

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

**Crowne Plaza Hotel  
Old Town, Alexandria, Virginia  
August 3, 2010**

Board Approved: November 2010

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## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of May 6, 2010 by consent** (Page 1).
3. **Move to appoint Peter Grimбилas, Mark Sampson, Terry Annibale and Reese Michalove to the Coastal Sharks Advisory Panel** (Page 28). Motion by Robert Boyles, Jr.; second by Pat Augustine. Motion carried (Page 28).
4. **Move to approve Marty Buzas for the Spiny Dogfish Advisory Panel** (Page 29). Motion by Peter Himchak; second by Pat Augustine. Motion carried (Page 29).
5. **Motion to adjourn by consent** (Page 31).

## ATTENDANCE

### Board Members

Terry Stockwell, ME, proxy for G. Lapointe (AA)	Craig Shirey, DE, proxy for Patrick Emory (AA)
Pat White, ME (GA)	Roy Miller, DE (GA)
Sen. Dennis Damon, ME (LA)	Tom O'Connell, MD (AA)
Doug Grout, NH (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Ritchie White, NH (GA)	Steve Bowman, VA (AA)
Rep. Dennis Abbott, NH (LA)	Jack Travelstead, VA Administrative Proxy
David Pierce, MA, proxy for P. Diodati (AA)	Cathy Davenport, VA (GA)
William Adler, MA (GA)	Louis Daniel, NC (AA)
Sarah Peake, MA (LA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Mark Gibson, RI, proxy for B. Ballou (AA)	Bernie McCants, NC, proxy for B. Cole (GA)
William McElroy, RI (GA)	John Frampton, SC (AA)
Rep. Peter Martin, RI (LA)	Robert Boyles, SC (LA)
David Simpson, CT (AA)	Malcolm Rhodes, SC (GA)
Rep. Craig Miner, CT (LA)	Spud Woodward, GA (AA)
James Gilmore, NY (AA)	John Duren, GA (GA)
Pat Augustine, NY (GA)	Jessica McCawley, FL (AA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Bill Orndorf, FL (LA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Margo Schulze-Haugen, NMFS
Tom Fote, NJ (GA)	Bob Ross, NMFS

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

### Ex-Officio Members

#### Staff

Bob Beal  
Nichola Meserve

Christopher Vonderweidt

#### Guests

Lewis Gillingham, VMRC  
Fentress Munden, NC DMF  
Ron Lukens, Omega Protein Corp.  
Michelle Duvall, NC DMF  
LeAnn Hogan, NOAA  
Delisse Ortiz, NOAA

Carrie Kennedy, MD DNR  
Michael Luisi, MD DNR  
Lynn Fegley, MD DNR  
Jeff Tinsman, DE DFW  
Arnold Leo, E.Hampton, NY  
Jeff Kaelin, Lund's Fisheries

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 3, 2010, and was called to order at 1:00 o'clock p.m. by Chairman Louis Daniel.

### **CALL TO ORDER**

CHAIRMAN LOUIS DANIEL: Welcome to the Spiny Dogfish and Coastal Shark Board. This is my last meeting as the chairman. I wanted to say good afternoon. We've got a fairly aggressive agenda, but I think we can get through this fairly quickly. If you'll take a look at that, I would like to get consent for the agenda, but I would ask for Chris to sort of bring up one piece of other business before you approve the agenda from the National Marine Fisheries Service.

MR. CHRIS VONDERWEIDT: The National Marine Fisheries Service a letter to Louis on July 26, 2010, bringing up the issue of shore anglers targeting prohibited and research-only species. They have asked that we include that under other business.

### **APPROVAL OF AGENDA**

CHAIRMAN. DANIEL: Yes, I think our 45-day cooling-off period ends today so we can address that. Are there any other additions to the agenda? All right, with that other business added, the agenda stands approved.

### **APPROVAL OF PROCEEDINGS**

CHAIRMAN DANIEL: How about our proceedings from our May 6, 2010, meeting? Those minutes are in your materials. I'm sure everybody has had a chance to review those.

Are there any corrections to the minutes? Any objection to approval of the minutes? Seeing none, the minutes stand approved.

### **PUBLIC COMMENT**

CHAIRMAN DANIEL: At this point in our agenda, I would ask for any hands from the audience of anyone that would like to speak on items that are not our agenda. Seeing no hands, we will move on and Chris will give us an update on the spiny dogfish reference points and assessment.

### **SPINY DOGFISH REFERENCE POINTS AND ASSESSMENT**

MR. VONDERWEIDT: Unfortunately, Paul Rago and Cathy Sosebee, who basically do the assessment weren't able to make the meeting, so I'm going to do my best to give kind of a broad overview of what the final results are. At the last meeting we talked about this briefly, but it was all preliminary at that time.

There are two documents that have been finalized. There is the 2009 TRAC Assessment. This is basically an update of the 2006 SAW. It is updated with data through the 2009 Northeast Fishery Science Center Spring Survey, which is the input data for the assessment. Basically it has updated the spawning stock biomass estimate for spiny dogfish.

Then there is a new document, which is titled "Biological Reference Points for Spiny Dogfish". Both of these were on the CD. What this did was it dated key model parameters to represent the current fishery. This was particularly important and I think it was particularly of concern to some people in that the model, the way it's designed, is if the fishery is selecting for smaller sized individuals, it can lead to overfishing, and so the current fishery is selecting for smaller dogfish than it used to be, so it has updated the target and threshold spawning stock biomass and fishing mortality rate numbers to represent the current fishery.

The results are all basically good news. The 2009 TRAC estimated fishing mortality rate to be 0.11, and what this kind of means is that our quota was designed to achieve a fishing mortality rate of 0.11. We have achieved that so our management is achieving the goal that it set out. It also estimated spawning stock biomass to be 163,256 metric tons. That's the TRAC assessment.

The biomass reference point document from the science center reduced the Ftarget to 0.207 – it was previously 0.284 – reduced the Fthreshold to 0.325. It was previously 0.39. The spawning biomass target was decreased a little from 167,000 to 159,288; and the threshold, which is just 50 percent of the target, 79,644, so it's a little bit of a reduction.

What this looks like is you're got the red line up there, the one on the top. The flat is the target.

The green line is half the target. The spawning stock biomass is the blue line. You can see that in 2008 and 2009 the biomass was above the target, so it was declared rebuilt in 2008 by the ASMFC, and it also has achieved – the biomass has been above the target for two years in a row.

Noted in this report and every other spiny dogfish assessment that I've ever seen was a link to a paper that Paul and Cathy wrote in the biology and management of dogfish sharks, which is an AFS book that was published in 2009. It is just showing that there is going to be a decrease around 2012. These aren't current fishing mortality rates or targets, but I'm just showing the figure that was mentioned in the report, and basically that there is going to be a decline to poor year classes.

What are the impacts on management of these new updated reference points? Well, there has been two years above the target, 2008 and 2009, so that's positive for sustainable management. Also, this has allowed the National Marine Fisheries Service to adopt the new reference points. The Mid-Atlantic documents were literally devoid of a target biomass, so it could never be declared rebuilt because it was never approved by the National Marine Fisheries Service.

Now they've been able to take this number and plug it in as their new target, which has allowed them to declare the stock rebuilt, which allows them to set a quota based on the rebuild  $F$  of 0.11, and they can now use the target and threshold  $F$ . There are other considerations in here, but it is based on a much higher quota.

As a result, the 2010 and 2011 quota or specifications are a 15 million pound quota, which is consistent with what we set, and a 3,000 pound trip limit, so we've achieved consistent state and federal measures. I think this also increases the chance of consistent federal and state specifications in the future because we're going from the same target and threshold reference points. That's basically it.

CHAIRMAN DANIEL: Questions for Chris on that report? Dr. Pierce.

DR. DAVID PIERCE: Well, I know you're not in a position to answer any detailed questions, Chris. That's clearly Paul Rago's and Cathy Sosebee's responsibility, and certainly they've

done a lot already to try to communicate to us the results of the assessment certainly in preliminary form. I just wanted to make a point regarding the assessment, and that is all of the new information, all of the reference points that have been developed, fishing mortality as well as biomass, status of the stocks, that information was – those conclusions were not signed off on by the Canadian scientists who participated in the process.

I found that to be rather interesting, to say the least. The spiny dogfish assessment that was provided on the disk, it describes the TRAC; the get-together if the U.S. and Canadian scientists to determine what the status of dogfish is in the Northwest Atlantic. There are a number of remarks here that just makes me wonder what the Canadian scientists are all about and why couldn't they come to terms with this and agree with the assessment work done by the preeminent spiny dogfish assessment scientists.

For example, in the summary statement on the TRAC Report it says that the status of spiny dogfish and management advice in Canada will be deferred until a TRAC benchmark assessment is developed in future, whenever that may be. That's a little bit disconcerting. They couldn't come to terms on this.

ASMFC and certainly the councils have to consider what the Canadian catches are going to be. It leaves me with an uneasy feeling that the Canadian scientists are not on board yet, which means Canada may do what in the future relative to their management for spiny dogfish. It may be counter to what we're obliged to do through ASMFC determinations and council mandates.

Also, it was interesting to see again on the disk the comments by the reviewers, the TRAC reviewers, those who did the peer review. Canadian involvement, of course, Canadian reviewers, and their comments were not unanimous in terms of their complete support for the findings. They weren't excessively critical, yet at the same time they weren't so positive that they signed off on it and agreed to it.

I just wanted to make that point that we do have new information; obviously, a very important job well done by the U.S. scientists, but the Canadian scientists have not signed on, and I just wonder what that means for the future when eventually there is a TRAC benchmark. I think

these targets, these thresholds are going to be vacillating and still moving or could move because the Canadians may have a different perspective that they have not yet shared with us because they couldn't sign off on the document. I just wanted to make point.

CHAIRMAN DANIEL: I think that's an important point and we're in a position right now with this agenda where we're supposed to accept the TRAC and Northeast Fisheries Science Center reference point updates for management use. Does that compromise our ability to accept something that the Canadians haven't accepted? Dr. Pierce.

DR. PIERCE: I don't think it prevents us from considering that advice. As a matter of fact, I think the advice that has been provided relative to the biomass targets is very appealing, and it seems to have a good foundation and a good ground to it. I'm still struggling to deal with the fishing mortality rate changes; that is, the threshold change, the target change, they've dropped, I wouldn't say dramatically but significantly enough so it's bound to have an impact on ASMFC decisions for total catch in coming years. The justification still escapes me. Today, if indeed we do adopt these new reference points, right, board action to accept the 2009 TRAC and Center reference point update for management use, I'm prepared to accept the reference point for the biomass, large females over 80 centimeters, but I'm still hesitant to accept the change in the fishing mortality rate targets because the biological parameters that are used as the basis for justifying the decrease don't seem to justify that decrease, but, hey, I'm not the expert on the assessment – that's certainly Paul and Cathy.

A lot of people put a lot of work into this, a lot of good minds and a lot of modeling. As I said, I'll support the biomass change, but I'm not prepared to accept the fishing mortality rate changes. I would much prefer to accept those changes or to at least consider them for possible acceptance at our meeting later on this year.

CHAIRMAN DANIEL: What are the implications of approving this and we're not confident in the numbers yet? Is there any specific action that we're going to be taking in the near term that requires this motion to be made today? What I'm hearing, then, is that we might want to delay and wait until Dr. Rago or

anybody else can come and clarify some of these questions and make sure that there is a clear comfort level on what we are accepting before we start accepting and making motions; is that the sense of the board? Dr. Pierce.

DR. PIERCE: I strongly support that strategy especially in light of the fact that with the Mid-Atlantic Council – and a few people around this table are Mid-Atlantic Council members – in two weeks there is going to be some discussion about the Omnibus Amendment for the setting of ABCs, the acceptable biological catch, and how to treat Canadian landings and other aspects of the quota-setting process; and if the Fthreshold – the Ftarget values are decreased for ASMFC, that may have significant implications for ASMFC.

In the context of that particular Omnibus Amendment, we may be faced with quota cuts, dramatic quota cuts, to consider Canadian landings and, of course, levels of precaution that the councils are obliged to accept – that, frankly, I don't support – so, I'd like to get my questions answered and certainly Paul and Cathy can do that. There is no need for us to make those decisions today, and I suggest that we can very easily make those decisions when next we meet.

MR. ROBERT E. BEAL: I don't there is any urgency to approve these. The quota is set for this year. The board will be considering next year's fishing quota, which has to be approved prior to the May 1<sup>st</sup> start of the 2011/2012 fishery, so the board has got a fair amount of time to look into these and ask some questions and get hopefully either Paul or Cathy down to provide some insight for the board, and you'll at least have some signal on where the Mid-Atlantic Council is going with their Omnibus Amendment, ACLs and AMs, at the annual meeting or at the commission's meeting next March.

CHAIRMAN DANIEL: So, for the parliamentarians would it be appropriate to just postpone discussion of this until the annual meeting or would we like to table it or what is the pleasure of the board?

MR. BEAL: Since you don't have a motion, it is just a decision by the chair or the board –

CHAIRMAN DANIEL: Okay, we'll postpone it until the annual meeting when we can get the

answers to our questions. Any other comments on that topic? If not, that moves us into Agenda Item 5, which is the Mid-Atlantic Council Spiny Dogfish Amendment 3 Update, and Chris is going to take us through that as well.

### **MID-ATLANTIC COUNCIL SPINY DOGFISH AMENDMENT 3 UPDATE**

MR. VONDERWEIDT: Unfortunately, Jim couldn't be here, so he sent some background, the timeline and stuff, so I'll give the presentation. This is Amendment 3 to the Spiny Dogfish FMP. It's a Mid-Atlantic document. For the timeline they've gone through scoping. They took the scoping document out for public hearing. That's on the CD.

In July 2010 there were some people on the board who attended this meeting. There was a joint spiny dogfish committee meeting and spiny dogfish advisory panel meeting. There is a summary of that meeting on the CD as well. As far as a future timeline, they anticipate putting in place the final amendment or submitting it to the National Marine Fisheries Service in August of 2011, so there is quite a bit of time before this document is going to actually become a draft amendment with a draft environmental impact statement. That will be December of this year, but just to keep you updated and see if the board would want to comment at this time.

There are several issues for consideration. The first one is research set-asides; the second one is commercial quota allocation, which was the original driver of this amendment. There are sex-specific management measures, recreational fishery measures, limited access. These were the five measures that were included in the scoping document.

However, at the joint meeting the Mid-Atlantic staff brought forward a couple other issues for consideration, which are more administrative than anything else, but it would be to update the essential fish habitat and then also management measure rollovers, and I'll go into detail on all these one by one.

Research set-asides; everybody here knows that it is a percent of the commercial quota allocated to research or for spiny dogfish it would be a percent of their commercial quota. The plan doesn't specify any kind of RSA right now. In

the scoping document the council is currently recommending a limit of 3 percent.

For the quota allocation scenarios, the Mid-Atlantic and the National Marine Fisheries Service are still on the seasonal quota allocation. There have no real options in the actual scoping document, but the committee was in favor of exploring an ASMFC allocation scheme, which I think they took to mean state-by-state allocations like we're developing right now or delegating to the ASMFC through the annual quota, which is the black sea bass model, where they would set just an annual quota from May through April, and then we would divvy it up through this board.

Just a note that the annual quota option definitely lines up best with our management where there have been inconsistencies in the past, so that would make things more simple. For sex-specific management measures, they're looking to develop a male-only fishery, which would be a quota allocated to just harvest males that would be independent of the rest of the quota.

The reasoning for this is there is a skewed male-to-female ratio. It is as high as seven to one in some reports. There has also been a lot of stakeholder input that they would like to see something this be developed because they see so many male dogfish when they're on the water that is affecting their current fishery.

However, there are really no viable options at this point, and this is kind of a difficult thing to develop, so we'll see what happens, but it's just kind of a concept right now. For limited access permits, there is currently open access, so it would modify it to set up some kind of a limited access permit.

The committee noted that this would be the most time-consuming of all the measures or issues in the scoping document, so they had a little bit of concern there. There are also questions about how would the limited access interact with ASMFC management, so there are no specifics on how this would work, but that is the concept.

And then the two administrative additions would be to update and redefine essential fish habitat; just include it in the amendment. And then most of you are aware that there was no federal quota beginning May 1, and so there is no real guideline on what happens in that situation. The fishery opened May 1, but there is no quota set.



What this would do would just roll over the quota if there is no quota established at the beginning of the fishing season, so that's more of an administrative thing. That's it; any questions?

CHAIRMAN DANIEL: Questions for Chris? Red, yes, sir.

MR. RED MUNDEN: Dr. Daniel, I just wanted to update the board on the next action relative to Amendment 3 to the Spiny Dogfish Federal Plan. I serve as chairman of that joint committee with the Mid-Atlantic Council and the New England Council. The joint committee is going to meet the last week of this month or probably in October to go over these options and determine which ones we want to put forward in a public information document.

This is a work in progress for the Mid-Atlantic and New England Councils. One other issue is that when we first conceived the idea of going forward with an amendment to the plan, it was to discuss and get public input on whether or not smooth dogfish should be a part of the Spiny Dogfish FMP as an amendment to the plan.

I'm sure you all realize that the National Marine Fisheries Service has made a determination that HMS will manage smooth dogfish, so therefore we removed this as one of the options for consideration in this amendment. Thank you, Dr. Daniel.

MR. PETER HIMCHAK: Mr. Chairman, I was a part of the joint committee. Red, correct me if I'm wrong, but I was under the impression that this amendment is not moving along at a highly accelerated pace. We had scoping meetings at least a year before we even got to having this conference call.

From my point of view, I would really hope that the best thing to come out of this amendment would be to align the spiny dogfish – get rid of the seasonal, you know, regional percentage allocations. I think that would be great and get us out of all this utter confusion about 58 percent/42 percent seasons versus regions. That was my impression.

DR. PIERCE: Yes, I agree that it's long overdue, that the way in which we deal with quota seasonally; that is, the way the council deals with it needs to be addressed so that they become consistent with ASMFC and how we

deal with it on an area approach, which makes a lot of sense and deals with the issue that actually spurred and caused the seasonal allocation to originally be concocted and implemented. We don't need the seasonal anymore. It's by geography; it's doing the job. The council needs to follow the lead of ASMFC in that regard.

Number three is specifying spiny dogfish quota and/or trip limits by sex. Certainly, I don't object to further explorations as to strategy that would accomplish that especially if it's true. This is the first time I've seen this and maybe I just have missed it. I'm surprised I did, but in the text, on Page 2 of the scoping document, it says that the relative abundance of male dogfish may be constraining the survival rate of dogfish pups. Wow; interesting!

I didn't realize that was the case. Of course, it says may be constraining, but nevertheless I'd like some further information regarding that. That would be one request I would make that further information be provided to ASMFC regarding the basis for this particular concern since it is a significant issue; pups, the index of pup survival, the numbers of pups on the fishing grounds.

It's critical for our whole assessment process and management process, its future recruitment, so I would like to see some additional information regarding that. I still seek a clarification from the Mid-Atlantic Council for the benefit of ASMFC, and that is we keep seeing – and it was referenced on the screen – a skewed sex ratio. Mature male to mature female I think is the ratio unless it is all males regardless of whether they're mature or not to mature females.

My point is the ratio is not skewed. When you look at the ratio across all areas, inshore, offshore, up and down the coast, we see that finally we are getting back to a male-to-female ratio the way it used to be when there were tremendous numbers of very large females supporting the fishery and, of course, producing recruitment.

I don't see the skewedness of the sex ratio. I would like to see, on behalf of ASMFC, some further explanation or a description or information as to what is the basis for that particular conclusion. And then, finally – and this is a real big one – I hope that the Mid-Atlantic Council ASMFC members look at this

closely, especially from New Jersey, Virginia and from North Carolina , and that is limited access spiny dogfish permits.

Of course, there are different options to be considered regarding a limited access permit for spiny dogfish; but if indeed this is implemented for federal waters, I think the bottom line for Mid-Atlantic states in particular is you lose your control over spiny dogfish management. The ASMFC management in the south will be gone because fishermen with dogfish permits, federal permits – and they will need them because they fish in the EEZ for a number of things, and they get spiny dogfish as a bycatch – right now they can give up that permit and fish inside state waters, under state rules, and they're okay; then they can get that federal permit back.

If you make this a limited access fishery, they're done. Okay, your fishermen in the Mid, New England to some extent, you'll be ruled by council measures from now until the end of time, and you may as well step back from the management board because you'll no longer really be ASMFC dogfish board members. You'll be Mid-Atlantic Council members sitting here at the table on dogfish issues.

So, I just ask you to give that further thought as you move forward. This is a huge issue for the Mid-Atlantic states, huge, so please don't discount its importance. If you're comfortable with it, okay, fine, it's your geographical area, but I'm very uncomfortable with that. It has all sorts of implications for ASMFC management if indeed ASMFC does decide to go a different road in future years, which possibly could happen with the Omnibus Amendment and how the councils may find themselves forced to slash the quotas for dogfish when they really don't need to be slashed. Those are my points, Mr. Chairman, that I offer up for consideration and transmittal to the Mid.

CHAIRMAN DANIEL: Yes, sir, and excellent points especially on the LAPPs for the southern states. I can see the real concerns there. I guess I would ask if it would be appropriate to request of the Mid-Atlantic Spiny Dogfish Chairman to look into those sex ratio issues that Dr. Pierce – if we could make that request through Red to the Mid-Atlantic Council to address those issues that you brought up in your second point, if that would be all right with Mr. Munden.

MR. MUNDEN: And I'll do that, Mr. Chairman.

CHAIRMAN DANIEL: Next I had Pat Augustine.

MR. PATRICK AUGUSTINE: My question was answered, Mr. Chairman, thank you.

CHAIRMAN DANIEL: I guess my only point is trying to make sure that we dovetail these plans together. We don't want to end up seeing the Mid-Atlantic go in one direction with the council and the feds and the ASMFC going in other direction. Particularly the trip limits concern me greatly – and I think we'll be discussing that here shortly – but actually having the flexibility to put in whatever trip limits we want.

If there is a state-by-state shares, there is no reason why there needs to be specific trip limits in either federal waters or state waters, and so we need to be careful. If we want to have that flexibility in our state plan, we need to be careful about pursuing those types of trip limits in the federal plan if we have state-by-state allocations. Bob.

MR. BEAL: Mr. Chairman, just a question. There have been a number of comments on what the board would like to see in the draft of Amendment 3 as it's developed, including allocation options that are identical to ASMFC or the black sea bass model where the Mid-Atlantic Council just approves the coast-wide quota and then the commission divides that up.

There are also concerns about the limited entry program that the Mid-Atlantic Council is exploring or the joint councils are exploring. I think the reality is a limited entry program, if the council goes down that road, that is going to extend the timeline of their amendment quite a bit. There is a lot of work there and a lot of analyses that have to be done.

Is there value in this board sending a letter to the Mid-Atlantic Council highlighting those concerns as they move forward in the development of Amendment 3 or will the members of this board that are part of that joint committee bring those issues forward? We can do it either way. I just want to make sure if there is direction for the staff to write a letter, we know all the elements of that letter.

CHAIRMAN DANIEL: I feel comfortable with the members of the Mid-Atlantic that are sitting around the table. If they have a contrary viewpoint in what is being discussed around the table, they can bring those issues up. I certainly think that we will be in a position where there will be public comment on all these issues and we will have an opportunity to comment then. I think Dr. Pierce's points on the LAPPs and on the skewness issues, particularly the one about the male dogfish and the pups, I'm not quite clear on that myself. It's really the pleasure of the board if you would like to rely on fellow commissions to take that to the council or we can send them a letter. Pat.

MR. AUGUSTINE: Mr. Chairman, quite frankly, being on the Mid-Atlantic Council, I would prefer that we sent a letter with specifics on it. I recall when we were playing around – and we were playing around with Amendment 12 with summer flounder, scup and black sea bass – an amendment that started out with three or four items on it, but within a matter of three meetings of the Mid-Atlantic we were up to 28 items, including our joint meetings with board.

In this particular case I think Dr. Pierce and others have clearly identified points that we really need to make sure that the Mid-Atlantic puts on there for consideration. With your indulgence, Mr. Chairman, I would hope that we would send a letter to them reminding them these are the elements we would hope that they would include or consider as they move forward with Amendment 3. Thank you.

MR. HIMCHAK: Mr. Chairman, I would strongly support the concept of the board sending a letter because – and, again, I don't think the attendance on this webinar was very good and I think a lot of the time spent on some issues – there were some advisors on the webinar and they sort of like dominated the proceedings.

To me, from where I'm sitting, the misalignment of the plans was the best thing I was looking for, and I think it is just going to be included here as a summary of the webinar and it's just going to be, well, yes, we discussed this, but I think this board can hammer home certain points, and that's what I'd like to see.

CHAIRMAN DANIEL: Well, I heard three points and comments made from Dr. Pierce. The Mid-Atlantic Council is looking into limited

access to that fishery. I'm not exactly sure what we tell the Mid-Atlantic Council, though. It would suit me fine to object to it, but I don't know what the board's pleasure is. If we're going to send these letters, we need to come up with comments. We've asked Red to look at the sex ratio issues and he has agreed to take that on, so give me some items to put in a letter. Pete.

MR. HIMCHAK: Well, I can comment on Dr. Pierce's fear because from New Jersey's point of view we don't have any state regulations on spiny dogfish. You have to have a federal permit and whatever the federal plan says, that's what you get, trip limit, so what he is saying as a fear, yes, we're in that position now where they're at the complete mercy of the feds.

CHAIRMAN DANIEL: I guess my question is, then, how does that translate into a comment in a letter, Pete?

MR. HIMCHAK: Well, Mr. Chairman, I think the states should have the annual quota and design their fisheries accordingly and not – I mean, you know, this permit requirement, I don't know, wasn't too well received at the scoping meeting. From what I can understand, it wasn't too well received at the joint meeting. It's an idea that's going to be floated around again in a public information document, but maybe it eventually will go away.

CHAIRMAN DANIEL: Would anyone object to us pursuing the black sea bass criteria for spiny dogfish? Now we're getting somewhere. If we could support as a commission moving forward with a coast-wide quota and then have the ASMFC be allowed to divvy up those quotas state by state, you would use whatever means is necessary in order to keep yourself within that quota, some minimal rollover provision which we have now, and a payback provision if you go over, and put more control of the state-by-state quotas on the states. I'm seeing nods around the table that is what we would all support? Now a bunch of hands go up, so I'll go with Dr. Pierce first.

DR. PIERCE: Well, we are certainly going to move forward with the consideration of state shares for spiny dogfish. It will be important for the councils to have that as an option as well if for no other reason than I've already been warned by the executive director of the New

England Council that what ASMFC is offering up is not acceptable to the councils.

It cannot be done; it is appropriate. He used other adjectives that I won't give today. So, yes, if that is in the Mid-Atlantic set of strategies that would anticipate what ASMFC very well might do, that would be very useful and needed. In addition, regarding the point I made about limited entry; obviously, we're not going to take a position today to oppose limited entry because that's too premature.

But at the very least this letter should ask some questions and suggest, if not insist, that there be some good description within the body of the text accompanying the different limited entry options, the text that would describe the anticipated effect on ASMFC management of dogfish, north versus south, highlighting the point that I made and that was also made by Pete; that indeed ASMFC states may actually find themselves, well, losing their independence and having to just accept whatever is offered up as a federal rule and regulation; so, just better explanation and better analysis, better justification for a limited access strategy in the context of effect on ASMFC.

CHAIRMAN DANIEL: Terry.

MR. TERRY STOCKWELL: David just made of the points I was going to. Thank you.

MR. DOUGLAS GROUT: Mr. Chairman, you were asking for concurrence on this, and at this point I realize that we're going to be considering state-by-state quotas, but it is not a management action that we've taken yet. Until we flesh out this document a little bit more, at least at this point I'm not comfortable with it.

I think one of the issues that I brought up at the last meeting was the difficult this commission has had in developing state-by-state quotas and there might be alternative ways for us not to go down that road with this fishery. But, clearly, if we do go by state-by-state quotas, we'd really have to have limited access within our own state for these because otherwise we could have fishermen from Massachusetts coming into New Hampshire to use a quota; or, if our quota closed, potentially we could go into Massachusetts, if we could get into your limited access – don't you have limited access but not for spiny dogfish; anybody can come in. When you go to state-by-

quotas, I think you've seriously got to look at limited access either state level – particularly at the state level.

MR. MIKE JOHNSON: Mr. Chairman, I wanted to ask Dave a question. I want to see if I heard you right, you said that we shouldn't put objecting to limited access in a letter today? I think we should. If you didn't, could you help me get there, Dave, please?

CHAIRMAN DANIEL: I think what Dr. Pierce was saying is that it's too early in the game to make that determination at this point until we have all the analyses done, but I'll let him speak him speak for himself if that is not what you intended.

DR. PIERCE: We need the justification and we need the analysis. I guess we need to give ASMFC states that haven't thought about this yet an opportunity to delve into it a little bit deeper and to ask those probing questions of Mid-Atlantic Council staff to determine if indeed limited access will have that effect that I predicted it will have. I'm prepared today to oppose it, but I wouldn't be so presumptuous. It's really up to the Mid-Atlantic states to make that call.

CHAIRMAN DANIEL: Well, I can only speak on North Carolina's part, but if the federal quota is closed, we can lose our fishery completely if our guys aren't able to give up their federal permits and fish in state waters. That's the particular issue that we have in North Carolina. That may not be an issue elsewhere, but certainly in North Carolina that has been a big issue where we wouldn't have had a fishery had it been for limited access and the like.

It's difficult. Summer flounder, we do have a state limited access program, but for other state-by-state quota shares and various things, we don't. I think we also – this is kind of an interesting topic because we're dealing with some of these interstate commerce issues, and I'm dealing with one right now in North Carolina with snapper grouper and what level of authority do we have as states to modify trip limits that are contrary to the federal trip limits.

That's a big question that is sitting out there right now that might get answered sooner than later based on what I did recently in North Carolina. What I'd like to do, if it's all right with the

board, is maybe get a show of four hands of folks up and down the beach that would be prepared at breaks and over the next day or two come up with a bulleted list of items that we could discuss at the policy board meeting as things in the letter. Otherwise, we'll be here until tomorrow.

I would particularly like to see Dr. Pierce involved in that and I would particularly like to see somebody from the southern part of the range involved in that. Are there four or five folks that would be willing to work on that issue over the next couple of days? I see Jack and Dr. Pierce, Mr. Gibson, Pete Himchak and Tom O'Connell. That would be great, five, that's perfect. Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, you recall we had a debacle of a time back in February trying to do letter-writing by committee. I just ask that this subgroup have some stuff done do that we're not – that we don't kick the discussion to the policy board to be here until next week.

CHAIRMAN DANIEL: I agree and that's not my intent at all. I don't know what all the issues are. I don't want to miss something. I think it's an important issue and I think we have to work with the Mid-Atlantic Council especially on these joint plans. I think if we can come up with some reasonable alternatives and some reasonable suggestions that can help us dovetail those plans a little better, hopefully it will be just a blessing by the policy board.

You would have to authorize a letter to go forward anyway. If we rush through it right here today, we might end up with more time in the policy board to debate it, anyway, so hopefully that will save some time. If we can do that, we'll discuss that at the policy board meeting when that arises, if that's okay with the board. I've got Tom, Jack, Pete, Mark and Dave Pierce. Thank you for that discussion; I think that was good. I think we're ready to go to the next item, and that would be to take us through our white paper on state catch shares for dogfish. Chris.

#### **SPINY DOGFISH STATE SHARES WHITE PAPER**

MR. VONDERWEIDT: At the last board meeting the board initiated a white paper document to investigate spiny dogfish state

shares. In the motion the plan review team was told to base the options on landing history, keep the 58/42 percent regional allocation, also include measures to mitigate low landings' history, also include possession limit options.

What we did was we looked at the minutes from the board meeting. We took all the options from Addendum III, which was merged to create the current Draft Addendum II. Then we also took some input from board members that were e-mailed to us, and there are a couple of new ideas that came from a conference call of the southern states, and then also New Jersey has suggested some options.

Those are being handed out to right now, and we'll go through those in more detail. Just to point out because this document is 30-some pages long, we're trying to keep it as short as possible so we didn't include the status quo options. We'll include in the draft for public comment, but that's why they're not in there.

We have some questions for the board that we'd like direction on today, and I'll bring these up as we go through. It would probably work best if we could get the suggestions as we go through each section, so I'll bring the questions up again at the end. What are considered historical landings and what is the current fishery? This ties into the New Jersey Proposal of should we remove quota projections in excess of 22 million pounds being that it's unlikely for a quota based on the current biomass reference points to go higher than 22 million pounds.

Of course, we may not approve this. One huge question is how do we handle the North Carolina 16 percent; do we include it in the southern region or do we keep North Carolina with a static 16 percent? This will be very beneficial in that there are four options for the southern states for everything, whether it be two because there is one that includes North Carolina and the 16 percent and then there is one that includes North Carolina and the whole region.

If we could figure that out, we could better focus our options; and then which options to remove, and we kind of came into this with the idea of we're going to give the board as many options as possible and then you just tell us which ones to get rid of. When I went through the public hearings for Addendum III, the public had a lot of problems kind of reconciling the different

threshold options with the different base years and everything.

To have a very focused document would maximize the clarity at public hearings. That being said, I'll go into the background. Addendum II established a 58/42 percent regional allocation. Some states tried to adjust their possession limits within this regional allocation during times that the market value was highest they would have the highest possession limits, but they couldn't really do that effectively because their fishermen were essentially losing the opportunity to harvest quota if the other states in the region were not at the reduced possession limits.

There are six sections of management measures. The first few are more complicated than the last ones, but we just separated it like this for clarity. The first one is state quotas, and that's what base years we would use to establish the state percentages. The second section is measures to mitigate low landings' history. The third section is quota transfer; fourth is quota rollover. Section 5 is payback of transferred quota, and Section 6 is possession limit options.

I just want to point out that pretty much all of these are set up – and it says in the document at the top of the management options – but most of these require the board to select one or more options. There would options for the north, options for the south, and then maybe something else that would make sense as well, so please keep that in mind.

Looking at the landings, there is kind of four breaks in the landings based on the quality of data and management. From 1981-1987 smooth dogfish and spiny dogfish were lumped together. There were in an unclassified dogfish category, so these are considered to be less accurate. There is a technical committee report. Actually it was done by Steve Correira, so you can tell how long ago that was since he has been on the Spiny Dogfish Technical Committee.

They reviewed these landings and they found that this was less accurate. You can see here from 1990-1999 that is when the large-scale directed fishery took place, the higher landings' years. Then it coincides with in 2002 federal management began as well as ASMFC emergency action, so the fishery was reduced significantly.

There is the large-scale directed fishery from 1990-1999. In 2000 ASMFC and federal management started; and then from 2000-2008 we were under the season allocation; and then in 2008 we had the regional split. This is kind of the fourth break, so these are all things to consider for landings.

Now the landings that were used in Draft Addendum III from 1981-2002 – and remember this includes the years where smooth and spiny were lumped into the unclassified category. This was also based on recommendations of the technical committee when it was developed for the FMP. It was using unpublished NMFS weigh-out data and North Carolina trip ticket landings.

It's not any revelation but including smooth dogfish in state spiny dogfish landings are going to increase their overall percent share. The 1998 assessment showed that most states are a hundred percent spiny dogfish landings; however, the weigh-out data did not capture all of North Carolina's landings, so what was done back then was they applied a ratio of spiny to smooth dogfish landings prior to 1995 and then their overall amounts decreased by 5 percent.

This reviewed and went through technical review and everything. Then from 2003-plus we used the National Marine Fisheries Service website landings. Right now we're trying to figure out what is the most accurate landings to use because obviously state shares are going to be based on this, so we want to find out what the most accurate is. From 1981-2002 it seems pretty clear that the unpublished NMFS weight-out data and the North Carolina trip ticket landings are the most accurate for the years. They went through a rigorous analysis.

The question is kind of from 2003 onward what is the best landings to use, and there are a few different places you can look. There is the SAFIS data base and there are the Northeast and Southeast Fisheries Science Centers data bases, and both of these are pretty good. I don't think we'd go wrong using them, but there is nobody out there who is familiar with both of these, so we're kind of trying to figure out what the nuances are with each of them and then try and figure out what is the best to use.

Just as an example, we just did – and one of the problems is I can't just give you guys the data

because it's confidential, so we can't just publish it. What we did just kind of show on this exercise – and we did this last week so I can't provide the board with these numbers if they want. This is taking the SAFIS data base minus the National Marine Fisheries Service Commercial Landings Website.

If you look on the right column, except for 2006, the SAFIS landings, for example, in 2003 were 11,000 pounds higher; in 2004 almost 250,000 pounds higher; for some reason in 2006 it was 8,000 less, and it varies from year to year. In 2009 it was almost 12 million, so I'm not sure what the reason there is. It varies from state to state.

For Massachusetts in 2006 NMFS had higher landings for some reason than SAFIS. If we look at the science center data – and this is just a dogfish-only query, and so you could do dogfish only, you could do dogfish unclassified in the northeast, you could do dogfish unclassified in the southeast. We just took the initial dogfish minus the SAFIS and it is less than the SAFIS for most years except for 2006.

It is more for New York in 2007 and less for Virginia, and so it varies. I'm just trying to show you some of the differences here. Now, if you take – and I believe is this is what used in the assessment by Cathy Sosebee and Paul Rago was they used dogfish unclassified in the northeast but not in the southeast because the smooth dogfish range doesn't go up in the northeast as much, and so if you subtract the science center data from the SAFIS, using that search criteria, it is usually higher.

We're looking into this and the problem is there is not one person that understands the ins and outs of all the data bases, so it may take getting the technical committee together. I've been on the phone a lot trying to figure it out, but I think it's important for us to go through and figure out what the best information is and hopefully we can report back to the board in the draft addendum and have an answer to that question.

The actual management measures that relate to all of that are Section 1, state quotas. The plan review team included all the options from Draft Addendum III, but we also added two other options. Option I coincides with the reference point period that was sent to the PRT from a commissioner who was suggesting an option for

an equal distribution of quota past a certain amount of quota.

We wanted to include the reference points that cover this because it is the example that is being used. Then Option J includes the most years, which is 2008 and 2009. What this gives us is Option A, 1981-1999, so that would be up until the regulated fishery; 1988-1997 – and just in the interest of time I'm not going to go in detail on every single one of these, but is on Page 3 if you want to go through and look at them – and so Option I and Option J, 1990-2007 and 1990-2009, are included there as well.

In addition, in the supplemental information that was handed out there is now an Option K, would be a three-year re-evaluation of quota; any kind of increase in the quota would also trigger a re-evaluation. This came from the conference call of the southern region states. Some questions on the specifics of that would be in this re-evaluation what kind of measures would be used or what kind of mechanism would be used to adjust the quota.

Would it be a majority of states in that region vote; would it be a consensus; would states just have to agree the way we do days out. It would be helpful to know the answers to those questions if we want to include this in the draft addendum. Also handed out was a New Jersey Proposal, and I think the idea in the New Jersey Proposal kind of came from this conference call; and rather than using just historic landings, you can look at history landings, you look at the current fishery, and then also future needs.

I've just put these up here, New Jersey A, New Jersey B and New Jersey C. They're included A, B, C on the handout. The first one would be 50 percent historic/50 percent current. The second one would be 75 percent historic/25 percent current. The third one would be 60 percent/40 percent current.

Some questions there are what years are considered a historic fishery? Is that prior to ASMFC management in 2000; is that prior to Addendum II; and what years are current; and then also how do you guys want to include North Carolina? This on Page 3 of the white paper and then also the two supplements that were handed out. Number one is do you want to remove any base year options; do you want to include any

new ones; do you want to go forward with L number options?

MR. AUGUSTINE: A couple of slides back there where you had – for instance, on that one, Chris, had you actually looked at those from the standpoint as to which ones would really be practical and which ones are really totally outside the realm of reality or is too soon in the process?

MR. VONDERWEIDT: Well, I would have loved to, but I was just following – I mean, it's kind of outside the purview of my role as staff, and we were just including all the options from Draft Addendum III and then any new ones. That's why they're all in there.

MR. AUGUSTINE: If we started with something like this, Mr. Chairman, here is another one of those cases where we really need to whittle it down before we get way out here in left field somewhere. We find in the final analysis with ten of those you might only have three that are really practical as opposed to going forward and having a PDT or through Chris move this whole thing forward. I don't know where you want to start. If this is the first place, how much time do we have?

CHAIRMAN DANIEL: Not enough.

MR. AUGUSTINE: Well, somewhere in time we're going to have it scope it down, and I'm not sure what your suggestion would be, whether we have to do a follow-on meeting where we take a real hard look at these, either a subcommittee or to the next board meeting. The real question is how soon do we want to move forward with this process. Is it going to be for the annual meeting or is it going to be for the spring meeting or the summer meeting?

I think those are the first couple of questions we have to ask ourselves, and then how is that going to dovetail, if it does at all, with Amendment 3 and what the Mid-Atlantic Council is doing? As you know, that process can take anywhere from two to four years depending upon how many options we put in it. What is your preference, Mr. Chairman?

CHAIRMAN DANIEL: Well, my preference is not to wait on the Mid-Atlantic Council, and it would also be my preference to move these things along as quickly as we can because I

know there is a lot of interest in all the states of trying to develop some kind of state-by-state quota share; and as Dr. Pierce said earlier and as a few other folks agreed, getting away from the seasonality issues that we have.

I'm going to try to treat this as neutrally as I can, but having sat through what I thought was a very good conference call with some of the southern states – I sat in on that although North Carolina was not considered at the time in splitting up the southern distribution; but some of the things that we talked about such as quota transfers, quota rollovers, those things kind of, at least in my mind, seemed to moderate some of the hits that some of the states may get.

I mean, if you look at some of these options, everybody is putting forward the option that best addresses their state, and that makes sense. That is the reason why I think there are so many various iterations of this is because it sort of benefits everybody. There are difficulties in some areas of the more recent information because some of us – as you know from the discussions when North Carolina was granted a specific quota, it was because we had been disadvantaged by geography and there were no fish available for North Carolina.

There are certain little nuances to all of these that I think – there are some, though, that were so slight differences that I think some of the things that we could do through transfer and rollovers that could help alleviate some of those concerns. Just trying to follow the presentation – and Chris has done a great job putting together this stuff – it's difficult for me to follow it.

I think by having ten options like we've got right now, I think we're crazy to consider going out with that many options. I hope that we can come up with some way to pare this down to where the states get what they need; but when I hear one state needs a million pounds but 975 is not enough, that's going to make it very difficult for us to come to some agreement on how to do this. Pete.

MR. HIMCHAK: Mr. Chairman, the approach I took to this is that we've already gone out with an Addendum III a couple of years ago. I included data through 2007. When the addendum was finalized – it was actually absorbed into Addendum II – North Carolina got



16 percent, 26 percent to the other southern region states, and then 58 percent.

I'm kind of like taking the attitude like we did the best we could at the time, we accept that and we move on. I know the board initially said that all the options in the previous Addendum III should be included in the new Addendum III. Well, that includes data through 2007, largely, and it has eight options. I don't think we should go there. A lot has changed in the last couple of years in the landings where I thought the – yes, stemming out of our conference call, we wanted to guarantee each state some landings.

Delaware and Connecticut in particular if you go by percentages, they're not going to get hardly anything. This was brought up in the prior Addendum III. The options that I put forward for consideration builds on the issue of guaranteeing each state within a region 5 percent of that quota. Then you take the historical period, which I have identified – if you look at the three-page handout I gave, look at Page 3, and it breaks it down into a 21-year historical period and an 8-year recent period.

Well, I only did it for the southern region states that currently have the 26 percent. Again, if the numbers on this spreadsheet change because the PDT finds something that is better or more accurate than this, that's fine, but the methodology is essentially you're given two percentages. Each state is given two percentages, an historical percentage and a present percentage, and you weight them.

Sometimes you weigh them equally, which is what we talked about on the conference call, 50 percent and 50 percent. Again, kind of like built into this recommendation is that North Carolina has their 16 percent. We don't go back and rehash all the options of Addendum III of a couple of years ago, and we start out fresh with this process. That is what I would support.

**MR. JACK TRAVELSTEAD:** What Pete has described I think is supported by all of the Mid-Atlantic states. We had a conference call last week and we had further discussions when we got here. We looked at the options that Pete had put together. As Pete said, there are three sort of conditions we were trying to achieve; some minimal base level that all the Mid-Atlantic states would get – when I say Mid-Atlantic now, I mean New York through Virginia – some

amount that is based on prior history and some amount that is based on current history, trying to allow states to maintain some of what they have now and allow states to build into a fishery if they haven't been able to do so in recent years.

Looking at the three options that Pete put together, it seemed to us that those three options more or less framed the extremes, if you will. I don't any one of us is ready to pick one of those options, but it seemed to us that they sort of framed a comfort level for all of us; and that following input from the public and the rest of the folks around the table, we would be able to come to some conclusion in the months ahead that everybody could be happy with.

Now, there were a couple of other provisions that Chris noted that I think were also important to the Mid-Atlantic states support of these options. One was that transfers be allowed, and I haven't heard anybody object to that. Another was that these percentages, whichever option we end up going with, not be set in stone forever more; that there had to be a willingness to re-evaluate this down the road as states come on line with their fisheries or fisheries change.

The agreement was that in three years we would re-evaluate the allocation scheme that we had come up with this year or we might even agree to re-evaluate it sooner than three years if there is some significant quota increase next year or the year after that. Then there was yet another option that I think we all agreed we'd like to see in there, and that would apply to the whole coast and not just the Mid-Atlantic, but we'd like to see an option in there where future quota increases are distributed equally to all of the participating states and not distributed based on the initial percentage allocation.

I don't know where we'll end up on that, but that was something we thought the public should have an opportunity to comment on. Then in the more recent discussions, the point was raised that, well, if the states of New York through Virginia are receiving an initial allocation that is based both on past history and recent history; should we not include North Carolina in that type of math?

That would change the 16 percent that North Carolina is currently allocated, but it was suggested that we also throw those options up for public comment; and, likewise, yet another

option that distributes quota to all the Mid-Atlantic states on the same formula that North Carolina received its option.

Let me just clarify; you end up with seven options; the three that Pete came up with – we'll call the New Jersey options – that leaves North Carolina at 16 percent; then three other options that folds North Carolina into the New Jersey option math; and then a seventh option that distributes quota for all the states from New York through North Carolina under the same math that derived North Carolina's 16 percent. It gets kind of confusing when you're talking about so many options, but it seemed to us that framed everything that the Mid-Atlantic States hoped to see or hear public comment on.

CHAIRMAN DANIEL: It sounds like you summarized it at least for the southern. Terry.

MR. STOCKWELL: I would like to build on Pete's and Jack's comments. It's just not the Mid-Atlantic States that discomfort with historic landings, but certainly Maine does as well for a number of reasons that we've talked about in the past. Our fish have ended up in other states, our fishery has gone from robust to bust. I like the approach that the Mid-Atlantic States have taken.

I'd have a hard time doing anything other than answer shopping going through the historic landings' options here. I think we need put out a compressed suite of options that we all can understand, much less the public. Otherwise, we'll be more tangled up with this than we were with Addendum III before.

CHAIRMAN DANIEL: I think you're right. Tom.

MR. THOMAS O'CONNELL: I think Jack summarized it very well. From listening to my constituents, they suggested the inclusion of North Carolina in whatever formula is crafted. If we don't I think it's going to be difficult for us to justify how one state in the Mid-Atlantic region one formula was applied but a different formula was applied to the other Mid-Atlantic States. I think Jack summarized it well from my perspective, and I could support those seven options that Jack described.

MR. AUGUSTINE: I have one question. If these percentages are allocated – and Mr. Travelstead indicated that a later date, maybe in

three years or so, you go back and review them – does this assume, then, that all of the commercial fishermen that are participating in this fishery are locked in and that it is a closed entry; there are no further entries into the fishery? I need that question first answered and then I have a follow-on, Mr. Chairman.

MR. TRAVELSTEAD: There was no discussion about locking fishermen in for any of this, although I will say that Virginia may be interested in pursuing some type of individual state ITQ if we're awarded a state quota under this addendum.

MR. AUGUSTINE: Well, then, a follow-on, Mr. Chairman, it just seems to me that we're at the very beginning of a process that reminds me of what we have with summer flounder. We have quota shares by state and we've tried every number of ways you can imagine to go back and readdress those quota allocations by state basis and we seem to come up with no mechanism to do it, yet we suggest here there is a possibility we could identify certain quota shares using various combinations of how we would get there with states being locked in for a percentage for two or three years or whatever that number is.

My real question is how do we or what mechanism could we possibly come up collectively that we would agree with where the haves have the power because they have the quota and the have nots want some quota, and how do we ever get that allocation changed from the percentages we lock in to start with? That is a very, very basic question.

I see North Carolina locked in with 16 percent; that's great; and if we go forward with another technique, fine; keep them at 16. The only way I see things changing after that as the overall quota increases your quota share will increase by a proportional amount for each one of those shares that each of the states have.

No one has put on the table what mechanism you would use to go back and reallocate whether that percentage that you have given a state still holds water. We can use all kinds of examples, and our perfect one we deal with is summer flounder. Some states have X percent; we're locked into a certain percent; the fish have moved and therefore we have more fish than we know what to do with, and other states rarely ever reach their quota.

And the only way we can get a transfer of quota because our state goes over – or whichever state goes over – is through the graciousness of those states who are underquota who will transfer us quota to cover our – the bluefish is a perfect example for that. I think we have a very basic question that has to be answered before we go forward and lock in any specific quotas for any state, and I'd surely love to hear anyone's idea as to how we would go back and readdress that first quota percentage that we lock in at a later date. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Well, I think to try and answer that question –

MR. AUGUSTINE: It's an important question.

CHAIRMAN DANIEL: Well, it is, but the one thing that we discussed or I'll say the Mid-Atlantic States discussed was that even distribution of increases in quota, recognizing that there are some states that come in extraordinarily low on the totem pole because they didn't pursue a dogfish fishery at the time, maybe. I don't want to pick on Delaware, but they didn't fish for them.

They could have, but they didn't, and so this is an opportunity by having equal shares – instead of Delaware continuing to add 1 percent to their annual quotas, they would get a nice little lump sum increase that could provide for a developing fishery or a new directed fishery for this resource. They're not going to get it at 1 percent or 1.2 percent or whatever their numbers are.

That was one effort to try to make sure that everybody benefits once the quota starts going up; so, not necessary coming back and re-evaluating the percentage shares. I think once we lock those in, they're locked in; but once you start adding to that, the equal distribution of increases – the allocation will change.

MR. AUGUSTINE: I understand that part of it and that is easy to follow, but let's take the other case scenario where conversely the quota goes down and State X, Y, Z, for some reason the fishermen all get very old and decide to sell out or just to go out of business whereby we don't have as many fishermen fishing on that stock, and therefore that quota still remains at the high percentage level and you haven't got a closed body of fishermen – in other words, unless we

lock in the number of permits that we have out there, that we come up with a mechanism where you can sell, transfer or do whatever you want to do with them, but only the same number of permits are in play at all times.

I just think we're starting off with a thesis or an approach that states who don't end up with a halfway decent quota, who have fishermen who want to pursue this fishery really have no way of expanding other if the quota expands. I think it's a very basic question. We use ICCAT, tuna fish, the U.S. has a little piece. We don't want more; we're trying to save.

The European community wants more, 27 countries, and they want ours. We have been conserving. That's another example. I guess there so many examples out there that when you look at the end of the day, some people are going to be the haves and those that are going to be have nots; and if I have the wherewithal to put a vessel out there and man it, why can't I get a quota share above and beyond and why should a state be locked into a given percentage forever? I haven't had an answer as to how we can flex that; and maybe there isn't an answer, but I think before we go forward with this plan where we lock in everybody to certain percentages, we better come up with an idea as to how we can approach it at a later date to change it.

DR. MARK GIBSON: Mr. Chairman, I would take this back to square one and rebuild the system from scratch. I wouldn't drag forward any of the existing allocations. I would focus an addendum and stipulate that there is no starting presumption of regional splits or state-specific set-asides. I would stipulate that 1990-2009 is the period of record encompassing the large-scale unregulated and regulated dogfish fishery. That's the default set of performances.

Then I would focus your options on how we mitigate the obvious inequities that arise from that period of record because states were cut out because they were part of a region that didn't – their quota was already reached before they could fish, choose not to fish, whatever it is, focus your options on how you do that from the period of record and half of your allocation comes from the record and half is distributed equally, whatever set of options we could articulate to address those inequities.

I would also include in there a requirement that there was periodic re-evaluation of the system as it exists every three years, every five years, whatever it is; a requirement to allocate future quotas in a certain way as they increase or decrease; and I would have an element in there that affords the opportunity to transfer quotas. I think if we can get away from which set of base years to use and how to carry forward particular arrangements we have now and focus on constructing it for the future, we'd do a far better job of it and provide better information for the public to comment on. Thanks.

CHAIRMAN DANIEL: Good comments. Ritchie White.

MR. G. RITCHIE WHITE: To Pat's question, the way we work the days out in herring, we have landing days of one, two or three, depending on what it looks like the effort is going to be. The default position is seven landing days. Nobody wants seven landing days because we need to constrain it, but that's the default so we're forced to come up something and a forced decree because the default wouldn't work. Well, the default here would be you just go back to a north/south split with no state quota or something like that.

MR. CRAIG SHIREY: I thought the discussions that we had with the Mid-Atlantic States pretty much took care of the concerns that Pat mentioned, speaking from a state that hasn't participated in this fishery very much, and that it did assign at least a minimal amount for a state to get started.

As you mentioned, if there was an increase in quota, then that increase could be reallocated based on that state's most recent history and whether or not they are in need of additional quota or whether or not they have chosen not to pursue; and also if there was a decrease in quota, then I think the transferability would come into play there. I think the Mid-Atlantic States have looked at a variety of options and also a variety of scenarios and chosen some pretty good ones. I'd hate to go back to square one.

MR. TRAVELSTEAD: I'd agree with Craig with respect to Mark's comment. From a Mid-Atlantic perspective, I would hate having gone through what we have gone through over the last couple of weeks go back to square one. I think we're arrived at a good place that sort of frames

where we think we need to be, and I think we're ready to move forward.

To Pat's point, other than the option you offered, Mr. Chairman, of equal distribution of future quota increases, Pat, your question is too hypothetical. We just don't know how the fisheries in the individual states are going to change in the years ahead; and to assume that we do and can set some advance formula on how we're going to distribute quota differently in the future I think is impossible. We could spin our wheels for a long time on that one. I'm very happy with what the Mid-Atlantic States have agreed to so far and hope we can move it further along.

DR. PIERCE: Well, Mark's suggestion is appealing to me in the context of the northern region. The Mid-Atlantic Southern States have already focused on this. They had a conference call and seem comfortable with the options that are before us now. Frankly, the most appealing part of this particular document, the white paper, is the fact that we do have two strategies.

Basically it's one strategy with a couple of options that gets at some of the issues of equity; and that once the quota is above a certain amount, then whatever is above that certain amount in terms of available quota gets split up equally between the states. To me, the northern area specifically – maybe the southern, too; I can't recall.

Anyway, to me that seems like a very productive way to move forward and gets us away from the need to consider a host of allocations, a host of years for allocations. I mean, 1990-2007; is that the best set of years to use; I'm not sure. All I know is that it is before me in the document, the white paper that was provided, and so that what has influenced my thinking regarding the northern region, anyway.

It seems that this particular strategy provides states in the New England area with, I think, more quota than they otherwise would have received with most of the other state share options that we brought to public hearing with the previous addendum. I'm looking for a way to better allocate fish within the northern region using a threshold amount as a way to make that decision.

MR. GROUT: Clearly, as I've stated before, allocation of state shares is very, very difficult within this commission. It has caused a lot of angst with other species. Fortunately, New Hampshire has been able to avoid this for many, many years, and I'd still like to personally avoid it because, quite frankly, I don't have a quota monitoring system because I haven't had to have one. That's one consideration here.

I think personally there are other ways that we address things. I do respect the fact that the Mid-Atlantic States seemed to have, prior to this meeting, come up with another option that they all seem comfortable with. I'm certainly amenable if they are all comfortable with that with moving forward with that.

As far as the timeframe that they used, one of the main concerns I would have about applying this timeframe is the fact that it goes all the way back to 1981, and this applies to any option that we choose here. This is because in the draft document, the white paper, it says under Option B, which goes back to 1988 and 1981, it says, quote, prior to 1988 landings were reported sporadically and landings data from 1981-1987 may not be representative of the spiny dogfish fishery.

So, from my personal standpoint, I think any option that goes prior to 1988 is really a non-starter. I think we really should be looking at years where we're confident in the data if we are going to go to any allocation system. I'm also concerned that in our recent data we still haven't been able to solidify what is the best data source to use.

I thought the whole purpose of SAFIS was that was going to be the source; that ACCSP was going to be the source for everything, but clearly the NMFS data base and SAFIS don't seem to be matching up right now, and hopefully that will be solidified before we go forward with any addendums here. From my standpoint right now, if the Mid-Atlantic States have had a chance to work out this agreement for themselves, I'm perfectly comfortable with that.

I think that in the North Atlantic we've got to do some more discussion about this and to more closely, using more current years and looking at the results of this if we were to apply their formula and their concept to the northern states. I also like Mark's suggestion here. I also hope

that the board will also consider the options that were for inclusion in the addendum, the options that were put together on Page 30 here, which avoids having to go to this state-by-state quota allocation where there will be winners and losers.

CHAIRMAN DANIEL: Well, I think everybody has made good points. I think there are going to winners and losers either way, though. I think there are going to be winners and losers in a state-by-state quota scheme and there are going to be losers if we don't have a state-by-state quota scheme.

I think that's one thing that we need to keep in mind; and to have it be based on happenstance of where you happen to sit on the coast doesn't seem to me to be the most appropriate way to manage a fishery; providing that opportunity when the fish show up, but if you're outside that window of opportunity you get left out.

That's precisely the reason we did what we did in Addendum III to help North Carolina out was recognizing that had occurred in that area. I was unaware that we had included North Carolina. I think there is clear reasons why we did what we did, and I think we can explain why that happened, so I'll bite my tongue until the next meeting to get involved in that discussion.

I think it is important for us to keep very clear in our minds what Doug brought up. I have a real concern that the North Carolina data is being help up as one means of looking at these allocations, but yet I know our data before 1987 is very suspect. I'd have a lot of concerns with data prior to trip ticket information, which is 1994.

I don't know what the other states look like, but certainly from our perspective I know we've tweaked over the years and certainly through the late nineties correcting certain things like lumping smooth and spiny dogfish, lumping porgies with scups, doing those types of things that we did and that we corrected.

There is a period of time at least for North Carolina when I think the data are better than others and would feel much more comfortable with any kind of allocation scheme being based on what we all agree or at least the best we can do. I know some states are going to have a difficulty there. I'm going to let Chris go

through some of the mitigating options that least the Mid-Atlantic States came up with, but one of the things that's not clear to me – and I support what the Mid-Atlantic States did to some degree, but I'm not sure I understand why there is a 75 percent historic, 60 percent historic and 50 percent historic.

It seems like to me that we could make this a whole heck of a lot simpler if it were 50/50; so if there is not some reasonable justification – I mean, it is totally counter to logic to count the earlier data that we have less certainty in more importantly than the more recent data that we have more certainty in. I think we can drop these categories down to North Carolina allocation – that's pretty clear. That doesn't base anything on percentages here or there. It's simply I think the 1995-2000 – Red, was the 16 percent for North Carolina was 1995-2000 was the time years? Pete, do you know right offhand?

MR. HIMCHAK: Well, you had two allocations under the prior Addendum III that gave you 16 percent.

CHAIRMAN DANIEL: Okay, what was that?

MR. HIMCHAK: 1994-1999 or 1994-2000; they both gave you 16 percent.

CHAIRMAN DANIEL: Okay, so that doesn't have any percentage, though, allocated to historic versus current. Then you've got the New Jersey options with North Carolina; that's 75, 60 and 50 percent historic. Then you've got the New Jersey options that don't include North Carolina, which is 75, 60 and 50.

It seems like to me we could do 50 and 50 with and without North Carolina plus the North Carolina scheme, and that would give you three options. That would pare down that 75/60; that just doesn't make any sense to me to do the 75 and 60. I'm trying to get clarification as to why we would do that. Pete.

MR. HIMCHAK: Well, there was some discussion both at the conference call and subsequent to my sending out these options about giving the public – I mean, maybe the public comments in New York may be much – you know, they make a strong case for getting a 60/40. It is to take the options out to get public feedback because of some questions on the data. As far as Doug's point, yes, the white paper casts

aspersions on the quality of the data 1987 prior, and I would have no objection to just deleting that. I included it in the analysis because that went out with the last Addendum III where maybe that statement wasn't made.

REPRESENTATIVE DENNIS ABBOTT: Mr. Chairman, I've been listening to all of this and I liked a lot of what Mark Gibson said. I think one effect that all this would have is we would guarantee longer board meetings. We would have more contentious board meetings. I don't like to hear that we're proposing something that we can guarantee winners and losers. I don't think that does us a lot of good.

Is any solution that would come out of this better than where we are now? I would say if we are going to go to allocations, my first thing would be to you that I don't see why North Carolina would be entitled to 16 percent. I don't see how we can start in an implementation or any process where someone is grandfathered. I think that anybody sitting at the table would probably like to be grandfathered at whatever position was most favorable to them.

We're all going to be looking for what is favorable to us. I think things have been going reasonably well. I think we cured the problem in North Carolina to some extent where you now have a guaranteed portion of the catch. And here we are we're talking about allocating at a time in the last couple of years where we've gone from like 4 million up to 15 million pounds, and it would seem like that would alleviate the need for doing a state-by-state apportionment.

All of this I'm not sure is entirely necessary for us to do at this time. Maybe in the future, after people are fishing with higher quotas, then we would have some that data to use which would be better when we start thinking about dividing a quota. I think we would have these longer board meetings and it would be just like summer flounder and black sea bass and scup that we surely are happy not to sit on. I don't really like this.

CHAIRMAN DANIEL: Well, I think those are good points. I guess just going back to the record on Addendum III, when North Carolina made its pitch to the board and the board accepted the proposal for the 16 percent, that stands to be corrected or that stands to be modified if that is what the board elects to do.

There seemed to be pretty reasonable justification then. I think where the problem is in this situation is a similar situation to what we had before our problem was fixed in the Mid-Atlantic.

It's probably not that big of a problem in the New England area because there are a bunch of small states together with the lion's share of the fish. Once you drop below that line into the southern area, it's really a race to fish. As you have states coming more on line in the northern Mid-Atlantic States able to go out and harvest, then I see the southern Mid-Atlantic States are going to be disadvantaged due to the same reason we were before.

I think that is principally the problem here is that New Jersey wasn't catching any fish, but now they've modified their rules to where they can allow the 3,000 pound trip limit and they're going to have a directed fishery. If there is not some limit placed on some of those northern Mid-Atlantic States, it's going to be all gone before it hits Maryland and Virginia.

To me at least, that is the critical issue and why I think the Mid-Atlantic States have made the effort that they've made to try to get together and come up with some reasonable compromise that everybody can live with. The other issue that I think is important is that's it is awfully difficult to get somebody to commit to come in and place a cutting house somewhere other than Gloucester, Massachusetts, because that's where all the fish are going.

I mean, even fish from North Carolina are being trucked all the way to Gloucester to be processed. I believe that it would be of best benefit to the southern Mid-Atlantic States to have some processing facility somewhere in the southern part of the range; but when the only guaranteed quota share is what North Carolina has, that's just not enough fish to make it worthwhile.

But if there was some guarantee that there might be four or five million pounds of fish available for the southern range, then that may behoove somebody or get somebody involved in the cutting house and that would benefit the fishermen, the cutters, the dealers, everybody in terms of the economic value of the fishery. At least from my perspective, that's the reason why we're so interested in it. I'll shut up now.

REPRESENTATIVE ABBOTT: Thank you, Dr. Daniel; you're so persuasive. Dr. Pierce would say let's catch them closer to where they're being processed if he had his way. If the problem really only exists in the Mid-Atlantic, then that's the problem that we should be looking at, and I don't think we should be looking at what goes on in the northern states.

DR. PIERCE: Regarding the northern region, it would be useful if we had some information in hand, information that would, well, either convince us to don't do it in the northern area or, yes, do it, and that is where do we stand relative to the quota in the northern area. When I made this motion many moons ago, it was in the context of race for fish, we're all at 3,000 pounds; therefore, won't we blow through the quota relatively quickly.

I thought that potentially we wouldn't get through August and that might put one or more states at a disadvantage in the northern area or maybe not. I don't know where we are right now relative to the northern quota. I haven't looked at NMFS data base yet to see where we stand. Bill says we're about half –

MR. WILLIAM A. ADLER: A little over half of our percentage.

DR. PIERCE: All right, so if it's a little over half, that's not as bad as I thought it was going to. Hence, it takes away some of the motivation that I had for having a breakdown in the northern area. If we had been 80 percent of the way towards having the northern quota taken, then I would be saying we're going to have state-by-state quotas to prolong the season for the benefit of the fishermen and also to try to keep the price up.

My understanding is the price hasn't been very good throughout the entire May through the July period, far less than it was last year for whatever reason; I guess too many dogfish in the market. While I still think it might be – well, if we're only halfway there, then I would be willing to pull back in the northern area and to just meet with the other northern states and to talk about how we can – including Connecticut and Rhode Island, of course – to figure out a way to divvy this up in a way that makes sense, to avoid a quick taking of the quota, assuming that may happen in the future. Right now it doesn't seem

to be the case, so in our situation in the northern area maybe we should just leave it as is.

MR. ADLER: Yes, I think going back in the history of this thing, remember that the whole idea was to not take in a fishing frenzy, which seems to be the case right now, to get as much as fast as possible when the better price for the fishermen was actually going to be in the fall. Now, I am very afraid is what is going to happen – and I told Dave that I did check last week or something, and they were like 50 percent towards the 58 percent – that's 24 I think – of the quota at twenty-three cents a pound or something ridiculous.

I know from my harbor everyday these boats are coming in with dogfish piled high, and I'm going, okay, you know, they're happy, I think; and then all of a sudden the phone is going to ring or something is going to go off in the middle of next month and they'll go, well, wait a minute, the fall is a better time.

A lot of our fishermen in Massachusetts did want – Massachusetts at least, they wanted that 600 pounds until a certain time and then go up when the price got better, but the problem was no one else went along with that, and so now we have the race to fish. I'm just afraid that all the dog fishermen in the northeast all of a sudden are going to be shut off when the price starts to go up.

I think that was the idea behind the state-by-state quotas, whatever the percentage was, so New Hampshire or Rhode Island or Massachusetts could decide in their state which would be the best for them; go at it now, slow it down, but they could do what they wanted to, because they weren't going to be in this race like, well, what is the next door to me doing, what is the state next to – well, they're catching it; we've got to go out and get it. That was the basis behind this idea of state by state, which I still think is a good thing to do because then you can control own catches for the betterment of your fishermen. Thank you.

MR. STOCKWELL: The longer we discuss this, the less supportive I am of the state-by-state approach. I'll end it there.

MR. GROUT: I'll try and make one more statement just to let you know I looked it up and the northern states are about 4 million pounds as

of July 28<sup>th</sup>, so about halfway there. My concern, as I mentioned before – one of my concerns was state by state. You say let your fishermen fish them; well, if one state closes because their state quota is used up, then what is to prevent them from going to the other state and start fishing on the other state's quotas.

Right now there is not that incentive because we're talking about a regional quota; but New Hampshire could close and then they could come down into Massachusetts or they could go up into Maine if their quota is still open. They just have to buy a non-resident license to be able to land there. I see the problems with it.

I don't see a problem occurring right now even in the face of sectors management where they've had tremendous cutbacks up here in the northeast on their groundfish landings, and a lot of them were talking about going out to spiny dogfish, and they have, but we're not seeing this overrunning of the quota as of right now.

MR. STOCKWELL: Actually, the point I was going to make was we can't control the market. The market may be better or it may be worse in the fall. The geographic area division to me has a whole lot to do with the movement of the dogfish. The fishermen off the coast of Maine don't get a crack at dogs until the summertime.

There was no incentive for us to reduce the daily trip limits during the time of the year that they could catch fish. The latter part of the fall the fish are backed off, they're down off the Commonwealth. As other speakers have said, I'm supportive of the Mid-Atlantic folks s moving ahead with what they need to do; and if there is a reason for New England to do it, I would suggest we do it offline and come back at the fall meeting.

MR. HIMCHAK: This is my last comment on this. What would prevent us from moving forward with Addendum III wherein the northern region states maintain their 58 percent regional quota? The very reasons you explained, the processing and the seasonality and the race to fish that compels the southern region states to go for a state-by-state quota; what would compel us to move forward with Addendum III in that manner?

And then if the northern region essentially wanted to go with a state-by-state quota, they



could do so in the future, but we seem to be very much in agreement on the need – and I think we’re very close to what we can come up with a fair and equitable solution, so I hate to see that opportunity just wither on the vine, so to speak.

CHAIRMAN DANIEL: Well, that’s precisely what I was going to recommend. At least what I’m hearing around the table is there is less of an interest in doing this for the northern group. There is much more of an interest to doing this for the southern group. Mark.

DR. GIBSON: No, I don’t agree with that. Rhode Island wants a state-by-state allocation for all the reasons that Bill Adler articulated. It gives us the flexibility to deal with our advisors and configure fishing seasons and seasonal allocations within the state’s quota. That’s not where we’re coming from. My suggestion was just not to drag forward a bunch of old history and grandfathered allocations and regional splits and build the system from scratch. I can see there isn’t any interest in doing that, and that’s fine, but I don’t want to lose the state-by-state shares in the northern region.

CHAIRMAN DANIEL: Thank you, Mark, I’m sorry I mischaracterized that. Jack.

MR. TRAVELSTEAD: What is the timeline that staff has in mind for us to proceed down this road and have something in place by next year? Could the New England States get together between now and November and possibly work something out and we come back with a document for consideration at that point or is that too late?

MR. BEAL: I don’t think it’s too late. I think if the states were interested in having a new allocation system in place by May 1, 2011, the addendum would have to be approved at the annual meeting to go out for public comment, and public comment through the early winter, and then at the March ASMFC meeting, final approval at that point, and then implementation on May 1.

I think if the northern states did come up with a suite of options they would want to plug into an addendum either before the annual meeting or at the annual meeting, I think that is fair game and staff can accommodate that. If the ultimate goal is to implement a new allocation system by the May 1, 2011, fishery, it would have to be

approval of the draft addendum for public comment at the annual meeting and final approval in March.

CHAIRMAN DANIEL: That’s what I would like to see. If the New England States or the northern group states can get together and try to come up with something with a spokesman, I think the southern states – I say that – the Mid-Atlantic States; I think we’ve got some things to discuss, too, about certain issues.

I still am very concerned about going too far back in history just because of the quality of the data, but I think those are issues that we can discuss through the process that we did a couple of weeks ago. I thought that was very helpful. I guess what I’m hearing is let’s delay doing anything until the annual meeting. Mr. Simpson will be able to drive the train and he’ll probably figure out exactly how to do this without any glitches at all. Tom.

MR. O’CONNELL: I think people are aware, but if we do delay today and we don’t get a final addendum until March, that’s going to leave two months for states to implement regulations. We’ve talked earlier about the timeline that is needed by states. Maryland is going to be able to address it, but we were hopeful that we’d be moving forward today.

CHAIRMAN DANIEL: I was, too, until I found out we were included. I’m perfectly willing to do whatever the board – I mean, I thought I had a consensus in the New England States and we don’t. We do certainly want to include them if they want to be included in this and not make them wait as we move forward in the Mid-Atlantic. I really don’t see a fairer way to handle this rather than the way that we’re proposing. Pete.

MR. HIMCHAK: I think you’re correct on that point. I think if we could agree on – I mean, essentially the northern area is working independently of the southern area. If we could agree on some basic ground rules right off the bat that would save later problems – for example, if we don’t want to use the NMFS data prior to 1987, let’s agree now and don’t do any of these analyses because then it’s a lot of extra work for nothing.

DR. PIERCE: Regarding that particular point, my understanding was that the plan development

team is still working on the data base to give us some advice as to what the best years are, the years where the data are actually accurate or most accurate. Maybe I misunderstood that particular point, but if indeed that is going to happen, that will certainly help the Mid-Atlantic States, North Carolina and Virginia; you know, work with the data in terms of fine tuning the options you have already worked on for a bit.

CHAIRMAN DANIEL: Yes, I think we definitely are going to need to talk about that. I think Pete's suggestion that we eliminate the pre-1987, I don't think they're going to come back and say that that's adequate. From North Carolina's perspective, I would say anything before 1994 is a problem. That's just based on our trip ticket program and the confidence that I have.

When we've run an analysis, we've run it from 1994 forward. We don't ever use information pre-1994 if we're trying to characterize the fishery and get good results. That's just us. I think the other ground rules or at least the discussions that I think that need to be had – and we've had the discussions at the Mid-Atlantic Group, the discussions also that the New England States I think need to discuss also are how to distribute future quota shares; can we all agree that an even distribution across all the states?

Some of us will get less of an allocation but others will get much more. It will help alleviate some the states with extraordinarily low levels of abundance and give them some opportunities. Do you agree with transfers amongst – and could we transfer even amongst New England to the Mid-Atlantic? I think that's an important question to note. Is the New England quota sacrosanct and the Mid-Atlantic is and we don't go cross those boundaries? I don't know the answer to that one.

We had some discussion I think at our group about if we go with state-by-state quota allocations, can we just have state-by-state quota allocations and not have any trip limit of parameters; give us the flexibility to do it however we deem appropriate. That's certainly something that I know we would like to see, but whether any of other – I mean, I just don't see any reason if you have a state-by-state share why there needs to be trip limit provisions put on there or any other type of provisions.

You catch it the way you deem necessary and the best interest of your state and close it when you get close. I think those are certain issues at least that we talked about or at least in some degree in the Mid-Atlantic and that the New England States might want to take into consideration as well to maybe facilitate the discussion in November. Just to kind of finish this up, I'll let Chris go over a couple of other points that we didn't get through in the presentation, and then we've got a couple of other agenda items. We're right on schedule right now so I'm going to try to keep us on that.

MR. VONDERWEIDT: Okay, a lot of what people are saying they'd like included now are actually included in the white paper, kind of in the less contentious sections. The second section is measures to mitigate low landings' history, and so it would be independent. Part 1 is what years to use as the base to set the percentages by state; and then once you've set those percentages, this is in addition to that to allow states that don't have much of a landing history some landings.

Issue 1 is minimum threshold, which comes directly from Addendum III. Issue 2 is the equal distribution of a quota exceeding a threshold amount. This was sent to us by a commissioner. Issue 3 is an amount allocated to states prior to a landing history allocation, kind of the reverse of Issue 2. Issue 1, the minimum threshold, I'll just point that this was very confusing to participants at the public hearings. Option A would be 1 percent to all states – and this is on Page 6 of the white paper. Option B is to all states with a declared interest.

Option C is 25 percent divided to all states; and Option D is 25 percent equally to all states with a declared interest. Option E is 1 percent to Delaware and 1 percent to Connecticut. As you can see, it changes a lot depending on who declares interest and there are not fixed percentages, so that is why it was considered more confusing.

Issue 2 of this part is an equal distribution greater than a threshold amount. What was sent to the plan review team was 15 million pounds and it's that state shares based on an allocation percentage from Section 1 up to a certain amount, and then the remaining quota gets divided equally; so a 15 million pound trigger is one and then a 10 million trigger is another one

that we ran, so the options are, A, northern, 15; B, northern, 10; C, southern 15 but North Carolina keeps their 16 percent; D, southern, 10, but North Carolina keeps their 16 percent; and then E and F are the 15 million or 10 million including North Carolina.

As you can see, it would be helpful to know if we're going to include or not include North Carolina to reduce the options. This is kind of what it looks like graphically, and this is the amounts. I'll point out that the baseline is 1990-2007 because that is what was sent to the plan review team by the commissioner that sent us these options, so we just wanted to present it as it was given to us.

You can see here on the percents on the next slide, they kind of start out at 15 million pounds spread out and then they converge as you increase. And just one point from the plan review team is that if we do take this out to public hearing with this threshold amount, it might be a good idea to stop the projection at 22 million pounds because the public might get overly optimistic about a 30 million pound quota that might not be possible given the constraints of the spiny dogfish's life history and the assessment recommendations.

Issue 3, this is on Page 22, and this was just developed by staff and the plan review team as an alternative approach to the minimum threshold. Again, we're just trying to give you as many options as possible, and you can just strike them out. It seemed better than fewer. This is an amount allocated to the states prior to that historical percent allocation.

We only ran it for the northern region just because we weren't sure if the board was going to think it was a good idea or not. The options here specifically would be 250,000 to all northern states; and then after everybody gets their 250,000 years historical landings, Option B would be the same idea but 500,000 to northern states.

And then C and D are just kind of some considerations; what if the quota is less than the number of states times the threshold amount, then there is how do you do that? It would be divided equally under Option C or Option D is that a specified amount not distributed if a quota is less than a certain amount, which the people

around this table could stipulate. We didn't want to take a guess at that amount.

This is just another way to do it, and graphically these are the quota amounts, the pounds for each state, and these are the percentages, and you can see they converge but it's kind of they take the reverse trend of the prior number two option. This is using the base year of 1990-2007 because that is what was presented to us, and we just ran it with 250,000. There is also 500,000 in the white paper if you want to take a look at that.

The questions about this is whether or not we should keep all the issues or strategies, the threshold, the equal distribution or the specified amount; how do you want us to handle the southern region; if you want to even keep all these options. If you do keep the specified amount, what amount would you use for Option D, which would be kind of a minimum amount that you would have quota for to distribute; and then the point about adding projections at 22 million pounds.

The next section would be quota transfer options. There has been some talk about people wanting to include them. They're included at this point. Option A is to allow transfer; Option B is to not allow transfer. This is on Page 27. Section 4, quota rollover, right now the management documents say 5 percent seasonal quota allocation can be rolled over once rebuilt.

We're not in a seasonal allocation anymore, and I think it has been interpreted as a regional allocation, 5 percent rollover; but since it is not specific to states or regions, we could include it in here and make it official to the individual state quota. So A is rollover of state quota; B is that you cannot roll it over; C is that you can roll over transferred quota; and D is that you cannot roll over transferred quota; and then E would be a maximum of 5 percent rollover. There is a variety of considerations for quota rollovers.

Number 5 is payback of transferred quota, and that is if a state receives quota from another state but they overharvest, it just puts the ownership in the hands of the state that received the quota and then overharvested that amount; so a state that receives quota becomes responsible for overages of that quota. There is only one option at this point. We wanted to keep it short. We will add a status quo to that like the other options.

Then the last one would be possession limits. This was taken from an e-mail sent to the PRT from a board member. Option A would be seasonally variable by region. That would be that the possession limits would change within the fishing year for every state in that region, so all states would have the same possession limits, but it would increase or decrease based on preferences of the states.

The sub-option for that is that only states within a region can vote on the possession limit – the seasons. Option B is seasonally variable within the region, meaning that each state would have a different seasonal possession limit; so maybe Maine would start out – and there is an example in the white paper of how that could be done, and it is taken from the e-mail from the board member.

One state would be at a high possession limit while others were lower possession limits, so it would kind of try and control the market that way. Then within that there is a sub-option B that only states within that region can vote on the possession limits for that region. And then Option C and Option D accomplish the exact same thing, but they just use different mechanisms to do it.

Option C is that states specify their own possession limits or Option D there is no possession limit. If you have a state quota, it would be the same thing. Those are the other issues that are included in the white paper at this point.

CHAIRMAN DANIEL: We've got it in there. If you want to consider it, it's in there. It would seem to me that the most time-effective way to handle this would be for the regions to look at these issues and kind of look and see what you see fits. I really see this as two regions dealing with these issues; and what the New England States may come up with is something different than what the southern states or whatever we want to call it. I don't want to offend anybody.

I really think that what Chris has laid out for us has really got a lot of various options and things we can consider; whether we want to go with state by state; whether we want to keep it the way it is; and maybe invoke some of these issues and not all. I think that provides us with a lot of latitude. Is everybody comfortable with the

approach that we're taking here to move forward?

MR. BOB ROSS: Just going to the issue of the quota rollover, as the federal representative here I'm very much aware that over the last multiple years we've had some disconnects in the fishery mainly on the quota aspect, but now we seem to be moving forward to align the commission and the federal process with the quota.

It's encouraging hearing that we've got a council amendment coming forward that hopefully will address this periods and regions issue. Granted, it probably sounds like it is another year and a half or two years away before the sync up. The only remaining issue I would have here is this issue with the quota rollover.

I know at the council level there is not an accepted process to shift F from one fishing year to another. I just would like the board to keep in mind that we're finally starting to see daylight here on a coordinated commission/council/NMFS management process for the spiny dogfish. Things like these quota rollovers could potentially continue to create a disconnect whether we go state by state or not.

If the board does opt to evaluate the quota rollover, I would encourage the board to look at it similarly to what NMFS does is mainly a very small discretionary option primarily as a safety factor. I believe we do it in groundfish days at sea now where the idea is we do allow some minimal rollover, but it's only assuming options for bad weather or safety issues and not a routine de facto rollover for any underages. Thank you.

CHAIRMAN DANIEL: Thank you. Anything else on this issue? Bob.

MR. BEAL: Just to make sure I know where we are or where you guys are; staff and PDT will start turning this into an addendum; we will wait to hear from the southern region and the northern region on their regional deliberations; and we'll bring that forward at the annual meeting or are we not going that far to turn this into an addendum at this point; and the two regions will deliberate amongst themselves and bring back opinions and options at the annual meeting.

CHAIRMAN DANIEL: I don't see any other way to do unless we're going to have a special meeting. I don't think the staff needs to be spending time trying to forecast what the two

regions are going to do. It would seem to me that the most – I mean, at least at this particular point in time, that we would come back and have this similar discussion at the annual meeting, and hopefully come to agreement on what we would like as the options that everybody can agree to in the addendum.

We would be delayed in getting it implemented by May 1; but unless we hold a special meeting or we have some deadline certain that we can get that information that everybody has agreed to clearly to staff, I don't see any other way. All right, without opposition, that is how we will proceed. All right, good discussion. The next issue is a review of Amendment 3 to the HMS FMP.

### **REVIEW OF AMENDMENT 3 TO THE CONSOLIDATED HMS FMP**

MS. LEANN SOUTHWARD-HOGAN: I'm Leann Hogan from the Highly Migratory Species Management Division at NMFS. Today I'm going to be going over the final measures for Amendment 3 to the Consolidated HMS FMP. I'm just going to quickly go over the need for action, our management objectives, the timeframe of the action, and give you a summary of the final measures by species.

Per the latest stock assessments, we determined that blacknose sharks were overfished with overfishing occurring. The ICCAT assessment found that shortfin mako sharks were not overfished. They were approaching an overfished condition and overfishing was occurring. We also determined that smooth dogfish, which are currently not managed at the federal level, that they were in need of conservation and management measures.

Our objectives for Amendment 3 were to rebuild and end overfishing of blacknose sharks, to end overfishing of shortfin mako sharks and ensure a sustainable fishery for smooth dogfish while implementing federal conservation and management measures. We also in this amendment developed a mechanism to specify annual catch limits and accountability measures.

Here is the timeframe for the action. We did scoping in July through November 2008, we did the pre-draft in February 2009, and then we published the draft EIS and proposed rule in July 2009. The final EIS was published in March

2010, and the final rule published on June 1, 2010. The small coastal shark fishery opened on June 1<sup>st</sup> and the rest of the measures were effective on July 1<sup>st</sup>. And then the smooth dogfish measures, which I'll get into later, were delayed until 2012.

This is a summary of the measures. I'll go through these by species. One thing I wanted to note; in order to reduce confusion with spiny dogfish regulations, in the final rule we placed the regulations for smooth dogfish and Florida smoothhounds in a Smoothhound Shark Complex. We refer to them as smoothhounds, so you'll see that throughout the presentation, and that is what we mean by that.

Okay, in terms of blacknose sharks commercial quota, in the final EIS and the final rule we implemented Alternative A-6. Now this is a new alternative that followed logically from updated data and public comments that we received during the proposed rule stage. Based on those public comments and a recent analysis of gill net observer data, we found that gill net fishermen could selectively target certain shark species and have been able to minimize mortality of blacknose sharks as well as other protected species.

Now, this data also indicated that the elimination of gill nets – because we had originally proposed to eliminate gill nets from South Carolina south as well as you see that first bullet is what we propose in the DEIS. This data indicated that eliminating gill nets would not achieve the conservation and management objective that we needed because of the high discard rates from the other fishing gear. We then set the non-blacknose small coastal quota at 221.6, which is the average landings of bonnethead, finetooth and sharpnose from 2004-2008.

We set the blacknose shark quota at 19.9 metric tons. One thing that is very important to note is that if either the blacknose or the non-blacknose quota reaches 80 percent, they both close, and so we have been encouraging fishermen to avoid catching blacknose sharks so that the other fishery can remain open.

Another thing to note is that we also implemented a framework mechanism which gives NMFS the flexibility to either increase or decrease either the blacknose or the non-blacknose small coastal quota based on the future stock assessments and the ability of fishermen to

avoid blacknose, so we have some flexibility. If that blacknose quota goes too quickly and the whole fishery closes, we can make some adjustments.

As I mentioned, at the proposed stage we had proposed to eliminate gill nets from South Carolina south, and in the final rule we implemented Alternative B-1, which is the no action, and we maintained all the currently authorized gears for the commercial shark fishery. Another change we made from the proposed to the final stage was in the recreational measures.

We had originally proposed to prohibit the retention of blacknose sharks in the recreational fishery, and then in the final we actually went with the no action alternative and maintained the current recreational retention size limits for all the small coastal species. Okay, moving on to shortfin mako, we implemented the same measures in the final that we proposed in the draft, so there were no changes from the draft to the final stage.

The first alternative that we implemented was to take action at the international level to end overfishing of shortfin mako, and this is because the U.S. percentage of mortality relative to the other international and foreign fishing nations is very small. It's less 10 percent. We felt that ending overfishing was more appropriately done at the international level where all the countries that have mortality of shortfin mako can participate in those discussions.

The other alternative that we implemented was to promote the release of shortfin mako in both the recreational and commercial fisheries, and we're currently engaged in an outreach effort to reach out to tournaments and our recreational and commercial fishermen so they will start releasing shortfin makos alive.

So smoothhounds are currently not federally managed and we really have incomplete catch data for this species, and there is currently no stock assessment so therefore it has an unknown stock status. As I said before, we will be referring to the species as the smoothhound complex. At the draft stage, on the left-hand side, those are the measures that we proposed at the draft stage, an open access commercial permit, an open access recreational permit, a

quota, the fins attached requirement, dealer reporting.

We got a lot of comments about the quota and above the fins attached requirement, and so we decided at the final stage to delay the implementation of these measures until the beginning of the fishing season in 2012. This is going to give NMFS time to do outreach to the fishing community and to the fishery participants to educate them about the new requirements and to work with them.

We actually have started our outreach efforts. We're going to continue to do those through the fall. We're working with the Mid-Atlantic Council and Rick Robins. He is very involved in the smoothhound fishery. We are continuing those efforts to do outreach. One other thing that we did is that when you bring a species under federal management, we are required to do EFH determinations, so we did EFH determinations at the proposed stage and this is the final EFH for smoothhounds.

We did an Amendment 3 specific compliance guide; so if you would like any of these materials, they are on our website, including an updated recreational shark identification placard that is also on our website. You can contact us if you want copies of the final rule or the final EIS or any of the documents. If you have any questions, I will take them.

CHAIRMAN DANIEL: Thank you for that quick presentation. Pat.

MR. AUGUSTINE: Thanks, Leann, good presentation. Some months ago I had a conversation with Dr. Wilson Laney, U.S. Fish and Wildlife. We were talking to some of the North Carolina fishermen. As you know, the biggest concern that they have with smoothhounds is that the meat goes bad very quickly and handling them the second time around at the dock and removing the fins later on was going to cause them some major problems.

Dr. Laney said that he had talked to several of the fishermen and apparently there was a movement to try to get some funding to work with the North Carolina fishermen to look at – I guess through observing – how many of these fish that they were catching were actually meeting the 5 percent rule for fins.

As they have claimed over and over and over again, the fins go from anywhere from probably 9 to 15 percent, depending upon how they're cut. As long as this has been delayed until 2012, I was just wondering whether there was going to be a followup with you folks – I know Margo and I had a brief conversation about it – and with U.S. Fish and Wildlife.

I'm hoping that Wilson will be involved directly. I had begged off – after I made the initial contacts, I felt that those are the right parties to put together, so if one of you would follow up on that, I surely would appreciate it. I think here is a case where you're far enough ahead of the curve with all the EIS, DEIS and FEIS that have been done that we could probably avert a major problem in the next couple of years. Thank you very much.

MR. CRAIG SHIREY: Recently we've had a big increase in the number of shore anglers that are targeting some prohibited species such as sand tiger sharks. I asked the Service whether or not they had any information that they could distribute to anglers on the proper way to handle these when they get in the water, and I have yet to get any information. I was wondering if that's available.

CHAIRMAN DANIEL: That's in other business. That's the letter that we're going to discuss in other business is that specific issue. Anything else? I have several. To follow up on Pat Augustine's comments – and I appreciate him bringing that issue up – our heads are bloody from beating it up against the wall over this issue.

We've got the information out there that shows very clearly what the carcass-to-fin ratio is on smooth dogfish. Please, let's try to keep this from being another 3,000 hour exercise to get something this easy resolved somehow. I know there is a reason and I know there are problems and I know there is bureaucracy, but, Lord, what a mess this is going to be if this isn't resolved. The other issue is smoothhounds; is that the AFS common name? I've never heard in a professional setting them referred to as smoothhounds.

I would recommend that we look at the AFS Journal and just see what the common name is. I'd hate for us to use vernacular if it's not. I know that's picky point, but I just don't know.

And then the final question I have – and this just came to me, because I've been very concerned over the blacknose quota and the potential loss of a very important fishery at least I know from I think Virginia south in the small coastal fishery.

Why didn't we just make blacknose a prohibited species? It makes no sense to me that we would lose such a huge component of our small coastal fishery, and we're going to all these efforts to keep them off of the blacknose. I mean, it seems to me now, in retrospect, the best thing would be to have listed them as a prohibited species. Then we wouldn't have to worry about closing the small coastal fishery and treat them just like any other prohibited species.

MS. MARGO B. SCHULZE-HAUGEN: Well, I think that was one of the things that we considered and there was available quota under the stock assessment, so I think we were trying to make available as best we could what was available. As you saw, we did propose to prohibit recreational although that was very consistent with our recreational limits, anyway. I think we were trying to be accommodating.

CHAIRMAN DANIEL: Well, I think you could have probably come up with a 19 metric ton quota for any shark species. I don't know, but it just seems like to me that there may be a way that you could maybe have some way they convert to prohibited species when the quota is caught or something other than potentially losing 200 metric tons of small coastals.

I know at least in the South Atlantic sharpnose particularly are a very important component and a lot of bycatch. I think one of the concerns that I have is a lot of the guys that are catching blacknose are going to be just discarding them to avoid bringing them to the dock, and we we're going to have a lot of unquantified waste.

They're not going to avoid them because they're in a mixed-species assemblage of sharks. They're simply going to toss back those blacknose to avoid bringing them to the dock to keep the small coastal fishery open. I'm not so sure if that was the best move we could have made on that particular issue.

What is done is done, but I think as if we move forward on this thing, the small coastal fishery is a very important internal fishery, and we're going to have a lot of discards and a lot of waste

if we end up hitting that 19 metric tons on blacknose, particularly on bonnetheads and sharpnose. I don't know about finetooth. Probably more in the southern states would know more about finetooths, but that could raise some real concerns. Did you have a comment on another issue, the smooth dogs?

MS. SCHULZE-HAUGEN: I do, but I see Leann's hand up; did you want to direct that?

MS. SOUTHWARD-HOGAN: Just to that direct issue; with your concern about the 19.9 blacknose, the framework mechanism that we built into the amendment, if we see that that is happening, that 19.9 is going quickly and then it shuts down that other small coastal, we can make adjustments if we need to increase or decrease. It's also going to be based on the – because there is that blacknose stock assessment going on now; and so when we get the results of that stock assessment, that will give us a better idea as well on how to adjust that.

CHAIRMAN DANIEL: I mean, it would almost behoove us to protect the small coastal shark fishery to list them as prohibitive if all there is 19 metric tons. It is something to think about. I don't know, but in that advisory role, that would be my advice. Anything else on the HMS?

MS. SCHULZE-HAUGEN: Louis, to your point on the smoothhound or smooth dog, yes, we are working to look for some funding for research, and I think there are a variety of issues that we're looking at with that funding to look at observed trips, but then also potentially more focused studies on handling and processing and what the options are.

I think as part of that we would look at the more morphometrics just as a normal matter of course. Life history information I think would be necessary for stock assessments, so we will work with Wilson Laney. I think we've got some other avenues as well. I think you're right, there is the time.

That was part of the idea with having a delay would be to give us the additional time to work through. A lot of the comments were fairly contradictory that we got in the public comment period; some people saying they come in whole, some people saying they come in really highly processed, and so it is part of the outreach and then also looking for more focused research and

working with the council and the Fish and Wildlife Service.

CHAIRMAN DANIEL: Thanks, Margo. Anything else on HMS?

MS. SCHULZE-HAUGEN: Sorry, can I add one more thing? I just wanted let folks know that we are currently working on the 2011 season and specification's rule. Part of that rule we are looking at trying to provide ourselves more in-season management flexibility to slow fishery if we are seeing the quotas go very quickly.

That would be something that we'll make sure that you see when it's out, and we're expecting to have that out by our advisory panel, which is September 21-23, and would welcome any comments. I understand that may mean that federal regulations in-season might be different from states, but we feel it's important. The Gulf Region quota went in six weeks this year, so we're wanting some additional flexibility to slow things down and get more people more opportunities.

#### **APPOINTMENTS TO THE COASTAL SHARK ADVISORY PANEL**

CHAIRMAN DANIEL: All right, I think it's it; thank you very much. We have a couple of other issues. We need to review and populate the Coastal Shark AP as well as the Spiny Dogfish Advisory Panel. You've got some information in your book here to add some folks, and there is also a question about Sonja Fordham.

She has changed affiliations to the Shark Advocates International, and she has requested to be place on both the shark and spiny dogfish advisory panel. I don't know what folks think of that, but that's up for your consideration. I've got Peter Grimbilas, Mark Sampson from Maryland, Terry Annibale from South Carolina and Reese Michalove from South Carolina have been nominated to the Coastal Shark Advisory Panel. Robert.

**MR. BOYLES: Mr. Chairman, I would like to make a motion that we appoint Peter Grimbilas, Mark Sampson, Terry Annibale and Reese Michalove to the Coastal Sharks Advisory Panel.**

CHAIRMAN DANIEL: Motion by Mr. Boyles; second by Mr. Augustine. Discussion on the



motion? Is there any objection to the motion?  
**Seeing none, that motion carries.**

#### **APPOINTMENT TO THE SPINY DOGFISH ADVISORY PANEL**

CHAIRMAN DANIEL: We also have a review of an applicant from New Jersey. Marty Buzas has been recommended to the Spiny Dogfish Advisory Panel. Pete.

MR. HIMCHAK: He is on our Shark Advisory Panel, and he well known at meetings. **I would move to approve Marty Buzas for the Spiny Dogfish Advisory Panel.**

CHAIRMAN DANIEL: Motion by Mr. Himchak; second by Mr. Augustine. Discussion on the motion? Is there any objection to the motion? **Seeing none, that motion carries.** The information for Sonja was just that she had changed affiliations, and I thought we had to reappoint her to those two boards as well, so that we do not have to do. The only other thing we have is other business. Pete.

#### **OTHER BUSINESS**

MR. HIMCHAK: I have one item under other business. We met the timeline for implementing all our shark regulations. I want to extend my thanks to the board for providing the leverage at the February 2010 meeting to get our regulations moving. Thank you very much.

CHAIRMAN DANIEL: Margo, do you want to go over your letter; is that the way you would like to proceed?

MS. SCHULZE-HAUGEN: That's fine, yes. What we wanted to do was kind of bring attention to the board an issue that was brought to our attention by some folks of Delaware where there appears to be an increasing trend, potentially, but certainly an existing fishery targeting sandbar sharks and sand tiger sharks in Delaware Bay, and it may be spreading to some other states.

These are very heavy tackle and using kind of a rocket launcher almost to get the bait far out, and then they're bring these sharks up on to the beach, often taking lots of photos sitting on them, actually. Roy gave me a picture from I think just this weekend of an individual, you can

see him sitting on the shark, holding those up for a picture, nice toothy jaws, but then releasing the animal.

The concern that we have is that if the expectation is that these animals are surviving that kind of handling, I think that's unfortunately not borne out by some of the scientific information we have. This is happening largely in state waters, shore fishing. We don't have the jurisdiction at that point, so we thought it was appropriate to bring to the board.

As you recall, sand tiger are a prohibited species, sandbars are prohibited as well except for the research fishery, and under an extended rebuilding timeframe. Any sort of mortality there, though people may not recognize that will result in the mortality, could affect that rebuilding timeframe. I wanted to let you know it is happening and raise it to the board as a potential for board action to mitigate in some way the activity.

MR. SHIREY: Yes, this has really taken off. I haven't heard of them using rocket launchers to get the bait out, but they are using kayaks and big offshore gear and paddling way out and dropping the big circle hooks. They're pretty successful at it. They drag them up on the beach. They're using Apex Predator Tags and they're touting it on websites as giving something back to science. They have the NMFS Logo right up there at the top of the website.

It's difficult to regulate that since there are other species that they could be catching, but it is obviously what they're targeting. There is a shark tournament coming up in a couple of weeks. I know they're sandbars and sand tigers, but it is difficult for our enforcement to do anything. The way the regulations are written, the fish have to be released, not landed; and other than some language in there that says with the greatest possibility of survival or something like that, it is very difficult to regulate.

CHAIRMAN DANIEL: One thing we did that you can consider – I mean, we did this with a large adult drum tournament, and they can't bring it out of the water. They've got in the water with the drum and hold on to it until – seriously – until the truck comes and sees the fish, measures the fish and they release it. If they don't bring it out of the water to do that, I guarantee those guys will stop doing it. Tom.

MR. FOTE: It's an interesting problem to deal with. It's an education process, and what we probably need to do is go out on those web pages where they're basically putting that and say this is not to handle it – I mean, I'm watching all these shark weeks on television and all the stunts; is that promoting real conservation.

Maybe this is not the best method of advertising, you know, jumping in with the sharks, bending their nose, you know. I mean, you sit and look at these shows and sometimes I really get upset at them, too, but, again, it's very difficult to enforce because they're doing catch and release. I think it's really an educational process.

I think Louis hit on it; you have to release them in the water. They'll figure out a way of doing it, Louis, if they want to catch fish hard enough, but it really is an education. The point needs to be made that these are not as basically indestructible as you think they are. They can't take the handling you think they can. You need to basically put that out in writing.

I mean, I have not seen a report and I have not seen a letter to that effect in any of the fishing magazines, and that's where you need to get that information out. It's hard to enforce what they're targeting. They say, well, we're looking for that striped bass all the way out there and prove it or not prove it. It's difficult to enforce.

MR. DAVID SIMPSON: I just wanted to say that this week I've been distracting myself with media reports and the reaction to it of a sand tiger shark being caught even in Connecticut, so we're going to be sending a notice out to fishermen reminding it is a prohibited species and try to nip it in the bud before it gains momentum, which in some years it will. People will start to target them, so we're just going to remind people it's on that prohibited list.

MR. ROY MILLER: From a federal enforcement standpoint, I'm reminded of federal enforcement actions taken relative to fishing for striped bass in the EEZ. My understanding of the federal posture in that regard is it is illegal to target striped bass in the EEZ. Now, having said that, is it similarly illegal to target sand tiger sharks or is this for some reason being treated differently?

CHAIRMAN DANIEL: Margo would have to answer that. I don't know if prohibited means you can't catch and release?

MS. SCHULZE-HAUGEN: I think our regulations talk about not fishing for and most of the prohibitions are in terms of retention. Fishing for something is hard to prove. You don't what is going to bite the hook. Retention is often where it really boils down what you keep on the boat. But, remember, this is, as far as we know, a shore-based activity, so this would be commission regulations that would be applying with the possible exception of folks that are federally permitted. I don't know if we allow permitting of kayaks federally, so I don't know even if that would be covered.

CHAIRMAN DANIEL: I don't that I'd go three miles offshore in a kayak, anyway. Robert.

MR. BOYLES: Mr. Chairman, it seems to me this is maybe something for a little bit of discussion with our Law Enforcement Committee. I know in South Carolina we define harvest as taking, attempting to take or possessing, and that becomes a question of what is in the eye of the beholder. I think it is a very, very difficult question, but one I know our Law Enforcement Committee probably has a lot of experience in dealing with. I'd maybe suggest that we kick it to them for some of their advice.

CHAIRMAN DANIEL: Yes, I know there are a lot of people off North Carolina and Virginia bluefish fishing with striper gear in the EEZ in the wintertime. That would be the only option I would know. Certainly, in North Carolina I know we've got the guys that have the big bucket seats and trucks and they shark fish from the beach, and you don't know what you're going to catch.

It could be a hammerhead, it could be a sandbar, it could be a tiger; you never know what it is going to be. I know if that's a sand tiger fishery, but certainly you bring those fish up on the beach, and it's not going to be the best thing for them. I don't know what else to do there. Am I hearing, Mr. Chairman, a reference to the Law Enforcement Committee?

MR. BOYLES: I would suggest that as a starting point, yes.

CHAIRMAN DANIEL: Then we will make that happen. Is that it, Margo, anything else?

MS. SCHULZE-HAUGEN: Yes, so if we refer something to the Law Enforcement Committee, would that mean that we would expect some sort of report back at the annual meeting?

#### **ADJOURNMENT**

CHAIRMAN DANIEL: Yes. Anything else to come before the Spiny Dogfish and Coastal Shark Board? If not, we will stand adjourned.

(Whereupon, the meeting was adjourned at 3:50 o'clock p.m., August 3, 2010.)