

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
BILLFISH AND HIGHLY MIGRATORY SPECIES ADVISORY

PANELS

+ + + + +

JOINT MEETING

+ + + + +

WEDNESDAY, MARCH 23, 2005

+ + + + +

The meeting came to order at 8:00 a.m. at
the Holiday Inn, Silver Spring, Maryland.

ADVISORY PANEL ROSTER:

NELSON BEIDEMAN	Blue Water Fisherman's Association
DEWEY HEMILRIGHT	F/V Tar Baby
RUSSELL HUDSON	Directed Shark Fisheries, Inc.
GAIL JOHNSON	Pocahontas, Inc.
DON NEHLS	Lindgren-Pittman, Inc.
PETE MANUEL	
RICHARD RUAIS	East Coast Tuna Association
PETER WEISS	General Category Tuna Association

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JAMES DONOFRIO	Recreational Fishing Alliance
MICHAEL LEECH	International Game Fishing Association
JOE McBRIDE	Montauk Boatmen & Captains Association
RUSSELL NELSON	Nelson Resources Consulting
MARK SAMPSON	Ocean City Charter Boat Captain's Association
RICHARD B. STONE	
WILLIAM UTLEY	Coastal Conservation Association
ROM WHITAKER	Hatteras Harbor Charter Boats
SHANA MILLER	
RAMON BONFIL	Wildlife Conservation Society
SONJA FORDHAM	The Ocean Conservancy
MERRY CAMHI. Ph.D.	Independent Consultant
DR. PHIL GOODYEAR	
DR. ROBERT HUETER	Center for Shark Research
DR. JOHN GRAVES	Virginia Institute of Marine Science
JULIE MORRIS	Gulf of Mexico Fishery Management Council
BOBBI WALKER	Gulf of Mexico Fishery Management Council
FRANK BLOUNT	New England Fishery Management Council
DR. LOUIS DANIELS	South Atlantic Fishery Management Council
RICHS E. SAVAGE	Mid Atlantic Fishery Management Council

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ROBERT PRIDE	eBusiness Solutions, Inc.
EUGENIO PINELRO-SOLER	Caribbean Fishery Management Council
LARRY SIMPSON	Gulf States Marine Fisheries Commission
JOHN V. O'SHEA	Atlantic State Marine Fisheries Commission
RANDY BLANKENSHIP	Texas Parks and Wildlife Department
PRESTON P. PATE	NC Division of Marine Fisheries
DAVID M. CUPKA	SC Department of Natural Resources
GLENN ULRICH	SC Department of Natural Resources
HENRY ANSLEY	Georgia Coastal Resources Division
HOWARD KING	Maryland Department of Natural Resources
JACK DEVNEW	Blue Water Fisherman's Association
WILLIAM ETHERIDGE	NC Fisheries Association
PAMELA BASCO	GFMC Advisory Panel
ROBERT F. ZALES, II	
DR. JOHN M. DEAN	South Atlantic Management Council
KIM AMENDOLA	Florida Fish and Wildlife Conservation Commission

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P-R-O-C-E-E-D-I-N-G-S

1
2 MODERATOR CHRISTOPHER ROGERS: Specifically
3 managing the angling category of fishery, both in
4 terms of allocation issues, monitoring issues, and
5 also the constraint we face, being in year three,
6 entering year three of our four-year balance period
7 for the 8 percent limit on school bluefin catch.

8 How to deal with that issue given the fact
9 that we were above that 8 percent limit in the first
10 two years, 2003, 2004. There was some comment about
11 the investigation that the agency is undertaking to
12 look at some of the issues that were raised,
13 particularly at the ICCAT Advisory Committee meeting
14 regarding fish measurement and length-weight
15 conversion.

16 And of course, we do recognize it that the
17 resolution of that issue may have some bearing on the
18 actual numbers that are used, but assuming that some
19 action is necessary to ensure the compliance with the
20 8 percent limit, we wanted to get some more feedback
21 on potential bag limits and season lengths for the
22 upcoming season. So, I had promised that Jim
23 Donofrio would have the first opportunity to speak,
24 since he ceded his place in the lineup last evening.
25 So, Jim Donofrio.

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1 MR. DONOFRIO: Good morning, Chris. Thank
2 you. And thanks again to, you know, to the agency
3 for looking into this measurement issue for us.
4 Chris, I met this morning and I also talked to Ray
5 Bogan from United Boatmen -- woke him up at 6:30 this
6 morning and talked to him. But I met with all our
7 recreational and charter boat guys here.

8 What we'd like to do is go for the whole
9 144 for this year, so we can start to have a
10 predictable season with our marine operators, our
11 tackle stores, our charter boats for the little bit
12 of, you know, quota that we're going to get, and use
13 it up all at once and bet that you're going to do a
14 great job and fix that measurement, and we'll end up
15 with an underage that we can get some credit for.

16 But we're very hopeful, and because the way
17 we look at it, and we've talked the rationale out.
18 If we go for the -- if we go for that, the 117,
19 there's not going to be enough fish to have a real
20 season anyway for next year. So we'd rather just go
21 for it all at once now, 27 metric tones for a season
22 is not enough, it's not a real season. It might as
23 well just be a closure. So we'll take it all at once
24 and gamble that you're going to fix the numbers for
25 us. Thank you.

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1 MODERATOR CHRISTOPHER ROGERS: I guess all
2 those casinos in New Jersey are shaping your
3 attitudes now, right?

4 MR. DONOFRIO: Not really. I go there once
5 a year when I go to a meeting and go downstairs, play
6 roulette for about 10 minutes and walk away. But
7 anyway, could you get a consensus before you go
8 around the table, at least with the charter boat
9 guys, and see what -- how they feel about that?

10 MODERATOR CHRISTOPHER ROGERS: All right.
11 Let's hear back from the charter boat operators who
12 are aligned parties. I know Jo McBride, Rom
13 Whitaker, Frank Blount, Mike Leech. Let's go. Jo
14 McBride, Frank, Rom, and Mike.

15 MR. McBRIDE: Yes, thank you, Chris.
16 Jimmy, thank you very much. I think you put it
17 practically. It's a gamble, we will take a chance,
18 hope for an adjustment in the measurements, and
19 again, thanks to Rich's leadership in that particular
20 endeavor, and hopefully it works out that we can
21 maintain the fishery. I do have a question before
22 you go any further, unless you want to get this
23 consensus out of the way and then come back to it
24 later. Would you prefer to do that?

25 MODERATOR CHRISTOPHER ROGERS: Is it

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1 germane to the consensus building or is it something
2 else?

3 MR. McBRIDE: No, it's germane to a
4 distribution of the quota.

5 MODERATOR CHRISTOPHER ROGERS: Okay. Well,
6 let's --

7 MR. McBRIDE: I'll wait, and let the other
8 guys talk, okay.

9 MR. BLOUNT: Thank you, Chris, you've been
10 supportive. It's also, I mean, it's not like we're
11 giving up much for next year. If we only have one
12 fish this year, we're not really giving up much for
13 next year anyway, so we'd just as soon have it all at
14 once, and hopefully it will be fixed.

Deleted: 11 just assume we'll

15 MODERATOR CHRISTOPHER ROGERS: Rom
16 Whitaker.

17 MR. WHITAKER: Yes, I mean we certainly
18 don't have any problem with that. I did stress to
19 Jim that I know in Jo's area that he needs a small
20 fish or three a day, but I do feel like there needs
21 to be a size limit, you know, whatever it takes. I'm
22 not sure what it would take, 27 to 47 inches or
23 whatever, but certainly don't need three a day of 50
24 - 60 inch fish.

25 I guess I can work that out, and even in

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1 Frank's case, he might need it to be in some kind of
2 head boat. I know in our area, head boats that they
3 make provisions for more than six people that works
4 out same state -- same way that a charter boat would.
5 Thank you.

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6 MODERATOR CHRISTOPHER ROGERS: Thank you,
7 Rom. Mike Leech.

8 MR. LEECH: I agree that if you don't use
9 it all this year you got no season the following year
10 anyway, so it's not that much of a gamble. So I
11 would definitely support that proposal.

12 MODERATOR CHRISTOPHER ROGERS: Any more
13 comments on that proposal? Dick Stone?

14 MR. STONE: Thank you, Chris. I -- well, I
15 haven't run this by NMA specifically. However, I'm
16 sure they would agree with this approach. And
17 obviously based on what we heard yesterday, I think
18 there is a real good chance that we will see some
19 change in the -- in those weights. Thank you.

20 MODERATOR CHRISTOPHER ROGERS: Thank you.
21 Then, Pete Manual.

22 MR. MANUAL: Yes, I agree with that also.
23 But last night, when we talked, we also discussed
24 getting a tail tag program possibly in the states
25 that you all are fishing in, and I would like to see

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1 that you continue to work on that this year while
2 NMFS is working on the category that they're working
3 on.

4 MODERATOR CHRISTOPHER ROGERS: Okay. In
5 that regard, Jim had asked me to make some copies
6 that I'll pass around the table here of the catch
7 card program that he was describing from the State of
8 Washington. I don't know that there is enough for
9 everybody, I think there is about 25 copies there,
10 but if we run out, we'll get some more. Bob Pride,
11 and then Jim?

12 MR. PRIDE: Chris, I too support this, but
13 you know, what I think we ought to try to couple with
14 this is try to get some better data on, you know,
15 maybe the states that want to participate with more
16 than the one fish default should be required to have
17 the tagging program in place. Now I do realize we
18 can't do that for '05, but we certainly could for
19 '06. And that's something we should be thinking
20 about.

21 MODERATOR CHRISTOPHER ROGERS: Well, we
22 prefer to partner with the states rather than to
23 require the states to do things. Just a system we
24 have here in this country. Jim Donofrio.

25 MR. DONOFRIO: Chris, thanks. To Rom's

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1 point about the -- you know, the size change, if you
2 can -- if you recall when we put the ad hoc Tuna
3 Committee together up and down the coast here, we had
4 a -- we found out we had a problem. Mark Sampson
5 pointed out that a lot of the charter boats were --
6 had a hard time identifying that, you know, that
7 fish, that 47-inch fish, so we made it easy when it
8 crossed the board. We may have to do that again, go
9 back to that. I understand where Rom's coming from.

10 So would you rather have us sort that out
11 at that 30th meeting? We're having that committee
12 meeting down in Virginia Beach. You want us to sort
13 that out with the partners that are playing in this,
14 like Jo's group, and United Boatmen, and the Charter
15 Boat Associations?

16 MODERATOR CHRISTOPHER ROGERS: Well, it's
17 always helpful to have the advice, particularly if
18 it's consensus advice, from the parties that are
19 directly involved in the fishery. I know the
20 question that Jo want -- Captain McBride wants to get
21 back to is the allocation and timing of the seasons.
22 So clearly it's a matter of adjusting the catch
23 limits for each of the respective size classes,
24 obviously schools of bluefin is limited, and in the
25 large schools small-medium is even less limited.

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1 But as Rom said, how many small-medium fish
2 does one need to conduct a successful charter? So
3 it's obviously a balancing act, and allocation is a
4 big factor in that in terms of early season versus
5 late season, and distribution of the fish. So any
6 advice that could be provided on managing the
7 allocation aspects as well as the distribution of
8 size classes would be helpful. Jo McBride?

9 MR. McBRIDE: Yes, Chris, two things. What
10 Rom was pointing out, I think, unless you're in the
11 industry, you probably don't ascertain the
12 difference. Historically, for the last five years in
13 -- I'm going to use the Block Island Sound geographic
14 area, Connecticut, Rhode Island and Montauk. You
15 have fish that are probably if they're 29 inches,
16 we're lucky.

17 Whatever this phenomenon is, in once spot
18 we tend to catch them in late September, early
19 October, are very small fish, which is much different
20 than we had historically years ago, but, you know,
21 the fish swim and go around. We'll accept all of
22 that. I have a problem -- so the point being that
23 one 200 pound medium with a catch and release during
24 the winter is a very viable charter boat fishery when
25 there's nothing else going on, and people from all

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1 over the country will go to the Carolinas, that's
2 great. That's wonderful for those people.

3 But it would take 10 of our fish to equal
4 one of your fish, and if I, you know, the equation I
5 might make to you is shark fishing. If I go out and
6 catch a 200-pound Mako and they could bring that
7 home, they've had a tremendously successful day. If
8 I came in with a 30 -- well, whatever, even a 47 inch
9 or a 54 inch Mako, they'd look at me like why don't
10 we go on Bass Fishing camp so I can get some fish to
11 take home. And that's part of the business.

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12 So the point that -- that's why I asked for
13 the -- you know, two or three fish, something to
14 encourage the people to come out for that month
15 season that we have in Montauk, Connecticut, and
16 Rhode Island. And Franky and I -- if he wants to add
17 to this, we sort of concur on the need for that. And
18 it's because of the size of the fish, really, that we
19 catch -- that's number one.

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20 Number two, I have a bigger problem, and
21 the problem, again, as I pointed out, was equity. We
22 agree that there is a north-south line. Now if my
23 information is correct, last year there was no north-
24 south line. Everybody fished in a rodeo -- is that
25 the proper term -- they just kept fishing all season

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1 | long. There was no closure when the south got up to
2 | whatever point they were supposed to get up to get
3 | their 52 percent of the school for the angling
4 | category fish.

5 | And then the -- and geographically, in New
6 | England there is a body of school fish around, in
7 | addition to the giants, and so forth, they can fish.
8 | And when we get our fish in late September -- they
9 | are migrating down from New England, and they show
10 | up, you know, they keep going in December, they start
11 | catching them sometimes off the beach in New Jersey.
12 | It's a natural migration.

13 | But if you're going to let everybody fish
14 | all year, and you don't have a north-south boundary,
15 | there's nothing left in September 20th, you know,
16 | which is the date we all agreed to. And my complaint
17 | was that even if a need came up or an error was made,
18 | that nobody notified us that they were going to knock
19 | us down to one fish when our season literally
20 | started.

21 | It had been two or three, you know, three,
22 | I think, for the -- which was very good and very
23 | great, but it didn't help our area and we had asked
24 | even for a set-aside for that Block Island Sound
25 | area, because of the unique nature, 10 metric tons

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1 we've asked for years. And I know it's a pain in the
 2 neck to administer it and what have you, but some
 3 fairness has to be for an area such as ours.
 4 Certainly has been very supportive of the
 5 conservation of bluefin tuna, and have taken a big
 6 beating, you know, trying to keep an angling category
 7 fishery going together.

8 So that's what I'm asking. You do not say
 9 you're going to have a north-south line, and then
 10 ignore it for the year, and the average guy is
 11 fishing all summer and all of a sudden we find, well
 12 where's our share? And we've used it already,
 13 because there was no north-south line. That's not
 14 right. That's not good administration, and it's not
 15 a fair administration. That's what I really was
 16 upset about yesterday. Thank you.

17 MODERATOR CHRISTOPHER ROGERS: Thank you,
 18 Jo. And just for clarification, there is still a
 19 north-south subdivision of the quota. What occurred
 20 last year though was that we had the increased bag
 21 limits available in both the northern and southern
 22 zone at the same time, because there were fish
 23 evidently showing around Gloucester.

24 We've heard -- yesterday not around Cape
 25 Cod, but we were getting some feedback from the

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1 charter boat operators in northern Massachusetts that
2 there was an abundance of school and large school
3 fish, and since there was not an abundance of giants,
4 a lot of the charter boat operators wanted to partake
5 in the recreational fishing opportunity.

6 So -- yes, it's something we need to do a
7 better job of managing to deal with the allocation of
8 the northern and southern zone, and being able to
9 account for the northerly migration earlier in the
10 season, and the southerly migration later on. But
11 again to the extent that the ad hoc committee can
12 deliberate on that issue and provide us some guidance
13 on the appropriate seasons, that would be helpful.
14 Louis Daniels.

15 MR. DANIELS: Thanks, Chris. Certainly we
16 want to do anything we can to support the northern
17 recreational fishery. And whatever you guys deem
18 appropriate, the State of North Carolina will
19 certainly support. You know, I agree with Rom's
20 comments though, our big concern is a November 13th
21 closure again. You know, I understand what Jo is
22 saying, but as he indicated, he can come in and fish
23 for Bass or Fluke or other things.

24 In North Carolina in the wintertime, our
25 charter head boat fleet is dependant on bluefin tuna.

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1 And if there is no bluefin tuna season, the boats are
2 tied to the dock. There isn't anything else to fish
3 for at that time of the year, unless they want to go
4 rock fishing, which for morehead fleet, that's not as
5 much of an option, because sometimes they're not
6 there.

7 So from North Carolina's perspective, and I
8 think from the South Atlantic's perspective, you
9 know, our concern is maintain the fishery and keeping
10 it open for our charter/headboat fleet to give them
11 an opportunity to plan and make charters, and not
12 have to start calling people up December the 1st, and
13 say, sorry guys you can't keep the fish, and they
14 cancel their trips, you know, that's been a real
15 problem for us.

16 So my comments yesterday about the larger
17 size limit certainly was not meant in any way to hurt
18 the northern fishery. We're willing to do in North
19 Carolina whatever we need to do. If it means a 73-
20 inch minimum size limit, cool. But we're willing to
21 do anything we have to do in order to maintain that
22 fishery, and to have at least some reasonable
23 expectation of being able to catch and keep a fish.

24 That's what gets the customers. They might
25 not -- we usually don't see any fish smaller than 73

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1 inches in North Carolina most of the time. But
2 please keep that in consideration. I know you guys
3 worked really hard to keep the North Carolina fishery
4 open this year, and I -- we appreciate it very much
5 from the year before. We recognize that was
6 hopefully an unusual event rather than a normal
7 event.

8 MODERATOR CHRISTOPHER ROGERS: Thank you,
9 Louis. Rich Ruais.

10 MR. RUAIS: Thanks, Chris. I have a mike
11 today, but it doesn't shut off, so -- maybe that's
12 good.

13 (LAUGHTER.)

Deleted: (TAPE
INTERRUPTION)

14 MR. RUAIS: I got one, I got one. Okay.
15 well, that's it. I guess, I guess. I've always been
16 a believer that each category should largely be in
17 charge of its own destiny. So if that's the decision
18 Jim, you've taken your poll. I do want to point out
19 that I think it's really the high-risk strategy. I
20 wouldn't be optimistic at all that a paper will be
21 produced by July, particularly on the measuring
22 issues, the 17 percent question with the intercept.

23 In terms of the length-weight key,
24 recognizing that this is a very high risk strategy, I
25 would really suggest to you that you get your own

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1 scientist to work on this, and not count on the fact
2 that a body -- that a scientist will be instructed at
3 the National Marine Fisheries Service to drop
4 everything else and get on it.

5 That's assuming that there is enough data
6 around between the general category landings
7 database, and some of the North Carolina fish to do
8 an adequate comparison that can then be taken to
9 SCRS, because that's what you're talking about,
10 trying to get a paper submitted to SCRS that SCRS
11 will adopt, and then will report to the commission
12 that there is a legitimate reason to change the
13 landings information provided to ICCAT for 2002,
14 2003, and 2004.

15 You're gambling -- you're gambling for your
16 2006 fishery. If you catch all 144 tons this year,
17 and there is no change made, you have no school fish
18 fishery. So that's a pretty big risk, and you're
19 sure you're not satisfied with 274 tons, then I would
20 get my own scientist and make sure that a paper was
21 submitted in time for July. Thanks. And it won't
22 shut off.

23 MODERATOR CHRISTOPHER ROGERS: Any other
24 comments on bluefin tuna angling category? All
25 right, we'll then move -- oh, Louis.

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1 MR. DANIELS: Yes, I did want to bring up
2 one other potential point of clarification that I
3 think needs to be made in the discussions. I've
4 talked with Brad a little bit about this, and just
5 wanted to bring it up for the committee's
6 understanding.

7 If you look at the table that's being used
8 to convert lengths to weights, there's a confounding
9 little issue in that table that I think needs to be
10 examined. If you fish up to 67 inches, the size of
11 the fish actually gets smaller as the season
12 progresses. So for example, a 47-inch fish in June
13 is 70 pounds, a 40-inch fish in November is 50
14 pounds.

15 Once you hit 68 inches, they start getting
16 larger as the season progresses to where in, for
17 example, a 73-inch fish in June is 230, and in
18 December is 240. So for some reason, and it's not
19 at the size of maturity, and I can't quite figure
20 out why that's happening, but all of a sudden, the
21 trend flip-flops.

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22 And so I think that's our point that we
23 need to keep in mind when we're looking at the
24 current fork length issue as well as the length-
25 weight discrepancy to try to come up with an answer

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1 to that question.

2 MODERATOR CHRISTOPHER ROGERS: Bob Pride --
3 we haven't heard from Glenn this morning, so we will
4 -- Glenn, Bob, and then I think Frank over there?
5 And Dick Stone.

6 MR. ULRICH: Just want to follow up with
7 what Louis was just talking about, because we were
8 kicking around this morning trying to understand
9 that, and certainly at any given time you may have
10 some émigrés from across the pond, if you will, that
11 you would expect to be in lower -- have a lower
12 condition -- index or condition, which is kind of
13 what we're talking about here.

14 But generally speaking, we would expect to
15 see fish on the grounds increasing in size, in
16 weight, or in condition over the course of the
17 season. So the question then becomes how -- what is
18 the data set or database that's being used to produce
19 this chart of length-weight relationships over the
20 course of the season?

21 Does anybody know, and does it truly
22 reflect that, you know, is it large enough to average
23 out those occurrences of émigrés coming in, or is it
24 so -- such a small sample size that it may reflect
25 that inappropriately? Do you have any clues to --

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1 MODERATOR CHRISTOPHER ROGERS: I know there
2 has been an attempt to -- I guess you could say
3 segment the length-weight key to be as detailed as
4 possible in terms of different size classes,
5 understanding that one relationship, length-weight
6 relationship you can visualize the typical sort of
7 parabolic curve, is not going to be as precise if you
8 try to estimate over the whole range as opposed to --
9 as in segment by size classes, and also recognizing
10 the rapid growth during the summer feeding migration.

11 There's been an attempt to have monthly
12 length-weight keys, so length-weight keys by size
13 class, and major size class, and by month. There may
14 be some instances where the data are most sparse in
15 one of those month size class sells than others, and
16 certainly the winter fishery has not had as much data
17 collected for that. But I think what you raised is
18 probably an interesting topic to investigate.

19 And maybe confounding the whole deal, is
20 this sudden appearance of groups or émigrés as you
21 say, depending on where they're coming from, and
22 their condition, whether they've just made a lengthy
23 migration in the absence of feeding, crossing the
24 ocean as an example, versus a short stop on the way
25 down to the Gulf of Mexico.

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1 So we do need to take that into account
2 that the pool may be dominated by early arriving or
3 late arriving fish that are coming from different
4 locations and therefore are in a different condition.

5 SPEAKER: But if you have a large enough
6 sample --

7 MODERATOR CHRISTOPHER ROGERS: Right, that
8 could average out, although it might also decrease
9 the precision of that length-weight conversion. So
10 if you had a means of identifying the origin of the
11 fish when they show up, you might have a different
12 length-weight key -- let's just say Mediterranean
13 fish showing up in North Carolina versus Gulf of
14 Maine fish, but that's -- I leave that to the
15 scientists who are being charged to examine that.

16 MODERATOR CHRISTOPHER ROGERS: I think --
17 who will be next? Bob Pride, and then Frank, and
18 Dick Stone.

19 MR. PRIDE: Thank you, Chris. Rich Ruais
20 made a comment I'd like to reflect on just a moment.
21 He said that we couldn't necessarily expect a
22 scientist in the Science Center to drop everything
23 and start working on this problem. However, when we
24 had the trawler work problem a few months back,
25 exactly that happened.

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1 In fact, not only did a scientist, you
2 know, drop everything and start working on it, but
3 several did, and we also put together a panel of
4 industry advisors to work on that problem, and they
5 worked hard, and got some resolutions pretty quickly.

6 And I think that the recreational sector
7 would deserve the same appropriate response to this
8 problem. I don't see why it would be any different,
9 and I would challenge the service to make sure that
10 that happens.

11 MODERATOR CHRISTOPHER ROGERS: Thank you,
12 Bob. Frank Blount.

13 MR. BLOUNT: Yes, thank you, Chris. When
14 you are dividing up the fish for next year, keep in
15 mind, if I'm reading this table correctly, that even
16 though Massachusetts says it was up last year, it's
17 50 percent down from two years ago, New York is down
18 70 percent from what it was the year before, and
19 Rhode Island is down 20. So if landings are going
20 up, they're not going up at New England. Thank you.

21 MODERATOR CHRISTOPHER ROGERS: Dick Stone?

22 MR. STONE: Thank you, Chris. Just to
23 reflect a little bit on what's been said already, I
24 think that certainly the Science Center can pull
25 together at least the numbers of samples that have

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1 been taken by time, by area. So if someone else does
 2 need to look at that, then they could do that, and I
 3 think that would be -- you know, if they are not
 4 going to have a chance to do that, then some of us
 5 would be willing to do that.

6 The other thing is, based on what Rich was
 7 saying -- I mean I understand what he is saying, but
 8 also if the quota is not large enough, there really
 9 isn't a season anyhow, I mean, ~~the~~ vessels can't have
 10 enough fish to make a season then, you know, it
 11 doesn't really matter. So splitting something like
 12 that, you know, may not work in the sense of trying
 13 to keep the season going, whereas pooling it into one
 14 year, and then even the worst case scenario if you
 15 don't have it next year, that may have been the same
 16 effect anyhow. Thank you.

17 MODERATOR CHRISTOPHER ROGERS: Okay. I
 18 believe we've run through the table several times on
 19 this issue. We're not leaving bluefin by any means.
 20 What we wanted do next was talk a little bit about
 21 the management structure in other categories. Some
 22 issues have arisen relative to purse-seine; certainly
 23 general category, to some extent harpoon and longline
 24 may be issues as well.

25 And Brad, I believe, ~~has~~ a presentation for

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1 us on some of the issues particularly with respect to
2 the general category management.

3 SPEAKER: Thank you, Chris. Yes, what I'd
4 like to be presenting is there's five separate issues
5 that we've looked at in the upcoming amendment to the
6 fishery management plan dealing with domestic
7 management of Atlantic bluefin tuna. And we'll be
8 touching on each of those five issues, and some of
9 the initial alternatives that we've looked at.

10 Again, looking for your feedback at this
11 pre-draft stage prior to going -- formally proposed.
12 The essential purpose of reviewing the bluefin tuna
13 management is that since the 1999 FMP came into
14 existence, we've actually experienced a number of
15 different shifts, if you will, in the fishery that
16 are actually inherent to the fisheries, whether it's
17 temporal, geographic, et cetera, that the playing
18 field that those management decisions were made upon
19 has shifted.

20 And currently, as a result of that the
21 regulations currently in place may not provide enough
22 flexibility to account for that variability while
23 maintaining the objectives of the FMP itself. So
24 it's our intent to address some of the regulations to
25 instill additional flexibility, potentially simplify,

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1 so that we can account for some of this variability
2 as we move forward, and aren't sitting around the
3 table two years from now realizing what we had put
4 into place no longer applied, as well.

5 The five issues essentially roll down to
6 looking at the general category, and as a subset the
7 angling category as well, but primarily the general
8 category time period and subquota allocation scheme
9 looking at the agency's in-season quota
10 transferability authorities, looking at our annual
11 adjustments from one fishing year, or potentially
12 calendar year to the next, looking at closure and
13 reopening criteria, as well as looking at our
14 authority to adjust retention limits both in the
15 general and the angling category midseason.

16 To tackle the initial issue, looking at the
17 bluefin tuna time period subquotas in the general and
18 angling. Currently right now, the general categories
19 are established as having three time periods, June
20 through August, the month of September is stand
21 alone, and then October through January. And as far
22 as the general category quota is concerned, 60
23 percent is allocated to that initial time period, 30
24 to the month of September, and 10 percent for October
25 through January.

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1 These percentages and time periods are
2 codified in the regulatory text. So currently right
3 now it does take an FMP amendment to amend those
4 regulations. What we're also looking at is the
5 subquota allocation as far as the size class
6 distribution in the angling category, as well as the
7 north-south line existing.

8 Well, some of that will tie into the 8
9 percent that we had discussed last night, and carried
10 on a little bit this morning, as well as just how the
11 percentages play out when we're breaking out that
12 angling category. As far as a second alternative
13 would be to -- would be looking at the process that
14 these time periods subquotas are established.

15 Right now they are codified, alternative 2
16 would be looking at perhaps dealing with these in a
17 framework action on an annual basis. Or perhaps a
18 specifications process, perhaps a unique rulemaking,
19 but that way the agency would gain some flexibility
20 from one year to the next in establishing those to
21 address any shifts in the fishery as they take place
22 over time.

23 Alternative 3 would be -- it's not mutually
24 exclusive to alternative 1 or 2, regardless of how
25 the processes, but actually looking at the time

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1 periods and the subquotas that are associated with
2 those time periods, and perhaps adjusting them. For
3 instance this could range that you have a month-by-
4 month allocation -- each month is a standalone, by
5 month, you know, you have something that falls more
6 along the historical 60-30-10, but there's a wide
7 range of alternatives that we could discuss there.

8 Alternative 4 is looking more at the
9 angling category in and of itself, trying to simplify
10 some of the angling category allocation schemes.
11 Currently right now the 8 percent for the school size
12 category, which is an ICCAT recommendation, is
13 applied to the overall U.S. quota that needs to be
14 incorporated into the angling category subquota of
15 19.7 percent of the U.S. quota, and 2.3 percent for
16 the large schools and for the large, medium and
17 giants.

18 So there are a number of different
19 percentages applied to those size classes, and the
20 base lines are -- aren't always consistent. So we're
21 potentially looking ways to simplify that. Another
22 item we would be looking at is currently with the
23 data that we're receiving from the angling category,
24 as Jo had mentioned earlier this morning.

25 The management tool of having that north-

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1 south line can be difficult to utilize. If you don't
2 have real-time data to monitor, landing of the school
3 bluefin or angling category fish for that matter, as
4 they proceed up or down the coast, it makes it very
5 difficult to maintain those percentages underneath
6 the current recreational data monitoring systems we
7 have in place.

8 Fifth alternative that we will be looking
9 at, just to kind of round out our realm of
10 alternatives, would be potentially looking at an ITQ
11 system in the general category. We fully understand
12 the complexity that having a limited access ITQ
13 system would have on this fishery due to the dynamics
14 of it, but we figured we would consider it at this
15 point, anyway. At least to outline some of the
16 concerns that are associated with it.

17 To move on to the second issue -- in-season
18 bluefin tuna quota transferability. Currently right
19 now, all categories are eligible to have quota
20 transferred to or from them midstream in the season.
21 Status quo, we've experienced it over the last couple
22 of years, there's a number of different criteria that
23 the agency actually needs to address in making these
24 determinations.

25 I could read them off now, but we could

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1 follow up on that if needed. But there are currently
2 six criteria that the agency needs to address in
3 making a determination whether or not an in-season
4 quota transfer is warranted.

5 Alternative 2 would actually be looking at
6 amending those six criteria. Although they cover a
7 number of issues that apply to the fishery, perhaps
8 adding an additional one would add to the agency's
9 flexibility of addressing the variability in the
10 fishery itself. For instance, the variation in
11 seasonal distribution, abundance or migration
12 patterns of bluefin tuna as they may change from one
13 year to the next, or even within the season itself.

14 Third alternative that we'd be looking at,
15 I guess the pendulum would be swinging in the
16 opposite direction, would be that you would actually
17 eliminate the authority to conduct in-season
18 transfers. You would establish each domestic quota
19 categories allocation through the specification
20 process.

21 Therefore, informing everyone where they
22 stood as far as what tonnage was available in that
23 category, and for planning purposes you know when we
24 approach that that would be "all she wrote.". We
25 also know the downsides as far as providing

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1 reasonable opportunities and flexibility that come
2 along with this alternative.

3 And again, in this situation, looking
4 potentially at ITQs for the entire fishery, knowing
5 the complexities that go along with that alternative.

6 Third issue that we'd be looking at in the
7 amendment process would be the annual quota
8 adjustments. This essentially refers to any under
9 harvest or over harvest in each domestic quota
10 category, carrying forward, or being deducted from
11 that same category in the subsequent fishing year.
12 This does exclude the purse-seine category where
13 there are ITQs in place there, and essentially the
14 same process would be applied, but instead of on a
15 category level, it's applied on a vessel level.

16 Alternative two would be looking at
17 transferring, or having the ability to amend quotas
18 across all categories, including the purse-seine
19 category. The main intent behind this alternative
20 is, in a situation where a category may not be
21 harvesting its quota in subsequent years, you can run
22 into a stock piling issue, where one quota, one
23 domestic quota category has quota piling up one year
24 to the next, to the next, which causes some concerns
25 associated with that.

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1 Alternative three would be to eliminate the
2 carryover provisions altogether, and actually take
3 the under harvest and essentially return it to the
4 resource. In the situation where there was an over
5 harvest, we propose that it would still be deducted
6 from that domestic category that had actually
7 conducted the over harvest of that quota. But in
8 this state, we would return to resource. And there
9 are some concerns here. The ICCAT recommended quotas
10 are a harvest quota, and there are some implications
11 that are associated with this alternative.

12 Alternative four would be taking under and
13 over harvest, and instead of applying it directly to
14 each individual domestic quota category that that
15 under and over harvest could be applied on top of the
16 U.S. quota prior to the allocation percentages
17 established in the FMP, dividing that amongst the
18 user groups.

19 And alternative five would be potentially
20 having a cap on the amount of quota that could be
21 rolled over from one category to that same category
22 in a subsequent fishing year, whether it's a
23 percentage cap, whether it's a two years' worth of
24 quota based upon the baseline percentages, et cetera,
25 and applying whatever excess is beyond that cap

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1 either to the overall U.S. quota, or to the reserve
2 or a number of different options we could look at
3 there.

4 Bluefin tuna closure and reopening criteria
5 currently underneath the status quo, the notice needs
6 to be filed when a domestic quota category has been
7 reached, or is projected to be reached. Again, the
8 purse-seine category is excluded here due to the ITQ
9 system, and they're monitoring, as are we, their
10 landings, as well, when they reach their own
11 individual allocations.

12 Alternative two, looking at trying to add a
13 little additional flexibility here would be to
14 establish closure criteria for all categories, and
15 perhaps there is a criteria that can be looked at as
16 far as when are fisheries closed and reopened for
17 that matter, to account for some of the variability
18 that takes place throughout the season. For
19 instance, if the fish aren't showing up when they --
20 in the time period that they have in the past, or
21 they're showing up in new geographic areas.
22 Providing some flexibility there where the quota may
23 still be available to be harvested, but if there is a
24 concern that if there isn't a closure taking place,
25 that other fisheries in different geographical areas

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1 may not have a reasonable opportunity to harvest a
2 portion of that quota.

3 Currently this language is applicable to
4 the angling category, where we do have that
5 authority, this alternative would essentially be
6 looking to extend that authority across the other
7 domestic quota categories.

8 The alternative three here is really
9 looking at establishing reopening criteria for all
10 the categories. Again, accounting for some of the
11 variability that can be experienced in season, and
12 from one year to the next. Currently right now, we
13 have the ability to implement a reopening date in
14 some of our closure notices, et cetera. In the
15 angling category situation where the ability to
16 reopen when fish are showing up off a different
17 geographical area -- again, with the intent of
18 providing reasonable fishing opportunities to
19 participants coast wide. Again, we'll be looking to
20 establish some criteria here, to formalize what the
21 agency would need to consider, to determine a
22 reopening.

23 In-season bluefin tuna retention limit
24 adjustments. Again, these apply to both the general
25 and the angling. The agency has executed this

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1 authority for the vast number of years for the
2 general category. They had the ability to increase
3 or decrease the daily retention limit between zero
4 and three bluefin tuna per vessel, provided that we
5 give a three-day calendar notification to the
6 industry that that change is occurring.

7 In the instance of the angling category, we
8 have the ability to increase or decrease the
9 retention limits, whether it be on a per vessel, or a
10 per person basis, as well as having the ability to
11 alter those retention limits among vessel types,
12 whether it is a charter boat, private recreational
13 vessel, or a head boat, and in that there is our
14 status quo.

15 Sometimes what we run into here -- and I
16 think we had some discussion on it yesterday, and a
17 little bit more of it this morning, is the balancing
18 act of having that flexibility to adapt the retention
19 limits to what's taking place in the fishery, but yet
20 providing ample notice to those participants of what
21 those retention limits are for planning purposes.

22 So alternative two would be, the pendulum
23 is swinging the other way, you would establish an
24 annual retention limit, again, ply through a
25 specification-type process. That way folks would

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1 know what the retention limits would be for the
2 entire season, and you lock those down into place and
3 not actually perform any in-season adjustments.

4 There are some downsides to this that you
5 don't necessarily know what the impacts of those
6 retention limits will be as far as landings are
7 concerned, you run into the risk of not providing
8 reasonable fishing opportunities, et cetera.

9 And lastly here, which has kind of been a
10 theme through a number of these different issues and
11 alternatives, would be potentially to establish some
12 criteria that the agency would then need to address
13 in making a determination on whether or not those
14 retention limit adjustments were warranted, again
15 trying to balance this notification to the industry
16 with maintaining the flexibility, which underneath
17 some of the constraints, we as a federal agency need
18 to do as far as timing and process et cetera can
19 sometimes be difficult to turn on a dime.

20 So that was a quick run-through as far as
21 the five issues that we're currently addressing, or
22 looking at for amendment to, and some of the initial
23 alternatives. You know, we look forward to getting
24 your thoughts and comments on what was presented
25 here, as well as something that we may not have

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1 presented. Again, we are in this pre-draft stage,
2 and look forward to all your thoughts and comments.

3 So at this point, we could open up to the floor?

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4 MODERATOR CHRISTOPHER ROGERS: Thank you,
5 Brad. Again, it's a difficult process of allocation.
6 Certainly we are sensitive over the years about
7 advance notification, about some sense of certainty
8 or reliability on what the regulations are, bag
9 limits, seasons, and the like. But also we've heard,
10 and tried to respond to the various constituent
11 groups on the need for flexibility, because the
12 weather is not going to be the same from year to
13 year, the distribution of the fish is not going to be
14 the same from year to year.

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15 And we want to be able to meet the
16 requirements not only of the Atlantic Tunas
17 Convention Act, but also Magnuson Act to make that
18 ICCAT quota available to the U.S. fishery at large,
19 and so these procedures for transfers, and
20 adjustments, and things like that. I know it's very
21 confusing and confounding, particularly since
22 sometimes we are in a reactive mode, and trying to
23 get things done on a quick turnaround basis, and do
24 get a lot of phone calls and enquiries as to why are
25 you not increasing the catch limit, why are you

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1 increasing it, why don't you reallocate, let us catch
2 it, because it's not being caught there.

3 And it does become a very difficult
4 administrative process. But nonetheless, that's the
5 job that's conferred on us, and we have to deal with
6 it. So, what we're interested in hearing at this
7 point in time is, what can make it a little bit more
8 transparent, a little bit more flexible, but at the
9 same time affording the constituent base a little bit
10 more certainty for planning purposes.

11 And that may be an impossible balancing
12 act, but nonetheless we want some feedback on ways to
13 get there. And again, we are always impressed by our
14 attorneys to provide as much advance notice as
15 possible and opportunity for comment in these
16 matters. So we are very sensitive to those
17 requirements, and don't want to be announcing things
18 on Friday at 4:30 p.m., and surprising everybody for
19 the weekend.

20 So with that, we'll take comment on any and
21 all of the subjects that Brad had raised. Rich Ruais
22 and then -- why don't we start with Rich and come
23 around this way, and we'll get to you last, Louis.

24 MR. RUAIS: What I first wanted to suggest,
25 Chris, was sort of a process thing. I think it would

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1 be helpful. These are five fairly complex issues.
2 Could we just work on one at a time, get everybody's
3 comments on, for example, working from the book if
4 you can, on page 76 and 77, and then moving on, after
5 we've done that one, we move on to the other one, so
6 we're not bouncing around between the various issues
7 here?

8 MODERATOR CHRISTOPHER ROGERS: That would
9 work for me. We'll deal with the other ones at next
10 year's advisory panel meeting, right? No, well, I
11 would only ask though that folks focus in on their
12 main concern with any of the alternatives either
13 support or against, and really focus your comments,
14 so that we could move on, because obviously we'll
15 have to go around the table several times to deal
16 with the separate issues. So we'll take time period,
17 subquotas in the general and angling categories the
18 first item.

19 MR. RUAIS: Okay. And if I still have the
20 floor, I wanted to suggest that in general, I think
21 this plan has -- the plan actually works very well,
22 and we're not looking at -- we shouldn't be looking
23 at any major sweeping changes. And I look at the
24 North Carolina situation as a case in point. Look at
25 what we've achieved in the last six years.

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1 I mean, yes we have a sub-allocation that
2 is front loaded, but we have accommodated a brand new
3 fishery within that context, and I would call
4 everybody's attention to the fact that preserving
5 historical fisheries in the traditional fishing
6 pattern is not something that is just hard coated in
7 the objectives of the fishery management plan, but
8 it's also in the law.

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9 Before you move away from the sub
10 allocation system which alternatives two actually
11 suggest you do, you -- I really do think you'd have
12 to go and look at the sections in the HMS of Magnuson
13 that talk about preserving historical fisheries and
14 the traditional fishing pattern. I'd also suggest
15 that, that alternative two is exactly the opposite of
16 what you've been hearing from --

17 (Tape interruption)

18 MS. MILLER: Will be based on Bluefin
19 movements and whether they even show up at all, you
20 know you need an inherent flexibility in the plan and
21 you know despite the administrative burden that comes
22 with it. And I just on a separate point, I just want
23 to say that I'm here based on myself, I have an
24 environmental seat and I'm not representing any
25 group, thank you.

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1 MODERATOR CHRISTOPHER ROGERS: Thank you
2 Shana. Jim Donofrio.

3 MR. DONOFRIO: Chris, thank you. I want to
4 go on the record and say that I agree with Rich as
5 far as the open access to the general category. RFA
6 also has a lot of general category members who
7 participate in this fishery by, you know, Penn and
8 Shimano reels et cetera and have boats that don't
9 look like commercial boats. So they buy our
10 equipment, it's just they sell fish.

11 To me they're still, you know, they're
12 still in our industry. So we want to see open
13 access. What I'm concerned about is the fairness in
14 the allocation of the general category, I mean the
15 reality here and I know I'm on the record here
16 supporting giving the allocation that we got from
17 ICCAT a few years ago to North Carolina for startup
18 fishery.

19 Again I support, you know, them getting as
20 much access as they can to that fishery. I don't
21 think it's a burden for some of the Cape Cod boats to
22 go down there. Actually the price was a lot better
23 when it hit North Carolina this year. I know Charlie
24 Dodge, I heard he had a record, a record fish there,
25 it was just, you know, good price. So, you know,

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1 whatever you can do to make sure that it gets
2 distributed, you know, that's North Carolina gets a
3 good shot at that resource.

4 The fisherss there, they need to utilize the
5 quota. We did have underages in that quota.
6 Regarding the, you know, the angling category, I
7 think it's important for us to continue to discuss
8 the north south line amongst our committee, speaking
9 to Mark out in the hallway and you know, we can, we
10 have to tweak what we have of this little bit of
11 quota here and what we may consider here is even,
12 once we meet on the 30th, just talking about a slot
13 size going back to having a 27 to 47-inch fish in
14 certain areas early in the season, so we don't get
15 certain boats in one of the areas around Cape May,
16 they are behind the scallop boats taking three of
17 those larger fish, which adds up to a tonnage, the
18 quota so quickly and there is nothing left when they
19 get to Joe McBride.

20 I mean, we got to be fair with each other,
21 it's only a little bit of quota, so that's amongst
22 us, we'll work that out in a gentleman's agreement
23 amongst each other and get back to you on that, but
24 these are some of the options we want to leave open.
25 I don't think it's as black and white as this, what's

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1 in the option page here. And I know you have been
2 very good and very flexible with us. Over the years
3 you and Bill and Rebecca are meeting with us and
4 accommodating us in this very complicated management
5 regime. So I'll leave it at that, thank you.

6 MODERATOR CHRISTOPHER ROGERS: Thank you,
7 Jim. Dick Stone?

8 MR. STONE: Thank you, Chris. I also want
9 to support what's been said so far about the
10 flexibility to accommodate the North Carolina Fishery
11 in the general category, and also what Jim was saying
12 about the recreational fishery as well, I think it is
13 a good thing that these folks get together in their
14 own category and talk about what they want to do and
15 then, you know, get back to you and to us on what
16 they want to see. Thank you.

17 MODERATOR CHRISTOPHER ROGERS: Mike Leech?

18 MR. LEECH: This is just a quick aside but
19 you know the more I sit here and listen to the
20 complexities of the Bluefin plan and yesterday the
21 shark plan. Chris, in your own words you call it
22 confusing and confounding, which I agree with a
23 hundred percent. The more I watch this process here,
24 the more convinced I am that combining the billfish
25 management plan in with these complex things is not a

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1 good idea. It's -- if you take a bowl of ice cream
2 and mix it in with bouilla baisse, it's not going to
3 work and I just -- that's how I feel and I'm feeling
4 stronger and stronger all the time.

5 MODERATOR CHRISTOPHER ROGERS: That's
6 exactly what I had for breakfast this morning. Joe
7 McBride.

8 MR. McBRIDE: Yes, Chris, just for the
9 record, I concur with what Jimmy and Dick said
10 earlier and also Rich and the other ladies and
11 gentlemen on the other side of the table. It's
12 complex, it's important to keep it open because it
13 has economic value beyond the actual catching of the
14 fish here or there and the adjustments are doable, I
15 think the problems are more in landing reporting and
16 things of that sort, so you can ascertain where, when
17 it's time to make an adjustment so that everybody
18 gets a fair shot at the fish without belaboring it to
19 death, thank you.

20 MODERATOR CHRISTOPHER ROGERS: Thank you
21 Joe. Frank, Harvey, Louis Daniels, then Rita?

22 MS. RITA: Nothing new, just want to be in
23 support of Rich's proposal and say that the South
24 Atlantic Council is on record and is very supportive
25 of the reallocation and the season adjustment, thank

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1 you.

2 MODERATOR CHRISTOPHER ROGERS: Thank you,
3 Rita. Louis Daniels?

4 MR. DANIEL: It's been a long row, I hope
5 we are getting to the short rows on this thing.
6 Certainly, we support the December, January subquota
7 period, and I just would be remiss if I didn't state
8 that, the North Carolina petition was 450 metric
9 tons, but I think it's important, the gentlemen's
10 agreement that we came up with a couple of years ago
11 with Rich and the others to see that a ridge
12 originally with the 72 tons from the ICCAT increase,
13 so I think that's an excellent start.

14 I think our expectation, I guess is, is
15 that as we continue to work cooperatively with Rich
16 and others and get more ICCAT quota that the -- when
17 those percentages increase across the general
18 category or across our total U.S. quota that that
19 December-January sub-quota period will likewise
20 increase up to that particular point that we
21 initially requested.

22 I don't want to give a lot of credence to
23 the letter that NMFS received several months ago
24 about the problem in the North Carolina fishery, but
25 I do think that we need to be cognizant of the

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1 potential problems that a significant amount of quota
2 could do to North Carolina in the unknown nature,
3 North Carolina has pursued the 150 tons as being a
4 sustainable fishery based on the best available
5 information, and so that's why we continue to support
6 that approach, but I appreciate the work of, not only
7 your agency Chris, but with -- when our Bluefin and
8 East coast tuna, Glenn Delaney, and all the folks
9 that have helped us get to this point and I just hope
10 we can get it in place before this season in North
11 Carolina.

12 MODERATOR CHRISTOPHER ROGERS: Thank you,
13 Louis. Rom Whitaker?

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14 MR. WHITAKER: Yes, my feelings are a
15 little bit different and that -- North or -- I'm not
16 going to say North Carolina, I'm going to say the
17 South Atlantic has been struggling for a while and we
18 worked with Rich, we have got some allocation but
19 we're still, if you look at the allocation as 90
20 percent, north east 10 percent, south Atlantic and of
21 course I keep hearing historical, and it's a little
22 bit upsetting, I mean, if you -- a picture's worth a
23 thousand words, and if you look at this picture, this
24 is a Bluefin tuna caught in Hatteras in 1923, General
25 Billy Mitchell. So if we -- Bluefin tuna became so

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1 valuable, if we would've been able to participate,
2 I'm not real sure that we'd be so much worried about
3 -- I feel like we'd have a lot more than 10 percent
4 now, we would be looking at some more fishery. So we
5 petitioned for a 150 metric tons, that was like 21
6 percent of the baseline quota.

7 I think after seeing the participation from
8 the northeast last year and I think if you were talk
9 to any of those captains that came down, they were
10 very pleased with the -- not only the prices they
11 got, but also the ease of doing business now. They
12 are not having to go far, fuel prices places to stay
13 but anyway, there again we were called, I mean, due
14 to whatever reasons, of course the quota was supposed
15 to be passed on, passed on while we were stopping
16 January, I forget 2nd or 3rd last year, because
17 supposedly there was no quota left.

18 So now we found out that there is almost
19 300 metric tons that could have been caught and we
20 keep telling, "where are we going to get it anyway,"
21 well, we didn't get it, and it would be a lot easier
22 to tell my people, that we are going to start at a
23 little bit bigger number than to be waiting on what's
24 going to happen, you know we may get it, we may not
25 get it, so I personally would like to see the 150

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1 | metric tons initially, -- as far as the, how to split
 2 | it up, you know a simple way, you've got a eight
 3 | month period there, June through January, take split
 4 | it up each month, you know June, July, August,
 5 | September, October, November, December, January and
 6 | put the percentages accordingly and that seems to be
 7 | a very simple way, if it's not called up, you know,
 8 | whatever is not called in the first periods, keep
 9 | rolling it over.

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10 | As far as angling category, until we get a
 11 | real time way to count, then I really don't see where
 12 | north south line makes any difference. Until we get
 13 | on a real time basis, 'cause we never know until it's
 14 | done. So hopefully with what we talked to Joe about,
 15 | with the one per boat per day except on a smaller
 16 | tide fish under whatever it takes 47 inches, three
 17 | per day. Hopefully, we can take care of that
 18 | problem. And as far as the ITQs, I don't know much
 19 | about them, but it seems like a very risky thing to
 20 | implement at this time. Thank you.

21 | MODERATOR CHRISTOPHER ROGERS: Thank you,
 22 | Rom. Rich, final word on this subject and then we
 23 | will move on to the next item, quota transfer
 24 | ability, in-season transfers.

25 | MR. RUAIS: I appreciate Rom's concerns

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1 about historical fisheries. I think we've talked
2 about that in the past. I think one time when Louis
3 was talking about historical fisheries, I happened to
4 have the picture that I brought down from (italics)
5 1871 Harpers magazine showing Indians using tomahawks
6 to kill giant Bluefin tuna in the tidal pools of the
7 Maine and that the pilgrims were also using -- they
8 were catching Bluefin tuna for fertilizer -- when
9 they first settled here but it is all relative, I
10 wouldn't consider our historical performance or
11 fishery to be comparable to the Mediterranean, where
12 you can find Roman coins with Bluefin tuna stamped in
13 them, so it is all relative.

14 But I think the modern -- the U.S. modern
15 day Bluefin tuna fishery that is what we call the
16 traditional historical fishery started with purse
17 seinewell, harpooning and rod and reel in New
18 England, Gulf of Maine was really moved forward with
19 the advent of purse seining in 1962, after the
20 Government did some exploration, this is all
21 documented in this plan and elsewhere and basically
22 took off in New England in the 1970s as the price got
23 better.

24 In that early period, there were no
25 regulations. North Carolina could've been

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1 participating in the fishery, if it would have been a
2 practical fishery for them at that time. Even with
3 all that said though, we are incrementally changing
4 the plan to reflect, to reflect the evolution of the
5 fishery.

6 SPEAKER: Morse code, mate.

7 MR. RUAIS: Okay, the final point, Chris
8 and I failed say this in my first comment, so
9 specifically, we're supporting alternative three,
10 adjust the general category time periods and
11 associated sub allocation, subquota allocations and
12 specifically under the codified regulations as in
13 alternative one, we do not recommend that we use
14 framework action regulatory amendments to modify the
15 subquota sub periods. Thanks.

16 MODERATOR CHRISTOPHER ROGERS: Thank you,
17 Rich. Now, we'll move on to in-season transfers
18 within the various categories, we have undertaken in-
19 season transfers in the past between just about every
20 category. Most often the recipient category is very
21 supportive and the donor category is not necessarily
22 so. So it's been a spotty record in terms of public
23 support.

24 But again this is intended or has been
25 intended to meet the requirements of both under

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1 Atlantic Tunas Convention Act and Magnuson Act to
2 provide a reasonable opportunity to catch the quota
3 and as we've discussed previously in this meeting on
4 swordfish, it also helps ensure that our quota is
5 taken, and we report that to the commission for fear
6 that if we don't and are accumulating a stockpile, it
7 will have some implications for ICCAT allocation
8 discussion, so again it's an imperfect system, not
9 necessarily always completely supported by all user
10 groups, but we're looking for any comment and advice
11 on ways to improve that aspect of maintaining
12 flexibility by transferring quota between categories.

13
14 So, let's start on this side, I don't see Mr.
15 Donofrio, Dick Stone, quota transfers, pass or play?
16 All right.

17 MR. STONE: Not right now.

18 MODERATOR CHRISTOPHER ROGERS: Not right
19 now. Okay, Captain McBride, Mr. Pride, Louis
20 Daniels, anything on quota transfers, in-season quota
21 transfers.

22 MR. DANIELS: You got me flustered man.
23 Yes, I mean, I would just say, "Give yourself that
24 flexibility. Let's use up this quota, and not end up
25 the season with an additional 288 metric tons left on

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1 the table, with guys sitting at the hotels." So, yes,
2 I think you need to be careful, not pile it up in any
3 one place, especially in certain areas late season
4 when you're looking at migratory spawning grounds,
5 but forthcoming, but certainly giving yourself the
6 flexibility to -- and not to do it based on annual
7 adjustments, Lord have mercy.

8 I mean, as difficult as this fishery is to
9 manage for you all, you know, you really get some
10 phone calls if you set it annually, as you well know,
11 Chris, so certainly give yourself the flexibility to
12 have in-season transfers, I'm not going to get into
13 the purse seine issue. If that's something they want
14 to do, I'll let Rich speak to that, but thank you.

15 MODERATOR CHRISTOPHER ROGERS: Thank you,
16 Louis. Rom Whitaker?

17 MR. WHITAKER: I would say, absolutely.
18 Let's make them as simple as we can.

19 MODERATOR CHRISTOPHER ROGERS: Okay, we'll
20 look for simplicity in the future. Rich Ruais?

21 MR. RUAIS: Yes, again I don't see any
22 major changes that are needed here, I agree with the,
23 I think the criteria are pretty broad, cover most of
24 the circumstances, we haven't found that problematic,
25 I think additional criteria as the cons point out,

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1 | can be burdensome and just dilute the whole process.

2 | Where we've had trouble is developing consensus on
3 | when and from where to transfer quota and timing.

4 | Those are the issues, I don't think we need
5 | any more criteria, I think what should be explored in
6 | this draft is a process, a new process, and maybe
7 | it's -- we could look to the north to the way Canada
8 | handles this, where they have a formal process to
9 | look for a way to develop consensus among the
10 | industry, and the second issue is that we have been
11 | raising with you consistently, and it's either an APA
12 | issue or a legal issue, is timing of in-season
13 | transfers and timing of all other adjustment
14 | mechanisms, we've been almost begging to make sure
15 | that the agency has real time authority to be able to
16 | respond when there is a consensus in the fishery, and
17 | we need a better process than we've got right now.

18 | What we've got is, when we want to get
19 | something done, we have to mobilize politically and
20 | that's getting old, and everybody knows how to do it
21 | now, so it's not as much fun as it used to be, as
22 | well. But that's the direction we need to move in
23 | so, you know, I've actually looked at the Canadian
24 | national plan, particularly for the Quebec sub-region
25 | and I'm sure you've looked at it as well, Chris and

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1 you know, they have a very specific process to look
2 at -- reallocation of quota, reallocation of tags, as
3 their fishery is evolving in the season and they use
4 industry reps as the contact points within the
5 fishery and they schedule dates in advance of when
6 that reallocation meeting is to take place, if one
7 is necessary, and so I -- you know, I just think we
8 ought to take a look at that and maybe try to move in
9 that direction. In terms of -- under this
10 alternative we're talking about implementing an ITQ
11 system for the entire Bluefin tuna fishery, we
12 already talked about the general category situation,
13 so that primarily leaves the harpoon and Purse seine
14 and I would suggest, this is an appropriate time to
15 float for the harpoon category, the possibility of
16 looking at an ITQ system.

17 It is a category that is clearly ripe for
18 that, it's got a very limited number of permit
19 holders; 42, I think was the last count. Probably in
20 terms of the history or performance; catch
21 performance, really clearly identified in the last
22 several years, it may be a lot less, it may only be
23 25 individuals that have real good performance, there
24 are controversial issues in the harpoon category that
25 an ITQ problem could really address, the plain issue

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1 being the biggest one.

2 If you have your own share and is also the
3 issue of timing, the seasonality of the harpoon,
4 there's a fall. September fishery -- harpooners
5 that want to work more in August and September and
6 there's harpooners that want June and July. So, I
7 mean there are those issues become moot once you have
8 the ITQ, so -- I -- and there are harpooners who want
9 an ITQ program, and then there are others who are
10 against it, but so, I mean, I'm not saying there's a
11 consensus in that fishery, but this is the
12 opportunity to float that by them.

13 In terms of the purse seine category, we've
14 been asking for a lot of years, and there's growing
15 interest and support among some general category
16 fishermen, harpoon category fishermen, fish dealers
17 to see the purse seine category move in that
18 direction and specifically to model it after the
19 Canadian program using the tag as the primary
20 transfer mechanism and Canada has a very detailed
21 system that I won't go into now, 'cause it would bore
22 a lot of other people, where you can absolutely
23 ensure quota accountability, quota monitoring, using
24 average fish size for various regions, and a lot of
25 other people can benefit from the quota under joint

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1 ventures with purse seine operators.

2 There could be higher valued uses of the
3 resource. Tournaments could get involved in getting
4 some of the quota, mariners could get involved in
5 getting some of the quota for a particular fishery
6 that they may want to pursue, environmental groups
7 may want to get involved in selecting, I mean,
8 purchasing some of the quota at some point, if the
9 price is right. So, we hope that you'll use this
10 vehicle as we've been asking for a long time, it --
11 the agency has been pushing ITQs as the way to go in
12 management, and I think we would be losing a very
13 valuable opportunity if we don't move forward with a
14 concrete plan, and hopefully get it done by December
15 of this year, in time for the January fishery and
16 beyond.

17 MODERATOR CHRISTOPHER ROGERS: Thank you,
18 Rich. Just one point that you had raised for
19 clarification for the entire panel, Rich mentioned
20 the APA, the Administrative Procedures Act, and that
21 is the governing legislation on how federal agencies
22 make rules, regulations that are of, what they call
23 "general applicability," they apply to public at
24 large, it does involve prior notice and the
25 opportunity for comment. And this has been one of

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1 the conflicts with flexibility, everybody seems to
2 want, and I don't dispute the desire for advanced
3 notice.

4 You want to know when that catch limit is
5 going to change, but to be able to provide prior
6 notice, and an opportunity to comment in a situation
7 where we're trying to respond to information which
8 can be in some senses only days old on the
9 reappearance of fish that had disappeared for a week
10 or something like that, or in response to a hurricane
11 that came through and redistributed the fish or
12 something like that.

13 It's a very delicate balancing act to
14 accommodate prior notice and opportunity for comment,
15 but still be able to react to the situations on the
16 ground. So, I know it's frustrating from your
17 perspective; it's also frustrating from our
18 perspective. But we are trying to manage and we will
19 continue to do so.

20 And again any thoughts on how to meet the -
21 - what would be construed as competing interest in
22 terms of abiding by the law for prior notice and
23 public comment, but also maintaining that flexibility
24 and the desire for instant action or reaction.
25 Again, we would appreciate any comments on that

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1 balancing. Ken Hanman?

2 MR. HANMAN: Thank you, Chris. I am not
3 all that familiar with what criteria and guidelines
4 are already established for in-season transfers, but
5 I think that's something that might alleviate some of
6 the concerns that you just mentioned. Yes, I mean,
7 there have been problems, and some recent problems
8 with people, maybe misunderstanding or
9 misinterpreting really what was about to happen.

10 It's a very short time period, that the
11 transfers are made, but I think people would feel a
12 lot more comfortable if -- you know at the start of
13 the season, I mean, not the criteria that would
14 change each year, but if that were sort of well
15 established that people felt comfortable with, what
16 kinds of criteria would guide these kinds of
17 transfers that there wouldn't be this -- it would be
18 less likely to be this kind of overreaction that
19 something horrible is being contemplated, that might
20 have some ramifications people would not be happy
21 about.

22 So, are those kind of criteria set up for
23 those things and if there are, we probably need to
24 make sure that everybody out there is sort of aware
25 of them and understands them.

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1 MODERATOR CHRISTOPHER ROGERS: Yes, the
2 criteria are in fact codified in the regulations,
3 they deal with the category of, apparently not being
4 able to take its quota, another category apparently
5 being able to make use of it, scientific data
6 collection, the effect on the rebuilding plan, in
7 terms of conservation neutrality, in other words not
8 trading a lot of small fish for a few larger fish, so
9 to speak by virtue of the transfer. So they are
10 codified, we do address them every time we do make a
11 transfer in the federal register notices how we
12 evaluate it and are concluding that we are meeting
13 the criteria for the transfer.

14 I think it's a little bit much to try to
15 review them here, but I would request that each of
16 the panel members take a look at those, and study
17 them, and if you think there is an opportunity to
18 revisit them or add an additional criterion or maybe
19 change them in some way that's more meaningful, given
20 the current situation. We'd certainly appreciate
21 that as a written comment.

22 SPEAKER: Yes, I would -- I think you
23 mentioned the conservation neutrality, I think that's
24 an important thing from my perspective, that if the
25 notices make it clear, the federal register may not

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1 be the, you know, the only place to highlight that,
2 but -- you know, if the notice makes it very clear
3 that NMFS has made a determination that this action
4 is conservation neutral, and the basis for that
5 decision, I think, it can avoid a lot of
6 misunderstanding.

7 MODERATOR CHRISTOPHER ROGERS: Thank you.
8 Nelson Beideman.

9 MR. BEIDEMAN: Yes, I think the goal is
10 important, I think the flexibility for NMFS to act in
11 season is critical. I think for the most part, that
12 the agency has used, you know, that authority wisely.
13 You don't want a large cap carry over, you know,
14 hanging out there, you really don't want that. We
15 always like to remind NMFS that there is a potential,
16 when you take away from the incidental category that
17 it could create unnecessary discarding, but there
18 again I think they have been very cautious, and have
19 used that in-season wisely.

20 One recommendation I would reiterate, and
21 that's you can't turn large fish into small fish
22 without a conservation equivalency factor. It just
23 doesn't work, at least while you have an overfish
24 stock of fish, you know, if it wasn't overfished,
25 then I don't know that it would matter so much, but

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1 that's one recommendation.

2 MODERATOR CHRISTOPHER ROGERS: Thank you.
3 Pete Manuel and then back to Glenn.

4 MR. MANUEL: This may be somewhat out of
5 context, but let me know if it is. In the original
6 scoping hearings in Manteo we submitted a list of RFT
7 days, which are in the proposal here. As far as, in-
8 season transfers, and lifting and adding or removing,
9 would the RFT day come under the same APA?

10 MODERATOR CHRISTOPHER ROGERS: Yes, it
11 would, because even though we consider it an "in-
12 season action," it does have the force and effect of
13 a final rule, final regulation. It's an enforceable
14 action, either allowing fishing or not allowing
15 fishing on that particular day. So to the extent
16 that we get that notice and opportunity for comment
17 covered during the annual specifications process,
18 that's great; we met that requirement. But the
19 waiving, or addition of additional RFT days in
20 reaction or RFTs, in reaction to the current
21 conditions, sometimes that does pose a problem.

22 There are provisions in the administrative
23 procedures act for waiving prior notice and
24 opportunity comment for good cause, and we have made
25 use of that by saying that this is a unique

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1 condition, that has presented itself, and it's
2 contrary to the public interest, so to speak, to take
3 prior notice and comment, because the conditions will
4 render the decision moot, because they're not going
5 to persist very long. So, we do try to address --
6 restricted~~ed~~ fishing days on an in-season basis, to
7 the best we can.

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8 MR. MANUEL: If that is the case then in
9 your proposed 2005 specifications, is that the time
10 that you would ask for that, that they're here in
11 11th in Morehead City, so we would have some
12 flexibility, you know I don't want to get in a
13 situation like we did in December with weather, you
14 know, and got RFT days coming for the last week in a
15 month or something, and force vessels to go and put
16 people's life in danger.

17 MODERATOR CHRISTOPHER ROGERS: Glenn
18 Delaney.

19 MR. DELANEY: Thanks, Chris. Just very
20 briefly, this is all about achieving optimum yield,
21 and you know what you need to do is what you need to
22 do. Chances are on the APA issue, you've probably
23 received comment, prior comment as opposed to post
24 comments. Chances are you are responding to some
25 significant input from the industry, I don't know if

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1 that helps with your APA requirements.

2 On Rich's suggestion to sort of complete
3 the process of going ITQ for the purse seine
4 category, I think what he's laid out here on his
5 proposal makes a great deal of sense. I don't need
6 to remind you of the administration's response to the
7 Commission on Ocean Policy's recommendations and
8 action plan, if you will, I believe includes as a
9 primary element; the promotion of market-based
10 management strategies where appropriate. I stress,
11 "where appropriate," 'cause I'm involved with many
12 other fisheries that one would argue that they are
13 not.

14 But in this case, these characteristics of
15 the fishery seem, you know, almost perfect for this
16 type of application. You have an extremely small
17 number of participants, well-defined number of
18 participants, you know, they have a single species
19 target with probably minimal bicatch, it's when you
20 get into multi-species situation that things really
21 get complicated, but you've got the perfect single
22 species target here, extremely well defined quota,
23 and very, very well developed ability to monitor and
24 account for mortality, I think down to the single
25 fish. So, you know, it seems logical to use that

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1 impetus from the Bush action plan and the commission
2 reports and recommendations, to close the process on
3 this and move forward on it as soon as possible.

4 MODERATOR CHRISTOPHER ROGERS: Thank you,
5 Glenn. Bob Fitzpatrick, and then Jim Donofrio. Bob
6 Fitzpatrick, Jim Donofrio, Dick Stone.

7 MR. FITZPATRICK: Yes, I could just ditto
8 Rich's comments, and -- you got to have some
9 flexibility, and the one thing that I am somewhat
10 troubled by, in recent years we saw, for the first
11 time, transfer of quota from a user group, where they
12 still had the -- prior to that there were many in-
13 season transfers, however, usually it was clear that
14 there was no opportunity for that user group to take
15 those fish when the fish were taken from them.

16 However, last year and the year before, we
17 have some personal experience with fish being taken
18 from a user group when the opportunity to catch those
19 fish was readily available, and to me that's
20 something that's very troubling. More flexibility I
21 think is better, and certainly more timely actions,
22 and not sitting for a week or eight days or -- and
23 waiting is always a bad thing.

24 The ITQ question, we -- when we visited
25 that I was there for that stuff probably a decade

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1 ago, at the Heinz(phonetic), in Boston, and boy, oh
2 boy, was that a hornet's nest? That was a scary --
3 there are -- people came out of the woodwork to raise
4 hell over it. However, the same category, already
5 being ITQs amongst themselves is ideal for it, and
6 would help greatly with many of the management
7 troubles that you guys -- or political troubles that
8 you guys face on an annual basis.

9 The harpoon category, I guess, Rich said
10 that that -- I think that might -- because it's a
11 small number of participants, the historic nature of
12 those participants is fairly significant, you
13 probable get some flak over it. There's -- I'm sure
14 that people show up to say, no way, but the same
15 quota is ideal and you should speed it along and get
16 it done.

17 MODERATOR CHRISTOPHER ROGERS: Thank you
18 Bob, Jim Donofrio and then Dick Stone.

19 MR. DONOFRIO: Chris, thanks, a couple of
20 comments. One, regarding the status quo here. I
21 would think that we're going to remain supporting
22 status quo. Well, there's been a lot of flexibility,
23 as I said earlier. It is -- it really is amazing,
24 what we're able to do with such a little quota, being
25 able to work with, you know, with the agency, with

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1 | all the littlethings that you guys have been able to
2 | do for us over the years.

3 | If we come with at this meeting on the
4 | 30th, some other additional criteria, Dick will be
5 | there, and others, and you know, we'll submit those
6 | comments. Right now, we're, you know, we're happy
7 | the way it works in the angling category. Regarding,
8 | you know, supporting Rich on the purse seine, I --
9 | obviously, they're not meeting their goals at the end
10 | of the year. That's great that they can able to
11 | transfer it to general category, maybe that would be
12 | a way to -- for North Carolina to get more quota.

13 | I disagree with Nelson, it should be for
14 | all user groups, we can make it, we can take big
15 | fish, and make them small fish, and they might be as
16 | many, but we can do it, and that's got to be fair
17 | across the board, right. The other thing where I
18 | disagree with Rich, only because of ICCAT, we can't
19 | be selling quota to the environmental community,
20 | unless the environmentalists want to get permits;
21 | general category or angling can take the fish; fish
22 | got to be caught. If the fish aren't caught, they're
23 | going to be given to another country. So, you know,
24 | we cannot be giving, or even consider giving any
25 | highly migratory species, managed under ICCAT to the

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1 environmental community, that's all I have to say,
2 thanks.

3 MODERATOR CHRISTOPHER ROGERS: Okay, Dick
4 Stone. Thanks.

5 MR. STONE: Yes, thank you Chris, again I
6 do want to support the flexibility, I think the
7 status quo, has been -- you all have made it work
8 pretty well, and obviously there may be some tweaking
9 to the criteria as other folks have pointed out that
10 have to be been done, but generally, you know, it's
11 worked pretty well, and I have to reflect back a
12 little bit to the North South line and the fact that
13 we did real -- more real time data analysis, at
14 least, when that was put in place, and as you recall,
15 we looked at that every two weeks, we looked at the
16 catch every two weeks, and then we're able to make
17 readjustments or reallocation, you know, based on
18 what was happening, of course, you don't do that now.

19 And that's why the north-south line doesn't
20 make as much sense now as it used to, but -- also I
21 mean it -- I think it's, you know, in terms of the
22 purse seine quota. I mean, obviously it's good to
23 see the category, the different categories looking
24 carefully what they want to do, purse seine has
25 obviously been a -- even though it may be, not --

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1 hasn't been called the -- you know, IFQ, but it's
2 been one, so I would support that as well. Thank
3 you.

4 MODERATOR CHRISTOPHER ROGERS: Okay, we're
5 finished with this issue?

6 SPEAKER: Yes.

7 MODERATOR CHRISTOPHER ROGERS: Joe McBride
8 and then Glenn Delaney and then we'll move on.

9 MR. MCBRIDE: Yes, thank you, Chris, just
10 for the record. With all the complaints the status
11 quo seems to be functional with, you know, the
12 attempt on both sides to make it -- to expedite the
13 scenarios as quickly as possible for the benefit of
14 the fish and the fishermen. Thank you.

15 MODERATOR CHRISTOPHER ROGERS: Thank you,
16 Joe. Glenn Delaney, a brief comment and then we'll
17 talk about closure and reopening criteria or we take
18 a break. We'll see how we feel after Glenn's
19 comment.

20 MR. DELANEY: I would just be remiss in not
21 clarifying that in my exuberance with Rich's proposal
22 to complete the ITQ process for the purse seine
23 category that I would be just -- well, nothing would
24 undermine our credibility more at ICCAT than to be
25 selling quota shares to non participants in the

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1 fishery for political purposes, and so the transfer
2 of access to any resource in any fishery resource in
3 the United States to a non participant in the
4 fishery, such as an NGO or whatever, is completely
5 contrary to the spirit, intent, and express intent of
6 the Magnuson Act and fishery management and policy in
7 the United States.

8 We're trying to utilize our optimum yield,
9 and promote an industry that supports coastal
10 communities and, you know, I -- just to go outside of
11 the traditional participants or any participant in
12 the fisheries would be something I would be
13 strenuously opposed to, so I just wanted to clarify
14 that. Thank you.

15 MODERATOR CHRISTOPHER ROGERS: Okay.

16 SPEAKER: Let's take a break.

17 MODERATOR CHRISTOPHER ROGERS: We want to
18 take a break.

19 SPEAKER: Dick Stone does.

20 MODERATOR CHRISTOPHER ROGERS: Rich Ruais,
21 as we're pondering our break, we'll give you --

22 SPEAKER: No.

23 MR. RUAIS: I just want to note that it's
24 fairly unique to get spanked by Jim Donofrio and
25 Glenn Delaney in the -- on the same issue.

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1 MODERATOR CHRISTOPHER ROGERS: Okay. All
2 right.

3 SPEAKER: We love you, Ruais.

4 MODERATOR CHRISTOPHER ROGERS: Let's take a
5 15-minute break. I'm not sure what folk, status is
6 regarding hotel checkout. But this would be a good
7 opportunity to do so if you're in this hotel, if
8 you're at downtown D.C. then I hope you've checked
9 out already.

10 (Tape interruption)

11 SPEAKER: That you needed to put brakes on
12 and apply the measures at the right level. And
13 hopefully that is something that is being corrected,
14 we certainly have a commitment that is being
15 corrected. And if that's the case we can get back on
16 track, with that important principle that each
17 category sort of get to choose the kinds of measures,
18 the way it runs it's own fishery, you know, within
19 reason and is also responsible for its own
20 accounting.

21 In terms of the second alternative
22 authorizing transfers from the purse-seine category,
23 that's inconsistent with everything else that's been
24 said in this document we're trying to promote
25 movement towards market based allocation decision

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1 making. It's the wrong way to go, you can't have ITQ
2 systems, transferable ITQ systems if NFMS within the
3 season can go in and take the quota back. You can't
4 have marketing; it's just -- they are incompatible,
5 totally incompatible. At the same time, we are aware
6 of the stock-piling issue. And it is an important
7 issue and we are in agreement that something needs to
8 be done about it.

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9 You know Chris that this is an issue that
10 ICCAT is addressing right now. You know, it's not,
11 probably not a wise thing for us to try to get out
12 front on it, as we've learned in the past with
13 yellow-fin tuna and few other issues when we get out
14 front with domestic measures, particularly unilateral
15 measures, it comes back to bite us. But I want to
16 indicate that, you know, I think we do have to take
17 the lead on that at ICCAT in terms of proposing and
18 moving forward with an agreement, but I'm not sure it
19 makes a lot of sense to domestically put something in
20 place prior to an international agreement on that.
21 But just to give you an idea of the type of thing
22 that we are thinking about, in terms of a measure to
23 prevent stock-piling something on the order of no
24 category, could start a fishing year off with more
25 than two time -- with two quotas basically.

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1 No more than a 100 percent roll over I
2 guess it would be. And we think, that would be a
3 reasonable cap as a starting point, see what ICCAT
4 says to that. They may want to go higher, they may
5 want to be lower, and if they are we can be in that
6 direction, but I think that's something that we ought
7 to propose in this plan as a possible future action
8 for a regulatory amendment or whatever once ICCAT
9 gives us direction on where we should go with that.
10 But I would advise against putting something in place
11 prior to ICCAT, because we certainly have enough
12 experience that that handicaps us in that whole
13 process. I guess that's it.

14 MODERATOR CHRISTOPHER ROGERS: Any other
15 comments on --

16 SPEAKER 1: So I am supporting the no
17 action, okay.

18 MODERATOR CHRISTOPHER ROGERS: No action.
19 No action is always easy for me. Jim Donofrio.

20 MR. DONOFRIO: Thanks Chris, we are talking
21 about the quota adjustments.

22 MODERATOR CHRISTOPHER ROGERS: Yes, quota
23 adjustments between years because of --

24 MR. DONOFRIO: Right, okay.

25 MODERATOR CHRISTOPHER ROGERS: Under harvest

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1 or over harvest.

2 MR. DONOFRIO: Right, okay. We are very
3 supportive of what we've arranged back in Santiago
4 years ago, supporting that on the domestic level, I
5 agree with Rich, we should be responsible for our own
6 categories, but in the past and we rectified it.
7 There was some underages on the angling given over to
8 general category. And what we want to do is continue
9 to maintain any underages in the angling categories to
10 stay in angling category, and of course fully support
11 full utilization of general category within their own
12 quotas. So we want to maintain that, that ability to
13 use all of the available angling category for the
14 angling.

15 MODERATOR CHRISTOPHER ROGERS: Thank you
16 Jim. Other comments on annual adjustments, Rom
17 Whitaker.

18 MR. WHITAKER: Well, I would support what
19 Rich said about not letting it get -- keep stock-
20 piling and stock-piling especially, you know, I think
21 a 100 percent of the quota would be way, certainly
22 should be the capital anyway in maybe not a little
23 lower.

24 MODERATOR CHRISTOPHER ROGERS: Joe McBride.

25 MR. McBRIDE: Yes, just briefly, Rich to,

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1 Chris rather. To go along with what Jimmy just said
2 for the record we'd like to support that also.

3 MODERATOR CHRISTOPHER ROGERS: Pete Manuel.

4 MR. MANUEL: I'm not exactly sure what Jimmy
5 meant about the general category taking angling
6 category fish before -- could you explain that a
7 little more in detail so I can comment on it?

8 MODERATOR CHRISTOPHER ROGERS: Here it is
9 Pete. Pete, as you recall, there was a scenario
10 couple of years ago where there were some underages on
11 some of the larger fish that were transferred over
12 from angling over to be used in general. And we
13 discussed it here, and we decided that we wanted to
14 maintain that in the angling category, and I think
15 there was a consensus here that we would do that.
16 That's where we want to let them remain. We don't
17 want to transfer fish and turn them into general
18 category fish that are angling fish. We want a full
19 utilization of our category.

20 MR. MANUEL: I understand now. Well, then
21 as it stands at this point with the angling averages
22 that show for 2002 and 2003, based on the LPS survey,
23 which the agency's looking into that now. Those are
24 overages -- actually came out of the general category
25 in November 2003, and again in November of 2004,

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1 | which effected the winter fishery. And I would like
2 | -- if we are going to look at it that way that if the
3 | independent investigation turns out that it is a
4 | problem with the survey or the sampling of the
5 | survey, it turns out there's additional fish that
6 | come back, I'd like to see those come back to general
7 | category.

8 | MODERATOR CHRISTOPHER ROGERS: Thanks, Pete.
9 | Nelson and then Bob Fitzpatrick.

10 | MR. NELSON: Yeah, I think the priority
11 | should be, you know, that each category, you know,
12 | try to be given the opportunity to fully utilize
13 | their quota. But I'd like to emphasis that, I know
14 | that there has been recent changes in the incidental
15 | catch criteria. And those changes are going to take
16 | a little bit of time especially with these wacky
17 | years that we've been having as far as to see what
18 | the effect is. But as the new data becomes
19 | available, NMFS should always try whatever
20 | incremental adjustments may be necessary, so that we
21 | are fully utilizing the incidental quota. When we
22 | are not fully utilizing the incidental quota, and
23 | there's still regulatory discarding going on, then we
24 | got more work to do.

25 | MODERATOR CHRISTOPHER ROGERS: Bob

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1 Fitzpatrick.

2 MR. FITZPATRICK: Yeah, it seems like we've
3 had this policy for quite a while and -- what's
4 happened is it's, the policy as it's written is one
5 thing and then -- that everybody should pay, the
6 transferability is there, but also that everybody
7 should sort of be on the hook for their own damages
8 at the end of a fishing year. However the last four
9 years now, including benefit to the general category
10 from the anglers in 2002, 2001 and -- whatever years
11 they were -- it's just got the work the same way and
12 I just, I think that if we do correct -- if we get
13 some correction from the length-weight key issue and
14 some quota reappears at some point, the people who
15 gave it up should get it back, namely the general
16 category in the last two years.

17 And I suppose that Jimmy could argue that,
18 you know, that they paid the prior two years and we
19 could maybe even do the math that would be associated
20 with those transfers and everybody gets back to being
21 whole. But I'm -- I think that on that issue that
22 when somebody still has opportunity to catch their
23 quota. I mean it seems like we have both policies
24 going on. We take from one and give to the other, and
25 at the same time we say that each user group is

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1 responsible for their own problems. You know, it's
2 sort of mixed.

3 MODERATOR CHRISTOPHER ROGERS: Well, it is
4 mixed in terms of we have two things going on not
5 simultaneously but sequentially. First is dealing
6 with it on an in-season basis and then dealing with --
7 if we've been not completely effective in meeting the
8 entire allocation for the US fishery through in-season
9 transfers we're in a situation were we'd have a
10 deficit or a surplus to carry forward. So, two
11 processes that -- we are discussing in-season
12 transfers now we're discussing inter annual
13 adjustments, and you are correct in that sometimes, if
14 we haven't fully addressed the issues, the in-season
15 transfers, then we are facing another potentially
16 unique situation in terms of inter annual adjustments
17 and we may be taking it in an opposite direction at
18 that point.

19 I understand that there is an appearance of
20 sometimes inconsistent, but again we are trying to
21 deal with many allocation issues either on an in-
22 season basis or an interannual basis. Glenn Delaney.

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23 MR. DELANEY: Thanks, after listening, you
24 know, my first inclination was that the cap concept
25 may have some merit. But I really think about it now

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1 and I think you just need to be able to have your own
 2 flexibility to respond to whatever the circumstances
 3 are in a particular category having underages that may
 4 be sustained for some years. You know, the reality is
 5 as you just discussed you are likely to redistribute
 6 unused catch among different categories anyway so --
 7 the reality of having massive build up of unused quota
 8 in a category is probably no longer a reality in our
 9 fisheries. So I would tend more towards just leaving
 10 it status quo as to, you know, doing what you need to
 11 do to get each category to use their quota. If
 12 they're not, make sure -- if somebody can, they can.

13 The objective is to get an optimum yield for
 14 the United States as a nation. And you know, it was
 15 sort of injected into the discussion what ICCAT does.
 16 Well sure, ICCAT has discussed caps on rollovers and
 17 that sort of thing. But that relates more to the
 18 overall conservation objectives of the resource. You
 19 know, if you have a sudden -- if you had a big stock
 20 pile, we talked about this in Albacore as you know.
 21 Suddenly a nation come online and harvests a huge
 22 amount of stockpile that's two or three times what the
 23 tank was under the yield. You know, you could do some
 24 serious damage to the resource.

25 I don't think we are really facing that

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1 within our own US quota scenario. What we are really
2 facing is just economic distribution decisions. So I
3 think, were you are right now is probably the most
4 reasonable balance of those two sides of the issue.

5 MODERATOR CHRISTOPHER ROGERS: Dick Stone.

6 MR. STONE: Okay, yeah, I have to agree with
7 what Glenn said, and basically, what you have here is
8 you, while folks are saying, yeah, let's keep it's
9 status quo, you haven't -- status quo hasn't exactly
10 been status quo, in the sense you've really been doing
11 one and two based on, you know, what has to be done in
12 the final analysis and I think while your first
13 priority should be to keep transfers or underage
14 within the category, let's face it, that isn't always
15 possible, and each time I've heard people say
16 different things about general and angling.

17 It's worked both ways. I mean every
18 category has, you know, they -- maybe indirectly, but
19 all of them have at times shared with others. So
20 basically what you have is -- the status quo is sort
21 of one and two up there, what you have been doing. I
22 mean as long as it, in it's I think it's been working
23 fairly well, I mean, people get -- one thing people
24 don't want to see, you've heard that, they don't want
25 to see fish taken from them when they still have the

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1 opportunity to catch that. I think that, that
2 certainly is true. We don't want to see that. But
3 for the most part I think you've tried not to do that,
4 I mean, and I -- so anyhow, I think it have been
5 working fairly well.

6 MODERATOR CHRISTOPHER ROGERS: Okay, shall
7 we move to the next topic, which was closure and
8 reopening criteria. I might emphasize that with
9 respect to the angling category, some of the unique
10 aspects of managing the angling category we had
11 implemented a rule change, I'm thinking this is back
12 to 1996 or so, maybe '97, that allowed us to close the
13 angling category in essence to allow the fish to move
14 on and redistribute themselves to other fishing areas,
15 provided the maximum flexibility to avoid harvesting
16 the entire quota before the fish moved into another
17 allocation area, particularly the North South
18 distribution of the angling quota.

19 With respect to the commercial categories,
20 the criteria are a little bit more rigid basically
21 allowing the agency to close only when the quota is
22 projected to be reached. And for the general category
23 this is meant trying to deal with allocation issues,
24 geographic and temporal allocation issues through
25 restricted fishing days and time period subquotas and

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1 rollovers. So the question had arisen whether or not
2 some other criteria for closure and reopening would
3 provide some merit in some of the commercial
4 categories, somewhat to the way it has worked in the
5 angling category or vice versa, whether or not the
6 angling category closure-reopening criteria should be
7 restricted in some way.

8 Again getting back to this question of
9 balance, trying to meet the allocation needs in area
10 of variability in terms of distribution of the stock
11 maintaining that flexibility, but also giving the
12 public adequate notice of what's happening and when it
13 is going to happen. So closure and reopening criteria
14 for any of the respective management categories. Jim
15 Donofrio.

16 MR. DONOFRIO: Chris, thanks. Complicated
17 again another complicated issue here for our
18 categories, because you know, we were talking about
19 the North South line as a tool for being able to
20 control maybe some of the fishery. You know, the
21 problem is as you know, you've been with us numerous
22 times at our meetings, you know the fish can settle in
23 off of Ocean City. And of course, the Cape May boats
24 fish them, the Ocean City boats, some of the Virginia
25 boats go up there -- they may stay here and feed

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1 depending on the feed, oceanographic conditions.
2 Tonnage adds up, we know reporting is not good. It's
3 hard for you to monitor what's really happening. By
4 the time the fish may get to New York up to Montoque
5 (phonetic) we may be having a quota situation that's a
6 problem. I don't know what the answer is here, you
7 know, I really don't. Generally what we work out, you
8 know, when we sit down with all of us, we concur that
9 we are going to all have a short season, we agree that
10 we just get the four or five week whatever it is as we
11 come out with our committee in each area and then we
12 try to do it as best as possible, so we can share this
13 little bit of a resource.

14 So if you are just still willing to work
15 with us on that and let us submit those comments after
16 the 30th, after we sit down, I think that would be the
17 flexibility we're probably looking for on this rather
18 than come out with something that's hard and defined
19 right now. If that's okay with you.

20 MODERATOR CHRISTOPHER ROGERS: Thank you.
21 Jo McBride.

22 MR. McBRIDE: Thank you, Chris. To add to
23 what Jimmy just mentioned there. If you are going to
24 even contemplate doing what you did last year like
25 continue to fish in north and south regardless of the

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1 52, 48 percentages and then just because of the
2 geography of the area, not the intent of any one
3 particular group, we get cut out. I am going to
4 respectfully ask, and I will ask at the May 30th
5 meeting also, but I am asking here publicly for a set
6 aside for our geographic area as we've asked for many
7 times in the past so we can plan on a fishery. You
8 know the actual percentage of set aside, I don't care.
9 You know, if things stay historically the way they are
10 we have the 28, 29 inch fish for the last four or five
11 years that's all we seem to see for the present time
12 anyhow.

13 But let's make a scenario like God willing
14 -- that not that I want them to leave North Carolina,
15 we get the 200 pound fish up our way. You can make
16 adjustments in size, which slot size and so forth and
17 so on. It can be done equitably and maintain at
18 least a minimum fishery for all of the area.

19 But something has to be done if you are
20 going to continue a fishery, that is, the pressure is
21 graded down to the southern zones. Then they are up
22 by us and also by the Massachusetts -- I don't know
23 if it is Massachusetts or Maine, wherever they catch
24 the school fish up to our north. We just do not see
25 them until the latter part of the year and not that

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1 we're fish experts, but it appears to be a southern
2 migration from the north down south. I don't know
3 where they go up north because they are catching
4 bigger fish up in -- school size fish than we are up
5 in Massachusetts. But anyhow that type of thinking
6 without any specifics unfortunately is what we're
7 looking for in fairness.

8 MODERATOR CHRISTOPHER ROGERS: Thank you,
9 Jo. Any other comments on closure and reopening
10 criteria for the various categories? Rich Ruais.
11 That's the next issue. At your request we're
12 segmenting the issues.

13 MR. RUAIS: My comment is consistent, that
14 I don't think we need any new criteria and we favor
15 the no-action alternative on this one.

16 MODERATOR CHRISTOPHER ROGERS: Okay, no
17 further comment on closure reopening criteria. Then
18 we can get into Retention Limit Adjustments. Again
19 this has been an in-season tool, we've used both for
20 the general category and the angling category to
21 either accelerate catch when quota is available or to
22 decelerate when it seems like we're bumping up
23 against a limit, and particularly to the extent that
24 those limits are going to result in allocation issues
25 for the geographic components of the fisheries. So

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1 the need for advanced notice comment versus
2 flexibility is always an issue. So any comments you
3 have regarding the ways the agency has applied in-
4 season retention limit adjustments in the past, and
5 again this is primarily general and angling category.
6 Jo McBride?

7 MR. McBRIDE: Yes, Chris, thank you. Again
8 historically in the utilization of the public
9 resource, you've been aware of the unique factors
10 involved with the people fishing under charter and
11 head boats. For example, last year we needed three
12 fish, you gave it to the charter and head boat areas
13 when you could and you had two for the recreational
14 community.

15 Now, if there is a justification for that,
16 I wish we had enough fish so that everybody could get
17 the same and maintain -- and so forth and so on. But
18 the philosophical justification in our mind for
19 making that request is that on a private boat you can
20 theoretically go out 7 days a week and fish for
21 Bluefin or any other species -- but in this case,
22 Bluefin, and what you catch you catch. On a charter
23 boat usually the public, who comes on the charter
24 boat goes out once maybe twice a year and that's
25 their fishery and that's why we try in order to

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1 encourage our business primarily of course, but also
2 in fairness to the public that doesn't have a boat of
3 their own for whatever reason, they have the
4 opportunity to take a little bit of fish home out of
5 a public resource. Thank you.

6 So my point being that what you're doing
7 now we appreciate and thank you very much.

8 MODERATOR CHRISTOPHER ROGERS: Jim
9 Donofrio.

10 MR. DONOFRIO: Chris, thanks. Yes, we're
11 very happy with the status quo regarding the angling
12 category, the way the agency has been working with us
13 to make the adjustments we need in season.

14 MODERATOR CHRISTOPHER ROGERS: Thank you,
15 always nice to hear from a satisfied customer. Bob
16 Fitzpatrick. Also another satisfied customer.

17 MR. FITZPATRICK: Yes. I'm next
18 unfortunately. Status quo however, in my experience
19 in New England, there is a significant tendency
20 towards what appears to be foot dragging. I'm sure
21 it's not foot dragging, I'm sure it's the regulatory
22 burdens that you're faced with, but to go from 1 to 2
23 seems to be an immense hurdle at times. When we're
24 staring -- especially the last few years where it's
25 clear that the fishery is just crawling along with

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1 little or no catch yet we can't seem to get to
2 multiple catch in a timely fashion. It's very
3 frustrating from the fisher and the dealer's
4 perspective.

5 In fact I'd like to at this time suggest that,
6 while staring down the barrel of 908 tons in the
7 general category, it should start at multiple catch,
8 on June 1st and we shouldn't have to have a fight
9 over it the second week in July and have it get
10 implemented the first week in August to go to two a
11 day.

12 We should start at two, we can always roll
13 -- I mean we could probably start at five
14 unfortunately, and no we couldn't I know that's
15 against the rules, but there's a serious question --
16 serious question as to what the performance of the
17 fishery will be this summer and I don't think we need
18 any caution in the general category about multiple
19 catch and please start with multiple catch.

20 MODERATOR CHRISTOPHER ROGERS: Thank you
21 Robert. Any other comments, Louis Daniels?

22 MR. DANIELS: Thank you, Chris. We would -
23 - I would certainly support the status quo and
24 certainly echo Robert's recommendation. North
25 Carolina does not and never has had any objection to

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1 multiple day -- multiple catch limits, to catch the
2 quota. I mean whatever they need in order to catch
3 their quota I think we need to facilitate that.
4 Where the problem has come in the past is, when we
5 get in to the late season and the fishery all of a
6 sudden picks up and you're fishing at 2 to 3 fish in
7 October you know, and then the catch -- then what
8 looked liked would be a reasonable fishery in the
9 South Atlantic disappears because of 2 and 3 fish
10 days. And that's when the problem arises.

11 So, if you need 2-3 fish to catch your
12 quota during the specified subquota period, cool, but
13 after that I think it needs to be done with caution
14 and it needs to be shut down from the -- taken back
15 to one if the fishery really starts to expand where
16 its going to compromise another areas fishery.

17 MODERATOR CHRISTOPHER ROGERS: Thank you,
18 Louis. Rom Whitaker?

19 MR. WHITAKER: Yes, my feelings are a
20 little different. I think that, with so many of the
21 fish traveling such an -- over a great distance and
22 being available to us at the end of the season that I
23 kind of like the one fish deal, maybe two to fill
24 your quota. But I think when you get to three fish
25 that, you are really creating a derby fishery and I'm

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1 not sure, I mean I'm almost positive that it affects
2 -- greatly affects the price and it certainly would
3 affect -- I mean if you are at 3 fish and all of a
4 sudden they had a big bag of fish then, all of a
5 sudden we're staring at nothing because it was all
6 called for \$2 a pound so, I think there should be --
7 I would like to see a two maximum on that rather than
8 three.

9 MODERATOR CHRISTOPHER ROGERS: Thank you,
10 Rom. Richard Ruais?

11 MR. RUAIS: Yes, just support Robert on his
12 request that we start the season off at multiple
13 catch, the maximum that we can. I think Rom's
14 concern is protected, when we get to a bi-monthly sub
15 period quota. It's NMFS job to manage the fishery to
16 make sure that that quota is protected in the general
17 category, there generally is not an issue that the
18 pace -- the pace of the fishery is well monitored.

19 We've got highly competent managers in the
20 northeast region who are -- who have great contacts
21 in the fishery and know on a daily rate how the
22 fishery is going. There is a reserve if there were
23 some kind of a fluke and there generally isn't any
24 more, there was a period of time when maybe there
25 was. And I wanted to point out that alternative

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1 number 2, I know that you have to bound you know
2 these environmental impact statements and things with
3 things but, I really don't think that would be
4 feasible under, you know, the Magnuson Act with this
5 reasonable opportunity clause unless, you said
6 initially we're just going to leave it the maximum to
7 provide maximum reasonable opportunity and let it
8 close down prior to when, you know, as soon as you
9 caught it up if the fishery was hot. But if you
10 simply arbitrarily set it one or two and the -- the
11 subperiod quotas are not achieved we've always
12 contended that you're not providing a reasonable
13 opportunity and that's not consistent with the law.

14 So, you have to have in our view, that
15 flexibility. Even the three fish to be honest in my
16 view is an arbitrary unnecessary restriction that
17 flies in the face of the law. I mean we --
18 practically we haven't had any good experiences with
19 three a day. It's not -- sometimes it's not well
20 received in the fishery, other times it's -- there's
21 absolutely no reason not to have it because there
22 might -- only be one person that's going to land
23 three fish on a given day and the market might be
24 screaming.

25 So, you want to have that flexibility, you

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1 got to have that flexibility, but that also argues
 2 for numbers of even higher than that. Not that we
 3 would use them, but that's just an arbitrary number
 4 that has no basis.

5 MODERATOR CHRISTOPHER ROGERS: Thank you,
 6 Rich. Well, again you pointed out the reason for it.
 7 Arbitrary we are, not capricious. The intent was to
 8 bound the analysis for the purposes of the NEPA
 9 document in order to afford public comment on the
 10 issue and of course as you creep up beyond three fish
 11 per day you do have the risk if the fishery takes off
 12 of having to moderate it on short notice by dropping
 13 back to a lower catch limit.

14 So, we felt that at the time that three was
 15 an upper limit that seemed reasonable -- perhaps
 16 arbitrary, but certainly not capricious. But to the
 17 extent that folks want to comment on whether that's
 18 too high or too low that certainly something we want
 19 to hear at this time. Any more comment on
 20 adjustments of retention limits, Pete Manuel?

21 MR. MANUEL: AS far as multi-fish you know
 22 being loaded into the bus, that can create a problem
 23 for us and the winter fishery until the FMP amendment
 24 goes to rule and it could be affected even if there
 25 was fish in the reserve category. I think it was

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1 2003, that they went to three fish a day and you had
2 a couple of 80 metric ton days or 60 metric ton days
3 and anyway that -- there's two arguments I guess I
4 could look at that, Rich's argument is what the
5 Magnuson's says as far as opportunity, and then on
6 the other side of that coin I can argue and say,
7 optimum yield. I mean the market did not do good when
8 they had that many fish. I have fished out there and
9 realized that they run a long way. I mean you know
10 we're spooled in North Carolina; we left at 3 o'clock
11 in the morning and got home at 11 o'clock at night.

12 For that kind of run, a multi-fish item is probably
13 important as long as it does not hurt the optimum
14 yield it gives equal opportunity.

15 But without the FMP into rule, that is
16 something that your Agency is really going to have
17 pay attention to because we're going be the last trip
18 on the bus, and we don't want to be back here next
19 year asking why we didn't get any fish. Thank you.

20 MODERATOR CHRISTOPHER ROGERS: Okay, any
21 more comments on retention limit adjustments? Mr.
22 Fitzpatrick.

23 MR. FITZPATRICK: Yes, speaking to the
24 multiple catch issue and I think there are -- there
25 is enough contact as Rich said, with the North East -

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1 - with Gloucester management where we have a pretty
2 darn good idea when three a day for example, is a
3 dangerous thing. Typically -- especially -- usually
4 we start out at one and we have no performance in our
5 fishery and we're restricted and the market's red hot
6 and you know, we used to have days off that
7 handcuffed us and now we've got no fish. But
8 multiple catch early, would be a good thing. As the
9 season progresses the risk of the big day, the big
10 weekend you know, certainly increases although
11 looking at 900 tons, that's an awfully big pile and
12 we'd have to do some -- have some great fishing to
13 catch half of it, compared to the last two years.

14 I don't think in June and July in
15 particular, we haven't seen performance in the
16 fishery in July and early August that would be
17 dangerous if you want to use that term since 1994 or
18 1995. And the trend has been later into the season
19 when the body shows up, that could have a dangerous
20 impact with a multiple catch fishery. So I think
21 early multiple catch is a good thing and I think you
22 -- Brad and Mark have their fingers on the pulse of
23 what's -- of exactly what's going on, on a daily
24 basis.

25 I don't think that early multiple catch is

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1 any sort of worry. Middle of October, things happen
2 right, it can get dangerous, but not if you're
3 sitting at 400 tons or 500 tons with a 900 ton quota.
4 I mean there's got to be some sanity to it where what
5 you have to catch is what's examined and not that oh,
6 we could catch a lot. Oh, we can catch a lot can be
7 a very good thing and that -- the Japanese market,
8 Pete, has been in flux for several years, and what
9 it's going to be this Fall is really -- it's improved
10 I can assure you of that and we -- hopefully we will
11 never see what we saw two and three years ago in
12 October. Thank you.

13 MODERATOR CHRISTOPHER ROGERS: Okay, thank
14 you. Any other comments on Bluefin Tuna in season or
15 inter annual management? We do have fishing years to
16 speak of this morning and -- fishing year versus
17 calendar year, and that does have some implications.

18 I know there's a cross over in the issue
19 particularly with respect to with catch limit
20 adjustments or seasonal allocations, on whether you
21 are starting in January or starting in June and who's
22 on the front end and who's on the tail end, so what
23 we'd like to do now is discuss a potential -- focus
24 on the issue of what advantages have been conferred
25 in the management arena by switching to a fishing

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1 year back in 1999, and whether or not to change it
2 back to calendar year as a management period would be
3 appropriate or beneficial in any way. Dianne Seven
4 (phonetic) is going to give us a brief presentation
5 and then we'll open it up for comment.

6 MS. SEVEN: I think Chris just pretty much
7 hit on all the highlights, but we'll run through them
8 again. Right now the time frame for the management
9 of annual HMS fisheries is different for some of the
10 different species. Sharks are managed on a calendar
11 years basis going from January through the end of
12 December and Tuna, Billfish, and Swordfish are all
13 managed under fishing year basis, which begins June
14 1st and wraps around into the next year and ends on
15 May 31st.

16 We're looking at some options for adjusting
17 these fishing years basically for the purpose of
18 simplification and I'll get into that a little bit
19 more when we look at the alternatives. As Chris
20 mentioned, historically, the 1999 FMP adjusted the
21 time frame of the ICCAT species, which again includes
22 Billfish, Tunas and Swordfish to a fishing year
23 basis. And the purpose of this was to provide enough
24 time for the Agency to implement any recommendations
25 that came out of the ICCAT meeting, which

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1 traditionally occurs in the Fall.

2 We're looking at three alternatives, the
3 first is no action, which is the status quo on the
4 first slide, the second is to move all HMS fisheries
5 to on -- to be managed on a calendar year basis and
6 this is our preferred alternative. The pros would be
7 to simplify our reporting at ICCAT, right now on most
8 ICCAT's -- most ICCAT reports and -- require
9 reporting on a calendar year basis. Since we're
10 working on a fishing year basis for the ICCAT species
11 right now, it confounds the reporting that we provide
12 to ICCAT, it's confusing for the other folks who are
13 working in ICCAT and causes a lot of problems for
14 Chris when he works on compliance issues.

15 The other pro would be generally to
16 simplify the HMS management structure. I want to
17 point out that there are a number of other pros and
18 cons that are listed in the pre-draft on pages 82
19 through 83. Most of them have to do with the small
20 adjustments that will be necessary as we converted
21 from one type of fishing year to another and I'll be
22 hitting the main issues under each of -- the pros and
23 cons for each of these alternatives.

24 The cons for changing all HMS to a calendar
25 year would be that there would be adjustments for any

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1 quota-limited fisheries. And this is one of our
2 larger concerns and basically what I mean by that is
3 that any fishery that is currently limited by a
4 quota, since the fishery would be changing when it
5 starts for -- the fisheries that are currently on
6 fishing year would be changing when they start if
7 they move to a calendar year. Any fishery that is on
8 a quota limited basis could -- the quota could be
9 used up earlier in the year. So, that would be --
10 the first part of the year would be changing for each
11 of those fisheries.

12 There's also -- another con is that there
13 would be a reduced timeframe for the preparation of
14 annual specifications or implementation of any other
15 recommendations that come out of ICCAT.

16 The third alternative, this should be
17 listed as 3, is that all HMS would be moved to a
18 fishing year basis. The pros would be that again it
19 would simplify the HMS management structure by having
20 all fisheries on the same type of a fishing year.
21 And there would be -- continue to be a greater
22 timeframe for implementation of any ICCAT
23 recommendations and the development of annual
24 specifications.

25 The cons would be again, that there would

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1 be an adjustment for the quota limited fisheries
2 specifically this would apply to sharks and changing
3 sharks to -- from a calendar year to a fishing year.
4 Another con is that we could continue to have
5 confusing -- the confusion and confounding issue
6 about -- around ICCAT reports.

7 So those are the basic concerns that we
8 have about -- and pros and cons for each of these
9 alternatives and I'll turn it back over to Chris.

10 MODERATOR CHRISTOPHER ROGERS: Okay, thank
11 you, Dianne. Again to remind folks, we did move to
12 fishing year for everything, but sharks in the '99
13 FMP. But to just go back a little bit further in
14 time, we had moved to a fishing year for Swordfish
15 before that time, to deal with some closures in the
16 Swordfish fishery that we occurring in the '95, '96,
17 '97 timeframe. I don't believe we've had a closure
18 in Swordfish since about March of '97; I think was
19 the last one. But with the Swordfish experience so
20 to speak that had moved us towards the fishing year
21 concept for many other species in the FMP.

22 Again a lot of perceived benefits to doing
23 so and some of them have been worn out and some of
24 them have not -- some issues have arisen with ICCAT
25 reporting and generation of catch statistics and

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1 discard statistics for using the specification
2 process from one year to the next. At this point,
3 any comments on calendar year versus fishing year
4 with respect to any or all of the species in the
5 plan? Glenn Delaney.

6 MR. DELANEY: I didn't hear anything that
7 addressed what would make us believe that the
8 problems that arose with regard to a calendar year
9 for Swordfish have changed and so going back to the
10 calendar year would likely lead to the same problems
11 we experienced in the '90's that led us to go to the
12 fishing year.

13 So, unless some circumstances have changed
14 dramatically which I'll ask you to let us know what
15 those are, we're just getting thrown back into the
16 frying pan and secondly you are the guy that deals,
17 Chris, with the compliance issues in charts and all
18 that with ICCAT. So I don't want to argue with you
19 that there has been an impact on confusing ICCAT
20 reports, but it's been my impression at various
21 levels that I work at that ICCAT had come to terms
22 with nations having, you know, some nations using
23 calendar year and some using fishing year and it
24 wasn't that big a bump in the road and that we'd sort
25 of moved past that without a great of difficulty.

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1 Now, most of us, maybe none of us deal with
2 the level of detail that you do so that may not a
3 fair statement, but it was certainly our impression
4 that you know that ICCAT had come to grips with
5 fishing years and even the fact that nations use
6 different reporting and that was probably in the
7 scheme of ICCAT problems number 1672 on the list of
8 priorities, you know in terms of severity of impact
9 on things, but I could be wrong, I differ to your
10 judgment on that. But I think from a Swordfish
11 perspective, it's going to take some strong
12 convincing that there's a greater good to be achieved
13 to go to a calendar year for all HMS and that we
14 prefer to keep it either the way it is or go all HMS
15 on fishing year. Thank you.

16 MR. CHRIS: Okay, thank you. And just to
17 respond to the Swordfish issue, the rule making we
18 had done in the mid '90s was to address closures that
19 were occurring in March, April, May timeframe and
20 thereby precluding fresh Swordfish on the market in
21 June. So, starting with the June 1st fishing year,
22 basically assure that there will be fresh Swordfish
23 on the market for that June July time period. What
24 has changed is the fact that we haven't closed since
25 '97 that semi annual Swordfish fishery. We've

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1 already discussed a lot of the concerns about what it
2 will take to revitalize the U.S. Swordfish fishery to
3 help attain the quota that is allocated to us by
4 ICCAT and certainly we want to address those issues.
5 That would be one of the changes so to speak that
6 have occurred, that might diminish the need for a
7 fishing year to address that particular problem,
8 which was closures in the June time frame. Nelson
9 Beideman?

10 MR. BEIDEMAN: It wasn't just Swordfish, it
11 was also Bluefin Tuna. 6 or 7 years in a row the --
12 one sector of a category was closed down immediately
13 when the rule got in and the rule didn't you know,
14 put those retroactive measures on the fishery that
15 couldn't do anything about it, because the changes
16 occurred between November ICCAT and January of 1st,
17 beginning at the quota season and then whatever
18 fishing took place caught the quota before the rule
19 was able to come out in the area of May-June. 6-7
20 years in a row Bluefin Tuna.

21 At that time everybody said, well, the
22 optimal circumstance and not just for commercial
23 businesses, but also for recreational businesses
24 would be to know as far in advance as possible for
25 planning. You've got logistics, some fisheries move,

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1 that means families have to be moved, houses have to
2 be rented, all of the supplies, services, et cetera
3 have to be lined up. It was completely unworkable to
4 have half the year gone before the rules governing
5 that year's quota were in place and now it's down to
6 only one fishery, the shark fishery that hasn't
7 converted.

8 And I know that, it's a mathematical
9 inconvenience and it does create some confusion, but
10 it has worked through. You know, the minds are big
11 enough at ICCAT that they can work through it. They
12 work through it for Japan. They can work through it
13 for the smaller numbers of the U.S.A. But I would
14 strongly suggest that, unless you can guarantee that
15 the final rules are ready or in the beginning of the
16 season, if you want to make it January 1, and you can
17 get to change this from November to January, fine.
18 That would be great. But history has proven that it
19 doesn't happen. June was chosen because --

20 (Tape interruption)

21 MODERATOR CHRISTOPHER ROGERS: The ability
22 to address the issue of U.S. incorporated tournaments
23 occurring in an overseas port had -- Rom?

24 MS. CAMHI: Let me ask one other thing,
25 would -- if they don't feel that you have the ability

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1 then would those fish, whatever numbers you get, be
2 reported as IUU fish or are you going -- I don't know
3 whether they put the numbers on the Internet, but
4 they certainly probably are available. Are you going
5 to count them against the U.S. 250? Yes, well, yes -
6 - if, do they have a permanent requirement? We know
7 the vessels have a permanent requirement, how are you
8 going to count those fish?

9 MODERATOR CHRISTOPHER ROGERS: Well, --

10 MS. CAMHI: The IUU --

11 MODERATOR CHRISTOPHER ROGERS: Under
12 current regulations, if it's a U.S. vessel it would
13 count as a U.S. fish, so regardless of whether they
14 are in a tournament in the Bahamas, it's incorporated
15 as a U.S. entity or foreign entity, the counting of
16 fish would remain the same if it's from a U.S.
17 registered vessel.

18 MS. CAMHI: Okay, so the permitted vessel -
19 - so you can -- I mean you can pick up the statistics
20 off of their website, I am sure, which then would be
21 -- and that would likely -- that would definitely
22 penalize the land -- most land based hermits in the
23 U.S.?

24 MODERATOR CHRISTOPHER ROGERS: So it's not
25 so much a question of whether the fish should or

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1 would be counted, it's a question of whether we have
2 the ability to enforce toward registration and
3 reporting to help us know about the magnitude of
4 those landings and the potential impact of changing
5 the fishing year to a calendar year on other U.S.
6 land based tournaments.

7 MS. CAMHI: Right, but then your decision
8 on if you are going to, you know, you are going to
9 have the 250 rule apply only to tournaments, and then
10 your decision on white marlin, it may become a moot
11 point depending on what position you take on those
12 two as well.

13 MODERATOR CHRISTOPHER ROGERS: Okay, Thank
14 you. Rusty and I think Rich Ruais, Rom Whitaker?

15 SPEAKER: Yes, I could certainly see some
16 direct advantages for our area to go to a calendar
17 year in respect to the Bluefins and also the billfish
18 for our tournaments prior to June.

19 But I have to copy Nelson's comments about
20 being able to plan ahead, that -- that is more --
21 would be more important than having something that I
22 am unsure of and if you can get him in effect by
23 January 1, I'll be all for it but I think 30 days is
24 -- that's a pretty tight time frame.

25 MODERATOR CHRISTOPHER ROGERS: Okay, Rusty

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1 and then Rich Ruais?

2 MR. HUDSON: To what Allan was saying, they
3 ended up -- participated in Daytona Beach striking
4 fish tournament on the memorial weekend, and in St.
5 Augustine a few weeks earlier, they also have a big
6 tournament for marlin and stuff. I am not certain if
7 they have gone to a catch and release video
8 observer's program, but I don't know how it affects
9 any kind of tuna and sailfish and whatever, but, you
10 know, it's something that should be looked at,
11 because they are at the end of that year that you are
12 talking about.

13 MODERATOR CHRISTOPHER ROGERS: Thank you,
14 Rusty, Rich Ruais?

15 MR. RUAIS: Thanks, Chris, I am still
16 formulating my opinion on whether this -- it's good
17 to go back to a calendar year or not, but I do note
18 that of the 78 alternatives that are in this
19 document, this is the only one that you've put
20 "preferred" on already, so I think if you are betting
21 me and it's probably the one, the one that's going to
22 -- where we are going to end up, but if the
23 administrative conveniences and expediency are that
24 strong, and I want to look at it closely then it's
25 probably the way to go.

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1 MODERATOR CHRISTOPHER ROGERS: Okay, any
2 other comments on calendar year versus fishing year?
3 Just to speak to a little bit to the point Glen had
4 raised, it is difficult to get together the
5 information to be as current as possible for ICCAT
6 compliance.

7 On a fishing year basis, when we get to the
8 annual meeting, obviously we need to submit our
9 annual report in mid-July certainly to have it in the
10 hands of all parties by the SSCRS meeting, what we
11 are doing then on a fishing year basis, is we are
12 looking back almost 18 months on the U.S. record,
13 whereas other ICCAT contracting parties looking back
14 in the compliance table sense are only about 12
15 months back and it does have some issues with respect
16 to transparency, particularly if questions arise
17 relative to our SSCRS reports which still occur on a
18 calendar year basis, and it may give the appearance
19 of non-compliance when one uses the SSCRS numbers
20 versus compliance with respect to the numbers in the
21 national report and the compliance annex.

22 Not to say that it can't be dealt with, but
23 just knowing that the ability to discuss in great
24 detail the nuances of calculation techniques and
25 estimation in that venue of the compliance

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1 committee's deliberation can be difficult at times
2 and it does appear to me that some increases in the
3 transparency and ability to track changes overtime
4 would be beneficial in a compliance setting. It's
5 not to say that we can't deal with it, but it might
6 facilitate some of those discussions. Rick Weber?

7 MR. WEBER: The other nations at ICCAT, are
8 they implementing the 30 days? What are other people
9 doing?

10 MODERATOR CHRISTOPHER ROGERS: Well,
11 typically, if ICCAT recommends in November of one
12 year, let's say 2004, a quota for 2005, it's up to
13 each contracting party to implement that
14 domestically. I know Japan has implemented a fishing
15 year beginning on July 1, 2005, let's say as an
16 example for 2004 recommendation, obviously the other
17 contracting parties continue to deal with it on a
18 calendar year basis, must be doing something to
19 implement that.

20 How quickly they are doing that I am not
21 familiar with the domestic processes, whether they
22 can do that by proclamation, don't need notice and
23 comment, those kinds of things, don't need a great
24 deal of analysis like we do under U.S. law, I can
25 certainly try to do some research on that, but it's

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1 apparent that they are doing it on a calendar year
2 basis and they are reporting it as such.

3 Whether or not they are industries whether
4 they be commercial records or have the same concerns
5 of not having advanced notice or not -- I'll have to
6 find that out. I would encourage any person with
7 industry contacts whether it be recreational or
8 commercial on the other side of the pond to provide
9 some feedback if you can, on their concerns, if any,
10 on a calendar year fishing year basis.

11 But again I haven't seen any movement at
12 ICCAT other than U.S. and Japan towards this
13 accounting process. Glenn Delaney?

14 MR. DELANEY: You mentioned that there are
15 analyses and administrative process that prevent or
16 at least inhibit your ability to rapidly put out your
17 specs after November, and you are suggesting that
18 perhaps other countries just do it by more expedited
19 process or proclamation or whatever. Well, is it --
20 or should we be addressing ourselves to that, I mean,
21 are those unnecessary administrative burdens on you
22 guys that we should -- do we need to have all that
23 administrative process and analysis, but you are
24 doing it is because that's what the law makes you do?
25 Well, is there --

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1 MODERATOR CHRISTOPHER ROGERS: Well, I'm
2 never going to advocate that National Environmental
3 Policy Act or Administrative Procedures Act are
4 unnecessary burdens, but, you know, certainly
5 Atlantic Tunas Convention Act says the secretary
6 shall implement regulations as necessary to implement
7 ICCAT recommendations and the Administrative
8 Procedures Act noticing current rulemaking is a
9 process for doing so.

10 So again, I am not going to advocate lack
11 of public input, but it is important to implement the
12 ICCAT recommendations as soon as possible, and to the
13 extent that ICCAT -- with certainly the support of
14 the U.S. has moved to multi-year Code of
15 Specifications that has simplified that, and we don't
16 need to repeat this scramble every year.

17 It would certainly provide certain
18 instances whether it's a 3-year quota or 2-year quota
19 or a 5-year quota, where we would perhaps be in that
20 situation of having some implementation issues, but
21 for the most part if it is a multi-year quota
22 specification, we could avoid that annual angst of
23 not knowing what would be happening.

24 But as far as administrative processes, we
25 have encountered some difficulties with the way data

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1 are collected and managed within the agency,
2 particularly observer programs and the use of
3 observer data for estimation of dead discards, we
4 have a dead discard allowance for Bluefin tuna with a
5 provision in the ICCAT recommendation to allow the
6 adding in of one half of the unused discard
7 allowance.

8 So often we're in a situation with a
9 fishing year that crosses over the quarterly assembly
10 of observer data of having to use a proxy for that
11 amount and then playing catch up in the next year's
12 specs on exactly what the dead discards were and
13 whether or not the proxy used in a prior year specs
14 was appropriate.

15 So again there are -- they are issues that
16 can be addressed, not easily explained in a
17 compliance committee situation, but eventually we can
18 work out all the numbers and update national reports
19 accordingly as well as the SCRS reports. So not a
20 critical issue that is impeding the U.S. statement of
21 its compliance record, but certainly could facilitate
22 if there is a coincidence, so to speak, between the
23 way the SCRS numbers are presented and the way the
24 compliance figures are presented. Anymore questions
25 or concerns on management? Russ Nelson?

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1 MR. NELSON: I have a question, Chris. I
2 can't remember this, I don't -- the decision that any
3 fish, any billfish taken on a U.S. vessel fishing
4 anywhere is a U.S. fish, is that -- does that stem
5 from, you know, sort of a construction of the Tuna
6 Convention Act, the Magnuson Act, is a legal -- is it
7 a legal decision or was that a policy decision?.

8 MODERATOR CHRISTOPHER ROGERS: I am not an
9 attorney to -- I don't make legal decisions, but I
10 interpret it to be a legal decision because of the
11 clear statement in the Atlantic Tunas Convention Act
12 that the regulations issued under that authority of
13 that Act pertain to persons and vessels subject to
14 the jurisdiction of the United States. And obviously
15 that was written because of -- it's a treaty
16 obligation.

17 If we agree to something at ICCAT we have
18 to maintain jurisdiction over the activities of our
19 vessels and our citizens there to meet the
20 obligations of that treaty, that ICCAT recommendation

21 (Tape interruption)

22 MODERATOR CHRISTOPHER ROGERS: Right, so
23 there is an intersection between the exact wording of
24 the Tuna Conventions Act as well as the ICCAT
25 recommendation itself as to how it -- how it would be

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1 applied but generally speaking, we want to
2 demonstrate and enforce compliance with anything
3 we've agreed to at ICCAT. And I know we have
4 chastised other countries through the IUU list for
5 lack of control of its vessels and its citizens, so
6 it's nothing that we want to advocate, I would think.
7 Rick Weber and then Dick Stone?

8 MR. WEBER: It's really a just-for-sport,
9 because I am always looking for any other nation at
10 ICCAT to be reporting their recreational landings.
11 Should you have a foreign flag vessel fishing a U.S.
12 tournament, we would then expect that country to be
13 reporting that as landings in their compliance
14 reports then. Yes.

15 MODERATOR CHRISTOPHER ROGERS: Yes, if we
16 have any concerns about it not being reported, then
17 we certainly should make that information known to
18 the flag nation of the vessel, and if we see that is
19 contributing to an IUU situation, we should make that
20 known through ICCAT. Dick Stone and then Jim
21 Donofrio?

22 MR. STONE: Yeah, Chris, just to go back
23 when we implemented the billfish plan, it was
24 certainly discussed at length with the General
25 Council, and in terms of being able to enforce this.

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1 MODERATOR CHRISTOPHER ROGERS: Jim
2 Donofrio?

3 MR. DONOFRIO: Chris, this may stir up a
4 little hornet's nest here, but it's not meant to. Oh
5 boy, I understand, you know, I understand the law,
6 you know, but you are talking about a few
7 recreational vessels, minimal, minimal catch, it's
8 not like their commercial fishing, you know, lots of
9 fish that are going to affect any quota. What they
10 are going to affect from being out of the country is
11 perhaps that 250 number, which was not considered at
12 the time the deal was cut in Morocco, I can tell you
13 that.

14 From what I am hearing, I don't think
15 anybody was thinking about doing that number process.
16 Is there a process here where we could possibly maybe
17 get a consensus here to give us an exemption for
18 those few fish that are caught down there? You know,
19 we are accountable for everything, I'm not saying not
20 be accountable, but for the few fish that are caught
21 down there, I mean, I look at, I look at how strong
22 some of our other laws are in this country, like the
23 Migratory Bird Act, I mean, my god, U.S. Fish and
24 Wildlife sets out the policy with the duck hunting
25 limits to pintail now which is one of my preferred

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1 species is one a day, and it's a very restricted
2 season.

3 Yet, I can go down to Mexico as a U.S.
4 hunter and shoot 20 pintails a day, it's laughable, I
5 mean, we're not asking to do anything like this with
6 the billfish or anything else, you know, I mean, our
7 laws are just not consistent at all, the way we
8 manage the resources across the border when we go
9 internationally.

10 So this is a -- there's very few fish being
11 taken in foreign waters on recreational vessels, but
12 for them to count against, you know, what we've had
13 historical tournaments here now, which generate lots
14 of socio-economic activity around our coastline here,
15 it's -- I just want to know if we can maybe pursue
16 that exemption.

17 MODERATOR CHRISTOPHER ROGERS: Okay, it
18 seems like we've moved off the issue at hand, which
19 was fish year, calendar year. If we've closed on
20 that then may be we can use the remaining five
21 minutes before lunch to talk again about the billfish
22 250 limit in foreign -- foreign vessels in the U.S.
23 or U.S. vessels in foreign ports. I think that's
24 after lunch we'll get into spearfishing. Foreign
25 vessels spearfishing and spearfishing in foreign

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1 nations.

2 Any -- well, I am willing to move on now
3 for a few minutes before lunch, but I just want to
4 make sure that we're close with comment on the
5 calendar year fishing year issue. The issue that
6 interests you -- yeah, we'll move that now. All
7 right, I'm closing the discussion in on calendar year
8 fishing year and we're having an impromptu discussion
9 on billfish 250 limit and the intricacies of foreign
10 vessels in the U.S. or U.S. vessels operating in
11 foreign ports. I have a number of persons wishing to
12 speak. Glenn Delaney, you want to follow up upon
13 Jim's discussion?

14 MR. DELANEY: Just a -- you know, a
15 question about -- just as a hypothetical, this is not
16 to be argumentative, don't take me the wrong way, but
17 what would you do in a situation where a U.S. flag
18 recreational vessel went to a country that didn't
19 have a quota, ICCAT quota, and caught that fish,
20 let's say, you know, a guy leaves Key West and goes
21 over into Cuban waters and catches marlin or tuna or
22 whatever he is catching over there, and he wasn't
23 accountable to the U.S. quota, what would be -- how
24 will that be accounted for? You know what I'm
25 saying?

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1 MODERATOR CHRISTOPHER ROGERS: No.

2 MR. DELANEY: Got vessels over there every
3 day catching higher migratory species, if they
4 weren't accountable to report in the U.S. who would
5 they report them to? We're not even allowed to talk
6 to Cuba.

7 MODERATOR CHRISTOPHER ROGERS: Well, again,
8 looking at some of the other developments, and I
9 cannot -- not strictly the management recommendations
10 for the particular species, but the whole vessel
11 management standard and the responsibilities of flag
12 states, this is all pointing to ICCAT as a body
13 agreeing that the nation issuing its flag to a vessel
14 will do all in its power under its domestic
15 regulations and laws to control that vessel's
16 activities, to monitor that vessel's activities and
17 to report on that vessel's activities. So it would
18 be, I think, a problem if we were to argue that U.S.
19 vessels operating overseas in the countries EEZ,
20 where they have no limits on marlin, that would --
21 might be seen as skirting our commitment to control
22 U.S. vessels and their activities with respect to the
23 marlin catch that we've agreed to.

24 Certainly something I think we wouldn't
25 countenance for another contracting party saying,

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1 well, those vessels are operating in another ocean,
2 let's say Japan or Taiwan to argue that, and
3 therefore are outside our area of jurisdiction, so we
4 can't account for their catches in the Atlantic
5 Ocean. So it really opens the door to a lot of
6 issues. But let Bob go here first, and then Nelson.
7 Bob McAuliffe?

8 MR. MCAULIFFE: Yeah, to further complicate
9 this matter with marlin, right now the BVI are trying
10 to have a lot of the records reversed because fish
11 that were caught on American boats out of an American
12 port happened to hook the fish across the line, and
13 they want that record. So there's going to be a
14 little confusion until this whole matter is sorted
15 out in the Caribbean, that's just one of the many,
16 many little intricacies that we're running into. But
17 the BVI is making a real big fuss about it now. They
18 want those records so they can advertise the best
19 fishing is in the BVI waters, not in the American
20 waters, yet the boundary doesn't run north and south,
21 it runs more east and west, north are islands, if you
22 look at a map and the way the boundaries are laid
23 out. The people that negotiated those treaties
24 originally were not fisherman and we are suffering
25 for it now.

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1 MODERATOR CHRISTOPHER ROGERS: How about
2 Ellen or Russ? Russ Nelson and then Nelson Beideman
3 and then we'll break for lunch.

4 MR. NELSON: I'm just maybe being devil's
5 advocate here, I'm just trying to explore this, but
6 if a commercial vessel enters into a leasing
7 arrangement with an entity in another nation, it can
8 fish under that nation's quota. Is that not
9 analogous to a recreational vessel going to, say, the
10 Bahamas, purchasing a Bahamian license and fishing in
11 a tournament sanctioned by Bahamian law. Could you
12 not argue that those fish are essentially Bahamian
13 fish?

14 MODERATOR CHRISTOPHER ROGERS: It would
15 depend on the arrangements for operating in Bahamian
16 waters under that license, if it does not require
17 giving up the U.S. flag and re-flagging to the
18 Bahamas, then we would argue that it is still under
19 U.S. jurisdiction.

20 In the -- ICCAT has tried to address this
21 in the recommendation on chartering, that in a
22 chartering situation it is the responsibility of the
23 chartering nation to account for that catch under its
24 quota. Nelson Beiderman, and then we'll break for
25 lunch.

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1 MR. BEIDERMAN: I don't know where -- this
2 goes to a whole other complexity level especially
3 with what the Bush administration has been cracking
4 down on interactions with Cuba et cetera. Recently
5 National Marine Fisheries Service, law enforcement
6 has been administering enforcement on a Magnuson Act
7 Prohibition, I got all the numbers here and whatnot,
8 but basically says "land transshipped, shipped,
9 transport, purchase, sell, offer for sale, import,
10 export, who are having custody, possession or
11 control, any fish of a species regulated pursuant to
12 a recommendation of ICCAT that was harvested,
13 retained or possessed in a manner contrary to the
14 regulations of another country."

15 And basically the practical implementation
16 from enforcement on this is if you are U.S. vessel
17 fishing for ICCAT species in another country's EEZ
18 without a permit from that other country, then you
19 may be considered to be IUU undermining the
20 conservation of management measures of ICCAT. Now I
21 really, you know, this is a messy, messy, messy
22 issue, but we didn't initiate it.

23 MODERATOR CHRISTOPHER ROGERS: Okay, well,
24 I move we initiate lunch for all parties concerned.

25 (Tape interruption)

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(Whereupon, a luncheon recess was taken.)

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 MODERATOR CHRISTOPHER ROGERS: Part of --
3 and I can't recall exactly which environmental NGO
4 but maybe it was the Center for Marine Conservation
5 regarding authorized fishing gear and that resulted
6 in the Agency promulgating a table of authorized
7 fishing gear as part of the general Magnuson Act
8 recommendation. So all the fishery management plans
9 throughout the nation, all the councils and the
10 secretary were listed in this master table.

11 And the rulemaking also required that
12 procedures be established in each fishery management
13 plan to allow new gear in fishery only on a trial or
14 experimental basis until the environmental impacts
15 could be assessed. Maybe Ken has a better
16 recollection of the whole procedure. But basically
17 what had happened is that the agency published its
18 table of authorized fishing gear by fishery
19 management plan and we were providing input to that
20 table. At the same time we were issuing the HMS and
21 FMP and the billfish, I remember one back in '98-'99.

22 And ever since that process had been
23 completed we've had some concerns expressed that the
24 authorized gear table as issued was not recognizing
25 some gear that had been in use at the time and

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1 certainly had not been brought to the fore or gears
2 that could or should be allowed in the fishery. So
3 it will take an amendment to the plan to include
4 these new authorized gears, if any, in the table and
5 we wanted to go through some of these specific
6 requests we've received and certainly invite comments
7 as to whether any other gears should be authorized in
8 the Atlantic HMS fisheries.

9 So with that quick fair clause you're going
10 to give us an overview of some of the information
11 presented to the Agency. I do recall though I didn't
12 attend, I think it was in Rhode Island, one of the AP
13 meetings back in 1998. I did specifically take a
14 look at the spearfishing issue. But it's still with
15 us, so take it away, Greg.

16 MR. FAIRCLOUGH: Hello, my name is Greg
17 Fairclough, and to my right it Brad McHale and we've
18 been working on the authorized fishing gear issue.
19 Along with the handouts that we've placed out in
20 front of you, you can also follow along on page 84 of
21 the pre draft. There we have listed out most of the
22 pros and cons for each of the alternatives. New
23 gears and techniques need to be evaluated by NMFS for
24 qualification as authorized gear types. Innovative
25 fishing gears and techniques are essential to

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1 increasing efficiency and reducing by-catch in
2 fisheries for HMS.

3 As current gears are modified and new gears
4 are developed, NMFS need to be aware of these
5 advances in order to gauge their potential impacts on
6 target catch rates, by-catch rates and protected
7 species interactions. Two gears not currently
8 authorized for use in HMS fisheries are green-stick
9 gear and spear gun fishing gear. For those of you
10 who are not familiar with green-stick gear we have
11 two JPEGs at the end of the presentation that show
12 the two different configurations of green-stick gear.

13 In addition, as Chris spoke to just before
14 there's an agencywide regulation to publish the list
15 of authorized gears. For this issue we've developed
16 five alternatives, including a no-action alternative,
17 which address the use of spear gun fishing gear,
18 green-stick gear and handheld cockpit gears such as
19 dart, harpoons and gaffs. We'll discuss each
20 individual alternative in the following slides.

21 Alternative one is the no-action
22 alternative and this alternative would maintain the
23 status quo for authorized gears in Atlantic HMS
24 fisheries. It would not allow the use of spear gun
25 gear in the Atlantic tuna fishery. It would not

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1 allow the commercial configuration of green-stick
2 gear to be used except by those vessels permitted in
3 the pelagic longline fishery. And it would continue
4 to allow confusion over allowable cockpit gears.

5 Alternative two would authorize the use of
6 spear gun fishing gear in the recreational Atlantic
7 tuna fishery. Under this alternative tunas taken
8 with spear gun fishing gear would not be eligible for
9 sale regardless of fishing category. Fishermen using
10 spear gun fishing gear would be required to be
11 completely submerged when they fire their spear gun.
12 Only free swimming fish, not those restricted by
13 fishing lines or any other devices could be taken.
14 And the use of power-heads for taking tunas would not
15 be allowed.

16 Alternative three, this alternative is very
17 similar to alternative two; however, it would allow
18 the sale of spear tunas on chartered head boat and
19 general category trips. And as you can imagine this
20 alternative also has additional monitoring and
21 enforcement issues.

22 Alternative four, this alternative would
23 add commercial green-stick fishing gear to the list
24 of authorized gears and allow its use of commercial
25 harvest of Atlantic tunas. Under this alternative,

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1 vessels employing the commercial configuration of
2 green-stick gear would be subject to the general
3 category regulations including restricted fishing
4 days and retention limits. Also vessels with pelagic
5 longline gear onboard would be subject all current
6 pelagic longline regulations.

7 Alternative five, the last alternative
8 would authorize the use of handheld cockpit gears at
9 boat side for subduing HMS captured on authorized
10 gears. Under this alternative cockpit gears would
11 not be allowed to be thrown or used in any way to
12 capture any free swimming HMS. The use of these
13 gears may reduce the number of fish lost at boat-
14 side; however, it may also increase by-catch
15 mortality for undersized fish or non-target species
16 or gaffed or harpooned and subsequently discarded.
17 This alternative may also raise quite a few
18 enforcement issues.

19 Now, from the AP we put together several
20 questions; we'd specifically like to ask a few.
21 First being, should the commercial configuration of
22 green-stick gear be authorized for use in the
23 commercial tuna fishery? Should the spear gun
24 fishing gear be added to the list of authorized gears
25 in the recreational tuna fishery? Should the spear

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1 gun fishing gear be added to the list of gears
2 authorized in the commercial hand-gear tuna fishery?
3 And also are there significant pros and cons missing
4 from the pre-draft?

5 Before we go to discussion, let's take a
6 quick look at the commercial green-stick set-up. I'm
7 not sure -- are all of you familiar with how the
8 green-stick gears are operated?

9 SPEAKER: I think most people are not
10 directly.

11 MR. FAIRCLOUGH: Okay. In layman's terms,
12 it's basically an outrigger that suspends lures above
13 or just touching the surface of the water and is
14 dragged or trolled. As you can see, you know, the
15 vessel with what they call the green-stick or a large
16 uprigger or an outrigger that goes straight up. A
17 large line going back to a bird or a shover
18 (phonetic) or some type of device that produces drag
19 when it's pulled through the water. And then several
20 ganches or branch lines that hang down, suspending
21 lures to the water surface.

22 This is trolled forward and the movement of
23 the stick bouncing back and forth the fiberglass rod
24 and the tension of the bird cause the lures to sort
25 of dance on the surface and entice strikes from

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1 tunas. Wescott, a gentleman who wrote an article
2 about the gear found that this gear actually can
3 create catch rates, you know, 10 to 15 times higher
4 than traditional trolled lures when fish aren't
5 picking up standard lures.

6 Now this is the way it's been set up
7 commercially. Those branch lines are attached
8 permanently to the mainline as is discussed or
9 labeled here. And as the fish take a lure the
10 mainline breaks away from the green-stick and is
11 retrieved through a spool or some type of a hand
12 winch or a hydraulic winch, haul off the gear and the
13 fish comes on all at once. And this has been
14 modified to allow -- for sport fishing, similar to
15 what sport fishermen would use as a standard
16 outrigger set-up.

17 They use a green-stick or actually just a
18 line coming from the -- like a tuna tower back to a
19 bird or a shover and they run their individual
20 fishing lines up and use an outrigger clip to hold
21 their line to the highline and suspend their lures
22 down. So when a fish takes one of the baits it will
23 release from the highline and then each fish is
24 fought individually on a rod and reel.

25 SPEAKER: Which recreational fishery is

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1 using this?

2 MR. FAIRCLOUGH: It's being used, from what
3 we can tell off North Carolina.

4 SPEAKER: But which species?

5 MR. FAIRCLOUGH: Tunas.

6 SPEAKER: Primarily yellowfin.

7 MR. FAIRCLOUGH: Okay, if we could open up
8 the floor.

9 MODERATOR CHRISTOPHER ROGERS: Again, what
10 we're looking for is some comments on whether or not
11 the two-gear configurations presented should be
12 authorized, the spear gun and the green-stick, but
13 also, I think, an important issue because it has
14 developed over time and it's -- question is whether
15 it is in fact authorized, is this cockpit gear for
16 assisting in the boating of larger fish whether or
17 not it's a shark or a giant bluefin. Some
18 enforcement implications have arisen because of it.
19 So let's start with the folks straight ahead this
20 time. Russ Nelson?

21 MR. NELSON: I'm not clear why it's
22 necessary to get into trying to authorize gaffs and
23 things like that. To my knowledge none of the other
24 fishery plans, you know, the council plans that are
25 subject to the same Magnuson-Stevens Act requirements

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1 do that. And then I wonder -- I mean, looking at
2 this if we have to -- if we get into where we have to
3 authorize gaff and things like that, do we need to
4 authorize kites and some of the other kinds of gears
5 that are used in lieu of outriggers to deploy baits?

6 MR. FAIRCLOUGH: That alternative was
7 included because we were getting specific questions
8 from sword fishermen in the southeast who were
9 concerned them being vulnerable to getting a ticket
10 for having a dart harpoon onboard their boat while
11 they were recreationally swordfishing. And our regs
12 don't specifically say they can or can't have that
13 gear.

14 MODERATOR CHRISTOPHER ROGERS: That I can -
15 - that makes some sense to me but how about why --

16 MR. FAIRCLOUGH: Flying gaff.

17 MODERATOR CHRISTOPHER ROGERS: Why are we
18 talking about flying gaffs?

19 MR. FAIRCLOUGH: We were just going to
20 include them all as cockpit gear.

21 MODERATOR CHRISTOPHER ROGERS: And then
22 what about my question about kites?

23 MR. FAIRCLOUGH: I don't have an answer.

24 MODERATOR CHRISTOPHER ROGERS: Well, do you
25 know how kites are used?

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1 MR. FAIRCLOUGH: I do.

2 MODERATOR CHRISTOPHER ROGERS: Okay. I
3 mean, I just -- it's very similar to the way the
4 recreational green-stick gears are used.

5 MR. FAIRCLOUGH: Yes, that's what it says,
6 recreational.

7 MODERATOR CHRISTOPHER ROGERS: Yes.

8 MR. NELSON: I just would be very careful
9 about trying to get into micromanaging and allowing -
10 - the primary gears are rod and reel. And -- I mean,
11 if we start doing this here all the council is going
12 to have to go amend their plans to allow gaffs or
13 everything else that's used, landing nets, which are
14 also used for HMS species. I've taken a lot of
15 little small tunas in my boat with big landing nets.
16 So that's all I have.

17 MODERATOR CHRISTOPHER ROGERS: All right.
18 Thanks, Russ. Obviously our concern is that as we
19 define each of the authorized gear we get a lot of
20 questions about is this included or is this excluded.
21 And yes, I do see that it could be a slippery slope
22 because as you include more and more optional or
23 ancillary devices in the definition of authorized
24 gear noting that rod and reel may be the primary
25 gear, it's always a question of, "Well, if this is

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1 not on the list, is it okay?" And you do run the
2 risk of raising more questions than you answered by
3 starting down this path.

4 But I think with respect to cockpit gear in
5 particular some of the dart harpoons or harpoons that
6 have been used to help boat a large bluefin have been
7 a question in the fisheries where they have not been
8 authorized, so to speak, in the charter/headboat or
9 angling category. Obviously harpoons were authorized
10 for the general or harpoon category and the question
11 was if it facilitates getting the fish onboard, why
12 can't we use it although when you get to the dock it
13 may have the appearance that the fish was obtained
14 through use of a harpoon which is not an authorized
15 gear for the recreational fishery.

16 So these are the types of issues and
17 questions that are arising, and obviously we don't
18 want to be in a position of constantly aiding nuances
19 to the gear definitions, but want to capture what is
20 currently in use as primary gear and any ancillary
21 devices that are necessary and practical for the use
22 of that primary gear.

23 SPEAKER: Well, perhaps one alternative
24 would be to just include a statement to finding what
25 -- that the authorized gear is a primary gear and

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1 gear used incidentally to retrieve the fish into the
2 boat once the fish is brought to the boat. Don't
3 have to be authorized or if you think you've got to
4 then be very careful because there's something like I
5 said, there's different kind of gaffs, there's tail
6 ropes, there's nets, there's bocca grips, there's a
7 wide variety of things that people commonly use to
8 pick the fish up and bring it into their boats. So
9 make sure you don't exclude any from the list if you
10 decide to list them.

11 MODERATOR CHRISTOPHER ROGERS: Okay, Bob
12 Pride.

13 MR. PRIDE: Chris, I would suggest on this
14 that we -- on the deployment of rod and reel baits,
15 baits that are attached to rod and reel whether it's
16 an outrigger or a kite or a green-stick or whatever
17 that make a whole lot of difference as long as the
18 primary gears are the rod and reel. So I don't think
19 I get overly concerned about that one. If the
20 commercial fishery needs the green-stick approved in
21 their -- for their gear type then that's fine with me
22 because it's kind of a mini longline, I guess we
23 don't want to distinguish that somehow.

24 The -- I'm sure Russ's concerns is about
25 the cockpit gear. I think that the equipment used

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1 incidentally to land a fish, I mean, we're going to
2 be talking about whether a pistol is an authorized
3 gear or not eventually. I mean --

4 SPEAKER: Yes.

5 MR. PRIDE: So -- or your hands or your
6 mate's hands or whatever it might be. So I think the
7 harpoon does make sense to include as authorized gear
8 for -- you know, to assist in landing because of the
9 problem distinguishing that from the commercial
10 harpoon gear but the rest of the gaffs and
11 everything, I think we're going down the slope. We
12 don't want to go down.

13 MODERATOR CHRISTOPHER ROGERS: Louis
14 Daniels?

15 MR. DANIELS: I guess, first a comment,
16 then a question. First I would say that I think
17 spear gun gear, we're going to run the real risk of
18 some safety issues. I know the guys that have --
19 should've been here before us in the past that are
20 professional divers that have been interested in
21 doing that. I mean, you know, they probably have
22 enough sense to know what they're doing.

23 But I think we authorize that gear and
24 you're going to have a lot of people that are going
25 to want to go out there and try to catch a Bluefin

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1 tuna with a spear gun and they're going to -- we're
2 going to end up with some problems. A question, and
3 it might be good to get them out of the gene pool
4 while you arrive. The question, I guess, is a
5 pelagic longline -- if you have a longline permit,
6 you can use a green-stick. Is that correct?

7 MR. MCHALE: It's currently in need of
8 clarification, the regulations. A pelagic longline
9 is described -- a handline is described not to exceed
10 two hooks. And obviously if you have more than two
11 hooks then we would presume that it meets the
12 definition of pelagic longline. But we're
13 acknowledging that the green-stick is in need of some
14 clarification, basically its own definition, or
15 modify the pelagic longline somehow so include green-
16 stick in the definition.

17 MR. DANIELS: Then I guess --

18 MR. MCHALE: I would propose that a
19 separate definition of green-stick is necessary in
20 whatever characterization we need as to whether that
21 is authorized in a commercial fishery only, as Greg
22 pointed out, it's a very different configuration in
23 the recreational fishery than in the commercial
24 fishery insofar as the fish once on are retrieved
25 individually in a recreational configuration, but

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1 hauled much as a longline in the commercial
2 configurations. So --

3 MR. DANIELS: Well, I would then --

4 MR. MCHALE: Some clarification is needed,
5 that's clear.

6 MR. DANIELS: Yeah, for -- then I would
7 make the recommendation that the -- it be allowed
8 gear for the angling category if they're using it as
9 one line retrieving the fish, using clips off of the
10 main line of the bird. And then for commercial
11 fishery I would recommend that they be allowed to use
12 whatever configuration of green-stick that they deem
13 appropriate for their vessel in the longline and the
14 general category.

15 MODERATOR CHRISTOPHER ROGERS: So both
16 pelagic longline and general category would be
17 allowed to use the commercial configuration. General
18 category would also be able to use the recreational
19 configuration --

20 MR. DANIELS: No.

21 MODERATOR CHRISTOPHER ROGERS: Including
22 the sale of tunas?

23 MR. DANIELS: Yes.

24 MODERATOR CHRISTOPHER ROGERS: Willy
25 Etheridge.

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1 MR. ETHERIDGE: Green-stick won't work
2 unless you're trolling it, and I don't know anybody
3 that trolls a longline; it's definitely two different
4 types of gear.

5 SPEAKER: Now, your point's well taken
6 there, Willy, but I think the issue that the Agency
7 is running into is that with the commercial
8 configuration of the green-stick where you do have
9 one mainline that has more than two hooks being used
10 falls underneath the pelagic longline definition as
11 it currently stands. And so what we're currently
12 looking to the AP for is some assistance or some
13 guidance on how you would differentiate the two.
14 Again, your point is well taken but, you know, we're
15 looking on, again, assistance on how to differentiate
16 the two.

17 MR. ETHERIDGE: Well, then you can
18 differentiate them by -- one of them is a troll gear
19 and one of them is a longline gear. There's
20 literally been hundreds of these things sold, I
21 think. There's a company that has my name on it and
22 sells just about all of them. But there's probably
23 been just as many sold to the recreational fishery as
24 there has been to the commercial fishery. And you
25 know, to me to just simply it is -- it's used as a

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1 troll gear and the longline you just don't troll it.
2 So, I mean, if you're looking for a way to make it
3 different that would be the way to do it, I would
4 think.

5 MODERATOR CHRISTOPHER ROGERS: All right,
6 Dewey Hemilright -- who's going to help us here with
7 the commercial configuration? Dewey, first.

8 MR. HEMILRIGHT: The thing I would say is
9 that this is usually an artificial bait, it's not a
10 natural bait. I have -- known to me longliners that
11 go out there and use artificial bait, not that it
12 couldn't be done. Number two thing, I don't know of
13 a whole bunch that are using circle hooks. It's a J-
14 hook. When you're longline you're supposed to use a
15 circle hook. So that's two things. This has been
16 around in landings for 10 years. And I know of it in
17 North Carolina. A buddy of mine had done a lot of
18 experiment and probably got one, first one to get it
19 started.

20 I use green-stick fishing and it stays on
21 my boat, my green-stick does year round. I also go
22 longlining. I don't think just because a person -- I
23 mean, a different place you're not going to be
24 catching yellowfin tunas and 10 and 25 not that I
25 know of it. It could be a type of thing that you

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1 could classify. So I'd be very careful of trying to
2 micromanage. This type of gear is historically been
3 for -- I don't know how far back the word
4 "historical" has got to be, but at least 10 years.

5 We use it to catch yellowfin tuna. There's
6 bluefin tuna that people used to catch it. But if I,
7 in my longline boat, just because I have it on my
8 boat, you can't say, "Go catch a bluefin tuna"
9 because I can't land it, because they don't have the
10 by-catch. You know under that incidental thing, so
11 it's like how many hoops you've got to jump through
12 in here. Maybe we can get some little common sense
13 clarification here and be good for the agency to work
14 with -- whatever they need to get this definition
15 worked up so everybody can continue.

16 It's -- you know, you -- most time you're
17 catching tunas or tunas and it's -- you know, it
18 depends on anywhere from three or four baits to six
19 or seven baits, you're trolling around, you know? It
20 works sometime and sometimes it doesn't. So I just -
21 - there's a few little discerning things about
22 artificial and natural baits and circle hooks and
23 non-circle hooks. Maybe that will help you out.

24 MODERATOR CHRISTOPHER ROGERS: Okay,
25 Nelson.

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1 MR. BEIDEMAN: I thought I had this
2 somewhat figured out like a week ago and then someone
3 told me that word. It catches, Chris, you want to
4 hear this? Rich, it catches Bluefin tuna. Okay?
5 And everything I was thinking about went right out
6 the window. I think, you know, this type of
7 innovation by fishermen and the fishery is very good,
8 very encouraging. We need to figure out how to allow
9 this in.

10 But it doesn't fit in the incidental
11 category if it can be directed on Bluefin tuna. It
12 would then go into general category for the
13 commercial side and the commercial definition. But
14 then you would have to allow a pelagic longline
15 vessel to be using general category gear if, say,
16 they have a component of pelagic longline off.
17 Something in that nature would have to be worked out.

18 Concern being that green-stick could be
19 used to direct on Bluefin tuna and in that sense it
20 might be considered a general category gear but to
21 the extent it would be used to target yellowfin by
22 someone who is otherwise engaged in the pelagic
23 longline fishery. We would want that intersection
24 with the gear and the permits to include authorized
25 Bluefin tuna landings because of the incidental test

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1 requirements on Bluefin for that permit category. So
2 it's a thornier problem than even we presented.

3 MODERATOR CHRISTOPHER ROGERS: We will be
4 doing comments on the rest of the issues, spear gun
5 et cetera, another round. Take care of this green-
6 stick first.

7 I would suggest that we speak about all
8 authorized gears, so we don't have to keep segmenting
9 the discussion. But green-stick is one, spear gun is
10 one, the terminal gear and the cockpit and any other
11 issues that we're not aware of with respect to
12 authorized gear should be raised at this time.

13 MR. BEIDEMAN: Okay, spear gun,
14 recreational, Atlantic tunas, no sale. No sale; we
15 would support that. Definitely both the recreational
16 green-stick and the commercial green-stick need
17 definitions. Cockpit gear, yes. And then I would
18 have it so that it is open ended, you know, with the
19 new careful handling and release equipment fishermen
20 are being very innovative and there's a lot of new
21 things that continue to come out, and I believe that
22 we should encourage that type of innovation.

23 Also you need to make clear in the regs
24 'cause it's not clear right now, it's, you know, kind
25 of presumed that longline are vessels allowed to use

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1 hand gear including harpoon, handline and rod and
2 reel when not longline fishing. So that would kind
3 of go along with the cockpit gear.

4 MODERATOR CHRISTOPHER ROGERS: Thank you.
5 To keep me from going back and forth and ruining my
6 neck what don't we just head in one direction and
7 I'll slowly turn my head as we get there. So, Gail?

8 MS. JOHNSON: Thanks. I remember the
9 discussion we had on spear guns. And it got a little
10 wild and crazy but what I took away from that meeting
11 overall was the issue of safety. And that is a huge
12 concern. And if you get a bunch of people it's
13 almost like a boat feeding frenzy with the boats
14 around when there's Bluefin around. And you really
15 don't want spear gun divers down there, especially if
16 you have to be submerged and all that stuff.

17 Anyway, I got the answer to my question
18 about the gaffs 'cause that was very confusing. Of
19 course you have to use a gaff to get a fish aboard.
20 The green-stick, it was interesting you say the
21 longline boats can have it, well, our boat could
22 never go fast enough to ever troll one of those
23 things. So --

24 MODERATOR CHRISTOPHER ROGERS: Okay, thank
25 you, Gail. Ken Hinman?

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1 MR. HINMAN: Yeah, green-stick prefaces
2 with -- this is the first time I've heard of this
3 gear and I'm not sure I totally understand exactly
4 how it works or its potential impact. But one thing
5 that does occur to me is I'm assuming that when
6 something becomes an authorized fishing gear, it is
7 automatically permitted anywhere in HMS fisheries
8 where it is not expressly prohibited. And what I'm
9 thinking of when Bluefin is mentioned you have an
10 area in the northeast that is closed to longlining
11 for Bluefin.

12 And so you would -- would you at the same
13 time have to review this as a separate gear and
14 whether it needs to be -- well, how you would treat
15 it in the other gear restricted areas. Because I've
16 heard it described as a mini longline, and I know in
17 your proposals here you've got some redefinitions of
18 handlines in order to make sure that there's not a
19 loophole that allows mini longlines there. So where
20 does this fit into that?

21 MODERATOR CHRISTOPHER ROGERS: Well, that's
22 a very good point because as we define it and
23 authorize it, we need to consider what permanent
24 categories are eligible to use it and what other
25 restrictions might apply, whether it's a VMS or a

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1 closed area requirement, so it involves all of the
2 above concerns that you raised and as we come up with
3 a definition and draft our issue on our draft
4 document, the criteria or restrictions certainly want
5 some more comment on that since it is a gear that not
6 a lot of folks are familiar with but obviously
7 effective for some purposes, both commercial and
8 recreational. Pete Manuel?

9 MR. MANUEL: Thank you. As far as the
10 handgear for the spear gun and recreational fishery,
11 I don't see a problem with that. It could be some
12 issues during the commercial Bluefin season. I have
13 a lot of divers out there with boats in those areas.
14 That's something that could be addressed later. So I
15 would endorse a recreational spear gun gear type, on
16 the green-stick, I don't -- and I use it in the
17 bluefin fishery, I use it in yellowfin fishery. I
18 guess I first saw it a number of years ago in North
19 Carolina. Some days, like Dewey said, it's very
20 effective and some days it's not.

21 You do open up a situation with closed
22 areas. They're closed longline vessels but yet a
23 green-stick could go right now to -- a green-stick
24 boat could go down and fish in a closed area off of
25 Riseful (phonetic) Beach, which is closed to

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1 longliners. Excellent yellowfin time right down
2 there, right now. If you're going to allow that you
3 need to make sure that they aren't targeting Bluefin
4 and they aren't targeting the incidental longline
5 category that was set up for the longliners.

6 It's some of the east -- maybe on some of
7 the open and closed areas. And as far as -- somewhat
8 confused on item five, and I don't know if -- there's
9 a dart and there's a harpoon. Bluefin boats use
10 darts a lot. It's a very effective way instead of
11 gaffing the fish. Easy chance -- it's easier to swim
12 the fish than bleed the fish. So are you talking
13 about a harpoon or a dart? There's definitely a
14 difference. I first saw the dart used in New England
15 when I fished up there a number of years ago on one
16 fall.

17 And it's gotten real popular in Carolina
18 for the Bluefin fishery. As far as gaffs go, I mean,
19 I guess some boats don't use, I'm not sure, but most
20 boats that go in the ocean take -- use a gaff. It's
21 pretty common practice. And the IGFA and some of
22 their record staff spelled out what you can use as
23 far as gaffs and flying gaffs to meet their
24 requirements. I don't know that. We're not opening
25 up Pandora's box when we start looking at gaffs on

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1 boats and that type of gear. Thank you.

2 MODERATOR CHRISTOPHER ROGERS: Rich Ruais?

3 MR. RUAIS: Thank you, Chris. Coming from
4 the live-free-or-die state I have to disagree with
5 Gail. I don't think our perception of safety is to
6 infringe or deny these sport -- spear gun fishermen
7 from doing what they want to do. I just don't know
8 which category they want to be in. I mean my view is
9 that they're appropriate for the trophy category,
10 they're appropriate for the angling category and they
11 might be appropriate for the general category as
12 well.

13 And I'd like -- I just haven't heard
14 whether they really want to sell it or not. I just -
15 - I don't ever see it. I mean, it could happen that
16 it grows but in New England the way we see the tuna I
17 just can't envision how they're strategically going
18 to put themselves in line to free-spear a moving
19 giant Bluefin tuna -- maybe they are and God bless
20 them if they do. So I think we ought to consider and
21 include in this document making it a permissible gear
22 potentially in all three categories and find out from
23 them which categories they want to be in. Do they
24 just want to pursue a sport or do they want to be
25 able to sell that giant Bluefin tuna if they get it.

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1 The green-stick I'm just not -- I don't
2 know enough about it right now to make a comment on
3 that. I'd like to see it in the draft that goes to
4 public hearing so we can see what the reaction is.
5 It may be a similar reaction to New England to the
6 North Carolina reaction, and may be it will be
7 hostile for some other reason. But I just don't know
8 how to anticipate where that one is going to go. I
9 have been requested by Peter Wise (phonetic) who gave
10 up the seat for Robert and for his own personal
11 reasons.

12 He's been requested to put another issue on
13 the table and that is currently charter head boats
14 there's a prohibition against harpoon pulpits on a
15 charter head boat permitted vessel. I don't recall
16 what the rationale was for that early on, maybe
17 someone in this room does, but a couple of -- at
18 least one charter head boat operator from the Cape is
19 asking that that prohibition be prohibited because it
20 adds another dimension, another possibility to his
21 fishing possibilities in New England, both general
22 category fishing, charter boat fishing for school
23 tuna and if the opportunity arises, harpooning a
24 giant.

25 So I'd like it to be considered. I don't

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1 know -- I don't recall, I don't know if anyone else
2 does what the reason for prohibiting the pulpit on a
3 charter/head boat was. But you know, I think we
4 ought to take a look at it and see if there isn't
5 some good reason today to eliminate that prohibition.

6 SPEAKER: I don't believe that the harpoon
7 pulpit is prohibited. The use of harpoon gear in --
8 onboard a vessel with a charter head boat permit is
9 what is prohibited. So what you're saying is insofar
10 as a charter head boat permitted vessel has access to
11 landing quota that can be -- landing bluefin tuna
12 that can be sold and counted against the general
13 category quota, why not let them use harpoon gears
14 for that process as well. This is not a situation
15 where the chartered clients want to use a harpoon
16 gear or possibly so.

17 MR. RUAIS: I would say that would be rare
18 that people who are chartering a boat have the skill
19 to harpoon, but clearly we have some skilled
20 harpooners who are charter head boat operators today
21 and want that option whether they have a charter or
22 not onboard the boat. And I assume that means they
23 have the electric shocker onboard as well. But the
24 way it was related to us was that they believed the
25 prohibition was specifically to the pulpit on a

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1 charter head boat. Do you know, Brad?

2 MR. MCHALE: I mean, in the regulations we
3 don't speak to the existence of a pulpit or not on a
4 charter head boat. What it boils down to is that
5 harpoons are not an authorized primary gear type in
6 that charter head boat category permit. So it's --
7 they may be inferring the pulpit but there's no
8 regulation prohibiting the pulpit.

9 MR. RUAIS: Okay, so the charter head boat
10 permit has its own authorized list of gears 'cause
11 clearly in the general category we're using harpoons.

12 MR. MCHALE: That's correct. So
13 essentially in the general category that you're
14 familiar with the harpoon is an authorized gear type
15 in the charter head boat sector, currently it's not.

16 MR. RUAIS: Okay. Then let me refine the
17 request. The request is that we consider adding
18 harpoons as an acceptable gear in the charter head
19 boat category.

20 MODERATOR CHRISTOPHER ROGERS: Okay, thank
21 you for that clarification. Rom Whitaker?

22 MR. WHITAKER: Yes, with the green-stick
23 issues, I would certainly support in the recreational
24 green-stick, the breakaways and would be fun. In
25 regards to defining a green-stick, I don't have a

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1 green-stick but I see a lot of recreational and
2 commercial green-stickers in my area. And Dewey
3 pointed out one thing very important in that all of
4 them that I know of do use artificial bait. I do
5 know of some recreational green-stick boats that do
6 use circle hooks with rubber squids. But one thing
7 that I think Dewey would agree with on your droppers
8 coming off your mainline, I think the maximum I've
9 ever seen is nine.

10 So I think you could certainly put some
11 kind of maximum of 10 or some number in there that
12 would be -- I don't know of any pelagic longlines
13 that operate with less than 10 droppers. So I think
14 that would be a good way to define the gear. As far
15 as spearfishing and -- hey, if it's no sale, no guys
16 are willing to jump in there with a spearfish and
17 chase that tuna down with more power to it. It's --
18 as far as cockpit gear is concerned, gaffs, darts,
19 landing nets, you know, let's not get in there
20 picking, I think unless -- you know, certainly I
21 don't -- I think a firearm should be cockpit gear.
22 But any of the other stuff that you have to get them
23 in I think should be encouraged. Thank you.

24 MODERATOR CHRISTOPHER ROGERS: Thank you,
25 Rom. Willie Etheridge?

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1 MR. ETHERIDGE: At the meeting in Maine --
2 three or four guys came in and were pushing for this
3 being able to spear these fish. They've had two or
4 three tournaments. I think they even have a record
5 system and everything. And I absolutely see nothing
6 wrong with it. You know, I mean, and I really know
7 how they can spear a Bluefin tuna real easy. Rich,
8 just get on and ride somebody's boats that's
9 releasing them. They kind of swim a little slow.
10 They could do that. And you know, there's a lot of
11 that in Hatteras, and that's where they want to have
12 their tournament.

13 And they did state that they had been close
14 enough to spear them and they had actually speared
15 some yellowfin tuna, some mahi-mahi and it's just
16 another sport as rowing, I don't see anything wrong
17 with it. I believe that you should allow the green-
18 stick as commercial gear as well as recreational. If
19 you saw the picture of the green-stick in operation
20 out there it's -- had a bunch of baits hanging from
21 it but I don't know -- I'm sure that most of these
22 people that's fishing in these billfish tournaments,
23 these charter boat guys, I used to be a mate, believe
24 it or not, we fished 12 baits behind the boat, 12
25 different baits. And I don't think the green-sticks

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1 quite got that high yet.

2 So it isn't -- it's not, I think, a whole
3 lot different about that. And I just got a call from
4 a Japanese company and they told me to tell you that
5 the only thing that it catches 10 times better with
6 this billfish, it catch 10 times more billfish with
7 it. So if anybody wants to buy them I'll give them a
8 card before I leave.

9 (Laughter)

10 MODERATOR CHRISTOPHER ROGERS: Okay. Louis
11 Daniels --

12 SPEAKER: I'm also in favor of the green-
13 stick for commercial use. The -- one of the things
14 that hasn't been mentioned is the fact that
15 evidentially there is some evidence for having some
16 better quality fish by virtue of less handling and
17 with such an economically important fishery I think
18 that's a real plus there. The historical usage of it
19 for both recreational and commercial I think should
20 be recognized and have -- and allow it. I haven't
21 necessarily seen any evidence of adverse impact as a
22 result of it and I would certainly like to see that
23 included. And for those of you who haven't seen a
24 green-stick sometimes they're purple.

25 MODERATOR CHRISTOPHER ROGERS: I've heard

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1 that many are yellow too. Any other comments from
2 the back table there? I know we originally started
3 there. Bob Hueter.

4 MR. HUETER: My only comment on the topic
5 of authorized fishing gear is that NMFS should take
6 steps right now to de-authorize the use of gill nets
7 and the shark directed fishery. Follow the reasons
8 stated yesterday. Thank you.

9 MODERATOR CHRISTOPHER ROGERS: Thank you,
10 Bob. Frank Blount.

11 MR. BLOUNT: Thank you, Chris. I agree
12 with Rich that the harpoon should be acceptable gear
13 in the charter head boat, especially it's cockpit
14 gear anyway. It also -- it's a slippery slope
15 'cause, I mean, that's sort of listed there and --
16 especially with the small fish, we've been netting
17 our fish for year. You know, we've also been
18 sticking our fish. It's not just the Bluefin, we do
19 with the bigeyes and the yellowfins. So it's
20 something to think and consider. The green-stick, I
21 don't see any problem with; the spear gun, if
22 somebody wants to do with more power to them.

23 But it makes an interesting thing if you
24 read and somewhere there it says, "You can't catch
25 them from shore and you can't catch them from an oil

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1 rig."

2 (Tape interruption)

3 If somebody is submerged in the water is
4 that person going to be permitted now, 'cause he's
5 not attached to a boat anymore?

6 MODERATOR CHRISTOPHER ROGERS: Always an
7 interesting twist in everything, right? Joe McBride?

8 MR. MCBRIDE: Yes, that's very good Frank.
9 On the green-sticks in the Northeast, at least in the
10 Montauk area, they use -- a lot of boats coming up
11 that fish town, both up in the Cape area and down in
12 the Carolinas, particularly for yellowfin. Brought
13 them up, they were on some of the charter boats in
14 the Montauk harbor. From a recreational or a charter
15 boat point of view, if you're going to allow a
16 commercial green-stick on a charter boat, and you're
17 going to have paying customers watch you, have a fix
18 gear, and you're going to crank them in with a hand-
19 crank automatic, you know, it's not practical. On a
20 recreational boat as, I think, I don't know if it was
21 Louis or somebody, I'm sorry, one of the gentlemen
22 over there mentioned the -- I trolled 10 lures. You
23 know, I don't care if I want to troll 10 lures or
24 something in that vicinity on a green-stick, and they
25 do have, you know, a good record down south

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1 commercially. I don't see them do anything
2 exceptionally different than what I do -- we do in
3 the normal trolling scenario in our area anyhow. So
4 I have no objection to using the green-sticks
5 commercial recreational or what have you. As someone
6 mentioned it's just another method, it might work, it
7 might not work at certain times. Cockpit gear, I
8 mean, this is getting picky, you know, to the point
9 of, if you wear certain types of clothing is that a
10 commercial gear or a recreational clothing, or do you
11 have to have -- what do they call a hash on your --
12 if you wear a hat, if you're recreational, or you're
13 the captain -- it's -- we are fine. Why bring these
14 things into the mess unless there's something
15 mandated by law that I don't see, you know, that the
16 young fellows who are responsible probably have more
17 knowledge of it than I. For example we use bass
18 nets, I mean, these big 27-inch fish that we've got,
19 not to kill him, not to hurt him, rather than throw
20 him over the side, we want to release him, we take
21 him in our regular big bass nets, and you know, try
22 to treat him as gently as possible. That wasn't
23 mentioned, is that next year's topic, I don't know.
24 Spear gun, it is a safety factor, I concur with those
25 of you who are concerned, but if somebody's

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1 experienced, I say, I can't swim and I don't eat
2 fish, so I don't know what I'm doing in this
3 business, but if somebody is a competent swimmer and
4 would like to use spear guns in recreational fish
5 that's I see nothing wrong with that either, so for
6 the record.

7 MODERATOR CHRISTOPHER ROGERS: Bill Utley?

8 MR. UTLEY: Well I'm pretty much in
9 agreement with everybody else. I don't see anything
10 wrong with the green-stick. It just looks like
11 another form of outrigger to me, and pretty much
12 similar to the way we were trolling birds and squid
13 rigs, a hundred yards behind the boat, ten years ago.
14 Cockpit harpoons, definitely makes a lot easier
15 handling a big fish next to the boat. I have mixed
16 feelings about spear guns. If somebody wants to jump
17 in to the water and spear one of them, that's fine.
18 Having watched an ESPN show last Saturday morning,
19 getting ready to come down here though, where people
20 were spear gunning yellowfin off Cabo San Lucas, they
21 did real well on 100-pounders, but then somebody
22 struck one that was 200 pounds and all the gear
23 disappeared, and they never saw anything ever again,
24 and having spent a lot of hours chasing a poly ball
25 on a bluefin tuna, good luck.

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1 MODERATOR CHRISTOPHER ROGERS: Thanks.

2 Bill, Mike Leech?

3 MR. LEECH: Well, I'm really out on the
4 left field on this subject. I'm going to feel like
5 Simon Cowell, on American Idol, because I don't agree
6 with any of this. I first saw the green-stick used
7 in Hawaii probably 20 years ago, and it was being
8 used to target billfish, and it was very effective,
9 as Willie said, there's ten times the catch rate on
10 billfish, what about the by-catch on this thing?

11 SPEAKER: We've all had (inaudible)

12 MR. LEECH: No, I don't think you were
13 because --

14 SPEAKER: (inaudible)

15 MR. LEECH: Well, all right -- well maybe
16 it's 5 percent -- five times, but in any case there
17 is definitely going to be by-catch of billfish, which
18 we want to avoid. And you hook a billfish on one of
19 these things go and I don't know what they go -- what
20 they troll at, 15 knots or 12 -- how many. Okay and
21 then you -- he hits it going wide open one way and
22 it's got no give go on the other, it's not going to
23 do the billfish any good even though it comes in
24 quickly. I think we need to know more about by-catch
25 and that type of thing, maybe if you're trolling for

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1 tuna about North Carolina it's fine, although there's
2 going to be mixed yellowfin and bluefin at the same
3 time, so I don't know how you work that out, but if
4 it's authorized up there, it's probably going to be
5 authorized in a lot of other places where there is a
6 lot of billfish, and I think you need to do some
7 research before we sit around this table and say, oh
8 yeah it sounds fine to me, because it's got some
9 drawbacks.

10 Another thing that I've learned sitting at
11 this table and coming to these meetings, if I've
12 learned nothing else, I've learned that commercial
13 guys are very ingenious, and I can see a green-stick
14 if it is authorized, the same guys down in the
15 closed area off the Florida coast that are putting
16 these string of buoys out for swordfish, well gee,
17 if we can use a -- if now green-sticks are
18 authorized I can see some guy with a quarter mile of
19 line out, and he's got twelve hooks and he's got a
20 bird, or whatever it is, on one end and the green-
21 stick on the other, then he is legal whether he is
22 moving or not, and you turn it into a mini longline.

23 I mean, these guys are ingenious down
24 there, I can tell you that. So I've got a problem
25 with the green-sticks until we find out a lot more

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1 about them than we do. I can't believe everybody is
2 in favor of spearing tuna. First of all, if there
3 is any kind of a size limit on any of the species --
4 fish look one-third bigger underwater, that's just a
5 scientific fact, and I can see spear guns going into
6 fish that look big, that are undersized and it's
7 hard to release a fish once he has been speared.
8 Bluefin tuna are basically freight trains, little
9 bluefins are little freight trains, and how many, as
10 he saw on TV, are going to be speared and either the
11 spear ripped out or the gun ripped out of the spear
12 fisherman's hands, and he goes off trailing a spear
13 gun, which means he is going to die.

14 More likely, when he comes to the end of
15 the tether, the spear is going to rip loose of a lot
16 of them and they are going to die, and it's going to
17 be unreported and they're going to sink to the
18 bottom, because you're not doing it in ten feet of
19 water where you can retrieve them like you would
20 with a grouper or something like that. So those are
21 my -- I would think more research needs to be done
22 both on spear fishing to find out, you know, what is
23 the percentage of tuna that is speared that actually
24 rip loose and die, and also the green-stick, what is
25 the by-catch on billfish.

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1 The only other thing that I would like to
2 comment on is the darts. They're currently used on
3 a lot of the recreational swordfish boats down in
4 South Florida, in fact I was the one that stirred up
5 the hornets nest by asking is it authorized and
6 nobody could really give me an answer, because a lot
7 of guys are using them, and they are using them
8 instead of a gaff. They are not going out
9 harpooning swordfish. When they get a swordfish up
10 they're darting it instead of using a fly gaff on
11 it, and unless somebody can figure out a reason not
12 to, I see no reason why those shouldn't be
13 authorized as a gear to help land the fish once they
14 are brought to the boat.

15 MODERATOR CHRISTOPHER ROGERS: Thank you
16 Mike. Randy? Randy Blankenship?

17 MR. BLANKENSHIP: I don't have, as far as
18 the state of Texas, from a government standpoint,
19 doesn't have a strong feeling on this. I'm just
20 recalling some of my observations form previous
21 meetings, most recently, I think, about a year ago,
22 or so whenever the public meeting was held, or
23 scoping meeting, whenever the issues and options
24 meeting in Port Aransas, there were some
25 representatives from the Corpus Christie Spear

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1 Fishing Club, that were there requesting the addition
2 of spear guns, and they have -- I thing Willie was
3 reporting elsewhere, a rather organized group of
4 people that actively participate in this activity
5 using spear guns, and in this case, I think they are
6 mainly targeting yellowfin tuna.

7 I don't remember exactly their methodology. I
8 just remember that they also said that they felt,
9 like it was fairly safe, which is hard to imagine.
10 The other question I had was related to, I guess it's
11 alternative too, in the con section, the last one
12 says, "recreational fishermen would not be able to
13 fish for, or retain any HMS other than Atlantic tunas
14 if spear gun fishing gear was aboard." And it's my
15 observation that there are many trips that are made
16 out of Texas ports recreationally where people would
17 go out with scuba gear and fishing gear on board, to
18 dive and fish while they are out there, and may
19 possibly, I mean currently now, spearfish for
20 whatever they happened to see around the rig, an
21 offshore oil platform, and then also while they are
22 out there, may retain a shark illegally on the hook-
23 and-line. So -- I guess I had a question there is,
24 exactly -- that's a law enforcement issue, but it
25 seems pretty restrictive there, because it's

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1 something that currently goes on frequently, from my
2 observations.

3 MODERATOR CHRISTOPHER ROGERS: That's a
4 question certainly that we will have to answer with
5 whatever we propose, again one of the essential
6 questions is whether the spear guns be authorized as
7 a recreational gear only, or as a recreational and/or
8 commercial gear, and whether or not other authorized
9 gears should be onboard, commensurate with whatever
10 else is allowed for that and then categorize them.
11 We'll certainly be delving into this, and we'll craft
12 a proposal that we'll put out for public comment.
13 Rick Weber?

14 MR. WEBER: Yes, what I think, if I
15 understand properly what brought the dart
16 gaff/harpoon issue to the surface, and I think the
17 green-stick issue is not far behind, is confusion
18 between using the same terms for two different items.
19 And so what I'd like to see as you go through this
20 process is see if we can't clarify better, a dart
21 gaff from a harpoon, and then we don't really have to
22 get into cockpit gear at all, if you can tighten up
23 that harpoon definition. I think the same thing is
24 going to come right soon in green-stick because a lot
25 of people are agreeing to green-stick, but we've

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1 really described two different things. We've
2 described a green-stick as a commercial gear, but
3 then I just, what do term an up-rigger, you know, and
4 I don't think the green-stick gear that is capable of
5 bringing in multiple fish at one time has any place
6 on a recreational boat. That said, the stick itself
7 is not going to bring the fish in, the stick itself
8 is an up-rigger. It is a method of presentation of
9 right and real bait, so I don't want the presence of
10 the stick alone to be evidence of whether someone is
11 green-sticking in a commercial manner.

12 And finally, I'd probably go ahead and join
13 everyone else in supporting the spearfish gear, I
14 wouldn't do it, but I don't see any reason to get in
15 someone else's way.

16 MODERATOR CHRISTOPHER ROGERS: Thank you
17 Rick. Bob Fitzpatrick?

18 MR. FITZPATRICK: Yes, on the green-stick
19 commercial -- green-stick issue -- it's been used in
20 the New England Fishery, probably for six or eight
21 years. Relatively small number of boats, probably
22 six or eight, maybe ten, but with some success, and I
23 don't think you should touch it, I think it should be
24 -- they should use it if they want. On the spearfish
25 issue being a spear-fisherman myself, I'm in that

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1 gene pool, I guess that he talked about. When I was
2 a little younger we speculated about doing it, and
3 however, after you go chumming in New England, and
4 because I've never been, but then I went. If you
5 want to get in the water in New England with eight
6 feet of visibility, go down to a 190 or 160 or 120
7 feet, wherever the fish are in a chum slick, deal
8 with blue dogs that are 12 feet long and deal with
9 Sonja's pet dogfish that would send you back without
10 an ounce of flesh on your body, good luck to you.

11 But we shouldn't be regulating that gene
12 pool into doing things that they'd like to pursue.
13 So I think it should be, and even commercially, go
14 for it.

15 MODERATOR CHRISTOPHER ROGERS: Okay. Dewey
16 Hemilright?

17 MR. HEMILRIGHT: A couple of things -- I
18 think you should allow the commercial use of the
19 green-stick gear and a hook, maybe through your
20 public meetings you can get some better definitions
21 that fit it to allow for people who historically have
22 used it, whether it being in the pelagic longline
23 boat, or whatever, maybe you can get that worked out.
24 Also it would be for the spear fisherman if they want
25 to use a spear gun and go spearfish or whatever, let

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1 them do that.

2 Another thing, talking about the by-catch
3 on this green-stick thing, over and why I believe
4 it's, and I might be wrong, but it's illegal to sell
5 marlins, is that not right? So over here in the U.S.
6 it's not legal to commercially sell marlins. The by-
7 catch with the way this gear fish is it's not like
8 you're trolling a bait laying in the water, flat per
9 se, like you would a rig mackerel, or squid, or
10 ballyhoo, it's something that stood up, that kind of
11 dances on the water every once in a while, so if it
12 happens that marlin does come up there, the
13 likelihood of them hooking themselves is slim to
14 none, because most of the time you're watching, and
15 if so you happen to see a marlin come up you just
16 speed the boat up or something.

17 It's not a bait laying in the water,
18 because I don't believe that most of the people that
19 fish recreational or charter fishing, are out
20 targeting these marlins or something, their baits are
21 laying in the water more so than a green-stick bait
22 out in the water so I don't believe, it's probably
23 the rarest of rare events of catching a marlin on one
24 of these green-sticks. Thank you.

25 MODERATOR CHRISTOPHER ROGERS: Thank you

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1 Dewey. Jim Donofrio?

2 MR. DONOFRIO: Chris thanks. I completely
3 support a spear-and-release fishery for the -- well,
4 I remember when the spear guys came to us, my concern
5 was -- and I've had this problem as a charter boat
6 captain. I am anchored up on a wreck, and here comes
7 a dive boat. You know, he left the dock at 8:00 o'
8 clock, I left at 4:00 in the morning. All right, so
9 he gets there, throws his dive buoy in the water and
10 now he's got the universal right of way because he's
11 got divers in the water. My guys want to spear his
12 people in the water, that's how angry they are,
13 because now we can catch another bottom fish on that
14 wreck. So, you know we spoke to the divers, and I
15 mean, they've just called me recently -- a whole
16 group of them, we've got a bunch of dive clubs
17 specially on the west coast that are -- they fish,
18 but they dive -- they like to spear fish. You know,
19 I think there's got to be some rules down the road
20 there that, you know you got an existing bluefin
21 fleet anchored up, or somewhere, or trolling;
22 especially if those are trolling fleet or moving
23 fleet, they go plop -- I go plop at couple of dive
24 boats in the middle of that fleet. They've just
25 ruined the fishery for those guys for the day.

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1 I think there's got to be some rules -- you
2 got to consider what's going on here, with that --
3 that part of it with the spear fishery. Then where
4 do you put their fish, I mean, I know it's few, if
5 you put in an incidental category -- is it incidental
6 -- it's certainly, I mean certainly not angling.
7 It's not caught with a rod and reel. You know, where
8 do you put it -- you know where do you put it? So
9 think about that.

10 Green-stick here, I'm very familiar with
11 it. I know a couple of people that use it. I don't
12 know how they use it down below in the Carolinas.
13 Maybe they troll a little slower down there with
14 baits, that maybe a problem, somebody said with
15 billfish or even bluefin -- big bluefin tuna, but I
16 can tell you from my experience trolling big bluefins
17 -- when I fish general category, your boats got to go
18 -- you know, you can keep it under three knots -- you
19 are doing good, you going to get the bite on those
20 big fish. Trolling eight and a half knots that's for
21 -- you know that's for big eye yellow fin albacore.
22 Generally that's what the green stickers are doing.
23 You know, couple of boys going out of the vineyard
24 there, they're trolling artificial eight and a half
25 knots. If they are going to get a bluefin tuna --

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1 giant bluefin on that, even in the closed longline
2 area, that fish is got to be committing suicide
3 'cause that's a rare event, and he got to release it.
4 What I mean, you are not going to generally raise a
5 bluefin, a giant, doing eight and a half knots up in
6 that water there. That's where you got trolls slow.

7 So that's my experience. I don't know
8 about down below. It's certainly is a commercial
9 gear. It's where do you put it, general -- to me it
10 seems like general category, but I think you got to
11 look at all the gear conflicts. I'm sure, you know,
12 Rom doesn't want a whole bunch of green stickers
13 trolling around him at the same time. I don't know
14 you guys got to figure, how this going to work out.
15 How -- you know -- what about gear conflicts, I mean,
16 it's not our fishery so -- anyway that's my two cents
17 on it.

18 MODERATOR CHRISTOPHER ROGERS: Okay, thank
19 you. Few more -- oh Rusty, and Bob Pride, and Ellen,
20 Bob McAuliffe -- okay, Rusty, Bob Pride, Ellen, Bob
21 McAuliffe.

22 MR. HUDSON: Rusty Hudson, Directed Shark.
23 With the spear gun I echo what Jim had brought up
24 because it was my thought with regards to the diver
25 down flagging the protocols involved with that as the

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1 safety issues and trolling versus people that are --
2 get there for sunrise bite and they show up within
3 hour or two later, when the sun is giving a little
4 light in the waters, so I would think that there is a
5 potential conflict between user groups that you may
6 need to address little more fully.

7 MODERATOR CHRISTOPHER ROGERS: Okay, I
8 think it was Bob Pride next, and Ellen.

9 MR. PRIDE: Yes, on the spear gun issue,
10 having heard all the discussion I come to this
11 conclusion, all the other gears that we talk about
12 are deployed and retrieved with the vessel attached,
13 spear guns not. So I -- I just -- I don't think -- I
14 don't think it belongs in this fishery, because we
15 have vessel permits. And I don't see how we can --
16 we can -- I mean, how you're going to identify that
17 particular spear gun, with that particular vessel
18 when the fish is retrieved, and fisheries
19 responsible, for reporting, and all -- and the
20 vessel, you know, the vessel went to an other area,
21 and left the guy floating around I mean, I -- I don't
22 know. It just -- it doesn't make sense to me that --
23 that a gear that is not attached to the vessel, for
24 the retrieve -- for the retrieve of the fish should
25 be an authorized gear in this particular fishery,

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1 because of the vessel permitting.

2 MODERATOR CHRISTOPHER ROGERS: Thank you,
3 Bob. Ellen?

4 MS. PEEL: I was going to ask, what permit
5 are you going to give them, HMS angling, I mean they
6 don't -- they are not attached to a boat, and then
7 one of these groups that came early -- earlier to
8 talk to us, did express an interest in wanting to
9 spear marlin as well. And we certainly would want
10 that as an exception, but I question since Bob
11 pointed out, it's a vessel, HMS, is a vessel permit.
12 I don't know where they fit, if anywhere, within our
13 HMS authorized gear.

14 MODERATOR CHRISTOPHER ROGERS: I can only
15 presume that, most Spearfish been interested in
16 highly migratory species would be far enough off
17 shore that they would be depended on a vessel, to --
18 to get them to their fishing location, and -- and
19 using a vessel to land the fish, but --

20 MS. PEEL: So -- so.

21 MODERATOR CHRISTOPHER ROGERS: There will
22 be some exceptions in that.

23 MS. PEEL: So a spearfish would have to
24 have an HMS vessel permit, and it would clearly
25 recreational permit. But you would make sure that

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1 has an exception not for any billfish, since you only
2 have Tunas in here.

3 MODERATOR CHRISTOPHER ROGERS: That would
4 be one way to handle it. I think we have Bob
5 McAuliffe, next.

6 MR. McAULIFFE: That is spear fishing
7 segment, is not a new sport. Twenty five, thirty
8 years ago we would go out to sea, I was a little bit
9 younger then, and float off for the navy mooring
10 buoys for the sonar testing, and two and a half miles
11 of water, and spear, marlin, dolphin, tuna, and
12 especially shark, we had a running thing to see who
13 could get the biggest shark, I think they got up to
14 above twelve feet. And this is all in open water,
15 and did -- one, two days a week, just for the hell of
16 it. I don't know if any of the younger divers
17 nowadays, have that kind of nerve, but we were just
18 playing crazy. I wouldn't do it now, but it's been
19 around for a long, long time. That's back when I
20 started making those great big long wooden spear
21 guns, and real powerful stuff. That's what it was
22 all about.

23 And there was also a group that used to,
24 specifically spear, blue fin tuna going across the
25 flats, somewhere in the Bahamas. Until one of the

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1 chief divers went down the speared one, it was never
2 seen again, that slowed, that down a little bit.
3 Green-stick I am in favor of it, having fished, for
4 quite a few years, than being in a cockpit, the dart,
5 the gas, those were all necessary pieces of
6 equipment, and somebody mentioned something about
7 guns. I have carried firearms in the cockpit all my
8 life, I still do, and intent to.

9 MODERATOR CHRISTOPHER ROGERS: Okay.
10 Nelson Beideman and Russell Nelson.

11 MR. BEIDEMAN: Rich has a suggestion of --
12 you know, maybe spear gun would fit into the trophy
13 category. You know, there might be some thoughts to
14 pursue in that avenue. You know, because you have to
15 permit a person, et cetera, and that might be, you
16 know, something that wouldn't confuse, you know, the
17 angling or other categories, but I would still keep
18 it no sale.

19 MODERATOR CHRISTOPHER ROGERS: Okay, thank
20 you. Russ Nelson and then Henry, last comment.

21 MR. NELSON: Okay, just to follow-up on
22 your response to Ellen, I think if in considering
23 spear fishing here, and what is in the document is
24 for tuna, but you need to realize -- remember that
25 billfish and the billfish plan are unique in that

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1 they have been designated as a official catch-and-
2 release program. So I think allowing spear fishing
3 gear, as allowable gear under that plan would, you
4 know, call into question the wisdom of the catch-and-
5 release program or vice versa, I don't think that
6 they would belong there, in terms of billfish.

7 MODERATOR CHRISTOPHER ROGERS: Okay, two
8 last comments, Henry Ansley and Willie Etheridge.

9 MR. ANSLEY: I think here my main concern
10 is that it seems like it could spread over to the
11 billfish, I mean, there is nothing to say you can't
12 harvest billfish now, recreational. So that would be
13 one of my concerns, I mean, if I spear a fish, that'd
14 certainly be a -- quite a, you know, get a big blue,
15 that'd be pretty --

16 MODERATOR CHRISTOPHER ROGERS: Thank you.
17 Willie Etheridge.

18 MR. ETHERIDGE: I want to say I don't ever
19 intend to spearfish, or go diving, but I kind of feel
20 like those spear fishermen sometimes, you know being
21 a commercial fisherman. Those fish belong to those
22 spear fishermen just as much as they belong to
23 anybody in this room. And if that's the way they
24 choose to use it, you have an obligation to let them
25 do that, and I'm just standing up for them, and I'll

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1 tell you I don't -- and like Robert said over there,
2 I am not going in there after them.

3 MODERATOR CHRISTOPHER ROGERS: Okay, thank
4 you for this informative discussion on authorized
5 gear. What we have next on the agenda as we missed
6 our break at 2:15, we have our regulatory
7 housekeeping, which is going to be a discussion of a
8 number of items that are highlighted over several
9 pages, I would say several dozen pages in the pre-
10 draft, a lot of it doesn't really warrant discussion,
11 but some of it does have some implications,
12 substantive implications on how we address the
13 subjects, particularly with some definitional
14 changes. Pete Manuel?

15 MR. MANUEL: I have one question, we do
16 have a young man here that represents a group of
17 spear fishermen, does he get a chance to probably
18 comment on that now or later?

19 MODERATOR CHRISTOPHER ROGERS: Well, we do
20 have a public conf here for 4:00 p.m., unless that
21 individual was not going to be able to be present at
22 4:00, I'd prefer to take it at that point. Okay?
23 Thank you. So lets quickly get through regulatory
24 housekeeping and then we'll take a quick break, and
25 get to the North Carolina petition for rule making.

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1 We are a bit behind at this point, so I have to
2 accelerate our deliberations. Dick Stone?

3 MR. STONE: Chris, I did want to bring up
4 the issue of 1.4.2 at some point in time, it's just
5 the housekeeping and after you do the housekeeping,
6 is that a good time to do it?

7 MODERATOR CHRISTOPHER ROGERS: Refresh my
8 memory on 1.4.2.

9 MR. STONE: Filleting of tunas at sea.

10 MODERATOR CHRISTOPHER ROGERS: What's that?

11 MR. STONE: Filleting of tunas at sea.

12 MODERATOR CHRISTOPHER ROGERS: Oh filleting
13 of tuna at sea. All right, well, we'll take that up,
14 and perhaps if we don't need the full hour for the --
15 or half-hour for the public comment, we will have an
16 opportunity there, and we also wanted to briefly
17 touch on the swordfish quota issue that was raised
18 yesterday.

19 MR. STONE: So what time? 4:00 o'clock?

20 MODERATOR CHRISTOPHER ROGERS: About, yes,
21 about 4:00 o'clock.

22 MR. STONE: Okay.

23 (Whereupon, the above-entitled matter went
24 off the record for a short period of time.)

25 MR. PEARSON: Good afternoon. My name is

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1 Rick Pearson. The other people who have worked on
2 this section include Carol Brewster-Geisz and Brad
3 McHale. The name of this section is Regulatory
4 Housekeeping, primarily because we couldn't come up
5 with anything better to call it. It addresses
6 several items in the HMS regulations, that need to be
7 cleaned up, including the removal, or modification of
8 incorrect or obsolete cross-references and dates, and
9 changes to definitions and prohibitions to improve
10 compliance with HMS regulations. Many of the items
11 that we're going to discuss today have been raised by
12 our constituents or by other NMFS offices.

13 There are 41 relatively minor changes;
14 these are listed on page 88 of the pre-draft. Most
15 of these are technical in nature; therefore they
16 don't require the development and an analysis of
17 alternatives. Examples include removal of the term
18 "Initial Limited Access Permit," because we no longer
19 issue these, the amendment of the definition of
20 management unit for sharks, by removing deep-water
21 sharks, an amendment of the definition of the "NED
22 closed area" to become the "NED gear-restricted
23 area," removal of dates that have expired and the
24 removal of outdated or incorrect cross-references.

25 The second section of regulatory

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1 housekeeping includes some more substantial changes,
2 including changes in definitions, clarifications, and
3 amendments to the regulations. Many of these nine
4 issues may require the development of alternatives.
5 These nine issues are identified in the pre-draft on
6 page 97.

7 Issue 1, definitions for pelagic and bottom
8 longlines. There has been some confusion or
9 difficulty differentiating between these two gear
10 types -- NOAA Fisheries is trying to come up with an
11 unambiguous definition. Compliance with closed areas
12 and the use of VMS depends upon the ability for law
13 enforcement to be able to differentiate between these
14 gears.

15 We've come up with five alternatives
16 including no action, an alternative to define the
17 gear based on the number of floats or weights
18 onboard, an alternative to define the gear based on
19 the species composition of the catch, an alternative
20 to require data loggers or data recorders on all
21 longlines and the fifth alternative, if possibly,
22 we're unable to come up with an unambiguous
23 definition would be to base all closed areas on all
24 longlines, pelagic longlines and bottom longlines.

25 Pros and cons -- well, the basic pro here

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1 would be to have an unambiguous definition of these
2 two gears. The major cons, obviously associated with
3 the bottom four alternatives, are the economic
4 impacts that may be associated with them. Obviously,
5 you would impact the flexibility or ability to use
6 weights and floats if the second alternative was
7 selected. If the third alternative was selected
8 there might be difficulties and inconveniences
9 resulting in economic impacts in order to take the
10 fish out of the hold, off the ice and try to
11 determine the species composition of catch onboard,
12 data loggers there would be initial costs associated
13 with those, and obviously if you were to base all
14 closed areas, on all longlines, for example. In that
15 instance, there are some sizable pelagic longline
16 closed areas whereby bottom longline vessels would
17 not be able to fish in those areas, so each of these
18 bottom four alternatives do have some rather
19 substantial economical impacts. So that's issue 1.

20 Issue 2, require the retention of the
21 second dorsal and anal fin on sharks. Species
22 identification of sharks can be enhanced by the
23 presence of these two fins, NMFS is considering
24 requiring that these two fins remain on all, or most
25 sharks through landing to facilitate quota

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1 monitoring. The alternatives include no action, an
2 alternative that would require the retention of the
3 second dorsal fin and anal fin on all sharks through
4 landing and an alternative that would require the
5 retention of the second dorsal fin and anal fin on
6 all sharks through landing except for lemon and nurse
7 sharks.

8 The pros and cons, obviously if you could
9 facilitate the identification of the sharks, that
10 would improve the compliance with the retention
11 limits and prohibited species regulation. There may
12 be some minor adverse economic impacts associated
13 with keeping the two fins on the sharks.

14 The third issue involves the purchase and
15 sale of HMS from an individual vessel in excess of
16 the retention limits. NMFS is considering action to
17 improve compliance with the commercial retention
18 limits. The alternatives include no action and an
19 alternative that would prohibit the purchase of any
20 HMS from an individual vessel in excess of commercial
21 retention limits. And an alternative that would
22 prohibit the sale of any HMS from an individual
23 vessel in excess of the commercial retention limits.

24 The pros and cons -- these prohibitions
25 should improve dockside monitoring, however, there

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1 will -- there may be an additional burden on dealers
2 who would be required to know and comply with the
3 commercial retention limits. So essentially, this is
4 putting some of the burden upon dealers to know what
5 the commercial retention limits are, and prohibiting
6 them from purchasing in excess of those retention
7 limits. Basically, this is just to facilitate
8 dockside monitoring and compliance.

9 Issue 4, amend the coordinates of the East
10 Florida Coast closed area -- it's been brought to the
11 agency's attention that one coordinate of the East
12 Florida Coast closed area does not exactly correspond
13 to the EEZ, NMFS is considering amending the co-
14 ordinates so that the outer boundary of the closed
15 area corresponds with the EEZ. The outer coordinate
16 being considered as approximately 1.02 kilometers
17 seaward, of the current co-ordinates. The
18 alternatives include a no-action and then alternative
19 that would amend the second coordinate by extending
20 it seaward 1.02 kilometers.

21 Pros and cons, this amendment would better
22 correspond with the intent of the closed area to
23 extend to the outer boundary of the EEC. There may
24 be some, I would, anticipate at this time, minor
25 economic impacts if any vessels are fishing within

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1 that small area. Basically it's really just closing
2 a loophole here.

3 Issue 5, amend the definition of "hand
4 line" or limit the number that may be deployed. NMFS
5 has received comments indicating that some hand gear
6 permit holders may be deploying several unattached
7 hand lines in areas that are closed to pelagic
8 longline fishing. Deploying several unattached hand
9 lines may circumvent the original concept of hand
10 line gear and or diminish the conservation benefits
11 associated with pelagic longline closed areas.

12 The alternatives include no action, an
13 alternative that would amend the definition of "hand
14 line" by requiring that it be attached to or in
15 contact with a vessel. And an alternative that would
16 retain the current hand line definition, but limit
17 the number of hand lines that may be deployed, either
18 in the pelagic longline closed areas or everywhere.
19 Amending the hand line definition could better
20 maintain the intent of the concept of the hand line
21 gear, preserve the conservation benefits associated
22 with the pelagic longline closed area, reduce the by-
23 catch of juvenile swordfish, however there may be
24 some adverse economic impacts on vessels that are
25 currently utilizing this fishing technique.

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1 Issue 6, retention of billfish on bottom
2 longline and gillnet vessels, NMFS is considering
3 prohibiting the retention of billfish on bottom
4 longline and gillnet vessels, and clarifying that
5 only vessel owners, that possess certain permits may
6 retain billfish. This will be consistent with
7 current regulations impacting pelagic longline
8 vessels.

9 The alternatives include a no-action
10 alternative, and an alternative that would prohibit
11 vessels with bottom longline or gillnet gear from
12 retaining billfish and clarify that billfish may only
13 be retained if the vessel owner possesses either an
14 HMS angling, an HMS charter head boat, or while
15 fishing in a registered HMS tournament, an Atlantic
16 Tunas General Category Permit. Pros and cons, adding
17 this prohibition would improve the consistency of the
18 regulations between pelagic longline, bottom longline
19 and gillnet vessels.

20 There could be possible conservation
21 benefits, and there might be some very minor negative
22 social impacts if a, for instance, bottom longline or
23 gillnet vessel were to use a rod and reel to capture
24 a billfish. There would be no adverse economic
25 impacts associated with this, because the sale of

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1 billfish is already prohibited. Again, just closing
2 a loophole, tightening up the regulations a little
3 bit.

4 Issue 7, electronic submittal of bluefin
5 tuna dealer reports. NMFS is currently developing a
6 system that would enable Atlantic tuna dealers to
7 submit electronic bluefin tuna landing reports,
8 biweekly bluefin tuna reports, and bluefin tuna
9 statistical documents using the internet.
10 Alternatives -- no action and an alternative that
11 would amend the regulations to provide an option for
12 Atlantic tuna dealers to submit their required
13 reports over the internet.

14 Pros and cons, basically this would provide
15 additional flexibility for bluefin tuna dealers, it
16 would improve our data collection, it could possibly
17 result in a reduction of the reporting burden on
18 bluefin tuna dealers. There may be some additional
19 costs on the agency. Really this provides
20 flexibility for bluefin tuna dealers. It provides
21 another avenue for them to submit their reports,
22 shouldn't be any adverse negative impacts because we
23 are going to be retaining the current reporting
24 requirements.

25 Issue 8, submission of negative reports.

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1 Currently it is difficult to know if a vessel did not
2 fish or whether they simply did not report their
3 fishing activities. Therefore, the agency is
4 considering regulations that would clearly require
5 the submission of a no-fishing reporting form, no
6 later than seven days after the end of the month.
7 This reporting burden is already approved under the
8 PRA submission for Atlantic HMS Vessel logbooks.

9 The alternatives include no action and an
10 alternative that would amend the regulations to
11 require the submission of a no-fishing report, if no
12 fishing trips occur during the preceding month, post-
13 marked no later than 7 days after the end of the
14 month. This would facilitate the enforcement of
15 reporting requirements, it would improve our logbook
16 data collection; however, it could result in a
17 potentially increased reporting burden on some
18 vessels. Again, kind of clarifying the loophole, we
19 already have this requirement approved under the
20 paper work reduction act, we're just simply codifying
21 this now, we are considering codifying this, to
22 require the submission of negative reports.

23 And finally issue 9, clarification of
24 recreational reporting requirements. HMS regulation
25 currently specify that anglers are required to report

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1 non-tournament recreational landings of billfish and
2 swordfish. Whereas other HMS regulations specify
3 that vessel owners are required to report
4 recreational landings of bluefin tuna under the
5 angling category.

6 The alternatives include the no action and
7 an alternative that would amend the regulations to
8 require that vessel owners report non-tournament
9 recreational landings of billfish and swordfish.
10 This amendment would improve consistency between the
11 HMS regulations, facilitate compliance, and also
12 would, for example, on a charter boat, often times an
13 angler may be from out of the area and may not be
14 aware of what the reporting requirements are. So,
15 you know, the permit is issued to the vessel owner so
16 therefore the vessel owner would have a better
17 knowledge of the HMS Regulations and the vessel's
18 activities. So this was to try to clarify who's
19 responsible for recreational reporting? And that's
20 it.

21 MODERATOR CHRISTOPHER ROGERS: Okay. Thank
22 you, Rick. I'm sorry I put you head-to-head against
23 the refreshments that came out at the same time.

24 SPEAKER: No, that's okay, you got that
25 too.

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1 MODERATOR CHRISTOPHER ROGERS: But we are a
2 bit behind. So I'd like to be brief. These are
3 pretty technical, the text is laid out across many
4 pages here, a lot of the housekeeping items that Rick
5 referenced are pretty cut and dry, but there are some
6 with some substantive implications on how we go, so I
7 would advise you to read it closely and provide us
8 written comments, but we will have some time here for
9 a few oral comments. So let me start with this side
10 for a change. Dewey Hemilright.

11 SPEAKER: Start with that side, because Jim
12 is not there.

13 MR. HEMILRIGHT: Thank you,
14 Chris, dealing with issue 1 -- I would either go with
15 no action or define gear based on species
16 composition, because I -- and from bottom longline,
17 and I have both floats on my boat, depending on the
18 weather conditions or tide, or the amount of thieves
19 in the water. We have sometimes, if I use floats,
20 you see them more, and I've had boats go up and would
21 take them. I've lost them, so I've had to use floats
22 sometime for bottom longline. So for issue number 1
23 I am crossed between no action --and the specie
24 composition of the catch.

25 For issue number 2, I do not believe that

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1 this is -- will help with anyway of identifying these
2 sharks leaving these two fins on. The reason why I
3 don't, you look at -- you talk on here about sharks
4 do the landing, to facilitate quota monitoring. I
5 don't believe you're presently doing that. So, I
6 don't believe leaving these two fins on these sharks
7 is going to have any way for you all to help whoever
8 is identifying these sharks because currently you all
9 use our logbooks for up to like two years.

10 So, I don't see -- I think it's an economic
11 burden. I also believe by taking all the fins off
12 the sharks it really throws a kink in the 5 percent
13 law. So, I just got a feeling this is more to cater
14 to something else than what you're really telling us
15 about here. That's the issue number 2.

16 For issue number 3, I would go with no
17 action on number 3. I don't know much about number
18 4. I don't know much about number 5, but number 6,
19 if you can't sell a marlin and you got somebody
20 that's bottom longline fishing he -- or gillnet
21 vessel what's wrong to let him have one to eat? If
22 somehow they got a rod or something, 'cause they're
23 not selling it, I'm sure I don't know too many
24 marlins being caught by bottom longline gear, so I
25 would say I don't see nothing wrong with -- I would

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1 say no action on that.

2 On issue number 7, I think this is probably
3 a -- I don't know much about as far as bluefin
4 landers, but why don't use the same system for shark
5 dealers? It seems like you have a real problem in
6 some places with every year of -- you'll have the
7 quota and you'll decide that the season's going to
8 close, say February the 15th. Come March the 15th, a
9 month later you're still getting reports in.

10 This is nothing new to National Marine
11 Fisheries. I probably told you about this many times
12 for six or seven years. Dealers -- if we had to
13 report this, all the reports should be in a timely
14 fashion and would help you probably monitoring the --
15 not only the bluefins, but also the sharks.

16 Issue number 8, no fishing report forms.
17 Seven days, I don't see what's wrong, the way it is
18 now. I would say no action on that and I don't have
19 no comments on 9, thank you.

20 MODERATOR CHRISTOPHER ROGERS : Thank you
21 Dewey. Dick Stone. Again, I'd ask folks to be
22 brief. This is pretty technical stuff and we'd
23 appreciate written comments on it.

24 MR. STONE: Yes, I'll be very brief. I
25 just -- on number 6, I'm only going to comment on the

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1 ones I can think I know a little bit about. Number
2 6, I think because of enforcement and the fact that
3 the longline vessels already have to comply with
4 that, it probably would be good to go ahead and make
5 that consistent with what you have in the longline
6 vessels.

7 Seven, I agree strongly with amending that
8 to provide the option for electronic reporting and I
9 agree with Dewey also that, you know, it should be
10 done not only in that fishery, but all the fisheries
11 that you can. I agree with amending on number 8,
12 agree with number 9, to amending it. Now, those are
13 very brief comments.

14 MODERATOR CHRISTOPHER ROGERS: Thank you.
15 Rusty?

16 MR. HUDSON: Rusty Hudson, Directed Shark,
17 on the first page under relatively minor changes and
18 this is a clarification on my part, for a while you
19 all are trying to change your acronym from NIMS or
20 NIMPS and then now to NOAA fisheries. Are we back to
21 NIMPS again and I'll just make my adaptation in my
22 future documents. I assume we are.

23 Back to issue 1, definitions, I see the
24 idea of the use of VMS may be expanded in to the
25 bottom longline fishery completely for the entire

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1 shark fishery and I'm wondering if it's just as
2 simple as declaring before you leave the dock as to
3 your intent of pelagic versus bottom longline.
4 Otherwise, we have the scenario as to floats, weights
5 and a ratio correspondence to what normally happens
6 with pelagic longliners. They used to have a lot of
7 bullet floats and usually with bottom longline you
8 have a more a minimal number.

9 Issue 2, you're taking away a little bit
10 more economic incentive particularly with some of the
11 bigger second dorsals and stuff like that, that would
12 normally come with the great hammerhead or lemon
13 shark and stuff like that, that usually would have a
14 B grade value probably 20 some odd dollars a pound.
15 That would be taken from the fisherman and then would
16 become part of the dealer's revenue instead.

17 Issue 3, I've been an advocate for a 10
18 percent tolerance. Most of these large coastal
19 sharks start out about the size of a small human
20 being in the 125-150 pound range for a lot of them,
21 by the time we dress them down you're talking 50-60
22 pound for adult animals. It doesn't take but a
23 couple of sharks to wind up being a couple of 100
24 pounds over pretty quickly.

25 Issue 4, that little minor area, way off

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1 shore there. I'm an advocate of trying to open up
2 some of that area, east of the axis of the Gulf
3 Stream and you're wanting to closed just a little
4 area that there's no way that you can set in because
5 you'll wind up drifting because of the stream into a
6 closed area or out of the area one of the two, pretty
7 rapidly.

8 Hand lines, no comment retention of
9 billfish, I know a lot of people frown on eating
10 them, so I'll just skip past that one.

11 Issue 7, I have been also an advocate for
12 more regular reporting on sharks in particular,
13 weekly as opposed to bi-weekly. As far as electronic
14 submission of -- well, that's bluefin tuna dealer
15 reports, but I'm back to shark and the fact that I
16 would like to see some kind of way to be able to
17 monitor a catch better, but from Virginia North and I
18 sent a comment to Pat Kerckle (phonetic) there is no
19 real way of breaking out small coastal sharks in
20 particular, large coastal sharks sometimes and I'd
21 like to see that cleaned up in all the states from
22 Virginia North.

23 Issue 8, submission of negative reports,
24 currently speaking only for Directed Shark limited
25 access permits, we had 241 of them as October of 2004

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1 as of October -- as of the last year of fishing we
2 had roughly 65 boats that had a one trip limit -- I
3 mean, two trip limits or more we had 94 boats that
4 had one trip limit or more, are you saying that these
5 other 100 and some odd boats at the end of a month
6 within a week, they would have to submit a report
7 whether they caught a coastal shark in the last 7
8 years, limited access or not.

9 I guess so, because I know as a dealer, I
10 would have to report if I had purchased no shark fins
11 during the closed season.

12 Issue 9, no comment. I hope I was quick.

13 MODERATOR CHRISTOPHER ROGERS: Thank you.
14 Mike Leech?

15 MR. LEECH: Just three of the issues I'd
16 like to comment on. I think the vessel owner should
17 be the guy in fact I thought he already was the one
18 responsible for calling in the HMS catches. He's --
19 if he doesn't know who's on his boat and who's
20 catching what, he should. He's the one responsible
21 so I would support that.

22 I'm opposed to the mini longlines in the
23 closed areas where the boats are setting out a string
24 of floats. I think it clearly violates the intent of
25 the rule. As far as I know there's only one or two

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1 guys doing it now. What's to keep them from two or
2 three or four or five of them and each of them have
3 got ten floats and they're, you know, all working for
4 the same entity or whatever. I think that door ought
5 to be shut.

6 And the possession of billfish on a bottom
7 longline -- it's like a long time ago Florida made
8 the mistake of allowing lobster men to keep
9 undersized lobsters on their boat to use as
10 attractants. It's a license to steal and if they can
11 have undersized lobsters on their boat they will
12 figure out a way to sell them and they've been caught
13 numerous times doing it. I think the same goes for a
14 bottom longline. If he's got a billfish on his boat,
15 he's probably not bringing it home for dinner.

16 And I suggest that no -- in fact I thought
17 -- I didn't know any commercial guy could possess a
18 billfish and I think that loophole ought to be closed
19 as well. That's all I have to comment on.

20 MODERATOR CHRISTOPHER ROGERS: Thanks,
21 Mike. Sonja?

22 MS. FORDHAM: Thank you. First I want to
23 talk about -- Bob's making me say it -- the anal
24 retention amendment. Yes, retaining anal -- he made
25 me say it. That's certainly not a catering to me or

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1 anything that I asked for, but I will strongly
2 support it and I do think it's a good idea in one way
3 to get it. What we -- a lot of us have pointed to as
4 a big problem this week and that species-specific
5 identification but also enforcement and protecting
6 the prohibited species.

7 Speaking of prohibited species, regarding
8 your amendment to remove the table on deep water
9 sharks, I recognize this is a -- you've already
10 started the process but I had to take this
11 opportunity to voice my objection and this runs
12 absolutely counter to what we've requested and I
13 think we're the only ones that have talked about deep
14 water sharks.

15 So, we'll request again that NIMS
16 strengthen, not weaken the conservation framework for
17 these exceptionally slow growing and vulnerable
18 species by doing an about face and putting the deep
19 water sharks back into the management unit and in
20 particular on the prohibited species list, as a
21 precautionary measure and a way to avoid fishery
22 developing on such slow growing species, thank you.

23 MODERATOR CHRISTOPHER ROGERS: Thank you,
24 Sonja. What're you going to make Bob say now?

25 MR. HEUTER: I've been accused of being

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1 anal-retentive. I guess, this now proves it because
2 I'm going to support issue 2. Your -- the action. I
3 just want to respectfully -- respectfully disagree
4 with Dewey, that there maybe economic impacts, that's
5 a separate issue but in terms aiding identification,
6 I think it will help.

7 It's not going to be a panacea. But there
8 are characteristics of these fins that do help to get
9 to species identification, position of the fins,
10 which is hard to tell when they've been removed. The
11 shape of the fins and sometimes the coloration of the
12 fins also helps with a number of species. So, I
13 think this would help and species ID continues to be
14 a big problem, so I think it helps along those lines
15 and doesn't severely impact the economics of fishery
16 that I would support.

17 MODERATOR CHRISTOPHER ROGERS: Ellen Peel.

18 MS. PEEL: Okay, issue number 1, let's go
19 with number 5 time/area closures to include both
20 pelagic and bottom. There's an incredible
21 enforcement problem or confusion that we get calls on
22 repeatedly out of the DeSoto Canyon, in particular.
23 That would clarify that. Issue number 3 -- number 2,
24 changing the coordinates as you had suggested, issue
25 number 5, number 2 handline must be attached to a

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1 vessel, issue number 6, go with number 2, that was
2 the mid regulation -- to prohibit the bottom longline
3 or gillnet gear on board from possessing a billfish
4 and then, the last one, issue number 9 go with number
5 2. Could you keep up with that? No.

6 SPEAKER: (inaudible)

7 MS. PEEL: Oh, well then you said be --
8 okay -- let's see

9 SPEAKER: (inaudible)

10 MS. PEEL: The first one is issue 1, the
11 option 5, which is including pelagic and bottom
12 longline. Issue 3, which is commercial retention
13 limits, I'm sorry I don't have one on the -- issue 4
14 the definition on the east coast closed area, option
15 two. Then, issue number 5, definition of handline
16 alternative 2, requiring a handline to be connected
17 to a boat. Then, issue 6 which is the possession of
18 billfish on vessels with bottom longline or gillnet
19 then, amend using option 2, which would prohibit or
20 limit those vessels from having a billfish. If you
21 can get rid of the gillnet boats, those five that
22 take sharks, billfish and everything else, as Bob
23 suggested throw that in, do it the same time. Then,
24 issue number 9, alternative 2, require the vessel
25 owner to report, they're got to designate it, 9 time

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1 out of 10, to their captain but a private captain and
2 a charter party boat captain knows it's they're job
3 and they're going to make sure it's done. And that's
4 all, thank you.

5 MODERATOR CHRISTOPHER ROGERS: Thank you,
6 Bob Pride.

7 MR. PRIDE: Issue number 2, I support
8 improved identification of sharks. I'm not sure what
9 the best way to do it is, if this is the only
10 scientifically viable method, I'd like to hear some
11 more public testimony as you go through the process
12 on this if we have easier methods to do it but I
13 certainly support the idea.

14 Number 9, again I think the vessel owner or
15 the permittee would be the one that should have to
16 report, since whoever is going to get the sanctions,
17 the only sanction would be against the permit.

18 MODERATOR CHRISTOPHER ROGERS: Thank you.
19 Henry Ansley or Rom Whitaker?

20 MR. WHITAKER: Issue 8, no action. Issue
21 9, it's got to be the owner.

22 MODERATOR CHRISTOPHER ROGERS: Thank you
23 for your brevity. Henry?

24 MR. ANSLEY: I think it is probably obvious
25 but for anything it's an LE issue, or in your field,

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1 talk to your enforcement people. Get their
2 recommendations.

3 MODERATOR CHRISTOPHER ROGERS: Thank you.
4 Gail Johnson?

5 MS. JOHNSON: You got -- on issue number 1,
6 you are talking about data loggers. What the heck is
7 a data logger?

8 MODERATOR CHRISTOPHER ROGERS: Something
9 like a time depth recorder, something that -- can do
10 a -- a time depth recorder would serve that purpose
11 of showing that there was not at the surface, but at
12 the bottom or vice versa.

13 MS. JOHNSON: So, where you get them -- are
14 they like -- something like another VMS that we have
15 to have, what's the deal? Is it for enforcement,
16 what?

17 MODERATOR CHRISTOPHER ROGERS: Well, the
18 issue is whether the gear which consists of mainline
19 and hooks and gauges is being used as a bottom
20 longline gear or pelagic longline gear, because we do
21 allow a currently bottom longline gear to be deployed
22 in a area close to pelagic longline gear, and so we
23 are trying to differentiate because you cannot
24 necessarily differentiate by looking at the gear on
25 board other than counting numbers of floats or

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1 counting weights. After the trip perhaps, species --
2 composition of the catch might be a way, data loggers
3 would also be a way to determine, obviously after the
4 trip, not before.

5 MS. JOHNSON: Well, what kind of a machine
6 is it? Is it like the things that we used in the
7 experimental fishery that have to be downloaded every
8 night? That's not -- well anyway.

9 Issue 2. The dorsal and anal fin
10 retention, would this be for high seas boats that
11 bring back only the makos (phonetic) and the --
12 makos?

13 MODERATOR CHRISTOPHER ROGERS: That could
14 be a variation on the theme, if it's certain species,
15 where it is not necessary to retain those fins for
16 accurate identification, but that would be getting
17 rather detail, a list of species for which they can
18 be removed, a list for which they can be retained, on
19 the fish.

20 MS. JOHNSON: Okay, then the rest of my
21 comments will be written, but this data logger thing
22 is --

23 MODERATOR CHRISTOPHER ROGERS: Nelson
24 Beideman and Bob McAlliffe?

25 MR. BEIDEMAN: Data loggers. The only

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1 thing that I know about them thus far, is that I was
2 told by the researchers, the gear technicians, and
3 National Marine Fishery Service to stay as far away
4 from them as you possibly can 'cause they cost about
5 \$800 and they don't work. They are not reliable,
6 they don't work. But that aside, where does this
7 problem come from? Is this a problem in front of a
8 computer, you know, trying to figure out, you know,
9 these definitions, or is this problem of enforcement?

10 And if it is a problem of enforcement, I
11 really could use an explanation on it because these
12 boats aren't as difficult to discern apart or the
13 gear to discern apart as different size net fisheries
14 or other type fisheries. I don't understand what --
15 you know, what the base, the foundation of the
16 problem is here, to then go about it.

17 I mean, if it is a serious, critical issue,
18 you know, we can try and get together with the shark
19 guys and say "Hey, you know, we'll trade you some
20 small polly balls for some, you know, your bullet
21 floats, you don't use bullet floats, you know, and
22 then they will be able to see the two boats, you
23 know, from a boat perspective or from the gear
24 perspective, but the way you tell pelagic longline
25 gear or a boat is it's got a bulkage that full of

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1 hundreds and hundreds of, you know, styrofoam bullet
2 floats. You can see it from miles away.

3 Pelagic longline in the water, there is a
4 bob, you know, a bullet float, then there is another
5 bullet float and there is another bullet float and
6 every once in a while, there is a mid or quarter
7 polly ball, and there is either a beeper buoy or a
8 highflier. It's not that difficult. You can tell
9 the gear part if you look at the gear on the deck,
10 it's readily, you know, you can tell it apart. If
11 you look at the boat from a distance, you can tell it
12 apart. If you look at the gear in the water, you can
13 tell it apart. What do we need a data logger for?
14 You know, it's beyond me.

15 Second issue. Again, and Rusty, you might
16 be able to help me with this one. Is issue number 2,
17 an enforcement identification problem or is it
18 fisherman or fish dealer identification problem?

19 MR. HUDSON: Fish dealer usually because of
20 multitude of hands. By the time it's all getting
21 written into a dealer report, the best accuracy comes
22 from the captain, but that stuff is just not looked
23 at, at all.

24 MR. BEIDEMAN: If it's a fish dealer
25 identification problem, then we are running out of

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1 excuses not to have these guys sitting in training
2 sessions. Simple as that. But myself, I would take
3 undermining the quality handling and processing
4 that's done on board these boats before the fish are
5 packed in, as airtight as possible. You know, I
6 would not go to that step if it didn't have to.
7 Because it does undermine quality handling. It does,
8 you know, potentially, take away economics.

9 Also, if you got a process, if you come in
10 and you are unloading your sharks and you're
11 processing while you unload them, you're a pain in
12 the ass at dock side, you know. Offloading, you
13 know, docks are special. Because they have to have
14 access to, you know, the trucks, the ice, the scale
15 et cetera, et cetera. Usually, most docks only one
16 boat can offload at one time. And if you are fooling
17 around with cutting off fins, you know, you got a
18 dock master that's not a very happy, happy customer.

19 Issue 3, yes. Issue 4, we would prefer the
20 fishing viability suggestion that we've offered.

21 Issue 5, there is a some fishermen are
22 doing these, these mini longlines and the definition
23 of hand line needs to be -- needs to include attached
24 to the vessel, not allowed to drift free. Attach to
25 the vessel and has it to remain less than 3 hooks.

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1 And a remark about potential economic
2 impacts, we're worried about potential economic
3 impacts on fishermen that are consciously undermining
4 a conservation program. I don't think so. I don't
5 think so.

6 If we had time, I could tell you we'd sent
7 -- we didn't send, but what about the boats notified
8 us said "Hey, I want to go check this out". We got a
9 hold of HMS, ask all the questions, we got a hold of
10 NIMS enforcement. The boat went out, further than
11 what he had to, to change the definition of longline.
12 He was told you don't have to take your drum off the
13 boat. He took the drum off the boat anyway. He put
14 like, three dozen beeper buoys with their strobe
15 lights on the deck of the boat and went out to do
16 mini, mini longlining. Voluntarily, using two circle
17 hooks per buoy, where many of the many longliners are
18 using anywhere from two to a, you know, who knows how
19 many, we don't know how many -- well, probably at
20 least six. Okay.

21 Now, my notes on that trip say that he
22 caught 18 swordfish allowable, keepable, legal size
23 swordfish in five nights. There were five markers.
24 He had lots and lots of under-size fish, about that's
25 60 or 70 of them in the five nights. His top night

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1 for under-size fish was 14.

2 Okay. And one of the things he remarked to
3 me was about dead swordfish, floating by, okay. Not
4 his, from his lines, because he knows where his lines
5 are et cetera, dead undersize swordfish floating by,
6 okay, just like in the old days.

7 Issue number 6, yes. While overfished,
8 misery loves company. Issue 7, yes. Issue 8, yes.
9 Issue 9, yes.

10 MODERATOR CHRISTOPHER ROGERS: Thank you
11 Nelson. Bob McAuliffe, last comment on this subject.

12 MR. MCAULIFFE: Well, it's a good thing I
13 got in on this one. Issue 5, you are looking at the
14 major make up of the Caribbean fishery. Again, why
15 we need to be separated out and have a whole separate
16 set of rules. Most HMS fisherman use 4 to 6 separate
17 handlines on floats, set at various steps according
18 to what they are looking for. This system is also
19 used for bottom fishing, refishing. It also is the
20 primary and the only way that the Chairman of the
21 Caribbean Fisheries Management Council fishes. So,
22 if he was here, he would be screaming bloody murder,
23 because it is the only way he makes a living, by
24 using separate floating handlines for deep water
25 snapper.

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1 We do catch shark, swordfish and tuna this
2 way. Not always targeting those fish, but it is the
3 primary fishery in the Caribbean now, because of the
4 destruction of the trap fishery by hurricanes and now
5 the local government wanting and NIMS wanting to ban
6 net fishing. Now, if you start shutting this down,
7 you might as well put every fisherman in the
8 Caribbean on some sort of subsidy.

9 So again, as I've been screaming for years
10 coming up here, the Caribbean needs to be separated
11 out, we need to have a complete quota system to
12 ourselves, complete rules to ourselves and we're even
13 though this goes against my primary function here as
14 a member of the Bluewater, we are not doing -- what
15 their -- problems they are having in the gulf stream
16 with guys using mini longlines.

17 Even though the snapper rigs are in fact
18 mini longlines, you've got 12 to 36 hooks on each
19 one. But they are targeting snapper in upwards of
20 200 fathoms. But it is also one of the main ways
21 that swordfish are caught because they go to eat the
22 snapper on the rigs and get hooked.

23 MODERATOR CHRISTOPHER ROGERS: Bob, they're
24 fishing on the bottom.

25 MR. MCAULIFFE: They are fishing on the

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1 bottom for snapper. But when they are fishing highly
2 migratory, they are fishing the surface, using the
3 same rig, they float with a handline, and the boats
4 will use between 4 and 6 rigs, because that's all I
5 can keep track of. It's usually 1 to 3 men in an
6 open boat from 15 to 25 feet and again we need to sit
7 down with NIMPS and specifically go over the fishery
8 methods of the Caribbean so that we are not
9 constantly in conflict with the rest of the country.

10 We are different, we have to be
11 acknowledged that we are different, and we need the
12 support of the entire nation in this. And we can
13 also help get your data up on tuna because it is a
14 very lucrative tuna fishery. We're capable of
15 catching any, virtually as much tuna as a dozen
16 longliners. We can get your quotas up. But we
17 should be designated with separate quotas that do not
18 conflict with the rest of the country. Even though
19 this goes against all the ways you operate. One of
20 these days, you're going to acknowledge this and sit
21 down with us and work this out.

22 MODEARTOR CHRISTOPHER ROGERS: Thank you,
23 Bob. Rusty Hudson, last comment, and we'll take a
24 five minute break since many of you have already
25 taken your refreshments and will visit with Louis

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1 Daniel who will present the North Carolina petition
2 for rule making. So Rusty, last comment.

3 MR. HUDSON: Rusty Hudson, Directed Shark,
4 back to relatively minor changes based on Sonja's
5 comment a moment ago, about the deep water complex
6 it's become almost a major issue in my mind now. One
7 is the fact that you have these smooth dogfish
8 included their which is a near shore animal as far as
9 it's greatest population that's accessible. Second -
10 - and I would like to see a removed out especially in
11 light of the fact that Mid Atlantic Council is taking
12 a lead on trying to develop a management plan for
13 that animal and there is a significant number of
14 those animals landed in North Carolina, Virginia, et
15 cetera.

16 Now, with the other deep-water sharks, I
17 believe you're still planning on collecting
18 information on them as much as you could. I would
19 like to see some of the species identified as to what
20 are some of the by-catch problems and or animals that
21 are landed by species and get an idea of the volume
22 of landings. That would be informative. I am
23 terribly against any expansion, the prohibition of
24 any animal until some science is done and some
25 validation of a need to prohibit it is established

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1 because that's what got me extremely frustrated over
2 the 14 animals added back in 1999, simply because you
3 added animals because of unknown statuses, but in
4 reality there is a lot that we've known about them
5 from an industry point of view that didn't seem to be
6 considered, so that's my major concern now.

7 MODERATOR CHRISTOPHER ROGERS: Thank you
8 all, let's take five minutes break or so and then
9 we'll hear from colleagues in North Carolina
10 regarding a petition for rule making.

11 (Tape interruption)

12 MR. DANIELS: Allowable quotas. I am aware
13 of no methodology that can look at a closed area, and
14 indicate that that methodology reduces the track or
15 increases the track by some degree. So, I need to be
16 able to see the rebuilding projections methodology,
17 then incorporated that North Carolina closure, in
18 order to -- in order to indicate that we can't just
19 back off of this, and need a new assessment in order
20 to do it, because I don't -- I think that's a
21 problem.

22 I also think it's critical, and I had this
23 in my notes to look at -- F over FMSY estimates, and
24 B over BMSY estimates. But then, I located them in
25 the document that we were looking at yesterday. And

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1 if you've got a copy of the pre-draft handy, and you
2 look on page 173, which was the table that we were
3 looking at yesterday for finetooth sharks, we got a
4 whole lot more confidence in the -- in the finetooth
5 assessment then we do in the sandbar assessment,
6 based on the numbers here. I mean, you've got a
7 current fishing mortality rate that ranges from .0001
8 to 0.7, four orders of magnitude variation in the F
9 current estimates, all right, that's -- that's less
10 than a one-percentage exploitation rate up to a
11 fifty-percentage exploitation rate, all right. But
12 there is no indication in the assessment or in here
13 as to what -- or is there equal probabilities that it
14 could be .0001 as .7, and how do we look at -- we
15 need to have some type of a point estimate to -- in
16 order to get some handle on what the fish -- current
17 fishing mortality rate is.

18 Likewise, the maximum fishing mortality
19 threshold, the FMSYs, range from .05 to .46. So,
20 just like with finetooth sharks there is -- it looks
21 to me, based on the point estimates of the F rates,
22 and the ranges of the F rates, there is a greater
23 probability that you not over fishing sandbars than
24 there is that you are over fishing sandbars, based on
25 the analysis, based on the distribution of the values

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1 there. So, without having the point estimates, and
2 knowing how that -- how it was determined that
3 sandbars were indeed over fishing then, I am not -- I
4 can't really speak to it any further.

5 I also point out the fact that the biomass
6 estimates range from 1000 units, I guess their metric
7 tons, to 4.86 times 10 to the eighth. So, that's
8 eight orders of magnitude difference between -- or
9 four, or five orders of magnitude difference in the
10 ranges of the biomass assessments. So, the first
11 thing you learn when you deal with these things at
12 the sit-out level, and at the council level is that
13 when you have ranges that disparage it, that that it
14 just indicates that there is a huge amount of
15 uncertainty in your point estimates.

16 Now, I'm not saying that we don't need to
17 do something to protect sandbar sharks, and juvenile
18 sharks, and dusky sharks, all right. And I'm not
19 trying to make that argument here. What I am trying
20 to say is -- is that the agency has been trying to
21 get the states involved, to cooperate in protecting
22 juvenile sharks. And North Carolina has been --
23 played a yeoman's effort in closing the state waters,
24 in having observer on the boats, all right. And not
25 a lot of other states have done that, all right. And

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1 in fact, Virginia to our north, has a 7000 pound --
2 tripple in a HAPC, and that was never even
3 considered, or might have been considered, but we
4 don't like to use the 306 authority, so it creates a
5 real problem there for us in terms of the federal
6 management program.

7 But there has got to be a way that we could
8 manage this resource, be it reducing the quotas, or
9 whatever needs to be done, in order to fairly, and
10 equitably distribute the opportunities to the fishery
11 equally across all the states. And so, that's the
12 intent and the purpose behind the petition, and I
13 would certainly hope that everybody could support it
14 to at least move forward, and let's try to do
15 something, so that we can rapidly fix this problem to
16 give our guys access to this upcoming January season
17 that they have already lost, and the critical season.

18 I think if we wait for another assessment
19 to be done, and try to figure out all the things, I
20 think we can make the decision that an additional
21 five months out in 15 fathoms, statewide in North
22 Carolina outweighs the small fishery in January. So,
23 I'll be happy to answer any questions that anybody
24 may have. I appreciate your indulgence, I know it's
25 late in the meeting, and everybody is tired of

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1 hearing all this mess, but I do appreciate the
2 opportunity to present it to you all, and hopefully
3 as we move forward with this, we can move rapidly,
4 and take care of a situation that I don't think was
5 intentional, but have resulted in some real hardship
6 to the North Carolina shark fishermen.

7 MORDERATOR CHRISTOPHER ROGERS: Okay, thank
8 you for that presentation, Louis. Just as a matter
9 of procedure when the agency receives a petition for
10 rule making we evaluate it for its completeness,
11 under the administrative procedure's act. If we deem
12 it to be complete and appropriate, we normally would
13 publish a notice of receipt, and request public
14 comment on the petition. And then, after that public
15 comment phase, make a determination as to whether
16 rule making is in fact warranted, and what the agency
17 would intend to do to proceed with that rule making.

18 Now, obviously, let me intersect with our
19 plan consolidation process, since we were evaluating
20 closed areas anyway in this process. But as Louis
21 did point out, and I don't know that we'll really
22 have time to get into a technical discussion, but
23 there was a tie-in between the closed area, and the
24 quota setting process, so that may complicate things
25 relative to putting it into this document prior to

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1 the next doc assessments. It's not completely ruled
2 out, but may have some implications there, so we're
3 all behind on our agenda, but we could have a few
4 questions for Louis. Nelson Beideman?

5 MR. BEIDEMAN: A comment on it. For about
6 twenty years now, I've been involved, you know, one
7 way or another with the shark discussions. You know,
8 back before there was a HMS, or a panel and division,
9 you know, I was in the mid-Atlantic council, and
10 since back then, and all through the time with the
11 HMS panel, one of the most primary goals has been to
12 close pupping grounds, pupping, spawning grounds, and
13 the blockade has always been that, well, they're in
14 state waters, and now you got to step them forward.

15 I think NIMPS should embrace this, and work
16 toward whatever would take to expand this. I mean
17 this has been the goal, you know, that I've heard the
18 most primary thing for twenty years. And you know, I
19 really, really think that if it can be included in
20 this rulemaking, then it should be. The economic
21 impact of what's taking place down there is, you
22 know, very drastic on a few handfuls of vessels.

23 In my fishery, it's drastic on a couple
24 handfuls of vessels that are cross over. They do
25 shark fishing, you know, for maybe four months, and

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1 then pelagic longlining for maybe eight months.
2 Well, those boats are now tied to the dock year
3 around because they can't get through that, you know,
4 four month period, we got no alternative, and, you
5 know, the crews just dry up, the captains walk away,
6 and all of a sudden you have got a boat, you know,
7 tied to the dock that's not helping anything.

8 MODERATOR CHRISTOPHER ROGERS: Okay, Bob
9 Heuter?

10 MR. HEUTER: Thank you, Chris. Louis and
11 I've talked about this issue, so I don't think
12 anything that I am going to say would surprise him
13 except that I have to say I am disappointed in his
14 invocation of the Johnny Cockran defense about the
15 stock assessment which is to throw doubt into the
16 assessment. The assessment's been completed, it's
17 been peer reviewed and these animals are, you know,
18 have been overfished. I don't think -- I haven't
19 talked to a fisherman in five years who at least
20 doesn't agree with that overall conclusion, so I
21 would hate to see us go there.

22 Any change to the current management scheme
23 at this point of the game, I think must not do --
24 must not do two things. It must not increase
25 mortality, not of just juveniles, but of the large

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1 juveniles, of especially of sandbar sharks, and the
2 other large coastals, but in particular sandbars.
3 There is something of a -- I think a misperception
4 about the value of protecting nursery grounds,
5 especially in terms of sharks, I am speaking for
6 that. It's important to have protection of those
7 nursery grounds from a habitat stand point, so that
8 there is a place for sharks to reproduce, so that the
9 grounds themselves, the areas need protection.

10 But in terms of where fishing mortality has
11 its greatest effect in cutting the legs out from
12 underneath the stock, it's not the young juveniles,
13 it's the older ones. And this is kind of true for
14 many fish species, so I'm sure this won't be a
15 surprise to most of you. The very young fish can
16 sustain a higher fishing mortality because they have a
17 higher natural mortality. So, in a sense fishing
18 mortality is just substituted for natural mortality.
19 In the case of a sandbar shark it takes fifteen years
20 to mature. If you protect the young animals between
21 the ages of zero and ten, and grow all those animals
22 how to survive naturally through that, but then you
23 don't protect the 11 to 15 year olds, before they
24 ever had the chance to reproduce. That through stage
25 based modeling, that people like Carol Bustergiest

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1 (phonetic) have done, is that has the greatest effect
2 on depleting the population, so you must not make a
3 change that will essentially move the fishery to
4 target in a greater way these large subadult
5 juveniles.

6 The other thing that the any action must
7 not do at this point is increase interactions with
8 dusky sharks of any size because duskys are in a much
9 more precarious situation then these other species.
10 So, I don't -- I don't oppose the petition. It --
11 from a allocation stand point it does sound unfair,
12 but I don't generally insert myself in allocation
13 questions, unless it has some ramifications for the
14 stock, and I can give you a biological opinion, but I
15 would say that if the change is made, that it is of
16 paramount importance that data be collected after
17 this change is made to look at the affects in the
18 fisheries, see what happens, because I think a lot of
19 what Louis is drawing from is -- are data base --
20 data bases that are over ten years old at this point,
21 and the composition of the stock has changed a lot,
22 in those ten years.

23 So, I would say that -- that we would need
24 a very intensive data collection system to see what
25 the effect is, and I would argue for a hundred

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1 percent observer coverage -- mandatory observer
2 coverage of those boats that would be going out there
3 just to see what's being brought about, and I think
4 that's it. Thank you.

5 MODERATOR CHRISTOPHER ROGERS: Thank you.
6 Sonja?

7 MS. FORDHAM: Thank you, as you might
8 imagined I agree with a lot of what Bob said. I
9 wanted to start with just a word of caution about
10 sandbar sharks, and remind people that although they
11 are no longer considered overfished they far from
12 rebuilt, and if we look at the entire large coastal
13 complex that is both overfished, and experience --
14 experiencing overfishing, and certainly the biology
15 warrants a precautionary approach. We did -- my
16 organization did strongly support this closure when
17 it was proposed. Our primary basis for support was
18 protection and reduction of by-catch of dusky sharks,
19 which are seriously depleted, and perhaps candidates
20 for endangered species listing.

21 We are also concerned about what Bob was
22 talking about protecting the subadults of sandbar
23 sharks. I think that clearly we need an analysis of
24 the current closed areas, and what's happening, and
25 some sort of estimation of what changes, what effects

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1 the changes would have, so, and I assume that you
2 will do that analysis -- and, particularly focused on
3 dusky sharks.

4 I did want to add that I think this is a
5 just as a way to worm in on my concerns under other
6 topics here. I think it's a another case where we
7 would be in a better place right now, if some
8 requested actions on sharks had been taken by NIMPS a
9 while ago, and in this case it seems like if there is
10 going to be some -- if there needs to be some
11 revision of the closed areas it might involve a trade
12 off with state waters, and yet we don't have any real
13 formal cooperation with ASMFC. ASMFC really hasn't
14 begun to work on their part of the shark recovery
15 plan, and we haven't had a lot of work from NIMPS on
16 really encouraging the states to step up and
17 implement compatible regulations in state waters, so
18 we're again facing a bit of a mess because that
19 homework hasn't been done.

20 And then, my last issue on this would just
21 be -- I was hoping to get an update on the dusky
22 shark assessment, or just species-specific assessment
23 that I think Enrique was doing, and the pre-draft it
24 says it would be done by the end of 2004, so we are
25 looking for the update on that, and maybe that can

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1 shed some light on Louis's petition, thank you.

2 MODERATOR CHRISTOPHER ROGERS: Thank you.
3 Carol, did you have any update on Enrique's progress?

4 SPEAKER: I haven't heard where Enrique is
5 on that assessment. I know he told me it was going
6 to be the end of 2004, but nothing yet.

7 MODERATOR CHRISTOPHER ROGERS: So, Louis
8 had his hand up, and then Rusty and Mike.

9 MR. DANIELS: Yes, and I agree with
10 everything that Bob and Sonja have said with the --
11 maybe with the exception of the Johnny Cockran thing.
12 I'd rather -- but that's better than that guy that
13 defended Scott Peterson so that's -- that's good. I
14 am not trying to say that the assessment's bad, I
15 recognize that it's been peer reviewed, all right.
16 What I am -- what I was -- the point I was trying to
17 make is in the document, you can't make a
18 determination based on these wide ranges. And so I
19 can't tell you, you know, I was told it's a sixty
20 percentage reduction, show me the numbers, I need to
21 see the F current, and the best point estimates to
22 these values, and they're such a broad range that you
23 could make any conclusion based on the table, so I
24 agree.

25 I also agree that we need to work closely

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1 with the Atlantic States Marine Fisheries Commission.
2 That would help all of us around this table out. I
3 mean, if we can reduce the harvest of the juvenile
4 fish in state waters coast wide, then our quotas
5 would go up, and our directed shark fishery would be
6 healthier, and they'd be able to harvest more fish.
7 I agree with everything they've said, and plan to
8 work with them to try to get this petition through to
9 a good way.

10 MODERATOR CHRISTOPHER ROGERS: Thank you,
11 Louis. Rusty, then Mike Leech, then Dewey, and then
12 Dick.

13 MR. HUDSON: Rusty Hudson, Directed Shark.
14 First off, it's my belief that sandbars, in
15 particular, are little bit closer to being rebuilt
16 than some people may believe. The science is being
17 delayed once again, so I can't, you know, see us get
18 in there and figure that all out. Sandbar and
19 blacktips the only to large coastal sharks -- have
20 the twenty two large coastal that have been
21 individually assessed, and for the first time in a
22 long time, we had really accomplished something in
23 the 2002 workshop by gaining an open population
24 approach, but we must remember that this is a
25 straddling stock that we share with probably the

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1 third biggest shark producing nation in the world and
2 that is Mexico.

3 Further more, I believe that NIMPS had
4 employed some scientists Romano, Museq and Burgess
5 (phonetic) to put together the August 2001 dusky
6 analysis which identified a proliferation of dusky
7 pups that had been occurring all along this mid-
8 Atlantic bite in the early '90s before the management
9 plan started, and I would assume there was six months
10 shut down each year ever since then -- since '93 when
11 the plan started that that population's probably only
12 grown, and I think we've had a lot of encounters with
13 duskys previously, when they were legal, and then the
14 fishermen had -- have modified their behavior and
15 fishing techniques in order to avoid some of these
16 interactions with now prohibited species like duskys.

17 When I've my discussions with Enrique
18 recently through the internet, he indicated that he
19 is getting very close to finishing up the dusky
20 assessment which will be the third large coastal
21 shark, out of twenty two species, in twelve years
22 plus, that has been individually assessed. That's a
23 good start.

24 But I want to remind everybody the dusky
25 shark is also a straddling stock not only with

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1 Mexico, and a highly desired fin in the Asian
2 countries, but also with the high sea fleets, and our
3 pelagic fishermen have been closed off since 2001 in
4 the East Coast of Florida for instance, most of
5 Carolina and whatever. In various ways it has
6 probably helped the adult duskys that had to have
7 been there all along to produce a lot of these pups
8 that had already been there.

9 Jack Casey (phonetic) had cited back in the
10 early '80s that he had felt like it was getting a
11 little tougher to see some of these bigger duskys.
12 Now, I do know Venezuela was blowing a lot of duskys
13 out of the water, and just fishing them real hard,
14 and now there is a pelagic fleet, and that was all
15 back in the late '80s, early '90s, and stuff, and I
16 honestly believe that sometimes we may still have a
17 element of demographic extremes.

18 A oriental gentleman named Chen (phonetic)
19 did an analysis on Taiwanese sandbar, and his age to
20 maturity is a whole lot lower than ours, almost by a
21 third to half or more. And that bothers me when I
22 keep seeing us push this 15 years especially in
23 hindsight of what Jack Museq and certain
24 environmental communities had done in '94 of pushing
25 this 29 year maturity age, and it's all in your early

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1 books, and then finally Jack got up in the '96
2 workshop, and said that obviously that animal had
3 been loused up by a tetracycline, tagging rendered it
4 immature, that it was more in like the 15 years
5 whatever that they were working with. That's fine, I
6 still believe it's eight to 13 years, it's just my
7 own belief.

8 I had asked for a run, they had promised me
9 a run of a ten years to maturity, it never occurred,
10 that I am knowledgeable of, and I still scratch my
11 head about the dusky. And I still want individual
12 assessments even if it's a cursory examination of the
13 other 19. And once the dusky shark assessment's
14 done, it doesn't have to be detailed, but there is a
15 lot of age and growth studies out there, so a few
16 scalloped hammerheads, and various others lemons,
17 bulls. I will give you for instance about the bull,
18 the Mexicans had finished a assessment that was
19 published on our website, and I am going to -- I
20 can't remember the acronym for that group, but they
21 had indicated an age to maturity of bullsharks, half
22 of what our scientists are utilizing. And it is a
23 quite common inshore species. If you go, and you
24 make a set for Atlantic sharpnose off the northern
25 Gulf Coast, and leave your line a little too long,

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1 and the blacktip start eating the sharpnose. If you
2 leave it a little bit too long, or after that the
3 bullsharks start eating the blacktips. It's just the
4 pecking order. And one of the greatest -- I guess,
5 mortalities to the lot of the juvenile sharks are
6 obviously adult sharks, and, so a lot of the things
7 that we are needing to do is to decide if we want
8 keep on compromising the commercial shark fishery, in
9 particular people like in the North Carolina area,
10 that have been exposed to not only the impacts, you
11 know, from the closure, but a variety of other things
12 that are closing us down earlier, that's even taking
13 away more opportunity for economic ability to make a
14 profit.

15 Profit margins is life blood of any
16 business, especially a small business, it only takes
17 a small percentage of loss of total income to be able
18 to find yourself compromised into bankruptcy. And
19 believe me it causes a lot of depression, a lot of
20 emotional discord in families, and situations on the
21 sea. And so, I would like to see you all take a
22 little bit greater interest in our fishermen, and I
23 would like to see this science get improved, and I
24 am, with some good advise from Carol on my approach
25 to a commercial industry assessment of the 22 large

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1 coastal sharks, going to trying to get an abstract,
2 present it for the AS, they have extended the
3 deadline, take the first, or at least they can go
4 home, and get it hammered out 300 words, or less, and
5 then I have to be able to at least rationalize the
6 industry's feeling about these 22 animals, and as to
7 the importance, or the non-importance on a commercial
8 level of these animals particularly since you folded
9 several of them in a prohibited species categories
10 that I felt like that was unjustified back in '99,
11 but I will deal with that in the assessment.

12 And if we can fast track the science
13 because quite honestly the way I felt that Dr.
14 Hoghearth (phonetic) had indicated, and that we had
15 been led to believe from the very beginning with the
16 shark management plan when it was formulated that we
17 would have assessments every two to three years. Bob
18 Heuter, Sonja Fordham, Glenn Ulrich, Willy Etheridge,
19 myself, Glenn Hopkins all signed off on a document
20 that we submitted to this body, requesting a 2004
21 large coastal shark assessment. We weren't allowed
22 to participate in the small coastal shark assessments
23 except for a cursory meeting that I attended with MOG
24 marine that sort of led to Collin's efforts.

25 There's a lot of work that can be done to

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1 improve things in a very rapid fashion. If we are
2 willing to be honest, the consortium of four
3 scientists, MOG marine, VIMS, University of Florida,
4 and Great Calles outfit out in California have been
5 able to have financing from this body, National
6 Marine Fisheries Service, each year to try to do some
7 studies.

8 I think that could be used as a forum to
9 some fast tracking on some other assessments that
10 Enrique's already told me. I don't have enough time.
11 I don't have enough manpower. I don't have enough
12 money. And with your budget cuts, I'm going to keep
13 hearing that.

14 John Hoyes (phonetic) working with the 30
15 year time series Dr. Frank Schwartz. It's up there
16 with Lisa and Nancy at the APEC -- I guess, he is
17 some place in that region, but they also cannot even
18 update their shark taggers. Something I asked you
19 Chris, if you could get the \$3000 it would take to be
20 able to update those shark tagger results, either on
21 the web, so I can copy them or be able to get the
22 print outs, like you all used to do. But you know,
23 that sort fell on a back burner here the last several
24 years.

25 That's important information, and the

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1 fishermen -- what few of us there are, the 65 boats
2 or the 94 boats, depending on how you want to look at
3 it, one or two trip limits per year, as a minimum
4 starting point. And then however, you want to figure
5 the high liners, we having to become more
6 environmentally friendly, more scientifically minded
7 and that was actually the original intention of the
8 management plan that was been formulated across those
9 four years.

10 And I believe that we can get to that
11 point, so that, whether we are 100 percent coverage,
12 50 percent coverage or just the 5 percent, that we've
13 been trying to accomplish here, which we haven't
14 really accomplished, except in the gillnet fleet,
15 that we can come away with some real answers here and
16 some real confidence, because we unilaterally did all
17 this.

18 And just like, Sonja pointed out, the
19 Mexican management is festering, is like an ugly sore
20 -- and as long as, things like dusky sharks where we
21 tag them off the mid-Atlantic. And if you figure one
22 year liberty, at least 16, if not above 20 percent of
23 all the dusky shark tag recoveries have come from
24 Mexico. And that doesn't mean that all of them were
25 sent to us, but the fact is, it existed.

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1 And I would like to see us be able to get a
2 better cooperation on these straddling stocks.
3 'Cause I believe, is real important, especially, if
4 we're going to get into the other semantics of some
5 of the other animals that we do know, are being
6 impacted by these international high sea fleets, as
7 well as other countries. And so, I guess, without
8 laboring any points I think you all know the answer
9 of the question. It's just a matter of if you want
10 to help the industry or not.

11 MODERATOR CHRISTOPHER ROGERS: Okay. We've
12 got 45 minutes before adjournment. So, a few brief
13 comments on sharks and then we have an enforcement
14 presentation, Dewey.

15 Dewey, -- Mike. I'm sorry, I think I
16 reversed the order there. Dewey, Mike and, then Dick
17 Stone and then we'll move to enforcement.

18 MR. HEMILRIGHT: First of all, I want to
19 thank the state of North Carolina, for this petition.
20 I got a little different, the same perspective take
21 on this petition. This closed area is greatly
22 affected, the way I've been fishing in the past and I
23 might not quite be as kind as some of the exposures a
24 state gives on this issue.

25 When I look at this closed area, I

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1 participated and went to a 2002 stock assessment. It
2 was mind boggling for me at best, because there was a
3 lot to take in. When I came back and I saw that the
4 sandbars were over -- were not overfished, but
5 overfishing them was occurring, I didn't realize or I
6 didn't think that I would be shut out at the fishery.

7 If the deal of this is really to protect
8 and I don't believe it is, to protect juvenile
9 sandbars and a prohibited species that's being
10 classified as the dusky, what good does it do to
11 protect this shark and close me out in federal waters
12 of North Carolina, when he can swim to Virginia? And
13 they have over 300,000 pounds of unclassified sharks,
14 over 13,000 pounds, they're calling duskys. What good
15 does it do to protect it there, when it swims up in
16 state waters and it is wide open?

17 I believe that National Marine Fisheries
18 knows that there's active large coastal shark fishing
19 in the state of Virginia, in their waters. Because
20 that's the reason, why they took in the second
21 trimester and added all -- the most weight from the
22 northern zone to the second trimester. It's not
23 being landed by direct shark fishermen. It's being
24 landed by state water fishermen in Virginia. What
25 are they catching? Aren't they part of the

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1 rebuilding schedule? Don't we want to rebuild this
2 species all over its whole range? I also, would
3 change its name from mid-Atlantic closure to a North
4 Carolina closure. It's not mid-Atlantic closure it's
5 a closure off North Carolina.

6 And if, National Marine Fisheries doesn't
7 feel like it needs to address this petition, I would
8 ask the state of North Carolina to open its state
9 waters to the same type of regulations that the state
10 of Virginia has, because we have participated in this
11 fishery. If the shark isn't there, we don't -- the
12 management's not there, the able-to-catch is not
13 there.

14 I just feel like, we've been unfairly
15 picked on -- for years we took -- voluntarily took
16 observers. You took that voluntary observers data
17 and we could go out and target that dusky. Then, you
18 turn around, and use it against us, when we can't
19 catch that dusky. So, it's like a catch-22
20 situation, but there is more here that I'll love to
21 expand on, but it's probably best I shut up.

22 But I would ask National Marine Fisheries
23 to look at these unclassified landings of sharks. If
24 you're going to shut down one fishery who
25 participated and have helped you damn sure should

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1 have looked at all sources of mortality. And you
2 know, it's there, because, you put landings to make
3 up for it. So, then you have, I mean, this is your
4 management plan. So, you have the authority over the
5 states, whether you want it or don't want it. And I
6 thank you.

7 MODERATOR CHRISTOPHER ROGERS: Thank you.
8 Again, I ask the speakers to be brief. We have Mike,
9 Dick and then Willy and then we'll move on.

10 MR. LEECH: I'll be very brief. I just
11 have one technical question. If this petition was --
12 where did he go?

13 MR. DANIELS: I'm right here. Sorry.

14 MR. LEECH: My question is, if this
15 petition was granted, how would the sharks be
16 harvested, would it be gillnets or bottom longlines
17 or what? That's my only question.

18 MR. DANIELS: It's a bottom longline
19 fishery.

20 MODERATOR CHRISTOPHER ROGERS: Dick Stone,
21 Willy Etheridge.

22 MR. STONE: Okay. Chris, I'm going to take
23 off my NMMA hat and put on my North Carolina hat for
24 a little while, simply because I haven't discussed
25 this with NMMA, so I do strongly support the petition

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1 and I do it for a number of reasons.

2 One, I think that, it is going to help
3 address a lot of the things that we heard Bob and
4 Sonja talk about. I mean, and two, listening to what
5 Dewey has said too, it seems to me that there's a big
6 black hole here, you know, just to the north. And
7 here, you've got a state that's been cooperative and
8 been collecting good information and yet they're
9 getting penalized. And it's not so much even the
10 penalty that's the concern, is it's not bringing in
11 the other, perhaps much higher sources of mortality
12 that might be occurring, thank you. Also, I get to
13 address my other issue at the public comment period,
14 is that okay?

15 MODERATOR CHRISTOPHER ROGERS: Willy, on
16 sharks.

17 MR. ETHERIDGE: I'm not trying to piss
18 anybody off, but I just made a few quick notes. You
19 know, if you want them to be overfished, you can take
20 your figures and they could be, they may be, or they
21 possibly could be overfished. And you also -- and if
22 you want them to be overfished, and I don't there is
23 anybody here, but maybe me and Dewey that want them
24 to be over fished, you could take the same figures
25 and say that they're not overfished, but are under

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1 utilized. So, you know, and your scientists, the
2 people that have the education and are put in a
3 position to do this, know that. But they still took
4 the extreme step, did what they did, and they did
5 against one state. And that's just terrible.

6 Sonja's organization would support a total
7 closure. So, when she says she supported this
8 closure off North Carolina, I don't think anybody was
9 upset about that. She supported a total closure on
10 the dogfish and she would do it on the shark fishery,
11 whatever it is.

12 Bob Hueter and Sonja Fordham don't have any
13 obligation to any user group. But you people do.
14 And you have an obligation to the state of North
15 Carolina and its citizens, that you have the same
16 obligation to every other state. And you singled out
17 us and I personally -- I take it very personal. I
18 really think that lot of it was personally directed
19 at me, because of my funding the lawsuits, helping
20 fund the lawsuits, that we have won. And if we've
21 ever had a chance to sue something and win it, it's
22 this, it's right now. We -- I still have not been
23 able to pay my bill -- all of my bills to the lawyers
24 for the last lawsuits and I don't want to go that
25 way.

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1 I know it doesn't take any money out of
2 your pocket, Chris. It doesn't take any money out of
3 any of your people's pocket, but it takes lot of
4 money out of my pocket. And I don't want to have to
5 go there. But I can guarantee you one thing. If you
6 could get this in front of any honest judge, and he
7 sees what you have done, just singling out one group
8 of people like this, he would be very upset about it.
9 He probably wouldn't be as upset as I am. He wouldn't
10 be as upset as Dewey is. But he would be upset about
11 it, because, it's a terrible injustice that you've
12 done to us -- to the State of North Carolina, shut
13 down its state waters, one of the very first states
14 that did it. It hurt us on occasions -- it hurt us,
15 because fishermen fish on those state waters. We
16 didn't get upset about it; we didn't go crazy about
17 it. You wanted observers on boats. All of our boats
18 were available for observers.

19 People like Dewey worked hand in -- just
20 hand in hand with the people. I remember when
21 Michael Bailey (phonetic) came down there, I mean, it
22 was like old homecoming. You took that information
23 and you didn't do anything to help us. You just --
24 it was just used to hurt us. And again, I'm going to
25 go back to your obligation to us. You have an

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1 obligation to us. And I just hope that you look at
2 this petition from North Carolina and act on it.

3 Dewey went in front of a part of the North
4 Carolina general assembly and all of the people that
5 were there, the elected officials were there, they
6 could not believe that something like this was
7 happening in North Carolina. And I believe that, if
8 we take it to our federal elected officials, they
9 would look at it the same way. And I don't believe
10 in going that way neither. But if we have to, that's
11 the way I am going to go, thank you.

12 MODERATOR CHRISTOPHER ROGERS: Thank you.
13 Sonja, last comment.

14 MS. FORDHAM: Thank you, Mr. Chairman. Now
15 I'm upset. Just for the record, the Ocean
16 Conservancy has never supported a shut down of the
17 shark -- commercial shark fishery. And I think, we
18 could save a lot of time, if the chair would work to
19 keep the comments from AP on the issue and not keep
20 away from personal attacks on other members, thanks.

21 MODERATOR CHRISTOPHER ROGERS: Yes.
22 Please, prevent, or refrain from personal
23 attributions. Let's talk about the issues and the
24 science and -- it's true Willy, we do have an
25 obligation to the fishing user groups, whether they

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1 would be commercial or recreational, well, we also
2 have an obligation to the resource. And it's
3 sometimes a difficult balance.

4 Okay, regarding the public comment period.
5 How many folks do we have from the public who wish to
6 make a comment? I know we had one from the spear
7 fishing community. If that's the extent of interest
8 in the public comment period, why don't we go ahead
9 and take that public comment quickly. I know Dick
10 Stone had, as an AP member, you don't need to be a
11 member of the public, on this issue, had a question
12 on a filling at sea issue. And we also had to
13 request to talk about swordfish fishery and try to
14 meet our quota. But we also have a presentation by
15 enforcement that I don't think anybody wanted to
16 miss. So, why don't we take the public comment with
17 respect to spear fishing and then the enforcement
18 presentation, and then, those other issues. Thank
19 you -- could you just state your name and
20 affiliation, for the record.

21 MR. MCSHERRY: Yes. Good afternoon.
22 Thomas McSherry (phonetic), spear fishermen, out of
23 New York. Thanks for the opportunity to speak. At
24 present with the allowable gear situation as it is
25 disallowing banned powered spear guns. There's a

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1 relatively small group of us, 600 in total, who if
2 they would like to hunt tuna, need to travel to, you
3 know, far and wide.

4 And myself, I've been to Vanuatu,
5 Micronesia, Australia, Le Paz, all through Baha,
6 mainland Mexico. As I said, the group is about 600
7 deep. And probably out of that group, I think that
8 there is probably only 50 members, who are competent,
9 have the desire to do this and the resources to do
10 it, if in fact you were opened up here.

11 Many of the people, out of that 50, who
12 would be interested live in California as well, where
13 they are allowed to do this and they do it frequently
14 there. So, for all intents and purposes, they might
15 not travel here, because the fishery is available to
16 them in their own backyard.

17 I think, maybe what I should do is just to
18 address the few of the concerns that I have, because
19 it seems largely that the body is in agreement that
20 they would like to allow this, as allowable gear.
21 But the two concerns that I basically heard were
22 safety. And by safety, I can -- without that being
23 articulated to me, I can only assume that they may be
24 afraid of both traffic outside of the boat that you
25 are on or maybe they don't understand that in the

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1 clarity of water that we're talking about for
2 migratory tuna here in the east coast, this is not an
3 activity that's going to happen in 10-foot visibility
4 water. It's going to be off shore -- where I live in
5 New York, it's going to be out at the Canyon, where
6 the visibility is, you know, plus a 100 feet,
7 typically.

8 And it says, as if you are spear fishing in
9 this room, nobody gets shot, the larger the species,
10 the more organized and controlled that environment
11 is. You might have one guy -- you might have two
12 guys in the water, being watched over by three or
13 four, on a boat. So, as far as the -- you know, the
14 trolling safety issues, it's not only the free diver,
15 but it's the boats responsibility to watch their
16 heads and to make sure that they are within proximity
17 to that -- to those one or two divers, so that
18 nothing is going to happen to them. Also, we're
19 going to be, you know, 60 to 80 miles off shore and
20 although every now and then there is a little bit of
21 commotion out at the Canyon, typically, you know,
22 boats that are not within, you know, a quarter of a
23 mile of each other.

24 So, I've been on quite few of these trips.
25 And the people who are interested in this type of

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1 sport are not cowboys. They are not shooting each
2 other in the leg. It's a tight-knit group. And they
3 are world-class athletes, breath holds of over four
4 minutes. People who can free dive and hold their
5 breaths to over a 100 feet and stay there for three
6 minutes. Novices are not going to be running down to
7 Wal-mart buying a spear gun, hopping in there and
8 shooting bluefin tuna. It doesn't work like that.

9 If anyone has any questions regarding, you
10 know, what the mechanism, how this will work out, you
11 know, what the logistics are -- involves that I may
12 clarify it for you. I'm willing to do so.

13 MODERATOR CHRISTOPHER ROGERS: I know, we
14 had a formal presentation back in 1998. I don't
15 imagine the technology or the issues have changed
16 much but there may be a few new panel members who
17 didn't have that opportunity for their presentation.
18 But I don't see that, we have a lot of time for
19 questions, but if there are one or two. Jim
20 Donofrio.

21 MR. DONOFRIO: I'm sorry. I didn't get
22 your name.

23 MR. MCSHERRY: Tom Mcsherry.

24 MR. DONOFRIO: Hey, Tom.

25 MR. MCSHERRY: All right.

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1 MR. DONOFRIO: You know, as I said, you
2 know, our organization is always supportive of the
3 divers. We get calls all the time from -- we've
4 members -- we've sink-in (phonetic) divers as a
5 member group from California and you probably know a
6 lot of guys there.

7 MR. MCSHERRY: Yes.

8 MR. DONOFRIO: My concern, as an ex-charter
9 boat skipper, you know, let's just give you that
10 Canyon scenario, okay.

11 Not only an anchored bite, that's an area,
12 where you claim ground already. We know that
13 scenario, you know - but trolling bite, typical
14 trolling bite is you may find some squid, you may
15 find some bait, you troll on that area, you may move
16 off for a mile or two and come back.

17 You know, our concern is that, we're going
18 to have gear conflicts, somebody going to jump on
19 that spot, as soon as, when those boats, sort of
20 fleet boats move off, you know, just we could avoid
21 the conflicts, that's all. We just don't want --
22 because once that dive flags in the water, you know,
23 we're concern are going to be running people over.
24 We don't want that. That's the big concern with
25 safety there.

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1 MR. MCSHERRY: Typically, my experience has
2 been as far as tuna and the like, we are trying to
3 raise our own fish. And we're not running behind
4 you, to try and catch yours or the ones that we
5 think, that you may have brought to the surface.
6 Typically, that's done with flashers primarily, you
7 know, they might be down 60 or 70 feet and you'll
8 float for a period of time and you'll work that
9 flasher and work it until such time that you can, you
10 know, get and see fish.

11 The only time that a trolling boat knows
12 that if it has seen a fish is whether, if it got a
13 hit or it saw something on, you know, on some
14 equipment. We physically see the fish and you don't
15 pull the trigger, unless you're 15 feet away. So,
16 you don't shoot anything, you don't want to. It's a
17 very selective issue and sometimes, we go all day,
18 and you're in the water for six hours and you might
19 not see anything or you might not have the
20 opportunity to shoot something and we're okay with
21 that.

22 It's not a quantity issue for us. It's,
23 you know, about the experience, about being in that
24 environment and we enjoy it from, you know, the time
25 we get on the boat until the time we get home, you

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1 know, whether or not we have a fish. There's a lot
2 of action as, you know, all of you are aware that
3 goes on 50 to a 100 feet deep and we are in for all
4 of that, you know, not just pulling the trigger.

5 MODERATOR CHRISTOPHER ROGERS: We're
6 running out of time here. Rusty, quick question.
7 Bob, quick question and then we have the enforcement
8 presentation.

9 MR. HUDSON: Rusty Hudson, Directed Shark.
10 Tom, at the last presentation, there was a desire to
11 have a one metric ton, set aside for a bluefin tuna.
12 And I'm just wondering, are you wanting to respond to
13 that and a no-sale provision, as far as your input.

14 MR. MCSHERRY: I don't have a response to
15 the tonnage, metric ton, more or less -- really
16 wasn't here to discuss that. You know, I kind of
17 feel like, at this point, it's been so long that, you
18 know, we just want to get our pinky toe in the door.
19 So, you know, whatever the, you know, everyone's
20 point is about, whether we're able to sell that fish
21 in the end. To us, in a sense, it's really
22 inconsequential, because it's not a quantity issue
23 for us.

24 If someone is fortunate enough to get a
25 500-pound fish, hopefully, he has a lot of friends,

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1 if he can't sell it. But that's going to be the
2 needle in the haystack and the rarity. It's not
3 going to be the norm.

4 MODERATOR CHRISTOPHER ROGERS: Well,
5 thanks. Bob?

6 MR. PRIDE: Yes, Tom, just briefly, when we
7 were talking about safety concerns earlier my feeling
8 was that we were talking about not folks like you,
9 who are very experienced but those who might see the
10 opportunity to use spear equipment as something new
11 and exciting to do. And I think, one of the speakers
12 talked about doing it in, you know, fairly low
13 visibility. Do you see that as a potential issue that
14 we should be concerned about?

15 MR. MCSHERRY: I don't believe so. The
16 gear requirement to hunt the fish that we're talking
17 about is substantial. The cost is substantial, being
18 able to operate these manpower boats, you know,
19 safety, you know, divers and whatnot, with you. This
20 is a major undertaking. You don't just go pickup a
21 \$50 spear gun unless you're just willing to, you
22 know, commit it to the sea. My terminal gear is
23 probably \$5,000, as I'm floating around the water.
24 You know, we can't afford to be losing this a lot and
25 diving in 8 foot visibility water, if anybody doesn't

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1 know it, for a fish like this would scare the pants
2 off you. I don't see it as a realistic discussion,
3 honestly.

4 MODERATOR CHRISTOPHER ROGERS: All right,
5 thanks, Tom.

6 MR. MCSHERRY: Thank you.

7 MODERATOR CHRISTOPHER ROGERS: Anyone has
8 other questions for Tom, please -- I don't know if he
9 has leave right now, but please catch him on the way
10 out, so to speak, and he's here. We have an
11 presentation by enforcement, it's -- is Beverly
12 Lambert going to give the presentation? Sorry that
13 we're so far off the agenda. But I know enforcement
14 issues come up constantly during the course of these
15 meetings and here's an opportunity to have some
16 dialogue with our enforcement folks.

17 SPEAKER: 4 o' clock --

18 MODERATOR CHRISTOPHER ROGERS: Everybody's
19 always looking for the last word. You got it.

20 SPEAKER: I thought I got the last word.

21 MODERATOR CHRISTOPHER ROGERS: You get the
22 last, last word.

23 SPEAKER: All right.

24 MODERATOR CHRISTOPHER ROGERS: Actually,
25 Dick, we know the response to your request. If you'd

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1 like to go before us, we can give you an answer.

2 SPEAKER: Actually I don't mind going --

3 MODERATOR CHRISTOPHER ROGERS: All right,
4 Dick, why don't you pose your question? I'll direct
5 the witness to answer your question.

6 MR. STONE: Okay, thank you, Chris, and
7 I'll try to make this brief. But I definitely want
8 to say that I am disappointed and -- that this
9 document does include 1.4.2 filleting of tunas at
10 sea, but really leaves it unanswered in the sense
11 that it has it under issues for future consideration
12 and outlook. For the last two years we, and I say we
13 now, I'm talking about the Recreational Fishing
14 Alliance, the United Boatmen of New Jersey and New
15 York and the Francis (phonetic) Fleet have submitted
16 a request for an accepted fishing permit to look at
17 filleting tunas at sea, as was done in the past, has
18 been done historically in the past by vessels, by
19 large charter boats and head boats that fish on
20 extended trips for tunas in the late summer and fall,
21 with 30 to 50 passengers.

22 These vessels go out, they'll fish, they
23 come back in, and offload both the anglers and
24 hopefully the crew after they clean up and then turn
25 around and go back out very quickly on other trips --

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1 well, for yellowfin albacore for the tunas that
2 they're going after. If they have to wait to fillet
3 them, when they get back to the dock, you can imagine
4 how the anglers, that are dead tired, anxious to go
5 home, feel about that. You also can imagine, it's --
6 you know, how the crew and everything feels about it
7 too when you obviously are losing lots of sleep.

8 And it also is somewhat of a safety factor
9 in the sense that, you know, filleting these fish and
10 putting the fillets on ice, obviously is much better
11 than not doing that. The captains in these fishery
12 and the mates in these fishery, are willing and have
13 been willing and we expressed a desire to do a pilot
14 study to show that in fact, we could eliminate the
15 enforcement problem by bringing in the racks and the
16 fillets and demonstrating that they could be
17 identified.

18 Now, with our request for a pilot program,
19 if it would show either that they can or they can't,
20 you know, to have a decision and based on, you know,
21 all the things that I'm used to doing, particularly,
22 you know, when I was in HMS, is basing a decision on
23 facts.

24 In other words, we can talk about something
25 won't work or whatever, but if we look at it, try it,

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1 we'll know whether it works or not. I remember doing
2 that and the fair trout fishery and the drift gillnet
3 fishery, there were many fisheries that people say,
4 "Wait a minute now, these fisheries won't -- won't
5 work." Well, we at least allowed them a chance to
6 show whether they could or not. In fact, some of
7 them didn't work. So, the decision was made not to
8 do it. But I think it's extremely unfair not to
9 allow this group a chance to at least demonstrate
10 whether they can do this successfully or not.

11 And had -- if we had gone back and done
12 this pilot study, either two years ago when you first
13 came in, or last year, we would have the information
14 now to make that decision. So again, I would like to
15 see this pilot project done, I have talked to
16 enforcement and told them that we want to work with
17 them on this. And so, I just ask that you give this
18 consideration.

19 MODERATOR CHRISTOPHER ROGERS: Do you want
20 to respond or do you want to just acknowledge we'll
21 consider it?

22 SPEAKER: I know the Northeast and the
23 Southeast office of enforcement have already
24 responded, at least internally, on this issue and our
25 position is that that filleting at sea created an

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1 awful lot of unnecessary enforcement loop holes. And
2 that they would -- they would set extremely bad
3 precedent for other fisheries that would -- may also
4 want to do it for convenience.

5 MODERATOR CHRISTOPHER ROGERS: All right,
6 very briefly, Jim and Frank and then we have to let
7 Beverly, who has been patiently waiting for three
8 days now.

9 MR. DONOFRIO: Chris, I guess what we're
10 asking for here is to -- for this to be included back
11 on the draft agenda. We had a consensus among all
12 the committee members. There might have been one
13 committee member that didn't think it was a good
14 idea. But I think there was a consensus here that we
15 wanted this to go out for public opinion. I
16 respectfully disagree with the enforcement people
17 because we do have the same boats filleting at sea
18 with other fish. And these fish are easily to
19 identify. I mean I can understand you're hiring some
20 -- some people maybe from the Midwest or other areas
21 where they didn't go out fishing.

22 But with the ID book that and NOAA
23 fisheries put out here, it is very simple, very
24 simple to identify these species and we're doing it
25 with codfish, we're doing it with summer flounder,

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1 bluefish and other species. I can tell you that the
2 burden that has been put on some of these boats when
3 they got back to the dock has been unbelievable. And
4 listen, and we know you got to do your job, it's not
5 that. It's the way it was handled. The boat was
6 held up at the dock, nobody could move, they were
7 checking bags, and you know, all kinds of stuff. And
8 these people were just held up unnecessarily, you
9 know, by -- we have -- this was in New Jersey, one
10 particular incident. We have eight enforcement
11 people in the whole state of New Jersey, and I think
12 seven out of the eight were there, on one boat.

13 So, where was the rest of the enforcement
14 on all of the other fisheries in the state of New
15 Jersey that day? You know, we just want to, we want
16 to make it a little easier for one little sector,
17 we're not asking to go, you know, coast wide to all
18 the recreational -- we know, that would be a problem.
19 We think that this industry has good records.
20 They've been keeping their logbooks up and everything
21 they've been asked to do, they've done. And we think
22 they'll rise to the occasion here. And you'll be
23 able to identify these fish. Thank you.

24 MODERATOR CHRISTOPHER ROGERS: Frank, last
25 comment.

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1 MR. BLOUNT: Yeah, real quick. Just
2 speaking for the fisheries I'm familiar with in the
3 northeast and what the New England council regulates,
4 there isn't a single species that is not allowed to
5 be filleted by the recreational angler in the
6 northeast with the exception of these tuna fish.
7 We're allowed to fillet every other species at sea.
8 This is the only one we are not.

9 MODERATOR CHRISTOPHER ROGERS: Okay, thank
10 you. Beverly; you're going to -- did you want to
11 respond to that?

12 SPEAKER: No.

13 MODERATOR CHRISTOPHER ROGERS: Okay.

14 SPEAKER: I do want to introduce the Coast
15 Guard here, Lieutenant?

16 MR. ADISON: Lieutenant Mark Adison
17 (phonetic). I'm with the Coast Guard headquarters,
18 fisheries enforcement division.

19 MR. RAYMOND: And I'm Paul Raymond, I'm
20 supervisory field agent in the South Atlantic, I have
21 two agents in the back here. Sara Block (phonetic)
22 and Jeff Redonsky (phonetic), Sara represents the
23 Northeast, and Jeff is a field agent out in Miami.
24 And both Sara and Jeff will be the liaison from
25 enforcement to HMS for comments. We tend to do that

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1 internally. We've got some bugs we've worked out.
2 And we've always thought that we needed to be a
3 little bit more involved in the AP level, HMS plans
4 and I know Chris has recently enacted some bi-monthly
5 telephone calls on a law enforcement general council
6 strategy to discuss the pre-drafts and we hope to
7 expand on that.

8 I'm also going to recommend that when we go
9 to these AP meetings, we tend to be the fly on the
10 wall on the back there; we hear an awful lot of
11 comments regarding enforcement. There's not a mike
12 really to get to and I know the councils all have a
13 Coast Guard representative at the table. And I think
14 this AP needs to have somebody at the table
15 representing law enforcement and I would recommend
16 the Coast Guard owing the fact that I believe NOAA
17 should be speaking with one voice and our comments
18 would likely to go through our managers here. So,
19 it's just an editorial on my part because I don't
20 think we have a large enough voice here, at least
21 during the AP meetings.

22 And then, the last thing would be a quick
23 plea before Bev goes, and that -- and that is to -- I
24 know I'm stating the obvious but all ranks are
25 growing. Management plans are growing, APs are

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1 growing, regulations are growing all the time. So,
2 as you go around the room and you discuss your
3 opinions and editorials, each one of you should be
4 thinking about the enforceability of these laws.
5 Because when you think about the 20 year old petty
6 officer who is offshore doing a boarding trying to
7 determine whether those hooks are corrodible or not
8 corrodible or whether or not those circle hooks are
9 ten degrees offset or not. I mean, these are
10 complicated rules, and they're not getting any easier
11 for us.

12 In species IDs also, another difficult
13 issue, and we will continue to try to improve the
14 shark ID program that we currently have, because that
15 is a problem for us, telling species apart, when
16 you're dealing with graylogs onboard a boat, duskys
17 and sandbars and hard to tell for that agent for that
18 agent working the dock side. Okay. Enough editorial
19 and Bev, Beverly Lambert is our VMS technician in the
20 South-East region and she's specifically going to
21 talk about VMS and how it applies to the highly
22 migratory species.

23 MS. LAMBERT: I'd like to thank you for
24 letting me come and give you an update and present
25 some of our issues with the HMS VMS program.

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1 As Paul said, I work in the South-East
2 office. I am the VMS program manager, I replaced or
3 took the liaison role that Fred Kyle (phonetic) the
4 special agent had for quite so long of a time, for
5 HMS. He is now assigned out to field duties, so he
6 is not co-located with the VMS program anymore, so if
7 you could kindly direct your questions and contact --
8 I'm the contact point for the VMS program now. John
9 Pinkerton (phonetic) is at our headquarters' office,
10 he also is the headquarters' contact for any VMS. He
11 is the national program manager.

12 I'd like to give you a little bit of brief
13 on the flow of the VMS data itself, the antenna units
14 Tron-and-Tron 3026's and Skymates as well as
15 Trimble, they all send a position report to the
16 satellite land-earth station and the land-earth
17 station then holds that data and every five minutes
18 our servers go out, pick that data up. It takes the
19 data that comes in from the unit is the date and time
20 stamp, for the position report and also the longitude
21 and the latitude. Also, an input/output code from
22 the unit itself which tell us whether it is powered
23 on, powered off, et cetera.

24 So, those specific pieces of data come into
25 our program, it is assimilated into the database.

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1 That database then calculates whether that vessel is
2 currently in a closed area. At that time, it will
3 assimilate an alert perhaps, if it is, it will also
4 increase the reporting interval at that point to
5 every 10 minutes. So that, we will know exactly the
6 whereabouts of that vessel for every 10 minutes.

7 Then, basically that date is retained in
8 our database for archival. In the near future, we
9 will have two data centers, one on the Northwest in
10 Seattle and one in Silver Spring. That data will be
11 assimilated back and forth between those on a
12 replicated basis, meaning each one will have the same
13 data sets for availability for all of our agents,
14 nationwide to view, should they have an interest for
15 particular vessels or for their regional fleets.

16 The VMS data used is restricted to NOAA
17 Fisheries Enforcement only and to Coast Guard
18 Fisheries Enforcement. It is also available for non-
19 specific data sharing for Federal Fishery managers
20 that include councils for the development of the
21 program plans.

22 In an emergency situation, for owners to
23 locate their vessels whereabouts, we require a call
24 back number to verify who that person is calling for
25 that vessel's information. So, we don't lightly take

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1 that information, we hold it very confidentially.

2 We have currently 261 monitored vessels in
3 the South-East program alone, of those the fisheries
4 that are monitored there are 125 highly migratory
5 species, pelagic longliners, currently under
6 monitoring, there are 111 rock shrimp trawlers, six
7 penalty longliners, 15 HMS shark gillnet vessels. Of
8 those, those are all NOAA loaned equipment for the
9 shark gillnet. There are four shark bottom
10 longliners that became effective in January 1st.
11 There are three NOAA loaned units on those four
12 vessels.

13 Potential additions for this fiscal year,
14 we still have 170 directed shark vessels, we're not
15 sure of, which ones are going to be implementing or
16 not, dependant on the area, of course where there are
17 going to be fishing. It's North Carolina, South
18 Carolina, Virginia. So, we are not sure who those
19 vessels will -- come forward to be implemented.

20 There are 170 HMS pelagic longliners with
21 no VMS, now those vessels could too, also be included
22 in the directed shark vessels, since they hold the
23 same permits. So, there are some duplications there,
24 I'm sure.

25 There are 40 rock shrimp vessels, that have

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1 no VMS installed, as well. When those are detected
2 by at sea enforcement, then of course, they'll be in
3 violation and will have to suffer the consequence.
4 But there are -- the southeast program employees, two
5 full time personnel currently, myself and one VMS
6 technician to monitor all 261 vessels for all the
7 different categories in fishery requirements. His
8 name is Jonathan Howard, he does an outstanding job
9 with fleet-out contact. Many of you probably talked
10 to him, if you are in the pelagic longline fisheries
11 or the rock shrimp.

12 As of April 2005, we are currently going to
13 be interviewing for two contract personnel, an IT
14 specialist since I've been serving and dual role
15 there, and another VMS technician for the proposed
16 implementation of the red snapper fishery, which is
17 another 600 vessels. So, we're going to be quite
18 busy in the next year and a half preparing for that,
19 as well.

20 We have seven type-approved units for the
21 HMS fleet. Skymate is a fairly new addition, as of
22 last year. We have several of those currently online
23 in fact several trimble vessels have already replaced
24 with Skymate units. We have -- the majority of our
25 fleet is comprised of the 3026 MNS so they hold the

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1 majority.

2 This is the optional components for the
3 3026. I want to draw your attention to the inter-
4 connect box. Many owners have expressed the
5 frustration that they can't tell when Tron-and-Tron
6 3026 is powered on properly. We do have problems
7 with that if they wanted to implement the inter-
8 connect box that would greatly enhance our
9 capabilities to be in compliance at all times for an
10 operational unit.

11 It would also allow them to attach a
12 message terminal for future growth in the use of that
13 equipment, and email capability, as well.

14 Improvements to the Tron-and-Tron 36
15 package included as of February 2005, in addition to
16 the cable, the inter-connect box is now part of that
17 package, the cable and installation by certified
18 marine electrician. That is included in the package
19 price and is now required by NOAA. Due to the many
20 problems we've had with the self-installations. It's
21 been quite problematic for the fishermen and for our
22 program personnel to get some of these units online,
23 when they've had problems or in the implementation
24 phase, as well.

25 This is a Stellar 2500, Skymate 2500

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1 rather, it has a battery back-up, it's a quite --
2 complimentary product for the fishermen, it also
3 gives weather capability, email capability, you can
4 attach a terminal to it as well.

5 These are contact information for the
6 vendors and communication providers the unit and the
7 communication providers -- Skymate, Tron-and-Tron and
8 trimble. The trimbles are pretty much no longer in
9 stock, so they will be extremely difficult and they
10 are still quite expensive to obtain, too.

11 We do have an additional communication
12 provider in Autostratas (phonetic) for those trimble
13 and for the trimble units, that want to implement
14 still. The Southeast protocol for a unit failure, we
15 attempt to contact the owner, or the operator at sea,
16 to instruct them on the power problem. We follow up
17 with a letter to the owner to confirm the
18 instructions. The instructions are to power off the
19 unit. If it's not successful in rebooting the
20 antenna, it's much like a computer, you've to reboot
21 it. Then, they are required to return to port and
22 have a qualified electrician look at it, because
23 there is definitely a power source problem, for this
24 unit to go into a failure mode.

25 Once in port, the trouble shooting by the

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1 VMS tech with the electrician, usually cures about 70
2 percent of these power outages. If the electrician
3 cannot determine that it's a power source, it's
4 recommended to be returned to the vendor. We've only
5 had about 6 replacements, so it's usually a
6 installation problem or a power problem.

7 Recommendations for improving VMS or HMS --
8 VMS programs the HMS vessels are not powered on
9 prior, two hours prior to departing port as required
10 by the regulation, or we are seeing continual power
11 ons and power fails at sea, intentionally. The
12 solution would be 24/7 reporting year-round. That
13 would cure that problem. It is very -- we have quite
14 a folder now developed for all the certified letters
15 we sent to owners indicating several power fails, the
16 times that they were powered off, and that this is a
17 violation, so, make corrective measures.

18 Again 24/7 reporting would be the best fit
19 for the program, you wouldn't have that problem.
20 You'd immediately see that there is a unit down, for
21 power only, for power failure problems only, not for
22 purposeful power offs.

23 Further recommendations would be when there
24 is no verification of a VMS purchase or installation
25 -- I don't think this is phrased quite right. We

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1 recommended that before a permit is renewed, that
2 proof of the installation or purchase of a VMS unit
3 be provided by the owner. We are seeing numerous
4 vessels renew their permits but they do not have a
5 VMS installed.

6 SPEAKER: Can I ask you a question on that?

7 MS. LAMBERT: Do you want to hold questions
8 or --

9 MODERATOR CHRISTOPHER ROGERS: We'll try to
10 get through the presentation first.

11 MS. LAMBERT: Okay. We're not too far away
12 from finishing. Further recommendations, VMS units
13 sold or transferred to another vessel, they need to
14 be appropriately registered to the communication
15 provider and through NOAA OLE, otherwise it is
16 reporting to the wrong vessel obviously, just like
17 tagging your car, you have to fully license these
18 units as well.

19 Gillnet vessels are -- we recommend 24/7
20 reporting for those right now. They only have to
21 report during their seasonal requirements. We also
22 recommend increased reporting rate due to the nature
23 of that fishery. The hourly paying is not sufficient
24 to determine the type of activity involved. So, 24/7
25 and increase in renewal rates.

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1 We highly recommend -- this is -- we're
2 going to a nationwide system. But we highly
3 recommend that HMS approve the addition of a
4 declaration system for gearing species being targeted
5 by gillnet bottom and pelagic longliners. This is an
6 expectation of further fishery -- fisheries being
7 brought online. Many of these longliners are
8 permitted with multiple fisheries and they can switch
9 gear at sea, as well. So it's imperative for our
10 monitoring personnel to know what gear and what
11 species they're targeting for their trips to avoid
12 incorrect information being passed to law enforcement
13 personnel for further follow-up, or any
14 misperceptions that might be in their mind. And
15 basically, thank you for your attention and we have
16 new telephone numbers, so we did move. So --

17 MODERATOR CHRISTOPHER ROGERS: All right.
18 Thank you very much, Beverly for that informative
19 program. Some interesting recommendations,
20 particularly, with the 24/7 power on for further
21 units. So we have time for a few questions. We're a
22 little bit overdue and I do realize that folks
23 probably have planes to catch and things like that,
24 but looks like we have enough interest for a few
25 questions. So Dick Stone, Dewey, Rusty.

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1 MR. STONE: Thank you, Chris. And
2 actually, I want to thank you, Beverly, for that
3 presentation. I want to compliment both HMS, and the
4 enforcement folks, and the Coast Guard, and everyone
5 else on getting the system into place. And I also
6 hope that eventually we can get real time data
7 reporting with this system. I wonder, Beverly, can
8 we get a copy of your presentation? We'd like to
9 have that. Also, I want to just quickly agree with
10 Paul, I think enforcement should be at the table and
11 Coast Guard be at the table. So thank you very much.

12 MR. HEMILRIGHT: Yeah, I just have a couple
13 of questions to ask you about. Just if you're
14 renewing your permit, and you're not fishing, do you
15 still have to have a Vessel Monitoring System?

16 MS. LAMBERT: Only if you're going to be
17 actively engaging in longline fishing.

18 MR. HEMILRIGHT: Okay, and one other thing.
19 Why is it -- if you have gillnet aboard your boat and
20 you a incidental shark permit, why don't you have to
21 have a permit also -- I mean a Vessel Monitoring
22 System?

23 MS. LAMBERT: Incidental?

24 MR. HEMILRIGHT: Because you have -- I have
25 a directed shark -- I have a Vessel Monitoring System

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1 for the same guy, I would direct the shark fishing
2 permit, but I'm not gillnetting. I'd be doing
3 bluefishing or something else. But the guy right
4 beside me, he's got a incidental shark fishing
5 permit, and he doesn't have to have one, and he's got
6 gillnet aboard his boat. He'd be the same as a
7 swordfishermen who's got a directed swordfish permit.
8 I got an incidental swordfish permit, but I still got
9 to have one. Well, what's the difference there?
10 Because if you're trying to protect the right whales,
11 that I believe is the -- for the directed permit that
12 right whale don't know the difference between that
13 incidental shark and that directed shark fishermen,
14 even though they're not fishing for that gear. Seems
15 like you'd put this on just because they have this
16 type of permit, not that they're fishing in this type
17 of fishery. I was just wondering why they don't have
18 to have that?

19 MODERATOR CHRISTOPHER ROGERS: Well, that's
20 something that we need to look at. Obviously yes, a
21 white whale is not going to be concerned what the
22 intended target of that net is. If they are
23 permitted by us, we would have the hook, so to speak,
24 to deal with it via VMS. And I think that this is
25 only one of several issues, particularly, because of

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1 our discussions on finetooth and finetooth mortality.
2 We need to take a closer look at those with the
3 incidental permits using gillnet, even though that
4 they are targeting other species, whether or not the
5 VMS should apply and how we need to account for the
6 incidental shark catches, while they're targeting
7 other species. Rusty, and then Nelson.

8 MR. HUDSON: Rusty Hudson, Directed Shark.
9 I agree with what Dick said about having enforcement
10 at the table. As Paul pointed out, it would be very
11 nice instead of having to constantly try to sidebar,
12 if the opportunity is there. Likewise, I would like
13 a copy of the overheads, I don't know how you all
14 would get it to me, maybe you can put it in the mail
15 or something, Chris.

16 And finally, this is going to sound corny,
17 November 2003, Vicky Cornish was the head of the
18 National Observer Program, at that point in time.
19 She approached me and asked me with regards to the
20 shark gillnet vessels that had been equipped with VMS
21 to also install cameras that had the software to be
22 able to monitor the entire catch and to be able to
23 tell what was being caught.

24 And I'm just wondering how much further
25 into the future before that experiment starts because

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1 she had asked me to get some volunteers and everybody
2 went into shock, when I approached them because I had
3 also brought this issue up several years ago, when I
4 had learned that this type of technology existed, and
5 it had been looked upon as the future. And the
6 fellow making the presentation said that was exactly
7 where he wanted to be at, even though some people
8 have fears of big brother. Obviously, it's a public
9 resource and obviously enforcement, as all pointed
10 out, isn't growing by leaps and bounds. So they're
11 having a greater workload and I'm just wondering, you
12 know, is that technology going to be the next cat's
13 meow besides the VMS 5-10 years from now?

14 MS. LAMBERT: I've heard of no regulatory
15 talk about it at all. Have you?

16 MODERATOR CHRISTOPHER ROGERS: No. I think
17 that was intended to demonstrate the utility of the
18 technology as a way of reducing the costs of observer
19 programs. I know Japan had mentioned that at ICCAT
20 also, when we were discussing at-sea observer
21 programs in the international arena. So it is
22 something that has been identified as a potentially
23 cost effective means of, I guess you could say,
24 remote monitoring and should be looked at. Had a few
25 other folks first, had Nelson, Gail, and then Mike,

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1 and then Jim. Then I think we're probably going to
2 start losing folks, so --

3 SPEAKER: I understand, yes.

4 MR. NELSON: Wait until she's free. Yes.
5 Beverly, I represent about 85 percent of the active
6 pelagic longline fleet. And since, I don't know,
7 like this time last year, received maybe two dozen,
8 which is a lot for any issue, enquiries about -- "We
9 know who's turning the -- you know, the machines off.
10 What's being done about it? You know, if nothing is
11 going to be done about it, I'll turn mine off too."
12 And we encourage these guys, look eventually it's
13 going to catch up with them, you know. There's no
14 two ways about it. It will catch up with them and
15 they'll get a NOVA six months from now. And they'll
16 have hell to pay.

17 I'd like to know what's happening as far as
18 -- you know, as you said, some are turning their
19 machines off and you have long-term plans for that
20 but, you know, what typically happens is the
21 compliant comply, the non-compliant get away with it,
22 and get away with it, and get away with it, and get
23 away with it. And the numbers of non-compliant grow,
24 and typically.

25 Now, you know, I'd hate to have to have

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1 stricter measures, which is usually the resulting
2 outcome on the compliant folks because of those that
3 don't comply. But you know, there's got to be
4 something that comes down, some, you know, punitive
5 action that comes down in some kind of a timely
6 fashion to make sure that they know -- you know, the
7 Government has this regulation and it's going to be
8 enforced.

9 MS. LAMBERT: The documentation is very
10 apparent. We have passed that information along to
11 our enforcement personnel, both Coast Guard and
12 agents. They are following up with investigations,
13 so things are being done. It's just we're
14 documenting the number of times this has successively
15 been a problem with particular areas of the fleet.

16 So things are being done, but it takes time
17 -- an agent's time and interaction to go out and do
18 the interviews and the follow-ups. So time -- it
19 does take time. And like he -- like Paul said, we
20 are short-staffed. So priorities are --

21 SPEAKER: I do know of three NOVAS or three
22 investigations that have been submitted to general
23 council in the last couple of months, four NOVAS.

24 (Tape interruption)

25 SPEAKER: updating?

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1 SPEAKER: No, these are strictly VMS cases.
2 Two boats fishing where they shouldn't and another
3 boat who didn't have a unit, I believe. And then,
4 there is dozens and dozens of letters that we have
5 issued to vessels who, for one reason or another,
6 haven't been pinging properly. So --

7 MODERATOR CHRISTOPHER ROGERS: Gail, then
8 Mike Leech, and Jim Donofrio.

9 MS. JOHNSON: Just a quick question, you --
10 on one of your slides you had an extra 170 pelagic
11 longline vessels, and that's more than the permits.
12 What's that?

13 MS. LAMBERT: Then -- we're basing it on
14 different permitting information than you're looking
15 at. We're looking at not only shark and swordfish,
16 but also tuna permits. John Howard checks out all of
17 the permit holders to see if they're eligible. So
18 we're going through the process of elimination.

19 We have 170 identified. We have initially
20 felt like belonged to the pelagic program. But
21 they're giving us feedback after our letters out to
22 them as to why they're not in -- why they're not
23 qualified.

24 SPEAKER: Pelagic longline fishing.

25 MS. LAMBERT: Well, they do put that on

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1 their permit. So we have to disallow each one on a
2 case by case. We're being very cautious and careful
3 not to overlook or not to include everyone that
4 should be in the information packets we've sent out.

5 SPEAKER: For the pelagic longline fishery.
6 Andy Berdelina (phonetic), he is the one that gets
7 all the logbooks and, you know, this and that, at the
8 Miami lab. And you know, he keeps a real tight, you
9 know, eye on what's active, what's not, you know. So
10 you might want to coordinate with Andy.

11 MS. LAMBERT: Very good idea, that'll save
12 us a lot of time and cut down our chase.

13 MODERATOR CHRISTOPHER ROGERS: Mike Leech.

14 MR. LEECH: Yes, this is fascinating to me.
15 I've been to Spain and I've seen their state of the
16 art combat information center, if you will, where
17 they -- I mean, I think it's any boat over 75 feet,
18 that's a commercial vessel in Spain. They know where
19 it is, every half hour, any place in the world,
20 whether it's at a dock or whatever. And they have
21 been able to make a lot of cases for fishing in
22 closed areas and that type of thing.

23 Evidently, you haven't made any cases yet,
24 but you're in the process or some NOVAs, I guess,
25 have been sent out, that's good. My only other

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1 question is, what are the violation longliners that
2 was one of them. You have eight violation
3 longliners, what's a --

4 SPEAKER: penalty.

5 MR. LEECH: Penalty longliner, I'm sorry.

6 MS. LAMBERT: The penalty longliners were
7 implemented prior to the HMS and they belong to Greg
8 Abrams in the Gulf, Panama City area. It was
9 mandated through settlement that he be monitored, all
10 six of his vessels.

11 SPEAKER: I think it is not --

12 SPEAKER: It's our version of an ankle
13 bracelet --

14 MODERATOR CHRISTOPHER ROGERS: Jim Donofrio
15 and then Bob Zales? No? Okay.

16 MR. DONOFRIO: Thanks, Chris. Beverly,
17 thank you for that presentation. I had the same
18 question Gail had. Because as we, Chris, as we, you
19 know, start to explore utilizing the swordfish quota
20 for the commercial sector and maybe, you know, at
21 least looking at some of the request that Hammer had
22 from Bluewater, got going into some areas that are
23 closed now are around that area.

24 I think we need to know exactly, you know,
25 who's out there and who's available to go fishing for

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1 those swordfish or is it going to create some kind of
2 a derby where -- are other boats going to try to get
3 in there, and look for other species, and then have
4 incidental -- you know, if they don't have the
5 swordfish permit, but will they have incidental by-
6 catch of, you know, of swordfish, juvenile swordfish
7 and other species. I mean I think we need to know
8 exactly how many boats really are in this fleet. I
9 heard a number of 88 at the ICCAT advisory. Then I
10 heard another number that was slightly higher. So,
11 Nelson, you would know that and I have one more
12 thing.

13 MR. BEIDEMAN: 105 active there.

14 MR. DONOFRIO: 105 active, Nelson?

15 MR. BEIDEMAN: 105 active.

16 MR. DONOFRIO: Okay, thanks.

17 MR. BEIDEMAN: Recent.

18 MR. DONOFRIO: Yes.

19 MR. BEIDEMAN: But some of those boats
20 aren't active year around, you know.

21 MR. DONOFRIO: Right.

22 MR. BEIDEMAN: They're not active for five
23 trips or anything of that nature. But --

24 MR. DONOFRIO: I got you.

25 MR. BEIDEMAN: 105 pelagic longliner

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1 through '04.

2 MR. DONOFRIO: Okay, and the other thing is
3 a comment for Paul. Paul, you had mentioned that,
4 you know, when we -- I think it's a good idea, as
5 Dick said, for somebody from enforcement to be here
6 to answer questions, I agree, you know. But you
7 know, you said to us that, you know, when we do our
8 thing here we should consider, you know,
9 enforceability. And you know, most of this stuff is
10 really not enforceable, if you really look at the
11 manpower, you know. I'm talking about from a
12 manpower perspective, whether it's a State Department
13 of Fish and Wildlife, whether it's, you know, U.S.
14 Fish and Wildlife, when it comes to hunting. We hope
15 that people act in good faith, when we make
16 regulations or anything, like for instance, just in
17 hunting, going with non-toxic shot, you know. We
18 hunt ducks and we hope people -- there are so many
19 hunters, you can't check every hunter possibly for
20 violations -- same with hooks and things like that.

21 So often we're going to do things that we
22 know that are good for the resource, but we know that
23 if you really had to enforce them -- you know, if
24 you're thinking from that perspective, I don't know
25 maybe you can explain to me a little more what you

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1 meant by enforceability.

2 MR. RAYMOND: Well, we don't think like
3 that. I mean we want to put -- whatever you put on
4 paper, we want to be able to enforce it, otherwise
5 it's just words. And I guess I've been doing this
6 long enough, where I begin to think like a poacher
7 too. And I also know that I've been doing it long
8 enough that when you put your comments on record,
9 whether it's our comments, and we get statements
10 similar to what you just said, and then two or three
11 years later, it may roll down and we'll get asked
12 what is enforcement doing about circle hooks or what
13 is enforcement doing about neoprene dog bones that
14 have to be on a longliner to keep the turtle's mouth
15 open.

16 And we will get those questions,
17 eventually, from one sector or another, whether it be
18 a council member or the environmental group or
19 whatever. And we want to be able to say that that
20 was an enforceable rule when it was put into place or
21 at least go back to the record and have enforcement
22 say on the record, "That would be very difficult for
23 us to enforce." So whenever we get asked for
24 comments, we're going to ask -- we're going to give
25 it to you, whether or not we think it's enforceable

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1 or not. Not so much whether you're putting it on the
2 record because you don't really expect us to enforce
3 it, you just hope that the people comply.

4 MODERATOR CHRISTOPHER ROGERS: Okay. Last,
5 last, last word. Bob, you --

6 MR. HUETER: Why -- just a real quick
7 question for Paul in enforcement. Could you comment
8 on the measure to talk about before -- to retain the
9 second dorsal and anal fins in sharks, how that will
10 aid in enforcement?

11 MR. RAYMOND: We've -- in the southeast, we
12 worked shark fin cases, quite a bit, and luckily
13 we've had some extremely good training by an
14 individual named Merick Sanders (phonetic) who
15 teaches the agents in the Coast Guard at Surftech,
16 Sharkfin -- shark identification. But there are
17 certain species that are very difficult, and if you
18 remove all the fins and they're in a basket somewhere
19 or possibly even hidden just trying to identify that
20 carcass down to the species level to determine
21 whether it's a legal shark or a prohibited shark is
22 extremely difficult, and I know that -- that I
23 believe that's one of the characteristics to
24 distinguish those two species apart, sandbars and
25 dusky the length of the second dorsal fin, I mean

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1 that didn't even -- I don't know where that came
2 from. It didn't come from the Southeast enforcement,
3 maybe it came from somebody on the panel whatever,
4 but yes, anything that you could do to help us
5 identify these sharks from our perspective is going
6 to be useful. From our perspective I know it is not
7 very popular but we would like to see all the fins
8 left on the shark until offloaded.

9 We've been told that it's a major packing
10 problem or whatever but again from an enforcement
11 perspective that has to identify, 39 species and
12 growing or whatever it is, you know we'd like to look
13 at the jaws, head, entire carcass, but that's not
14 what the rules are.

15 MODERATOR CHRISTOPHER ROGERS: Okay, thank
16 you. I think that pretty much completes our agenda.
17 I know there was one open item regarding what can we
18 do to revitalize our swordfish fishery and take a
19 larger proportion of our allocation before it becomes
20 an issue at ICCAT in terms of reallocation. What we
21 had mentioned was, re-evaluating the closed area,
22 which might improve access while still meeting our
23 by-catch obligations. Revisiting the hand gear
24 fishery, -- commercial hand gear fishery, in terms of
25 the limited access program, but we had already

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1 identified that as our next step, item not
2 necessarily here for inclusion in this current go
3 around of rule making. I think what, Jim Donofrio
4 just mentioned is an important part of that tri -

5 (Tape ends in mid-sentence)
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