

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

The Westin Crystal City
Arlington, Virginia
May 1, 2018

Approved August 8, 2018

TABLE OF CONTENTS

Call to Order, Chairman Roy Miller1

Approval of Agenda.....1

Approval of Proceedings, October 20171

Public Comment1

Review of the North Atlantic Shortfin Mako Stock Assessment, NOAA Fisheries Highly Migratory Species
Emergency Rule Measures, and Amendment 111

 Technical Committee Report5

 Discuss Possible Board Comment to HMS on Amendment 11.....8

 Discuss Potential Management Response.....9

Review of the SEDAR 54 Sandbar Shark Stock Assessment16

 Technical Committee Report18

Update on the Endangered Species Act Status of Oceanic Whitetip Sharks18

 Technical Committee Report21

Consider Approval of the 2016 and 2017 FMP Review and State Compliance Reports22

Other Business24

Election of Vice-Chair24

Adjournment **Error! Bookmark not defined.**

INDEX OF MOTIONS

1. **Approval of agenda by consent** (Page 1).
2. **Approval of proceedings of October 2017 by consent** (Page 1).
3. **Move to initiate an addendum to give the Board the flexibility to implement measures for all species within the Coastal Sharks FMP through Board action** (Page 13). Motion by Adam Nowalsky; second by Jim Estes. Motion to Amend (Page 15).
4. **Motion to Amend: Move to amend to add that in the interim the ASMFC Implement an emergency action to implement regulations consistent with HMS for shortfin makos in state waters** (Page 15). Motion by Jason McNamee; second by Emerson Hasbrouck. Motion failed (Page 16).
5. **Main Motion: Move to initiate an addendum to give the Board the flexibility to implement measures for all species within the Coastal Sharks FMP through Board action.** (Page 16). Motion by Adam Nowalsky; second by Jim Estes. Motion carried (Page 16).
6. **Move to approve the Fishery Management Plan Review for the 2015 and 2016 fishing season, and approve *de minimis* requests from Maine and Massachusetts** (Page 23). Motion by Emerson Hasbrouck; second by Jason McNamee. Motion carried (Page 24).
7. **Move to nominate Chris Batsavage as Vice-Chair to the Coastal Sharks Board** (Page 24). Motion by Robert Boyles; second by Doug Brady. Motion carried (Page 24).
8. **Motion to adjourn** by consent (Page 25).

ATTENDANCE

Board Members

Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Russell Dize, MD (GA)
Jason McNamee, RI (AA)	Steve Bowman, VA (AA)
Colleen Giannini, CT, proxy for P. Aarrestad (AA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
Justin Davis, CT, proxy for Sen. Miner (LA)	Doug Brady, NC (GA)
Emerson Hasbrouck, NY (GA)	Michael Blanton, NC, proxy for Rep. Steinburg (LA)
Tom Fote, NJ (GA)	Robert Boyles, Jr., SC (AA)
Jeff Brust, NJ, proxy for L. Herrighty (AA)	Malcolm Rhodes, SC (GA)
Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)	Doug Haymans, GA (AA)
Craig Pugh, DE, proxy for Rep. Carson (LA)	Spud Woodward, GA (AA)
Stew Michels, DE, proxy for D. Saveikis (GA)	Rep. Thad Altman, FL (LA)
Roy Miller, DE (GA)	James Estes, FL, proxy for J. McCawley (AA)
Ed O'Brien, MD, proxy for Del. Stein (LA)	Karyl Brewster-Geisz, NMFS HMS
Mike Luisi, MD, proxy for D. Blazer (AA)	Sherry White, USFWS

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

Ex-Officio Members

Staff

Robert Beal
Toni Kerns

Kirby Rootes-Murdy
Jessica Kuesel

Guests

Greg Garner, SC DNR
Lewis Gillingham, VMRC

Loren Lustig, PA (GA)
Chelsey Young, NMFS HMS

The Coastal Sharks Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, May 1, 2018, and was called to order at 9:00 o'clock a.m. by Chairman Roy Miller.

CALL TO ORDER

CHAIRMAN ROY W. MILLER: I'm Roy Miller; from the state of Delaware, and I'm serving as the Board Chair for Coastal Sharks. I would like to welcome you this morning.

APPROVAL OF AGENDA

CHAIRMAN MILLER: We have an agenda. Are there any additions or corrections to the agenda as proposed for today's meeting? Seeing none.

APPROVAL OF PROCEEDINGS

CHAIRMAN MILLER: We have proceedings in our information packet from the October, 2017 Coastal Shark Management Board meeting.

Are there any corrections or additions to those minutes? Seeing none; I presume they are approved as provided to you.

PUBLIC COMMENT

CHAIRMAN MILLER: At this point in time I would like the opportunity to offer public comment for any item that is not on our printed agenda for today. Kirby, was there a signup sheet? Are there any names on that signup sheet? I will make the offer.

Is there anyone who wanted to make public comment at this time that did not have an opportunity to put their name on the signup sheet? Seeing no hands; we'll proceed. There will be opportunities for public comment; particularly when we get to possible action items. I'll provide additional opportunity for public comment.

REVIEW OF THE NORTH ATLANTIC SHORTFIN MAKO STOCK ASSESSMENT, NOAA FISHERIES HIGHLY MIGRATORY SPECIES EMERGENCY RULE MEASURES, AND AMENDMENT 11

First of all I think we should go into Agenda Item 4; which is a Review of the North Atlantic Shortfin Mako Stock Assessment, NOAA Fisheries Highly Migratory Species Emergency Rule Measures, and Amendment 11. For that discussion I am going to start off by calling on Karyl Brewster-Geisz; Karyl.

MS. KARYL BREWSTER-GEISZ: Hello everybody. My name is Karyl Brewster-Geisz; for those of you who do not know me. I work in the Highly Migratory Species Management Division of NOAA Fisheries. I am joined today by a number of colleagues in the back; so if you have questions after the presentations that aren't answered to your satisfaction, we can help answer them.

I am going to talk about three things in this presentation. The first thing is what the stock status is; we have a new stock assessment. The second thing is an emergency interim final rule that is currently in effect; and the third thing will be Amendment 11, which is looking at the long term and how to implement measures for shortfin mako.

Starting with management history and stock status, I'm sure many of you know we manage shortfin mako sharks as part of the pelagic shark group. Over the years the quota for the pelagic shark complex has changed. In 2008 there was the first ICCAT Stock Assessment for North Atlantic shortfin mako shark; that found the species was not overfished but overfishing was occurring. As a result, in 2010 we encouraged the live release of shortfin mako shark, and agreed to work internationally to stop overfishing.

In 2012 ICCAT assessed the species again and found overfishing was not occurring. We continued to encourage the live release of shortfin mako. That is where we were up until

this past summer. In terms of catches, U.S. catches are about 11 percent of all the catches of North Atlantic shortfin mako sharks.

This graph shows the top five countries that catch shortfin mako sharks; Spain is the top throughout the entire time series. Portugal was second around 2010; but by 2016 Morocco had exceeded Portugal's catches. The U.S. has always been in about the fourth place. In terms of U.S. catches, so this is just us, it is a very important species both commercially and recreationally, where recreational and commercial catches are about equally split.

In terms of the stock assessment, this was done last summer. It had some new significant changes. It had a new model structure, so they used stock synthesis, which is the assessment that most of the shark assessments are going toward nowadays. It of course had a longer time series than the last one in 2012. It used six specific biological parameters, and updated the length compositions, and had new satellite tagging data.

The graphs over on the right hand side, the top one is the catch indices going through time. The middle one is the fishing mortality; as you can see it increased quite dramatically more recently. Then the bottom one is the biomass. This is the Kobe plot, and the main statistics determining overfished and overfishing is occurring.

As you can see the majority of the dots are all in that red quadrant; which indicates overfished and overfishing is occurring. As a whole, the stock assessment found that catches across all nations were between 3,600 and 4,700 metric tons whole weight per year. The catches needed to be reduced by 72 to 79 percent in order to prevent further population declines; and that basically we need to reduce landings to zero or total allowable catch, so not just landings, all catch to zero to rebuild the stock by 2040.

That is the result of the stock assessment. Pretty dramatic reductions are needed. ICCAT met and adopted this assessment back in November. They then came up with ICCAT Recommendation 1708. Now to be clear, recommendation in ICCAT parlance is not something you could do, it is something that the U.S. is obligated to do under the Atlantic Tunas Convention Act.

An ICCAT parlance of resolution is something that we could possibly do; but a recommendation we are required to do. In this recommendation the main point was to maximize live releases. There were a number of derogations in that recommendation. The two that are most applicable to U.S. fisheries is that you can retain shortfin mako sharks in limited circumstances; if it is dead at haul back, and there is either an Observer onboard or electronic monitoring to verify that it was dead. Then if there is males are greater than 180 centimeters fork length, and females are greater than 210 centimeters fork length. ICCAT also agreed that this coming November it will review the first six months of this year; to see if these measures are working to prevent overfishing. In 2019 they will evaluate the effectiveness of all the measures; and come up with a rebuilding plan.

What did NOAA Fisheries do once we got the results of the assessment? We did determine the stock to be overfished and overfishing occurring. Knowing that ICCAT is looking at those measures from the first six months of this year, we implemented an emergency interim final rule that went into effect on March 2.

In that final rule we have essentially two measures; one for the commercial fishery and one for the recreational fishery. For the commercial fishery we require that all pelagic longline fishermen release shortfin makos that are alive, and they are allowed to keep the ones that are dead. This is because our pelagic longline fishery is already required to have electronic monitoring onboard for bluefin tuna.

We are using that system for shortfin mako now.

Any other commercial gear types are required to release all shortfin mako; alive or dead. We estimate that this will reduce U.S. Commercial landings by about 75 percent. In the recreational fishery we have increased the recreational minimum size from 54 inches to 83 inches for shortfin mako sharks.

This matches that larger 210 centimeter forklength size for females. We did not split it as the recommendation said we could between male and female; primarily because when we did that we estimated the reduction would only be about 50 percent, whereas moving up to the larger 210 size limit we estimate will have an 83 percent reduction.

Keep in mind we're trying to aim between 72 and 79 percent. That is the Emergency Rule. The Emergency Rule lasts until August. We have a possibility of extending it for six months. In the long term we are working on Amendment 11; and are currently in public comment and the scoping phase for that.

Amendment 11 will try to implement management measures to address the overfishing; and help rebuild shortfin mako sharks. We're looking at a number of options that I'm going to go through really quickly. They are for commercial, recreational, monitoring, and rebuilding of the stock. Option 1 across all those four topics is basically no action; and this is no action as though the Emergency Rule were not in place.

Option 1, the commercial of course is keeping the current regulations. Option 2 is require a live release of shortfin makos in the pelagic longline fishery. Options 3 and 4 are in place now as a result of the emergency rule. Option 5 is to remove shortfin mako from the pelagic shark quota and create its own quota. Keep in mind ICCAT has not established a quota for shortfin mako sharks.

Option 6 and Option 7 are things of the same type. The first one would allow non-pelagic longline commercial fishermen to land shortfin mako; if it's greater than 83 inches. Option 7 would be the same but if there was an observer onboard. Then Option 8 is; prohibit landings of shortfin mako sharks live or dead. Moving on to the recreational options, again we have the no action. Then we have Option 2, which would prohibit landing of shortfin mako sharks, but we would still allow catch and release. This is similar to what we allow for white sharks; where you could target shortfin mako. You would then just have to release it.

Option 3 would be implementing the ICCAT recommendation with the male and the female size limits. Option 4 is what is in the Emergency Rule. Option 5 would be to keep that larger size limit; but allow landings only in registered tournaments. Option 6 would be establish a tagging or lottery program along with the minimum size.

There you could only land the shortfin mako if you actually had some sort of tag or lottery chip; indicating that you've won the lottery and you can land one. Option 7 would be to require the use of circle hooks throughout the fishery. If you remember in Amendment 5-B, we implemented circle hooks for any place south of Chatham, Massachusetts.

That was a result of the range of dusky sharks. In Option 7 we would require circle hooks; even north of Chatham and that is because shortfin makos can be found in that area. Option 8 would be to establish a minimum size that's greater than 83 inches. This could be as much as say 108 inches, and 108 inches is the size and maturity of the 50 percent size and maturity for shortfin makos.

Then Option 9 would be a variable in-season minimum size. The minimum size could change as you move up and down the coast; depending upon the season. Moving into monitoring, and I'm almost done here there are just a few here, and that would be establish mandatory

reporting of shortfin makos on vessel monitoring systems.

We already require this for pelagic longline fishermen for bluefin tuna; we would just also require it now for shortfin mako. Option 3 would be to implement mandatory reporting of shark landings and discards in registered tournaments. That would be through our ATR system; which many of you are already familiar with when you report your swordfish, billfish.

Option 4 would be to implement mandatory reporting of recreationally landed and discarded shortfin mako sharks across the entire recreational fishery. That could be through an application, maybe the website, vessel trip reports. Then we looked at rebuilding plan options. One would be to do nothing; another could be to work unilaterally without ICCAT, keeping in mind the U.S. is only responsible for about 11 percent of all the harvest.

Then Option 3 would be to work with ICCAT to come up with a rebuilding plan. That is all the options we're looking at. But this is a scoping phase; so we are open to more options. All comments on both the Emergency Rule and the Amendment 11 Scoping Documents are due May 7; I believe that's next Monday. All the information on how to submit the comments are on this slide.

Guy is with me in the back, Tobey is up in Gloucester, and so he's a little bit far to come down here. But you can reach out to any of us if you have additional questions. As I said, comment period ends on May 7. We hope to have Amendment 11 out as a Proposed Rule this coming summer, possibly by the end of July. In August the Emergency Rule expires; with a possible extension for 186 days, which brings it up to March, and by next March is when we do hope to have a final rule out for Amendment 11. A little game changer in all of this, as I said before ICCAT is meeting in November, they could change what the recommendation is at that time. That's it.

CHAIRMAN MILLER: Are there any questions from members of the Board? David Pierce.

DR. DAVID PIERCE: Yes thank you, Karyl. You noted in your presentation, and it's certainly covered in the Federal Register announcement for the Emergency Rule that it's expected that the commercial landings will drop by about 75 percent with this rule; and recreational landings of the shortfin makos will drop by about 83 percent. Then some numbers are provided regarding expected economic impact.

Also in your presentation you highlighted that Spain and Morocco, as well as a few other nations, takes the vast majority of the shortfin mako. Then indeed this is a recommendation that really is not a recommendation, it's something that the U.S. must do. My question is what are the other countries going to do?

It would seem that if they don't take important and necessary steps that what you're proposing will have hardly any effect on the status of the stock, dealing with overfishing and an overfished stock. What are the other nations going to do? The Federal Register announcement I don't think, makes any mention of that; which is important to know, because it puts it all in proper context. What's happening with our friends to the east?

MS. BREWSTER-GEISZ: The ICCAT recommendation is a requirement for all the different countries. As I said there were a number of derogations or possibilities for people to choose from, or for countries to choose from. All these other countries have to do something that is in the recommendation.

I do not know off the top of my head. I don't know if other nations have acted at this point. But everybody is required to do something; and everybody knows that the first six months of this year are going to be looked at to see if it was enough. If it's not enough, ICCAT could take additional steps in November.

DR. PIERCE: All the nations are required. You're not sure yet what the other nations will do; notably Morocco and Spain. Do we have any track record regarding Morocco and Spain on shortfin mako; to see if indeed they have done what they were supposed to do, or is this sort of a new situation they're faced with for shortfin mako?

MS. BREWSTER-GEISZ: I think for shortfin mako this is a new situation for all of us; not just for Spain and Morocco. I will say that ICCAT has a Compliance Committee, and they do make sure that different countries are in compliance. In the past when countries have not been in compliance, there has been trade restrictions placed on those countries.

CHAIRMAN MILLER: Any other questions or comments? I see a hand in the back; Jim Estes.

MR. JIM ESTES: Thank you Karyl, for your presentation. I noticed that when you were going over the results of the previous stock assessments it looked like the status has really jumped around. My question really goes to confidence in the status based on this assessment. I know we don't have a lot of data for these things; and we're using different models. How confident are we that the status is as we found in the assessment?

MS. BREWSTER-GEISZ: I think for shortfin mako we're fairly confident. It is a pretty important species; not just for the U.S. but for other countries, because it is one of the species that tastes really good. While for many species we don't have strong data, I think for shortfin mako we have pretty strong data; and it's just getting stronger as more and more data come in.

CHAIRMAN MILLER: Jay.

MR. JASON McNAMEE: Thank you very much for the presentation; really interesting stuff. I think I'll start with a quick comment. I think it speaks a little bit to what Mr. Estes just asked about. This was an amazing piece of work; I really enjoyed reading it, with all of the

different modeling approaches, there's a Bayesian approach and a data-limited approach, and then the statistical catch at age.

We did a very similar thing for tautog a couple years ago; tried all these different models, and the coherence between the models was I think notable for me. They were coherent with stock status; at least for the northern stock. That gives me some confidence that we're looking at a not good situation for shortfin mako.

Just one question with regard to uncertainty, and I think perhaps the answer might be this is a small component of a small component so it doesn't matter. But I was thinking about some of the other fisheries that we at ASMFC deal with; and the fact that MRIP, which is where the recreational data, at least in part, is coming from is about to be recalibrated.

I was wondering if that was a topic of discussion during the assessment; if they did any runs where they jumped out. I didn't see that in there but I wondered if they boosted the numbers up for makos at all; just to see what the impact of those recalibrated numbers might be on the outcomes.

MS. BREWSTER-GEISZ: For shortfin mako the recreational numbers generally come from the Large Pelagic Survey; and not from MRIP. I do not believe the LPS numbers are going to be modified as much as MRIP right now; though we are in the process of looking how to update LPS. As far as whether the assessment scientists looked at upping our recreational numbers or decreasing it as a result, I don't think they would have; because as you pointed out the U.S. is a very small component of the overall whole.

TECHNICAL COMMITTEE REPORT

CHAIRMAN MILLER: Were there any other questions or comments at this time? Seeing none; I think I'll call on Kirby for a report of the Technical Committee.

MR. KIRBY ROOTES-MURDY: Today we have a number of species of shark that we're going to be presenting on. I have structured my PowerPoint to try to go through each of those sequentially. First I'm going to just provide what the Technical Committee was tasked with and their subsequent response to that task. After that I'll take any questions you might have on shortfin mako. Keep in mind for this agenda item; if the Board would like to provide comment regarding Amendment 11 – as this is the scoping period – we can take that. Then after that we can discuss further if the Board wishes to take management action on shortfin mako.

The Technical Committee was tasked by the Board Chair a number of items; in light of the shortfin mako assessment. The TC met back in March of 2018 to discuss those tasks. For shortfin mako the first task was to review the stock assessment, and consider providing the Board any recommendations on potential management actions that the states could take to backstop the federal measures.

The second was to review the Emergency Rule management measures implemented for shortfin mako sharks; and provide the Board the potential conservation benefits of adopting complementary management measures in state waters for state permit holders. In considering shortfin mako and the shortfin mako fishery, most of the Atlantic shortfin mako commercial landings come from federal waters.

There is minimal contribution from state waters on the commercial side. Part of this is due to the species preference for open-ocean-pelagic habitat. Karyl provided me, as well as the Technical Committee with some information on recreational harvest through both MRIP and LPS dataset; and less than 1 percent of harvest that has occurred comes from state waters during the period of 2010 to 2016.

Given the minimal landings, implementing emergency measures in state waters, the Technical Committee felt would likely not have

a significant impact. There were concerns raised by the TC regarding having inconsistent regulations between state and federal waters for recreational anglers and for-hire vessels.

Overall the TC came away with two main points; which is a preference to provide comments on the Amendment 11 through scoping currently, as there is as Karyl indicated the likelihood that these measures could change. The other component was rather than having a specific Board action, where all states implement; that the TC recommended states implement the Emergency Rule measures if possible for consistency purposes. With that I'll take any questions specific to the shortfin mako task that the TC was given.

CHAIRMAN MILLER: No comments or questions. Kirby, do you want to move on to the issue of Amendment 11? There is a hand in the audience. Sonja, would you come up to the microphone and identify yourself, please?

MS. SONJA FORDHAM: Sonja Fordham, Shark Advocates International. I am sorry; I had raised my hand about Karyl's presentation. Is it appropriate to just make some comments on makos? Okay, thank you. Just in response to Dr. Pierce's question to start; because I do serve on the U.S. Advisory Panel for ICCAT. I would agree that the need for other countries, particularly Spain, to implement limits on mako sharks in particular is really important and urgent. But I think also with regard to their track record, I would argue that Spain has actually implemented ICCAT measures for hammerheads and shark fitting more fully and rigorously than the U.S. I attended as an observer the ICCAT meeting for this stock assessment for makos; and I appreciate Karyl's presentation and the mention of the severity of the situation, and the need to essentially get catches to zero to recover in a couple decades.

I just want to add that add or underscore that the scientists were exceptionally clear in their recommendation for a full prohibition on retention; as has been done for a lot of other

sharks, in addition to other measures to reduce incidental mortality. We've had a lot of talk about shortfin makos and this assessment at the federal level, the ICCAT and HMS meetings.

One dominant theme that I've heard from fishermen is that the news is a shock and sort of out of the blue. I just want to stress that the ICCAT scientists have signaled trouble for shortfin makos as far back as 2004; and about a decade ago ranked them near the top of the list; in terms of vulnerability to ICCAT fisheries, as part of an ecological risk assessment that was peer reviewed.

Although the status is quite sobering, I don't really think it should be a big surprise; given the warnings that we've had so far, and the reproductive characteristics of this particular animal. We appreciate NOAAs work at ICCAT to, as Karyl mentioned, get a meaningful agreement that aims to stem declines and has follow up actions to feed into recovery plan. We congratulate the Agency for the speed at which these regulations are being promulgated.

That said the U.S. action is needed. Again, to Dr. Pierce's point. The U.S. action is essential to the international NGOs that are working very hard to get similar action that is needed from other countries; particularly the ones he mentioned, Spain and Morocco. It does appear that this is the emergency regulations, and hopefully Amendment 11 will lead to substantial reductions in fishing mortality for makos.

But the fact remains that the ICCAT scientists, thanks to improved data and modeling as it's been mentioned, have been exceptionally clear in their findings and recommendations for what needs to be done; and because of that my organization and many other conservation NGOs continue to support a mako prohibition, along with those additional actions to minimize mortality as recommended by scientists.

We understand of course that mako sharks are economically more valuable than most if not all

other shark species; and yet we also note there are similar prohibitions that have been implemented for 20 or so species along the Atlantic coast, often based on much less information that we have in this assessment. Shortfin makos are indeed an emergency situation in the interest of preventing complete collapse, and restoring a population that is important to the full range of your stakeholders.

We urge states to heed the scientific advice; and prohibit all retention as a means to produce the incentive to capture them in the first place. Finally, I'll just mention that we had a lot of conversation at the HMS meeting from other Panel members that the size limit was towards the low end of the range of what has been described in the literature for this species.

CHAIRMAN MILLER: Any other questions or comments? Adam Nowalsky.

MR. ADAM NOWALSKY: With a lot of the species we deal with in other boards, vessels that are permitted through GARFO have a requirement of adhering to the most restrictive measure, when state measures are different. Do HMS permits recreational people need to get an HMS permit for these species? Does that have the same type of enforcement aspect as well; so that if states don't implement complementary measures, for whatever reason, and a fisherman gets back to the dock, would they be subject to HMS enforcement of the most restrictive measure?

CHAIRMAN MILLER: Fortunately we have some folks that can address that issue. Thank you for bringing it up, Adam. We have Greg Garner, and of course Karyl is our resident expert on such matters. I'm going to call on Karyl; but Greg Garner is here representing the Law Enforcement Committee, if he needs to add anything to what Karyl says, Karyl.

MS. BREWSTER-GEISZ: Yes, if they have an HMS permit, as a condition of that permit they are required to follow HMS federal regulations;

even in state waters, unless the state has more restrictive regulations.

CHAIRMAN MILLER: Is there any follow up or additional comments? Greg, did you have anything to add to that? Emerson.

MR. EMERSON C. HASBROUCK: Just to clarify in my own mind the HMS permit. For tunas, if I understand it correctly. For tunas you must have an HMS permit; regardless of where you're fishing that is part one. Is that correct? But for sharks you don't need an HMS permit if you never go outside of the state waters; is that correct?

CHAIRMAN MILLER: Karyl.

MS. BREWSTER-GEISZ: Yes. For tunas we manage those species all the way to the shore. If you are fishing in state waters for tuna, you still need an HMS permit. If you are fishing in state waters for sharks, you do not need an HMS permit.

**DISCUSS POSSIBLE BOARD COMMENT TO
HMS ON AMENDMENT 11**

CHAIRMAN MILLER: Are there any further comments or questions in that regard? All right, why don't we move on to second part of this agenda item? Discuss Possible Board Comment to HMS on Amendment 11. Again, I'll call on Kirby.

MR. ROOTES-MURDY: As Karyl presented earlier, we have a number of items in Amendment 11; if this Board wishes to provide comment at this time on them. We can get those back up on the screen; in terms of each of those options that have been laid out by the different issue items. Are there any comments that this Board wishes to make on the options currently in Amendment 11?

CHAIRMAN MILLER: Keep in mind this is the Scoping Document; would you proceed Kirby?

MR. ROOTES-MURDY: Well, if there aren't any comments on the commercial options we can move on to the other ones; but if there are no comments that the Board feels like they're ready to provide at this point on any of those issue items in the amendment, we can move on to discussing potential management responses to the Emergency Rule measures. Yes, Mike.

MR. MICHAEL LUISI: I just have a quick question about the timeline. Could you go back and discuss what we might be looking at, regarding the review that ICCAT is going to do in November, and how that review may affect Amendment 11 going forward. Depending on that review could there be changes to the options in Amendment 11, and how would that timeline would it have to start all over again or would you be able to make changes on the fly?

CHAIRMAN MILLER: Karyl, can you answer that?

MS. BREWSTER-GEISZ: That is the big question. We are trying to have a large enough range in our various options that we wouldn't necessarily have to start over again with Amendment 11. But obviously ICCAT could decide something that we didn't think about; and that could scrap everything in Amendment 11.

CHAIRMAN MILLER: Follow up, Mike?

MR. LUISI: Yes, thank you Mr. Chairman. With the idea that the states would consider implementing the emergency measures at this time, there is the possibility a half a year from now, or after November that those rules could change, and the states would have to go through another process in order to correct for whatever actions ICCAT takes, or whatever recommendations they make based on that review. Is that right?

CHAIRMAN MILLER: That's our understanding; comments or questions additional, anyone? All right, Kirby, I'm going to call on you again.

DISCUSS POTENTIAL MANAGEMENT RESPONSE

MR. ROOTES-MURDY: Before the Board today. If this Board wishes to take action in response to the Emergency Rule measures that have been implemented in federal waters for HMS permit holders, and complement that in state waters. There are a few possibilities moving forward. The first is this Board could move to take no action today.

The second, if the Board so wishes, states could individually move forward with trying to implement these measures on a state-by-state basis. Through the Commission's process what the Board could do today is implement the measures under Emergency Action. What this would require is a public comment period and public hearings following this meeting.

The other option would be to initiate an addendum to the Fishery Management Plan. Currently the FMP does not allow for the Board to modify these management measures on an annual basis; so an addendum would be needed to address that. Just so that it's clear on what Emergency Action is.

If the Board wished to complement those federal measures in state waters through Emergency Action, it's laid out in the Interstate Fishery Management Program Charter in Section 6. The definition provision applies if circumstances affect either public health, conservation of the coastal fishery resource, or the attainment of FMP objectives that have been placed at risk by unanticipated changes in the ecosystem, the stock, or the fishery. The Board can require Emergency Action for Items not covered under the FMP, and it's treated effectively as an amendment. It requires two-thirds majority vote to pass; and within 30 days of that action at least four public hearings must be held. Similar to what Karyl laid out for the HMS Emergency Rule measures, it would be in place for 180 days and could be extended up to 180 days. With that I'll take any questions at this point.

CHAIRMAN MILLER: Some of you may be like me; and not be terribly familiar with the Commission's emergency process. We have used Emergency Rule Making in the past. Some of you may recall that we used it with regard to northern shrimp; well also was used for lobster, so there is precedent for the Commission adopting regulations through the emergency procedure process. I did see a hand go up. Tom Fote, was that you?

MR. THOMAS P. FOTE: If you're still on questions I'll wait until after you're finished with questions.

CHAIRMAN MILLER: Any questions? Adam Nowalsky.

MR. NOWALSKY: If I heard correctly, we can't change any of these measures through Board action; it would require an addendum. Mike alluded to the fact that these may change again. If we're going through an addendum process, can we make the measures to give us the ability to change them through Board action through addendum, or would that require an amendment?

I'm just looking ahead here; and if we might need multiple actions, and if we're going to do a management document anyway, maybe what the goal we should be looking at is giving ourselves that flexibility to be more flexible with changing these measures.

CHAIRMAN MILLER: I'm going to look for direction from staff; perhaps Bob on that particular question, or Toni.

MS. TONI KERNS: Adam that would require an addendum to give you that flexibility to take Board action to make that change as well.

MR. NOWALSKY: I would just put that out there for consideration then. If we're looking at doing an addendum anyway, possibly for changing measures, maybe we would give ourselves that flexibility as part of that addendum.

CHAIRMAN MILLER: A good suggestion, Adam. Tom Fote, you had a comment?

MR. FOTE: Yes that is where I was going. Really the Atlantic States Marine Fisheries Commission is de minimis status when it comes to basically our landings; since we're less than 1 percent. We can't do an addendum to reflect that; but we should do an addendum. I'm not sure what we should do in the short term.

Because how long would that take us, 180 days will we be closer to November by the time we got this done? If we started one now we could get it completed maybe by August; and have it ready to implement at the annual meeting, which is October, so we know what's going on. But that would be my sense of direction here; do an addendum.

CHAIRMAN MILLER: Tom Fote has suggested we go down the addendum path. Toni, you have your hand up?

MS. KERNS: I just would note that 180 days would get you to November 1. You can extend Emergency Actions for another 180 days if needed. If the measures have the possibility of changing at that November ICCAT meeting, then Emergency Action would get you almost to that and then extended through it.

Then if you wanted to do an addendum in response, you could either do it during that first 180 days or in the second 180 days. But I think you would want to do that addendum once you knew for sure what those measures would be; because otherwise you would just have to turn around and do another addendum if the measures changed at that November ICCAT meeting.

CHAIRMAN MILLER: Tom.

MR. FOTE: What if we made the addendum as flexible, saying that if the changes occur that we implement those changes; because what we're going to do is implement what the Feds do, because it's mostly covered by HMS. I can't

remember the last time a shortfin mako was caught in state waters. I think 15 to 20 years ago I remember a friend landing, plus he released it. It was too small to keep anyway.

I'm not sure. You know we could do both at the same time; but if it's going to change periodically over the things, we're going to need an addendum anytime, every time it comes out. Maybe if we put something as flexible just to follow the federal rules on this; because that's what we're going to implement, because everybody I know that fishes for makos has an HMS permit. Maybe other states are different. That's what I'm looking at is what we do in New Jersey.

CHAIRMAN MILLER: Other suggestions; Mike Luisi.

MR. LUISI: I think well, Federal waters are currently managed; and I believe it's important that we follow up those Federal waters measures with complementary state waters measures, just to close the loop and be consistent. I just think that given some of the uncertainty that's going to take place over the next six months with the ICCAT review of those rules and what other countries are doing, and the possibility that ICCAT may recommend something different.

I don't think it hurts us to just delay an addendum until after everything is clear; as to what would be part of the Amendment 11 process. Makos are not occurring in state waters. I think because Federal waters are already managed, I think we're addressing the concern. But personally from my state I would prefer to hold off at this time; before we go through a full regulatory process to incorporate new rules that could change in six months.

CHAIRMAN MILLER: Stew Michels.

MR. STEWART MICHELS: Yes, I couldn't agree with Mike more. I certainly see the need for consistency; but in this case I think it's more prudent to wait. I mean it's very costly for the

states to adopt these regulations; and I don't think we'll have an appreciable impact on the population, given the timing of this. I think it's prudent for us to just hold off and find out what goes on in November.

CHAIRMAN MILLER: Jim Estes.

MR. ESTES: I was just going to agree with Mr. Luisi also.

CHAIRMAN MILLER: Tom Fote.

MR. FOTE: Okay, are we going to do emergency action to implement these in state rules; because that's going to be the same thing, costly process if we go through? I thought that was what you said, Mike. Maybe I misunderstood.

CHAIRMAN MILLER: Follow up, Mike.

MR. LUISI: No, Tom. What I'm suggesting is that we don't do the Emergency Action Plan that was reviewed by Kirby, and that we hold off until ICCAT takes a look at landings over the first six months of this year. If anything comes from ICCAT that's different from what's already been recommended, NOAA is going to need to make changes to Amendment 11. But if no new recommendations come, then we have the Amendment 11 document that will move forward; and we could begin an addendum to incorporate those management actions at the state level sometime this time next year.

CHAIRMAN MILLER: Adam.

MR. NOWALSKY: I agree with being opposed to emergency action for changing measures. I agree with not changing state measures this year through an addendum. But would we gain some flexibility moving forward if we did an addendum, imitated one here today, to give us the flexibility to change the measures through Board action so that's done this year? Then when we get to November or this time next year, we could just change the measures to

Board action without needing to go through an addendum process then.

We would be setting ourselves up for that. Is there interest around the table in pursuing that now; so we're ready for that? I think ultimately we all agree we want to see complementary state waters measures. I think we all agree we're going to have to do it at some point. The question just becomes when. We don't want to do it twice; but this could potentially set us up to be ready and more nimble for it.

CHAIRMAN MILLER: I'm going to circle back to Adam's question; which is a reasonable one. I'll call on Jay McNamee for the moment.

MR. McNAMEE: Struggling a little bit. Maybe I'll start with a comment to say, I would be more inclined, stock status is poor. They couldn't rebuild by 2040, it's a long trajectory, so while I agree with what folks are saying. It's inconvenient, a little messy, because of the timing of things. I really would like to act sooner rather than later. I think we always have the flexibility as a state to move forward regardless; and Rhode Island might avail itself of that anyways, regardless of what happens here. I am struggling a little bit to understand the timing; so maybe I'll try and restate what Adam just offered to see if I have it in my head right. Is the idea to initiate an addendum but delay it to the effect of getting some overlap with that November ICCAT meeting; so we don't have to repeat multiple processes? That's what I'm trying to figure out, because I could get behind that.

CHAIRMAN MILLER: I don't want to put words in Adam's mouth; but my impression Jay was that what Adam was suggesting was that we consider starting the addendum process now; but build some wording flexibility into that addendum that we could change our management direction in response to the ICCAT deliberations in November. Did I get that approximately right, Adam? Go ahead.

MR. NOWALSKY: The purpose of the addendum that we would initiate today would not be to change the measures this year. The purpose of the addendum would be to give the Board flexibility to change the measures through Board action; without going through another addendum process next year. That would be the purpose of the addendum that we would do this year.

CHAIRMAN MILLER: If I could follow up, Adam. Then what you're suggesting is the addendum would not contain the 83 inch size limit; the specific measures that ICCAT is requiring at this point in time. It would just give us the authority to change by administrative action when the time came.

MR. NOWALSKY: That is exactly correct. I think that would be something from a public perspective that would not create contentious public hearings at that point. I think that is something that could probably be done with a minimal amount of overhead.

CHAIRMAN MILLER: On the other hand, to get back to Dr. McNamee's suggestion. He sees urgency in the present situation, I take it Jay. You were perhaps leaning towards the Emergency Process. Is that a fair statement?

MR. McNAMEE: Yes, I would prefer taking more rapid action in the short term. I like the efficiency of what Adam is, as that kind of subsequent step, so I would still support that. But I would like to see action taken by the states in the shorter term as well.

CHAIRMAN MILLER: Bob.

EXECUTIVE DIRECTOR ROBERT E. BEAL: I had a question for Mr. Nowalsky; if that's okay. Adam, you're suggesting a structural addendum that will allow the Board through Board action change regulations. But that would be an ongoing authority that the Board have. It would not be just for this one instance to react to ICCAT. It would be moving forward as HMS changed their regulations the Board could

consider what HMS has, the changes they've made and take Board action to make changes in the future. You're not suggesting a one-off to be able to be able to react to ICCAT this go around. It's an ongoing flexibility that you're looking for, is that right?

MR. NOWALSKY: I'm in fact suggesting exactly that. We would not be required to go through the process every year; nor would it be one-off, but then we would have the tool in the toolbox when the Board needed to use it.

CHAIRMAN MILLER: I'm calling Dr. Pierce and then Tom Fote.

DR. PIERCE: My preference is to take the advice that was provided by at least some Technical Committee members at their last meeting where it says on the second page, I think it is, second page of the summary of their meeting that they would recommend states individually implement the emergency measures if possible, to have more consistency in measures between state and federal waters.

I'm certainly willing to take a close look at this. We always have on any issue that relates to the conservation issues specific for any species of shark. I'm willing to look at this, bring it back to my own state Marine Fisheries Advisory Commission, to discuss what we should do on some basis, perhaps on an emergency basis.

If not an emergency basis, then certainly the move forward to be supportive of whatever comes out of the next discussions by ICCAT, relative to the shortfin mako. I don't support moving forward with an addendum right now. I certainly don't support emergency action by ASMFC. I think it should be an individual state initiative; which I'm willing to do of course, other states I'm not sure of.

Again, I'm not entirely sure what the real consequence is of states not implementing specific restrictions for states waters fishing that may occur for shortfin mako. I don't believe it's a big issue. If it's an issue at all

however, I would like to talk to my Law Enforcement Division to get their perspective.

Maybe the Law Enforcement Committee of ASMFC should weigh in on this, if they haven't already. That is my preference; just leave it up to the individual states to take action, and as I just indicated I'm certainly willing to look into this with the possibility that if not emergency action then some action taken through a normal regulatory process might very well be warranted.

CHAIRMAN MILLER: Tom, you were next.

MR. FOTE: I'll just pass. I was going to say I agree with Adam. That is what I was trying to get across in the beginning was to basically start something that we wouldn't implement until maybe February, because we don't have a November meeting; we're meeting in October. If we don't do anything, it will be February before we can do anything and that would be the time we would know the ICCAT regulations would be in place to do something we have to do it at that point. That is what I was thinking in the first place; but whatever the Board wants to do.

CHAIRMAN MILLER: Well we've had some suggestions. What is the Board's pleasure in this regard? I'm not feeling a consensus at this point in time; additional opinions? Adam.

MR. NOWALSKY: Well I'll try to provide a lightning rod in the form of a motion to get specific opinions. I would move to initiate an addendum to give this Board flexibility to modify measures through Board action. Would that need to be specific to this species, or could it apply to multiple species?

CHAIRMAN MILLER: Toni.

MS. KERNS: Adam, it's the will of the Board. If you only want it to be certain species I would specify the species that you are looking to react to. If you want it to be all species within the

Plan then you can say all species within the FMP.

MR. NOWALSKY: Well I'll start with all species; again to put something up there as a lightning rod to move this forward.

CHAIRMAN MILLER: Toni.

MS. KERNS: Adam, would this be specific to react to federal measures or do you want it to be for any type of issue that comes before the Board?

MR. NOWALSKY: I would leave it at Board discretion right now.

CHAIRMAN MILLER: Let me read that since it just went up. Move to initiate an addendum to give the Board the flexibility to implement measures for all species within the Coastal Shark FMP through Board action. Is that the gist of what you intended, Adam?

MR. NOWALSKY: That's correct, thank you.

CHAIRMAN MILLER: Is there a second to that motion; Jim Estes, discussion on the motion and any comments? Colleen.

MS. COLLEEN GIANINI: I would support this motion because I like the open, transparent process of the public hearing; and the opportunity for the public to comment. Some of our recreational anglers who do shark fish have made their feelings clear the frustration with the increases in the minimum size; because they're really not aware of the current status of the mako population.

CHAIRMAN MILLER: Any other comments; in the back, Doug?

MR. W. DOUGLAS BRADY: I'm a little concerned about all of the coastal sharks that are included in this fishery management plan. I mean we were specifically talking about the mako. I'm just wondering if all the states. I guess this would regulate all those shark species to mirror

the federal regulations in their state waters. Is that correct? Is that where we're going?

CHAIRMAN MILLER: That's pretty much how I read it. Adam, do you have a different interpretation?

MR. NOWALSKY: This would not require we change any regulations at the present time. But this would give us the flexibility that when we want to, either through complementary HMS action or need to for some other reason, we would have the ability to do so without going through a lengthy management document process. But it wouldn't require any change at the present time; wouldn't require us to be beholden to HMS or anything else specifically. It just gives us the flexibility to change them without a lengthy management document.

CHAIRMAN MILLER: I saw a couple hands go up; Robert first, then Chris, then Emerson.

MR. ROBERT H. BOYLES, JR.: Let the record reflect, it looks like the rest of the Commission is catching up with South Carolina; because we already adopt by reference federal regulations with respect to sharks. I think based on Adam's comment that this is really a process addendum; and Mr. Chairman it would help me to know how to vote here.

I thought this was the whole purpose of going through the Coastal Sharks Plan the way we did prior. Is this simply a method to make it even easier for the Commission to adopt complementary plans, should we desire, without going through an FMP amendment or addendum?

CHAIRMAN MILLER: That's my impression. Adam is shaking his head yes. I had, was it Chris next?

MR. CHRIS BATSAVAGE: Just so I understand the motion entirely. This still gives the Board the option of adopting certain federal measures, but not other federal measures like we've done in the past?

CHAIRMAN MILLER: It's my impression, Adam again is nodding yes. Emerson.

MR. HASBROUCK: I have two questions. One was partially asked by Mr. Boyles. Don't we already have the flexibility to implement measures? Adam, I don't want to put words in your mouth; but I think what you were suggesting is that just by Board action we could implement measures. Doesn't the Board already have the flexibility to implement measures for all species within the shark FMP; it's just a matter of how we go about doing it? That is the first question. The second question is do we have anything similar with any other fishery management plan?

CHAIRMAN MILLER: Kirby, do you want to tackle that one?

MR. ROOTES-MURDY: In reviewing the FMP and trying to make sense of whether Board action could be made to adjust measures to be complementary to federal ones, we found that you would need an addendum in order to match. We don't have that flexibility for Board action to change size limits, possession limits; so an addendum is required every time the Board wishes to take action to complement federal measures.

CHAIRMAN MILLER: Toni.

MS. KERNS: Just to answer the second part of your question, Emerson. The sharks plan actually allows the Board to do certain things through specification setting every year. For the large coastal pelagics I think it is the possession limit we can change through Board action; just like in summer flounder we set the quota every year through a Board action.

It is similar to specification setting. The shark plan has a lot of different types of management that we utilize to look at the fishery; like possession limit, seasonal allocations, set asides, all sorts of different methodologies. I think you're covered under the FMP for all the different types of ways you would manage.

Then you would just do it through Board action; if this motion were to pass and the addendum were to pass.

CHAIRMAN MILLER: Did that answer the question, Emerson?

MR. HASBROUCK: Yes, thank you very much.

CHAIRMAN MILLER: If there are no further comments on the motion, I have one, Jay.

MR. McNAMEE: I'll ask that you be patient with me, because I've not done anything like this yet. What I would like to do is offer an amendment; something to add on to this motion. **I move that in the interim the ASMFC initiate an emergency action to adopt regulations consistent with the federal rules for shortfin mako in state waters.**

CHAIRMAN MILLER: Does that look like it captures your thoughts, Jay?

MR. McNAMEE: Yes, I apologize if it's clumsy. But yes.

CHAIRMAN MILLER: Let me read it for those who can't see it from the back. Move to amend to add that in the interim the ASMFC implement an emergency action to implement regulations consistent with HMS for shortfin makos in state waters. Motion by Dr. McNamee; is there a second to that motion? Tom, I'll take a question.

MR. FOTE: Yes, emergency action requires a two-thirds vote and move to the addendum. It should be two separate motions; since one requires a majority vote.

CHAIRMAN MILLER: Is there a second for this amendment? Emerson. Point of order, go ahead, Robert.

MR. BOYLES: Mr. Chairman, I believe Mr. Fote is correct; and so the question is how do we move this forward with this amendment with

two separate thresholds, in order to pass the motion? I just would call for a point of order.

CHAIRMAN MILLER: Bob, help us out.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Procedurally I think if the Board wants to combine these two different ideas, an addendum and an emergency action, they can do that. Then that would make both of these, or that combined two-part motion would be subject to the two-thirds requirement. If the Board wants to keep them separate, I think you vote the amendment down with the notion that you could initiate an addendum and there may be a subsequent motion to initiate an emergency action that the Board could consider.

If you combine these two ideas, the joint motion now requires the two-thirds vote for both pieces of that joint motion. If the Board wants to keep them separate you can vote the amendment down. Then you're back to the main motion on the addendum; and then a subsequent motion could come along for an emergency action, if that's helpful.

CHAIRMAN MILLER: Is there any further discussion on the amendment? Dr. Pierce.

DR. PIERCE: The amendment really does set us on an entirely different direction, because I thought we were moving away from emergency action for very good reasons, and that we would go the addendum route that likely would end up with our adopting rules very similar to or equal to what has been adopted by the Service on an emergency basis. Then down the road we see what happens at ICCAT, and then we respond accordingly; that would be reflected in an addendum that we would adopt.

I can't support the motion to amend; because it does that which I don't support. I do support the first part but not the second part, especially since I don't see how or why ASMFC would now, if this was to pass, force the states to take emergency action to do what, to adopt the

shortfin mako emergency regulations established by the National Marine Fisheries Service? That's a hard sell in my state; especially because I can't claim it's an emergency.

Not in my state. But I can certainly move forward to deal in a very responsible manner with what the Service has proposed; and once again what will come out of further discussions on how best to deal with the conservation requirements of the shortfin makos. I'll oppose the motion to amend; but I'll certainly support the original motion.

CHAIRMAN MILLER: Is there anyone who wishes to speak in favor of the amendment that has not already done so? Before we vote, I just wanted to have Kirby remind us of what the Technical Committee had for us, in regard to the need for emergency action. Kirby, can you help remind us?

MR. ROOTES-MURDY: Sure, so again when the Technical Committee met back in March, their recommendation was that states implement the emergency measures if possible for consistency purposes, but did not specify that the Board should through emergency action implement those measures. They were offering it up on a state-by-state basis.

CHAIRMAN MILLER: Are there any further comments concerning the amendment? Then seeing none; we should probably take a vote on the amendment. According to Executive Director Beal, this would require a two-thirds vote for approval, this particular amendment. All states in favor of the amendment would you raise your right hand please; 2.

Those opposed raise your right hand; any abstentions, any null votes. All right the motion fails 2-11.

CHAIRMAN MILLER: **We're back to the main motion. We should probably read that again. Move to initiate an addendum to give the Board the flexibility to implement measures**

for all species within the Coastal Sharks FMP through Board action. Motion by Mr. Nowalsky, second by Mr. Estes, is there any further discussion of the main motion? Seeing none; are you ready to vote on the main motion? I should have allowed time for a caucus. I'm sorry; I forgot to do that on the amendment. I'll allow 15 seconds or so, 30 seconds for caucus on this particular vote. Go ahead.

I should ask if there is any public comment before we take a vote on this motion. Seeing none; are you ready to vote? All those in favor of the motion, please raise your right hand; those opposed, any abstentions, any null votes. It passed unanimously 14-0, thank you.

REVIEW OF THE SEDAR 54 SANDBAR SHARK STOCK ASSESSMENT

CHAIRMAN MILLER: All right let's move on to the next agenda item. Thank you for that response on shortfin mako. We're going to review the SEDAR 54 Sandbar Shark Stock Assessment. We're going to switch species, and I'm going to call on Karyl Brewster-Geisz again to bring us up to speed on the SEDAR 54.

MS. BREWSTER-GEISZ: This presentation is much shorter. This past February we finished SEDAR 54; which was a standard assessment for sandbar sharks. It replaces SEDAR 21, which was the benchmark assessment for sandbar sharks. It added more years. It had the same scope from Gulf of Mexico and the Atlantic.

Instead of the State-Space, Age-Structured Production Model or SPASM, it used a Stock-Synthesis Model and the scientists did an extensive replication analysis to ensure that stock synthesis was appropriate. This is the results of the stock synthesis. You can see the graph on the left. In the early time period the data did not fit well; well the model didn't fit well due to the lack of data, but by the time we entered the data rich period it had nearly the same fit.

It did show that stock synthesis was a slightly more productive model; with a slightly higher FMSY value, and overall the stock status remained the same going up through 2009 using stock synthesis. The scientists decided that this model did successfully replicate the results from SPASM. This is just a graph showing the various indices of abundance that they used in the current assessment.

As you can see some of the indices go up, some of them go down; so it's pretty much a mix. With the new model and the new assessment, they did update longevity and maturity parameters. They added in length data; this was new for sandbar, we hadn't had the ability to do that. They also added in by male and female; and you can see those length compositions on the screen with the green bar being age maturity.

These are the main results. The two graphs on the right you have biomass or SSF stocks, spawning stock fecundity on the top graph, and then the bottom graph is the fishing mortality. The highlighted bars are the parameters we look at to determine whether or not a stock is overfished, or overfishing is occurring.

We have the biomass over biomass MSY equal to 0.77, and fishing mortality over fishing mortality MSY being 0.58. We usually look at MSST to see whether or not something is overfished. The appropriate numbers are highlighted there too. This is the Kobe plot. Most of the model showed, 85 percent showed that it was overfished, but overfishing is not occurring.

About 15 percent probability that it is a healthy stock, with less than 1 percent showing that it's overfished with overfishing occurring. We also asked the stock scientists to look at projections to see what the total allowable catch should be; going out to the year 2070. That is our current rebuilding time period.

There is a 70 percent chance of rebuilding by the year 2070. If we were to increase the TAC to 246 metric tons whole weight that would be

a 12 percent increase from the current TAC. Then if you use 50 percent instead of 70 percent probability, we could have a 55 percent increase in the TAC. We have not finalized our determination about the stock assessment, nor have we decided what we are going to do as a result of the assessment. That is really all I have to share today.

CHAIRMAN MILLER: Are there any questions on the sandbar shark updated assessment? Jay.

MR. McNAMEE: Thanks again, so a lot more uncertainty with regard to stock status with that one. My question, it was actually one I had that I kept to myself during the shortfin mako discussion. In both of these situations using stock synthesis and I have the general impression that there is a lot of tagging information on sharks in general. It wasn't clear to me how that tagging data, they talk about it in the documents, but I was wondering is that tagging information integrated?

Stock synthesis can integrate tagging information directly; and so I was wondering if that was done, and if not the other aspect that tagging data can give you some sense during the period that the sharks were tagged of natural mortality. I know reading in the shortfin mako one; they just used some of the rules of thumb. I guess that's how I understood it. I was wondering with all of this tagging information, if it's being used in any significant way in the modeling that's being done.

CHAIRMAN MILLER: Karyl.

MS. BREWSTER-GEISZ: Yes the tagging results and information are being used in the models; so is Waves 1, as you said there is the mortality estimates. That came into play with the shortfin mako; where they definitely use that. The other way they are directly using it is in terms of, for instance, we use a lot of the Mexican catches for some of those shark species, as a result of showing that the tagging goes down into Mexico. I believe they used it in other ways; but I am still learning about stock

synthesis, so I can't tell you exactly the other ways that it's being used. But I do know it's in there.

MR. McNAMEE: I'm still learning too. Thank you.

TECHNICAL COMMITTEE REPORT

CHAIRMAN MILLER: Are there any other questions for Karyl, concerning the sandbar shark SEDAR 54? Seeing none; I'm going to call on Kirby for the Technical Committee reaction to the sandbar shark SEDAR 54.

MR. ROOTES-MURDY: Very briefly; the TC was tasked with reviewing the stock assessment and to consider providing the Board any recommendations on potential management action. It was made clear on the call again that the sandbar shark fishery is a research-take only. There is no commercial fishery for sandbars. NOAA HMS has not adjusted their management program in response to the assessment yet; and in turn the TC had no formal recommendations on changing management measures, rather to just maintain status quo measures.

CHAIRMAN MILLER: Any questions on that TC report or comments? Seeing none; well now that it's safe to go back in the water, let's move on to another large shark species.

UPDATE ON THE ENDANGERED SPECIES ACT STATUS OF OCEANIC WHITETIP SHARKS

CHAIRMAN MILLER: We'll have an Update on the Endangered Species Act Status of Oceanic Whitetip. Again, am I calling on Karyl for this one? Chelsey Young is making her way up here; Chelsey.

MS. CHELSEY YOUNG: Good morning. My name is Chelsey Young; and I am with NOAA Fisheries Office of Protected Resources at our headquarters office in Silver Spring. Today I was asked to come give you an update on the listing of the oceanic whitetip as threatened under the Endangered Species Act.

In this presentation I'll give you a little bit of background about the process that we undertake under the Endangered Species Act to get species listed; some of the information that went into our decision making process, and some of the implications that will result from this listing. Just to provide a little bit of a refresher; for those of you that don't work directly with the Endangered Species Act.

It was passed in 1973 with the main purpose of providing a conservation program for threatened and endangered species; and the ecosystems upon which those species depend. Under the act we deal with a couple of different definitions; those being of endangered species and threatened species. This is directly from the statute.

An endangered species is any species that is in danger of extinction throughout all or a significant portion of its range; and a threatened species is any species that is likely to become an endangered species within the foreseeable future. These definitions are actually very closely linked; and the only real difference between them is the timing at which this endangerment is happening.

For an endangered species it's definitely a present day condition; and for a threatened species it's more of a future condition that we can foresee based on current day circumstances. This slide is pretty technical. It just shows basically the stepwise process that gets triggered anytime we receive a petition to list a species under the Endangered Species Act.

It's important to know that most of the time we do receive petitions to list species; and that triggers a requirement for us to respond under the Act. It also triggers a number of statutory requirements and deadlines. This just shows you all of the different processes and steps that we have to go when we do receive a petition, and we accept it.

One thing I like to emphasize on this slide is the opportunities for public to provide comment. This is not a voting process. We are not looking for comments to say whether you think it should be listed or not. We are really looking for substantial scientific or commercial information that would help inform our decision making. For the oceanic whitetip listing process in particular, we received a petition to list the species from an organization called Defenders of Wildlife; back in September of 2015. They asked us to list the species globally or as two distinct population segments; that being the Atlantic and Indo-Pacific. But when we went to review the petition we basically decided we were going to go forward with a status review of the species globally.

That's something important to keep in mind here. We were having to look at the species throughout its entire range. We convened an Extinction Risk Analysis Team in July of 2016 that was comprised of six members across NOAA; including my office, Protected Resources, HMS, and four fishery biologists from the northeast, southeast, southwest and Pacific Islands Fisheries Science Center.

We had representation from across the region in every region where this species occurs. We had the status review report peer reviewed by five peer reviewers; all with expertise in shark management, biology, and specific knowledge of oceanic whitetips. We proposed the species to be listed as threatened back in December of 2016.

The Final Rule was published in January of 2018; with an effective date of March 1, so this listing is now in effect. Just a little bit of background about what went into this listing determination. Again as I mentioned, this species is globally distributed, so we had to consider the species status across the entire range.

It has a clear preference for open ocean waters; it is a pelagic species. Even though it can occur from 30 degrees north to 30 degrees south, it does have a preference for those latitudes that

straddle the equator. It does have a depth distribution of the upper mixed layer between 1 and 152 meters. It does dive a lot deeper than that. But it is considered a surface dwelling shark.

They like to hang out near the surface; which basically makes it more vulnerable to interactions with longline fisheries, purse seine fisheries, and things of that nature. They do have a temperature preference for warm water. Partially the reason why this species has so many interactions with fisheries wherever it occurs, is because it's horizontal and vertical distribution really overlaps where the most fishing effort often occurs.

The species has some life history parameters that also do not lend itself to being very resilient to very intense harvest levels. They are long-lived; up to approximately 20 years, and have a relatively late age at maturity, not as late as the shortfin mako, but 6 to 7 years for the Southwest Atlantic, and 8 to 9 years for females in the North Pacific, as a lengthy gestation of 9 to 12 months, and relatively low fecundity.

The kicker here is that they have pups every two years, it is thought. This slide here basically shows the trends that we've seen based on all of the literature that we could find on the species. It hasn't had a stock assessment anywhere but the western and central Pacific. But basically for historical and current trends, they all basically show a same pattern of significant decline.

But you will notice that for the Northwest Atlantic, we do show a likely stabilized population; and that was based on a standardized observer data analysis for the pelagic longline fishery. Basically this was one of the most important factors that we considered in our decision making; was the status and trends of the abundance of the species throughout its range. Threats to the species, obviously the main one are overutilization in commercial fisheries as a result of both bycatch and the fin trade. As I

mentioned, because of their distribution they are caught in large numbers globally; both in longline and purse seine fisheries among others.

The large majority that is caught are juveniles. The species is being caught in large numbers; mostly with individuals that haven't reproduced yet. They have a variety of at-vessel mortality rates; from 23 percent to 58 percent in longlines and likely greater than 85 percent in purse seines.

I will note that the 23 percent is actually from the Northwest Atlantic pelagic longline fishery; where we do have safe release guidelines, and regulations in place to release the species, whereas the 58 percent, the higher end of the spectrum, comes from the Indian Ocean where obviously they don't have the similar strict regulations that we have in our fisheries.

Then there is an unknown release mortality rate; so we don't know what happens to the species once they are released. The fin trade was a very big factor in this listing decision. It is considered a preferred species. In the Hong Kong fin market it can obtain up to \$85.00 per kilogram. It has been historically the main economic driver for retaining the species; although it currently is prohibited from retention in all the tuna RFMOs.

It comprises approximately 2 percent of the global fin trade; and that does sound like a small percentage, but it equates to several hundred thousand to up to 1.2 million individuals per year. We also looked at whether current regulations are adequate to protect the species from the threats that I just mentioned.

I won't go through all of these in detail; but as I mentioned, all of the major tuna RFMOs do have no retention measures for this species, which underscores its conservation status. However, we found that there is highly variable implementation and enforcement of these measures; particularly out in the western and central Pacific and Indian Oceans, as well as the

South Atlantic and major shark fishing countries like Brazil.

We did determine that these retention bands, although they are the first step in protecting the species on the high seas, are partially effective. It was listed under CITES in 2013, but we have seen data since then that shows there have been several confiscated shipments that have gone to Hong Kong without the proper CITES paperwork or permits.

We've also seen several instances of illegal fishing and trafficking of fins from a number of different countries. A lot of these regulations are in place; but the level of enforcement and implementation is highly variable and not likely not going to prevent further declines of the species in those places.

Considering all of that information; we did an extinction risk assessment. We considered a foreseeable future of approximately 30 years; to take into consideration the life history of the species, as well as how far forward we could foresee the threats going from today. We took into account the significant historical and ongoing abundance declines throughout the species range; plus its life history characteristics, and the ongoing threats of over utilization and largely inadequate regulations. We determined that it had a moderate risk of extinction which basically means it is not endangered now. But given the current conditions going forward, it's likely on a trajectory to be endangered in the foreseeable future.

That prompted a threatened listing under the Endangered Species Act. What happens next? This is probably the information that you're most interested in. What automatically kicks in for threatened and endangered species, are what's called Section 7 Consultations. These are required for any federal actions that may affect the species.

These are already underway for our federal fisheries; such as the HMS pelagic longline

fishery and HMS all other gears. These are to make sure that these activities don't jeopardize the existence of the species. We are also required to designate critical habitat. At the time of listing we're supposed to do this.

But we didn't have enough information about the species habitat needs and requirements to be able to do this. We did extend a one-year extension. Any critical habitat designation would be open to public comment. It would be an entirely separate rulemaking process. Then protective regulations, also known as a 4(d) Rule is something that we can do at our discretion; if we find that there are other measures that are necessary and advisable for the conservation of the species.

At this time we are not developing a 4(d) Rule for a number of reasons. But we may consider it in the future if necessary for the species, and again this would be a completely separate rulemaking process for opportunity for public comment. Then recovery planning is also something that we are required to undertake under the Endangered Species Act.

This is a non-regulatory process. It's basically just a roadmap guidance document to identify site-specific actions that we can take to help recover the species and get it off the list; because that is the ultimate goal. Going back to the 4(d) Rule again, this is something that is completely at our discretion, and it's also something that we have to consider whether or not the United States is a considerable threat to the species.

It can be very specific to parts of the range of the species for different threats. At this time, given the stability of the species in the northwest Atlantic and the regulations that are already in place. We didn't see this as something we were going to undertake right now. With that said, take is currently not prohibited under this listing. The species is already prohibited from retention in the main fishery that catches it; the Atlantic HMS pelagic longline fishery.

U.S. fishermen do not have to do anything different under current laws; if and when they accidentally catch or interact with an oceanic whitetip. They will just continue to operate under all the federal fisheries regulations and RFMO measures that they are currently subject to. But those fisheries, as I mentioned, that may affect the oceanic whitetip will undergo Section 7 Consultation. That's it; any questions?

TECHNICAL COMMITTEE REPORT

CHAIRMAN MILLER: Any questions? Thank you, Chelsey, questions concerning the presentation on oceanic whitetips? Seeing none; I'll call on Kirby for the Technical Committee Response.

MR. ROOTES-MURDY: The TC was tasked to consider the recent status determination for oceanic whitetips; and provide the Board any recommendations on potential management response, both for in-state shark fisheries or for vessels landing sharks taken in the EEZ or transiting from the EEZ through state waters.

The species is not commonly found, excuse me. The species is most commonly found south of ASMFC states. NOAA HMS has not adjusted the management program currently in response to the new ESA status. In turn the TC recommends consider moving the species to the prohibited species list once consultations are completed; but until then maintaining status quo measures. With that I'll take any questions.

CHAIRMAN MILLER: Questions or comments. Seeing none; thank you very much, Chelsey. All right, before we get to the next agenda item which is the FMP Review; I wanted to circle back to Adam's motion, so it's clear to the Board what the schedule would be for addressing that particular motion. Adam, do you have suggestions as to when things should be initiated in that regard?

MR. NOWALSKY: Well, I believe the motion initiated the process today. I would have to defer to staff for what they would look at for

coming up with a first draft. Given the timeline of things that we heard today, I would think that if we were able to look at something in the summer and take final action on that addendum at the fall meeting.

It would then put us in place to respond to anything that comes out of ICCAT from November at our winter, '19 meeting. Again, I would have to defer to staff to workload; but I would think if we were on track for final action at the annual meeting that would put us in a very good place to take any subsequent action needed.

CHAIRMAN MILLER: I'll look to staff to see if that's a reasonable expectation.

MR. ROOTES-MURDY: Yes thank you, Adam. I just wanted to get that clarified; because we don't often have a Coastal Sharks Board meeting in the summer meeting, we often have one at the annual meeting. But from what you've laid out, you would prefer to have this addendum be taken up at the summer meeting; and then final action be considered at the annual meeting, so as to respond likely in early 2019 to Amendment 11 and any potential changes coming out of the ICCAT review of shortfin makos.

CHAIRMAN MILLER: Go ahead, Adam.

MR. NOWALSKY: I would defer to the preference of staff and the Board as to what the timing would be appropriate. I would put that timeline out there as from what I've heard today would be most desirable. But I wouldn't force the hand on that. Again, if the schedule for the summer meeting sets out that not really a good time for the Coastal Sharks Board, and we do it at the annual meeting with final action at the winter meeting. I still think that would put us in place to have regulations in place for 2019; before the start of most of the shark fishing seasons that most states would see. But again, I'll defer to staff and the rest of the Board.

CHAIRMAN MILLER: Karyl.

MS. BREWSTER-GEISZ: I would support having Coastal Shark Board meet in the summer meeting; just because we are hoping to have Amendment 11 Proposed Rule out by that point, and that would give this Board an opportunity to review and comment on that.

CHAIRMAN MILLER: Is there any objection to proceeding as Karyl and Adam suggested? Staff, are we okay with that? Okay, got the thumbs up from the staff, so we'll proceed. Thank you for that.

**CONSIDER APPROVAL OF THE 2016 AND
2017 FMP REVIEW AND
STATE COMPLIANCE REPORTS**

CHAIRMAN MILLER: Last item on our agenda is Number 7; Consider Approval of the 2016 and 2017 FMP Review and State Compliance Reports. Again, I'll call on Kirby for that presentation.

MR. ROOTES-MURDY: Just so it's clear, we have two years-worth of compliance reports that this fishery management plan review contains; it's the 2015 fishing season and the 2016 fishing season. I'm going to go through the status of the FMP, status of the stocks, status of the fishery, implementation of compliance requirements, and PRT recommendations and comments.

As many of you know, the coastal sharks FMP was implemented in January, 2009. Since then there has been four addenda to the plan. I have listed here the first three. The Addendum IV that went into place adjusted finning requirements. Since that Addendum there has been no new changes to the FMP through addendum or Board action.

Regarding status of the stock, you heard earlier today updates on the Atlantic shortfin mako and sandbar sharks; so I won't provide any new information there really, again for shortfin mako the resource is considered overfished and

overfishing is occurring. For sandbar the resource is still considered overfished but not experiencing overfishing.

There is obviously now a new change to the oceanic whitetip list now under ESA. In terms of the status of the fishery, on the commercial side commercial landings of Atlantic large coastal shark species in 2016 were 465,000 pounds dressed weight, which was about 25 percent decrease from 2015 landings, and a 20 percent decrease from 2014 landings.

Commercial landings of small coastal shark species in 2016 were 210,000 pounds; a 40 percent decrease from 2015 landings, and a 21 percent decrease from 2014 landings, 2016 landings are considered now a new low in landings for the time series over the last nine years. Commercial landings for Atlantic pelagic sharks was at 239,000 pounds; which represents an increase of about 11 percent from 2015 landings level, but below 2014 landings level.

Largely the increase in the pelagic shark landings can be attributed to an increase in commercial harvest of Atlantic shortfin mako. Keep in mind, when I'm going through these statistics, this is information that is compiled through the SAFE report, so it is encompassing both federal and state data. Next on the recreational side, approximately 69,000 sharks were harvested during the 2016 recreational fishing season; below the 2015 landings level, but similar to those seen in 2013 and 2015. The non blacknose small coastal sharks group comprised about 55 percent of that overall recreational harvest; specifically Atlantic sharpnose and bonnetheads. Next, regarding de minimis, as many of you may be aware for the coastal sharks FMP, de minimis does not have specific criteria in place; it's taken on a case-by-case basis. Maine and Massachusetts are both requesting to maintain their de minimis status that they were granted previously.

In terms of PRT comments, the PRT found all states that have regulations that were consistent with the FMP and the associated addenda. What was noted was that for some of the compliance reports the law enforcement sections were either missing or lacking in few compliance information.

Again, basically this section just outlines if there has been any noted cases involving law enforcement in the previous year. For a few states there either was no information provided, or it might have been missing some insight. There are also samples that are collected through a number of states; though fishery independent sampling is not a requirement of the Plan.

The PRT did note that when that information is provided that it should be given in a little bit more standardization; and that's something that the PRT can work to provide a better template for them. Lastly, the PRT did note that given the FMP currently deals with de minimis on a case-by-case basis.

It can create some challenges in trying to have the PRT provide any meaningful or specific recommendations on de minimis status; given that it's really a Board decision. But if the Board chooses so they could move to address de minimis criteria to align with other fishery management plans through the Commission; if it's the desire of the Board. With that I'll take any questions.

CHAIRMAN MILLER: Questions concerning the FMP review. **Then seeing none; is anyone ready to make a motion to recommend approval of the FMP review? Emerson.**

MR. HASBROUCK: Yes, I'll make that motion.

CHAIRMAN MILLER: Is there a second to that motion? Jay. I'll read the motion into the record. **Move to approve the Fishery Management Plan Review for the 2015 and 2016 fishing season and approve de minimis requests from Maine and Massachusetts.**

Motion by Mr. Hasbrouck, second by Dr. McNamee, Malcolm, do you have a comment?

DR. MALCOLM RHODES: Is this for '15, '16, or '16, '17 review?

MR. ROOTES-MURDY: This is for both the 2015 fishing season and the 2016 fishing season.

DR. RHODES: Okay, thank you.

CHAIRMAN MILLER: **Are we ready to vote on the motion? All in favor raise your right hand; any opposed, any nulls or any abstentions? Then the motion carries unanimously.**

OTHER BUSINESS

CHAIRMAN MILLER: One item that came up during the review that occurred to me that perhaps there might be an opportunity for additional comment on; and that is concerning that Law Enforcement Committee. I'll just direct attention to Greg Garner. Greg, by not taking emergency action at this particular Board meeting, and proceeding as suggested in Adam's motion with an Addendum, which will go into effect next year. Do you perceive any law enforcement challenges or crises; considering that there will in fact be somewhat different regulations in effect in federal waters versus state waters? I wanted to give Law Enforcement an opportunity to weigh in on that now.

MR. GREG GARNER: I think Kirby is going to come over and address the Law Enforcement Committee this afternoon; and we'll take that up. I'll get back.

CHAIRMAN MILLER: In a discussion we had with Law Enforcement before the meeting, there may have been some misunderstandings about if a person has a highly migratory species permit and is fishing in state waters. Is that person bound by the federal shark regulations while fishing in state waters?

We had some discussion about that. I think we've come to an understanding with Karyl's help on that; that in fact they are bound by federal regulations if they have in their possession an HMS permit while fishing in state waters. That message will be conveyed to the Law Enforcement Section this afternoon, and we'll all be on the same page in that regard.

ELECTION OF VICE-CHAIR

CHAIRMAN MILLER: The last item, which is not on your agenda, but that we need to take care of, is nomination of a Vice-Chair.

Chris Batsavage indicated he might be willing if no one else is so inclined to raise their hand. Let me, in the spirit of cooperation with Chris, make the offer. **Would anyone like to be considered for Vice-Chair of the Shark Board?** The reason we have an opening by the way is Pat Geer changed jobs; and so we have a need to elect a Vice-Chair. Is there anyone else? Seeing none; Chris, are you willing to serve as Vice-Chair?

MR. BATSAVAGE: Yes, I'll serve thanks.

CHAIRMAN MILLER: Toni.

MS. KERNS: We need that in the form of a motion, please.

CHAIRMAN MILLER: **Does anyone care to make a motion in that regard? Robert.**

MR. BOYLES: **So moved.**

CHAIRMAN MILLER: So moved, is there a second? Doug Brady. **All in favor raise your right hand. All opposed, motion carries unanimously, thank you.** If there is no further business for the Shark Board, all right, I'm sorry. Who was the second to the motion, was it Doug Brady? Yes, are we good, Toni?

All right, Toni has an announcement. I think our business for the Shark Board is pretty much done; but go ahead, Toni.

ADJOURNMENT

CHAIRMAN MILLER: We're ready to adjourn. Is there any reason to keep going or are we all in agreement that it's time to adjourn? Seeing none; we are adjourned.

(Whereupon the meeting adjourned at 11:00
o'clock a.m. on May 1, 2018)