

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

**The Crowne Plaza Hotel**  
Old Town, Alexandria, Virginia  
March 22, 2011

## TABLE OF CONTENTS

Call to Order, Chairman David Simpson .....	1
Approval of Agenda.....	1
Draft Addendum III .....	1
Overview of Options.....	1
Public Comment Summary .....	3
Technical Committee Report .....	3
Advisory Panel Report.....	3
Law Enforcement Report.....	4
Board Discussion of Draft Addendum III.....	4
Update of Delaware Regulations for Recreational Shore Anglers.....	14
Future of the Shark Fishery Initiative .....	15
Federal E-Dealer Update and ICCAT Recommendations .....	17
Discussion of Variable Commercial Shark Possession Limits .....	19
Discussion of Smooth Dogfish State Shares.....	20
Other Business .....	22
Adjournment .....	22

## INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of November 11, 2010 by consent** (Page 1).
3. **Move to to adopt Virginia's Option 1** (Page 6). Motion by Jack Travelstead; second by Robert Boyles. Motion carried (Page 8).
4. **Move under Issue 2, state quota transfer, move to adopt Option B; under Issue 3, state quota rollover, move to adopt Option B; under Issue 4, payback of transferred quota, move to adopt Option A; under Issue 5, possession limits, move to adopt Option B; and under Issue 6, three-year reevaluation, move to adopt B** (Page 8). Motion by Peter Himchak; second by Pat Augustine. (Each issue voted on separately).
5. **Motion to amend to add Option E, the 5 percent maximum rollover, to Issue 3, state quota rollover** (Page 10). Motion by Jack Travelstead; second by Tom O'Connell. Motion carried (Page 11).
6. **Move to approve Issue 2, Option B, to allow state quota transfers** (Page 11). Motion carried (Page 11).
7. **Move to amend to adopt Option A of Issue 3, which is status quo, no quota rollover allowed** (Page 12). Motion by Pat augustine; second by Bob Ross. Motion defeated (Page 12).
8. **Move to approve Issue 3, state quota rollover, Option B, D and E** (Page 12). Motion carried (Page 12).
9. **Move to approve Issue 4, payback of transferred quota, Option A** (Page 12). Motion carried (Page 12).
10. **Move to approve Issue 5, possession limits, Option B** (Page 12). Motion carried (Page 12).
11. **Move to approve Issue 6, three-year reevaluation, Option B** (Page 13). Motion carried (Page 13).
12. **Move to approve Addendum III to the Spiny Dogfish FMP as modified on March 22, 2011** (Page 13). Motion by Bill Adler; second by Pat Augustine. Motion carried (Page 14).
13. **Move to direct the PDT to develop an addendum to the Coastal Sharks FMP to include a state-by-state allocation for smooth dogfish to be implemented prior to the 2012 fishing season** (Page 20). Motion by Peter Himchak; second by Pat Augustine.  
  
**Motion to substitute to direct the staff to prepare a background paper on smooth dogfish detailing state landings' data and pros and cons of a state allocation system for smooth dogfish** (Page 21). Motion by David Pierce; second by Mark Gibson. Motion carried (Page 21).
14. **Move to adjourn by consent** (Page 22).

## **ATTENDANCE**

### **Board Members**

Terry Stockwell, ME, proxy for N. Olsen (AA)	Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
Sen. Brian Langley, ME (LA)	Craig Shirey, DE, proxy for David Saveikis (AA)
Doug Grout, NH (AA)	Roy Miller, DE (GA)
Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Rep. Dennis Abbott, NH, proxy for Rep. Watters (LA)	Bill Goldsborough, MD (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
William Adler, MA (GA)	Steve Bowman, VA (AA)
Ben Martens, MA, proxy for Rep. Peake (LA)	Jack Travelstead, VA (Administrative Proxy)
Mark Gibson, RI, proxy for B. Ballou (AA)	Cathy Davenport, VA (GA)
William McElroy, RI (GA)	Red Munden, NC, proxy for Louis Daniel (AA)
Rich Bellavance, RI, proxy for Rep. Martin (LA)	Bill Cole, NC (GA)
David Simpson, CT (AA)	Mike Johnson, NC, proxy for Rep. Wainwright (LA)
Rep. Craig Miner, CT (LA)	Robert Boyles, SC (LA)
Lance Stewart, CT (GA)	Spud Woodward, GA (AA)
James Gilmore, NY (AA)	John Duren, GA (GA)
Pat Augustine, NY (GA)	Jessica McCawley, FL (AA)
Peter Himchak, NJ, proxy for D. Chanda (AA)	Wilson Laney, USFWS
Tom Fote, NJ (GA)	Bob Ross, NMFS

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

### **Ex-Officio Members**

Lewis Gillingham, Advisory Panel Chair

John Tulik, Law Enforcement Chair

### **Staff**

Vince O'Shea  
Bob Beal  
Toni Kerns

Michael Waine  
Christopher Vonderweidt

### **Guests**

Loren Lustig, PA, ASMFC (GA)

The Spiny Dogfish and Coastal Shark Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, March 22, 2011, and was called to order at 3:35 o'clock p.m. by Chairman David Simpson.

### **CALL TO ORDER**

CHAIRMAN DAVID SIMPSON: We'll get started with the Spiny Dogfish and Coastal Shark Management Board. Welcome! My name is Dave Simpson; I'm the new Chair and I'm taking over from Dr. Louis Daniel as of this meeting of the board. As a reminder, we've gone a little bit long on a couple of things today, which is understandable given the nature of the topics.

### **APPROVAL OF AGENDA**

We have a couple of leading formalities here; approval of the agenda. Are there any issues or concerns with the agenda as it's presented? Seeing none, we'll consider those approved.

### **APPROVAL OF PROCEEDINGS**

Approval of the proceedings from the annual meeting, November 11<sup>th</sup>, any comments on the proceedings? Seeing no comment or objections, we'll deem those approved.

### **PUBLIC COMMENT**

Is there any public comment on matters not on the agenda today? I don't see any so we move on to Agenda Item 4, which is the Draft Addendum III consideration for final approval.

### **DRAFT ADDENDUM III**

As part of that we have a few presentations. Chris is going to be the start of this section. There is a review of options, the public comment summary, the technical committee report, the AP report and a law enforcement report.

Now Chris is going to handle all but the law enforcement report, and Captain John Tulik will handle the law enforcement report. What I'm going to suggest for efficiency is that we go through all of those reports and then take any comment or questions on them as a group, if

that's all right with everyone. With that, I'll turn it over to Chris.

### **OVERVIEW OF OPTIONS**

MR. CHRISTOPHER VONDERWEIDT: I'm just going to start with an overview of the options in the addendum. At the November 2010 board meeting the board was very specific and asked for an addendum with seven quota allocation options – and we'll go into those in greater detail – also options for quota transfer, payback of overages, state-specified trip limits and then a three-year reevaluation. This will not modify the management for Maine through Connecticut.

I would just like to point that right now staff is handing out for documents. They're handing a management option sheet which I put together and it just gives a snapshot of all the management options, so hopefully it will make it to choose all the measures for you. There is a written comment matrix which simply has a count of the number of comments by state and by stakeholder groups. There is the public hearing summary and LEC conference call report. Those are relevant to the next few presentations, but I just wanted to let everyone know what they're getting, and so the management option sheet would be relevant to this presentation right now.

So for a statement of the problem, the states shares were introduced because there is limited flexibility for a state to adjust possession limits without losing access to the quota because it's a regional allocation; so if their fishermen aren't fishing, other states continue to fish and the quota gets depleted.

State shares would allow states to manage their quota as best meets that state's own needs. Lower possession limits when the price is low and high possession limits when the price and demand increased; things along those lines were given as reasons for initiating this. In addition, fishermen have expressed support for a consistent allocation across the southern region.

Now, if you remember currently were managed on a May 1<sup>st</sup> through April 30<sup>th</sup> fishing season. For the southern region, New York through Virginia got 26 percent; North Carolina was given its own quota of 16 percent of the annual quota, and they were given this separate allocation because they're at a geographic

disadvantage where dogfish aren't available to them May 1, so other states have been able to capitalize on the quota and land the entire quota before the dogfish migrated south to North Carolina and because available to their fishermen.

And so to make up for that the Addendum II gives them a 16 percent allocation which they can manage however best meets their needs. They still are required to stay below the coast-wide possession limit, which has been 3,000 pounds in the last three fishing seasons and has also been set for 3,000 pounds in 2011 and 2012. Landings are on Page 5 and 6, if you want to look at them closely.

Moving forward to the management measures, there are options for state shares, state quota transfer, rollover, payback of a transferred quota, possession limits and a three-year reevaluation. For the state shares there are seven options and then plus one would be status quo. Going from left to right of this figure here, which is also in your addendum, basically the first consideration is whether to include North Carolina in the allocation or not.

Options A through D retains North Carolina's 16 percent and then Option E, F, G and H would all treat North Carolina and include them in the allocation for all states in the southern region. I would point out Option E is the only option which uses a historical allocation. It simply takes the landings of all years. It takes the landings from 1994-2000.

These were the years used to give North Carolina its initial 16 percent and that's why the board specified to include this option in the draft. Now moving over to the next column, 25 percent equally to all states in the region, this is essentially a buffer for states that don't have a landings' history.

What it does is it takes 25 percent of whatever the quota is; so if it's the 26 percent quota where North Carolina is not included, it takes 25 percent of that allocation and it would divide if five ways by the states New York through Virginia as a base allocation before distributing the remaining 75 percent.

For the Options F, G and H where North Carolina is included in the allocation scheme, it takes 25 percent of that 42 percent and it splits it

six ways because there is now six states in the management unit. North Carolina is plus one. For the remaining 75 percent, which is the right-hand column here, there are three options for the various measures.

Historic is 1988-2002; current is 2003-2009. Option B allocates 50 percent historic; 50 percent current. It gives equal weight to those base years. Option C is 75 percent historic; 25 percent current. Option D is 60/40, and then F, G and H repeat the same weighting scheme. The only difference is they include North Carolina in that weighting scheme, and it's a distribution of 42 percent instead of 26. That's explained in text in the addendum if you want to look closer.

Those were specifically the options that the board asked for at the last meeting. The percent state shares are in your addendum if you want to look closer at that. For Issue 2, state quota transfers only apply. If the board selects a state shares' option, there are two choices, allow transfer of quota or don't allow transfer of quota. That's Option A or B.

For Issue 3, state quota rollover, the board could select one or more of the following and it only applies if the board selects a state shares' option. Option A would be no rollover; and so if you chose no rollover, all these other options would fall out. However, the board could select Option B, which would allow a state's own individual share to be rolled over in the event of an underharvest.

Option C and D are what to do with quota that has been transferred to your state and whether or not you can roll over quota that has been transferred. Option C allows you to do that. Option D prohibits rollover of transferred quota, so those sort of go on either/or on how to handle transferred quota. Option E is essentially a cap to keep states from stockpiling quota from one year to the next, and it's a maximum 5 percent rollover that's a remnant of the Spiny Dogfish FMP, which stipulates an overall 5 percent rollover for the region.

Issue 4, payback of transferred quota, it seems pretty simple to a lot of people and a lot of comments we got during the public hearings, but we wanted to include it and let the board make the decision rather than the plan development team. It's what happens if quota is transferred to a state and then a state overfishes that amount –

let's say a state receives 100,000 pounds; harvests 120,000 pounds; who pays back that 20,000 pounds, a state that donated or the state that receives.

Option A is that the state that receives the quota has to pay it back. Option B is that the state which donated the quota has to pay it back. Issue 5, possession limits, the two options here are whether or not to follow the board's specified possession limits, so the board sets the maximum and the state cannot exceed that amount.

Option B would a state's specific possession limits; states could impart whatever possession limit they want, they're accountable because they have their own individual quotas. Finally, there is Issue 6, which is a three-year reevaluation. Option A is no three-year reevaluation and Option B is that the measures in this addendum, if approved, expire in three years by default.

The board can extend for a time certain or they can make the measures permanent. They don't have to wait for three years; they could do it at any time in between now and three years. Essentially it allows the states to reconsider measures without going forward with a new addendum. This is new and so it gives more flexibility.

#### **PUBLIC COMMENT SUMMARY**

The next presentation is written comment and public hearing summary. The written comments were provided on the CD. If you'd like more detail, please look and read the actual comments. The matrix that is being passed out is just essentially a snapshot of all the comments that were received specific to the management options just to get kind of a snapshot count by state. Basically the most contentious issue was how to allocate the quota.

The state shares, Issue 1, there was no consensus on the state shares whatsoever. For Issue 2, there is support to allow the quota transfer. Issue 3, there was support for state quota rollovers; so if you underharvest, you can have that quota the following year. Issue 4, there was support for overage payback by the state that receives the quota and does the overfishing. Issue 5, there was support for state-specified possession limits. Issue 6, there was support for a three-year reevaluation.

For the public hearings, there were seven public hearings. There were no participants in Delaware. Similar to the written comment, generally all the support was for the option that gave that state the largest quota with the exception of Virginia, who actually selected – they preferred options that would give North Carolina 16 percent, and you can look at the comments out of the public hearing summary if you want specifics on that.

For Issue 2 through 6, there was a lot more consensus. There was consensus to allow quota transfer. The southern region states were all in favor of allowing state rollovers. Participants in Rhode Island were not. The states were divided on whether or not to allow rollover of transferred quota. Issue 4, the participants unanimously support payback the receiving state. For state-specific possession limits, all states favored allowing states to choose their own possession limit, and everybody was in favor of a three-year reevaluation.

#### **TECHNICAL COMMITTEE REPORT**

For the technical committee report, there is no presentation because it was a very quick and easy conference call. There is no technical committee chair so I'll give the report, but I would encourage you to ask somebody from your staff to volunteer because we haven't had a chair for quite some time. Basically the outcome of the meeting was there are no biological technical considerations in the addendum. It's essentially an allocation issue.

#### **ADVISORY PANEL REPORT**

I think that concludes the reports from the technical committee and all the others. Excuse me, I'm also giving the advisory panel report as there is no advisory panel chair. It was a conference call, and there were three members who participated. There were two from North Carolina and one from New Jersey. They did reach consensus and they spent the majority of their time on Issue 1, which is state shares.

They concluded that none of these options are appropriate and that you should average the full time series, which is 1988-2009, to come up with a true historic allocation. They're very concerned that the allocations that are going to come from this are going to be decided by backroom negotiations and voting by states that

aren't impacted by the southern region allocations.

What they suggested was to remove the perception of this, to take the simple average of the time series 1988-2009 to remove that perception, keep it simple. They were concerned that the 25 percent allocation thins out the overall quota for the states. Where the fishermen currently need that quota, they want every amount of quota that they can get. They depend on the dogfish landings. One member voiced a little bit of support for Option C primarily because it said historic in the description.

For quota transfer, they were in support of quota transfer for allowing for more flexibility. They felt that it should be used if a state accidentally goes over its own quota. They commented that it will be wasted – quota could be wasted if a state doesn't have the infrastructure to transport dogfish or have a processor in their state to process it.

For state quota rollover, they were in favor of Option B, allow rollover of state quota; and Option D, no rollover of transferred quota. They felt that transferred quota should be used only to cover overages so if a state accidentally goes over, they could get some from somebody else to just cover for them. They also felt that it should be used from one year to the next but no stockpiling; and as such B and D best achieve what they were looking for from these options.

For payback of transferred quota, they were in favor of Option A, that the receiving state pays back and commented that the state responsible for the overfishing should have the responsibility to pay it back. Moving forward to state possession limits, they were in support of state-specified possession limits, which allows a state to manage their quota as best meets that state's needs.

For the three-year reevaluation, they supported it. They commented that this is a new idea to have state shares for dogfish and that this allows for future management adjustments and flexibility. Now I'm now I'm finished.

**CHAIRMAN SIMPSON:** Thanks, Chris, and we have the Law Enforcement Report from Captain John Tulik.

## **LAW ENFORCEMENT REPORT**

**CAPTAIN JOHN TULIK:** The Law Enforcement Committee met earlier today. We really didn't have any concerns with spiny dogfish.

**CHAIRMAN SIMPSON:** Thanks. I think what I'd like to do is take any questions or comments you have on the various reports; and when those are done, we'll move on to the actual decisions on the document. Pete.

## **BOARD DISCUSSION OF DRAFT ADDENDUM III**

**MR. PETER HIMCHAK:** Chris, the second report that you gave on the preference on options, this was the result of, what; after the public hearings and after the public comments, where you talked about averaging the 1988 through –

**MR. VONDERWEIDT:** That was the advisory panel recommendation. The final report was the advisory panel. There were two people from North Carolina and one person from New Jersey actually on the call. Their recommendation was to just use the average of the entire time series.

**MR. RED MUNDEN:** Chris, in one of your earlier slides you said there was no consensus relative to the public hearings as to the state options. In recent weeks Jack Travelstead from Virginia has proposed three additional options and my question is whether or not the options that Jack has proposed could be considered within the range of options we took out to public hearing?

**MR. ROBERT E. BEAL:** I think the short answer is, yes, those are available for consideration by the board, Red. My read of these options is they're all within the range of options that were taken out for public comment. The process at the commission, we don't have specific guidance on it, but the practice has been the board can consider hybrids and options that kind of split the difference between different things in the public hearing document just so it's within the range of what was considered during the public comment period. These come out to be essentially hybrids of a couple of the different options that were taken out for public comment.

CHAIRMAN SIMPSON: Okay, are you offering a motion to include these, then, so there would be three more options?

MR. MUNDEN: Yes, Mr. Chairman, **I would make that motion to include these within the eight that were carried out for public hearing.**

CHAIRMAN SIMPSON: Okay, is there a second to that motion? Jack Travelstead seconded. Any discussion on the motion? There is a brief description of how those numbers are arrived at. Jack.

MR. JACK TRAVELSTEAD: Well, first I'd question whether we even need a motion to consider other options. I'd be glad to fill the board in where they came from when you're ready for that, but why do we think we need a motion to consider other motions?

CHAIRMAN SIMPSON: Well, I think that we need agreement that, yes, it's within the parameters of what has been taken out to public comment and that there is an understanding of what these are, and do we need to take a big step back and –

MR. TRAVELSTEAD: Okay, let me then just comment on the motion. Following a number of sort of one-on-one conversations with folks in the other states, it appeared the seven original options that went out to public hearing, there was no single option that was going to easily satisfy everyone. A lot of states were looking for the particular option that got them the most fish, and that makes sense although some were willing to comprise, too.

That wasn't a unanimous feeling, but in almost every instance where you look at the options, one state takes a beating much more so than the others, and that state varies depending upon the option. There was also considerable debate about whether or not North Carolina should be left where they are now, and, of course, their share was the result of a previous addendum, or whether they should be included in the same mix that generates the other states' quotas.

We've have that debate and I'm not sure where we are on it; but realizing all of that, I asked Rob O'Reilly to take a look at the existing options and see if he couldn't come up with some other ways of distributing the quota but staying within

the existing ranges that you see in the seven options, and that's what these three options do.

The first one simply averages the highest and lowest allocations that are provided under the seven options for the states of New York through Virginia. And then if you agree with the concept that somehow North Carolina should be included in the mix, they get the remainder of what was left over under that option.

Under the other two options, North Carolina is simply included in the same math that everyone else is, but Option 2 is simply an average of all the options for each state, and then Option 3 is the highest amount in each of the options for each state and then prorated to the existing quota. I've recently heard a fair amount of support for Option 1, but again I'm sure there are those who don't like it. That's where we're coming from on this, and I think we do have it within our ability to consider options that are outside of the seven that were advertised as long as they're within the spectrum of that range. Thank you.

CHAIRMAN SIMPSON: Okay, thanks, Jack, that helps. If there is general agreement that these new options are within the range of what was taken to hearing and that they're understood – a couple of other comments. Tom.

MR. THOMAS O'CONNELL: First, I appreciate particularly Jack who spent a lot of time trying to come up with a viable solution for all of us. While the specific landings may be within the range of the other options that went out for public hearing, I remain concerned that the methodologies are very different, and that was one of the issues that we worked hard on over the past year.

At least our fishermen in Maryland were very concerned on how these allocations were going to be selected. We spent a lot of time with them looking at the approaches that were utilized, and I feel very uncomfortable looking at one of these options today for which have not gone out for public hearing. That's just my concern.

CHAIRMAN SIMPSON: Okay, Mike, did I see your hand up?

MR. MIKE JOHNSON: One point of clarification in Jack's statement I think, unless I missed something, he said we didn't know where we stood on North Carolina having a 16 percent;

and as I recall we went through about three meetings of discussion on that topic; and this board voted to preserve North Carolina's historic share of 16 percent, so I do think I know where we stand on that until we change that – and we can in a vote here today, but I think I know where we stand as a board today.

CHAIRMAN SIMPSON: Okay, this has inspired more. Pat.

MR. PATRICK AUGUSTINE: Mr. Chairman, I agree with Mr. O'Connell that there is no question this puts a different twist on it. If I were to have this come back – I'm sorry, if I were to have this put in place – for any one of these suggestions put in place after the public saw this document without having seen them spelled out that way, I'd be a little bit concerned.

It would seem as though, okay, you took our advice, these are the first seven, and although these three are somewhat like them, they're really different, and I'm not sure how we can capture that, Mr. Chairman, but I would feel very comfortable if we could capture them somehow, and that was the impression I got from Mr. O'Connell.

MR. HIMCHAK: Mr. Chairman, we work long and hard on coming up with some kind of formula to take in allowances past and current fishing landings. Subsequent to the public hearings there was a lot of discussion, yes, which state takes a disproportionately harder hit than others. I appreciate Jack's options for smoothing out this equity to make this a fair system.

I could live with Option 1 of what Jack is proposing. I don't have enough experience as far as does this violate the public hearing process. If we can resolve that issue first, our fishermen – well, they wanted Option E, but I think we can live with the new Option 1. This is tough. You have to realize under Option 1 North Carolina is giving up a lot of poundage, Virginia is gaining some, New York and New Jersey are giving up 300,000 pounds, so it's kind of like everybody is bending a little bit to come up with something we can all live with.

CHAIRMAN SIMPSON: Okay, I think this is what I'll do. Clearly, it's within the board's purview to consider anything that was within the range of what was taken out to public comment. I think that's in bounds. That's the question we

had with menhaden. If you go out to 15 percent MSP, then you can't be considering 25 here at the table.

This is all within that. I'm not hearing anything to the contrary and I think they're options that are understood. With the agreement of the staff that is the case, I think I'll go ahead and say these are options that can be considered and be the basis for a motion. What I would like to do to move this along is to take the addendum in two parts. I think it would make sense.

We'll deal with Issue 1 first and then Issues 2 through 6 after that; because I think once one is decided, the other five will flow pretty well. If I could get a motion to focus discussion – I did ask for this in the form of a motion, but I'm wondering if I can't just as a rule with the consent of the board find that these are within the rules of the commission and can be accepted. I don't see a need to vote on it unless somebody feels strongly that we should. Tom.

MR. THOMAS FOTE: I just have a question. Since these are not the options we went out to public hearing, if there are members of the audience that would like to give their comments, then I would greatly appreciate that we open it up to public comments since this is not what we went out with.

CHAIRMAN SIMPSON: Well, I think that's a possibility; and before we vote on the final action, that's typically when we take public comments so I would do that then. Yes.

MR. ADAM NOWALSKY: Mr. Chairman, the document itself, the eight options were percentages so would we not, if we were going to include these, want to consider these not as physical pounds but as percentages of the annual quota?

CHAIRMAN SIMPSON: Right, I think it's understood that these would be converted to percentages, yes. To move the discussion forward is there a motion on behalf of one of the eight options laid out in the addendum or the three that Virginia forwarded? Jack.

MR. TRAVELSTEAD: In the interest of moving this along, **Mr. Chairman, I would move for Option 1.**

CHAIRMAN SIMPSON: That's Virginia Option 1?

MR. TRAVELSTEAD: Yes.

CHAIRMAN SIMPSON: Is there a second; seconded by Robert Boyles. Any discussion on this motion? Tom.

MR. O'CONNELL: I guess I just go back to my previous comment, but this is the board's prerogative, if they think that these options and methodologies are consistent, then I'll work within that framework. The one specific issue I have with Option 1, it goes back to the draft addendum problem statement. The problem statement said that there were specific southern region fishermen that were concerned that North Carolina was being treated differently than all the other states within the southern region.

This option does give North Carolina a specific allocation based upon a different methodology than the states from New York to Virginia are utilized. Because of that, I don't believe this option addresses one of the problem statements, and therefore I'm not going to support Option 1. I think the options that we went out for public hearing are the ones that we should be focusing in on. Thank you.

MR. MUNDEN: Mr. Chairman, speaking for my boss, Dr. Daniel, we do support Option 1 as proposed by Jack Travelstead. If you look at the numbers, Option 1 results in a 390,000 pound reduction over the current 16 percent that we would get of a 20 million pound quota. I heard a lot of comments about North Carolina's 16 percent.

When this board approved 16 percent for North Carolina, it was based on historical landings, the same time period that the 42 percent was allocated to the southern states and 58 percent to the northern states, so North Carolina's harvest of spiny dogfish contributed significantly to the southern states receiving 42 percent.

We're willing to give up some of that 16 percent based on the fact that as Mr. Himchak pointed out everybody has got to give up something, and so we're giving up a significant amount of the quota that we would have. I'm speaking for the Division of Marine Fisheries and not my two cohorts at this point in time.

CHAIRMAN SIMPSON: Any other comments on this motion? Bob.

MR. BOB ROSS: I just want to reiterate the federal position at this time that NMFS does not support state shares and would encourage the commission to work with the Mid-Atlantic Council on development of Amendment 3, which does address quota allocation, state share rollovers, et cetera. Thank you.

MR. TRAVELSTEAD: Mr. Chairman, I think Tom O'Connell makes a good point about trying to come up with an option that treats all of the states with the same math equation, but it hasn't happened. We can't find that option that does that, really. I think the argument on the other side of the page is that this board made a decision in a separate addendum to award North Carolina 16 percent of the quota.

If we do nothing here today at all to further state-by-state quotas, North Carolina will forever more be awarded that share. Now trying to work toward state-by-state quotas in the southern region, Option 1 does take away fish from North Carolina and award it to the other states. I think that's as close as we can get to treating all of the states with the same math equation, recognizing that in a very legitimate vote of this board we gave North Carolina 16 percent of the quota early on.

MR. MUNDEN: Mr. Chairman, let me put on my other hat as the Chairman of the Mid-Atlantic and New England Council Spiny Dogfish Committee, I would just inform the board based on the comments made by the National Marine Fisheries Service that the two councils are considering amending the Spiny Dogfish Fishery Management Plan through Amendment 3. This will be discussed at our April meeting in Annapolis.

One of the issues that we're looking at is revisiting the current federal plan allocation of spiny dogfish. The federal plan still allocates it on a seasonal basis and that's very problematic even with the agreement that the members of the Atlantic States Marine Fisheries Commission have whereby the New England states have said we will shut our fisheries down when we harvest 58 percent. The southern states will do the same when we harvest 42 percent. There is a disconnect between the board and the commission and the two councils and we're

trying to correct that at the council level. Thank you, Mr. Chairman.

MR. O'CONNELL: Just one last comment; it sounds like there is a lot of support for this motion, but just specifically in regard to 16 percent, I recall a couple of years ago when North Carolina came to this board with a very strong plea to help them out because we did not have state-specific quotas and they were disadvantaged because they were at the southern part of this distribution.

We worked together to provide them a 16 percent allocation. I guess today we're saying that pretty much locked that in, and I'm here today thinking that we have an opportunity before us to look at the state shares for the southern region with a clean slate. I think all states should be treated equally, and that's the principle that I'm going with on this issue. I wanted just to clarify that there was a different situation a couple of years ago that led to the 16 percent than today.

MR. HIMCHAK: Mr. Chairman, until I saw this paper today and I saw the NMFS comment on Option A, I mean, it really caught me by surprise because – and then I'm just reinforcing what Red had said is like at the Mid-Atlantic Council we recognize that the misalignment of the federal and the state and the ASMFC plans is causing us a major headache and that through the council and the commission this could be the best thing to come out of the federal plan as well as this state-by-state allocation. I don't understand their strong opposition to Option A at this time.

CHAIRMAN SIMPSON: Okay, any other comments on this motion? Then is the board ready to caucus? Pete.

MR. HIMCHAK: Could you get some comment from the public, please?

CHAIRMAN SIMPSON: I was going to wait until we went to approve the entire document, which is typically when we take public comment. Does the board desire to take comment earlier or do you want to wait until we have the whole thing and get comment once?

MR. HIMCHAK: Well, I was asking for public comment because we discussed the fact that we went out with the original options A through H

and now we have 1, 2 and 3. I'd like to give them the opportunity.

CHAIRMAN SIMPSON: Well, I think what we found is that is within our purview. We have the latitude to do that and I think the public should expect from public hearings that anything within the range that is sort of scoped or heard is possible. I mean that's what we do here is craft and modify within parameters so I don't think there is a special need for public comment on that. I think what I'd like to do is allow you to caucus now, vote on this. We'll go through the other measures and before we finalize approval of the document we'll take public comment then. Take 30 seconds to caucus.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Okay, are we ready for the question? All those in favor raise your hand, I see nine in favor; those opposed, I see three; any null votes; any abstentions, I see four abstentions. **The motion passes** by nine in favor, three against, no nulls and four abstentions. Can I get a motion on Issues 2 through 6? There is a nice summary sheet that you can work from that highlights the choices for each of those issues. If that's too big a bite at once, I can go through them, whatever is your pleasure. Pete.

MR. HIMCHAK: Did you want to go issue one at a time or can I call off a whole litany of options as I think everybody agrees to?

CHAIRMAN SIMPSON: I think if you're ready to put forward an option under each issue as a single motion, we can do that. If you'd like to just take a shorter bite and do a couple of them, that would be fine, too – your call.

MR. HIMCHAK: Okay, I'll try the whole suite of options. **Under Issue 2, state quota transfer, move to adopt Option B; under Issue 3, state quota rollover, move to adopt Option B; under Issue 4, payback of transferred quota, move to adopt Option A; under Issue 5, possession limits, move to adopt Option B; and under Issue 6, three-year reevaluation, move to adopt B.**

CHAIRMAN SIMPSON: Okay, thanks, Pete; can I get a second to that motion? Pat seconded. Discussion? Okay, there are a couple of fine points, though, under Issue 3, and that is you've

elected Option B which is to allow rollover of state quota. A suboption in that is the choice between C and D; would you allow rollover of quota that had been transferred or not? Pete.

MR. HIMCHAK: Yes, Mr. Chairman, **I erred on that motion. Under Issue 3 it would be select both Options B and D.**

CHAIRMAN SIMPSON: Okay, thank you, so the transferred quota could not be rolled over; and related to that I think is whether or not you wanted to elect Option E, which is to set a cap of 5 percent on that rollover. A separate question is, well, do you have a – I just wanted to bring that to your attention of whether you wanted to include E or not in your motion?

MR. HIMCHAK: I personally don't want to include it in the motion, but if somebody has that preference they can amend this motion.

CHAIRMAN SIMPSON: Does everyone understand the motion? Jack has a question.

MR. TRAVELSTEAD: I'm confused. I'm looking at Chris' cheat sheet that lists – and under Issue 3B is rollover of state quota and D is no rollover of state quota, so help me understand.

MR. VONDERWEIDT: Sorry about that, Jack, D is no rollover of transferred quota. That's listed on Page 11 of the document if you want to look at it, but it should be transferred quota instead of state quota there for D.

CHAIRMAN SIMPSON: Jack, following up?

MR. TRAVELSTEAD: Could I ask another question? Do we allow rollover of the regional quotas now?

MR. VONDERWEIDT: The FMP allows for rollovers once the stock is rebuilt. It rebuilt in 2008 and it allows a maximum of 5 percent rollovers.

CHAIRMAN SIMPSON: Okay, so this motion does not include the 5 percent rollover, so that would be a departure from where we are presently?

MR. VONDERWEIDT: That's correct.

CHAIRMAN SIMPSON: Okay, Tom, you had a question?

MR. O'CONNELL: Yes, question for Chris. Earlier you said the technical committee report did not have any technical concern with this addendum, and I just reflect back on this quota rollover issue that we had for striped bass a year or two ago and there were technical concerns. I guess I was inclined to support a rollover of up to 5 percent; and given the fact that we may be looking at something much higher than that, I just want to just ask you again are there any technical concerns with unlimited amounts of rollover?

MR. VONDERWEIDT: It didn't really come up on the call, so I guess, no. I think the discussion was generally as long as a state doesn't go over its quota, things are fine. It was really a short call. They went through everything, but that's what the consensus was.

CHAIRMAN SIMPSON: Okay, for understanding sake here, if a state didn't catch any of its quota in one year, it could roll over a hundred percent of that in the following year. My question that I had a note I wanted clarification on is the board's intent that if rollover were allowed, is it understood in this motion that would be for one year only and that there couldn't be an accumulation over time. That's a point that maybe the maker of the motion could address. Is your intent that it would be one year only? In other words, you couldn't accumulate quota over years?

MR. HIMCHAK: I think we want it limited to one year only if everybody else concurs. I think that would be the best strategy.

CHAIRMAN SIMPSON: Okay, so with that understanding, David, you had a question or a comment?

DR. DAVID PIERCE: Regarding the rollover, yes. I had forgotten that we have in the ASMFC plan a 5 percent rollover. The federal plan does not have a rollover, correct? So, we have that rather unique situation where we're avant guard; we have a 5 percent rollover, which is fine. I can understand why the Service would object to that strategy, but then again it's in our existing plan, so we live with the existing plan or go in this direction.

I certainly wouldn't oppose the motion, but just for clarification if there is – in the context of the

current plan, the way it's worded, if the states in the northern region have an underage, it could roll over, and then all the states in the northern region would share that rollover because we don't have state shares, correct? Okay, thank you.

CHAIRMAN SIMPSON: But in the northern region that would be a maximum of 5 percent. Bob, you had a comment?

MR. ROSS: As Dr. Pierce indicated the federal plan does not allow rollover; and as most of the board is aware now under the new Magnuson, the ACLs and AMs, the accountability measures potentially come into play. Any rollover on the part of the commission plan would potentially create differential quotas between the federal plan and the state plans and may trigger accountability measures that would impact federal permit holders. For that reason I will oppose the rollover provision. We have similar concerns over the trip limit, and if necessary I'll discuss those, also. Thank you.

CHAIRMAN SIMPSON: Okay, thanks, Bob. Jack, I saw your hand up.

MR. TRAVELSTEAD: I have concern with the rollover provision. I would prefer that we be consistent with the federal plan when at all possible, but apparently we're not there currently. We have this 5 percent provision, so I think at a minimum we ought to be consistent with our own plan and have the 5 percent maximum.

Otherwise, you have the northern region operating under one set of rules, the southern under a different set, and I'm not sure that's equitable. **I guess I would offer a substitute motion to – or rather an amendment to adopt Option E, a maximum of 5 percent for the rollover.**

CHAIRMAN SIMPSON: Okay, thank you; is there a second to that motion. Tom seconds. That motion has been made and seconded, so on Issue 3 we would have selected Option B, which is to allow rollover; Option D, which is to prohibit rollover of transferred quota; and Option E, which would be to limit that rollover to 5 percent. Does everyone understand that?

MR. AUGUSTINE: Mr. Chairman, point of information. I'm more concerned with what Mr.

Ross said. I am on HMS and I follow what is happening. When we're out of sync with NMFS, we're in trouble. I see us going down a – I was the one who seconded the original motion by Mr. Himchak. But understanding that unless NMFS goes along with it, we're going to find ourselves in quite a dilemma likewise on Issue 5 with possession limits.

They're locked into 3,000 pounds a day. Now if our fishermen in state waters, if we're told that they can bring in 20,000 pounds a day and the fed limit is 3,000, they're going to have to abide by the stricter rule, particularly if they're fishing in federal waters, so I think we're creating a monster for ourselves.

**I would be inclined to go back and amend both those motions in quota rollover, which I'm in favor of, would be to change that to Option A under Issue 3 and then under Issue 5, possession limit, go with board-certified – that's the way to go, the board would certify based on what NMFS is doing, I believe, so we would be consistent. If I can get a second to that, I would like to see that go in place. Otherwise, I'll just leave it as information for the board.**

MR. ROSS: I'll second that motion.

CHAIRMAN SIMPSON: Okay, that's large enough to really be a substitute motion, I think.

MR. AUGUSTINE: If the maker of the motion, Mr. Chairman, would agree, as the seconder of the original motion I would agree to with the change and we would dispense with an additional motion. It's up to you, Mr. Chairman.

CHAIRMAN SIMPSON: That would go back to Pete Himchak's original motion, its modification of that, right? Pete, are you amendable to that?

MR. HIMCHAK: No, our constituency preference was for the rollover of state quota. If Mr. Augustine wants to offer a substitute motion, then let him do so.

MR. AUGUSTINE: Mr. Chairman, I would like to do that, then.

CHAIRMAN SIMPSON: Pat, down at the bottom of the screen, is that what you had requested to adopt Option B. Now I think on

Issue 3 you wanted no rollover, didn't you, Pat, under Issue 3, Option A?

MR. AUGUSTINE: Yes, no rollover, Mr. Chairman, to be consistent with NMFS and then the second would be to eliminate that 5 percent. We wouldn't have the 5 percent; that would go away.

CHAIRMAN SIMPSON: Yes, the second part – it was Issue 3, you choosing status quo essentially; and then Issue 5, possession limits, you were offering Option A instead of B, right, that the board would set the trip limits to avoid greater inconsistency with the federal rule; is that right?

MR. AUGUSTINE: That is correct, Mr. Chairman.

MR. BEAL: I think you've got kind of a process quagmire here. You've got two amendments working that are both designed to modify the main motion. I think procedurally you can go sequentially, but you've kind of got a bifurcated situation where two motions are in play that are both trying to work back to the main motion.

One option is to deal with the first motion that's on the board right now, which is the maximum 5 percent rollover, and that may or may not modify the main motion, and then come back to the second idea that Mr. Augustine has suggested.

CHAIRMAN SIMPSON: I think that would be cleaner, Bob; in other words, take up the motion that was just highlighted a second ago that was offered by Jack and Tom; and depending on the fate of that, we'll go from there. I think that does help things. Robert.

MR. ROBERT H. BOYLES, JR.: Mr. Chairman, I was just going to suggest something similar. It's mighty complicated. We've got two amendments to a main motion. I'm just wondering if there is any wisdom in dividing the questions.

CHAIRMAN SIMPSON: Yes, and so is the danger – I thought these were easy but apparently it has gotten thicker because we have this consistency issue. I think you get the idea of whether you want this motion to live or die and then we'll – so we'll vote this up or down and then we'll try at it again; and if we need to, we'll take it issue by issue. If there are no other

comments on this, I'll give you a moment to caucus, then we'll vote this up or down and move from there.

(Whereupon, a caucus was held.)

CHAIRMAN SIMPSON: Okay, so the motion is move to amend to add Option E, the 5 percent maximum rollover to Issue 3, state quota rollover. The motion was by Mr. Travelstead and seconded by Mr. O'Connell. Does everyone understand that question and you've had time to caucus. All those in favor raise your hand, I see 11 in favor; opposed, 2 opposed; any null votes, none; any abstentions, I see 3. **The motion passes** 11 for; 2 against; 3 abstentions.

Toni, can you put up the motion that this amends? I think Robert is on the right track when he suggests we divide this. I think it will just be easier if we take this issue by issue; vote each one up or down so that we don't get tangled up anymore. If there is no objection to that, I'll ask the question issue by issue. Is there any objection to doing that? Okay, I don't see any.

Okay, as Toni finishes this up, I think this will help a lot. The first question is move to approve Issue 2 to allow state quota transfers. Are you ready for the question; is that what you're calling for, Pat?

MR. AUGUSTINE: I'm ready for the question. I thought we all agreed on Issue 2 and Issue 3 was the one that was most contentious as we went from 3, 4, 5 and 6, so whenever you're ready.

CHAIRMAN SIMPSON: Right, but I think I'll start with 2 and we'll get an up or down vote on that and then we'll go to 3, and 4 and so forth. On Issue 2, move to approve state quota transfer, Option B, which is to allow it. Are you ready for the question? All those in favor raise your right hand, I see nine in favor; opposed, I don't see any opposed; any null votes, I don't see any; abstentions, 7 abstentions. **That passes** 9, 0, 0, 7. Issue 3, state quota rollover, Option – it should be B, right, and E? Where are we?

MR. BEAL: David, it should be B and E based on the motion to amend that was recently approved.

CHAIRMAN SIMPSON: **So Issue 3, quota rollover, Options B and E, which would allow rollover of state quota – Pete.**

MR. HIMCHAK: Before dividing it included Options B, D and E under Issue 3.

CHAIRMAN SIMPSON: Right, so Issue 3, quota rollover – a state may roll over its quota. The transferred quota may not be rolled over and that there be a maximum of 5 percent quota rollover allowed. Does everyone understand and agree that was the motion? Pat.

MR. AUGUSTINE: **I was moving to amend it based on the National Marine Fisheries Service position on rollovers. I was going to go to A. It's not popular but I was going to go to A.**

CHAIRMAN SIMPSON: Okay, so this is the point where you offered up a motion to amend on Issue 3. Was there a second to that? Bob Ross. Okay, so that's where we are. Now we have a motion to amend this to simply choose Option A, which is status quo, that no rollover at all is allowed. Now this would be consistent with the federal plan but a departure from what is permitted in the northern region under the state plan. Pat.

MR. AUGUSTINE: Clarification, Mr. Chairman; the problem I see with it is that if we adopt a rollover – and I'd love to see it – if it's inconsistent with the federal system we are probably going to get shut down. The federal people will get shut down sooner than later based on the inconsistency. When they believe 80 percent of the quota has been reached, no matter where it is we're in trouble. Unless we can get clarification that NMFS will change that or will consider addressing that issue, I think we're putting ourselves out on a limb for that.

CHAIRMAN SIMPSON: Any other comment on this motion to amend? Red.

MR. MUNDEN: I spend a tremendous amount of my time dealing with quota management, particularly summer flounder, black sea bass and bluefish. If you don't have a rollover provision, then oftentimes your best move is to go over your quota and take it off next year through a payback. I'm very much opposed to this.

I have argued with the National Marine Fisheries Service for the past 13 years about the prohibition of rollover of summer flounder. In some years North Carolina has lost well over

150,000 pounds of summer flounder quota. With striped bass it looks like we're going to lose half of our commercial quota this year because the fish were not harvested and there is no rollover. This is a management tool and so I'm very opposed to this motion. I support the 5 percent.

CHAIRMAN SIMPSON: Any other comment on the motion to amend? Not seeing any, are you ready to caucus briefly? Do need time to caucus? The motion to amend is to adopt Option A of Issue 3, which is status quo, no quota rollover allowed. The motion was by Mr. Augustine and seconded by Mr. Ross. All those in favor raise your hand, I see three in favor; opposed, I see 8 opposed; any null votes; any abstentions, 5 abstentions. **The motion fails.**

We're back to the main motion of move to approve Issue 3, allow state quota rollover of the state quota share only; not any transferred quota; and that it be limited to the 5 percent as is currently specified in the plan. Everyone understand? **The motion is move to approve Issue 3, state quota rollover, Option B, D and E.** All those in favor raise your hand, I see 11 in favor; opposed, 1 opposed; null votes, none; abstentions, 4 abstentions. **The motion passed** 11 in favor and 1 against with 4 abstentions.

**Move to approve Issue 4, payback of transferred quota, Option A; any questions on this? Need to caucus?** All those in favor raise your hand, I see nine in favor; opposed same sign, I see none; null votes, none; abstentions, 6. **That also passes** 9, 0, 0, 6.

**Issue 5, move to approve Issue 5, possession limits, Option B, which would allow state-specified possession limits.** You recall comments on this earlier. Any questions, any further comment?

MR. AUGUSTINE: Mr. Chairman, I would ask a question of the National Marine Fisheries Service; how they treat federally registered vessels dealing with more than – if we're set at 3,000 pounds a day, how would they deal with those limits and would they be liable to be open to fines or be out of compliance?

CHAIRMAN SIMPSON: Bob, do you want to respond?

MR. ROSS: Well, again, the federal plan establishes a 3,000 pound trip limit, and therefore if vessels have the federal permits and have more than that 3,000 pounds they would be in violation of federal regulations.

MR. AUGUSTINE: Thank you for that clarification, so in state waters we could have whatever we decide to set; that's my understanding.

MR. MUNDEN: Mr. Chairman, two points; the federal plan specifies that quotas and trip limits will be set annually or on a multi-year basis should the council decide to go with multi-years. Secondly, even though for the past several years the federal trip limit has been 3,000 pounds the ASMFC has set the trip limit of up to 3,000 pounds, so that gives the states the option of reducing the trip limits or increasing them. I would be in favor of the motion where the states could set the trip limits.

CHAIRMAN SIMPSON: Okay, we've had discussion on this; are you ready for the question?

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, I think when Pat Augustine asked his question about and rephrased the answer from Bob Ross, that Bob Ross had his hand up to clarify that and he wasn't recognized. I think there is an important thing he wants to say.

MR. ROSS: The only point was that I think Pat Augustine indicated that in state waters it would be acceptable to have more than 3,000 pounds. The situation is that any federal permit holder, regardless of where he is fishing, is bound by federal regulations.

Even if they're in state waters, they would be found to be in violation of federal regulations if they had more than the federal trip limit. I just wanted to note that our proposed rule on the 2011 dogfish specifications just came out last Thursday; and following recommendations from the councils the trip limit remains at 3,000 pounds.

MR. AUGUSTINE: Mr. Chairman, I'd like to thank Mr. O'Shea for bringing that point up. That was the answer I was really for in clarification.

CHAIRMAN SIMPSON: Okay, so as usual the most restrictive rule applies. Ready for the question on Issue 5, which is possession limits? I'll read it again; move to approve Issue 5, possession limits, Option B, which is state specified. Those in favor, I see nine in favor; opposed, 1; null votes, I don't see any; and abstentions, 6. **The motion carries** 9 in favor, 1 against, with 6 abstentions.

On Issue 6, move to approve Issue 6, three-year reevaluation, Option B, which is to do just that. All those in favor raise your hand, ten in favor; all those opposed raise your hand, I see none; null votes, none; abstentions, 6 abstentions. **The motion passes** ten in favor, none opposed, six abstentions.

**So now we need a motion to approve the entire addendum as it has been modified today; Bill Adler so moved; second from Pat Augustine, our official seconder.** Any discussion on the motion? I will take public comment before we vote on this. Okay, is there any comment from the public on this addendum?

MR. RICK ROBINS: Mr. Chairman, I had a quick question. Rick Robins on behalf of the Mid-Atlantic Council. Looking at the document it indicates an option for how quota overages would be treated in the event of a transfer, but I just wanted if in the absence of a transfer, if a state exceeds its quota in a given year is there is a payback mechanism for that at the state level or would it happen at the regional level or is that specified in the addendum?

CHAIRMAN SIMPSON: We're going to look to make sure it is actually in the addendum. I think it has been understood, but it's a good point that understood and explicit are two different things.

MR. ROBINS: Thank you, Mr. Chairman. Also, just to follow up – and reason for asking the question is at it relates to alignment on accountability measures – the other point I had – and Pat Augustine made it well, but if a provision is in there for a rollover of unused quota, then if we have a year where a state carries over a substantial portion of quota and the following year all the states fully utilize their allocated quota, we are going to have an AM problem.

**UPDATE OF DELAWARE  
REGULATIONS FOR  
RECREATIONAL SHORE ANGLERS**

Collectively at the end of the year we'll have to measure the total catch and so in the following year there will be an accountability measure; that's going to come off the top unless there is some explicit provision back again at the state level for how to deal with that. I think trying to include a rollover provision is going to be problematic in the future relative to the AMs. I would encourage the commission to consider that fact. Thank you.

MR. VONDERWEIDT: To answer the question about the paybacks, Addendum II established regional paybacks and North Carolina is its own region and has to pay back its own quota under that addendum. Consistent with the regional payback now, each state is sort of its own region, so we've got the northern region, so states are responsible to pay for their own overages.

CHAIRMAN SIMPSON: Okay, thanks, Rick, for bringing that up because it is important to be clear on. Any other comments from the public before we take the final vote on this addendum? I don't see any. Do you need a moment to caucus? It doesn't appear so. All those in favor please raise your hand, I see 12 in favor; opposed, I see 1; any null votes; any abstentions, 3 abstentions.

**Motion to approve Addendum III to the Spiny Dogfish FMP as modified today; motion by Mr. Adler; seconded by Mr. Augustine; passes** with 12 in favor, 1 opposed, with 3 abstentions. I guess the final thing on this would be to talk about the compliance schedule. Do we need to do that today?

MR. VONDERWEIDT: Well, I don't think it requires an adjustments to existing state regulations.

MR. BEAL: David, I think when this was initiated the intent was to have this to be in effect for the fishing year that begins on May 1, so I think that's the course that the board set at the beginning of this process. I don't think anything needs to be done unless the board wants to do something different than the May 1 start date.

CHAIRMAN SIMPSON: Okay, so everyone understands that; this is to start with the fishing year May 1. Okay, we have a couple more presentations to do. Craig Shirey is up next. There are six more agenda items.

MR. CRAIG SHIREY: Last summer it came to our attention that we had developed a fairly active shore-based fishery for sand tiger sharks as well as sandbar sharks. Here is something we just pulled off the web today. The web is a great thing and sometimes it points your finger in the wrong direction, but what these guys do is they have large rigs like you typically find offshore, bait very large hooks like is in that picture, a tuna head or half of a bluefish.

They put the bait and hook on the back of a surfboard. The angler stays on shore. The guy paddles out a couple hundred yards, drops it off. They also do some chumming and then wait for the action. It can draw quite a large crowd. I think you can see all the people in the background. It is done during the day and at night.

In early August there was a shark tournament that was being promoted targeting sand tiger sharks and they gave points for the most fish and also the most inches. Through ASMFC NMFS sent a letter to Dr. Daniel saying that something should be done about targeting prohibited species. We already have regulations on the books that prohibited the taking or attempt to taking, but our enforcement people thought we could beef that up a little bit.

We go to public hearing on this Friday with a regulation that says it shall be illegal to remove any prohibited species from the water. If they're going to be fishing for these sharks, they've got to get in there with them and unhook them. We think that's going to supply some extra sport for the spectators, but hopefully we can try to curtail this activity since there is a fairly high hook-and-release mortality rate on sand tigers specifically. We'll let you know how this works out, but this is the best regulation that we could come up with that hopefully will address targeting prohibiting species, anyway.

CHAIRMAN SIMPSON: Any quick comments on that one? I think that was pretty instructive.

MS. MARGO B. SCHULZE-HAUGEN: Just a quick question on whether the regulation would

include a prohibition of targeting sandbar sharks, which are research only?

MR. SHIREY: Yes, it's any species of shark that would be prohibited from take would be included in that list of can't remove them from the water, at least not a hook-and-line fisherman.

CHAIRMAN SIMPSON: The next agenda topic is the future of the Shark Fishery Initiative.

## **FUTURE OF THE SHARK FISHERY INITIATIVE**

MS. KARYL K. BREWSTER-GEISZ: Once again, my name is Karyl Brewster-Geisz. I work in the Highly Migratory Species Management Division of the National Marine Fisheries Service. I know we are very short on time so I will try to run through this quickly. This is an initiative we started about a year ago, and I'm actually very excited about it. It's something I've been wanting to do for a very long time. I'm going to run through what we have been doing over the last year, and I'm hoping to get feedback from all of you on what direction you think we should go.

This is the time of our rulemaking that we are the most flexible. We haven't even come out with formal scoping documents. If there is a particular way you want us to move, because this will affect federal regulations for sharks and quite likely state regulations as well, if you want us to move in a certain direction, now is the time to really let us know that.

As I said, the future of the shark fishery is an initiative we started about a year ago when we presented it to our highly migratory species advisory panel. This is something where we took a step back and looked at the shark fishery as a whole, what do want people the shark fishery to look like in five years, in ten years and fifteen years; what in management is working; what in management is not working; and how do we achieve success in that vision of the shark fishery?

We released an advanced notice of proposed rulemaking last summer and we held a number of public meetings on that. What did we talk about? The first thing we brought up were some of the major issues in the shark fishery. Some of these you should be very familiar with; large

coastal quota landings that exceeded the quotas; the shark seasons.

Particularly for large coast sharks it has been very short. There has been a major decline in fishing permits. Market prices are about the same if not lower than what they were in the past. In the past where you might have been seeing twenty-cents per pound for shark meat, you are now seeing twenty-five cents per pound for shark mean. It has not gone up with inflation.

Regulatory discards, the more management we take, the more species we prohibit, the smaller quotas we get, the more regulatory discards we have, the more derby fishing we have. These are all issues we've raised with everybody over the last year and trying to come up with solutions. At our public meetings we brought up three specific issues that we wanted to discuss; quota structure, permitting structure, and catch shares.

For quota structure, what we're looking at is how the fishery actually is run. Right now we have the large coastal complex, the small coastal complex, pelagic shark complex, prohibited species and then a smattering of individual species-specific quotas. What I've been hearing for years is that a lot of people want us to move in a species-specific management direction.

As I'll show a little bit later, there are some issues with that approach. We do have over 40 species of sharks, so does that mean you want 40 different quotas, 40 different openings, 40 different closings? Those are some of the questions that went out. We also looked at changing species between complexes, at whether or not we want to establish bycatch caps in the fishery; so instead of focusing on the target species and a quota that way, focusing in on the species we don't want people to be catching as much of and setting a quota on them.

Do we want to set quotas on gear type, so a longline quota; a recreational quota; a gill net quota. These are all the issues we raised with the public and tried to get feedback on. We also looked at the permitting structure. Right new we have limited access in the federal fishery for commercial permits.

One idea that a lot of people have raised over the past few years is permit stacking. This would mean you take your one commercial permit, you

put two commercial permits on the boat and you're allowed two trip limits. There are also use-or-lose ideas where if you don't use your permit you lose it and then finding some way to match the permit capacity to the quota.

Then the third overall structure would be catch shares; do we want to look at catch shares for the shark fishery? Just to make sure we are all on the same wave length on what we're talking about when we mention catch shares for the shark fishery, this would be providing a portion of the total allowable catch to an individual, a cooperative, the community or other eligible entities.

This could be a limited access privilege program, individual fishing quotas or a sector or a cooperative. Catch shares, as I'm sure you're all aware of, have been used in many different fisheries to address many different management needs. They are not one size fits all. They are not something you can adjust for the fishery. We have a lot of different questions when it comes to sharks and how that would work.

Would it apply to all of our shark species? Would it be species specific instead of all of them? Most applicable I think to this body is if we do implement catch shares for the federal fishery, how would that impact state water fisheries? Would we issue an allocation to the states that they would then have to abide by?

As I said, we held a number of public meetings. I'm not going to read these slides. I will just point out that we had a lot of comments on the quota structures. And particularly I think the regional quotas, that is something that has come up a number of times in front of this body and came up again about looking at the regions.

Permit structure came up again. A lot of people were concerned that permit stacking or use it or lose it terms would cause permits that are latent right now to be sold and used by other people, so therefore increasing the rate quotas would be taken. And then catch shares, the comments were all over the place; yes, in favor; no, do not do. A lot of people also had questions about the state water fisheries and how that would be relevant.

Since the public meetings we've been doing a lot of analyses, and I'm going to be very fast on these; so if I lose you, please ask me afterwards because I don't think we'll have time during.

Right now the analyses are very preliminary. We looked at the coastal fisheries logbook. This is the logbook that is mainly used in the Gulf of Mexico and the South Atlantic.

It's probably about where 80 percent or more of the shark landings are reported. We looked at participation across the fishery with the vessels, vessel characteristics. One thing I do want to make clear at the very beginning is for these analyses we chose the data used 2003-2009. We also split that into two groupings; 2003-2005 as the early years; and then 2007-2009 as the later years; with 2006 sort of being a middle year in between for us to see.

So, all the analyses you'll see are focused on those years. One of the questions, of course, is are those the appropriate years to use. One of the first things we looked at are the number of active vessels. As you can see from the slide, there has been a large decline. Directed permit holders in 2003 we had 112 active ones; so these are people reporting in that coastal fisheries logbook. We're down to 68 in 2009, a large drop.

The same type of decline happening with the incidental permits. This graph is complicated to look at but it shows a pretty good picture. A lot of the comments we had over the public meetings we wouldn't know whether we want catch shares or not; I just entered the fishery; I don't have any history; how would you allocate to me; or, I used to be in the fishery, I'm not anymore, would I have an allocation? This chart tries to get at that question. If you look at the light blue bars, those are vessels that fished in both those time periods; the early time period and the later time period.

As you can see, a lot of those vessels fished – on the X-axis below is the number of year in the shark fishery, so a lot of those vessels fished in five, six and seven years of those seven years. The bright blue bars are people who fished in the early time period, so there were a lot of vessels that fished particularly in one of these early years or two of those early years, and it starts to just drop off. Not all of them fished in all four of the early years.

And then in the median blue color are ones that fished recently, but did not fish in the early years. We do include the vessels that fished only in 2006. There are about two of them. I can explain that more if people got lost on that, but I

did want to just tell you we are looking the people who came in later versus the people who came in earlier.

Vessel fleet characteristics, I think the most important part about this slide is whereas most of the vessels for the shark fishery range between 30 and 40 feet, in the early years they were above 40 feet and now in the current years they are below 30 feet, so there has been a switch over time in the size of the vessels. There has also been a switch in time of the species being caught.

Obviously, sandbar is now research only so it's much less of the landings coming in. Bonnethead actually is a big one along with sharpnose being picked up. This is split for the North Atlantic and South Atlantic. I think the biggest changes you can see for sandbar – well, I should explain. You have the species along the bottom and then you have two bars for each species. The first bar is the early time period; the second bar is the later time period.

There are big changes in sandbar, blacktip, sharpnose and bonnethead between the north and the south Atlantic. We also looked to see what species were being caught with what species. Along the column on the left, all the species, blacktip, sandbar, hammerhead, bull, you had to have landed at least 10 percent for them to be counted toward there; and then what species were landed with them.

This is the early time period; so if you take blacktip as an example, in the early time period 42 percent of those landings would be accompanied by sandbar and 20 percent with bull. We highlighted anything that was over 15 percent; so just take a quick look at that pattern of highlights. This is the later time period; so the species composition on each trip is changing.

The big picture; the fishery is changing over time. We are looking for advice on what type of analyses we should be doing in addition to what we've done. We want to look at dealers along with the other logbooks as well. Next steps; we do hope to have scoping starting some time this year, so that's where your feedback would be really important before we even go out to scoping; where you think you might want to go. That's all I have.

CHAIRMAN SIMPSON: A quick comment or question; Pat.

MR. AUGUSTINE: Karyl, outstanding presentation. Where I think ASMFC should be involved is in our regular meetings where we have Chris Vonderweidt represent the commission in each one of our advisory meetings. He is well informed. He'll come back and he delivers the information as needed. Unless any members want to come to these meetings on a regular basis, they're comprehensive, they're intense and people spill their guts, what they don't like about NMFS, what they don't like about regulations and it's the place for us to be involved if we are going to be involved in these fisheries. They are in our water so I just hope Chris keeps doing what he's doing.

CHAIRMAN SIMPSON: I appreciate the information. I think this is good to have and it's a really good exercise to go through. This is still very early in the stage so states and the commission have plenty of opportunity to weigh in, it appears. The next agenda item is also yours. Vince, please.

EXECUTIVE DIRECTOR O'SHEA: I guess a process question is – and I appreciate the kind comments about Chris – I wonder, Mr. Chairman, if the board is comfortable that the information flow coming out of HMS to our commissioners is adequate or whether or not we to make a more direct effort. When Karyl sends stuff out, I know I know I get some of it, Chris gets some of it; and I'm not sure; does it automatically go to this board? Okay, and people are satisfied that is keeping them informed?

CHAIRMAN SIMPSON: Everybody agree? I certainly see a lot on HMS. It looks like everyone else feels pretty comfortable with that.

## **FEDERAL E-DEALER UPDATE AND ICCAT RECOMMENDATIONS**

MS. BREWSTER-GEISZ: This next presentation is to provide you updates on what is coming down the line. I know oftentimes we have proposed rules that could impact you that do not meet your regular meeting schedule, so we wanted to provide a quick update on what is

coming so at least you can provide comments through your state if not through the board.

We do have a stock assessment that is going on right now for sandbar, dusky and blacknose. The final review workshop is scheduled for mid-April and we hope to have final results after that. That could affect what we end up doing for those species, although they're currently under rebuilding.

We're also looking at Chris Hayes et al paper regarding the status of scalloped hammerhead and hope to release our revised status if we need one for scalloped hammerhead soon. This, as I said, could affect ASMFC and this would be if we end up doing something with Amendment 5. We are also implementing electronic dealer reporting for Atlantic HMS, so this would be any dealers that take shark, swordfish or what we call BAYS tunas, bigeye, albacore, yellowfin and skipjack, would be required to report electronically to us.

We hope to have this in place and effective in January of next year. I don't foresee that this would require any ASMFC action. If you remember in the FMP you actually require state shark dealers to have a federal dealer permit, so this is just letting you know that we would then be requiring the state shark dealers to report through this system.

Last fall the International Commission for the Conservation of Atlantic Tunas, or ICCAT, met and had two recommendations for sharks, recommendation 10-07 and 10-08 which prohibit the retention and selling of hammerhead sharks and oceanic whitetip sharks for fisheries managed by ICCAT. This does not affect bonnethead sharks. We would need to have this effective some time this summer.

It could have implications for this body depending upon how broadly we interpret that term fisheries managed by ICCAT. VMS requirements; currently shark bottom longline, off our Mid-Atlantic closure near North Carolina and our shark gill net vessels anywhere need to have vessel monitoring systems on board and working when they go out fishing during certain times.

This would be updating those VMS models to something more modern that has e-mail. There are reimbursement funds available. Once again,

I don't expect any implications for ASMFC, but I do want to make sure you are aware of the changes. Shark Conservation Act I think is on the schedule for later, but I wanted to let you know we would like to work with you as we work through the changes we need in the federal plan for anything you do regarding the Shark Conservation Act, which requires fins naturally attached and has a specific savings clause regarding smooth dogfish.

There is a trawl rule we just issued that is in the public comment period. This would smoothhound sharks to be landed by trawl vessels up to 25 percent by weight. It also has impacts for our swordfish fishery. We would like ASMFC to look at this rule and consider making similar changes if they feel it's needed. Our comment period ends on April 17<sup>th</sup>.

Shark specifications; the last time we met we had just finished a proposed comment period on our 2011 specifications. I just wanted to give you an update that we did finalize it with opening dates, which is the next slide, and that we also finalized flexible trip limits to allow changes within the season. Those are the opening dates.

We will be putting out the 2012 specifications probably around the same timeframe of October and needing to finalize those mid-November to early December in order to have them effective January 1. So once again the annual specifications we have do not match the timing of your usual board meetings, but we do try to make sure the rules are out and available for comment. That's all I have.

CHAIRMAN SIMPSON: Thank you. Any questions? Pat.

MR. AUGUSTINE: Yes, in reference to the last comment, Karyl, on HMS trawl rule and public comment period, you're suggesting that ASMFC should either write a letter and take a position that would clarify what you're suggesting smoothhound sharks could make up no more than 25 percent of the total catch by weight, and that would be the preferred alternative. Were there any other items that we should bring before the board?

MS. BREWSTER-GEISZ: I don't think there are any items right now that need to be brought to the board. A letter of support would be great. I think it would also be useful for ASMFC to

look at measures regarding trawl and just see if they are consistent or not.

MR. AUGUSTINE: Mr. Chairman, could we make a commitment to do that, to see if we are in line with the federal regulations; and if a letter would be appropriate, would you take the responsibility of seeing that we do that if it's appropriate?

CHAIRMAN SIMPSON: If the board is supportive of the ICCAT recommendations, the staff would certainly send a letter reflecting that. Is that the feeling of the board; is there a need to discuss that? The board has thought about this enough and the ICCAT recommendations and is in support of them?

MR. AUGUSTINE: I think it's really HMS as opposed to ICCAT. It comes under the HMS Trawl Rule. It just seems to me that if you haven't read it, I think you should avail yourselves to it.

This is one of the issues that came up with the advisory committee and we were supportive of it, and it looks like what HMS needs from us is concurrence that we agree with it; and if so, that we so do that by April 17<sup>th</sup>, Mr. Chairman.

MS. SCHULZE-HAUGEN: Just to clarify, we have a proposed rule out on trawl fisheries that is in the comment period now. That's what closed April 17<sup>th</sup>. We are working on the proposed rule to implement the ICCAT recommendations. That should come out some time later in April, but that's not out yet.

MR. BEAL: Just a process technicality of where we are, this group recommends to the policy board sending off a letter on this proposed rule that closes April 17<sup>th</sup> after the states have discussed it and there is concurrence that we want to either support of express concerns over what is included in that proposed rule. I don't think we need a motion if there is consensus.

CHAIRMAN SIMPSON: Okay, is there consensus that we should make that recommendation to the policy board to send a letter? I'm not seeing any objection to that so we'll go ahead and do that. Pat.

MR. AUGUSTINE: And one final one, Mr. Chairman, Margo just talked about the rulemaking that is out now for review. When

would be the final date that we would have to submit a letter in support or not in support of the ICCAT recommendation? You said it's in process now of being put together.

MS. SCHULZE-HAUGEN: Yes, we're working on the proposed rule now and we expect this to be out some time in April and then there would likely be a 30-day period, so within that comment period and we can make sure that Chris knows when that is and work with you on that.

MR. AUGUSTINE: I guess my concern was are we going to have another meeting prior to that so we would take action on it if we decided to take action on it or would it be one of those issues that we could notify – Chris could notify the board of the intention and through telephone survey we could either adopt a letter or not.

MR. BEAL: There will not be another Shark Board before the – this is going to be published in late April and there is 30 days after that; mid to late May comments will be due, so we're not going to have another Shark Board by then, but we can work that via e-mail and phone calls and those sorts of those sorts of things if there is a position that this board wants to express to HMS.

EXECUTIVE DIRECTOR O'SHEA: I think our first step would be to try to work that letter with the chairman and get the chairman's sense of how close we are to it and then leave it in the judgment of the chairman how much consultation he wants to do with the board on the letter.

CHAIRMAN SIMPSON: If everyone is okay with that, that's how we'll proceed. Karyl, I really appreciate the information today and how briskly you went through it. Chris is going to do a whirlwind for us on discussion of the variable commercial shark possession limits.

### **DISCUSSION OF VARIABLE COMMERCIAL SHARK POSSESSION LIMITS**

MR. VONDERWEIDT: Well, you noticed in the last presentation that one of the quota management tools that HMS is considering would be to go to a zero possession limit or have in-season adjustments to possession limits. However, while our plan does not require – our plan just requires implementing the possession

limit that the board specifies. Some states have the ability to do in-season adjustments and some states do not.

If we wanted to remain compliant with use that as a management tool, states would need to change their regulations – some states would – so kind of following up that discussion of whether or not the board is interested in in-season possession limit adjustments is kind of the question there.

CHAIRMAN SIMPSON: Anything from the board on that? Bob.

MR. BEAL: I think one option may be if staff surveys the states and see who has the flexibility to make in-season adjustments right now. Some states I think have implemented the 33-fish possession limit as a matter of law and that can't changed unless there is another legislative action, so it's either 33 fish or it's closed I think is what a lot of states have.

It can't go down to zero fish parttime, maybe 20 fish at some – you know, there is limited flexibility. Maybe Step 1 would for staff to survey the states and see who has some flexibility in their rules right now and then we can come back at a later date and see where we are and decide if that's something the board wants to explore changing later.

CHAIRMAN SIMPSON: Does that make sense to everyone? Okay, great, that's what we'll do, then. The next agenda item is an update the Shark Finning Conservation Act. We're going to try to defer until the next meeting; and similarly I wonder, Pete, in the interest of time if you'd be willing to defer the discussion of smooth dogfish to the next meeting?

## **DISCUSSION OF SMOOTH DOGFISH STATE SHARES**

MR. HIMCHAK: Unfortunately not, Mr. Chairman, because it requires an addendum to be passed before the beginning of the 2012 fishing season. I brought this up in Charleston and it didn't get a second. I brought it up at the Mid-Atlantic Council to get some support. I have a motion developed.

Basically all it says is that in 2012 there will be a coast-wide quota for smooth dogfish under HMS

Amendment 3. Before we get into any of the difficulties that we have experienced with spiny dogfish, I think this is a straightforward – what were your landings between 2000-2009, take an average and give a percentage to each state.

If you look at landings they run from North Carolina up through Massachusetts. Again, the whole intent of this is so that the quota is not taken in a certain region and other states are shut out. I have the motion up there just to direct the PDT to start developing an addendum. The hardest part of that will be to come up with the landings' data by each state during that time period.

CHAIRMAN SIMPSON: Okay, do you want to read the motion and see if we can get a second.

MR. HIMCHAK: Yes. I can't read it.

CHAIRMAN SIMPSON: Do you want me to read it? For Pete, then, **move to direct the PDT to develop an addendum to the Coastal Sharks FMP to include a state-by-state allocation for smooth dogfish to be implemented prior to the 2012 fishing season.** Is there a second? Pat.

MR. AUGUSTINE: I'll second that. The question is how much staff time is it going to take to do this and can they indeed have it done by 2012? We're talking about the start of the season which is, what, May 1<sup>st</sup>?

CHAIRMAN SIMPSON: It's the January through December fishing year. Bob/

MR. BEAL: I think it's a pretty straightforward document to pull together if the board wants staff to do it. As Pete mentioned, the most difficult thing in this is going to be pulling together the landings. If we don't have the landings' data and the board is interested in basing state-by-state shares on landings, we're kind of hamstrung before we get started. We can work with ACCSP and the states and try to cobble together the best information, as well as the technical committee, and see what we can do for you.

MR. HIMCHAK: My recommendation to the PDT is to mimic the years that the HMS folks used in determining the quota, which was the years from 2000-2009, and we would have a perfect match on state-by-state allocations. I think it's a simple document. Once the landings

are certified, I think it's either status quo or if you give a percentage.

CHAIRMAN SIMPSON: So it would be understood that this would be assembling data from 2000-2009 and that would be the basis for the addendum. Any other discussion on this motion or comments? Dave Pierce.

DR. PIERCE: I'm not convinced that there is a need for us to develop an addendum at this time to move forward, to create such a – well, to go forward with another strategy to divide up a federal quota between states. I guess I'm a bit at a loss because I have to step back a little bit and wonder where we are; that is, where is ASMFC with management of smooth dogfish and where are the councils – what is the councils' stance with regards to smooth dogfish.

I would have thought that it would have been a council initiative to develop a plan for smooth dogfish or an ASMFC plan for smooth dogfish and we would have then – I know we have measures for smooth dogfish relative to finning and what have you, but this is rather large initiative that I guess takes me a bit by surprise since we don't have a state plan, an ASMFC plan that establishes a quota of some amount for smooth dogfish.

It makes me hesitant to – I'm hesitant to support this for that reason alone. I'm not sure of the implications of it. I have no landings' data before me, no background information prepared for today's discussion to make a convincing case for a state-by-state allocation strategy for smooth dogfish. I have to oppose this. I would much rather have this board presented with that necessary data so we can make an informed decision as to whether or not this sort of a strategy is warranted.

**I could make a motion to substitute. I'll make a motion to substitute and that motion would be to direct the staff to prepare a background paper on smooth dogfish detailing state landings' data and pros and cons of a state allocation system for smooth dogfish.**

With that in hand, we can make an informed decision to move forward with an addendum or not as opposed to having the plan development team suddenly have to craft something for us with very little guidance provided to the plan

development team as to the elements of this particular addendum. I think it puts too much of a burden on the plan development team and this is a go-slow approach and not go slow and stop, but let's do this in a more reasonable fashion. That's my motion, Mr. Chairman.

CHAIRMAN SIMPSON: Is there a second to the substitute motion? Chris a brief comment and then I think Margo had a comment.

MR. VONDERWEIDT: Just to clarify the smooth dogfish management measures, smooth dogfish are included in the FMP as their own commercial species group, so the board has the ability to set a quota, which it has chosen not to set, and also a possession limit if it wishes. The commercial quota – HMS is going to implement a commercial quota I believe starting in 2012, which is the average of 2000-2009 plus two standard deviations. So starting in 2012 there will be a federal quota and the board at that time can choose whether or not to be consistent. Those are the ASMFC measures.

CHAIRMAN SIMPSON: The seconder; I thought we had one and I forgot who it was.

MR. VONDERWEIDT: No, we didn't have one.

CHAIRMAN SIMPSON: We didn't have a seconder. Did we have a second to the substitute? Mark Gibson seconded. Comments. Margo.

MS. SHULZE-HAUGEN: Just a couple of points; one, that smooth dogfish were brought under federal management in Amendment 3, and so as Chris just summarized, the quota will be coming on line in 2012. I also wanted to point out that we have received some recent landings' information that is likely going to cause us to revisit that quota in terms of the number. I wanted to make you aware of that for part of your deliberations that there appear to some changes recently in the fishery.

CHAIRMAN SIMPSON: Okay, thank you; that's helpful. Any other comments to the motion?

MR. HIMCHAK: I just wanted to mention that it was provided – the letter from David Chanda to you for this board and the Federal Register Document, the 46-page document, the final rule

on HMS Amendment 3. That discusses the background for the development of a smooth dogfish quota to be implemented in 2012.

CHAIRMAN SIMPSON: Okay, if there is no other comment on this motion, I'll give you a moment to caucus. While you're caucusing, I'll read it into the record, so move to substitute to direct the staff to prepare a background paper on smooth dogfish landings' data detailing the pros and cons of state-by-shares of smooth dogfish. Motion by Dr. Pierce; seconded by Mr. Gibson. All those in favor raise your hand, I see five in favor; those opposed, four opposed; null votes; abstentions, 6 abstentions.

It's close and there was a question about how many voted opposed, so I'm going to call the question again. All those in favor please your hand, six in favor; those opposed raise your hand please, four opposed; null votes, none; abstentions, I count five. **There was a clear six in favor and four against so the motion passes as the substitute motion.**

We now need to vote on this as the main motion as substituted. All those in favor raise your hand, seven in favor; all those opposed, three opposed; any null votes, none; abstentions, 6 abstentions. **This passes as the main motion;** seven in favor and three against with six abstentions. Anything else for the board? David Pierce.

DR. PIERCE: I'm sure I missed the history behind this and I apologize for that, Mr. Chairman, but this is an HMS Initiative to basically manage smooth dogfish through quotas. I would appreciate it – not necessarily now but certainly at some time in the near future I would appreciate knowing the position of the Mid-Atlantic Council in particular relative to this decision by HMS to manage smooth dogfish.

I would have thought that would have been something the Mid-Atlantic Council would have taken control over and would have managed in conjunction with the New England Council. It still escapes me as to how smooth dogfish jumped out of the council arena into HMS since I really don't understand why smooth dogfish is highly migratory and spiny dogfish is not highly migratory. It doesn't make any sense to me and it seems – I would appreciate a clarification.

CHAIRMAN SIMPSON: Okay, Red raised his hand I think in response to that.

MR. MUNDEN: The Mid-Atlantic Council and the New England Council both requested that they manage smooth dogfish with the Mid-Atlantic being the lead council. The South Atlantic Council also sent a letter of support for the Mid-Atlantic being the lead council. That was denied by the National Marine Fisheries Service and smooth dogfish are now managed under HMS. This was several years ago, Dr. Pierce.

MS. SCHULZE-HAUGEN: The letter exchange is a matter of public record. If folks are interested, we can provide copies.

### OTHER BUSINESS

CHAIRMAN SIMPSON: Anything else before the board? Okay, why don't you go ahead and announce that.

MR. VONDERWEIDT: The Southern Region Spiny Dogfish Quota is going to be closed Friday morning at 0001 hours. We got a memo that we just put together and that will be distributed to the commissioners FYI.

### ADJOURNMENT

CHAIRMAN SIMPSON: Okay, with that as a closer, do I have a motion to adjourn? By everyone and seconded by everyone.

(Whereupon, the meeting was adjourned at 5:45 o'clock p.m., March 22, 2011.)