

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

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MARINE FISHERIES ADVISORY COMMITTEE

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THURSDAY, FEBRUARY 23, 2006

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A-G-E-N-D-A

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PARTICIPANT: The first section of regulatory housekeeping includes some relatively minor changes or what are referred to as technical changes.

There's 44 of these technical changes listed in the DEIS, and these are in a table in Chapter 2 page 45.

Some examples of these changes include removal of the term "initial limited access permit" because those have already been issued. There are no more initial limited access permits.

Amending the definition of the management unit for sharks by removing deep water sharks.

Amending the definition of the NED closed area to be the NED deer restricted area in recognition of changes that occurred two years ago.

Removal of dates that have expired.

Removal of outdated or incorrect cross references to other sections that may have been removed in the past.

So we're taking this as an opportunity to make some of these corrections to the regulations.

There are some other technical changes in

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that table in Chapter 2 page 45 that I would like to point out very briefly just to give you an indication of what these changes are.

Items 14 and 15 reference vessel upgrades and clarify better what the baseline is for limited access permits.

Item 19 addresses sea turtle reporting.

Item 20 requires that a confirmation number be issued to complete the HMS tournament registration process.

Item 27 clarifies some of the requirements for the swordfish hand gear permit.

Item 33 strengthens the regulations regarding the sale of prohibited sharks by including parts and pieces.

And the only other item in these relatively minor or technical changes that is not included on the table is a rebuttal presumption that swordfish owners or operators possessing swordfish in excess of a recreational retention limit intend to sell that swordfish.

So again, technical changes are exempt

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from the need to develop and analyze alternatives under NEPA because essentially they have no effect upon the human environment. So we have listed them out in the table in Chapter 2 and they're also scattered throughout the proposed rule. So if you have any more questions on these, take a look at that table and the proposed rule that was on the table as you walked in.

In addition, we have 11 more substantial changes including changes in definitions, clarifications and other amendments to the regulations. Because these measures could have potential impacts, we're required under the National Environmental Policy Act to develop and analyze alternatives. However, for the most part they're relatively minor but they do have some potential impacts. So I'm going to spend a little bit more time addressing these 11 other issues.

Issue 1: Definition of Pelagic and bottom longlines. HMS was requested to develop more quantifiable criteria to clarify the differences between pelagic and bottom longlines, primarily for enforcement and compliance with closed area

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requirements.

The alternatives that we developed are the no action alternative. 1B I1(a), I1(b) is a preferred alternative that would specify maximum and minimum number of floats for bottom longlines and pelagic longline vessels in pelagic longline and bottom longlines closed areas respectively. That threshold for the number of floats when a vessel is in a closed area is 70. That means that a bottom longline vessel would have to possess less than 70 floats when they are in pelagic longline closed area, and vice versa.

The other preferred alternative would establish a 5 percent limit on the amount of pelagic indicator species that bottom longline vessels may possess when fishing in pelagic longline closed areas, and vice versa. Essentially what that means is a bottom longline vessel when they're in a closed area must possess primarily demersal species; snappers, groupers, tile fish, fish of that nature.

Conversely, a pelagic longline vessel when it's in a bottom longline closed area would have to possess predominately pelagic species. There's a

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tolerance of 5 percent for each of these species.

Alternative I1(d) would require data logs on all longlines to indicate the depth at which that longline was fishing.

Alternative I1(e) would base the closed areas on all longlines. So that way you wouldn't have to differentiate between pelagic longline and bottom longlines. They would be close to all HMS longlines.

The potential impacts of the two preferred alternatives. There may be some minor economic impacts, however the threshold of 70 floats was selected specifically because our data indicate that 95 percent of pelagic longline vessels possess over 70 floats and vice versa. We've checked this with the logbooks and for the most part vessels are already complying with these regulations.

And because we'll be able to enforce the enclosed areas better, we expect positive ecological impacts.

Issue 2: Sharp identification. Identification of sharks can be enhanced by the presence of fins. We talked about this earlier in

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terms of reporting so forth.

Sharp identification is important to facilitate accurate quota monitoring. The alternatives include the no action alternative, alternative I2(b) which would require the retention of the second dorsal and anal fin on all sharks through landing. That is our preferred alternative. I2(c) require the retention of the second dorsal and anal fin on all sharps through landing except for lemon and nurse sharks, because those sharks are easily identifiable.

And the final alternative would require that all fins remain on all sharks through landing.

Potential impacts of the preferred alternative. There could be minor adverse economic impacts as those two fins would have to remain on the sharps through landing. However, they can be removed after landing. We don't anticipate significant economic impacts. Also because those two fins are relatives small and do not command as high a price.

The other impacts include enhanced sharp identification, positive ecological impacts through improved compliance with the retention limits and the

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prohibitive species regulations.

Item 3: HMS retention limits. NMFS is proposing measures to improve compliance with the retention limits. There are two preferred alternatives.

The first preferred alternative would prohibit the purchase of HMS offloaded from an individual vessel in excess of HMS retention limits. The second preferred alternative would prohibit the sale of any HMS offloaded from an individual vessel in excess of the retention limits.

So essentially what this is doing is improving the enforceability of this regulation by putting the onus, the compliance burden on both the vessel operator and the dealer.

We do not expect additional economic impacts because it's currently illegal to exceed the HMS retention limits already. We anticipate improved compliance and monitoring of the retention limits, and there could be minor positive ecological and social impacts as a result of strengthening the enforceability of the existing regulations.

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Issue 4: Definition of the East Florida coast closed area. Essentially what the preferred alternative would do here is to extend the outer boundary of the east Florida coast closed area out one-half nautical mile to better correspond with the coordinates of the EEZ. We are expanding a close area slightly. It's primarily a technical amendment so it better corresponds with the intent of the original regulation.

Issue 5: Definition of handline. This was discussed briefly yesterday in conjunction with the discussion authorization of buoy gear.

The current handline definition could contribute to the uncontrolled expansion of commercial and recreational handgear fisheries by allowing deployment of numerous unattached handlines. So this was the issue that we were trying to resolve.

The first alternative would be the no action alternative, which would allow uncontrolled expansion of unattached handlines.

The preferred alternative is to amend the definition of handline at §635.2 by requiring that it

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be attached to or in contact with a vessel.

The third alternative would require that handlines remain attached to all vessels when fishing recreationally and allow unattached handlines when fishing commercially.

Essentially alternative I5(c) is what we are proposing do as a result of this amendment and authoring the buoy gear.

Buoy gear is authorized, is proposed to be authorized in the commercial swordfish handgear sector only. In all other situations a handline is proposed to be required to be attached to the vessel.

We anticipate minor economic impact primarily upon recreational vessels and vessels that do not possess the swordfish directed or handgear permit. Because buoy gear, as I said, is proposed to be authorized for the swordfish handgear fishery there could be minor positive ecological impacts because the preferred alternative prevents the uncontrolled expansion of handgear fisheries.

One thing I did want to indicate here is that it was difficult to quantify the economic impacts

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associated with this alternative, primarily because we do not have any data on the number of recreational vessels that are fishing with unattached handlines. So it was a little bit more difficult to assess the economic impacts associated with this preferred alternative. We simply don't have those numbers.

Issue 6: Possession of Billfish on vessels issued commercial permit. NMFS is proposing to prohibit the possession of billfish -- pardon me. Marlin, sailfish and long billed spearfish on vessels issued commercial permits to reenforce the recreational nature of the billfish fishery.

There is no action alternative and the preferred alternative is to prohibit vessels issued commercial permits and operating outside of a tournament from possessing, retaining, or taking Atlantic billfish from the management unit.

This is similar to a prohibition that we already have for pelagic longline vessels whereby if a pelagic longline is on board a vessel, the vessel may not possess billfish. This is expanding that prohibition to include all commercial vessels.

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Potential impacts would be negligible as billfish cannot be sold. There could be minor social impacts in the case of a vessel wanting to fish with a rod and reel recreationally for billfish when they're available. But we don't anticipate significant impacts associated with this preferred alternative.

What it does is it ensures the consistency of the regulations between all commercial permits and gear types. As a result, there may be minor positive ecological impacts.

Issue 7: Bluefin tuna dealer reporting. NMFS is developing a system that would enable Atlantic tuna dealers to submit electronic bluefin tuna landing reports biweekly bluefin tuna reports and bluefin tuna statistical documents electronically using the internet.

The alternatives are a no action alternative.

I7(b) amend the regulations to provide an option for Atlantic tuna dealers to submit the reports using the internet or I7(c), which would amend the regulations to require that tuna dealers submit

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bluefin tuna reports electronically with a few specific exceptions.

So the difference 7(b) and 7(c); the first one provides the option to report electronically. 7(c) would make a requirement to report electronically.

I want to emphasize that this system is not yet functional. However, we had to make the ability to implement electronic reporting in the regulations and we're taking that opportunity to do this now. So it's not anything that in the immediate future will have, we're just paving the way to implement electronic reporting.

Issue 8: "No fishing" and "cost earning" reporting forms. There's been some confusion with regards to whether the "no fishing" negative report and the "cost earnings" reporting forms are required components of the logbooks. There's also been confusion with regards to when they must be submitted. This we're proposing to clarify some of those requirements.

To require the submission of the "no

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fishing" reporting forms for selected vessels. If no fishing trips occurred during the preceding month, postmarked no later than seven days after the end of the month.

So essentially for the negative reports they have the same time frame as normal logbook reports would have.

Also, the second preferred alternative is to require the submission of "cost earnings" reporting form for selected vessels 30 days after the end of a trip and to require the submission of annual "cost earnings" form by January 31st of each year.

There could be minor economic and ecological impacts as a result of improved reporting.

However, this clarifies the requirement and it could result in fewer permit renewal delays as a result of when a vessel owner is trying to renew the permit and they have not submitted their negative reports, they're not allowed to get their permit until we get those negative reports. So it's resulted in delays in the issuance of permits. By clarifying this and hopefully getting these negative reports in on time,

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it will result in fewer permit renewal delays.

There could be a possible increased reporting burden for some vessels that sometimes vessels submit a whole year's worth of negative reports, you know, upon their permit renewal. So we're changing that procedure around a little bit. We're proposing to change that procedure around a little bit.

Now issue 9: Non-tournament recreational landings reportings. Currently the HMS regulations specify that anglers are required to report non-tournament recreational landings of swordfish and Atlantic billfish, whereas other HMS regulations specify that vessel owners are required to report recreational landings of bluefin tuna under the angling category.

The preferred alternative for this issue would require that vessel owners report non-tournament recreational landings of Atlantic billfish and swordfish.

NMFS anticipates minimal economic impact as the reporting consists solely of a toll-free call

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to NMFS and a callback. And most of the current callers are the vessel owners. There could be a minor positive ecological impact as a result of improved compliance, data collection. And we anticipate improved consistency between HMS regulations. So this is the old owner/angler non-tournament recreational reporting issue. This one has been around for a couple of years and we're finally trying to tackle it again in this amendment.

One of the reasons for specifying that vessel owners be required to report is because they are the permitted entities. So, again, this also would improve enforceability of that requirement. An angler could be from out of state, not have the familiarity with the regulations. So we feel that it's important that the reporting onus be on the vessel owner.

Issue 10: Pelagic longline 25 metric ton NED incidental bluefin tuna allocation. Current regulations indicate that 25 metric tons of bluefin tuna shall be allocated for the incidental catch of bluefin tuna in the northeast distant area. However,

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the regulatory language does not specify how under or over harvests of that allocation are to be allocated.

The preferred alternative in this instance would modify the regulation to state that in addition each year 25 metric tons will be allocated for incidental catch by pelagic longlines in the NED. The other alternative for this issue is to conduct additional discussions at ICCAT regarding quotas allocated to account for longline bycatch in the NED.

Essentially what this is, the way that the regulations are written right now, it would appear that every year only 25 metric tons be allocated. The preferred alternative in this issue would clarify how over or under harvests are handled. As a result, there could be minor positive social and economic impacts resulting from quota rollover. We do not anticipate any additional ecological impacts that have not already been analyzed because all of the landings are accounted for in bluefin tuna stock assessments under the ICCAT recommended 20 year rebuilding program.

And finally, issue 11: Permit condition

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for recreational trips. Currently, Federal and/or state regulations may apply to HMS-permitted vessel fishing recreationally for HMS depending upon the species. This has caused some confusion for recreational anglers because of difficulties resulting from verifying where the fish was caught and, thus, what regulations are applicable.

Two alternatives. The no action alternative and the preferred alternative, which would require that recreational vessels with a Federal HMS permit abide by Federal regulations regardless of where fishing unless the state has more restrictive regulations.

We anticipate minor social and economic impacts as well as positive ecological impacts resulting from increased consistency between state and Federal regulations and less confusion with regards to which regulations are applicable to HMS-permitted vessels in recreational fishermen.

So those were the measures that were contained in the proposed rule under the regulatory housekeeping.

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We received comments on all of the issues, however five of the issues received the most comments. And I'll just briefly touch upon those right now.

Issue 1: Definition of pelagic longline and bottom longlines. We received comments in support of the alternative that would base the closures on all longlines to minimize confusion between PLL and BLL.

There were comments regarding whether or not 70 was the appropriate number of floats. And while I'm at it, I'd like to indicate that we had a specific request for comments on whether or not we should develop a definition for what constitutes a float as well as whether or not the list of indicator species was comprehensive enough.

We also received a comment stating that we should differentiate using both the number of floats on board as well as the species possessed.

Issue 2, we did receive some comments on shark identification, contrasting comments. Some commenters felt that the proposed measures will enhance species ID. The commenters felt that requiring that the two fins remain on sharks will not

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enhance the species identification.

Issue 5, definition of handline. There was general support for the proposed measures. However, there was an interesting question requesting clarification if a large fish has spooled several reels and it's necessary to, I guess, tether off that line, would that still be allowed under this new definition for handline.

Also, there was a request for additional clarification now on the difference between handline and buoy gear.

We received contrasting comments on Issue 9, non-tournament recreational landing reportings. We received contrasting comments. One from an absentee vessel owner who said that, you know, often times when he's fishing in South Florida he's in and out for the weekend. He doesn't have time to report any landings.

And finally, we received comments on Issue 11, the permit condition for recreational trips. One commenter requested that we make the permit condition applicable to both recreational and commercial vessels. There was a request for clarification

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regarding implementation. That means whether or not enforcing this regulation we're going to consider the full suite of management measures for the particular state or if this is going to be enforced on a single measures, such as minimum size or a bag limit. It sorts of gets into the conservation equivalency question, whether it's going to be enforced for each particular measure or as a suite of measures.

And finally, we received a comment that we make the more restrictive state or Federal measures applicable in each area. Meaning that if a state has more restrictive regulations, that those regulations be applicable in the adjacent Federal waters.

Thank you very much. We'll take questions now.

PARTICIPANT: Thank you, Rick.

(Section of tape blank)

MS. FORDHAM: Thank you. Sonja Fordham.

We strongly support the proposal for retention limits as well as the measure to retain parts of and pieces of sharks. We believe that it will aid enforcement of shark limits as well as data

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collection the sorely needed species specific identification.

And I just have to continue to object to the measure that relaxes the management structure for deep water sharks, just for kicks. But I would note that NMFS has proposed what I think is a really ill-advised change, a few things have happened around the world for deep water sharks. The EEU has received some really sobering advice from ICCES about their deep water shark fisheries. They've closed deep water gillnet fisheries because of the poor status and recommendation for zero catch in deep water sharks. There are markets for these species.

Last week the IUCN sharp specialist group added three deep water sharks to the red list for threatened species, including the deep-sea gulper shark, which is common and also found in this area. Listed the deep-sea gulper shark as critically endangered in the region and vulnerable worldwide.

Two other species of deep-water sharks were also listed. And also since you proposed this, NMFS has come out with their own paper highlighting

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the extreme vulnerability of these species.

So we continue to urge you to reconsider and actually move in the other direction and add these exceptionally vulnerable slow growing species to their prohibited species list.

Thank you.

(Section of tape blank).

PARTICIPANT: Basically good governance is accompanied by logical consistency and policy application. And how you take similar issues and reach similar conclusions and how the people out there should be regulated. We're only regulating them because you are sitting here, we are sitting here as stewards of a common property resource. So a couple of issues.

You have proposed as a preferred alternative to accept the Gulf Council's request to prohibit HMS gear in the Madison, Swanson, Steamboat Springs closed areas. It would seem to me that that's a logical request. There's good reason for that. Yet your preferred alternative for looking at the regulation of other than pelagic longline gear, bottom

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longline gear embraces a number of measures that limit the possession of some species and other things, but you don't really do the same thing. I mean it's the same issue.

You have got areas that are closed to pelagic longline gear. The species taken on pelagic longline gear use the same depths, the same habitats as that are occupied by bottom longline gear. In fact, given the definitions in this plan, it would not be hard to modify the way in which bottom longline gear is fished to actually allow it to fish considerably above the bottom in the same part of the water column that gear suspended from the surface is fished.

So I would think that just in terms of consistency the application of policy in a consistent and logical fashion you would have to look very carefully at the use of bottom longline gear and the areas closed to regular longline gear. And where I guess you don't really have the authority to regulate gear used in the refish fishery in the Gulf of Mexico or the South Atlantic, I would suggest that your office at the recommendation of this group ask the

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relative councils to take that kind of action so that there is a consistency in regulation.

So, I mean, I would recommend the 11(e) option that is in the paper. I don't think to try to limit the number of floats or allowing a tolerance of possession is sufficient.

The second issue, and there's a number but I'm sure everybody else is going to talk about the thing so I'm limiting myself here. Where is the logical consistency in telling those people with recreational permits that they are subject to either the Federal regulations or the regulations of adjacent states if they are more restrictive and not applying the same regulations to the commercial fishery? I mean, again I see a strong disconnect there that I'm sure there's a way to explain it, but in simple manner--

PARTICIPANT: Can I interrupt here.

PARTICIPANT: Yes.

PARTICIPANT: I'm sorry. This already applies to the commercial fishermen. You're talking about the permit condition, right?

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PARTICIPANT: So that the commercial fishermen must abide by the Federal regulations or state regulations if they are more restriction.

PARTICIPANT: That is correct. For shark and swordfish. Tuna is already covered because we already have that authority.

PARTICIPANT: Okay. So then that drift gillnet fishery for sharks in the South Atlantic, which is operated adjacent to Florida and, Georgia, both states outlaw the use of gillnets, is in fact not a legal fishery? It has to apply to the state regulations?

PARTICIPANT: It's legal in Federal waters. They cannot fish in state waters with the gillnet because the states regulations prohibit that.

PARTICIPANT: And the recreational people can if they are in state waters have to abide by the Federal waters fisheries or state regulations? So your exception only applies to state waters and not Federal waters?

PARTICIPANT: I think I missed the connection here. Can you restate that?

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PARTICIPANT: All right. Let's say in the state of Florida there has been in existence since slightly before the development of the first Federal billfish plan a bag limit on billfish, marlins and sailfish, which doesn't exist in the Federal plan. Now in the past the interpretation has been that if I am fishing off the state of Florida I must abide by both the Federal minimum sizes and the bag limit, be I in state or federal waters. Under how you see what you're proposing how would you explain that situation now?

PARTICIPANT: Right now a fisherman who has an HMS recreational permit can go fishing in Florida state waters and only comply with the bag limit. They don't have to comply -- well, I think that's sort of a legal ground whether or not they need to comply with minimum size limit. But what we're proposing with this permit condition is if they are fishing in Florida waters, they would have to comply with the minimum size and the bag limit. If they are fishing in Federal waters, there is no bag limit. So they would just have to comply with the minimum size

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in Federal waters. And that's throughout the coast.

PARTICIPANT: Okay. Well, that's an issue I hadn't thought I was going to be addressing. But if that's the case, then you need to address that explicitly in the FEIS because up until now the interpretation from the (inaudible) general council is that both regulations apply for any fish. And if a fish is brought into Florida, there is no argument that I can have two because I was fishing in Federal water.

I would just suggest that the scope of these regulations apply to wherever one is fishing, whether one is fishing in state waters or Federal waters.

PARTICIPANT: That is what we're trying to fix. And it's easier to think of it with sharks than with billfish because the billfish has the whole ADCA (phonetic) requirements in there. And if you think of sharks, Florida has a different bag limit and a different size limit than the Federal regulations. And they now have the same prohibited species, but before they didn't. So it was very complicated for

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enforcement reasons. You know, was that person fishing for sharks in Florida waters or were they fishing for sharks in federal waters and which regulations comply.

PARTICIPANT: Hence my recommendation that your preferred option embrace both sets of rules. And say if a federal permit, one's fishing under the Federal permit, they must fish under the Federal regulations or the regulations of the adjacent state regardless of whether they're fishing in state or federal waters if those state regulations are more restrictive.

(Section of tape blank).

PARTICIPANT: Well, I'll stick with this issue first, and that is the Issue 11. I assumed that that should read Federal HMS regulations because if not, for example, with red drum, striped bass, various other species that are prohibited in Federal waters, that would make them prohibited in state waters which I don't think was your intention. So I think there just needs to be clarification that that's Federal HMS regulations and not just any Federal regulation.

One Issue 1 I just want to restate what

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Russ said about the need to confer with the councils on this. Because the South Atlantic has a closure inside of 50 fathoms to bottom longline gear. And so I don't want there to be any overlap or any conflicting rules implemented with this that could conflict with our 50 fathom longline closure for snapper/grouper species.

The other thing that struck me with this rule is the number of floats on a green stick. I've never seen floats on a green stick. So perhaps that gives you the latitude that you need in order to allow the green stick and not conflict with your longline definitions. Because I'm unaware of green sticks using floats, except for the bird which I guess you could call that a float, but I don't think it is a float. So that should get you off the -- certainly if they do have one, it might be one for whatever reason, I don't know.

Issue 6. This is going to create a lot more potential impacts I think than you have listed. Because I know a lot of vessels that have commercial permits, be they general category tuna permits, South

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Atlantic mackerel, king mackerel permits, dolphin, a lot of dolphin wahoo commercial permits. Because in order to sell dolphin wahoo you've got to have a commercial vessel permit. And a lot of folks have those and would be fishing billfish tournaments. I mean, and what I understand this would say is that if you've got one of those commercial vessel permits on your boat, you couldn't fish in a billfish tournament and return with a billfish.

PARTICIPANT: We do have that specific exemption for tournaments.

PARTICIPANT: Okay.

PARTICIPANT: In registered tournaments.

PARTICIPANT: And it's HMS commercial permits. It's not any commercial permit.

PARTICIPANT: Okay. So a general category vessel can fish a tournament. He just can't go out fun fishing for marlins? Okay. That's good. Okay.

And then Issue 7. Like the green stick issue with the pelagic longlines, it looks to me like your preferred alternative is not require but to give the fisherman an option to report. And that, I would

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suggest, we use that same language with the circle hooks and have it be a voluntary thing, optional, rather than required. And I think this is a precedent for doing something like that. And I just would suggest it.

So I think that was all I had. Thanks.

MR. HUDSON: Russell Hudson, Direct Shark Fisheries, Inc.

I've got a few comments this time. So I'll start with I1. And with the I1(c) in discussions with people I haven't found too much problem with regards to the number of -- well hold on.

Back to I1(b) the number of floats. And so basically I see in your description in Chapter 2 you don't include an anchor ball. And sometimes that's a poly ball rigged up totally different from the normal poly balls that go on the longline, and it is used a lot of times get the anchor out of the mud and it usually stays up, you know, on the bow and closer access. So you might either want to make sure it's included in the 70 count or have an exception, one or the two.

When you run it down the line, it runs up

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going, pulling the danforth out of the mud and helps, you know, make it retrievable a lot easier, the anchor. Especially on the bigger boats. Because it's a pretty heavy anchor.

And with I1(c) differentiate between the pelagic and bottom longline gear based on species comp. I have to be against that because just like with I1(e) where you're trying to lump pelagics and bottom longlines together that have both been in existence 245, 30 something years, maybe 50 if you want to look back into the past far enough; that's the lazy way out. You need to be able to understand that those gear types exist and you've already closed the use of pelagic longline off the east coast of Florida where traditionally when we fish for blacktips, which is an upper water column fish in the 60 foot range, we can't use it anymore. We have to use bottom longline in those regions. And we can for shark inside of 300 foot all the way into the three mile line. That's the way the South Atlantic is allowed to exist and it's the way we've operated for a long time.

We believe that the 5 percent limit

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because there's guys that not only can target blacktip, which is the upper water column, but there's times when the pelagic longline in the deeper water around the 300 foot mark or so can actually catch sandbars. And there's plenty of documentation of that in the observer program. So you have to understand that if you're going to use this 5 percent ratio and you're going to use these indicator species, and I see that you got a category indicator species of taking our sandbar and dusky and calling them coastal pelagics. And things like silk use have always been categorized by you as a coastal, but in reality it's probably more likely a pelagic. Or if you want to reverse order, a pelagic coastal because every once in a while you'll get a spin off and you'll see the silkies come in with some warm clear water and then they'll be gone.

so that's wrong. You know, that 5 percent thing is just going to just cripple anybody that wants to use the different approach of catching the sharks, which they have had that option of being able to do that back and forth.

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One moment.

With I2, shark identification. We don't really have a problem with leaving that second dorsal and anal fin on. There's only two shark species in particular where the second dorsal is of significant value, and that's the great hammer head and the lemon shark. Those will usually command a little higher value. It's really not hard to tell those two species of sharks anyway. But the other sharks you probably will benefit from certain color arrangements and stuff like that of that second dorsal in particular and/or maybe the anal. So the fact that the fishermen can remove that after landing is a good thing. So that'll work.

With section 3(b) and (c) -- ops. Let's see. Well, I guess in this Chapter 2 it doesn't go into it as much. But with . . .

(End tape 1, side A).

PARTICIPANT: . . . the adding the new prohibitions on the purchase and the situations with the selling of, we still have the same problem. This goes back to 1991 when it comes to sandbar sharks

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adults. There were 12 sharks taken as a sample, Three were adults and even with the 9 juveniles blended in and the best cutters that you could have asked to have on the boat, you still came up with over a 5 percent ratio.

Now I believe law enforcement can probably tell you more fully than we can, although we've told you for years, that if you catch nothing but adult sandbars you're going to exceed 6 percent. So that automatically puts two entities in trouble because you can't get your ratios correct. And that is going to be both the dealer and the boat operator and/or owner. Since a lot of times the owner's the one that has to pay the bill. So you need to go back and get that situation with the sandbar cleaned up. Likewise, you still have the conversion problem on the whole weight, dress weight And if a guy eviscerates a whole sharp because he wants to bring it in, you don't have any kind of conversion for that.

I called NMFS staff about that. This was something that Enrique Cortez (phonetic) had asked me to apply for a characterization effort and we got

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turned down. But basically it was to go and try to understand the different methodologies of how you dress a shark traditionally. For the last 25 years you know basically from the mid-Atlantic right around Louisiana.

And so we feel that you're going to have to look at that one a little better so that you make sure that you're not inadvertently criminalizing dealers and boat owners by not understanding how to convert or how to be able to understand the reality of the animal that you've been managing all these years.

So the truth is the 1.39 except for North Carolina on the conversion from dress to whole weight is incorrect. And the 2.0 that North Carolina uses is correct and has been in place for a long time. But the 1.39 is based on a salmon shark, Alaskan groundfish thing that came out in 1980. I've supplied Enrique. And Enrique says that it's up to the Science Center, Nancy Thompson (phonetic) and gang, to be able to make that adjustment.

I recommend that NMFS management after all these years of us asking get that 2.0 in place and get

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that 1.39 discarded.

Furthermore, you need to go by species by species; sandbar, blacktip, whatever and understand there's going to a variation in that liver and in the ultimate evisceration of the animal. If you want to bring in the whole animal and do a slice. And even if it got to the point where law enforcement, and I've heard it a dozen times, wants you to bring in the whole shark with the fins attached, you're going to have to understand those percentages. Because right now if we have 4,000 pound trip, which was supposed to be temporary thing, went into effect 12 years ago and we're still saddled with it, the fact is is that if you convert with 1.9 you can bring up 5,560 pounds of whole shark, which is ludicrous. Because if you have the 2.0, you could bring in 8.000 pounds of whole shark.

So basically speaking around a 15 percent drop off of that 8,000 pound total would possibly account for the evisceration, the liver removal and stuff like that. But sandbars have a significantly larger liver, a well fed animal, a tiger, a dusky

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whatever may or may not be legal, will also have that same phenomena. Females and males have a little bit of a difference.

So this is back to where I would say that the chart consortium or whomever is getting money from NMFS should looking at some things or get your bottom longline team in Panama City to handle sharks, to get that straightened out.

Dropping down to -- well you answered it on section 11. We have been saddled with the obligation on commercial as to abide by the more restrictive stuff. The recreational, you know, I can understand that's going to be a big pile of people. So you're going to have to deal with trying to deal with that. But we have had to deal with being already under that situation.

So that's pretty much all I have to say about this at the moment.

PARTICIPANT: First off, I want to apologize to Margo and Ron and the MERF (phonetic) people for being probably a little over critical of the MERF status system. But I've been involved with

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this for such a long time. It's very frustrating. And I hope they took everything that I said, even though it's critical in the contest that it was meant. But it appears to me from my experience of dealing with them, and I've been highly critical of that division, but I've also tried to make suggestions to improve that dataset. Because I'm a firm believer that if you're going to have proper fishery management, you've got to have good data. And I think most everybody sitting at this table, probably everybody sitting at this table, has tried to do the same thing. That people are not just bitching at them, they're making suggestions. And at times it just seems like they either don't listen or they just don't learn. And that's where I came from on that.

I support and the people I represent support the -- and I believe the council is going to support the same thing in their letter that when it comes to the longline, the closed areas that regardless of where the area is, that there will be no closed area, that there'll be no pelagic longline or bottom longline.

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On issue 6 I've got a question. I think you said that when you're talking about possession of billfish on vessels issued commercial permits, that that's currently only to the HMS commercial permits. So my question is if like in the Gulf, if I've got a refish commercial permit and I happen to have an angling HMS permit and I've got commercial refish on my vessel, could I retain a recreational bag limit of billfish or some other HMS species?

PARTICIPANT: You've got to restate.

PARTICIPANT: If I've got a refish commercial permit or a mackerel, or any other kind of commercial permit --

PARTICIPANT: Well, I believe --

PARTICIPANT: -- and I have an angling HMS as a recreational angler, could I retain -- I'm commercial fishing for refish, can I retain that recreational bag limit of whatever I've got.

PARTICIPANT: I believe that is correct. I just want to find the cite in the proposed rules. If you'd give me just a second. You can go on with your next issues.

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PARTICIPANT: Okay. Well, if I'm correct in that assumption then I would suggest that you all recommend to the various councils in the area jurisdiction where HMS is that they also reciprocate in their commercial permitting that there be no allowance for the recreational retention of HMS species. Because we get into this argument all the time, and I've heard it forever and I know it goes on. But I don't know that it's to the extent that people say, and it happens on both sides, recreational and commercial. But you have what I consider illegal sale of fish. I don't consider just recreational sale of fish. It's an illegal sale. And that just makes that a little bit more difficult for enforcement if you're able to retain fish with a different permit and you're in a commercial operation, that would help prevent that.

And then under Issue 11, I've recommended that in the past, so I'm highly in favor of if you're going to have a permit that you abide by the regulations of that permit unless the state is going to be more restrictive. And that came up with the

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shark issue in the state of Florida because they are not quite as restrictive as the Federal permit is. And I think it needs to be that way.

I would also go a step further and we've recommended this in the Gulf for some time, and for some reason or other the Gulf Council just continually refuses to play here. But because I'm an owner and I own more than one vessel and all these things are always tied into the owner because I'm the one that supposedly has the deep pockets that you can come after, is create an operator permit on both the for hire and the commercial side. So that for those owners who own multiple vessels that the operator gets into some kind of responsibility that generally the operator is the consistent violator and he'll move from me to Russell or whoever. And so to help get rid of that criminal, you need to create that operator permit. Because in some areas, because in the northeast I believe they have operator permits. And it's something that I think is a necessary thing.

Thank you.

MR. BLANKENSHIP: Randy Blankenship

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(phonetic).

My first thing is a question of clarification. I'll wait until we get a chance to do it. All right.

My understanding on the recreational HMS permit is that it applies to species that are managed and controlled under ATCA (phonetic) and into the management unit to the shore. So therefore, species such as billfish and swordfish and tunas, an angler that's fishing in the state waters for those species is required to have that Federal permit because of ATCA, am I correct on that?

PARTICIPANT: That's with regard to tunas, you're correct, yes.

PARTICIPANT: For tunas. Okay. But for sharks it doesn't apply to the shore, the management unit doesn't. So my question is under actually what authority you would be making this apply to recreational permit holders in state waters for sharks?

PARTICIPANT: Primarily as a result of possessing the HMS permit.

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PARTICIPANT: Okay. But the management unit doesn't apply to the shore in state waters, so how ca you make it stick?

PARTICIPANT: It would be as a condition of getting the Federal permit. You would be agreeing to abide by the Federal regs regardless of where you're fishing. You're not required to get the Federal permit.

PARTICIPANT: Right.

PARTICIPANT: But if you do get it, you're agreeing to that condition.

PARTICIPANT: Okay. All right.

PARTICIPANT: And just to clarify. ATCA does provide the authority given a certain process to extend management of all HMS or ICCAT regulated species to the shore. We've gone through that process for tunas and haven't completed it for swordfish and billfish. So we have that ability if we go through the process. We just haven't completed it.

PARTICIPANT: Okay.

PARTICIPANT: Nelson's point that ATCA still overrides. I mean, the U.S. agrees to ICCAT

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recommendations that are binding as a nation. And so we're obligated to fulfill them. But ATCA also has procedures outlined in them to do things. And so we have to do both.

PARTICIPANT: Okay. Thanks.

Issue 11, that proposal, the preferred alternative there, at least from my standpoint right now I think may be perpetuate confusion in Texas. Because three years ago Texas passed the rule that said that all fish landed in Texas must comply to Texas regulations unless they were caught in waters that had more restrictive regulations than Texas. And the problem, I guess, is that this permit applies only to HMS managed species and not to all Federally managed species in Federal waters. And so it seems like they're still going to be this big question about am I fishing here and for which species does this rule apply versus fishing in state waters and it applies for all species. You see, there's just this big room for confusion in Texas which extends out to 9 nautical miles, so it's a pretty significant amount of water there.

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So anyway, it seems to me at this point that this rule from our standpoint in Texas wouldn't be helpful for ease of enforcement or for providing clarification for the angler.

Thanks.

PARTICIPANT: I think maybe this would help. What's going on here, people fishing in Federal water if they have an HMS permit, they have to abide by the HMS regulations. Once they get into state waters in landing and that state is more restrictive, they would have to follow the state regulations on the more restriction.

So a vessel could be fishing off of Texas waters behind nine miles, it goes into Louisiana, though, it wouldn't follow the Texas rules out in the EEZ. It would just follow the Federal regs. But if it goes into Louisiana, more restrictions there on landing, that's where it would apply.

We're not going to be enforcing the Texas regulations out beyond 9 miles. It's still going to be a state responsibility once it gets into their jurisdiction.

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PARTICIPANT: Yes, I understand that. And I don't really have a problem with that. It's just that if -- I think I could spend a lot of time on this, and I don't really want to. But the issue here is that you're not talking about all federally managed species. And so if you get into this issue if you're in this place at this time, these regulations apply; however if I say I caught this fish somewhere else, you still got the confusion issue. In other words, if it's landed in Texas and you have landed a cobia from Federal waters, this same issue doesn't apply about whether or not it was more restrictive or not in Federal waters. But it does apply for sharks in Federal waters, but it doesn't for gag grouper. It just perpetuates this solution. It's not very simple. And that simplicity was the purpose of our state passing the rule that we passed, was trying to get a little more simple.

PARTICIPANT: Okay. Well, maybe we can talk off line about specific Texas regs.

PARTICIPANT: Dewey Hemilright.

Issue number 1. I -- I don't know where

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to start with this one because it's tough.

I don't understand why less than 70 dobs (phonetic) is going to define as you bottom longliner and more than 71 is going to define as a pelagic longline vessel in a closed area respectively.

I also don't understand the five percent limit on the amount of pelagic indicator species for bottom longline that may possess fishing in a closed area or vice versa. And I'd definitely for 1(3) closed in both the pelagic and bottom because we have a closure now off North Carolina for bottom longline. And you down below the closed area and you can go bottom longline fishing.

I believe there's a time of year right now that off Charleston is closed to pelagic longline fishing, is that right? So the only place I get to go fishing bottom longline and if I choose, would be below that closed area in North Carolina. So if you go and close both of them, then I don't have nowhere to go fishing.

You know, it seems like you're just splitting hairs here. Suppose I see four or five

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buoys floating down in the ocean. I'm not supposed to pick them up because I've got 70 buoys and I'll be over my limit or -- I mean, it's just -- I don't know.

We've got vessel monitoring systems and they half the time don't damn work. We got just more stuff just being piled on. I mean, I don't under -- well, I understand but I just -- I'm for 1(a), no action. And that probably ain't the action you all going to do, but that's what I'm for.

Issue 2 with the shark identification. I'm for no action on that because I don't see what keeping the two fins is going to help somebody identify the shark without having here the whole carcass. I mean, if you're going to make me go to school to identify the sharks, I want to know the people that are making me keep these fins on. Have they been certified in identification? Do you got any type of way or -- I mean, it's not like all of a sudden everyday there's somebody there to identify your sharks. So I think that before you go making me identify them, the people that are going to be identifying them, they should be certified. So I'm

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for no action on that, even though Rusty said it was fine. That's just another thing of another pain that I got to take of once I inload that shark, we got to go back and cut the two fins off. To go back. So I'm just against that until you show me -- I mean you say it's for shark identification. Damn, you got the shark there. Can't you identify it with the shark. What do you need two little fins for? Is that some special thing?

Issue number 3. You know, suppose you come in with 3990 pounds of sharks. I got one shark left. Am I supposed to put him on that scale and cut ten pounds off and throw the rest over? The same way with the fins. If you're catching large sandbars, your fins are going to be over. So do I weigh 200 pounds, which is five percent of the law and throw the rest over?

You know, why don't you all do something to help us instead of some way extort money out of us. To help us you would go and say, hey, let's put a tolerance of 5 to 750 pounds or something, you know, which we've been asking for because of being over on

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retention limits and having to travel a long ways. But instead, no, you're going to make -- a chance to penalize me and have to throw something back dead over if I come to the dock. Because it's not like you're counting individual species, like 39 tunas or one blue marlin or one bluefin. It's poundage and it's hard to -- you can't weigh out there.

So instead of making it easier, you've just -- another way -- a possibility to extort money out of -- extort money. That's what it would be. Because it would be fines or tickets. Take money out for being over.

Also, the dealer we're out there trying -- this past year shark fishing we'd come in and sometimes you'd cut your gear off and come in and unload, you'd go right back out. And it's another -- another way -- I look at it why not give us a tolerance of 4 or 500 pounds we've been asking for? Huh? Why not make it easy? Easy. Not easier, because I know that's not going to happen. But instead of coming down with potential limits to where if you are a pound over, we're going to give you a

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ticket. I mean, wouldn't that be a lot easier?

What do you do in that case if you come up to the dock and got 3990 pounds and you got one more shark and he weighs 40 pounds, a guesstimation? You put him on the scale and he's over. You're over 4,030 pounds. You'd cut half of that off and throw the rest of him over? You weigh your fins up there and you say well I got 200 pounds and, you know, we got big sandbars and they're over. So here's 10 or 12, 15 pounds. Well, just throw them over, do we? Is that what we do? Did you all think about that or this just makes it easier for you?

I just keep on reiterating, it's just getting more damn difficult to deal with you all folks because you all just -- just like you ain't got a clue what the heck we're going through out there just to keep it going. And then you come down with retention limits, oh, it's just easy. It don't have an economical -- additional economical impact. So -- but it does.

I mean, why not increase it? I'm not going to keep harping on it because it just -- it just

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don't seem like you get it. Probably won't.

That's probably enough I need to say.
Thank you.

PARTICIPANT: If I could just respond. I think extorting money has a different meaning. I mean, this is intended to support enforcement of the triple net that's already on the books. And I think, you know, maybe enforcement could chime in at some point and we could talk off line about how they handle case-by-case enforcement. But I think extortion a different thing. I just want to clarify that that's not what we're doing.

PARTICIPANT: But you're allowed to give your answers. I'm here to advise on my opinion. I call it extorting, because that's what it is. So, hey, we agree to disagree.

PARTICIPANT: Some of this is very, very important. And I appreciate Dewey's concern, because it is critical out there. Bottom longline, pelagic longline even small measures are, you know, is the straw that's breaking the camel's back today.

Where did enforcement go? They were just

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here and they just left. Yes.

PARTICIPANT: We're going to have enforcement discussion at 10:45.

PARTICIPANT: We really need them on some of this. Because -- I will, let's try to do deal with the bottom pelagic longline.

Now, fishermen out there on the ocean can differentiate between bottom longlines and pelagic longline. You come up on a boat, you can tell by the amount of equipment, et cetera. You come up on the gear you can tell by whether it's a buoy that's attached to the bottom and you see the current going past it. There's no other buoys. No string of buoys such as you have pelagic longline. If fisherman can tell between bottom longline and pelagic longline, why can't we teach our enforcement officers to be able to tell so that we can avoid a couple of critical things here? Okay.

One critical thing is that these boats economically have to be able to switch target during the trip. The bottom longline boat, you know, if it's not going well, bottom longline and there's the

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availability of pelagic longline in the area, he's got to be able to switch. He has that flexibility today. That flexibility should remain. It's critical.

The pelagic longliner, he's out there pelagic longlining, it blows up 40, 50 knots, you know, it's going to blow for two days. He switches over does a little bit of, you know, bottom shark fishing and can continue his trip on the pelagic and when, you know, the weather settles down. It's critical.

Boats will go out of business if they don't have that flexibility, if they can't retain that flexibility both in the bottom longline fishery and the pelagic longline fishery.

Secondly, you can't unload the fish hold of these boats at sea without damaging the catches. You just can't do it. It takes breaking everything out of the ice, melting it out. You know, at the end when you get back to the dock it is not the same quality product as if you had not broken it out of the ice. That's -- that's -- you know, a couple of critical things.

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PARTICIPANT: Excuse me, Nelson, I'd just like to respond to a couple of things.

PARTICIPANT: Sure.

PARTICIPANT: First of all, these requirements would only be applicable when they're in the closed areas. So that if they're outside of them, they will have that flexibility. So, again, it's primarily an enforcement issue. And, yes, I think that often times it is apparent to be able to differentiate between these two gears. And I think that part of our intent as a result of this is, however, there might be situations where there is some question and that we would take, you know, these additional steps if it's necessary at that point in time. So, hopefully, it would be apparent to an enforcement official what type of gear there. But if you need something that's quantifiable, then you can fall back upon these. So that was kind of the intent in developing this.

PARTICIPANT: And you can tell that it's brought them. But, you know, a couple of things. What if a pelagic longliner just switches over to

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bottom and he only has a little handful of sharks on the boat at that time, you know. So what is he then? Because, you know, he's on his first bottom set? What is he then?

PARTICIPANT: Well, if you're in a bottom longline closed area, that wouldn't be a problem. If you're not -- I mean, the idea here is that in an area that's closed to one gear we need an ability to differentiate it from gears that are authorized. And this is an attempt to try and come up with a quantifiable way to differentiate. It's difficult. Most people can look at a boat and know well that's a pelagic longliner or it's not. But we need some additional help when it comes to actually quantifying things, and that's what this is trying to do.

Away from closed areas or out of seasons, you know where they're not applicable, it wouldn't come into play.

PARTICIPANT: There isn't very much away from closed areas. The closed areas, as someone likened it to three-quarters of the land mass of the United States of America. There isn't much away from

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closed areas within the EEZ and much less away from closed areas on a boat like Dewey's that can't go 200 miles offshore. So, you know, we need to be a little realistic on that.

But again, I'll go back, you know, while enforcement is sitting here fishermen can tell, you know, by looking at the bottom whether it's bottom or pelagic. Fishermen can tell by looking at the gear whether it's bottom or pelagic. Why can't we teach our enforcement to be able to tell whether it's bottom or pelagic so that these critical things can be respected and we don't further undermine the economics of the fishery?

PARTICIPANT: Well, I think it's coming down more to we need the written definition of what it is. I mean, that's how we're going to have to present it if there's a violation to general counsel or if we go on board a boat, we need to have a clearcut written definition.

And you have to understand, too, it's not always a special agent that's going to be at the boat. When it's done at sea, it may be a young Coast

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Guardsmen or a young state officer or somebody that doesn't have the experience.

I agree with you that we need to have some way to easily identify this. And I understand the fishermen who work with this gear everyday all the time can walk to a boat and understand it. From an enforcement standpoint, how do we get that young boarding officer with the Coast Guard to know what it is? And the only way we're going to convey that out is some type of written directive. Because we're not going to be able to just explain it over the phone to him every time.

PARTICIPANT: Yes, but we need that boarding officer to call in with any question because they're making some big mistakes out there, some of the young boarding officers that are costing operations, you know, money.

PARTICIPANT: And I understand that. And there is a system in place with the Coast Guard that they call their training centers for fisheries. And if it gets to another point, then they will contact an agent. But it still comes down to getting a written

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definition of the area. And our concerns are in the closed areas. And we need a strong written definition that identifies is it pelagic or is it bottom longlines.

PARTICIPANT: Okay.

PARTICIPANT: (Off microphone).

PARTICIPANT: Right. But you have to break everything out of the holds to even prove that.

PARTICIPANT: Yes, that's the same question.

PARTICIPANT: Yes. Well, I did. But you have to break everything out of the hole to even prove that.

And there's a lot of, you know, various different situations that would have to be taken on a first come, first serve basis or you know, case-by-case.

But one of the ideas that I've heard is is there a way to call in? And I don't know how much that idea has been bedded, but is there a way to call in to identify, you know, that you're going bottom longlining, you know, you're switching to bottom long

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lining or what have you?

PARTICIPANT: That has been a strong opinion of enforcement is we want that capability to know. And one of the reasons we did that is so we have a call in and we know what that's going on. And then the Coast Guard could have it. And we would like to do it through the BHF system or a call in system. But, yes, that's one thing we would really want.

PARTICIPANT: And if that could be done on the BHF, all the better. I would assume.

PARTICIPANT: Yes. We'd have to work out the communication aspect of it, but we would like to have some sort of call in.

PARTICIPANT: Right. Well, I would advise to try to work towards something of that nature. And, again, I want to say how critical it is that these vessels retain the ability to switch during the trip and how critical it is unless, you know, somebody suspects contraband or something that they're unloading the fish at sea is very financially detrimental.

PARTICIPANT: Nelson? Sorry. On the call

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in requirement, enforcement has asked us to make some changes to the VMS requirements and part of that would be to require call in. We did think about that through this rule. But so a fisherman calls in and says that they're using bottom longline and they're caught fishing in a pelagic longline closed area, you still have the problem of somebody going on board who may not know the difference and bringing that person in.

PARTICIPANT: Yes.

PARTICIPANT: So we wanted to have something on the books so you could still tell the difference.

PARTICIPANT: Yes. And the difference of dobs. You know, if we were to -- you know, it would have to be like a last resort to have to force, you know, a pelagic longliner to have all bullet floats except for so many poly balls. Of course, a bottom longliner would have all poly balls. That would also be a problem.

Okay. Moving on. Shark identification. It's okay. I think it's unnecessary. Again, this is a

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case where enforcement should be better trained and it's another concession by compliant fishermen that are willing to -- you know, I'm not going to fall on the sword on that one.

PARTICIPANT: Can I just respond to that?

That this not just for enforcement to help tell the fins, although the enforcement did request this saying there's enough information in those two fins so they can tell. But it's also to help the shark dealers identify it once they're offloading the boat. And that we're during the shark identification workshops hoping to be able to show them the differences with these two fins on. So it wouldn't just help enforcement, but also the dealers who aren't going to see the entire shark. They're just going to be seeing that dressed carcass.

PARTICIPANT: I got a feeling that once you get a shark dealer or their proxy into a mandatory workshop, that you're going to have some amazing identification results.

Issue number 3, (inaudible) being at sea, however in addition to commercial retention limit

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measures, NMFS should review and make any necessary revisions in order to fully enforce illegal recreational sail of HMS. Huge problem, continues to be. Huge, huge problem. It's a food safety issue.

Oppose Issue number 4, definition of Florida East Coast closed area. We have opposed that even if it's a half a mile. We can't say yes to anything that is a further negative impact on this fishery, even if it's ten feet. We just can't do it.

Support Issue number 5. Definition of handline.

On Issue number 6 Blue Water can support a temporary option (b) on the grounds of current stock status and biological conservation needs for billfish.

However, as over fished stocks are recovered, reasonable retention and disposition of incidentally caught fish that cannot be returned to the sea alive should be reevaluated.

Issue number 7 bluefin tuna dealer reporting. Support the preferred revision.

Issue number 8, support.

Issue number 8, Blue Water supports the

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preferred alternative on 9(b) support. And this should require a permit for all HMS fishing vessels of an internet or other electronic reporting system would work to provide the ability to easily report. The public at large is not burdened by requiring recreational fishermen to report their effort, catches, landings and discards of Atlantic HMS, a public resource.

NMFS must be use pooling or other extrapolation methods to estimate total U.S. recreational efforts, catches and post release mortality for management and assessment purposes including more accurate (inaudible) reporting. NMFS must require all HMS fishing vessels to comply with dockside interviews by data collection programs and to ensure that their respective marinas do not impede such data collection.

NMFS should require mandatory observer coverage because it is obvious that the voluntary program in the HMS FMP has not worked. NMFS should ensure compliance with reporting and other requirements by rescinding permits and issuing

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violations, sanctions and fines.

Issue 10, Blue Water supports the preferred alternative and opposes (a) and (c) unless or until there is further clarification from ICCAT.

Issue number 11. All U.S. fishermen should abide by U.S. regulations no matter where they are fishing unless under a chartering arrangement consistent with ICCAT recommendations and/or an exempted fishing permit.

Then the Madison Swanson Steamboat closure came up. I don't know where it fits in all here, but it was raised. And, you know, Blue Water cannot support that closure for one HMS hook and line gear type. We could support that closure for all HMS hook and line gear types, but not for one. You know, pelagic longline is going to interact --

PARTICIPANT: It is, Nelson.

PARTICIPANT: With snapper and grouper just as much as trolling?

PARTICIPANT: It's the same regulations the Gulf Council has, which is for all gear types.

PARTICIPANT: Except there's an exception

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for high speed trolling.

PARTICIPANT: Trolling.

PARTICIPANT: For six months out of the year.

PARTICIPANT: So it's across the board recreational and commercial for the closure? Okay. Thank you.

Also don't know where it fits. There's some discussions in here on incidental catch limits. Do we discuss that now or is there a different --

PARTICIPANT: One thing I wanted to talk about at the break, which we are going to need to take soon, is list of other issues that folks would like to talk about. If you want to get those to me on the break, pass me a note, whatever. What we're going to do is that miscellaneous issues this afternoon run through what everybody wants to talk about and, you know, I'll figure out an approach to get it all covered in the time we've got. So I would ask you to save that and try and stick to the issues under reg housekeeping at this time.

PARTICIPANT: Okay. I thank you.

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MR. McBRIDE: Yes. John McBride, New York (inaudible) and Captains Association. I have one statement and one question.

Louis opened up the door for support for the green sticks. Yesterday I didn't make a comment on it, but I'd like the record to show that we certainly have no objection to the continued use of the green sticks both commercially and recreationally.

They're a trolling device. If they're more efficient under structure 1 for the commercial operation, that's fine. They're certainly not a longline device.

So if Louis has an opportunity without tearing all the regs up and rewording things and something and we can get it in there, it's something that should be included. It certainly is not a longline device. That's number one.

Number two, yesterday I made a brief comment about enforcement, and my point was don't make a law you can't enforce. And I asked about the permit or I made a comment about the permits that just anecdotally that I don't think there were 10 percent of the people who fish for HMS has the permits. What

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is the number, the current number of permit holders on the -- is the East Coast only from Texas to Maine or is both coasts for the HMS permits?

PARTICIPANT: It's just Gulf of Mexico through to Maine and including the Caribbean. Are you asking specifically the angling category number?

MR. McBRIDE: No. The total number HMS permits. That can go to either -- angling -- yes, angling. I'm sorry. Frankie is right.

PARTICIPANT: I think it's up to about 25,000.

MR. McBRIDE: Oh, it's up that high. Because at one time we were down 5,000 or 6,000. I think that they do out of the Port of Montauk.

Thank you very much.

PARTICIPANT: That doesn't sound right.

MR. McBRIDE: That's an improvement, anyway.

PARTICIPANT: Well, the number of angling category permits has been increasing over the last several years.

MR. McBRIDE: Okay. That's the point I'm

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making. I'm glad that you're working on that. Again, you know, it isn't right if person A gets the permit who obeys the regulation and person B ignores it and no one's doing anything about it; that's my point.

Okay. Thank you.

PARTICIPANT: Thank you.

On Issue 1 I agree with Nelson that the opportunity for flexibility amongst the fisheries is very, very important especially as restrictions are moving more and more fishermen out of one area into another, they need to have backup plans to maintain their income.

To a point that Dewey said regarding the number 70 versus 71 between bottom longlines and pelagic longline, you know that seems a little bit too stringent to me as far as being able to enforce it. Most product fishermen also keep spares on board of everything. And, you know, there probably ought to be some percentage in there as well that may not create problems with fines and other interferences.

I agree on shark identification, Issue 2. We definitely need more education. And it goes

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across the board both with enforcement as well as fishermen.

Item 3 the HMS retention limits. Yes, I agree with that not just because of the cost, the recreational sail came up, the safety issues there. But, you know, just the excess waste that often occurs.

I'm going to skip 6 for a second because I have more to say about that.

Issue number 9 I'd like to see, and perhaps this is covered elsewhere, just the consistency there in the consequences of not reporting.

Under Issue 8 the potential impacts it does say that perhaps there'll be fewer pops. Limit renewal delays, et cetera. It ought to carry over into area 9 because if you're going to have . . .

(End tape 2, side A).

PARTICIPANT: . . . they came in and they took my records. They took my records and each time that the boat is packed, and it could have went back I don't know how many years it could have went back, but

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they just choose 11 -- 10 times to write me a ticket for or 5 times to write me a ticket for. But every time the boat is ever packed, it's had more than 5 percent fins. Every single time that it's ever packed, it's had more than 5 percent fins.

Willie R. Effrey Seafood Company (phonetic) has had some trouble with the law, but we are a very legitimate company. We try to run it just like I hope most of you people try to run your businesses. And we don't cheat and we're not doing things dishonest. And we send in the report. Because we did that, National Marine Fisheries fish cops were able to come and write me 10 tickets. They could have wrote me a 100 if they wanted to. At one time I did 61 tickets but the state of North Carolina. And they all used my records, self-incrimination. They all used my records.

Now you're going to certainly take their ability to stop the boats from unloading too many fish and catching them for it. Because I can only have 4,000 pounds. The guy that runs my fish company, that's all the hell that we're going to pack. And

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what in the hell are we going to do when we got a boat comes in and he's got 4,000 pounds of sharks and it ends up being 4,075 pounds? What am I going to do? Go through the box and try to find a 74 pound fish or take a real big fish and keep cutting off until they get to 74 pounds? I mean, somebody somewhere has to see the absurdity of all of that.

And the 5 percent fins we fought with you ever single time we have come to one of these meetings telling you that it's not right. And you people know it's not right. And law enforcement know it's not right, and that's why in the hell they don't enforce it. That's why they haven't written everybody a ticket in the world that they've come in. But now that I'm just not going to buy them, so they'll probably go to some other fish company to unload their fish. What fins are you going to take out of the box if you can only have -- if you've got 4,000 pounds of sharks and you can only have 200 pounds of fins and you've got 230 pounds of fins? Are you going to pick out the A fins and throw them back overboard, because that'll be quicker and then you won't have to pick as many of

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them out. Are you going to go through and pick out the little chips and throw those overboard so you can get to within 5 percent.

And I'm just elaborating and carrying on about this to try to let some of you people, and it does look like some of you are listening again, what in the hell we have to go through with to try to stay within these laws.

And again, I'll go back and say I don't -- I think that you people up there running this show care more about it than most people around this table, other than the commercial care about it. And I do -- that's why I told you that I loved you, and I love everybody else around the table, too.

Possession of billfish on vessels issued commercial permits. Well, when you said that, the first thought that come to my mind was these guys that king mackerel fish, that fish in the big rock tournament, they can't fish in it anymore. These guys that have a general category bluefin tuna, they can't fish it anymore. You say oh no, you cleared that up. Oh, no, no, they can fish in it. But if I wanted to

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convert one of my longline vessels and go fish in this tournament, I can't do it. I'm the only person in the United States of American, or those of us that have longline permits, that can't take our boats and fish in a tournament. I damn sure don't want to fish in the tournaments, don't have the money for the entry fee or anything like that.

But can't you see how we come here and get in front of you? The only people that can't fish in the tournament, the only vessels that can't fish in a tournament, is longline vessels. I mean, if that's -- I mean, you certainly have to see where we see that there's some discrimination coming from you for that.

And, you know, you've required us for the last few years to send in all of our financial statements for our longline vessels. I didn't like to do it because I'm not a libertarian, but I really believe that my rights are being infringed on. You don't ask television stations to send in -- they're using a public resources or airways, or radio stations. Just commercial fishermen, just longliners has got to send their financial report. But, you

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know, I told my wife, I said go ahead and fill it out because I know some of these people are pretty good people and they'd probably think that we make a lot of money. Maybe when they start seeing it, they'll be a little bit more lenient when they start writing these regulations. But so far I haven't seen where it's worked.

But, again, it's just another thing that the commercial fisherman is put on him, another burden that has been put on us. And, you know, I certainly with what little bit of intelligence and knowledge I've been able to gain over the years, I know that a fish caught by a recreational fishermen is worth a hell of a sight more to the United States of American than one caught by a commercial fisherman. I mean, I got all that. But I meant when -- when these tournaments, are they required to send out how much money they won or much money they spent for whiskey or much money they spent for a band? And it's just -- you know, it's just -- again, again it's just all the hiatus is just pushed down on the commercial fisherman. And especially the longline fisherman

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through HMS.

And the other thing I wanted to tell you people is I keep hearing out in the public that, you know, you people, you're not competent, you shouldn't have this job. The fish being managed by the councils.

And I'm going to tell you that I would defend you people. I would even be prepared to do whatever it took physically to defend you people to keep this going from the South Atlantic Council to the Gulf Council because you people have proved to yourselves that you're far more capable of looking out for the commercial sector than either one of those councils have. And, again, it going to get me to not be liked too much around here. But I just want you to know that when I am chastening the devil of you and I got this anger in my voice, I do respect that things could be a whole lot worse for us. Not financially, but we could be in people's hands that care a whole lot less about us.

Thank you.

(Section of tape blank).

PARTICIPANT: It's a hell of an act to

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follow.

I should probably at least comment on Willie's comments. Speaking just for myself, Willie, you know I have the great respect for you and I'm glad that you come back here year after year, and I know it's a frustrating process. And respect your job in defending your industry.

To your point on tournaments, I would love to send in economic reports, you know. I mean I would like to get some of that respect as well. And I understand there's a paperwork burden in doing so. It's funny. As you're trying to fight that paperwork battle, I'm trying to get them to recognize that there is commerce going on there. You and I, I'd hop right in there on sending in financial reporting for some of the recreational industries and have that be more formally considered.

I originally --

PARTICIPANT: And we would like to have them, so feel free to send them on in.

PARTICIPANT: Bring it on. We'll talk offline, as you say.

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I put my card up originally on Issue 6. You've covered it on the charter headboat issue. The only thing I was left to counter was Nelson's statement that the voluntary observer systems simply doesn't work. To the best of my knowledge, the voluntary observer system has never been tested. We don't know if the system works or not.

Send me an observer and let me try to get him on the water. I don't know of a single decline of a voluntary observer. And to say that the system doesn't work, we won't know it until it's tested. It would help with the statistics.

PARTICIPANT: Issue 11 gives me a bit of a problem. This issue essentially removes the state's ability to regulate its own waters. And if this is the intent, I think you should be consistent and allow a Federal permit holder to fish under Federal regulations even if they're less restrictive than the state's requirements. I'm specifically talking about the case with South Carolina. We have less restrictive recreational limit on small coastal. We allow two sharp nose and one bonnethead per person. So under

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this situation now if you have a Federal permit, you wouldn't be restricted to only one Atlantic sharpnose and one bonnethead. So essentially you're preempting the state's regulatory ability in their waters.

PARTICIPANT: Only for Federally permitted fishermen, but --

PARTICIPANT: Yes, well that's true. But to be consistent you need to make it go both ways.

PARTICIPANT: I'm speaking I think to the same think. Carol, we've talked and I have kind of -- I guess I'm confused still on this. But basically our requests for the more restrictive regulations was sort of based on what the Council does and allows in their framework. And it was based, since we don't allow under Georgia no landings of Atlantic billfish, that we wanted to reenforce that. And the initial language was for allowable Atlantic billfish if a state has a catch landing or gear regulation is more restrictive than a catch landing or gear regulation in this FMP. A person landing in such state Atlantic billfish taken from the US EEZ must comply with more restrictive state regulations.

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I'm not sure what the exact language is, is this basically what it is? What it sounds to me like, for instance, looking at even Florida, Florida has a one shark limit. Supposedly I think we talked about this, we weren't too clear on it. But if somebody caught a shark in EEZ waters off Florida and also caught an Atlantic sharpnose and they came in through Florida waters, they would be in violation or wouldn't they?

PARTICIPANT: I don't think they would because it would have been caught in Federal waters. But, as Henry alluded to, he and I have spoken and he's given me a couple of examples of what to look for. And you said sheephead. And so I'm going to be looking at some of the Council regulations to show they deal with it and HMS will regroup on that once we look at the examples.

So if there are other examples from anybody on the AP, I'd be interested in hearing what they are so I can look them up.

PARTICIPANT: Great. I was just wondering, is that the case in Florida? Would they be

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in violation of Florida regs if they came in with a legal shark, large shark and plus an Atlantic sharpnose, would they be in violation of Florida regs?

PARTICIPANT: I think in Florida, actually, the regulation is a two shark bag limit. Two per boat.

PARTICIPANT: (Off microphone).

PARTICIPANT: The regulations in Florida are a two sharks for vessel, I believe, still a bag limit.

PARTICIPANT: So if there's --

PARTICIPANT: That applies to anybody.

PARTICIPANT: So if they came in with a legal size large shark and a bonnethead and Atlantic sharpnose that they caught in the EEZ and they're landing back in Florida, they would be in violation of Florida regs?

PARTICIPANT: No, they would not. If they were found fishing in Florida, the presumption would be that everything they had on board was taken in the Florida waters.

PARTICIPANT: Okay.

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PARTICIPANT: If they are in transient from the EEZ -- and that whole gillnet fishery wouldn't be out there if they couldn't get into Florida land to fish.

PARTICIPANT: Okay.

PARTICIPANT: If they are in transient and not fishing with a Federal permit, they have all their legitimate Federal permits to show that they could have legitimately been fishing in Federal waters, then they are not in violation of Florida regulations.

PARTICIPANT: Okay. So it's where they're fishing, based on where they're fishing, not whether they possess it on board?

PARTICIPANT: Correct. Yes. The Florida rules did not presume to trump the Federal regulations.

PARTICIPANT: Okay. Thank you.

PARTICIPANT: It depends on whether the state has a possession limit or they have a fishing bag limit. And if you have a possession limit, obviously it could be a violation in certain circumstances.

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PARTICIPANT: Florida has a recreational possession limit of one shark per person or two sharks per vessel, whichever is less, if that helps anybody. I was reading it in the thing here.

PARTICIPANT: The case with Federal regs with Florida is actually kind of interesting. Because based on their regs and our regs, it's really a case-by-case on whether the state's regs are more restrictive or the Federal regs are more restrictive. Because we've got different limits by species and aggregates. And it's really a case-by-case review on which is more restrictive specific to Florida.

PARTICIPANT: I guess I'm confused. I think the possession limit, some states have possession limits and some states have -- which controls basically where you're fishing. And so I guess it's not unique just to Georgia. I think we're a possession limits and how we resolve that is going to be something you need to work out.

PARTICIPANT: Well, let's try and continue this offline.

(Section of tape blank).

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PARTICIPANT: I'm sure everybody's relieved to hear that. Just sympathizing a bit with some of the things Willie was talking about on the enforcement side. And, you know, a lot of times we talk about enforcement, but what we are really talking about is the prosecutorial side of things. You know, I've known and worked with a lot of very fine NMFS enforcement folks over the years, all the way up to the top leadership. And, you know, as in any group of people there's some folks out in the field that do a great job, a vast, vast majority and understand the fisheries and take the time to learn about them and understand what they're looking at and the realities of the fisheries. And some who either by choice or, you know, just lack of experience choose not to. And, you know, maybe the lack of experience side sometimes falls into the -- you know, when you're dealing with another agency that may not have as its primary responsibility fisheries enforcement, not to pick on those guys. They do a great job.

But in any case, prosecution is often the issue that you're facing and decisions made there that

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are made by lawyers, not by enforcement agents. And I just wanted to point out to Willie, and not to scare the poor man into his grave. Because, you know, he's certainly suffered enough with this kind of stuff. But the Administration has submitted to Congress legislation that was included in the Senate version of the Magnuson reauthorization bill some fairly substantial revisions to the enforcement provisions of the Magnuson Act. And included among those are substantial increases in the civil penalty, substantial increases in the criminal penalties, which we could debate. But far more importantly from the prosecutorial side, in my opinion, is a provision that is sort of a sleeper. I don't know that many people have focused on it. And it would apply in my evaluation equally to the commercial and recreational fishers. And that is for the first time making virtually any violation of the Magnuson Act, I mean any violation of the Magnuson Act which would include -- you know, I'm looking at Rick here. You know, if you had one inch under the size limit or one fish over the bag limit, or one pound over the sharkfin

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conversion limit; any violation of the Act would be potentially subject to criminal prosecution. Right now that is not the way the law reads. I won't go into the details. It is only in the sense of really aggregated offenses that criminal penalties apply. But this provision, and remarkably this hasn't gotten much attention, would make any violation of the Act subject to potentially criminally penalties up to five years in jail per offense.

And I do not believe this has the origins in the enforcement division of the National Marine Fisheries Service. I'd seriously doubt that. I think it's probably coming from the Department of Justice and the prosecutors and the attorneys who like to prosecute these cases, but I could be wrong.

But not to make everybody's life more worrisome, but you guys ought to be aware of that. And it's already almost made it through one body of Congress, and you know you may want to pay attention to that.

On the issue of the sharkfin tolerance, and this also needs to be pointed out. As I

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understand it, the 5 percent is a statutory issue as well. I mean, that is something that Congress put into the shark Feeney Act (phonetic). Somebody nod over on the shark side over there.

PARTICIPANT: Yes, that's correct.

PARTICIPANT: And so, you know, NMFS from that standpoint hands are tied to enforce the 5 percent rule by statute. And so that is an area that Congress needs to address. But Congress is not going to address that unless the best available science suggestions that 5 percent is wrong. Now we're starting to hear more and more that that may be the case. And I don't know if the agency has gotten to a point where it's willing to acknowledge that or not and make recommendations to Congress that 5 percent isn't quite right because some species are different than other species, and that sort of thing. But, you know, that's certainly something that I would expect the agency to do if they are to the point where they're acknowledging that the science that went into the statute in the first place may not have been -- well, it may have been best available at the time but

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it's no longer necessarily correct.

My understanding, you know, when we took this to ICAD (phonetic) and felt very good about moving a shark measure through ICAD, you know great leadership from Sonja and others on her team. And I think that we're hearing already that people are finding that in other countries and other major fishing nations that catch a lot more sharks than us, that the 5 percent thing is perhaps going to come unraveled as well. I don't mean to make Sonja's skin crawl or make her go to another ICAD meeting, God forbid. But, you know, that's what we're hearing.

So that issue is out there. And, you know, at some point we're going to have to address it because we're putting fishermen into harm's way legally for otherwise innocent behavior.

And just one final tiny point. On this issue of bottom versus pelagic longline. It's clear that you guys are trying hard to find a practical way to assist in the enforcement of closed areas, and pelagic longlining, but allow bottom longlining to occur and all that. And, you know, we appreciate your

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efforts to do that. But it's still clear that there's problems there and it could also subject fishermen completely innocent activities being subject to potential violations or at least (inaudible) enforcement actions that are extremely impractical, perhaps unsafe and at a minimum costly to them. And who pays that cost? They just have to eat if, even if they're found to be operating legally and innocently.

So I suggest that, you know, the solution did not come out in this discussion. It is unlikely to in this type of forum. But that there probably should be follow up discussions between the folks that are working directly on this and a group of fishermen, and Willie, you know there's Dewey who are in the fishery in the practical sense and the enforcement folks to figure out, you know, is there a way to get at that issue. It's a legitimate issue, but we need to find a legitimate answer, the solution that works for the fishermen.

PARTICIPANT: Well, to that end, Glen, the comment period is open through March 1st. And so there's ample opportunity still for folks to submit

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their comments.

PARTICIPANT: Yes, but just sending a letter as opposed to having a discussion, you know, a working effort and some synergy to it.

PARTICIPANT: Might want to do a teleconference.

PARTICIPANT: Yes. Something that's a working effort. not just here's a letter, you say no. Okay. Here's another thought. No, that doesn't work. Well, maybe if you try that. You know, I think you could probably bring together a group and maybe have something work out, I don't know. It's just a suggestion.

(Section of tape blank).

PARTICIPANT: Also, just a quick reminder. In the blue folders on the right hand side was information on travel vouchers, how to get them in, when we need them. If you could please get your vouchers with receipts and things to us all as promptly as you can, that would be wonderful. It would help us out. Get you your money quicker. We would really appreciate it.

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Thanks.

(Section of tape blank).

PARTICIPANT: Because we are pressed for time. So if everybody take their seats or possibly move out into the lobby area to continue discussions, that would be great.

The essential fish habitat provisions, as most of you know, were added to the Magnuson-Stevens Act in 1996. The Magnuson-Stevens Act defined EFH as those waters and substrate necessary to fish for spawning, breeding, feeding and growth to maturity.

Under the Magnuson-Stevens Act fishery management plans are required:

To describe and identify EFH for each fishery;

To minimize to the extent practicable adverse effects on EFH caused by fishing;

Identify other actions to encourage the conservation and enhancement of EFH, and;

The MSA also requires NMFS to set forth a schedule for the review and updating of EFH identifications based on new scientific evidence or

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other relevant information.

So that's the MSA side of it. The other side of it that was published in January of 2002 was the EFH final rule. The final rule was designed to assist in the description and identification of EFH and FMPs. And the final rule includes the following provisions:

1: FMPs must identify and describe EFH for all species and life stages in the fishery;

2: FMPs must identify fishing and nonfishing impacts to EFH and prevent, mitigate or minimize any adverse impact from fishing to the extent practicable if there is evidence that fishing impacts are more than minimal and not temporary in nature, and;

3: The EFH final rule indicated that FMP should identify specific types of areas or habitat within EFH as habitat areas of particular concern or HACPCs, as the acronym goes.

In terms of the HMS EHF history the original EFH descriptions for HMS were published in the 1999 FMP for tunas, swordfish and sharks and also

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in Amendment 1 to the Billfish FMP. Several HAPCs were described for sandbar sharks in that document, that being the 1999 FMP for tunas, swordfish and sharks.

EFH for 5 shark species, which included sandbar, blacktip, dusky, nurse and finetooth was updated in Amendment 1 to the HMS FMP in 2003.

NMFS is currently conducting a five year review of EFH for all remaining Atlantic HMS that were not updated in Amendment 1 to the 1999 FMP.

And all of the habitat descriptions and new EFH maps can be found in Appendix B of the Draft HMS FMP. All of the literature review and new information that we've compiled is available in Chapter 10 of the Draft EIS.

At this point in time we're not proposing any alternatives for EFH. We're simply conducting basically phase 1 of our five year review and update of all new information regarding EFH that we may have acquired since 1999.

As part of the five year review we've undergone fairly substantial data collection process

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from state and federal and nongovernmental data sources, such as the Pelagic Longline Logbook, observer programs, tagging programs and data from individual researchers and institutions.

To name a few, we've collected information from NMFS' Apex Predator Program CASSPNA (phonetic), which is the cooperative Atlantic States Shark Pupping and Nursery Area Synthesis document that's been going on through the Northeast Fishery Science Center.

We've got data from the Cooperative Tagging Center through the Southeast Fishery Science Center.

We have the Commercial Shark Observer Program data.

Southeast Fisheries Science Center
Longline Shark Survey.

We have information from Mote Marine Laboratory (phonetic).

The South Carolina Sea Map Program. I didn't list all of those here. I'm just sort of giving you an overview of the different types of information that we've collected as part of this five year review.

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The FMS Longline Survey. And also information from the Billfish Foundation.

Once we compiled that information we mapped and have begun our analysis of the new information using a geographic information system. Each species and life stage is being mapped and those maps are presented in the Draft FMP, as I mentioned, in Appendix B.

In terms of the data review, we're looking for trends in distribution, perhaps new information on life history or habitat requirements that may have been published since 1999. And we're also assessing any impacts of different fishing gears.

As an example of the type of overview map that was provided in the draft EIS, here you see in hashed marks the central fish habitat areas for juvenile swordfish overlaid with the comprehensive data set that we had. And as you all know, for a lot of our HMS species we're relying predominately what we call level 1: presence, absence or distribution information. For some our species we do have more detailed habitat information, for some of the shark

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species for instance. But largely at least in terms of swordfish, we're looking here at presence, absence, distribution data.

And this was an example of the type of map that was provided in the draft. In the final we've been working on updating the maps. We've had some assistance from some another arm within NOAA that's more involved with doing mapping of different types of data. And so we're kind of giving a new look in the final that in particular includes a distinction between data accumulated prior to 1999 and data accumulated post 1999.

So what we've done is take the distribution points and grided those on 10 minute square grids so you get a range, a number of observations that fell within a particular grid. And you can see a range in the lower left hand corner. That's simply the number of, in this case, juvenile swordfish that were observed within that 10 by 10 minute grid of 100 square nautical mile area.

Gridding the data allowed us to create this sort of scale of abundance, even though it's not

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really abundance. This is simply a numerical tabulation of the number of occurrences or observations of that species in a particular area.

And then to overlay those data points on the current EFH areas and see whether there are perhaps gaps where we have information on presence or absence of a particular species and how that might compare to the boundaries as they were identified in 1999.

If I could go back. Let's see. For instance, what this allows us to see if you look up along the northeastern seaboard of the U.S. You can see that our hashed EFH areas for juvenile swordfish and just south of Long Island, whereas clearly there is still very high numbers of juvenile swordfish that have been observed along that 200 meter depth contour going well out beyond Cape Cod.

So looking at the information this way might at least pinpoint some of the areas where we know there are high numbers of swordfish or other species that may be occurring that perhaps do or don't overlap with the current EFH boundaries.

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So we found that simply mapping the data that we have and comparing it to our existing boundaries can provide some insight. And perhaps point us to some areas that might need modification in the future.

As I indicated, we're not proposing any modifications to those EFH boundaries at this point. We've simply accumulated all of the data and are examining it with our NMFS technical experts to see whether in fact some changes to those EFH boundaries might be warranted.

Clearly looking at that juvenile swordfish EFH map there might be some room for discussion as to whether some of those areas along the northeastern seaboard along the 200 meter contour should be included.

All right. Here's a similar map for adult swordfish. Again, just as examples of what we've done for the different species, no particular reason that we selected swordfish. These are simply examples. We also list the different data sources that we relied upon for the different distribution data under the

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adult catch data source. You can pelagic observer program, cooperative tagging system, the cooperative shark tagging program. And then we also broke it out by gender, male and female numbers for these adult swordfish.

Similar map for Central Fish Habitat for larval swordfish. We, obviously, don't have a lot of data on this particular life stage for swordfish. We've tried to accumulate what information we can. You can see that there are obviously some gaps in data and perhaps in our understanding of where these areas might be. And that's something that we will be examining in greater detail in a follow up rulemaking where we consider potentially modifying some of these EFH areas.

In the draft EIS we also looked at fishing impacts. And we reviewed not only other Federal fishing, fishery management plan and gears that might effect HMS EFH. But we also looked at none FMP or state gears that could potentially effect HMS EFH. And we've concluded that most HMS gears are having minimal to no impact on HMS EFH or to other species'

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EFH. The one exception is bottom longline gear which may have some adverse effect on EFH. NMFS will be investigating if effects on bottom longline gear are more than minimal and not temporary in nature in a subsequent rulemaking. If we make that determination that bottom longline gear does have a more than minimal and temporary effect, then we would be required under the EFH rule to propose alternatives on minimizing those particular fishing impacts.

NMFS concludes that there are few anticipated impacts from other FMP regulated and non-FMP regulated gears on HMS EFH. And that is largely a result of the fact that most HMS EFH is defined as the water column with the exception of being some of our shark pupping areas where we've been a little bit more explicit and actually said that we think for some species, some limited number of species that they do occur in certain habitat types such as submerged aquatic vegetation or mud bottom or that sort of thing. But those are very localized areas and they are for only a few of our species.

Most of the HMS EFH is defined

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geographically by certain areas that would encompass particular ocean salinity or temperature gradients, that sort of thing, as opposed to actual habitat types.

In terms of nonfishing impacts, we're also required to review all land-based activities that may impact HMS EFH, which include coastal development, agriculture and silviculture to name a few. Those are the primary large ones that could have an effect. We're also required to look, and did, in the Draft EIS at coastal and offshore activities that may impact HMS EFH. And I've listed a number of those activities there that could all potentially have an impact, largest of which probably would be the offshore oil and gas operations, which seem to have kicked up in the Gulf. And that we're very concerned about.

In terms of the five year review and the process, what we're doing is consulting with our technical experts in their interpretation of the data that we've collected to date. And they will help us to make a determination whether modification to existing boundaries are needed. All indications so

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far from talking to some of our experts are that we probably should follow up and revisit, at least some of the areas for some of our species to see if modifications might be needed.

And what we would like at this point are public comments concerning availability of additional data for EFH, habitat areas of particular concern and/or fishing impacts.

IF we were to revise any of the EFH boundaries, including any new habitat areas of particular concern, or if we were to minimize any potential fishing impacts, that would be done in a future rulemaking. At that point we would go out and, obviously for public comment again, and propose alternatives for the different areas that we might propose for EFH.

Just a quick overview of some of the comments we've received. (inaudible) is always of interest, particularly for juvenile billfish lifestages and there are certainly some reasons that that might be considered for EFH.

NMFS should designate the entire northern

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Gulf of Mexico as EFH for bluefin tuna was another comment we received.

NMFS should consider Gulf Council EFH and habitat areas of particular concern designations in any future HMS EFH designations. We agree with that.

And finally, a positive comment. NMFS should be congratulated on the work completed in the EFH review. We certainly appreciate positive comments when we get them.

So thank you for that. If you have any questions or comments, I'd be happy to answer whatever I can.

PARTICIPANT: Thanks, Chris. Just talking to Rita. My main comment initially was about the sargassum. Basically going off what the South Atlantic Council said, and that's probably where you got the comment about looking at sargassum as EFH. And also I think one thing that was important in this is that we also need to look at it beyond U.S. waters and consider that in possible negotiations elsewhere if there's a problem with that as far as EFH. Is that right, Rita? That's about it.

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PARTICIPANT:

PARTICIPANT: (inaudible) Bob Peter
(phonetic).

MR. PETER: Chris, I also want to congratulate NMFS and compliment you that this process has come a long way, and I can see that a lot of work has been put into this. These maps are much improved over the earlier versions.

But I think that there's still a big of a disconnect between the available data, at least in the case of sharks and this process. And the problem is, of course, that headquarters is basically involved in regulation and not science and science is the business of the Science Centers. But I think there's still a lot of data that are being collected out there that are even under NMFS contract or being funded by NMFS' grants that aren't getting into this process.

I was talking with a couple of NMFS' staff about this yesterday.

I wonder as an example, I don't see evidence that the NMFS organized compendium of shark nursery areas that was done about two years ago, the

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original report, not the one that's being published right now as an ASF book, but the original report. If that's in here, because I see some omissions of things that I know about and I don't see any citation to any of the papers in that report that I'm aware of.

PARTICIPANT: That was included in the review. And, in fact, the Northeast Science Center was really instrumental in collecting all the information for us, and did the preliminary collection of that data as well a mapping of the data. Because, as you mentioned, you know we have a lot of things on our plate, obviously. And it's a lot of work getting all that data together. So Camy McCanless (phonetic) and Dr. Nancy Coler (phonetic), who I think you were referring to with their Coastbound publication, did include the data that had been acquired to that point through the Coastbound project. The way it's referenced in the draft, I believe, is under McCanless. Because at that point it was still a draft. What they've done is they were trying to get it published through AFS now. At that point it was a draft. They did submit a draft to us and have expanded

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the number of authors that are included in the report now.

And as far as I know in my last conversation with Dr. Coler that they're planning on publishing that this summer. Unfortunately, that new information that they're publishing we could not include in this synthesis of all the EFH information. But the prior one that you're referring to was included in the draft.

PARTICIPANT: Okay. I don't want to waste the Committee's time with this, but I would like to see the individual researchers cited only because we get these concerns that are always being expressed of, you know, why isn't work being done and what work are you doing for the Federal money you're getting, and so on and so forth. It's nice to see it in print and have individuals like this panel see that these results are being translated into scientific results that are useful for management.

So thank you.

PARTICIPANT: I'm sorry. If I could answer that question, too. That is a very good point,

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perhaps one that we overlooked. I know when we published Amendment 1, which included an update on the five shark species that I mentioned, we did have a table that included the authors that were a part of that Coastbound project if they had provided specific information on a particular shark species. That took a lot of effort. Again, it's not an excuse in terms of effort to not have done that, but we haven't done that for this comprehensive draft. We will try to get that into the final, because I do think that that's an important point.

PARTICIPANT: Russell had some -- you mentioned the bottom longline being investigated on the EFH damage. I don't have Mike Burnett's (phonetic) document with me at the moment, but I was in discussion with the NMFS scientist recently about that. And it seems like the impact is particularly noticed around profound reefs, certain kinds of coral heads, sponges and stuff like that. But when they get out in the mud bottom, sand bottom where the traditional sharks are found and fished as opposed to reef fishing, you don't have as much of that same

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damage into that kind of bottom.

And then the other point that I need to make, because this is back to Burnett's, I don't know if he had broke out the difference between a man using cable for bottom longlines, a man using tared nylon for bottom longlines or a man using monofilament for his mainline. And so those would be like three different effects that once you get closer to a reef.

Because I believe if you're going to get into the reef, you're probably talking about grouper guys and you're probably talking Gulf of Mexico, stuff like that.

MR. HEMILRIGHT: Dewey Hemilright.

Where would I go where specific areas for this central fish habitat. There is an area that's north of Cape Hatteras that's 5 miles below (inaudible) where the closed area is. And there's no recorded observations there as far as bottom longline observed or anything, but yet you still closed it down. And when I asked you the question, you say well there's a central fish habitat. And I got looking at where you have laid on the central fish habitat one

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day. And I'm coming in, and I happened to look at my chart and I look at my chart and it just happened that central fish habitat's the whole 10,000 contour that's identical to the chart I'm looking at. And I was wondering where do I go to find just how you identified this whole area. And it's ironic that it's the same chart . . .

(End tape 3, side A).

PARTICIPANT: . . . it's a hard copy documents. I can get those to you. And the way that the areas were mapped, how they were identified is all described in there. Again, very similar to the process we're using this time around, though.

MR. HEMILRIGHT: And one other question.

PARTICIPANT: And in terms of the contouring, clearly some of the species distribution, as you can see from that swordfish map, follow natural contour or boundary areas, whether those be drop-offs on a bathymetric drop-off or temperature gradients that are following the slope; those sorts distributions of our HMS tend to mirror stuff like you're seeing with contour lines. So to me that

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doesn't strike me as out of the norm of what we might expect.

MR. HEMILRIGHT: Well, one other question. When your bottom longlining, was that cable gear or monofilament gear?

PARTICIPANT: Similar to Rusty's question I believe. We would need to look into that in more detail. What we've done so far is looked at what's happened in the Gulf region. They're the ones who are leading the way with closure areas for bottom longline gear and EFH areas for their species, not for HMS. So to the extent that those areas might overlap with our fishermen are fishing, we will need to do that analysis. We'll need to figure out what type of gear they're using, how frequently they might fish in that area; go through that whole analysis to figure out whether it's quote/unquote minimal, not minimal or more than temporary.

MR. HEMILRIGHT: Well, I was just for my own self and other fellow fisherman, I encourage you to do something different, to look at it different from what the Gulf is. Because they might not have

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the same outcome or going through it as I would hope that the National Marine Fisheries would have or something like that. Because it's two totally different areas and it effects fishermen in different ways, the Gulf and over here.

Thank you.

MR. DELANEY: Glenn Delaney.

On assessing impacts of offshore activities on HMS EFH does that include L&G facilities?

PARTICIPANT: Yes, it does.

MR. DELANEY: Second question. I noticed in your comments received list a comment suggesting that the Gulf of Mexico be designated as essential fish habitat for bluefin tuna. Did I see that correctly?

PARTICIPANT: Correct.

MR. DELANEY: Which suggests that, you know, you could designate if you were to take that as a serious consideration, you would recommend that you have the rest of the Atlantic Ocean and the Mediterranean Sea. You know, it seems a little bit

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out of place in this context to designate EFH in that context. I could name vast areas of the ocean that are essential habitat for bluefin tuna for their spawning, feeding and growth to maturity. We're talking about a highly migratory species here and there are some narrow situations that you've been talking about in the shark context that may be appropriate. But also I just urge you to keep in mind that we're talking about the adverse effects of fishing on the habitat, not on the stock of fish. There's a huge distinction there. And, you know, I'm stating maybe the obvious. But I just want to make sure that's on the record.

And I don't think that trolling lines or pelagic longlining has, to my knowledge, been demonstrated to have an adverse effect on the habitat on the water column nor that it is disturbing spawning behavior, for that matter.

So I'd urge you not to go down that road.

Thank you.

PARTICIPANT: I would certainly echo Glenn's comments.

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I also wanted to talk a little bit about the international context in light -- and I don't know who it was down there on the very first comment about sargassum. That was actually fielded at ICCAT by the United States. We put forth a resolution just this past November. And I can tell you it was greeted with absolute derision by the -- especially John Spencer. I mean, just couldn't believe it. He was stunned and despite the value that I think, you know, we place on it and it may very well likely deserve.

One has to be careful as a practical matter how you deal with this in an international forum. I mean, it was -- it can actually undermine other things you're trying to do, sometimes depending on how the context within which you present it. And, you know, we got it on the table and so it was a topic of conversation, and that may have some value there. But you know for the United States to try to get to accomplish certain other objectives, certainly if we go in trying to protect our allocations this year, going in with that as well it undermines your position in some respects. Because you don't have the

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credibility. In that forum everyone else is aggressively trying to enhance their ability to catch their fish in quotas, increase them, et cetera. And I think we just have to be very careful how we go about something like that in the international forum. Because the sensitivity to it over there is dramatically different than it is in this country.

MR. FRITZPATRICK: Robert Fritzpatrick.

Last March's meeting I think Rich and I talked specifically about the Gulf of Maine and wanting EFH designation for forage related issues for bluefin tuna. IT ain't here. I mean, how do we get it into the program? Was it looked at and determined that it didn't apply?

You've got feeding. We've got a disaster in the Gulf of Maine with one of the most prominent HMS species, yet nothing is in the FMP about it. Was it looked at? Was it considered? Where is it?

PARTICIPANT: It was considered. I know that this is an issue that NMFS is struggling with in general, not just HMS in terms of the role of forage species in designating EFH. And similar to what Jack

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is saying about not getting out on front on certain issues, this is one that general counsel is dealing with indifferent fishery management plans. There are a number of Council EFH amendments that are in the process of being implemented right now or reviewed, or whatever. We're actually sort of in the middle of the lineup of different plans that are going forward with regard to EFH. And so we have consulted with general counsel on that issue. We've considered it terms of looking at the data. What we felt like was that we didn't have enough solid information to actually move forward with a proposal at this point. But, again, what we're doing during this five year review, this being phase one, is simply accumulating information. We're not proposing any new EFH areas and we're not modifying any EFH areas in this again right now.

There's always that potential to look into this in further detail when we go to actually propose modifications to our EFH boundaries and to look at that issue in more detail, as you suggested.

So yes we have discussed it. We haven't really come up with any finite conclusions. But then

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again, at this point in the phase we don't need to. We're simply accumulating information and reviewing it with NMFS technical experts to determine whether we might propose modifications in the future.

MR. FRITZPATRICK: And just one follow-up. If a situation is fairly dire or considered dire by participants, by the time you get around to this it sounds like or it appears to me that we won't have an industry left in New England. It will be history. And the science pretty soon is going to start using our lack of fish in the Gulf of Maine to tell us that there aren't any, even though the Canadians have had some pretty phenomenal years and we see our fish come. We see the dominant year classes of bluefin in the Atlantic. We watch them arrive. We can tell you the days that they arrive. We can tell you how long they stayed for in a given year. Last year was two or three days. Then they swam away and in two weeks they were jumping around in Canadian waters and having a good old time in EFH where midwater trolling happens be banned in Canadian waters.

And I understand that there's been action

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taken by the New England Council. Alternative 7 is in theory going to be implemented at some point. We've asked Bill to please help us with an emergency action. But it is just very troubling for me to see something that as big as bluefin and as big as the disaster of bluefin in New England simply get shuffled off to the side and with basically no action taken. And it just seems like if it was some shark that was three feet long, something would have been done. But it's just really troubling for me to come back and see that nothing's happened. And if we don't get an emergency action out of the agency this year, you can be sure the disaster will continue. And it is possible there's historical occurrences where the migration behavior of bluefin has been altered through fishing on other pray species. And we don't want to do that.

We have seen the amount of time that the predominant classes of bluefin stay n the Gulf of Maine get smaller and shorter, and less and less and less each of the last four years. Plenty of them in Canada. Doesn't do us a whole lot of good.

And I'm sure that in Bill's discussion

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with the Canadians, he said the Canadians weren't that cooperative. Well, I'm sure that one of the things they'd like is some of our bluefin quota. And we're not considering the problem that we have. It's one more example where a year's gone by an issue that as seen by many in the industry as a essential and nothing has been done.

PARTICIPANT: Well, about to that point, I guess I would encourage you to look at the information that is in the draft and provide, and point us to the sources of information that may be lacking so we can include it.

MR. FRITZPATRICK: I would point out to you right now that the New England Council has taken action and that the caution to the wind approach that we faced for a decade regarding herring in the Gulf of Maine, now suddenly the precautionary approach is going to be used. However, the damage is already partly done, especially to the industry. I mean, we caught 160 tons in New England last year. We caught that in a weekend in the past.

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action to put this ban in place, we're cooked. And as observers of the ecosystem in the Gulf of Maine there is a direct relationship. The anecdotal stuff has been coming out of us since '97 saying this is going to kill us. Watch out. It's coming. This is going to kill us. And guess what? It's here, it's killed us. And yet I just hope that an emergency action will implement what's already been passed by the Council. And if it doesn't, you can be sure of more of the same with bluefin in New England.

PARTICIPANT: I've been trying to follow some of this EHF stuff for a good number of years, and I certainly don't understand it as much as what I should, but some of what I -- you know, tried to understand about it makes me very concerned. And I've expressed this before.

Some of what I see is drawing too many conclusions on less than complete data, especially when we're talking about these highly migratory species and international and Atlantic wide. And we assign a graduate student to it to go take .10 cents and work in this area. And then all of a sudden we're

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seeing well this area is the most primary area of spawning and raising and everything else for this species because there's 10 samples found there.

Well, there's a lot of harm to a lot of that, you know. Overall when it comes to the EFH I think our biggest push needs to be to get the international involved. And they've got some ideas that'll blow your socks off. You know, like Phil might want to add to that. Some of (inaudible) EFH on swordfish, et cetera. Very, very progressive. But we're not gelling that stuff together.

And when my fishermen go down in an area and they see more male followers, they see four or five male followers following up a female swordfish that's spewing, they say "Hey, we're in the heart of the spawning territory." And some post-graduate designates the spawning territory a 1,000 miles this way and a 1,000 miles that way. And, you know, with our eyes we know where the heart of the spawning territory is. We say what are these wackos doing.

I really think we need to work internationally on a lot of this stuff. But there's a

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lot that we can do domestically. And what Robert raised is critical. I know it's very critical at this point for bluefin tuna. But it's almost as critical across all the highly migratory species at this table.

If there isn't any food in the kitchen, they're not going to be here. They're going to change their migration, they're going to go other places, et cetera, et cetera, et cetera. And that is something that we can perhaps learn more about closer to home, and that's the predatory/prey relationships of all the species of HMS that is so very important to us.

Boy, I'll tell you, every step of the way I would try to calm some of these young lads down on being over zealous at leaping to conclusions because that hurts our credibility at ICCAT and then the good scientists aren't going to want to play with us.

PARTICIPANT: Right. I was the one that talked about the sargassum. And the thing is that I think it has -- I understand, I certainly don't negotiate at ICCAT and never have been there, probably will never get there and I don't know much about it, but I do know in order to deal with something like EFH

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it's got to be brought to the table, you got to talk about it. And you got to start somewhere, whether somebody laughs at it or not. I think it's just wrong. I mean, what can you do with something like that. They were wrong about billfish and this happens, it's kind of funny, relate to billfish and a lot of other things.

You got to start the conversation somewhere. And I think for the people dealing at the ICCAT meetings, I mean they know how to bring it up and where to bring it. But it can't be forgotten because I think it is an important issue. It's been identified important here by the Council and some of our bodies. So it's accepted here. And just because I think EU or somebody else laughs it off is not a reason not to bring it up.

But getting away from my initial reason I want to talk on was I would like to recommend that we also since we know that the shark gill net gear is being used at the sink net application, that we also look on that as possible impacts on EFH. I'm pretty sure that probably like bottom longliners, they don't

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want to fish on live bottoms or reefs, but apparently they do hit them. Because if you look at the reports, I mean they've got vermillion (phonetic), they've got tomtate, sheepshead, margate and various other reef species that they're catching incidentally. So you may need to look at that, even if that's not specific. Well, it may be HMS forage habitat. So you may want to look at the sink nets.

Thank you.

MR. HUDSON: Russell Hudson, Directed Shark.

Back in '99 I suggested to Rebecca and to Gary Matlock (phonetic) that they needed to include some EFH on sandbar that was not being included. It's off the Texas coast. And I supplied the document, the 1960 Stewart Springer *Natural History of the Sandbar Shark* that had a big picture of the major nursery ground off the Mid-Atlantic bite sent in from Cape Cod right on down to Cape Canaveral. And then a minor sandbar area, which he didn't include the west coast of Florida. He only included off the Brownsville, Texas area.

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Now if you look in Appendix B, page 134, figure B'70 for the neonate sandbar shark, you can actually see a blue dot just right there of Brownsville and another couple of series of blue dots right at the Texas/Louisiana border. And in 2002 I made that same page out of Stewart Springer's document, which is considered the Bible on sandbar in some fashions, even though some parts of it have been reformed in people's minds as far as age and growth, that that was included in the 2002 workshop.

And so what I'm trying to tell you again for the third time, at least, that you need to include that nursery group. You need to get some more samples. Because that's basically your empirical approach.

Now on the anecdotal approach, I brought the shark fins from some of the boats back in the '90s that would fish on the large sandbars there were there. About as big as you'll see will ever grow. Bigger than you see them in some other areas of the U.S. And then you'd see a couple of juveniles, sometimes mixed in his array of fins, and every once in a while a handful of neonates or what I would call

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that size class of animal.

And so you need to quit leaving it off. Because that then gets us into the straggling stock scenario instead of the closed population scenario on sandbar. And that's extremely important when we get into the assessment stages. Because every time they leave that out, that component of the Mexican catch whether it comes from that region or whether it comes from the Yucatan region, the reality is that those sandbar sharks exist and you need to be able to make that plain and simple by having it in these pictures.

And so the fact that you've got some of the blue dots there encourages me. But when I get to the juvenile and the adult, you don't see them. And that's because apparently either the effort to put the observations out there isn't there or you're not taking up the empirical data from the older days. But Stew Springer put in a solid 15, 16 years of study in shark fishing from the '30s to the early '50s and he documented it in several papers. And it's all in your science centers. And so I highly recommend at this point in time, particularly since we're engaged in an

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assessment over the next period of time while it's still ongoing, to recognize the reality of the straddling stock and the fact that you keep on leaving that component, the nursery ground out of the mix.

Thank you very much.

Oh, yes, that's pretty much. I'll leave it there. Well, actually, no I won't.

The habitat area of particular concern, north of the North Carolina area. You also have that laid out in some of these figures. And the fact is that there's a certain seasonality to those sharks being in Delaware Bay and Chesapeake Bay and whatever. You need to make sure that if you're going to wind up putting that pressure on the North Carolina guys and extend so far offshore, which I think is ridiculous for some of that period of time, you need to now start getting Virginia and the other people in compliance that are banging with those nets and stuff like that on those same baby sandbars up there. It's just getting ludicrous what you're allowing to occur in May and June when we call it the pupping season, that we have more or less encouraged and the scientists and

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the environmentalists have designated as the most important period, the pupping season, it's the last trimester of these gestation periods. And it's in my opinion like a late term abortion if you're going and going to be heavily fishing on those animals at that point in time.

So I would recommend that you get Virginia somehow to get in the loop.

PARTICIPANT: Well, I think, Rusty, the point there is exactly what you said: Somehow. We are working with the states, we're working through the Commission. We do not have jurisdiction in state waters.

MR. HUDSON: But there is some people on the task force that receive NMFS money, one person in particular, (inaudible) and stuff that could influence that decision making. They have already lowered the trip limit from 7500 pounds to a compliance, I believe, with the Feds just recently. I'm not certain if it's a 4,000 thing. But I'd have to take a look.

And the fact is is that there's more that they can do. And if you have to use the leverage of

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economic strangulation, then use it. Because that's a major nursery ground at certain times of the year. And you've got all those state landings counting against our Federal quota and it's just not right.

PARTICIPANT: Well, we're continuing to work on it.

PARTICIPANT: The one point I can make is I did look at the Virginia regulations recently. They have implemented a 4,000 pound trip limit. They also have a minimum size that mirrors the Federal regulation within state waters.

PARTICIPANT: Okay. I just wanted to address again the nature, as I understand it, and I think that the EFH designation is intended. Is it addresses the physical nature of the environment as opposed to the predatory and prey relationship keeping in mind that fish feed on each other and probably the most successful predator of all are people. And I don't think that despite the fact that I think you have a serious problem up in the Gulf of Maine, Robert, I don't think essential fish habitat is the mechanism or the forum to address a forage issue. I

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think it has to be, you know, in the management plans as it's a management thing.

You can turn that argument on its head and it'll come back and bite you in the respect that the herring fishermen all of a sudden say "We can't catch any herring and it's because the tunas are everywhere." And are you going to then defend that?

And meanwhile, the science on the herring says they can take it. It's a similar issue that you have in Chesapeake Bay and other areas with the menhaden. Okay. The science. You know at the end of the day there's plenty of menhaden there and it supports that fishery very easily. The stock is huge. And because somebody wants it at a certain time and place, another fish that feeds on it, I don't think it's a habitat issue. It is a management issue to try to work out when and where and how those fish interact and then get at it in a management basis where there is some type of equal access to them. And I think it's a difficult question. And I just don't think it's appropriate for EFH.

PARTICIPANT: To that point, pray are

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considered part of the habitat. And there are different levels of habitat data, a presence abstinence being the most basic. But it goes up from there and it does include pray.

But you're exactly right. The management issues then become very complex and very difficult in how the species interact, especially when the management entities are different.

PARTICIPANT: And especially when you have the basic habitat that is created -- you know, the herring stock is considered to be robust or the menhaden stock is considered to be robust. How then is the habitat -- how can the habitat be so damaged if you have a robust stock? I don't --

PARTICIPANT: That's all part of the question. It's a complex issue and we're working our way through it.

PARTICIPANT: Thank you. I didn't bring up the forage issue in my original or initial comments because I saw it on the list for future discussions. So I don't know if we're going to be right back here talking about forage in a few minutes. But, in any

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case, I'll just mention a couple of things.

I do want to associate with some of the things Robert said in terms of urging the agency to implement the measures taken by the New England Council as soon as possible with respect to herring fisheries.

PARTICIPANT: Just to be clear, the management division is not in control of that process. The agency is. But there's not much that we can do to get that through. It's a Northeast Regional Managed Fishery.

PARTICIPANT: Well, that's exactly the point I was going to make. You took some of the words out of my mouth. I was going to say while I recognize that herring is not a highly migratory species, HMS is part of sustainable fisheries and in my opinion has an interest at stake in seeing herring managed properly as a foraged species for highly migratory species. And I think there's a role for you to play. And I certainly would want HMS to speak up for their interest in highly migratory species forage interests when the agency is deliberating on what to do with the

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herring management claim. Because there's such a direct interest there.

And, you know, I don't know how your internal deliberations in intra-agency discussions go on things like that, and maybe that's departing from normal procedure for one division to comment on the actions of the other. I recognize what you just said. However, you've got a pretty strong interest there. Maybe there's something HMS can go in and let's say, hey let's get this done as quickly as possible recognizing this is your turf to make that decision.

And the last thing I wanted to say was, you had mentioned that you will be documenting information on essential fish habitat. And that's a great deal of what this is all about. And you did just say something very important, Margo, which was that pray has already been considered part of the definition of habitat. And will you at least in this document be documenting the known distributions of known pray or forage species, or at least the top ones as part of your collection of information on habitat since pray is habitat?

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PARTICIPANT: We hadn't actually gone to that length to do that. But clearly given the interest here on bluefin tuna, that's something we could consider putting in the final, yes.

One other point I might make while I have the microphone is I know it's come up a number of times in terms of the international perspective, but EFH according to the EFH Magnuson-Stevens Act and EFH final rule can only be designated within the EEZ. So we don't have authority to go without international waters and designate EFH.

PARTICIPANT: (Off microphone).

PARTICIPANT: Well, fisheries enforcement issues are always of importance. We've touched on a lot of them on the reg housekeeping section already, but you know, this is an opportunity that enforcement would like to share with you some of what's been happening and some of their concerns.

So turnover to Jeff.

SPECIAL AGENT RIDOSKY: I'm Jeff Ridosky (phonetic) I'm a special agent with NOAA OLE, Office of Law Enforcement. I'm stationed down in Miami, as is

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Jamie McDonald (phonetic), he's in Portland Maine.

What we've seen through this presentation here is I think there's a lot of misunderstanding of what enforcement is and what our capabilities are. So we threw together a quick slide, hopefully to give you some understanding of who we are.

We work with conjunction with General Counsel as well as U.S. Attorneys Office. And we are component of the Department of Commerce, and everybody knows that.

We enforce laws that are under NOAA. It's not just HMS regulations, it's all of them, including other areas within NOAA. So we have a vast responsibility for the number of agents we have. But our primary mission is marine resources. But we also work in conjunction with the United States Coast Guard and state agencies.

As you can see here, we have 143 special agents, 17 enforcement officers and then our support staff. As you can see, the agents spend a lot of their time on complex investigations. These are not just usually investigations that are just a one time event.

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They're looking at an event and going backwards in time. So complex investigations take a lot longer for us. I work on some investigations that may take two, three years to complete.

Here's where our primary jurisdiction is, around the United States. We also have international components that we have to deal with. But we have a vast area to cover with a 143 agents. And not every state is represented with an agent in it, but we do have our field offices spread out around the United States along coastal areas.

But, obviously, we deal with 37 primary statutes, but these are the ones that we primarily deal with. Magnuson-Stevens Act, Endanger Species, Marine Manual, Lacey Act, the sanctuaries, sharkfining, American Fishers who also have high seas responsibilities. So it's a diverse area that we have to work in.

Also we send our agencies through training. We are a federal law enforcement, we go to the Federal Law Enforcement Training Center where we have criminal investigator training to go through for

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the special agents.

Our uniform officers also go through another program that is designed for them. I think right now for a new agent we're looking at over 26 weeks of training that they go through before they're put out in the field and work full time.

We also have our own net basic classic classes we call it for National Marine Fishery Service. This is a five week long agency training that's held at FLTSE (phonetic) where they trained from gear identification, some species identification. It's a national program, so we can't hit for each one of our specific fisheries at that training center. So when they get back to their division that they're working, there is training. We have shark identification training that has to be followed. But agents are structured in different type of training. And they also have to go through advanced training, which include interviewing techniques, fraud training. We do deal in a lot of white collar crime, fraud with permits, also fraud in reporting.

But we have a limited number of personnel,

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as we showed you before. We do have some patrol boats, but those are in certain locations, and that is very limited as well. So we have to deal with cooperative agreements and with a lot of states. We deal with the JEA, Joint Enforcement Agreement. And hopefully they pick up some of the roles that we can't fully function at dealing with patrolling coastal areas.

But these are all the different agencies at the federal level and our JEA members that we deal with. But these are the agents that we deal with.

Just federally, as you can see, it's not just the Coast Guard that we're going to deal with. We're going to deal with the FBI in investigations. We have to deal with Alcohol, Tobacco and Firearms, Drug Enforcement. We do enforce all Federal laws and we have that authority. And we work in conjunction with those other agencies.

And, you know, our first Joint Enforcement Agreement came in South Carolina back in '98. And hopefully through that the program the state steps up and does the local fish house inspections, landings. And it is a good program, but as with any programs

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there are some issues. But in this program it's really designed that a lot of the cases that the JEA program would meet would be prosecuted in a state court. They don't send every one of their cases to us, but we are looking at this program. What is the federal program management plan that they are working on that's helping us do our job as well.

To kind of give you some idea in HMS cases that we work in, how diverse they are. This is a case from this past summer dealing with a fishing vessel Hanna Lee (phonetic). It was fishing out of Trinidad. It was fishing for tuna, HMS vessel. And it was shipping its product to Miami, Florida.

We had received information on this vessel, so we looked, found that it had no high seas permit issued. It had no HMS permits issues and it did not have a BMS on it. However, it was a U.S. documented vessel. We tracked the product coming from Trinidad to South Florida.

In this investigation what was found was that the owner, David Stracker (phonetic) was a citizen of Barbados. He had applied for documentation

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for the Hanna Lee. And in this documentation he made the statement that he was a U.S. citizen. So that's a false statement made to the U.S. Government to the U.S. Coast Guard. We then went to the U.S. Attorneys Office. We indicted the individual. We got an arrest warrant for him. And when he came into Puerto Rico we arrested him. He then had to stay in jail and he was convicted for the false statement. And I think he paid a \$5,000 fine and was kicked out of the country.

But the reason I bring this up is, I mean this is an HMS fish, this is IEU vessel that was illegally fishing down at Trinidad under our flag. It is still important to us. And even though we didn't do a Fisheries violation, we still went after the vessel under other U.S. statutes. In this case it was false statements.

I'm not going to get into identifying the specific persons or boat in this, but since there was a discussion yesterday on buoy gear, I thought I'd just bring this one up.

There's a vessel, we had received information on it and actually put it out on lookout

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with the United States Coast Guard. The Coast Guard stopped the vessel. And we had complaint information that the vessel was using longline gear in a closed area.

When we boarded the boat we found buoy gear was converted over to longline. However, we couldn't say it was longline because it didn't meet the full definition of longline gear. And I'll show you some pictures in a second. But what they did is they just snapped it altogether and had a high flyer at one end and a float at the other and was floating this gear. But obviously it had more than two hooks for the one main line that they were using it.

We also found that the vessel had mostly undersized pups of swordfish.

PARTICIPANT: A charter boat?

SPECIAL AGENT RIDOSKY: No, he was not a charter boat. No.

This vessel was also terminated because of problems with its bilge being full of oil. And we also had to get Immigration involved because the crew was non-U.S. citizens on a U.S. documented vessel. So

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for this case we had participating the U.S. Coast Guard, U.S. Border Patrol, the state and then our agents.

But this is what we came on and found on the boat. As you can see, the spool have the line and the gannons (phonetic) and you have the float gear. And without the other information that we had before going onto the boarding, we probably wouldn't have asked the right questions. Because the main line, all of their individual handlines were snapped together on that spool, which is a hand cranked spool, it's not power. But we had information then looking at the configuration of his float gear, it came through an interview how they were setting their gear actually and how they were connecting this. This case has been forwarded to General Counsel. But we're convinced that they were using unauthorized gear, undersized swordfish, but we can't charge them with being in the closed area because it didn't fit the definition for longline.

Here's some other roles that we also do as a COPS (phonetic) program or getting out in the

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community addressing different things with fish houses and the public of what the regulations are.

And one of the things that we use this program for is the dolphin feeding problems that we've had in certain areas before trying to get the word out to the public that that is illegal activity.

Also one of our responsibilities is Homeland Security. After 9/11 I was assigned to the FBI up in New York and Boston for investigations there. We also sent in agents to deal with airport security in reopening the airports. Fish and Wildlife Service had to do the same thing. So immediately right after 9/11 we are out of the fisheries mode and we were in Homeland Security full time. We also put people temporarily as sky marshals. So we had a lot of programs going on at that time. Right now our primarily mission is still fisheries, but we still have to deal with Homeland Security issues, and that's through the . . .

(End tape 4, side A).

PARTICIPANT: Be difficult to monitor in terms of where the landing and when, and what they

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caught and where they've fished and how to manage that domestically and through ICAD. And I was just curious what your view was on that?

And before you answer, I'll just say that I have by sympathetic to Willie's comments. It did strike me, too, that the two cases that you chose to illuminate were very interesting cases and they're bad guys and they should be prosecuted to the fullest extent of the law. But it also did sort of pick at me a little bit that, you know, there was sort of just like well the guys we prosecute are commercial longline fishermen and there was no mention about anything else. But that's a public relations issue, that we know you're working on other cases.

But anyway, if you could address that, I would appreciate it.

SPECIAL AGENT RIDOSKY: Well, first off, I mean the two cases I picked up, I mean the buoy case is because of the lively discussion on it yesterday. I wanted to just bring that forward. And the other one's really to show that it's not just a fisheries law, the Magnuson-Stevens Act, the Lacey Act that we may use to

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go after someone who is violating the law. And, you know, having a foreign individual using a U.S. vessel has a lot of implications, not just on the fishery but on our Homeland Security. And that's why I wanted to bring it up. It was not to pick out commercial or recreational.

VMS, I mean, we do have a program VMS that is growing and vessels commercially that are going internationally. I believe right now we're looking at kalimare (phonetic) vessels that are going to be fishing for two fish. We have to get them on line so they can go down there fishing and they have to be monitored through VMS.

As far as recreational, I don't know if the system at this point, we can handle large amounts. I mean, just the traffic between the United States and the Bahamas. But we're consistently doing a lot of recreational cases there between the Bahamas and the United States because people are going over and illegally landing fish either there or poaching in the Bahamas and bringing them back to the United States. And we are working with the Bahamian Fisheries

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Department on those issues. They have interest and we have interest in it as well. And we are bringing up some other HMS specific issues with them. But we do have to rely on their help as well.

I have been to the Bahamas a couple of times. But when we go over there on land, I mean we don't have the same enforcement authority so we would have to work in real close conjunction with their fisheries or their Customs people to go on board the boards.

PARTICIPANT: (Off microphone).

SPECIAL AGENT RIDOSKY: Yes,
we've had issues down there as well.

(Section of tape blank).

PARTICIPANT: Jeff, a little bit on that. There's a provision in the Atlantic Tuna Convention Act, also in a provision in the Magnuson-Stevens Act the basic essence of it being U.S. flagged fishing vessels for ICCAT species in another country's EEZ without a permit is undermining the conservation and management measures of ICCAT. Now recently we've had a vote thrown in over \$20,000 and 30 days suspension of

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permit. He's fighting it, one portion of one set that went into Bermudian waters and, you know, a week or so later landed those fish in Florida.

Now, we don't even know if he caught any fish in Bermudian waters. But then it was the Treasury Department and Customs Department regulations that was cited as landing those fish that could have been caught in foreign waters. And, you know, we've been bring this up for years now and we've had to have lawyers to even look at it. Because it's such a disparity of enforcement.

There are hundreds and even thousands of vessels fishing Kisell bank (phonetic) along Cuban coast, in and out of ports in the Bahamas and Bermuda.

And the only reason that one American citizen is being enforced and another American citizen is being ignored even though the government is fully cognizant of the violation is because the one has a VMS and the other one doesn't. And, you know, that situation has got to come to a head, hopefully before it has to come before a Judge.

SPECIAL AGENT RIDOSKY: I know which case

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you're referring to, and I can't go into that because it is in the litigation phase. But one thing to understand is we have our 200 mile EEZ, other nations have as well. And encroachment of foreign EEZs by U.S. boats that aren't permitted is a violation here.

And we do look at that. And VMS happens to be one of the tools that we can use.

The other boat you're referring to, I don't know which one it is and I don't know the circumstances there so I can't address it.

PARTICIPANT: (Off microphone).

PARTICIPANT: Maybe you guys can continue this.

PARTICIPANT: I'm sure that there's still a good problem in south Florida, as there is in other places with people not getting their recreational HMS permits. I know we in the past, the Billfish Foundation has put that information out in our magazine and tried to get it to people. And it's just occurred to (inaudible) that perhaps we could get some information from you not person specific but sort of a generic case history of what is the outcome of someone

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who doesn't get a permit and what they might face in terms of fines and that and work with either the Sunset or the Herald to get a story done. Do you think that's something we could work on cooperatively to try to emphasize to folks a little more, the fact that they need to get these?

SPECIAL AGENT RIDOSKY: Yes, I think so. And there has been a lot of stories. I mean, it's not just failure to get the permits. We also have a problem with failure to report at the landings. Sunset, obviously, has done stories. Miami Herald has done stories. You look at some of the blogs that are out there. It's well known that they need to report. And we are work with FWC from an enforcement standpoint to deal with this.

But, yes, there could always be a story line done there and we could coordinate through that effort.

PARTICIPANT: Yes. Russell, the problem is is it's a permit from the other country. It's a permit to fish within the EEZ of the other country for an ICCAT species.

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Tournaments may have a permit. You know, tournaments may not be a problem. But other types of fishing without a permit from that other country if you're fishing your U.S. flag vessel and you're fishing for ICCAT species, may be according to the law.

PARTICIPANT: Russell had some directed chart. Jeff has a great presentation. Appreciate you coming. I had a two part question.

Question one was the pollution problem with the oil in the bilge, you used the term "terminated." What did you do to the boat.

And the second part is with regards to the recreational component down in south Florida with this growing swordfish landings, have you all been able to make any of the cases of the swordfishes in the back doors of the restaurants?

SPECIAL AGENT RIDOSKY: Okay. As far as the pollution, Coast Guard made them pay for the cleanup of the vessel. They made them take it out of the water physically and was not released back to team until it was inspected and cleaned up. Yes, there's a

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major problem there and the Coast Guard was even concerned in their own boat basin about this pollution coming from the boat.

Back door sales, yes. We know that it exists. We are working on it. And, two, that's where partnerships comes from and we're looking at Florida Wildlife Conservation to really assist with that. We look at a three man duty station in south Florida and there's just, you know, millions of people there but tons of restaurants. And trying to do a surveillance, pick out who we need to watch is very difficult. So we rely on them to be doing the dockside effort on that.

MR. McBRIDE: Yes. John McBride, New York and Montauk Boatmen & Captains' Association.

I'm going to make the assumption, I think you've answered these, but just to condense them. There was some inquiries regarding the distribution of your efforts. Looking at your chart, your resources are relatively limited for the area you have to geographically cover. So I'm going to make the assumption from an enforcement point of view that

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regardless whether it's commercial or recreational, the violations you would go after with your limited resources would be those that are most serious, detrimental to your conservation, the regulations of NOAA, et cetera et cetera rather than the smaller ones which I see are usually handled by New York state DEC or the Coast Guard and stuff like that? Is that a reasonable assumption?

PARTICIPANT: Yes, it is, Joe. We call them, you know, major resource violators.

MR. McBRIDE: Okay. I just wanted to clarify that. Because when you're limited in your resources, you're not going to send your undercover squad and New York City Police Department to give out traffic tickets on 5th Avenue.

PARTICIPANT: That's a good analogy.

PARTICIPANT: Joe, thank you. Pete?

PARTICIPANT: Yes, just two quick items. The first one is the year end thing, and we've talked -- yes?

PARTICIPANT: (Off microphone).

PARTICIPANT: Okay. Well, in the December

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31 closure date that we originally supported, now we have some concern until we see the rollover provision into January. and we would like to see that the rollover would be equal to the rollover (inaudible) another month and not equal to just 5.3 percent of our January tag without trying to do in seasons transfers in such a short period.

The other item real quick is when we were told last year that there would be an independent investigation into the LPS Survey, I felt like and maybe looking at my records last night, that an independent investigation was going to be within the agency but letting the fox in the henhouse by allowing the people that contract with the LPS people to do the recalculations of the numbers. And we would like to request and go on the record that as soon as that information is available, that we can get a copy of it without doing it through FOIA and we reserve the right at that time to use an independent scientist at our expense to review it. And that's all I have to say. I just wanted that on the record.

And thank you.

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PARTICIPANT: Okay. Thanks, Pete.

To that end we've gotten a slight update on the timing of that report. And I think taking the comments we received here and I think there are some ongoing examinations, we're working with a goal. I can't promise it, but a goal of having something by the ICCAT Advisory Committee meeting at the end of March. And so clearly we'll get that out to interested folks when we get it out.

(Section of tape blank).

PARTICIPANT: And again, if you have specific items you want to try and discuss this afternoon, let me know.

MR. HUDSON: . . . Slide from Dr. Hannay and Dr. Hester's (phonetic) document that I couldn't put over onto my slide show very easily, because I'm a novice, you can see the areas in the years 2001 through 2003 where the concentrations of large coastal sharks were. I just wanted to give you an idea of that. And I guess you can sort of see it from there.

Okay. Well, I don't want to change slides. I just want to stop this one and switch to

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the next PowerPoint, Because that's the only slide I wanted to show there. I can deal with it from there.

I put together ten of the slide from Drs. Hannay and Hester's PowerPoint presentation from late last summer. Keep in mind that this stuff is being finalized by the Foundation, the South Atlantic -- the Gulf and South Atlantic Fisheries Foundation there in Tampa. And all this stuff will be available.

The final products from Chuck Adams and Sherry Larkin (phonetic) for the economics, Hester and Hannay for the stock estimate, Michael Jebson (phonetic) for the community and Walter Kingsley (phonetic) for the business plan are extensive. They're 50 to 80 pages each.

These two PowerPoint presentations have between, it looks 25 and 50 slides, and that's why I just tried to get some of the more meaningful ones out.

The basic summation is that the shark quota regulation fleet size is where our problem comes in. The current quota, as you can see, is a little over 2 million pounds dress weight, which is the

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lowest quota that we've had to work with since the management plan started in 1993. Originally it came in just under 6 million pounds for the original large coastal quota and then it shifted to about 2.8 million pounds in '97 when the quota got reduced by 50 percent. And that led to some litigations, but we won't get into all that.

And just recently because of emergency rules for three years in a row while they were trying to get some of the new regulations in place, we went from the 2.8, 2.8 and then a 3.5 million pound quota for 2003 was the first year we used the ridge backed/nonridge back approach. And so it allowed a little bigger quota at that particular time. But since then because of the shark ID problem, they reaggregated everything and lowered the quota to the 2.2 million.

So basically in that same time period, 2001/2003, you had about 200 commercial boats that actively fished the resource. And we say "actively fish," they had the equivalent of 100 pound whole weight, which is roughly one sandbar landed at a

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minimum. And then it just goes up from there out of that 200 boat approximately that had landed stuff.

Sometimes depending on the regions, now that we're in the three regions and stuff, you can catch the quota in a matter of a few weeks. Sometimes it may take a month or two, just depending on the seasonality.

Two types of permits since it's been limited access since 1999 is the directed shark permit which allows landings up to 4,000 pounds of large coastal shark. There's approximately 250 of those permits issued at the current time. It varies a little bit, 5 here, 5 there, this way or that. Incidental, which are mostly required with the swordfish tuna fleet, there's about 350. So you're talking about 600 boats that are a part of this limited access fleet down from the 2,250 or so that were playing with the sharks back in '99 and before.

Of the latest stuff right there, was the 245 and the 349 as of 2003, but there's more current data available. But I'm just trying to stick with the spectrum of time here. The 175 directeds landed most

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of the large coastal quota during that time.

Now as you can see the total permits includes boats that had absolutely no landings. And you have the 245 and 349 on the directed and incidental. Then of boats that are active, fishing for anything, it doesn't matter; groupers, swordfish, tunas, you had 237 of them that had some landings of something. And that may not have been shark, keep that in mind. 272 that also was fishing on other stuff.

And so out of that landing large coastal shark of some level, you've got 175 directed permit holders that had landed and 96 incidentals that had landed. So you can figure out the difference of the original total amount versus those that have not actively used their permits in those three years. So you've got roughly 70 boats in the directed that have absolutely no shark landings during that three year period and you've got the best part of 253 or 4, whatever it is, in the incidental that have absolutely landed no sharks.

OF the permits held by boats for directed

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shark permits, only 11 boats only hold a directed shark permit for the time period this slide represents. As you can see, there are over 80 boats that hold two permits. So they have the directed shark permit and something else. Then it drops to 40 that have three permits. It bumps up to about, looks like between 45 and 50 that have four permits. And then about 35 boats or so that have permits. And then it drops off significantly when you start getting into those higher levels of owning different kinds of permits.

Of the gear type that catches the large coastal sharks in that time period, 93 percent of the large coastal shark were caught by the bottom longliners. Six percent by the gillnetters and one percent by all other gear, this is going to be back to your pelagic guys and what have you.

The species of large coastal during this time period. Fifty-six percent of it is sandbar. So you can see that is the predominant species and has been since about 1987/88. Somewhere around there when blacktips started becoming less fashionable, let's

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say, and sandbar became more of a norm. Mainly because of values attributed to shark fins. The shark meat is virtually always the same.

The other 12 percent of the total pie besides the 32 percent for the blacktip, is of course your other 20 species of large coastal, of which we know that some of those large coastal we have never caught or fished on. You know, whale sharps and things like that, we just don't go catch them.

Of this, we've got 125 directed permit holders and using bottom longline that landed at least 100 pound whole weight large coastal sharp. Now this is a conversion based on the 1.39 in most places. In error a little bit, but that's something that the Science Center will have to fix eventually. But that tells you that they had at least one sandbar.

The core group there's 47 boats that make up 50 percent or more of their landings was large coastal sharks and which landed over 50 pounds large coastal shark whole weight. Now, you got to go and get loused up by the 1.39. Normally I would have just been able to cut that in half for the 2.0 conversion

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and you'd have 2500 pound dress weight as the standard. And the fact is is that if you multiple that figure using a figure of \$1.25 or \$1.50 that will encompass both your meat and your fin values together, which will give you a rough idea of how much that was worth to those people. Dividing it down you can see what the three large coastal trip limits per year per core boat would amount to. So, you know, that's trying to make things into the way it really isn't. Because it's even a smaller group of guys that really have any significant landings.

Okay. That's the end of that slide. So what was the next thing? Escape. Okay.

Now we got to drop over here to next -- okay. This is the -- yes. Okay. This is a slide out of Sherry Larkin and Chuck Adams. It shows the commercial shark permit holder, types of permits held, the fishery, shark 249, 356, 605 total. And then it breaks down your swordfish, your bluefin tuna permits, your king mackerel, your Spanish mackerel, your Gulf of Mexico refish, your bluefish and then 28 other fisheries. So you can see we've got 1,359 permits

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involved excluding American lobsters and whatever it says about Atlantic tuna besides the bluefin tuna.

This was presented in Japan by Dr. Larkin and stuff back in late 2004, I believe. Let's see, my other choice.

The U.S. Atlantic shark fleet vessel characteristics, the minimum length of a directed shark permit holder is 15 foot. The maximum length was 85 foot. Gives you about a 45 foot average. And then the incidentals, of course, have a little bigger average because you have a lot more swordfish boats that range further away from shore and stuff like that.

Now, in the little asterisk underneath -- well, you may be able to see it. Eight-five boats were considered active out of the 256 directed permit holders. And I think that was more of a recent total that may have come from the NMFS sources and stuff that Sherry and then used. And that kind of gives you an idea between that 47 boats, that 85 boats who the active fleet is. And then the rest of the group are people that were just what you would call inactive,

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latent. And at some point we're going to have to deal with that.

Now, I guess our take home message, and let me reduce this one down, Walter Kingsley put the business plan together. And he developed a set of options. I don't know if I can blow that up anymore.

The buyback was going to be voluntary is what he put together in his 45 page document here. The first component was trying to eliminate some of that couple of hundred incidental guys that have not been using their stuff at all, or actually that was for shark. But you know because they might have been fishing to swordfish or tuna, they have to have that incidental shark, whether they ever kept one or not. And so the \$500 compensation was possibly going to be for someone that was still holding the incidental shark permit and then would be turning around and having gotten rid of their swordfish, tuna, whatever and that gave them a shot of maybe getting a little something for it.

In the second component of the buyback that was circulated amongst the industry and then they

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were asked to respond to it all, and of course keep in mind that you want to have about a two-thirds agreement to have a fee. Because his whole idea was built off of a 5 percent fee administered across 20 or 30 years with a quota at roughly the level it is right now without any increase or decrease. So the way the monies worked out, the most that he could offer was a \$2500 compensation and then somebody could somehow just give up all future rights.

Then he had another option, the second option under B, and he was going to offer \$2000 as a compensation and would be permitted to go and find somebody with a \$500 or so incidental permit and buy down to that in case he just wanted to incidentally land something. Let's say he didn't have swordfish tuna, but had a grouper permit and he still wanted to bring in a handful of shark every once in a while. So the \$2000 was offered as a compensation.

You can't give away incidental. You have to go just like a directed, buy it.

Option 3 was where we're going to try to get some of the active guys with a blind silent

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reverse auction where they would have to -- you know, basically it would be evaluated to examine the cost removal in relation to the benefits measured in terms of pounds of sharks harvested during that time period, 2001/2003. Bids that are submitted would be scored by dividing the bid amount associated with that permit by the pounds of shark landed during the period. And then they would go and figure out, you know, just how much they could pay to those persons and then have them do their bid. And if any of them were closest, the lowest ones would be the ones that would be bought first.

As it worked out they could make a pretty good dent in the inactive guys if they had wanted to opt for this, but they found that there wasn't going to be very much money left to be able to turn and buy any of the active guys. And once they started getting responses back and the responses were still trickling in as of late January even though there was a deadline of just after Martin Luther King Day in the middle of January, to have all this done as far as postmarked and whatever available to the Foundation so they can

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finish their final reports and what have you.

And really we did not get the two-thirds positive vote on what they thought on this. In fact, some people were very upset. I called up and said some choice things. Others didn't even bother with getting past the round file, just threw it right in the garbage can. And so I've heard all of this and so all of this will be coming out in some fashion or form as soon as the foundation is through with it.

What it really came down to was it would take an appropriation to try to fit the fleet to the active quota, the active fleet to the active quota. Two years and one month ago Dr. Hogarth (phonetic) told me that no matter what the 5 percent would yield, that if it took extra money, he would find it. Well, I could ask him to keep his word, but we'll have to see if that's able to happen. But that's kind of where we're at this moment. There's not enough money to make a dent in the active guys, and that's really what you've got to do in order to fit the fleet to the quota to be able to get rid of some of the excess effort. And then we go to the step that Dr. Hogarth

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was hoping for the future, which would be like individual quota of some sort and that would give people a little bit more ability to pick and choose instead of having to go and sell into a glut. Because a lot of times the meat prices, the fin prices have stayed steady pretty much for the last three or four years, but the meat prices can go dramatically down if you overload the seasons. We finally got NMFS to listen to us about hamburger and hot dog day, July 4th, and so that we now last year we had our first July 6th opening and we're in proposed rules for doing the same thing this year. It's very important to not get jammed up into something like that. Because when the season just opens like that and then all of a sudden you get a glut of shark and you got nobody that wants to buy anything but hamburger and hot dogs, you know it just doesn't work very well. And so, again, that causes the prices to drop from like the high points of the .60 or .70 cents that normally is paid for the meat down to .50, .40, .25; it just depends on where they're at and the condition of the shark.

Certain sharks can hold pretty well if

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they're bleed right and alive in particular. And if they die on the vine, so to speak, and then brought up into the boat, they're going to have more urea built up into the meat turning it red, pink, whatever color and the urea keeps on ammoniating even in the freezer. So it just doesn't work as a freezer market.

Fresh market, if they're done right, and when I say done right brined correctly and all those other type of things, you can get a couple of weeks shelf life out of the fresh count from the time it's caught, iced, brought in, sold, et cetera.

And so I guess that's kind of where we're at right now. The fleet's what it is. The quota is what it is. A lot of that may be subject to change in the next year or two depending on the ongoing assessment, which has really got underway here recently. And I would hope that if we're wanting to make a business out of a business, that somehow can we can reinsert economic viability into the equation so that these people can have a chance to make a decent living. You know, that's really what it amounts to. Because before the management plan started, a lot of

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these guys were making some serious living and committed to some serious bill paying at certain points. And then when the plan came on line, and this is my opinion in the past, there was I believe peak years of almost 20 million pounds a year of large coastal sharks becoming part of the marketplace in some fashion or form, whole or in part. And then when the plan came on line at 6 million pounds, you can see that was quite the reduction from some of the peak years. But NMFS' peak years, somewhere around 11 million pounds. And so that's a lot different from the 20 million that I can speculate on, but I saw the business from a different angle; from the shark fin and the meat business.

And so then when you look at the fact that it went down to the 3 million and now down to the 2 million, just in comparison to what I consider the peak year or what NMFS considers the peak year, you can see a huge drop in the mortality on our part. Now remember, these are straddling stocks, highly migratory animals we share with all of our neighbors, and Mexico in particular is one of the largest shark

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fishing nations in the world and has not come into a sense of cooperation, compliance. In fact, they were even supposed to have some data available for us this last workshop through one of the scientists and it did not materialize.

And so that's a problem. And so if our Secretary State is ever going to make a difference with these other countries with these straddling stocks, we need to get them all on board. I know NMFS has already met with them several times.

So I think that's kind of where we're at.

We're at an appropriation stage. We're not at a stage of being able to do any kind of funding from the industry itself. And keep in mind also that the federally permitted guys would be the only ones that would have to pay the bills. Any of those state landings that are occurring with guys that don't have a Federal permit, they won't have to pay. They don't have to pay or give up the 5 percent of their gross income in order to land their sharks because there's no obligation in that part. So whatever percentage of the total, because it's deducted from our quota each

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year, that they present then you can figure that's a chunk of money that would not be available also.

And if, as I said, the quotas have to go down any further, it'll crash the industry the rest of the way. And if you want to starve them out, then that's the option. If you want to buy them out, that's the other option.

So I guess I can pretty much wrap it up. It's about the best I can say. And if you want to get in touch with the Foundation there in Tampa, they will make every bit of this material available if you want to start looking at the details.

One of the things that Frank Hester and Dr. Hannay did do, they brought up the boats in the different classes of boats by size and ability to hold different catches and stuff like that. And that was some of the more important work of trying to see what kind of boat we're really talking about. And it comes down to those 40 to 50 foot boats, what we call a small boat. The trip limit pretty much eliminated any of the big boats back when the trip limit started in January of 1994. And then, you know, with that said

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and by the time the limited access started in '99, there really weren't that many big boats left with directed permits except for mostly what were a part of the pelagic fleet that had already had some significant landings of shark there towards the last couple of years coming into the management plan. Because you could go and drift your pelagic gear in on the west side of the stream on the East Coast of the U.S. here in particular in April or May and you could load up on big sandbars or big duskies and still count them.

PARTICIPANT: Thank you. Thank you very much.

PARTICIPANT: I would imagine that the incidental and the directed shark are all permits from my fleet would have all gotten the referendum.

MR. HUDSON: All 605 people were sent stuff. I think 500 and some odd of them definitely were sent stuff. I think there were some address fluxes, some permit fluxes and stuff. But the most current list, mailing list that the Foundation was able to get its hands on back in December when we were

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putting all this together to mail out.

And so, yes, and you all have a significant amount of directed permits in that New Jersey/New York area. I think 30 to 40. And if you go to Louisiana area, a lot of those guys chose not to keep their directed chart permits going or even to qualify for the limited access because it kind of impeded their ability to fish. And so you got four directed permits out there, but you got a huge volume of blacktips going in there and not counting the illegal Mexican fishing over there.

PARTICIPANT: The basic that I heard is, you know, that they wanted a buyout of their own. They certainly didn't want a buyout (inaudible).

You know, I'm not much in the loop event, you know the shark south of Hatteras. I know most of the guys north of Hatteras. But what's your feeling as how many of these boats are going to convert to sword tuna?

MR. HUDSON: Well, you're going to have to go buy a permit, that's the first. And then second you have the situation that the closed area just got

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kicked in last year and this year off of North Carolina. And that is a seven month closure that the bottom longline guys can't fish in that area at all. And it has their impact. So where you had seen the original slide I had up there of the areas where the most of LCS landed, the LCS landings have dropped significantly there in those first two trimester as a result of that closure.

South of there you have some rules that have kicked in in different places that have effected stuff. There's not that many directed permits that have been traditionally in South Carolina/Georgia. Over half of your permits and landings have always come from Florida. And on the East Coast of Florida when the pelagic longline ban went into place all the way out to the EEZ, that eliminated a traditional way of fishing for blacktips three miles off the beach, four miles off the beach floating your gear, mostly off Port Salerno, Fort Pierce, Cape Canaveral, Daytona Beach. We've been doing it since the early '80s. And the fact is is that those guys that had been part of your swordfish fleet down there that, I think it's 68

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boats that got impacted pretty good with that closure.

And they were smaller boats, in a lot of cases, day boats if you would almost call it that, one night boats, whatever, they're hurt. And so they can't but bottom longline. And then, of course, you got the Oculina Bank off there with its expansion, and that's also had its effect.

And so some of these guys will get out there in the golden tile area, golden tile fish, snowy fish and stuff with the bottom longline outside 300 foot and then get them some shark beside or whatever, if the season's open. So those guys are hammered pretty good and yet there's still a handful of guys -- I wouldn't say a handful of guys. Probably a few dozen on the East Coast and then you got the half of dozen or so -- well, it's really more than that when you count the Spanish mackerel guys and small coastals, but the gill net fleet. So you've probably got about 30 or 40 boats that are over south of North Carolina down to Key West.

And then because South Atlantic is everything south of U.S. 1 all the way out to

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Tortugas, then the Gulf of Mexico kicks in and you've got a lot of boats that will go and fish off the Tortugas, particularly in February and March because the sandbars are traditionally coming up, the transient ones, from Mexico. And then they're splitting right there at Tortugas. They'll go to the Straits, work up the East Coast in one case or in the other case go up the eastern Gulf. So then when those animals reroute, then they're heading back to the south usually in the September through November phase of the year, which we just now got to fish last year for the first time in decade plus. And it was some huge catches. Guys were setting sort sets and getting two and three trip limits a set in certain areas of adult sandbars. And so, you know, we know they're there.

And that doesn't count. Like I said, the fact that these guys also ran into some of these huge schools of duskies that were all adults, some of as big as they grow to surfboards for pectoral fins. And those animals all had to be released, whether alive or dead. But, you know, it exists.

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PARTICIPANT: Right. But I'm not trying to mix in the -- I'm trying to figure out how many directed shark, and from what I've heard it would take (1), some mechanism to have incidental long line converted to directed pelagic longline and some mechanism to relax some areas for protective fishing and, you know, how many of those boats would abandon directed shark and go into pelagic longline for swordfish and tunas. And from what I can tell there might be a dozen or so above Hatteras. I don't know how many south. But they'd have to be bigger boats because there aren't any productive waters in sure for small boats.

MR. HUDSON: You're absolutely correct, Nelson. And there are some of those boats that have already been making those purchases of those permits in the last couple of years with what's been going on. But keep in mind that some of these guys, a lot of guys, they're grouper boats for instance and some of them will go down and work their way through the Keys and over into the Gulf or back over to the east side. It just depends on the seasonality and what it is that

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they're trying to target. Because it's like everything, it's a payday. It's a business. It's a margin of profit.

And so as far as breaking out the actual boats to region, that's a little tougher to do because most of the boats do stay pretty much close to their port of call. But economics dictate with a 400 pound trip limit, that's not going to be the incentive to go traveling a long ways unless you're in a place like come July 6th the Mississippi River knowing you can go out and in one day get a double triple trip limit of mostly blacktips and/or bulls or whatever, be right back in and back out, tractor trailer loads.

Well, in a lot of cases some of these guys have already been switched to the mono mainlines for quite a few years, so that's already one step in the right way as opposed to the cable that existed for a long time. But some of the guys that golden tile fish in the deeper waters, you know you fish in the deeper water especially on the East Coast dealing with gulf stream have to use cable. And yet you're right, you know, most of these boats are 40 something foot long.

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If you're going to try to send them out there 200 miles offshore of the EEZ of Florida, you're asking them to take their lives in their hands big time.

PARTICIPANT: Rusty, when did you say the final report might be coming out.

MR. HUDSON: David and the Foundation were working really hard to try to get it finished. He'd gotten a call the other day that the (inaudible) report wanted to incorporate some of that material and so he finalized some of that ahead. But they were having to do the last of the publishing, binding, whatever it was. And, you know, he said anytime. And so basically I've left you with the business plan and the two PowerPoint presentations here, but quite honestly the 50/70/80 page documents, that's what all would be there. And you almost have to specially request it. So, you know, it makes some interesting reading and analysis. And I'm sure NMFS will find it useful across the next year or two, although it's starting to become dated again because of the changes regulatory wise since 2003 when these last data inputs took place.

PARTICIPANT: Great. We've got three rules

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that are out for comment right now and one that is going to be coming shortly. And so we have presentations on them. This isn't technically a public hearing, this is more informational, but we'll make sure that I note when the comment period ends and we can answer questions and have some limited discussion, but it's really more just to let you know what's out for comment right now.

And so the rules that are out right now are the shark season and quota proposed rule. Chris (inaudible) will be presenting that. Then I thought we'd move to swordfish quotas followed by bluefin specks and then the rule that's coming we can touch on real quickly before moving into discussing some of the other issues that are behind me.

It's the bottom longline dehooking rule is what's coming.

PARTICIPANT: Thanks, Margo.

As Margo mentioned, we just published a proposed rule to establish the 2006 second and third trimester season quotas and the season durations for the . . .

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(End tape 5, side A).

PARTICIPANT: . . . Atlantic commercial shark fishery. It published on February 17th. And we have a shortened comment period as a result, and we normally like to have that rule published in early February or the end of January, but we had a delay in publication at the OFR, the *Federal Register*. So we only have a two week public comment period on this proposed rule. The comment period ends on March 6th, which is part of the reason we wanted to let you all know about this today.

You should each have a copy of the proposed rule in front of you, as well as a copy of my PowerPoint presentation.

As a little bit of background on the establishment of quotas. For the Atlantic commercial shark fishery regional quotas were established in the final rule for Amendment 1 to the HMS FMP in 2003. This divided the quotas among the three regions, as I'll describe below. The quotas were further adjusted in the November 30, 2004 final rule. And the result of that was that the overall base landings quota of

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1,017 metric tons for large coastal sharks and the quota for small coastal sharks were not changed. The only thing that was changed as a result of that November 2004 final rule were the percentages allocated to each of the regions, which I've listed here.

For the Gulf of Mexico they were provided 52 percent of the overall LSC quota. The South Atlantic 41 percent and the North Atlantic 7 percent.

For small coastal sharks the Gulf of Mexico was allocated 10 percent. The South Atlantic 87 percent and the North Atlantic 3 percent. And that would be of the overall base quota for small coastal sharks. That's 451 metric tons just weight.

So in order to determine the quotas for each of these different regions what we do is take the annual base landings quota. For the case of large costal sharks that would be 1,017 metric tons dressed weight. Multiple that by the regional quota percentage. And then further multiple that by the percentage allocated to each of the three seasons. And then you would also add in or subtract over or under

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harvest.

The trimester percentages for the Gulf of Mexico and the South Atlantic were even divisions of 33.33 percent allocated to each of the three seasons.

The North Atlantic quota was allocated based on historic landings, and that's because they do in fact catch most of their sharks during the second trimester seasons, so they had lower allocations for the first and third trimester seasons.

For the Gulf of Mexico I give an example here of how we would calculate their quota. It would be 1,017 metric tons times 52 percent which is our quota allocation. And then further multiple that by 33. That should actually say 33 percent .33. Thirty-three percent for that particular reason and then add in the over/under harvest from the same season of the previous year.

So for instance the Gulf of Mexico base landings quota in any given year is 528 metric tons. The South Atlantic base landings quotas for LCS would be 410 metric tons. And the base landings quota for the North Atlantic would be 62.6 metric tons.

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In terms of allocation of the over or under harvest, here you have a table showing the percent of the quota harvested in each of the regions for the second and third trimester seasons during the 2005 fishing year. And I should mention that the overall LCS quota, we're at 98 percent of that quota for the 2005 fishing year as a whole for LCS. Considerably lower for small coastal sharks. But 98 percent of quota harvested for LCS, given the fact that we were switching to a trimester season quota allocation from a semi annual season which was the case before 2004, I think. That's actually a pretty good result.

so looking at each of these regions, for instance for the second trimester season the Gulf of Mexico harvested 83 percent of its quota, so they have a 25 metric ton carryover. South Atlantic harvested 93 percent of its quota with a 12.8 metric ton carryover. And so on.

The ones that I would like to point out to you here are the South Atlantic third trimester season quota. The South Atlantic harvested 144 percent of

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quota so they were well over their quota for that season resulting in an 82.7 metric ton deduction for the third trimester season of this year, 2006.

For the North Atlantic they also had an over harvest, 148 percent of quota harvested, which will result in a 2.4 metric ton deduction for the third trimester season for the North Atlantic.

Here we have the proposed 2006 LCS regional quotas based on those over or under harvests and as well as the conversion to dress weight in pounds below each of the metric tons. Again, all of this is in the PowerPoint presentation and it's also in the proposed rule, so I won't dwell on that.

For small coastal sharks in 2005 the landings are as follows: The Gulf of Mexico harvested 22 percent of its quota; South Atlantic 28 percent; North Atlantic 1 percent. These aren't atypical. Usually the small coastal shark quotas are never harvested. They're usually well below the established quotas. Slightly higher for the third trimester season. Gulf of Mexico harvested 51 percent of its quota; South Atlantic 34 percent of its quota, and;

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North Atlantic less than 1 percent.

So these would all result in under harvested would be carried over to the 2006 second and third trimester seasons respectively.

So the 2006 quotas taking into account those under harvests are listed here in the table. And I won't dwell on those either.

The 2006 pelagic shark quotas remain unchanged from Amendment 1. A pelagic shark quota of 162.6 metric tons, blue sharks 91 metric tons and (inaudible) 30.7 metric tons. The landings have not approached quotas to date.

Based on the adjusted quotas for each of the different regions and looking at catch rates for the previous three years, we establish opening and closing dates for the large coastal shark fishery for each of the regions which you see here.

The small coastal and pelagic shark fishery starts on May 1st, 2001. So what you see here are the season start dates for the large coastal shark fishery, which is usually the one that's of interest to industry. This brings us back to the reason for

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the shortened comment period. Because that small coastal shark and pelagic shark fishery does start on May 1st, we have to have to have a 30 day advanced notice period for prior to any implementation of a rule. So we really need to get that rule published by April 1st.

For the Gulf of Mexico the second trimester season is proposed to open on July 6th. Actually, the same for all three regions. This goes back to Rusty's comment about delaying the start of that season to improve marketing opportunities. And we've taken that into account by delaying the start of that season slightly. Depending on the region the season would close at varying times. So just following it through the Gulf of Mexico second trimester seasons closes July 31st, South Atlantic August 16th, North Atlantic August 6th.

These are very similar to the season durations from last year. The third trimester seasons, however, is slightly different from what we experienced last year. The South Atlantic, as I mentioned, had a substantial over harvest of their

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large coastal shark quota during the trimester season, so this year their seasons has been shortened considerably. I think they went until November 15th last year. Part of that was the fact that we didn't have any real good landings data for that time period because the fishery has historically been closed during that period, or at least in the most recent time. I know at one time it may have been open during that time of year. But the data that we had that we needed in order to base the catch rates on it were from recent years and we didn't have any for that time period. So their season will close on October 3rd this year.

And the North Atlantic is also of interest, it will remain closed. The reason for that is that, as you recall from one of the earlier slides also an over harvest of their large coastal shark quota. They have a very small quota to begin with for that third trimester season because, again, historically they've had very little large coastal sharks harvested during that period.

The fact that they had an over harvest

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during the third trimester season of last year coupled with the low quota that they're allocated would mean that if we were to pen that season even for a week's duration, the likelihood of an over harvest of their quota would be substantial. So we're proposing to keep that third trimester season in the North Atlantic closed this year.

In terms of the delay for not opening the large coastal shark season on May 1st, because that's technically when the second trimester season starts, we have the following reasons:

One is the closure that's in effect off North Carolina from January 1 through July 31st. We wanted to give them an opportunity to be able to harvest sharks later on in the summer by delaying the start until July 6th and running it in through the end of August. That at least gives them some opportunity to harvest sharks off of North Carolina.

Also, the LCS fishery has historically been closed from April through July due to shark pupping concerns. And, as I mentioned earlier, I believe that we've been able to reduce conflicts and

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improve marketing opportunities following the 4th of July holiday weekend as a result of postponing that start date.

As I mentioned, comments are due on this proposed rule by March 6th. That's when the comment period ends. If you do have any comments, of course, we'd like to hear from you today. If not, you can always submit comments in writing or you use the email address that I've listed on the screen above.

Thank you very much. I'll take any questions if you have any.

PARTICIPANT: Chris. Thank you.

What was that date for the LCS pupping closure, what months were those?

PARTICIPANT: Well, as I mentioned, technically the second trimester season begins May 1st. So we do open that for small coastal sharks and pelagic sharks because by dividing the year up into three equal seasons, they all have four month duration. The reason we don't open it for large coastal sharks is that that also happens to also be the prime period in which pupping occurs from April

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through July. And historically we've had it closed during that period. I know a lot of states have followed suit and have their state closures during that time period as well.

(Section of tape blank).

PARTICIPANT: Good afternoon.

The next rule we'll talk about is the proposed rule for the North and South Atlantic swordfish commercial quotas. This rule published on February 13th earlier this year and it addresses two different issues.

The first is to adjust the 2005 North and South Atlantic swordfish quotas due to the under harvest from 2004 fishing year.

The second aspect to this rule is to extend the 2005 North Atlantic swordfish management measures. And this is pursuant to an ICCAT recommendation 04-02.

So to touch on the first part of this rule. The 2005 baseline quota was set in the 2004 final rule in that that quota was based on a recommendation from ICCAT in 2002. The 2004 under

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harvest has been adjusted to account for an increase in the final 2003 fishing year landings and to account for the 2004 preliminary landings. The final 2004 landings should be available by the fall 2006 ICCAT meeting.

This action proposes to carry over the 2004 under harvest into the 2005 fishing year, which we're currently operating in and will end in May.

The revised 2005 North Atlantic swordfish quota is divided into two semi-annual quotas of 2967.3 metric tons dressed weight for the June 1st to November 30th period. And then the same quota for the December 1st 2005 through May 31st, 2006 period.

The South Atlantic quota was set based on the 2002 stock assessment and the baseline was set at 75.2 metric tons for 2003, 2004 and 2005 and then there's an increase for 2006 to 90.2 metric tons dress weight. And the 2004 final rule had implemented these.

The preliminary landings report for 2004 indicates that there were no landings and therefore this action proposes to carry over that baseline quota plus under harvest from previous years.

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The second aspect to this rule was to extend the 2005 North Atlantic swordfish quota or management measures. ICCAT's SCRS conducted a stock assessment on both North Atlantic and South Atlantic swordfish in 2002, and at that time ICCAT had recommended to increase the tack of the North Atlantic swordfish quotas. Based on that ICCAT recommendation, as I mentioned before, NMFS had implemented that 2004 rule to set the North Atlantic swordfish quotas for 2003/2004 and 2005. The SCRS is planning on doing a stock assessment for 2005 which would determine the new quotas for beyond 2005, but in 2004 ICCAT had postponed that stock assessment to 2006 and had made a recommendation to extend the 2005 management measures through 2006.

So ICCAT will review the stock assessment during the fall 2006 meeting and will likely provide new management recommendations at that time.

In the event that ICCAT doesn't recommend a new U.S. allocation during the fall ICCAT meetings, this action proposed to extend the 2005 management measures until such time as ICCAT does provide a new

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allocation to the United States.

And just as a note, I mentioned it before but this action doesn't propose to do anything to the South Atlantic quota for 2006 because that was established in that 2004 rule.

PARTICIPANT: (Off microphone).

PARTICIPANT: This action's only setting the baseline quota for 2006. Is that your question, what will the -- for 2006 the big number will be 2937.6 metric tons.

PARTICIPANT: (Off microphone).

PARTICIPANT: Well, we don't know that yet because the landings for 2005 won't be finalized until later this year. So we'll do a separate action to rollover any unharvested quota for the 2006 fishing year.

PARTICIPANT: What's the big number for 2005?

PARTICIPANT: Okay. Sorry. For 2005 it's 6,336.1 metric tons dress weight.

PARTICIPANT: (Off microphone).

PARTICIPANT: We'll be holding two public

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hearings for this rule. The first is March 13th here in Silver Spring over in the NOAA Auditorium in Building 4. The second is Friday, March 17th. And that will be in the Gloucester office. And this hearing will coincide with the tuna specs hearing.

This rule also does mention that if there's a request for additional public hearings, we'll be considering those requests as long as they have been received prior to 5:00 p.m. on March 1st.

And the finally, you know the usual ways in which you can submit your comments on this rule. You can send in your written comments. You can fax them in. There's a special email account set up to receive comments. And then there's the Federal e-rulemaking portal.

(Section of tape blank).

PARTICIPANT: If I could just tell a little story of the South Atlantic, not the North Atlantic, but the South Atlantic. Yes, South Atlantic below 5 degrees north where we had a small quota.

Originally we documented 1180 metric tons of dependency in the South Atlantic as our fleet moved

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from the north to the south, you know, through dealer reporting, et cetera, that's what we documented.

NMFS could only document 384. That became our ICCAT quota.

A year or two after we couldn't take that 384 we walked into, me and Glenn, walked into a negotiation, waited for a half hour for the EU to finally get there. The first thing they say is we're not going to respect the United States theoretical fishery and in an instant it went from 384 to I think like nothing, and then we fought our way back up to 200, being able to transfer 200 from the north to the south in case we needed it. And all it took was like, you know, that many words: "We're not going to respect the United States theoretical fishery." And I'll remember those words probably forever.

You've got 40 nations in ICCAT and another 20 that are observers. Nearly every single solitary one of those nations is at that table like this. White hat conservation, you know, doing the right thing, platform for bycatch reduction, hurricanes, you know, leading by example. You know, if anybody thinks

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that we're going to go into ICCAT and win because we're the good guys and we're cute -- sorry.

(Section of tape blank).

PARTICIPANT: Thank you. We're just not characteristic, I know, the brief part.

I don't know what was said because I just walked in, and this is not to cast any aspersions on anyone at all personally, but I think that the numbers that you just heard are a testament to the fact that our highly migratory species management is not working. When we get to a point where we've got 9,000 tons of North Atlantic swordfish that the United States fishing industry is unable to harvest something is tragically broken. And this is perhaps if not the, one of the strongest healthiest highly migratory species stocks managed by ICCAT.

PARTICIPANT: Just so folks know, there are copies of the swordfish rule in the back as well if folks want copies. And the bluefin is also on the table if you want a copy as well.

PARTICIPANT: Good afternoon.

I'm going to talk about the 2006 bluefin

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tuna quota specifications and efforts control. My team and I in Gloucester worked very hard to get these out to you so that we'd have a chance to talk about it here today. So I'm really looking forward to your comments.

The rule will publish in the *Federal Register* tomorrow. It was filed at the Office of the Federal Register last Friday. And there are copies of the mock-up of the proposed rule which were outside, as Margo just mentioned, and also copies of the fax notice. And the fax notice is probably the document that will provide the best most succinct summary of what our preferred alternatives are for this year.

The baseline quota allocation comes out of our 2002 ICCAT recommendation which allocated the United States 1,489.6 metric tons for our annual quota allocation. And that is broken down by fishery category based on the 1999 FMP.

And I'm going to go through these fairly quickly because I think folks are probably pretty familiar with the basics and just focus on the numbers for this year. If anybody has any questions, we can

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deal with them at the end of the presentation. Does that sound okay?

Every year we adjust the baseline that we got from ICCAT with any over harvest or under harvest.

For this year it was all under harvest.

This is the results of the 2005 fishery. Basically if you look on the far right hand column, that's the total under harvest for this year totaling over 1300 metric tons. The (inaudible) had 351 metric tons of an underage, general category had quite a large underage also, 493 metric tons. And we have 245 metric tons in the reserve.

This is our proposed allocation for 2006.

The first column on the left indicates the category. The second column from the left is the under harvest from '05, which is the column that we looked at in the previous slide. The baseline allocation we also saw in one of the earlier slides. So if you add up the two middle columns, we come out with a 2006 quota specification for the year. These numbers are also in the fax handout if you want to take a look at them more closely.

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The general category sub periods broken down by time periods. The first sub period runs from June through the end of August. The second for the month of September. And the third for October through the end of January. And there's also a geographic set aside for the New York of 10 metric tons.

These numbers differ slightly from what you'll see in your fax notice because of a small mathematical error of less than 10 metric tons. The numbers that are here are correct and they will be corrected in the final notice.

For the angling category, as we've talked about a couple of times this week, we are running up against our 8 percent limit of school fish. This table shows the landings of school fish that we've had over the last four years. The first year in our four year time period was 2003. So 2006 is the last year in that four year time period. Based on the landings that we've had previously in the school size category, we are right at that limit of 8 percent. So it really doesn't leave us anything for a school fishery for this year. So we haven't proposed any for the school

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fishery. We only had 5.7 metric tons left in that school size category, which is not enough for an entire fishery. So we've put that into the reserve.

The additional quota is mostly found in the large school small medium category. So we've got a good robust 325 metric tons there. We're particularly looking for some comments from you folks on how we might be able to offset some of the impacts to the fisheries that really depend on these school size class fish for 2006.

We're also proposing general category restricted fishing days, similar to the restricted fishing days we had in place for last year. These help us extend the general category season to the end of the year. And also help us to manage that last bit of the season.

We found during this last year that we weren't able to withdraw the Friday RFDs in a timely fashion several times, so we've taken those out of the proposal for this year. So what we're looking at are Saturdays and Sundays after November 18th including the holidays or Thanksgiving and Christmas. So there

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will be no general category fishing on those days, and that's what's as proposed in the *Federal Register* notice.

We're also seeking comment on increasing the general category retention limit for the first time period to three bluefin per vessel per trip. The other alternatives that we considered were one or two. We usually don't have a retention limit in the specifications, but we wanted to get public comment on it this year, partially because of the large overage that we have. Also, because it might make it easier for us later in the year when we do any NCs and adjustments.

Again, this proposal for three bluefin is just for the first time period, but we will have the ability through in-seasons actions to make further adjustments of necessary throughout the year, as we usually do.

For the angling category we've also proposed retention limits to provide an opportunity for public comment and to let folks know what we're thinking about the year to give you a better

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opportunity to plan. We've proposed a preferred alternative of three bluefin per vessel per day, which would apply to all angling category vessels both private and charter head boat. The size limit would be 47 to 73 inches. Again, because we don't feel we can provide a school fishery. And this would be in place for the entire year.

We would still have the ability to make in-season adjustments if necessary. But our intention would be to maintain this limit for the entire year.

We looked at several other alternatives. I'm not going to go through these specifically, but what we were trying to do was balance being able to harvest the entire quota without going over the quota. And we also looked at different possibilities of differences between charter head boat retention limits and private vessel retention limits. We thought that our best scenario was with three bluefin per vessel per day. The same for charter and the same for recreational. Our understanding from the comments that we've gotten before is that this would provide enough incentive for charter head boats to book trips

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and also to make it worthwhile for private vessels to undertake a trip. We think it's our best chance of harvesting close to the entire quota but not going over. And, of course, we look forward to your comments if you disagree or agree.

The comment period closes on April 11th. We've scheduled four public hearings. They'll be taking place in Gloucester, West Islip, New York which is on Long Island, Ocean City, Maryland and Morehead City, North Carolina. Those will be occurring in the last two weeks of March. And the specific locations and dates are on the fax notice. And I hope that that provides enough opportunity for your folks to get to the public hearings and provide us with comments.

You can also email comments to the email address indicated here. Mail them or send them by fax.

Any questions?

PARTICIPANT: Do you know what the angling category was the prior year to what you put up on the screen? The school fish catch, by any chance similar?

PARTICIPANT: Over 2002 you mean?

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PARTICIPANT: Yes. Similar? It wasn't under. It wasn't under.

PARTICIPANT: I may have been higher, actually.

PARTICIPANT: Right. It was big.

Well, just to start with the problem that you're facing with having a bunch of pissed off anglers and Jimmy Donafreo (phonetic), the length weight key is off, we believe, by at least 22 percent and maybe higher in the smaller size class. Just using the 463 that you had on the screen and if you have a similar year prior to that, 22 percent of that buys you 130 or 40 tons of fish that you have over charged the anglers for, you might say. To just to get to that right off the bat. And it didn't take the Southeast Center and the Southwest Center and a bunch of tax dollars to get there. It's pretty straightforward. The length weight key is wrong.

And also how did we get to the -- oh, we're on the angling category. I guess I'll wait. How did we get to the 493 in the general or -- yes. Does that have the 200 removed from it, I assume?

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PARTICIPANT: It does. The last landings update that we had, the numbers that are included in this presentation are from January 5th. So the --

PARTICIPANT: So that slayfest that occurred in North Carolina after the 5th of January isn't it in here? Oh, my goodness. We'll probably have to go to ICCAT with our tail between our legs.

PARTICIPANT: Not exactly.

PARTICIPANT: Are these questions on all the bluefin issues because it's not specific?

PARTICIPANT: We've got a number of bluefin related issues under miscellaneous issues if we can defer to that. We do have another rule that we wanted to touch on before getting to that. But I guess it's a bit open, but if we could keep --

PARTICIPANT: Well, it's general angling or incidental, right? Maybe it's me. Maybe I'm where Willie was, but I keep thinking why RFDs, you know. Why start out with RFDs? You know what RFDs do and can do. We also know that we've only had 200 of 900 in the last two years. It's been way under harvest, you know. I just question why start off with

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RFDs. I know that we can go that way. And you got a barometer that you can use. I mean you've got a lot of experience in this fishery, but why start off overly restrictive under the recent history?

Also, I got to keep putting it in, relax the bluefin tuna incidental category to prevent or eliminate discarding. And you now have a precedent that you can look at. You've had the NED in place for two years, that's under relaxed rules. There's been no abuse. And, again, you have a barometer, you know. You can scale it up. You know, we already know that you're not too quick at scaling down. It talks about 12 years. So maybe if you go the other end, you know, you can scale it up in season.

But we've got to start taking some of these fish. I mean, this is serious.

MR. STONE: Yes. Dick Stone representing NNMA and RFA today.

Again, I want to reiterate what I said yesterday and really what Robert has said, too. No one really trusts the data that you're showing us. And, again, you didn't come through with what you had

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promised to do and show us what the corrected data might be once you've taken into account the length weight issue and the measurement issue. And even as Robert said, even if you just look at the length weight issue, the data that people have produced to show that it's off, there should be a school fish fishery in 2006. And, again, we haven't seen the data that you told us you were going to show us, and so we can't really determine what the error might be or even discuss that issue. But do not leave, you know again, by cutting our throat in ICCAT. I mean, we've got issues we got to go back to ICCAT and address, the 8 percent is one of them that has to be addressed. But here just with the specs, I mean let's be conservative. Let's go ahead and be conservative in a sense that we will provide school fish fishery. And I think what we're going to find is we're going to be able to back and figure out that we have been under harvesting all these years and so there'll be extra quota and we can explain that at ICCAT. But give us a school fish fishery in 2006.

PARTICIPANT: Thank you.

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I have a question on the bottom of your proposed quota specs here on the note. It says it's for the angling category for estimated use and the revised preliminary LPS numbers and North Carolina's tagging figures. It does not mention the Maryland tagging figures. I am assuming that's just a typo, an omission on this page and not in your facts?

PARTICIPANT: It was an LPS estimate that was used in this for Maryland.

PARTICIPANT: I'm sorry, it was what?

PARTICIPANT: The LPS numbers from the state of Maryland were used rather than the tagging cards.

PARTICIPANT: Why were our tagging numbers not used?

PARTICIPANT: I'm going to ask Joe Defossie (phonetic) to answer that since he's our expert in these angling numbers.

MR. DEFOSSIE: Well, I wouldn't say that I'm the expert, but I was a member of the ad hoc committee that put together the review of the 2002/2003 bluefin tuna numbers. And at that time the

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committee recommended using the LPS estimate until more evaluations were done between the Maryland Catch Card program and the estimates that were coming out of the LPS.

So just for consistency's sake we were using the LPS estimates. The numbers are very similar.

PARTICIPANT: Is it possible for us to get a copy of those numbers so we could see for ourself how -- I mean Marty's here from DNR. I mean, they run the tagging program. And I'm kind of very surprised being as we in Maryland have been very proud of the fact that we've been able to provide you with these hard, very definitive numbers. And to see that you would choose not to use them, that -- you know particularly how controversial the other numbers have always been, I would really --

PARTICIPANT: Go ahead.

PARTICIPANT: Well, I guess I would just add to those comments. The question I know have is what are we allocating manpower resources and monetary resources toward the collection of that data, what do

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I go back and now tell our fishery service staff?

What is the purpose of our involvement in allocating all the manpower and monetary resources to helping collect the data thinking that this is going to enhance our knowledge of that?

MR. DEFOSSIE: Well, I'm not sure that I can answer that question, but I know the program started before I came on board with HMS. And my understanding was that after a time of running side-by-side comparisons the best estimate would be chosen or best approach would be chosen.

PARTICIPANT: And the program is not in its infancy. I'm not sure how many years we've been collecting data. But we're probably into -- how many years have we been doing that, Marty?

PARTICIPANT: Six. Five, six, seven.

PARTICIPANT: Has NMFS staff talked to our coastal resources staff and fisheries at Maryland that you're aware of, Joe? Do they know this?

MR. DEFOSSIE: Do they know?

PARTICIPANT: Do they know that their data is not being used?

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MR. DEFOSSIE: Yes. Yes. There was data review meetings after the past two years the Maryland staff has been involved with. And they understand what the agency's doing in terms of comparing the numbers.

PARTICIPANT: We can certainly get you what the Maryland numbers were and provide that so that you can see it. And we'll follow up on the status of that comparison.

PARTICIPANT: All right. Thank you.

MR. DEFOSSIE: And also the ad hoc committee report has been published. It's available on our website. So some of the information is included there as well.

PARTICIPANT: I mean I just noticed this myself just by reading the bottom of the form here. I might have overlooked this and we might never have had this conversation. I'm just wondering now is this the first year that these numbers have not been used for Maryland? I've been assuming they've always been used. Am I wrong.

MR. DEFOSSIE: I don't think that the

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catch card numbers for Maryland have been used in the past. I think it's the LPS estimate, to my recollection.

PARTICIPANT: I guess this is probably just the beginning of the discussions on this issue, I assume, I hope. Because this is really disappointing for me to hear. I'm sure you all have some really good reasons for this and they'll come out. But we've been really -- I mean, this whole tagging program, the whole thing behind our anglers very willing to cooperate in this bluefin tuna tagging thing is because they have been able to justify their actions and their effort knowing that they're giving NMFS real good hard data because we've been arguing against the LPS data for all these years. And at least we in Maryland have gone through the efforts. Our anglers every day, they ensure that they tag their fish before they come off the dock even though they have to only walk them 10 feet down the dock before they tag . . .

(End tape 6, side A).

PARTICIPANT: . . . is cut off and thrown away. But they know that by filling out the tag

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cards, getting the tags on the fish that they're providing you guys with this data. And suddenly to hear that these efforts -- I mean, maybe it's not being used at all. It's very disheartening. I don't even want to go home and tell people that their efforts haven't been used to the fullest extent that perhaps that they could have. This is very disappointing.

PARTICIPANT: Well, Mark, just to follow up and we will follow up on the numbers and provide them and then let you know the status.

But just personally, getting the reports from Maryland every couple of weeks has been informative and very valuable to kind of keep a barometer on the fishery and what's happening out there. So, you know, I think the intent was to follow up and do a comparison, and we'll check on that. But I don't want you to think that the program isn't of value to us, because it most certainly is.

PARTICIPANT: We're going to have a hard enough time going home and telling the folks that they're probably not going to be able to retain any

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school bluefin this year. This is going to be the icing on the cake. And just from a, you know always trying to be the ambassador between Silver Spring and Ocean City, it's going to make my task that much more difficult, I'm afraid. So hopefully will come of all of this, one way or the other.

PARTICIPANT: One of the questions I think we'll be asking from Fishery Service is we were under the impression that the Maryland effort to use the catch cards was basically based on North Carolina's. And if you're accepting North Carolina's data but your not ours, what would be the fundamental reason for that? I don't know if you can answer that now or not, Joe?

MR. DEFOSSIE: No. I don't have an answer for your right now. I'm sorry.

PARTICIPANT: It's an excellent question, essentially because the LPS is not conducted in North Carolina at the time frame that Fisheries prosecuted in those winter months. Therefore, the only data that we have that time span is that North Carolina tagging program, whereas the LPS is being conducted

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simultaneously with the Maryland tagging program. So in addition to what Margo had mentioned where those reports are extremely valuable as far as keeping our thumb on the pulse of how that fishery is proceeding, it also gives us an excellent tool to compare what that census data is showing us versus what the LPS data is showing us, which has immense value as well.

PARTICIPANT: A couple of things. To go back to the problem with Maryland's figures, a couple of years ago looking at a bunch of the angling category stuff, there's been several years where real tag data was available yet it was thrown aside and LPS data was used. And my recollection is that those years the LPS data was much more fairly significantly larger than the real tag data.

and I've joked with Rich and I think with staff that we might as well just throw out the tag -- the books and tags for the giants in New England and go to the LPS because it's so damn good. It's madness that you have a good program that people are spending money and effort on, yet you -- and my guess is that it has to do with this pervasive, I would say, angle

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from the science end of bluefin that says we're always right. We can't be wrong. And I believe that that's why we don't have the data on the length weight key error because there are people in the program that do not want to be wrong and they're going to do everything they can to make it right and tell us that we're wrong.

The first thing they told us was you're wrong. This is a minor issue. And we told them no it's not a minor issue, it's a huge issue. It's thousands of tons over a decade. Well, here we are.

The days off situation. I'm the guy who in 1994 was the first full fool to suggest to the agency that we needed days off in the general category. We'd caught the quota by the middle of August. And we learned, we designed a wonderful market driven calendar that was really market smart. It had everything to do with economics and nothing to do with people's weekends with their families and recreational fishermen. And the agency was happy to oblige us and give us days off. Unfortunately, the calendar that came back in the rule looked nothing like what we

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proposed as the industry and it was totally screwed up, a completeness. And we were handcuffed with those days off for the next, I believe, five years. Four or five.

We experienced months of open fishery with three days off a week where we were landing five fish a day in the fishery in New England and the fish were worth 25 bucks a pound and we couldn't get the agency to remove any of the days off.

So what we experienced, Mark, you weren't around back then. With days off there's this pervasive thing about this regulation, they're handcuffs. What we experienced last winter was what we experienced in '98 and '98, we were handcuffed. We volunteered for the handcuffs, as Pete Manual (phonetic) knows, and he said never again.

We volunteered for the handcuffs because they're smart and then they become really dumb because the agency refuses to remove them and we beg to have them removed.

You know, I suppose back in '97/98 and those years, well we had some explosive fisheries at

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times. And you could rationalize that you needed to leave those days on back then because something could explode next weekend. But the fact was we weren't staring down the throat of 2,800 tons as a nation and have no idea how in blazes we're going to catch these fish. But this past winter that's what we faced.

And I asked you, I said we're staring down the throat of 2,800 tons, Margo. What the hell are we going to do with these fish, yet there was rationale why we had to take those days off still, even though the catch rate was somewhere around 1 ton per day, if that.

So I'm really troubled by the handcuffs being in the paper because the agency seems to have a problem with letting industry out of the handcuffs once they're on. I mean, I think there's a lot of bureaucrats that have never not liked a regulation, especially if it's an impediment to pursuing a commercial fishery. Why else would we -- I mean, what if we caught another 10 tons last January? I really want you to answer this for me.

If we had taken a couple of those weekends

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off, you know if we had fished six more days, how many tons would we have caught? What would we be staring at now? Maybe 2,810 instead of whatever it is. I mean, there were real impacts to real people's lives, their children's lives, their educational opportunities, their employee's Blue Cross payments and there are casualties that come from gross mismanagement by the seat-of-the-pants or -- I mean, we have a quota.

Margo, you told me in January, you asked me don't you know, Robert, that the Atlantic Bluefin Tuna is severely over fished? And this is the context of me wanting to get days off removed. I mean, that was sort of -- I hoped it was tongue-in-cheek because I've been involved in it since the late '80s, and yes, it's over fished. But we have a quota. And as far as I'm concerned, policy and rulemaking should not be ad hoc in the middle of January or the middle of December coming out of HMS staff and their personal opinions about how frequently we should go fishing on 2,800 tons of available resource.

You can see I'm a little angry. I

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apologize, but it's been outrageous. And it was outrageous in the '90s, and I saw the outrageous behavior again, different staff, but here it is again.

Get rid of the days off. You can put them in place when they're necessary. Because our experiences is is you don't take them off when they're not necessary.

Also on the longline discard charge that we are assessed by ICCAT, why don't you let Nelson -- I mean, I can certainly support letting the longliners land at least up to -- what is it, 80 tons of dead discards that they charge us for now? Yes, about 80.

PARTICIPANT: (Off microphone).

PARTICIPANT: Right. Why not let them catch up to the dead discard quota and charge it against the dead discards unless somehow we would assume that if they bring in the fish that they catch, there's still those dead discards. I mean, to me logic says if they bring in 80 tons that they would discard under current regulations, you would eliminate 80 tons of dead discards. We're getting charged for those. Let them bring them in and we'll go back to the

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same old game once they've landed their 80 tons. I mean, they're staring at 300 and some odd tons of quota. How in blazes are they going to catch that?

PARTICIPANT: Well, I believe the discard allowance is 68 metric tons.

PARTICIPANT: Sixty-eight? Okay, 68.

PARTICIPANT: That is designed -- longlining is a directed method of fishing for bluefin. I believe that's per an ICCAT recommendation. And it is --

PARTICIPANT: Well, I'm suggesting that their by catch comes in.

PARTICIPANT: -- limit, that does allow them to land some incidental catch of bluefin. The 68 metric tons is designed for fish that are not allowed to be landed for whatever reason. So landing a dead discard allowance I think it was not consistent.

But on RFDs --

PARTICIPANT: No, it's logical, though. Something that fails staff a lot of times why get charged 68 tons and have them throw away 68 tons in theory when you can simply have them bring in 68 tons

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instead?

PARTICIPANT: Well, it's fine, we can take your comment on that. I'm not here to debate the recommendations from ICCAT on what our dead discard allowance is.

For RFDs your point that we can add them back in if we need them is not as easy as it sounds. RFDs were proposed last year on the schedule, so I think there was advanced notice. We weren't ad hocing that. They had been proposed since the summer as they are being proposed now. And we did end up waving them. We didn't waive them wholesale, but we did waive I think all but one or two of the RFDs were waived last winter. And again, we would look at waiving those again this year, and depending on how things go. I mean, you mentioned the fact that the fishery does have a rapid ability to ramp up and it's a tool that if we don't propose now and put in now, is much more difficult for us to use should we need it. Should we not need it, we can waive them.

PARTICIPANT: I think the last real ramp up was the weekend of the 13th of October, 2002.

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Maybe it was -- or was it 2003? I just don't think that there's -- especially when you're staring at it's not like the quota situation is really tight. I think you could take a little from here or there to cover something if -- if something occurred that caused us to let something get out of control.

I figure the *Federal Register* notice changing things would come out pretty quickly if something exploded.

It just makes absolutely no sense at all. You put people in industry in a situation where we're forced to harass you, call you, beg, plead, spend money with politicians, weigh in, get letters from Senators. I mean why? We've got a quota, let us catch us and let the chips fall where they may.

Margo, it doesn't pass the stink test. It looks like the fishery, that there's an attempt to impede the fishery. That's what it looks like to everybody on the outside. I don't know what it looks like from the inside.

And by the way, those days off were three day weekends that were closed, you said you removed

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all but two days. One weekend would be three days and we had multiple three day weekends closed.

PARTICIPANT: Okay. Diane has corrected me. There were a couple of weekends in December, but I believe we waived the vast majority after that. We had multiple notices --

PARTICIPANT: I think one weekend, one two day weekend in December was waived. We have fish that sold in Japan. We said you got to give us this holiday. Let us fish these three days. There were fish that sold in Japan for \$93,000, \$80,000, \$45,000, \$40,000. We had access to that marketplace. All we needed in that time, and there's only one time of the year of 3 or 4 days, and we begged to have those days removed so some lucky fishermen could win the lottery and you took it away. You didn't let us have it. And it's just outrageous.

PARTICIPANT: Okay. Well thanks for your comment.

PARTICIPANT: That's a tough act to follow.

Mark, if you're still paying attention,

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you know I hate to tell you but we've been talking about your program in Maryland as a model for a lot longer than this process, I hate to tell you. You guys do a good job over there.

And I just wanted to say that I think there ought to be a angling category quota somehow. We need to find a way to allow that fishery to go. And if the adjustment of the size conversion provides a mechanism to do that, that was a very good suggestion and idea to get a 130 tons I think someone mentioned. You know, I know particularly up in New England that's opened up a whole new opportunity up there. And it seems a shame to not find a way to get those guys some fishing opportunities given the unused quota elsewhere and also perhaps this conversion issue.

On the RFDs, you know, my recollection was that there were a short time there, a very brief time there when they were useful for a brief part of a couple of seasons. But I think as we've learned, those situations that demand RFDs have turned out to be the rare exception, not the rule. But we do recall a period of time when that was the way you had to go.

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But it's been quite a while since that scenario has developed.

So, you know, maybe we should be looking at from the other side, which is that's an extraordinary measure to put into place should the situation present itself rather than start with that as the baseline from which we manage and back away from it. And it's just a different look at it.

On the incidental quota, I think what Nelson was trying to get at was that we should either loosen up on the 1, 2 or 3 fish limits that are tied to the amount of directed harvest that you got on board a longliner, either loosen up or maybe provide a mechanism or a procedure that's a little more real time than an amendment process for a loosening up on those 1, 2 or 3 fish limits when situations like we're currently in present themselves. I think you just heard from a directed bluefin tuna fishery dealer who would probably welcome those fish from the sounds of it in the marketplace. And it seems extraordinary that we are -- I mean, the reality is we are throwing perfectly good marketable bluefin tuna overboard dead

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in the face of a vast under harvest scenario for the U.S. You know, when you get down to the dock that's a hard thing to explain to people. What do you say? Well, you know it's just because that's the rule. And just because it's the rule doesn't make much sense for people who are struggling to put kids in college.

You know, I've always used that argument for people to think about. You know kids don't go to college sometimes when decisions are made. So let's try to find a way to make that work for these guys and utilize the resource that is in the U.S. quota context essentially under utilized.

The big picture, as I said before in my little speech, is you know something is broken here and that's what the amendment process is for is to try to fix the things that are broken. We got, you know, approaching 9,000 metric tons of North Atlantic swordfish, arguably one of the strongest stocks in the North Atlantic right now We're, it sounds like, approaching a 1,000 metric tons of unused bluefin tuna U.S. quota -- or I don't know. I lost track of the numbers now; vast amounts. And the question is is

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this rulemaking provides opportunity to fix those things and revitalize these fisheries. And the question is is this document going to achieve that? As a result of this process are we going to have any better chance, for example, of utilizing the U.S. North Atlantic swordfish quota after we adopt this rule than before? And, you know, I'm not so sure that's going to be the case. I don't see a whole lot in there that's going to revitalize swordfish fisheries and pelagic longline fishery to harvest that resource. And if we haven't done that, I'm not sure we could call that a success, a successful rulemaking process.

And we're all aware of the politics. But that's the reality. We've got something broken and I could call it a failure if we haven't fixed it. And that's certainly the way some folks will be describing it if that's the result. It's a non-fix.

PARTICIPANT: First I want to support what Robert and Glenn said about the restrictive fishing days. I think certainly that's something that you could fix.

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Secondly, I wanted to point out that you missed a real good chance to at least improve perception of recreational fishery data collection when you didn't use what you even said was similar data, catch card data from the state of Maryland. I mean, you know, I think you can tell from listening to a lot of us around the table at this meeting and other meetings that the LSP, MRFS, other forms of surveys data collection just are not the -- the folks in the field really just don't trust it. And so we've been calling for a move towards census data. Certainly that's what Maryland's program is. And by the way, what North Carolina's program. And the reason you're using North Carolina data is because we found out that North Carolina data was better than the survey data and so they don't use the survey down there anymore. They use North Carolina data.

But really, I mean -- the for-hire (phonetic) sector, VTRs, again, you know we've been pushing for using VTRs with quality control biological sampling. In other words, obviously you've got a ground truth that any data collection program that you

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use, but here's an opportunity again to use data from the people that are out there fishing with checks and balances. Any type of data collection program has its problems, I don't care what kind it is. But the more you get the people in the fishery involved in doing it, the better they're going to accept the figures that come out of it. So please take what you've learned here today to heart and start using people generated data with checks and balances.

And also, of course, I support what Robert said and Glenn supported about the angling category of school fish fishery using quota that will probably be there based on just the length, weight measurement issue.

Thank you.

PARTICIPANT: Just a point of clarification. Sorry. There was not a decision to use North Carolina catch card over LPS numbers. The LPS was from Virginia North. So --

PARTICIPANT: To that point, no I go back. I was doing this, and I go back in this fishery quite a ways. And I think if you really research it, you'll

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find that there was an overlap at one time and that it was decided not to use it because North Carolina made an issue of it. And that's why it was not used.

Your right. The LPS was done in part of North Carolina, but not all of North Carolina. But it wasn't even -- so there is a difference there. But the difference North Carolina made an issue out of it though, too, and so it wasn't used at all in North Carolina, just Virginia North. You're right. But initially it was done through part of North Carolina.

PARTICIPANT: Well, I think Mark and the other gentlemen from Maryland have been far too gentlemanly and polite on finding this startling and shocking discovery that their data was not used. Both the North Carolina and the Maryland tag program have been touted and recognized I think by most here and on your side of the table as being quality programs, even in the '99 amendment to the billfish plan, it was consensus except for one member who is no longer here and one person from NMFS we approved to go with a tag program having looked at those two, and yet the agency had decided you could not administer it.

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But for you to say that the program is extremely valuable, it helps us keep the pulse, watch the pulse; I think you're just watching it bleed to death. I mean, this is embarrassing.

I want to see an explanation as to a Committee member to each member of the panel of why the data wasn't used. And then when you get it, to compare it and show us the differences. I mean this is embarrassing. I just hope Maryland raises Cain with the agency. The anglers are not going to want to work with you. We already have that problem regardless of the species. And when you have someone like Mark who comes in, steps up to want to be the ambassador and tries to convince anglers it is worthwhile and valuable and then you just throw it out the window, doesn't do much to keep him or others encouraged in working with you. And certainly isn't going to do anything to help your credibility. So I would like to see an explanation given to the full Committee on why it wasn't used and then a comparison, please.

PARTICIPANT: And this is going to be -- because I stayed on this soapbox a pretty good bit,

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but I'm going to try to get off of it.

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But Mark kind of hit this pretty well when he made the statement that, you know, he represents people in Ocean City and on the coast over there. And he takes stuff back to them and he brings stuff back and forth. And I can relate to what he's talking about extremely well. And I may be wrong, but I've always viewed by an advisor on an advisory panels for either the state or the councils of the Fishery Service is that we're kind of like ambassadors; we bring the advice from the field that we know, but we also take information back to the people we represent. And we try to explain to them why things are done, why they're not. And it makes it extremely hard to keep these people -- because it's like I've said so many times, the public -- and when I say the "public," it's not just people in the higher business, it's recreational people and it's certainly commercial people. Nobody trusts the Fishery Service. Nobody trust what you do. They all think there's a hidden agenda. And right, wrong or indifferent, you know, and I used to believe things a little bit more emphatically than I do now because I don't really

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believe there's hidden agendas, but it's obvious. And I mean just perfectly clear that there's something wrong with the system where people tend to see or tend to look like they just don't listen to constituents. It's like we sit here and tell you stuff and you say thank you very much but no thank you.

I mean I've heard for years complaints about this system and I've seen advice provided to the Fishery Service about the MERF system and the LPS. And the Fishery Service has a division, the Recreational Fishery Division with people like Michael, Kelly (inaudible) who are out there trying to work with the recreational community and trying to get them more involved. And situations like this it stifles their jobs. They can't do their job.

And we -- when I say "we," a lot of people that I represent, we support that whole recreational division and we worked hard as partners in developing the strategic plan that they have out there. And it was made clear I know by me and several others to them that the reason why we got involved with that plan and worked with it was to see it produce something. And

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so far it's not doing it. And to continue down this road is going to be very difficult in carrying a message back home.

And when I get back to Panama City I'm going to contact my state commissioners and the director of that department because Florida in my mind is a significant player in these things. And they don't have a state person at this table. And it's nice to state people here like from Maryland and other places that actually see this. Because when you go back and you tell these people this kind of stuff, sometimes they look at you kind of funny and say "No, it doesn't happen." But when you sit here, you actually see it and you can take it back and understand it. So they need to be here.

That's all I got to say.

PARTICIPANT: To that, we were actually expecting a state of Florida person to be here. I'm not quite sure what happened.

(Section of tape blank).

PARTICIPANT: Good afternoon.

Again, I just wanted to provide sort of a

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quick and dirty overview of a proposed rule that we hope to publish in the next couple of weeks or so that would effect the shark bottom longline fishery.

This proposed rule would have two components to it. The first one would be addressing handling and release requirements for sea turtles and other protected resources in the shark bottom longline fishery.

When Amendment 1 was published and it's the buyout that was associated with it there was a requirement to include NMFS approved dehookers, which were not available in 2003. Now the research from the NED and the requirements in the pelagic longline fishing the dehooking equipment are available are now. And so those requirements for the shark bottom longline fishery will be revisited.

And the second component would compliment or backstop regulations that were implemented by the Caribbean Fishery Management Council last fall. They have some closed areas to bottom tending gear including bottom longlines that there is sick discreet disclosures of the coast of Puerto Rico, Saint Croix

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and the U.S. Virgin Islands. And so we would be basically, regulations that were implemented at 622 in their portion of the Code of Federal Regulations, we would be complimenting those in 635 in the HMS portion. So, again, that's pretty much it.

And, again, you know we will go out and go through the regular channels and have public meetings addressing these issues once the rule becomes published.

Nelson?

MR. BEIDEMAN: If folks are buying at the hooker -- circle hooks, there is two new types that are better on the circle hooks than the old big curl that was best on the J-hook. One is the Australian slot. The Australian Fishery took it and made it a slot that's much easier taking the circle hook out. And the second one is a Roby sleeve (phonetic). You just ask for those modifications and you get what's up to date as far as the dynamics of the better tools, especially for the circle hooks that are difficult than J-hooks.

PARTICIPANT: (Off microphone).

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MR. BEIDEMAN: Yes. Yes. All of those have been submitted and gone through--

PARTICIPANT: (Off microphone).

MR. BEIDEMAN: We got a couple of other things that will be coming along, too.

PARTICIPANT: (Off microphone).

PARTICIPANT: Good afternoon. I'm (inaudible) from the Caribbean Fishery Management Council.

I would like to point out there is a sense of urgency for the public hearings to be conducted in the Caribbean. Because as we speak there is mismanagement occurring in the enforcement of the law.

For example, those three areas, those three closed areas were established in 1996 and every winter we meet with the Coast Guard and no enforcement. And it is a situation where you can troll but you cannot bottom fish. And everybody agrees on that, commercial, recreational and charter industry. But we have the situation that if the captain of the cutter doesn't happen to be exclude, then year after year and after we have the situation

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that, for example, a commercial fisherman gets stopped out there in the middle of the ocean and they are forced to not fishing in there because the Coast Guard doesn't recognize it there. Doesn't know about the regulation.

The recreational industry also gets hit because the recreational angler goes there especially during the weekend and they don't get their benefit if they get stopped by a Coast Guard unit and it has not been properly trained, they are forced to leave the area. And even if they have all the documents in order and they know the vacancies, they can't call our office, over the phone, so that the agents can tell the Coast Guard that they allowed, they can fish in there.

But the industry that has gotten hit very hard also is the charter industry, which basically works Saturday, Sunday and holidays. And these guys, I mean they lose a lot of money because don't want to hire to go into a charter and get boarded by the Coast Guard and spend two, three hours and then they have no one to call. Because on the weekend and the holidays

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there is no way you're going to get a hold of NOAA.

So as we speak this is happening, and this happen for the past ten years. So I would urge Margo so that we can get this solved by next winter. And we can get a scheduling of these public hearings as soon as possible.

Thank you.

(Section of tape blank).

PARTICIPANT: Beg your pardon?

PARTICIPANT: (Off microphone).

PARTICIPANT: Well, it's a specific comment from the Council, so I don't think so.

The first item on your list, forage.

* Pease porridge, forage. storage.

PARTICIPANT: (Off microphone)

PARTICIPANT: You missed one of mine. I said something about the economics. You've got an item up there about financial, and I would say just the economics of fisheries in general, not naturally confined to commercial or recreational.

(Section of tape blank).

PARTICIPANT: Just be brief on this

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subject. We talked about this in the context of perhaps we should reserve some species as forage species for HMS predators. And I just wanted to point out to the group that the Mid-Atlantic Council went through that process when we did the squid mackerel butterfish plan, and we did it for squid specifically. We did a pretty large set aside for forage.

I would encourage the HMS division to contact the Council and ask them to consider that for other forage species and to use the Mid-Atlantic model for squid as an example of what can be done. It was squid specifically that we have the huge set aside for forage purposes.

PARTICIPANT: Do you know what amendment that was or --

PARTICIPANT: Couldn't tell you, but I'll find out and let you know. That's my only comment on forage.

PARTICIPANT: I would want to ask HMS to please, and this was already in the record earlier, please, please weigh in my email, knock on the door, yell down the hall, send a fax, call them on the

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phone. Weigh in on the implementation of alternative 7 of the herring plan that the New England Council passed very recently. It will not be implemented according to Pat Kurcull (phonetic) until who knows when if it goes through regular channels.

This was supported by commercial, recreational whale watch; there's a whole bunch of weigh and time behind it. Please you got a dog in the fight, to put it as Glenn aptly put it, please weigh in on it. Because I supposed management might be easier if bluefin don't come to the Gulf of Maine again, but I hope that we want them there. And you got to weigh in for us and get it done. Because we're cooked. As an industry we're cooked if it happens again.

MR. PRIDE: Bob Pride for the Mid-Atlantic Council.

The Mid-Atlantic Council has asked HMS to let us take over management's smooth dogfish to remove it from the deep water and other shark complex that they're managing. And the primary reason for that is that the fishermen that we manage in the fishery for

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spiny dogfish that we joint manage with New England do interact with smooth dogfish. And if there's going to be a management action or management plan, it would make sense to place it with the management body that is currently managing the same fishermen in the same range of coverage that we do with the spiny.

I realize that the smooths are not exactly the same range, but the same fishermen are pretty much targeting both species. So we'd be happy to take on that burden and responsibility if HMS would like to lighten their load a little bit.

MS. FORDHAM: Thank you. Sonja Fordham, The Ocean Conservancy.

I had just asked to have this on the agenda to see where we were in terms of jurisdiction, but also to suggest that no matter if it's decided that HMS or Mid-Atlantic has the lead, that we do need an assessment for this species or even just a general document explaining that the Fishery and what we know about the stock and who is fishing it, that would be most helpful. It's the first step regardless of who has final management jurisdiction.

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Thank you.

PARTICIPANT: Just to follow up on what Bob said. We did receive a request several months ago at this point asking for jurisdiction from the Mid-Atlantic Council. We responded with a letter asking for a little more information. And I think the Mid-Atlantic Council since we last talked last week is working on a response.

MR. PRIDE: That's correct, Margo. Ton Huff (phonetic) will draft a response and run it by the Council probably no later than our next meeting.

PARTICIPANT: We've heard some general comments about the decline of fisheries that are in the HMS realm. And I wanted to provide some hard core statistics that have been prepared by the state of Virginia. Well, actually by VMS under contract from the state.

In 1994 we did a survey in Virginia of the economic impact of Marine Fisheries. And in a study published by VMS in 1997 they reported in . . .

(End tape 7, side A).

PARTICIPANT: -- recreational fisheries,

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the Gulf Stream fisheries or the HMS fisheries for commercial sector in Virginia weren't very well reported back in those days because we didn't have mandatory reporting. So I'm going to give you a recreational numbers, but I think that the commercial industry will probably nod their heads and say this sounds familiar to what they're experiencing, too.

In 1994 the sales generated by recreational fishing activity for HMS species was \$104 million. The incomes arising from that activity was \$59 million. And there were 2466 full time equivalent jobs. That's a pretty healthy industry for Virginia. They had a total of about 10,000 jobs in the recreational sector back then.

In 2004 the sales had dropped from 104 million 10 years before to less than 11 million, and that's not even adjusted for inflation. I mean that's in 2005 dollars.

The incomes had dropped to 6 million and the number of jobs had dropped from 2466 to 114.

By comparison, and unmanaged species, spot and crocker, again not adjusted for inflation but I

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think that the numbers would probably mostly be reflective of inflation with the exception of the jobs, is it's spot and crocker impacts were 62 million in sales in '94, 173 million in 2004. And these are species that are totally unmanaged at this point.

Incomes were 35 million in '94, 102 million in '04.

1411 jobs a decade ago, 1920 jobs today.

So I mean that tells a story that in the HMS realm, at least from the economic benefits in the recreational sector, and I think it's pretty much mirrored in the commercial sector, you know we haven't really done much to keep these industries healthy. And I think, you know, we hear it in many different ways.

I don't know what the answers are, but I think the agency should take a real hard look at itself and its management policies and figure out where they've gone astray in not meeting the objectives of getting the benefits that we expect from these activities. And we seem to be going the opposite directions in those fisheries that are

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managed by the agencies. It seems like the councils and the Commission and even the states are doing a somewhat better job. I mean, I realize that across the board it's not a 100 percent true. But it seems like there are success stories there. We're not seeing a success story in HMS.

And I know there are a lot of reasons. You know, there's real estate issues, there's fuel cost issues, there's ICCAT issues; there's a whole bunch of reasons. But I think that we deserve a better look at this than we've been getting from an overall perspective of what the economic impact to the nation is.

So thank you for that soapbox time. Appreciate it.

PARTICIPANT: Well, I think Bob said much of what I was -- the sentiment anyway, which is again something's broken. Things have changed dramatically.

I'll go into this a little bit more when we get to primary closures. But we have an opportunity here to adjust highly migratory species management to a new set of realities. And I'm not convinced that the

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document we're working off is going to do that. But in any case, yes, we need a full blown assessment of where this industry stands both commercial and recreational. I don't know when the last time something really comprehensive has been done on that, but it ought to be done. And we ought to know where we stand and face the reality that we need to make some dramatic changes somehow to get back on track.

PARTICIPANT: Yes. It was Willy that asked that item be put up there. You know, he's very, very concerned. It was me that put commercial. I'm sure he intended both and it should be both.

Just to give you some figures on that. You know, the pelagic longline fishery. Back in the peak '88/89/90 you're looking at between 1200 and 1400 permits, swordfish permits. Back then you're looking between 350 and 400 active, that was year around, active vessels at that point.

Now in 2003 the last that Gene Kramer type, you know, memorandum that's come out of Southeast Science Center, there was 94 vessels landed at least one swordfish in each of five months. Now

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there might have been, you know, a couple of charter boats snuk in there that they landed one swordfish in each of five months, but that's the gauge that they use.

Now in 2005 we started out the beginning of the year between January to June it peaked about 90 active vessels in the pelagic longline fishery. That's for swordfish, you know, distant water boats, you know the Mid-Atlantic, 60 percent of the fleet in the Gulf of Mexico, 50 percent of the fleet in Louisiana. That's 90 boats. By November from hurricanes, from low fish prices, high fuel prices, et cetera, et cetera, et cetera, closures, you name it, we're down to 45 boats by November of 2005.

Today it's hovering right around that 45 boats and basically what we're being told is it may not go back up in the spring and summer unless something changes. We're out of time. And I'll speak more when we get to the time area closure, but you know we have been telling the government the situation on this fishery very accurately since, you know, years before this process began.

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Just one other thing to note is that Sherrie Larken (phonetic) on this fishery, University of Miami, et cetera. And the bottom line results were that it would take between 140 and 160 boats of all various different sizes in order to fully utilize the quota. That was the 1996/97 quota.

(Section of tape blank).

PARTICIPANT: We were all in on writing.

PARTICIPANT: (Off microphone).

PARTICIPANT: Many, many of us around this table were in on the writing of the original HMS amendments in the Magnuson Act. And does anyone remember any intent that NMFS not, you know, treat this body as a council with the weight as a council. It's NMFS that's basically decided to use it as a check mark formality.

PARTICIPANT: Well, in some respects I'd say we've let that go by letting go of control of ourselves. But that wasn't clear in the legislation. I think it should be. I think that all these resources would benefit from it. And although we would fight over a lot of issues, I think at least where we came

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to agreement we would get quicker response.

PARTICIPANT: Just to the point, the statutory language talks about establishing an advisory panel. Advisory.

PARTICIPANT: That's what it says for the councils, too. That's what it says --

PARTICIPANT: Well, I know that this was really discussed at length in the early days, and this is where we are.

We're not preventing you from coming to agreement. And I would say that the more that folks can come together in agreement, it only helps us. But it's not a voting body.

PARTICIPANT: It might be extremely valuable, in other words, but you may not use it?

PARTICIPANT: Yes, every advisory council that I've dealt with in the council process on four different councils, advisory panels are voting bodies. They don't have -- the council takes what they say into consideration. But they are voting bodies. They make motions and sometimes we unanimously recommend something to a council and it carries a whole lot more

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weight when they vote 7 to 6 on something.

PARTICIPANT: What I'm just saying is we've been through this. We are where we are; that was '97 and '98. I mean if we want to revisit that issue, I don't know, I guess I'd recommend sending a letter. I mean, I don't know. I mean, we had very strong, clear guidance from ROGC (phonetic) at that time.

PARTICIPANT: Sure. It's not up to the agency. It's not up to your office to pursue a different alternative. It's up to the people who are involved in these fisheries.

PARTICIPANT: Right. Right.

(Section of tape blank).

PARTICIPANT: I didn't put pupping up there, but I'd like to know why it's up there.

PARTICIPANT: Where are beagle sharks, back in there, you know, the late '80s, early '90s the U.S. and New England had a directed for poor beagle fishery. Our fishery had a couple of very influential scientists going by the name of Dr. John Howey (phonetic), another by the name of Dr. Jack Mussick (phonetic) who thought that it was very imprudent to

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have any directed for poor beagle fishery. It took a few short years for the association to discourage those 4 or 5 New England operations away from any directed poor beagle fishery. Poor beagles are quite vulnerable.

Now at that time we asked for a precautionary nondirected quota and everything went on the shelf, but that was okay because there has never been a U.S. directed fishery even attempted since that time.

Recently Sonja and myself got together and again wrote a letter to this process asking for a precautionary nondirected quota just so that there's a cap off, you know there's plenty of what we're catching incidentally, we don't want to throw away incidental caught poor beagles, but that there would be a cap off just as a precaution to prevent any future directed poor beagle fishery until the poor beagle populations are robust. At the moment it looks like at least in Canada they're heading for the endangered species list.

So just wanted to put that on the radar.

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If Margo doesn't want to spend much time with it, it's understandable.

But you want to add anything, Sonja?

MS. FORDHAM: Well it took all meeting, but I generally with Nelson. We did send a letter. I'm sure you remember the letter. But I think the point we agree on is that there should be a directed quota for a species that's so depleted, has been listed by IUCN as endangered and also, as Nelson said, proposed by Canada under their endangered species listing process. So I think it's important, sort of no brainer, to send the right message. Also it would help any efforts we might have in encouraging Canada to provide protection for the species. That we take it seriously. And at least at the very least not have a directed quota.

Thank you.

PARTICIPANT: A group of us including, you know, Blue Water Fishermen's Association, et cetera, put in a proposal for shark deterrent research. It looks like there's some potential in both chemical and possibly magnetic research. We put it into the

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cooperative research program. It was rejected. It was one of the few things that's excited me in the last couple of years, you know the potential of it. And it was rejected. I haven't seen all the reasons why.

But if any opportunities should come up that would lead in that direction, I think that that's something that may give us some information or lead us in the right direction of being able to deter sharks and still catch target species.

PARTICIPANT: Sorry. I just wanted to, because it's still up there on the record and everyone has gone, ask if we have any information or any guesses about the dusky shark assessment. NMFS said in a press release it would be out by the end of last year and we're just trying to get an idea of when it might be out for the public.

Thanks.

PARTICIPANT: I think as I've said off record we are expecting the dusky shark assessment any day. We've been expecting it any day for some time. And we will get it out as soon as we get it.

(Section of tape blank).

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PARTICIPANT: Well, I apologize for not being here during the original discussion, and so it's a little awkward to be able to step into the issue not having had the benefit of the presentation that was made and the discussion and points that were made. So, you know, I really don't have specific points to make. I think the industry has submitted some very specific recommendations and comments.

The North Atlantic swordfish management situation in the U.S. needs a major revision. It needs to be fixed. You know, I've said it 16 times today where we're falling far short of our ability to harvest a resource.

The last time we really visited the time area closure issue was when they were, I think, put into place in 2000. And everything has changed since then. I mean, then I think swordfish stock was probably in the neighborhood of 54 or 58 or 60 percent of DMSY (phonetic). It was a sizeable fleet, as Nelson mentioned earlier. The U.S. fleet pretty much fully utilized our quota. We were using J-hooks. Didn't know a whole lot about bycatch or bycatch management

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or post-release mortalities. And everything has changed in those regards and so should the management in response.

I mean, were at a 100 plus percent of BMSY probably. We're harvesting less than, what? Forty percent or less than that of the U.S. quota. A very small fleet. We're using circle hooks, extensive bycatch avoidance efforts and focus and attention on that. A totally different mentality in the fishery and yet, you know, we've got a thousand plus pages of management that really isn't going to change that picture.

You know, when this is done if that's it, all those numbers aren't going to change. We're still only going to harvest a tiny fraction of our quota with a very small fleet. And we really won't have accomplished much in this process the way it stands right now.

There's an opportunity to revise and reconsider some of the aggressive time area closures that were established in the last round that are friendly to the recreational fishery in terms of being

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out of sight out of mind, far off shore, that are potentially far less likely to encounter small swordfish, which you know I lived through it, nobody can tell me different. I don't care what the words say in the book. But the purpose of the driving force behind those closures in the south was to reduce the take of small swordfish. And, you know, we can do a better job of providing this fishery with reasonable access to the resource than we're doing right now. And this document fails to do that with respect to the time area closures. These people do not have reasonable access to the resource and that needs to change or the alternative is we will exacerbate swordfish conservation problems that occur internationally because we'll be giving our quota over to nations that would be amazed, astonished at the process that we just went through to spend 2½ days of our time focused on highly migratory species management in a serious way. And to focus by bycatch issues that we do in the United States. It would be laughable in these nations that we're going to give our quota away to.

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And so the truth of the matter is that document, this is not casting dispersions personally on anyone. You know this isn't coming from in this room. You know, that document is going to result in more bycatch of swordfish, more bycatch of sea turtles, more bycatch of billfish, probably undermine swordfish conservation achievements simply because we're turning our fishery over to someone else. So all this great stuff that we've accomplished with respect to our own fishery and the conservation achievements for all those species we're going to give up because they're going to give it to somebody else who hasn't done any of that. And say, okay, well here's the reward for good conservation: You destroy your fisheries and you give it away so somebody else. So why don't you follow our lead?

I can't tell you what a mistake we're making here in terms of our conservation objectives, swordfish, bycatch in this fishery. And, you know it's a giant step backward if we don't take this opportunity to somehow revitalize this fishery. The number one way we can do that is to look at the

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offshore areas of the time area closures, South and North Carolina and the Gulf of Mexico, not in the Florida Straits. We've suggested some things for consideration. I don't know if they're being taken seriously or not at the leadership level. I guess we'll see. But there's no indication, really meaningful indication that they are, certainly not in the document and otherwise.

So it's a net loss for the U.S. if we don't seize this opportunity because we will give those fish away. We will enhance the fisheries in other nations who do a miserable job or nothing to manage their fleets or bycatch. And we'll just sort of undo everything that we just achieved with regard to this stock in the bycatch species.

You know it's almost why would we even bother participating in ICCAT anymore, we don't have any fisheries left.

I know I'm speaching here, but please.

PARTICIPANT: Well, to your point, Glenn, I just want to take exception to the statement that we haven't time area closures seriously. We have looked

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at extensively. It's unfortunate you missed the presentation where you could have seen all of the alternatives that we looked at, all of the result that gave us very mixed signals for all of our species of concern. And so I encourage you to look at what we've done and make recommendations. If you find that there is an alternative that meets all of the bycatch reduction goals for all the species, we would certainly entertain it. But we did not find that in an in depth analyses in the document, you couldn't find that.

PARTICIPANT: To respond to that, what I was referring to not being taken seriously was that we did provide specific recommendations. And maybe those were addressed on Monday very specifically.

PARTICIPANT: Since day one since before this process began we literally begged for some improvement. You know, Bill Hogarth went to ICCAT three years in a row and promised every delegation there that we're going to revitalize U.S. swordfish fishery in order to take its quota. You know, back off, we're going to revitalize our fishery to take its

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quota. That was at the table in the writing, in the transcripts, you know, countless times. And it's kind of like now or never.

And we're only asking for reasonable modifications. And what we've proposed, you know, if you had to trim it to give us some reasonable start, we've told you do that. But what you've told us is, you know, that if it has one percent increase in bycatch, that it can't be done. You've told us that we can have 80 to 90 percent reduction from preclosure data not even counting, not even analyzing the benefits of circle hooks, and it can't be done. Because there might be 10 or 20 percent from yesterday, increase from yesterday.

The standard has got to be preclosure. That's only logical. You know, what's the alternative?

The alternative is the inability to harvest the international quota and to continue a downward spiral of what remains of this fishery. And, you know, we've let no bones about it. You can't say that you didn't know. But we are out of time economically at home. We're out of time within ICCAT. Unless we act now

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within this rule, I don't think there's any coming back.

And the recreational fishery can catch some swordfish, but we all know it can't catch as many swordfish as we'd like to see it catch. We will lose that quota permanently.

And, you know, that's something that should cost people their jobs; to lose that kind of international quota permanently, to lose that kind of protein, to lose that kind of income long term national benefit . This is a tremendously serious issue and it does not seem to get the seriousness.

Yes, you had all different kinds of options and this and that and this and that. But when I asked you what's the threshold, what's it compared to, okay. It's compared to yesterday, it's not compared to where we started.

PARTICIPANT: To that point, Nelson, the data we looked at was preclosure. It was '97 to '99 compared to 2001 to 2003. That is the data that we had. We have now a year of half a year under circle hooks. All of the data and all of the analyses we have

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were for J-hooks.

MR. BEIDEMAN: We have a year's data on circle hooks. There's no reason not to have a year's data on circle hooks.

PARTICIPANT: (Off microphone).

MR. BEIDEMAN: It's very unfortunate. You know, we can see what's happening here. And there is absolutely nothing in this document to help this fishery.

PARTICIPANT: Thanks.

I've always been a big fan of closed areas and I think they're very effective in eliminating mortality rates. The closed area the fishing mortality rate is zero. And I don't ever want to see us return to 1988 where we had 350 directed swordfish, I'm assuming longliners, because the damage that they did to more than just the swordfish stocks is clear. And so you can't deny that.

You know, the damage done to a lot of our stocks it didn't just impact commercial fishermen. It impacted anybody who took a boat out there and wanted to catch fish for whatever reason. And they all saw

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the results.

But now we've come to a point where we need to take a careful look at our closed areas. And it's more than just a closed area issue with me. Because with at least swordfish, and there are other stocks, too, we have a stock that's basically rebuilt and we have fishery that's depleted. And so we have a chance to rebuild the fishery while we still have the quota to do it. If we lose that quota, then the chance to rebuild that fishery is gone. The fishery will come back. It just won't be with U.S. boats.

I'm tired of buying most of my swordfish from non-U.S. citizens. You know, we're up in the 80 to 90 percent range now. That's ridiculous with the quota, all the fish we're leaving in the water.

In the state of Maine we don't allow draggers, for instance, to take lobster because of the lobstermen's political clout. But it doesn't save one lobster because boats catch those lobsters and take them into New Hampshire or Massachusetts. What Maine loses is the fish. And it's not apples-to-apples here. But my point is this: If we're not going to in

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the long run save one swordfish by giving up our sword quota. Now will opening the areas do that? I don't think that's the right way to do it, but I think that has to be part of a bigger picture approach.

See, what's missing in all of this document to me is some section on saying, you know, even if it's only one sentence to start with that we're going to dedicate something, a process, to the careful, sustainable rebuilding of the swordfish fishery to bringing that back somehow. You know, keeping in mind all the bycatch problems that it's had in the past. As Glenn pointed out, there's been great strides made in that direction and a lot of the guys didn't pay attention to any of that stuff are no longer in the business. What's left are people who care enough to try and do this the right way. And so you've got a good starting place to slowly build forward and you've got a chance to protect your quota by at least writing down that one sentence that says we, the United States of America are going to start rebuilding our swordfish fishery, and we're going to do it the right way. And we're going to continue to

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do it as a model for the rest of the world, but we're not going to save those fish by giving them up.

We could make an argument with bluefin where internationally that stock is over fished, that you know we can't give up our quota because there isn't good reason to take all those fish because that stock is over fished. But swordfish, I don't think anybody would agree is over fished right now. And so I think we need to start the process there. Just a small sentence that says, you know, we don't have to do it tomorrow, we don't have to make this fix happen in the next year. But if no one in the rest of ICCAT can honestly believe us when we say, yes, we're going to start catching fish again, then Nelson is going to walk in the next time and they're going to say we no longer respect your right to these fish. And they're just going to take it away.

So at some point National Marine Fisheries Services, it doesn't have to create the fleets, it doesn't have to find the investment or anything that's going to have to go into it, but it has to create the atmosphere that says, yes, we're going to do it but

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we're going to do it the right way this time so that we don't have all this undo hardship not just put on the commercial fishermen, but on all the recreational fishermen and everybody else that had to put up with our mistakes in the past. But it starts with a talk.

You know, not I can't do it because this closed area opening it won't do it the right way, you haven't given us a proposal that'll work. What we need is some kind of leadership in form of one sentence that says we're going to start as a group here working together, not just with the commercial side, but with everybody sitting at this table to rebuild this fishery and to take our share of these fish.

Thank you.

I think what we're talking about today is maybe using (inaudible) a little differently. And in the last few meetings we've been reacting to proposals from the Service about rule changes. And I realize that once and years ago we started out this process with some scoping meetings of this body. But really and truly we've been a reactive body reacting to what the Service has been working on for the last two or

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three meetings. And I think we need to have a meeting shortly before the 2006 ICCAT meeting where we sit down and we discuss some of these issues that are coming before us about how to catch our quota, how to manage our fisheries differently and what we can do to change the progress, the downward spiral that we're seeing in the HMS industry of the United States.

And I think the next AP meeting should be focused in that direction and not be reactive meeting, but a working session to try to come up with some concrete proposals to the Service.

And I would even go so far as to suggest that we might want to vote on these things and find out where we stand as a body and make sure that the Service knows what kind of support there are for these different proposals that we may iron out. And if that's something that you can work into the budget for this year, I think it would be great, Margo.

PARTICIPANT: Well, we can look into it.

PARTICIPANT: Let me give you another point of view. From the commercial point of view they would like, as soon as we get something rebuilt, to

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take as much of it as they can and make money on it, which is fine. I have no problem with that as long as it doesn't impact everything else.

From the recreational point of view we have either rebuilt or come close to rebuilding swordfish. Now they would like to get into the nursery area and the surrounding areas and catch as many of those fish as they can. The problem with that is probably the reason it's been rebuilt is because the efforts we've gone through to close these nursery areas and let those fish reproduce and grow in there, they're going to move out to the rest of the -- at least the western Atlantic. So we've done a good job as far as that goes.

Let's not mess it up now by prematurely opening up these nursery areas, or probably ever opening up these nursery areas. Let's keep it healthy by keeping the nursery areas closed.

A lot of you here maybe weren't even born back in 1976 and 1977 when we first discovered the virgin stock of swordfish. And it was a bonanza. It was wide open. It was the wild west. The recreational

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guys were catching a bunch with no management. The commercial guys had no management whatsoever. They could come in. There were probably 100,000 hooks in the Straits of Florida every night. Within 4 years the swordfish tournaments that had sprung up were out of business. You can't believe how quickly the longline industry destroyed that fishery. They destroyed it for the recreational guys. They destroyed it for themselves. They then moved further offshore and further offshore and went to new areas until they ran out of areas. In the meantime, it was 18 years before the recreational anglers started catching fish again.

Now we've got some fish to catch. Let's not let the commercial industry spoil that again. I think we've done a good job. Let's protect that area and keep in mind that the more longlining there is, the more pressure you've got on billfish that are severely over fished. Every new area you open up to longlining, opens up bycatch of billfish, too. So we've done a good job. Let's maintain that good job.

Thank you.

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PARTICIPANT: I just wanted to make a comment about yesterday. I know there were several people that raised the issue of our OMG peer reviews. And I think there may have been some mischaracterization of what was actually said in the peer reviews, but I didn't have them in front of me at the time. I did last night go back through them and look at some of the comments.

And I encourage all of you, I wish the rest of the panel were still here, to go ahead and look at the OMB peer review comments that are in the back of the document we gave you with the summary of all the comments.

But just to refresh your memory quickly, in case you haven't read these in a while. There were three peer reviewers that looked in depth at our time area closure analysis and how we actually did the redistribution of effort section. And although there were some concerns raised in terms of approaches and how we might -- some alternative ways of analyzing the data, I don't think any of them rose to the level of wanting to completely throw out our displacement of

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effort model or the way we analyzed effort distribution.

And one of the other things I wanted to point out is that this exactly the same process we used back in the 2000 rulemaking that implemented the Charleston Bump, Florida East Coast and Desoto Canyon closures. Exactly the same methodology. Nothing different. So I find it kind of odd that there seemed to be support for those closures and using that methodology at that point but not now.

Actually, looking through some of the peer reviewer comments there was one in particular who raised some questions regarding some of the assumptions. We're looking into those assumptions. They have to do where effort is actually displaced. As you all know, trying to make those sorts of predictions can be very difficult and challenging. But we have been aware of these issues.

I think we addressed some of what we believed were problem areas about redistribution of effort in the draft, so it's not like we're hiding behind anything. We've challenged ourselves to come

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up with some alternative means and ways of looking at this problem.

But the key is I think, as Margo's pointed out, that we did do a very in depth analysis of a number of different closures. And on in particular, one of the peer review . . .

(End tape 8, side A).

(No tape 9).

(Tapes 10 and 11 blank.)

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