years, he had referenced that the technical committee had previously locked in, so to speak, the major point of the time period. Our landings changed by a thousand pounds in the most recent year. I obviously can't support this motion for a number of reasons. Thank you.

MR. P. WHITE: Just a question on wording; why do we need number four? We have retained the original split; and then with a clarification for the 42 percent, it seems redundant to have number four, but at this time I also do support the motion.

CHAIRMAN DANIEL: I think it's just for clarification, I believe. I would say – and I'll be real careful here – I would say I was unaware of the issues of the landings' data until Mr. Travelstead gave his report, and that does give me great concern about moving forward too quickly with these permanent allocations on a state-by-state basis.

As I stated in the beginning, this can be a temporary or a long-term fix. I would think it would be appropriate, if there's interest by the board, to come back at the next meeting with the corrected landings' information if we want to pursue the state by state. I don't know how to do that at this point with the concerns that have been raised by Virginia. Further discussion? Mike Johnson.

MR. JOHNSON: Mr. Chairman, I think you said earlier, but just to be clear, that Addendum II is in effect May 1, 2008, so that would be for this fishing season, I expect?

CHAIRMAN DANIEL: That is correct. Pat.

MS. PATRICIA KURKUL: Thank you, Mr. Chairman. We do have concerns with Addenda II and III, and our primary concern as we note in the letter is that it might potentially increase inconsistencies between the state management and federal management of the dogfish resource. Frankly, in retrospect I wish I had requested that we have the discussion about the specifications for the next year before we had this conversation because I think it impacts on this conversation.

As it is noted in the addenda, this issue really became a problem or came to light when in fact the states increased their trip limits and more of the allocation was able to be taken in the north earlier in the season; and so potentially if we could get back on track between the state and federal waters with a mutual quota and a reasonable trip limit that's higher than we are right now, this issue may be reduced and potentially even resolved without the board taking any action on these addenda.

I continue to support – I would rather personally see the board delay taking action on these certainly until we know what the quota will be for next year in state and federal waters and potentially even after we have lived under that quota for a year to see what the impact is. I think that would also give the opportunity for the council, the National Marine Fisheries Service, and the board to work through some of the proposals in these addenda jointly.

That would be my preference. Having said that, this is an improvement over the alternatives that are in either of the addenda. I just have a question for clarification. Currently the

north/south split – I’m sorry, currently it is not a regional split; it’s a seasonal split, and I am a little bit confused how this would work under that.

CHAIRMAN DANIEL: Dr. Pierce, to that point.

DR. PIERCE: Yes, to that point, Pat hit on the reason why we went to public hearing with Addendum II, and that is we have a blend of regional and seasonal and it doesn’t work, so this gets rid of the seasonal and goes to the regional, which makes a great deal more sense. I do recognize that as we stand right now – and it’s been this way for a while – the councils, specifically, you know, the federal government has a seasonal aspect, the seasonal split and no regional; just as the council plans or the federal rules have the 600 pounds and we in our states, collectively, we can go up as high as 3,000 to allow for small-scale directed fishing.

There is that disconnect, and I would hope that eventually we could get together, councils as well as ASMFC. That might be possible with this particular initiative if it’s adopted, and, of course, with the new world in which we will be working relative to the status of spiny dogfish, since we’re going to discover once the report is given that we are rebuilt, and with the rebuilt population of spiny dogfish comes, well, different outcomes and different possibilities, a whole new world. So, anyways, the seasonal split is gone; it will be a geographic split.

CHAIRMAN DANIEL: Thank you for that clarification. Chris.

MR. VONDERWEIDT: I just want to make sure what I’m supposed to go and do on Monday, but the way that I’m interpreting this is that this will be a new addendum that’s kind of combining the two, so that is going to go into the management plan as Addendum II because that would be sequentially the next addendum, rather than having it be board action and we maintain the semi-annual quota allocation with the regions kind of as we’ve been doing in the past; is that an accurate interpretation of the motion?

DR. PIERCE: Yes, it would be Addendum II because that’s next in line, and it would be this specific action that does away with the seasonal shares.

MR. P. WHITE: Just a question, Mr. Chairman, relative to North Carolina. There is some talk about having just a one-year split that you’re suggesting in this motion. I guess I’d like to hear from North Carolina if the intent of getting this 16 percent is to maintain part of the biomass that would be available to them or to encourage getting back into a processing sector. The intent of those is entirely different.

CHAIRMAN DANIEL: Well, we have not had a fishery for seven years. Our intent is to try and have a southern sector processing facility in North Carolina, which would be of benefit to Virginia and North Carolina and maybe Maryland as well. If anything were closer than the processors in Massachusetts, that would be of benefit to the southern region in itself. But our intent of trying to get the 16 percent is to try to assure North Carolina’s fishermen that they will have some fish to fish on and not be disadvantaged by geography as we have been since the plan’s inception.

MR. P. WHITE: Well, my question was, though, if you just had one year of this 16 percent, it would guarantee them some of the biomass, but is it then cost effective for them to have to truck it because no processor is going to do it. We’d be better off to sit and think about this a minute.

CHAIRMAN DANIEL: Right, I think the intent here is to have a stop gap while we look at – if we want to look at state-by-state quota shares based on the information that we got from Jack, we need to do some revisions to these tables and the percentages. This would be in effect until another addendum came in and replaced it. It would be my assumption that if we go state-by-state allocations, then North Carolina’s percentage might change slightly, but at least it assures that southern extreme area portion of the resource.

Now, when we catch the fish, sure, we have been shipping them up there and the fishermen have been able to do that, but it is our desire – and this is coming from the dealers in the North Carolina area – that if we’re successful in this 16 percent, that we will put together a cutting house to process. Ritchie.

MR. R. WHITE: Thank you, Mr. Chair. Is the intent of this motion to include the payback option?

DR. PIERCE: I hadn't thought about that. That could be another motion, but certainly it could be included. I see no harm done. It's an element of all of the options in Addendum III, I believe, so I would have no objection to including the payback. Clearly, if a region goes over, then it has to pay back the next year. It's consistent with the way we do ASMFC business with all the other management plans. That would be understood, that the payback would be part of the strategy.

CHAIRMAN DANIEL: I think that's a good clarification. Any additional discussion? Terry.

MR. STOCKWELL: Thank you, Mr. Chair. I'm generally supportive of the motion. I have a question, though. Should North Carolina not harvest the 16 percent, would the balance of that quota be available to the other southern states?

CHAIRMAN DANIEL: Well, I think under most circumstances we're at the tail end of the fishery, and we would be the last ones to access it. I think we can look in February and see what our alternatives are for – we didn't really go out to public hearing on transferring within regions, but I think that's something that we may want to discuss later, if this motion is approved and we move forward with it, how to deal with any underages from various sectors.

There was a lot of support for state-by-state transfers coastwide, so how to do region by region, making it available at some date certain, I think we need to work on that in the second step, but I think it's certainly an issue. I mean, unless the fish just don't show up, which doesn't appear to be a problem, I would imagine we will catch that – I think 1.28 million pounds is the 16 percent.

MR. STOCKWELL: I suspect you will, but we're on the other end of the tail, and that's what makes this motion very attractive.

MR. HIMCHAK: I just have one question, Mr. Chairman. There seems to be a point of confusion here at least amongst a few of us. Is this just to get us through the present fishing year and then will this motion continue beyond May 1<sup>st</sup> of 2009? Dr. Pierce had mentioned something about this being a composite of the Addenda II and III, so I'm still – I mean, I can support the motion to get through the current fishing year, but I think beyond that point,

beyond May 1<sup>st</sup> of 2009, I think that the state-by-state allocation has to be fleshed out under the existing Addendum III, as complicated as it is.

DR. PIERCE: My intent would be for this to be, of course, retroactive, but to continue into the future until the board decided to go with the next addendum that would be specific state shares, an addendum that might then forward after the database is further massaged. I don't know if that's possible. Jack, of course, has offered up some concerns, and I assume the technical committee would be able to dig a little bit deeper into the database, to correct the database if at all possible, tough chore, but still this has to move forward as is until we decide to go with the next addendum.

MR. TRAVELSTEAD: I think the key here is flexibility. This obviously is what is being offered up for future management of the resource, but we need the flexibility of the board to come back at any time and consider other methods. To that point, I would only suggest that we start now to look at the discrepancies in the database that I've raised and I suspect others may raise when they go back home and take a closer look. I would suggest that the staff and the technical committee perhaps be involved or some subset of that to help correct those problems.

MR. GROUT: Thank you, Mr. Chairman. I'd like to follow up on Ritchie White's comment about the lack of the payback provision in there. I would like to ask the mover of the motion and the seconder if they would accept a friendly amendment that would include the payback option that would say the quota allocated in a region or if the – "When the quota allocated to a region or the state of North Carolina is exceeded, the amount over the allocation will deducted from the corresponding region in the subsequent fishing year."

DR. PIERCE: That's appropriate, sure. I can accept that as a friendly.

MR. TRAVELSTEAD: I agree.

CHAIRMAN DANIEL: So ordered. Thank you, Doug. Bob.

MR. BEAL: Thank you, Mr. Chairman, just a quick question on the wording. The motion contains the word "unallocated". It's pretty clear

from the discussion what it means, you know, the remaining 26 percent is not going to be allocated specifically to New York and Virginia, but some time down the road when we're looking back at this, it may be more clear if that's available or – in other words, being available to the other southern states may be better wording.

CHAIRMAN DANIEL: Without objection from the maker of the motion?

DR. PIERCE: I don't mind that if, indeed, the suggested change in the motion and the wording offered by Bob is consistent with what I have been saying and other people have been saying. It's an unallocated amount and not to any individual states. It's the balance not being allocated to individual states. It's fine, I have no problem with the wording change. Certainly, the intent of the motion is clear.

CHAIRMAN DANIEL: Thank you, Bob. Any further discussion on the motion. If not, I'll read the motion: Move to, one, retain the current north/south regional split of the spiny dogfish quota; two, allocate 16 percent of the quota to North Carolina; three, deduct the North Carolina quota from the southern 42 percent share with the balance being available to the other southern states (New York through Virginia); four, retain the 58 percent northern share of the dogfish quota with no portion being allocated to any individual state from Maine to Connecticut at this time; five, when the quota allocated to a region or North Carolina is exceeded, the amount over the allocation will be deducted from the corresponding region in the subsequent fishing year. We'll take a minute to caucus. Red, before we caucus.

MR. RED MUNDEN: Mr. Chairman, one bit of wordsmith. After Item 5, I suggest you change the word "when" to "should".

CHAIRMAN DANIEL: Thank you, Red.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: One clarifying point before we vote, making it very clear and on the record that if North Carolina goes over its quota, North Carolina pays that back in its subsequent allocation. It would not come off of the regional quota. Yes, sir.

MR. GIL EWING: Thank you, Mr. Chairman, just a point of order. The Addendum II and III went out to public hearing. Now we have a document now that is going to be called Addendum II. Is this now going to go out for public hearing before finalization?

CHAIRMAN DANIEL: No, this is final action that we're taking now. All right, those in favor of the motion, signify by raising your right hand; opposed, same sign, 2; null votes; abstentions, 1. The motion carries 12 to 2 with one abstention. All right, thank you very much. The next item on our agenda is an update on the 2009/2010 Spiny Dogfish Specifications. Jim, you're going to handle that for us?

## **UPDATE ON THE 2009/2010 SPINY DOGFISH SPECIFICATIONS**

### **2008 SPINY DOGFISH NEFSC UPDATE**

MR. JIM ARMSTRONG: All right, good morning. I was in attendance and am a member of the technical committee which met last Thursday in Providence, so I'm going to be sharing with you the stock status update that was presented by Paul Rago, so you're getting sort second-hand information.

There were a number of people that were also in attendance at that meeting that here and if anybody feels like I've misinterpreted any of the information that was presented, don't hesitate to point that out or if there is any additional information you think is useful, go ahead and speak up. What I'll do is I'll go through the stock status update and then Chris is going to take over with the management measure recommendations that the technical committee came up with as a result of Paul's presentation.

The status of the spiny dogfish stock is determined by the biomass of mature female dogfish in relationship to a biomass threshold and target. The fishing mortality rate, whether overfishing is occurring or not, is also measured in terms of the fishing mortality rate estimate on mature or exploitable size females. These tend to be female spiny dogfish greater than 80 centimeters.

There is a lot of variability in the spring survey catch of spiny dogfish. This was especially true early on in the time series as you can see in the

figure on the screen. Because of that, the estimate of bycatch is a smoothed estimate. It's a little more complicated than a three-year moving average, but nevertheless the effort is to make a more biologically reasonable estimate of biomass based on the spring survey and taking into account or dampening some of the biologically unreasonable variability in the survey.

Here are the results from the spring survey in 2006, and that was the first year in the recent timeframe when we saw a marked increase in the survey estimate of biomass. Then in the following year, 2007, the spring survey was repeated and we also had a higher point estimate of female spawning stock biomass, not as high as the 2006 level, but still quite a bit higher than the levels that had been seen for the previous seven or so years.

Our most estimate of biomass – and this is actually an estimate of 2007 biomass – is then formed by the 2008 update to the spring survey as well. You can see here that the right-hand most point on the figure is up there in the vicinity of the point estimate for biomass that was obtained in 2006. With three years of pretty high survey catches, the smoothed estimate has moved – which is what we used to determine the stock status – has moved up above that green line, which is actually the rebuilding target; that is, the commission's rebuilding target of 167,800 metric tons of mature female spiny dogfish.

By just looking at the survey catches of mature female spiny dogfish one could conclude that the stock has indeed recovered or is rebuilt. Like I said, the estimate of SSB, spawning stock biomass, is not a simple three-year moving average. There is a stochastic estimator that is used in comparison to a target and threshold. The stochastic estimator takes into account many sources of uncertainty, the variability in the trawl catches, the sex ratio, the assumptions about the footprint of the trawl, a lot of things that I don't really even know about.

But, nevertheless, what this does is it creates a – it's fed into the model which then takes the uncertainty and runs iteratively to give a distribution of estimates of spawning stock biomass. What you're seeing in the top figure is the modal estimate of spawning stock biomass is that red line, the top of that red line, and you can see that's just shy of about 200,000 metric tons.

Recall that the commission's biomass target is 167,800, which is indicated here by the blue line, the vertical blue line. The black line that you see is a cumulative distribution curve; and if we go over on the right-hand side to 0.5, then we can sort say that within the model uncertainty, anyway, it appears that there is a 50 percent or more probability that stock size was about what the modal estimate is, which is 194,000 metric tons, roughly.

You know, we're talking about spiny dogfish, so it's not all good news. The survey catch of pups continues to be lower than expected given the magnitude of the spawning stock biomass estimate. It has definitely improved compared to the estimate of pups – the survey catch of pups from about 1997 through 2004, but it's still quite a bit lower than historic levels.

Additionally, the absence of pups for this prolonged period of time has led to a decrease in the number from the survey of – the estimated number from the survey of immature females, and these are the females that are going to be recruiting into the spawning stock biomass in future years. Here is the picture that usually, as Paul says, tells the whole story.

In the historic time periods we have a length frequency distribution on the screen now; and back before the development of the directed U.S. commercial fishery, there were a wide number of length sizes in the population. The vertical line that is the second from the right, if you can see the bottom of the screen, corresponds to 80 centimeters, so anything to the right of that is what we're talking about in terms of exploitable spawning stock biomass.

As you can see, in the late eighties/early nineties there was a substantial number of females out in those large size ranges. As the U.S. commercial fishery developed and reached its peak in the mid-nineties, it basically targeted the large females for obvious economic reasons that are low costs to processing ratio. Basically, the fishery kind of ate away at that right-hand side of the size distribution.

Additionally what you see at about midway down in this figure is the disappearance of those smaller size females. You also see the upward slope to the peak of the size distribution from about '97 forward moving to the right as these fish grow up, so you're kind of seeing that – you

know, it looks like a little mountain there, and it's moving over to the right, and these fish are growing into the mature stock.

They're moving to the right of that 80 centimeter mark, but there is nothing coming in behind them, and that's an important issue. Nevertheless, the point estimate from the stochastic estimate of biomass is about 195,000 metric tons. As I said, the commission's target is 167,800 metric tons, so this suggests that the stock is rebuilt, but bear in mind the other information that preceded that.

So a simplistic answer to the question is the stock overfished, well, we can pretty confidently say no, because the answer to that question is formulated by comparing the SSB estimate to the biomass threshold, which is one-half of the target, and the stock is well over that – the estimate is well over that level.

Okay, I'm going to move into landings and discards. This is a table that was taken from a report that Paul distributed to the technical committee. We don't have landings by gear type, but we have discards by gear type here. We also have the assumed mortality rates that go along with those. Then if you do the math, the total landings and dead discards are what is used to calculate total removals, and then the ratio of that over SSB basically generates an F estimate.

The estimate of total removals from the stock is 12,136 metric tons. I've got it here in maybe a simpler form. You can see that the commercial landings removed about 3,500 metric tons or 7.8 million pounds. The Canadian fishery removed 2,300 metric tons or about 5 million pounds. U.S. commercial discards were responsible for removing 5.6 thousand metric tons or 12.4 million pounds. Then there were recreational removals, the vast majority of which comprised discards of approximately 900 metric tons or 2 million pounds.

This totaled about 27 million pounds of, again, mature female spiny dogfish. A stochastic estimator of F, you've got a stochastic estimate of biomass and actually you're going to have a corresponding stochastic estimate of F removals compared to the distribution of possible biomass. And here we have in the top figure, if you look at the red curve where that crosses on the right-hand axis, the 0.5 level, you can go down and see the corresponding fishing mortality, and you

can see that it's about halfway between 0.1 and 0.12, so roughly an F of 0.11.

In answer to the question of is overfishing occurring, no, the evidence suggests that is not, and that's because we're comparing the F estimate for 2007 to an F threshold of 0.39. In the previous slide where the distribution of F estimates was illustrated, there is virtually a zero probability that overfishing was occurring. So in summary, the spiny dogfish stock is not overfished and overfishing is not occurring.

There were some conclusions. The language here is borrowed, again, actually from the presentation that Dr. Rago made to the technical committee. This is just for review. The estimate of SSB exceeds the target biomass. It says the SSB estimate for 2008. I would edit that to say that it's the 2000 SSB estimate that is informed by the 2007 SSB estimate informed by the 2008 survey catch. That estimate is 194.6 thousand metric tons.

Given within the model the distribution of biomass estimates, it appears that there is a 75 percent probability that biomass is above target. The range, in terms of the confidence limit, suggests that at the 90 percent level the SSB could be as low as 133,000 metric tons and as high as 257,000 metric tons.

Again, borrowing from Paul's slide, overfishing is not occurring. The probability that F in 2007 was less than the threshold is about a hundred percent. Then the realized F, given removals of 12,136 metric tons, corresponds to an F estimate of 0.1104, which is a highly precise point estimate, probably beyond the realm of reality, but it's useful in comparison to the F target for 2007, which was F-rebuild, which is defined currently as 0.11.

So we can see within the model just how close we were to achieving, given the removals, you know, that occurred, to achieving F-rebuild in 2007. The last bullet lists the sources of removals, and I've already gone through that. However, a note of caution, the size frequency of females is not what it used to be.

The majority of females are between 75 and 95 centimeters with mature females being generally 80 centimeters and above; whereas, as you saw, the historic size distribution is skewed more to the right and there were more larger fish.

Because recruitment has been low, numbers of females and males in the future are expected to decline at some point.

The spawning stock biomass is then subsequently expected to increase, but that assumption is based on pup survival rate increasing. Recruitment has been modest but below expectations. What that means is recruitment – if you just take the biomass estimate and look at the stock/recruitment relationship from SAW 2007 – the one that was used to develop the FMP – at the level of SSB that is estimated now, you would expect pups to be more plentiful.

So, it appears that maybe something else is going on. One of the suggestions is, again, that, yes, there are a lot of females out there or the total biomass of females is high, but the survival rate of pups is not as high as it used to be because these are small reproductive females. Other possibilities point to the skewed sex ratio. The mature males to females appears to be four to one now as opposed to two to one in the historic population.

Other environmental factors could also be at work. A number of biomass scenarios were projected and presented to the technical committee. Something that they all had in common was an assumption that survival rate of pups was equal – and now I've got an answer to my guess at which SAW the original values were generated from. At the 19<sup>th</sup> SAW/SARC Workshop the pup survival rate was estimated to be about 0.68, which is pretty good, but this is a case-selected species so expect a high number like that.

If that assumption is not true, then the projections are overly optimistic. In other words, if the pup survival is, say, half that because of the small size of the mature females, then the stock should not grow as quickly, should decline more rapidly, and the subsequent increase in biomass may take longer, and the long-term population size that could be sustained could be lower.

Before I put the projected biomass scenarios up on the screen, one of the features that you're going to notice is that they all have an oscillation. They look sort of like a roller coaster. The biomass goes up, then that hole in the biomass comes into effect, biomass goes

down, and then biomass increases after it bottoms out, but that's fed by an assumption about recruitment rather than observed recruitment.

The scenarios that Paul presented to the technical committee for our consideration were – let's see, there were six scenarios. Four of them dealt with an F target and then two of them had a constant harvest – were constant harvest scenarios. F in 2007 was estimated to be 0.1104, and what we see in the top part of this figure is spawning stock biomass increasing in the near term; and then after about five years beginning to decrease as that hole is in the biomass – okay, so the decline in the projections is the result of that hole in the biomass that's a result of the absence of pups, the apparent absence of pups based on survey catches.

Then this subsequent increase is assumed recruitment at an assumed survival rate fed into the projections. Here we have the resultant total catch in red, in blue we have the discards and in green we have the landings associated with this, so the sum of the blue and green gives you the red part here.

So, what you see here, if status quo F is maintained – and, you know, granted, projecting out to 2027 is a pretty ambitious exercise. I think we can all accept that, but, nevertheless, what we see at status quo F is the bottom of this oscillating projection being within the biomass target and threshold. In other words, it doesn't reach an overfished level.

Let's go to F-rebuild. If can, like, toggle between F-rebuild and F status quo, just kind of go back and forth, you'll see that it's not much different. That's because basically F status quo, we came so close to achieving R-rebuild that it really doesn't make any difference. So, again, at F-rebuild, if you set the quota in such a way to achieve F-rebuild, 0.11, then here is the long-term projection.

Again, you don't have the thing bottoming out in nine years at below the threshold. It doesn't appear that it's ever going to go into an overfished condition. All right, now let's go to the next one. The F-target is 0.28 for a rebuilt stock. In other words, if the rebuilt status is accepted and over the long term, within the timeframe covered by this projection, the F-target for a rebuilt stock is applied, then we



expect that in about nine years or so that SSB is going to decline to the point where the stock achieves an overfished condition. It goes back into an overfished condition.

The next one, F-threshold, which is 0.39, a higher F, the decline is even greater. And in the long term – again, this is an ambitious projection exercise, but in the long term, after going into an overfished condition, you don't see the stock ever really getting back up to the rebuilt level. The constant harvest strategies that were considered, if the 25 million or so pounds that were removed both through discards, Canadian landings, recreational discards and landings, and commercial landings are applied over the entire projection time series, then this is what it looks like.

And you have the case here where it's – at least within this projection exercise, it appears unlikely that the stock is going to go into an overfished condition and possibly not even below the biomass target, so stay above BMSY. Then the last scenario that Paul presented, if we add another 5,000 metric tons – that's in total removals, not landings, but in total removals – then, again, we apply that to the entire time series and the stock doesn't go into an overfished condition in nine years like it does for some of the higher F values.

So, just to bring you back to the conclusions, and then I think Chris is going – well, I'll take questions and Chris will take you into the technical committee's recommendations. The stock appears to be rebuilt, but there are a number of caveats. The size frequency suggests that most of the mature females are toward the smaller end of the mature female size range. We're expecting a decline after SSB increases in the near term due to the low recruitment.

The subsequent increase in SSB is really dependent on an increase in the survival rate. There does appear to be pretty conclusive evidence that low maternal size corresponds to low pup survival or at least low pup size, which then low survival follows. Also, take into consideration that the skewed sex ratio or some other environmental factors may be also limiting pup survival. I'll leave it at that and take questions at this point.

DR. PIERCE: Thank you, Jim. Thank you for the bearer of great news. Despite all the caveats

you threw in, I'm looking at the glass being well over half empty. As of fact, it's full and brimming over. I wanted to ask a couple of questions, and one is the number that you gave regarding the spawning stock biomass for females, the mature females that, of course, we always focus on, because that's what the target is based on.

You mentioned 197,000 or so – and, again, maybe I'm splitting hairs, but every metric ton counts. I looked in the document that was made available to us and one of the tables showing the three-year moving average, the all-important three-year moving average, for the mature females – this would be Table 1, Page 24 of the update from Paul Rago and Katherine Sosobee – and it says that we're at 218,000 metric tons.

So we're at 2008 now; we're at 218,000 metric tons, so we need to at least focus on that as well, that it's higher than 197. I'm sensitive to that because I've always been ruled by 200,000. Another point that I wanted to raise for the benefit of the board and your benefit as well is that when we look at the length frequency information for the sizes of dogfish caught in the bottom trawl survey – and this, of course, is what we use to estimate what we have out there size-wise – this would be on Page 9 of the same document – it should be noted that for the males – I know we're talking females but males play an important role, too – for males be careful because when we look at 2006 through 2008, the scale is different, the Y-axis, so you can't compare these visually.

You're mislead if you compare them visually because that particular length frequency, the blackened area, needs to rise up rather dramatically since the previous figures show from zero to three, and this one is zero to five, so it has to be put on the same scale. Just a little heads up regarding that.

Again, you're not Paul Rago and I thank you for being here to speak on his behalf, and actually you're beginning to sound a lot like Paul, and that's good. This always plagues me because we keep talking about the number of females and the number of males, and the last general conclusion is caveat where it says the consequences of the skewed sex ratio of four to one for mature males to mature females has unknown implications for future reproductive success. However, I do note – and you actually highlighted it, too – that on

Page 3 of that same document we see a reference to the fact that – well, life history suggests that we expect to get a ratio of mature males to females of two to one.

That's the expectation, two to one. Well, we're at four to one so we're above two to one. It sounds like that's good, it's above two to one. I know it's not seven to one or eight to one the way it was in previous years, but I continue to say that there is no need for us to be concerned about our dropping from seven to one to four to one or two to one because when you go back in time you see that when we had an incredible amount of spiny dogfish out there, mature dogfish, the ratio was about four to one or two to one.

So, this doesn't provide me with any reason to be concerned. When we say it has unknown implications for future reproductive success, I think there is no concern about future reproductive success. Frankly, when I look at the pup abundance, despite what it said there in the general conclusion, that gives me great reason for optimism, because finally over the last few years, certainly, we've seen a good signal of pups.

To me that is saying that, indeed, we are having some significant reproduction of these mature females. They are putting out quite a few pups, as would be expected. While I'm not going to get into all the nitty and gritty because I'll bore everybody around this table, the numbers of pups, the sizes of the pups that are out there now are relatively large, because the females that are out there now, the numbers of females, 85 centimeters and up, for example, those are very large females and they're producing very large-sized pups, not as big as a female that's 110 centimeters, but, anyways, again, that doesn't give me any reason to be concerned as well.

So, thanks for this update. Again, the glass is overflowing, but, still, there is a reason for us to be a bit conservative on a management approach. After all, I am a conservative kind of guy when it comes to spiny dogfish. Whatever I may say subsequent to this, especially after we get technical committee recommendations, will reflect that degree of conservatism that I have. Thanks a lot.

MR. CALOMO: Thank you, Mr. Chairman. I don't apologize that I'm going to be very blunt,

and that's the way I speak, Jim. It feels like your report should be joyous for all of us, especially the fishing industry that hasn't had much joy in the last ten years or so. It feels like when I was a young boy in school that I was getting a flunk in mathematics, and I finally reached to get a B.

Instead of going for Chinese food and having ice cream and getting a present, my father said to me, "Well, that's all right, but you've really got to get an A-plus." So, I don't know, your report kind of left no joy. I know you're just giving the report, I understand it, but you're the person I'm talking to at this time.

But the fishing industry needs the B and jump for joy, give them the ice cream and the Chinese food or the spaghetti and meatballs, in my case, you know. So, moving on from there, I want to ask you a question. Of all the species on the eastern board from Maine to Florida, excluding the pelagics such as mackerel, herring, menhaden and so on and so forth, what stock is bigger than this biomass of dogfish, total biomass of dogfish? Is there any?

MR. ARMSTRONG: I don't know. I suppose there are some forage fish species are low down in the food chain. I believe there is a –

MR. CALOMO: Well, let me say the ones that we have. I know you can go into –

MR. ARMSTRONG: Yes, I see what you're saying, there are a hell of a lot of spiny dogfish out there. In fact –

MR. CALOMO: I'm glad you said it, you see what I'm saying.

MR. ARMSTRONG: Yes.

MR. CALOMO: You don't want to give me the answer, do you?

MR. ARMSTRONG: No, no, I mean, yes, they're definitely –

MR. CALOMO: They're definitely way up there?

MR. ARMSTRONG: Yes, and, I mean, they're the most abundant species that is caught by the Center survey.

MR. CALOMO: Thank you for that answer. And the last part of is – and I need your background. Do you think there is any reflection of the rebuilding of haddock in the northeast segment of the ocean that I live on had anything to do with the demise of the dogfish or the reduction in the dogfish biomass that has happened over the last ten years or so?

MR. ARMSTRONG: Okay, the reduction of dogfish – you’re asking if there is a link between the – what about haddock, I’m sorry?

MR. CALOMO: Well, you have a rebuilt stock of haddock in the northeast region like we’ve never seen, according to all the signs like we’ve never seen in last 25 years, and yet I just want to know if there’s a direct reflection that when the dogfish went down to this low ebb that we talked about on a 17-year rebuilding plan; is there any direct reflection of why the haddock came back?

MR. ARMSTRONG: Well, the reduction in dogfish that you see in that length frequency figure, the red, you know, it’s a series of graphs with – it’s hard to describe, but one of the things that Paul pointed out that is encouraging to the assessment scientists is that when you take the apparent biomass that is lost, as the right side of that length frequency starts disappearing it pretty much corresponds to the number of dogfish that were landed during the directed commercial fishery, so the reduction in dogfish seems to be very clearly a result of the directed fishery. But, are you asking me then if once the fish were – once the spiny dogfish were fished down, if the improvement in the haddock stock then was possible –

MR. CALOMO: Yes, that’s the question, from Canada to, say, the Gulf of Maine.

MR. ARMSTRONG: And my answer is I don’t know.

MR. CALOMO: Well, thank you very much, Jim, I appreciate your answers.

MR. WILLIAM A. ADLER: Thank you, Mr. Chairman. Into the discard, these figures seem to show that almost one-third of the discarded dogfish end up as a mortality. Is that pretty close to – I know the discards are much higher than the landings, and you’re saying according to this, it looks like on Page 1 here, that if you were looking at the total dead discards versus the

discards, it’s almost one-third of the discards end up dead. Am I reading that right?

MR. ARMSTRONG: Yes, you’re looking on the first page; and if you look at the values at the bottom of that table, well, columns two and three, discards and then dead discards, it’s in the ballpark.

MR. ADLER: So it’s pretty close?

MR. ARMSTRONG: Yes, it looks like about a third.

CHAIRMAN DANIEL: Any other questions for Jim? Pat.

MR. P. WHITE: Just a quick question; at the last presentation we were told, I thought, that the sex ratio was like seven to one or eight to one. You’re referring to the four-to-one sex ratio as mature. Is that then considering everything over 83 or what is the break line on the four-to-one ratio that you’re determining?

MR. ARMSTRONG: Well, the sex ratio is not – when we say four to one, we’re looking at the entire population of fish over 80 centimeters or 80 centimeters for females and then about 70 centimeters for males, so you’re looking at reproductively mature males and females for the whole population.

If you just consider the nearshore dogfish, they’re almost all females. If you go 40 nautical miles offshore, then you’re looking at mostly – the odds are greater than 50 percent that you’re going to catch all males. The odds are in favor of doing that. There is a spatial component in there that complicates it. In other words, the answer is a lot fuzzier than just saying four to one.

DR. LANEY: Thank you, Mr. Chairman. A question, Jim or Chris, either one; Jack raised the point about the possible errors in the landings’ data. Do those landings’ data – does that time series feed into Paul’s projection calculations; and if those landings are altered, would it markedly affect his projections?

MR. ARMSTRONG: It sounds like Jack was saying we might be off by about a million in Virginia to the positive. In other words, your state records are showing that about a million pounds fewer were landed than what the federal

records were showing? Maybe Chris wants to address this.

MR. VONDERWEIDT: Well, it was my understanding that you were talking about prior to the last three years or prior to even the management plan, in the late nineties or early 2000's; is that correct, Jack? Then if that is correct, then, no, I don't think that feeds into his estimate because he is just using a swept-area biomass from the New England Fisheries Science Center bottom trawl survey; so Virginia, there is no fishery-dependent index used. To my knowledge, it's all from that swept-area biomass.

MR. TRAVELSTEAD: I think Chris just answered the question, but specific to Wilson's, the 2007 information that I have shows the National Marine Fisheries Service listing a million more pounds than either ASMFC or VMRC databases. I don't know if that's relevant or not.

CHAIRMAN DANIEL: It doesn't sound like it is. Any other questions before we go to the technical committee's recommendations? There is one in the audience if you can be quick, please.

MR. BROOKS MOUNTCASTLE: Brooks Mountcastle, Marine Fish Conservation Network. Jim, if you sampled, say, a hundred females, for example, I'm curious how many of those are, say, 75 to 85 centimeters, and then how many are 85 to a hundred centimeters; do you have any information about that ratio?

MR. ARMSTRONG: Not off the top of my head, but if you look at Table 1, then you could probably, you know, just do some back-of-the-envelope stuff. You basically have point estimates there of males and females in the different size categories; so the larger than eighties are 36 to 79 and then the less than 36.

The biggest number there, of course, is males in the intermediate size range. They're basically at a level that sort of corresponds to a historic high. But you're asking immature females to mature females?

MR. MOUNTCASTLE: Right.

MR. ARMSTRONG: I mean, at the bottom of that table – and I guess I'll just be reading this for the record, because we can all see it. It looks

like the point estimate in 2008 was about 90,000 metric tons of immature females compared to 240,000 metric tons of mature females, so therein lies that lack of backfill that those projections predict.

If you had roughly even numbers or – now, you know, some of that biomass is going to change just as a result of growth, but nevertheless a lot of that is also numbers of fish. So as the mature females die off, they're going to be replaced by low numbers of what are currently immature females.

### TECHNICAL COMMITTEE RECOMMENDATIONS

CHAIRMAN DANIEL: All right, are we ready to move on with our technical committee recommendations? Chris. Thank you, Jim.

MR. VONDERWEIDT: Thank you, Mr. Chairman. Staff just passed around the technical committee's review of this spawning stock biomass update and the recommendations for 2009 and 2010 specifications, because the board has not set specifications for next year yet. Also, that report wasn't available until Thursday morning of the technical committee meeting. It represents a significant amount of work for a very busy individual, so that's why it wasn't on the CD, kind of like everything that I have presented so far.

Basically, looking at the SSB update – and, you know, the plan is managed on the spawning stock biomass. There is really no consideration of males in this management plan. It's not considered in the overfishing or overfished determination. The 2007 fishing mortality rate was right around 0.11. It was, I think, 0.114, but it's roughly equivalent to the F-rebuild target.

Based on that, they agree overfishing is not occurring. The spawning stock biomass stochastic estimate that the New England Fisheries Science Center updated is 194,600 metric tons, which obviously is above the 164,000 SSB target so it's not overfished. Based on the definition in the plan, the stock has rebuilt. The F-rebuild value is 0.11. This is defined in the plan.

This is the fishing mortality rate which has been the goal of setting the quota to achieve something along 0.11. With this update, Paul

went ahead and he updated what F-threshold would be, which is kind of the lower bound of fishing mortality rate that would fall within the acceptable fishing mortality rate once the stock has rebuilt, and that is 1.5 pups that will recruit to spawning stock biomass per female.

This new value is 0.284. The F-target has not changed, and 0.39 is one pup that will recruit to the spawning stock biomass per female. The picture kind of looks like this. Over here on the right, here is the target biomass right here. Here is the threshold biomass. This is 2004; this is 2005; this is 2006, so these two years it wasn't overfished but it wasn't rebuilt.

Now we have the 2008 survey number, which was plugged into the three-year moving average, and now the stock has gone above the SSB target, so it is rebuilt. So, you know, like Dr. Pierce said, yes, in general, it seems like good news. However, upon a second glance and a thorough discussion, the technical committee is really not comfortable calling the stock truly rebuilt. There are a few reasons and Jim pointed these out in his presentation.

Basically, the size structure is truncated between 75 and 95 centimeters of all the females. If you look at the recruitment deficit – and this is how Paul Rago characterized it – it's going to have to be paid back. From 1997, for about ten years there was record low recruitment, so there are very few females coming back to the population. That is going to have to be paid back, and there is going to be a significant drop in biomass as a result.

Another thing that was problematic for the technical committee are the assumptions of the model which are using pup survivorship and selectivity from 2002, which the pup survivorship may be overestimating spawning stock biomasses are these smaller females which are likely to have smaller pups which will not survive through the gauntlet of life in mature state where they can reproduce, or there might be fewer of them.

There is also the selectivity included in the model where as the size of the population shifts, the selectivity of what fish are going to be caught is different as well. This represents an update plugging new numbers into a model that has been used for a while. Jim showed this before and you see down here at the bottom the

majority of the spawning stock is between 75 and 95 centimeters, but back here it's hollow and there is not a lot to recruit into the spawning stock biomass in future years.

So what that means is that – and this is simplified. It doesn't include the error bars or the outliers like the chart in Paul Rago's presentation. Up here is the target and down here is the threshold biomass, so once it gets to this level down here, it's overfished. So here we are right here, and this is the F-rebuild equals 0.11 fishing mortality rate.

This is the F-threshold of 0.284, 1.5 pups per female recruiting into the stock. This is the threshold of 0.39, which is one female, one pup, that will recruit to the spawning stock biomass. Basically, all these scenarios – and I will definitely say that it's pretty ambitious to predict to 2017, and I think Paul would say this is not exact by any means, but what happens here is they're all dipping, and this recruitment deficit is going to have to be paid back around 2017.

Under the threshold and the target scenarios, we're going to have an overfished population. However, staying on the trajectory that we're on, a fishing mortality rate of 0.11, to rebuild allows us not to go below – we'll be below the target but we won't be in an overfished status of the threshold.

They recommended a strategy to kind of set a one-year specification for 2009 and 2010 of a 12 million pound quota. The reason why this would only be one year is because in 2009 there will be a Transboundary Resource Assessment Committee. This is similar to what happens with the herring assessment. Basically, the Canadian scientists and the U.S. scientists get together and they're going to look at both of these populations as whole and maybe answer some questions about migration, update things like pup survivability and selectivity of the gear.

We will have a better picture of what is going on rather than just plugging numbers into a model that is using predictions or assumptions from 2002 based on a different size structure of the population. A 12 million pound quota is basically F equals 0.11, which is the rebuild target. It's a 4 million pound increase from where we were, and this includes Canadian landings plus discards.

I alluded the Canadian landings were 450 metric tons. This is always factored in when the recommendations are made. Under this rebuild fishing mortality rate, the population is not going to become overfished under these troubling assumptions, and this will be kind of a precautionary approach.

Another thing that this does that the TC liked was that it will allow NMFS to set an identical quota under the Magnuson-Stevens Act that they're bound by, that they legally have to stay around  $F$  equals 0.11 rebuild. Under the scenario we're at now where we have a larger quota and there is a smaller quota in federal waters, the fishing pressure gets concentrated in state waters, which as Pat and David and Jim pointed out, in state waters there is a four to one overall female to male ratio, but inshore Paul Rago – and I asked him specifically because I know this is particular relevant to the board, but inshore it's seven to one female to male, and then offshore it's two to one female to male.

And basically with a higher quota in state waters, we're concentrating the fishing effort on the spawning stock biomass; so if we allowed NMFS – and, you know, not to say what they are going set, but within the legal parameters what they can do, they could set a quota around 12 million pounds, so then that would be a good thing as far as getting us back on track from the view of the technical committee, so 12 million pounds is recommended for the quota.

As far as possession limits, there has really been no quantitative analysis of – the issue here is discards, and there has been no quantitative analysis of the discards associated with a high fishing mortality rate or a low – or with a high possession limit or a low possession limit. There are discards associated with both of them. With a low possession limit it might not be economically possible for fishermen to bring in their catch or there might not be the incentive there, so they're just going to discard.

Under a high possession limit, they might catch the quota early, after which everything is discarded. There are discards with high and low possession limits, but there is really no analysis which one has more and which one has less. What they did mention, and I think they were generally reluctant to provide advice here, is that the possession limits are going impact allocation.

This is a species that migrates north and south. It's not available to all states at all times. The fishing year starts May 1<sup>st</sup>, so this may be more of a management issue because it impacts allocation. That being said, they suggested a 3,000 pound – or they looked at the current possession limit maximum of 3,000 pounds for 2007 and 2008, and kind of what they're worried about is going over the fishing mortality rate, the rebuild  $F$ .

In 2007 and 2008 this possession limit did not go over  $F$ , so in their eyes it's a good thing. At the same time it allowed for the full utilization of the quota, so fishermen were able to land all the dogfish. For that reason they recommend for 2009 and 2010 only a 3,000 pound maximum possession limit. Thank you.

CHAIRMAN DANIEL: Thank you, Chris. Questions for Chris? Pat.

MR. PAT AUGUSTINE: I was going to congratulate Chris on a very, very enlightening presentation, very direct and crisp. When you're ready for a motion, I would like to do that, Mr. Chairman. I move that the board approve a 12 million pound quota for the 2009/2010 fishing season and also approve possession limits for the 2009/2010 fishing season to be set at a maximum of 3,000 pounds.

CHAIRMAN DANIEL: Motion by Mr. Augustine; seconded by Mr. Calomo. Discussion on the motion? Dave Pierce.

DR. PIERCE: Well, we're approaching Halloween, and it's a very appropriate time of the year in light of the spooky aspect of the technical committee report, very precautionary, full of fear. I could take issue with many of the points and conclusions reached by the technical committee but I won't.

We could easily, easily justify having a larger quota than the 12 million pounds, and we would still be far under our threshold, which is what we need to be, below the threshold, and the threshold is around 0.36, something like that. But, I'm not going to argue for an increased quota beyond the motion of 12 million pounds for a number of reasons, and there are two that are on the top of my list.

The first reason is that we are going to have a TRAC assessment on dogfish. The U.S. and

Canadians are getting together, so next year we will have a lot more scientific thought put into spiny dogfish assessments, and that will be of great use to us and certainly to both councils.

Then the other primary reason I support this motion – and I turn to Pat Kurkul to see if, indeed, it is a correct conclusion by the technical committee; and that is if we go to 12 million pounds, the technical committee said – I assume there is some basis for it – maybe I haven't got the words right, but I think it said that the National Marine Fisheries Service would support the 12 million.

If that is the case, then that is great motivation for us to go to the 12 million and to be precautionary, I think excessively so, but still to be precautionary. Again, if Pat is willing to address that particular point, it would be helpful with regard to, again, one of the reasons why I'm fully supportive of this motion.

MS. KURKUL: I'm struggling with how to answer that. I can't prejudge the council's recommendation or our decision on their recommendation. However, I would note that it is a precautionary technical committee recommendation, and I would be surprised if something different came out of the council process.

CHAIRMAN DANIEL: Any other discussion on the motion? Do we need to caucus? I don't think so. All those in favor of the motion, signify by raising your right hand; opposed, same sign; null votes; abstentions, 3. The motion carries. Dave.

DR. PIERCE: That is for the fishing year May 1, 2009, through April 30, 2010.

CHAIRMAN DANIEL: Hold on one second; were you raising your hand to speak or did you abstain?

DR. PIERCE: To speak.

CHAIRMAN DANIEL: I'm sorry, there were only two abstentions; I said three, so I just correct that. Go ahead.

DR. PIERCE: All right, so this was a motion dealing with the 2009 through 2010 fishing season. We are now in the 2008/2009 fishing season. It is October and there are many more

months of fishing between now and April 30, 2009. Therefore, I would move that the current fishing year quota have an in-season adjustment from 8 to 12 million pounds to be distributed according to the approach just adopted for Addendum II. This results in 4 million more pounds added on to the eight that we currently have in place for the current fishing year quota.

CHAIRMAN DANIEL: Motion from Dr. Pierce; is there a second? Seconded by Mike Johnson. That tacks on 4 million pounds to be distributed 5/8/26/16 from now until the end of the '08-09 fishing year. Dennis.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. I have really enjoyed Dr. Pierce's Comedy Show this morning, and he has been very good. I've never seen him in such good spirits at a dogfish meeting, but at some point he ought to take what he has got and pack his bags. But, seriously, I don't know where this leaves us with the National Marine Fisheries Service. They have their numbers set, and I would assume that this really puts us at odds with them. Is that not true?

CHAIRMAN DANIEL: I believe that NMFS has closed the fishery for the fishing year, and it would significantly put us at odds, but it would be nice to have those extra 4 million pounds. Dave.

DR. PIERCE: Well, we're already at odds. We have been at odds, unfortunately. In an undesirable way we have been at odds because we have an 8 million pound quota and the National Marine Fisheries Service has a 4 million pound quota, I believe, so this should be no surprise to them.

We're going to get on the same page next fishing year, true. I'm thinking more, obviously, of the current fishing year and the fact that it's a modest increase. It's really consistent with the technical committee advice. After all, we are totally rebuilt at 217,000 metric tons, 217,000 metric tons of mature females, et cetera, et cetera.

I offer it up as a motion for consideration by the board. Obviously, it goes up or it goes down. Frankly, I'm thinking more of North Carolina and Virginia and the states to the south because it's the time of the year. So no skin off my teeth;

I'm think more about Mid-Atlantic Council take, ASMFC states to the south.

MR. P. WHITE: Can you enlighten me as to right now the feds are closed permanently or until November 1<sup>st</sup>, and the states are closed I think and will reopen November 1<sup>st</sup>, but wouldn't that we with 50 percent of the allocation? How does that work now?

CHAIRMAN DANIEL: Well, the 42 percent opens November 1<sup>st</sup> for the states. I don't know what – the feds will not open again. It's done; the 4 million is gone, so there are no EEZ fish available.

MR. P. WHITE: So in the 42 percent that you're talking about, though, we've already done half of that?

CHAIRMAN DANIEL: Well, the 58 percent for the north season is closed because you caught the quota in the north. The 42 percent to the southern states is available November 1<sup>st</sup> for states that want to open with up to 3,000 pounds. Bob.

MR. BEAL: Maybe I'll try a different angle. I think what this will mean is that the northern states – well, what has happened is the northern states have harvested 58 percent and a little bit extra of 8 million pounds. If this were to pass, the northern states would be able to probably reopen their fishery on 58 percent of 4 million pounds, which is the difference between the eight and twelve, minus the overage that has occurred this year. The southern states on November 1<sup>st</sup> would have access to 42 percent of 12 million pounds if this motion were to pass.

MS. KURKUL: I object to the motion. It seems to me that the advice we got from the technical committee was based on the assumption that the states' TAC would be 8 million pounds as quota.

If I remember correctly, and I look at Jim or Chris to correct me if I'm wrong, but based on that we were going to be at F-rebuild for this year; so if we increase the TAC for this year we're over F-rebuild. The information showed that if we go over F-rebuild, then we have this problem in the out years. I don't think we have the technical information in front of us that would allow us to make a good decision on this.

MR. CALOMO: Thank you, Mr. Chairman. I attended meetings earlier and I listened very carefully to my fellow commissioners who said that in times of rebuilding or rebuilt stocks we ought to give back. I heard that loud and clear. This is an opportunity for an ailing commercial fishing industry up and down the coast – I'm not just talking about Massachusetts – up and down the coast; more North Carolina than Massachusetts.

We have a very ailing fishing industry. This would just help. It's like a little bit of a blood transfusion to keep things going until the next season. Every pound of fish today is sold at premium prices. Every pound of fish today is offsetting high increases of fuel costs and other costs such as insurance, repairs, so on and so forth. I can go down the list. I think, Mr. Chairman, this is something that the Atlantic States Marine Fisheries Commission should embrace and pass unanimously to show the fishing industry the job we do as managers. Thank you, sir.

CHAIRMAN DANIEL: Thank you, Vito. Any further comments on the motion? Seeing none, do we need to caucus? Okay, take a minute.

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: I have been informed that this will take a two-thirds majority to approve.

MR. VONDERWEIDT: Can I just make a point?

CHAIRMAN DANIEL: Yes, you can.

MR. VONDERWEIDT: If the goal of this motion – and I don't know if it is or not – is to stay within the F equals 0.11, a quota that achieves F-rebuild, as Pat said the estimate for this year's quota is based on a fishing mortality rate from this year as well. Jim and I can come up with that number if you give us a couple of more minutes.

MR. ARMSTRONG: Actually, it's about 10 million.

MR. VONDERWEIDT: Jim said it's about 10 million.



CHAIRMAN DANIEL: Do want to wait?

(Response of “yes” from the members of the board.)

MR. ARMSTRONG: What we’re doing, so you don’t think we’ve got a little magic eight ball over here, is if you look on Table 3 on Page 26 in the report from the Center, the 12 million pound value for achieving F-rebuild in 2009 was calculated by taking the 2009 landings – it says total landings. Not counting the year column, it’s the fifth column over from the left. It says total landings in metric tons.

You convert that to pounds. That number 8,141 is total landings including Canadian landings and recreational landings. We always subtract those off and then what is left over is what U.S. commercial landings correspond to the target F. That’s where the 12 million pounds came from. The landings’ value that you see in the row above that for 2008 is based on a projection of biomass and an application of F-rebuild for 2008.

The corresponding value, after you account for Canadian landings and recreational landings, not discards but landings, is roughly 10 million pounds. I don’t want to open a can of worms here, but these landings are all calendar year and we’ve got a fishing year that’s not the same as the calendar year. We have some problems with that, but we tend not to – I’ll just leave it at that.

REPRESENTATIVE ABBOTT: A question for the technical committee; you showed us a whole bunch of graphs looking out to a lot of years, and my assumption, I would say, is that has to be based partially on the seasons that we have set presently and what the catch would be in this coming fishing year; and if we have now changed our present fishing season, it would surely change all the graphs that you showed us somewhat. I don’t know to what extent, but it would have an effect on those; is that not true?

MR. ARMSTRONG: The magnitude of the changes is not known, but, yes, the projections at least begin with – understand that the fishing mortality that was presented that corresponded to F-rebuild being achieved was for 2007. You know, the projections start in 2008, actually, and we’re calculating the landings that correspond to F-rebuild in 2009, to set the quota in 2009.

The projections presume that in 2008 F-rebuild will be achieved, but we don’t know until – we never know until after the fact what F is achieved; so if you do the same projection for 2009 next year, having an estimate of the realized F for 2008, it could end up being a different quota.

MR. CALOMO: I would like to call the question.

CHAIRMAN DANIEL: All right, everybody has had a chance to caucus; you’ve seen the new information. All those in favor, signify by raising your right hand, 3; those opposed, same sign; null votes, 1; abstentions.

MR. TRAVELSTEAD: Mr. Chairman, let Virginia go on the record voting for the motion. I was in a sidebar. Virginia voted in favor.

CHAIRMAN DANIEL: Okay, four in favor. Vito.

MR. CALOMO: I see that the motion has failed; am I correct?

CHAIRMAN DANIEL: That’s correct, the motion does not correct.

MR. CALOMO: I’d like to make the same exact motion up there and instead of going to 12, I’d like to go to 10 million pounds, sir, 8 to 10.

CHAIRMAN DANIEL: Motion from Vito Calomo to go from 8 to 10 million pounds; seconded by Pat White. Do we need further discussion on this motion? Pat.

MS. KURKUL: I don’t think this changes the situation, Mr. Chairman. The 10 million pound number I’m completely uncomfortable with not having gone through the technical committee and just sort of a on-the-fly suggestion. I think the more relevant point was the one made about the tables that in fact if you do change this year, it changes all the out-year information, and we don’t know how it changes the out-year information.

Finally, I would oppose it because we know now we have the situation where we’re basically forcing effort inshore on the female portion of the biomass, and that’s a situation that we’re trying to avoid and could potentially avoid in the

future, but since the federal quota is closed for this year couldn't avoid for this year.

MR. CALOMO: Thank you, Mr. Chairman. I respect and appreciate Pat Kurkul's statements, but for the same statements I want to say that every small boat from Maine to Florida, every small boat because of the time of the year, there is winter – even in Florida it's going to be winter. This is a small boat fishery inshore – I agree with her a hundred percent – and that's who I'm trying to save. It's very critical to them to have something to continue fishing. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Anything else from the board? Doug. I'm going to take comments from the audience after this.

MR. GROUT: Did I understand – you know, Pat said that this was not something that we need to go back – we need this thing to go back to the technical committee because this is not what we had projected. I thought heard Jim mention that this was the harvest level of 10 million pounds that was projected to occur under F-rebuild for 2008. Am I missing that; did I misunderstand that?

CHAIRMAN DANIEL: That was my understanding.

MR. ARMSTRONG: I kind of stuck myself into a sticky position here. I mean, how we calculated the 2009 quota – I'm telling you that because it's a transparent process and you can just go to the table, do the math. We assumed the cap on Canadian landings of 2,500 metric tons that's going to be achieved. It actually failed to achieve that in the last couple of years. We took status quo with recreational landings, which were 37 metric tons, a pretty small number, and we rounded that up to 40.

That's where we got the quota recommendation for 2009. It was actually slightly above 12 million, and we rounded it down to get a round number. So, calculating from that table is indeed how the technical committee, at its meeting and in subsequent discussion, came up with its recommendation.

So an on-the-fly calculation for 2008, using the same methodology, we didn't consider an in-season adjustment. That wasn't addressed. So I would have to go back to what I said, that even

though if you used the same methodology and you get a number, we don't really know how that would change what the quota would need to be in 2009.

We're assuming it's going to achieve an F of 0.11, but it remains to be seen, so we're doing a two-year projection. We have already done that in order to establish the quota for '09, and I don't know where that leaves you by inserting after the fact a change in the harvest, you know, when F is estimated for 2008. That's going to be after the fact, anyway. That's about all I can say.

REPRESENTATIVE ABBOTT: Thank you, Mr. Chairman. I think that, you know, we try to make our decisions on sound science, and everywhere I go and what I do is I try to listen to that as much as I can. Dogfish isn't my favorite fish. None are my favor fish, but we all know and hear that there is a lot of dogfish out there and they're running over everything, but we also have a responsibility to rebuild the stocks as required.

We say here someplace "rebuild stocks by the year 2015", and today we got a positive report and everybody was real happy we're going to see everything go ahead. In my mind we're jumping in there trying to harvest something that we shouldn't be really comfortable doing. I think the statement was made "I don't know where this takes us".

That should give us pause to be cautious, so I would urge the members not to vote for this proposal. We can all understand in sympathizing with Vito and sympathizing with the fishermen, but at this point in time I don't think we should move down this track. Thank you.

CHAIRMAN DANIEL: Any other comments from the board? Mike.

MR. JOHNSON: Mr. Chairman and board members, with all due respect to what was just said, I don't think you're talking about a whole lot of fish in a huge pile of fish, and they're out there. I don't always agree with the science, anyway, because we see the fish out there. But, in sympathizing with the fishermen, I go to church with these guys, I go to the grocery store with them, I get a haircut with them.

Vito made the statement how it would help North Carolina. This is a small boat fishery.

This is not a group of large corporate-owned boats or even fish house-owned boats. These are the little guys, and these boats have been tied to the dock. They owe back payments on their boat, they owe back payments on their houses, they owe back payments on their truck.

The benefit that these men get is feeding their family and to put a new pair shoes on their kids. To me, on this issue, on this fishery, on these fish way outweighs our caution. Their caution is whether they're going to get up in the morning and their house is going to be foreclosed on. The numbers to me don't show us to have that alarm, so I agree with my friends from Massachusetts. Thank you.

MR. CALOMO: Thank you, Mr. Chairman. I agree that our obligation as managers is to rebuild the stocks. I also agree that our obligation is to keep the fishing industry going. We have a rebuilt stock, sir, and we should do the second, to keep the fishing industry going. Of all the years that I've been around, this is the worse I've ever seen in my entire history of being a third generation fishing captain out of the port of Gloucester.

I have never seen the likes of this. A scourge of the ocean, and I call it the scourge-of-the-ocean dogfish. Yes, some people are in love with it, but that fish was discarded for fifty to a hundred years, but now people do depend on it. Now I've changed the scourge of the ocean to be the savior of some of the fishermen. I ask you all within your hearts to think of not only the rebuilding of the stock, because it is completely rebuilt to the point that we could harvest more fish to help the small boat fishermen that depend on this. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Thank you, Vito. Further comments from the board? Sean, did you have a quick comment?

MR. SEAN McKEON: Thank you, Mr. Chairman; Sean McKeon, North Carolina Fisheries Association. I'd like to echo – it's kind of hard to follow Vito's plea to you all, but it's the truth, it's a fact. Earlier in the day when we were discussing the dogfish issue, Jack brought up some of the inconsistencies with the data, and it was a million and change pounds off. Nobody seemed to mind that. In fact, I think it was said it doesn't affect things very much at all.

Now, we're asking, sadly, we're begging for scraps off the table. We're asking you, please, for two million pounds when a few minutes ago we were told a million and change didn't mean anything. In all due respect, I did not hear the National Marine Fisheries Service saying, "Oh, my gosh, we're a million and a half off. Somebody is wrong here and we need to address this because this is going to throw off the entire conclusions we were making with this stock assessment."

I didn't hear anybody bring that up issue up a minute ago. We're talking about a couple of million pounds to an ailing industry. I understand that some of you couldn't care less about that, but I'm asking as a human being to look into the eyes of some of these folks that make their living doing this and tell them that it's over for them over a couple of million pounds of dogfish. Please vote for this and allow these guys to have a little bit more this year. This is the holiday season coming up, and it would be nice for some of these guys to be able to go out and get their boats untied and go out and catch a little bit of fish. Please support this motion.

CHAIRMAN DANIEL: All right, I think we've had enough discussion. Do we need to caucus?

(Whereupon, a caucus was held.)

CHAIRMAN DANIEL: All right, all those in favor of the motion, signify by raising your right hand; all those opposed; null votes; abstentions, 3 abstentions. We needed 11 and got 8; the motion fails. All right, that takes us down to other business. Jack Travelstead.

## **OTHER BUSINESS**

MR. TRAVELSTEAD: Very quickly, Mr. Chairman; I note that the Shark FMP that we adopted at the last meeting must be implemented by January 1 of next year to maintain compliance. I have heard that some states will have difficulty in meeting that deadline. Virginia's regulatory authorities are such that we can meet the deadline, but there is going to be an enormous amount of educational effort with that very detailed and complex plan. I'm just wondering if any of the other states have any concern about meeting that January 1<sup>st</sup> deadline.

MR. MILLER: We cannot meet that January 1<sup>st</sup> deadline. We have about a four-month regulatory-setting process, but I'm not terribly concerned about that in this point in time since sandbar sharks, for instance, won't show up in our waters until much later in the spring. It was my intention to start the regulatory process in good faith and perhaps get it concluded by the time the sandbar sharks show up.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thanks, Mr. Chairman. If I could make a suggestion, the board is going to meet again in February; and I wondering rather than the states telegraphing now that they may or may be out of compliance with the plan, if it might be more appropriate to consider that in February. By then the states might have a better estimate of when they would be able to implement. The alternative is that we're being given notice now that states plan to be out of compliance on the 1<sup>st</sup> on the January, and I'm not sure that's in everybody's best interest.

### **ADJOURN**

CHAIRMAN DANIEL: I think that is a good suggestion, if that's okay with everybody. Anything else? If not, thank you all very much. We stand adjourned.

(Whereupon, the meeting was adjourned at 12:58 o'clock p.m., October 22, 2008.)

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