

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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ATLANTIC HIGHLY MIGRATORY SPECIES
ADVISORY PANEL

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MEETING

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THURSDAY
SEPTEMBER 8, 2016

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The Advisory Panel met in the Sheraton
Silver Spring, Magnolia Room, 8777 Georgia
Avenue, Silver Spring, Maryland, at 9:00 a.m.,
Bennett Brooks, Facilitator, presiding.

PRESENT

BENNETT BROOKS, Facilitator
JASON ADRIANCE, State Rep
MAX APPLEMAN, Proxy for Ashton Harp, Commission
Rep
ANNA BECKWITH, Council Rep
TERRI BEIDEMAN, Commercial
CAROLYN BELCHER, State Rep
RICK BELLAVANCE, Recreational
ANDRE BOUSTANY, Academic
BENJAMIN CARR, Environmental
ANDREW COX, Recreational
PAMELLA DANA, Council Rep
DAVID DONALDSON, Commission Rep
J. MARCUS DRYMON, State Rep
MARTIN FISHER, Commercial
SONJA FORDHAM, Environmental
WALTER GOLET, Academic
JOHN GRAVES, ICCAT Advisory Committee
LISA GREGG, Proxy for Martha Bademan, State Rep
RANDY GREGORY, State Rep
MARCOS HANKE, Council Rep

DEWEY HEMILRIGHT, Proxy for Stephen Linhard,
Council Rep
RUSSELL HUDSON, Commercial
ROBERT HUETER, Academic
WALLACE JENKINS, State Rep
SHAWN JOYCE, Recreational
DAVID KERSTETTER, Academic
JAMES LAWSON, Recreational
MARK LINGO, State Rep
MICHAEL LUISI, Proxy for Angel Willey, State Rep
ANDREW MARSHALL, Commercial
SHANA MILLER, Environmental
ROBERT NAVARRO, Recreational
JEFF ODEN, Commercial
TIM PICKETT, Commercial
MICHAEL PIERDINOCK, Recreational
GEORGE PURMONT, Commercial
RICHARD RUAIS, Commercial
MARK SAMPSON, Recreational
MARTIN SCANLON, Commercial
MICHAEL SISSENWINE, Council Rep
DAVID STILLER, Commercial
SCOTT TAYLOR, Commercial
RICK WEBER, Recreational
KATIE WESTFALL, Proxy for Valerie Miller,
Environmental
ROMULUS WHITAKER, Recreational

ALSO PRESENT

**KAREN ABRAMS, Branch Chief, Domestic Fisheries
Division, Office of Sustainable Fisheries**

**RANDY BLANKINSHIP, Branch Chief, Southeast
Branch, Highly Migratory Species
Management Division**

**KARYL BREWSTER-GEISZ, Branch Chief,
Headquarters, Highly Migratory Species
Management Division**

**JENNIFER CUDNEY, Fishery Biologist, Highly
Migratory Species Management Division**

**JASON DIDDEN, Fishery Management Specialist,
Mid-Atlantic Fishery Management Council**

**GUY DuBECK, Acting Branch Chief, Operations
Branch, Highly Migratory Species Management
Division**

**ROSEMARIE GNAM, Chief of the Scientific
Authority, U.S. Fish and Wildlife Service**

**CRAIG HOOVER, Chief of the Management Authority,
U.S. Fish and Wildlife Service**

**BRAD McHALE, Northeast Branch Chief, Fishery
Management Specialist in the Highly
Migratory Species Management Division**

**DELISSE ORTIZ, Atlantic Branch, Highly Migratory
Species Management Division**

**CHRIS ROGERS, Division Chief, Office of
International Affairs**

**MARGO SCHULZE-HAUGEN, Division Chief, Highly
Migratory Species Management Division**

**ANGELA SOMMA, Division Chief, Office of
Protected Resources**

C-O-N-T-E-N-T-S

Reconvene.

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

(9:01 a.m.)

1
2
3 FACILITATOR BROOKS: Thank you all and
4 good morning. I hope everyone had a good evening
5 last night. It seemed like people stayed and, at
6 least, when I walked through the bar at 10
7 o'clock there were still people there enjoying
8 the evening. So glad you had a chance to visit.

9 We have another full day today just to
10 give a quick scan. We'll spend the first part of
11 the morning discussing essential fish habitat,
12 the draft amendment. We'll take a break and then
13 we'll dive back in to a couple of shark
14 management issues.

15 After lunch we will get the updates
16 from the Regional Fishery Management Council. So
17 again, all the council reps, to the extent that
18 you have updates to share, that would be a good
19 chance to raise those issues and just make sure
20 that the HMS and the councils are as integrated
21 as possible. And then we'll hear about Atlantic
22 HMS Caribbean fisheries management issues.

23 And then we'll take an afternoon break
24 and our last two topics today will be
25 international updates and then a brief update on
26 national rulemaking and policy updates.

27 And I will just remind folks again,
28 tomorrow there will be a three hour workshop on
29 NOAA's restoration process related to the
30 Deepwater Horizons bill and we do encourage as
31 many of you as possible who can stay for that.

32 And we know this has been an issue
33 that's had a lot of attention and a lot of
34 discussion at the HMS in the past, but we're
35 really trying to provide more time to have a deep
36 conversation on that. And so if you need to
37 change your plans to stay for that, again, see
38 Margo or any of her staff and they can help you
39 do that.

40 Before we hand it over, let me just
41 see who we have on teleconference this morning.
42 Teleconference participants if you could just
43 introduce yourself if you're there.

44 MS. STEPHAN: Dianne Stephan.

45 FACILITATOR BROOKS: Dianne Stephan.

46 MS. MOORE: Katie Moore, U.S. Coast
47 Guard.

48 FACILITATOR BROOKS: Good morning,

1 Katie. Okay. And then I think we have at least
2 one new AP member around the table who wasn't
3 here yesterday. Andre, would you just briefly
4 introduce yourself, name and organization?

5 MEMBER BOUSTANY: All right. Andre
6 Boustany, Duke University.

7 FACILITATOR BROOKS: Great. Thanks,
8 Andre. Anyone else? Any other new AP members
9 here? Okay. So in that case let me hand it off
10 to Jen Cudney and EFH.

11 MS. CUDNEY: All right. Good morning,
12 everybody. We are going to spend the first part
13 of the morning talking about Essential Fish
14 Habitat. And this is something that we as a
15 group have been working on for the last couple of
16 years.

17 So some of this information is not new
18 to you, but we are going to provide a fairly
19 succinct introduction to EFH. We'll go through a
20 timeline of some of our recent HMS EFH actions,
21 talk about the alternatives that are in Draft
22 Amendment 10, and then briefly touch on some
23 important reminders and a timeline so that you
24 know what to expect with this amendment.

25 So EFH starting off, just to remind
26 everybody EFH are those waters and substrate that
27 are necessary for fish for spawning, breeding,
28 feeding, or growth to maturity.

29 EFH was initially developed through
30 the Sustainable Fisheries Act of 1996. It is for
31 federally-managed species only, may or may not
32 include state waters. It cannot be designated in
33 international waters, and it must be periodically
34 reviewed and revised.

35 So this shows our timeline of recent
36 EFH actions. You'll see that we first designated
37 EFH in '99. We've had a couple of revisions in
38 '03 and in 2009 with Amendment 1. In 2010, we
39 had two individual rule-makings where we had
40 identified EFH for certain species that were
41 brought into the management unit.

42 And then, in 2014 and '15 we worked on
43 our most recent revision which is referred to as
44 the Atlantic HMS EFH Five Year Review. You'll
45 hear me refer to it as just the Five Year Review
46 and this is what I am referring to. And then,
47 just in the last day or two we released Draft
48 Amendment 10.

1 So I believe it published today and
2 filed yesterday. So you should be able to find
3 information about Draft Amendment 10 both on the
4 Federal Register website, on our website, and if
5 you need help finding that information just let
6 us know and we will get that to you.

7 So specifically referring to Draft
8 Amendment 10, the purpose of this amendment is to
9 update our Essential Fish Habitat designations
10 with recent information. And these types of
11 revision exercises are also intended to minimize
12 adverse effects of fishing and non-fishing
13 activities on EFH and to identify other actions
14 that encourage conservation and enhancement of
15 EFH.

16 The need is fairly simple. Through
17 the Five Year Review process and associated
18 consultations with you and the public we
19 identified new information.

20 And the revision, based on that new
21 information, is consistent with the Magnuson-
22 Stevens Act requirements and National Standard 2
23 guidelines which ask that the best available
24 scientific information be incorporated into
25 management.

26 So in this case by incorporating this
27 new information we're ensuring that the EFH
28 consultations that are completed by the Office of
29 Habitat Conservation are based on that best
30 available scientific information.

31 Now, I want to draw your attention
32 very quickly to the last two bullet points under
33 purpose. Usually, when you're talking about
34 minimizing adverse effects of fishing or non-
35 fishing activities there are associated
36 implementing regulations that are kind of carried
37 along with an EFH amendment in order to
38 accomplish this.

39 And in our Five Year Review process we
40 did not identify information which indicated the
41 need to do this. So basically, as we work
42 through the alternatives for Amendment 10, you'll
43 see that they're going to be mostly focused on
44 delineating EFH boundaries and looking at HAPCs.

45 Okay. Now, again as we work through
46 these alternatives, I also want to point out that
47 our document structure is organized around
48 species groupings of alternatives.

1 So we identified species where either
2 HAPCs were appropriate. And in many cases you'll
3 see that we have no action alternatives in the
4 document as well as preferred alternatives.

5 So what you're going to see here are
6 our preferred alternatives, but there are other
7 things in there, so I encourage you to look at it
8 and if you have any questions you can let us know
9 and we'll do our best to answer them.

10 So kicking off, the first two
11 alternatives are dealing with the actual process
12 of EFH delineations. So of course we have a no
13 action alternative, but we also have our
14 preferred which is to update Atlantic HMS EFH
15 with new data collected since 1999 using the
16 protocols that were previously established under
17 Amendment 1.

18 So basically, what this means is that
19 we're using the same procedure that we worked
20 through, identified as the best approach to
21 delineate EFH in Amendment 1. And that's
22 depicted by the pictures down at the bottom of
23 the slide.

24 Essentially, we pulled together our
25 data points into a GIS. We ran a kernel density
26 estimation which produced a surface which is
27 shown in Cell B. And each individual cell in
28 that raster surface has a density estimation.
29 And then we used a 95 percent volume contour to
30 draw a boundary line around those areas that
31 contain 95 percent of the points.

32 So I'm going to illustrate that next
33 with an example that's specific to HMS. And in
34 this case it's the bluefin tuna spawning, eggs,
35 and larva life stage.

36 Now, this is also, as you look through
37 the amendment, this is going to be the only map
38 in the amendment that actually has data points in
39 it because we are trying to protect the
40 confidentiality of the data.

41 We have some information that comes
42 from, you know, observer programs. And so we're
43 not going to put point data out there because of
44 the data confidentiality needs.

45 But basically, we would pull all the
46 point data together into a map, standardize it,
47 format it so it all is kind of the same, and then
48 we would run the kernel density estimator. We

1 would derive a surface that looks like this.

2 And basically, what would happen is
3 once you get this surface generated by running
4 the 95 percent volume contour tool, it draws a
5 polygon around those areas that have been
6 identified by the model as containing 95 percent
7 of the points.

8 And our approach was to use that as
9 the initial boundary for EFH delineation. And
10 then once we derived at surface we then looked at
11 what we had and made sure that it made biological
12 sense.

13 So this happens through a consultation
14 process with subject matter experts and NOAA
15 fishery scientists. And in this example with
16 bluefin we basically took a 95 percent volume
17 contour specifically in the Gulf of Mexico.

18 If you notice, it does intersect with
19 the land, it gets fairly close to shore, and most
20 of our data points were not that close to shore.
21 So we determined that it would be appropriate to
22 clip that at a certain bathymetric line.

23 We also identified through a research
24 paper that came out recently that there are areas
25 in the Northeast, specifically the Slope Sea,
26 that could be considered potentially important
27 for bluefin tuna larvae. This was a
28 recommendation from the Northeast Fisheries
29 Science Center that we consider including this.

30 So in this example we do have areas in
31 the Slope Sea that are identified as EFH for
32 bluefin tuna spawning, eggs, and larvae. And
33 that is something that we would encourage public
34 comment on.

35 Okay. So the next set, as I prefaced
36 before, the next set of alternatives deal with
37 HAPCs. And I do want to remind everybody that
38 HAPCs are subsets of EFH that meet one or more of
39 the following criteria.

40 The habitat itself provides an
41 important ecological function. It could be
42 sensitive to human-induced environmental
43 degradation and or development activities and it
44 could be a rare habitat.

45 So getting into our HAPC alternatives,
46 the first thing that we wanted to look at was
47 whether or not or current HAPCs needed any sort
48 of modification. And so our current HAPCs are

1 for bluefin tuna and for sandbar shark.

2 And, so, our first preferred
3 alternative under the HAPC subset is to look at
4 the current HAPC for bluefin tuna and decide
5 whether or not we needed to extend it eastward to
6 include more areas in the Gulf of Mexico.

7 So in this case we're extending the
8 eastward boundary of this HAPC from the 86 degree
9 west longitude line to the 82 degree west
10 longitude line.

11 And this is in response to both new
12 scientific information that we had from our
13 surveys, but also a paper that was published by
14 Barbara Muhling in 2010 which implied a moderate
15 probability of catching bluefin larvae in the
16 eastern Gulf of Mexico.

17 Right. The next preferred alternative
18 is looking at the HAPC for sandbar shark. And
19 I'd like to draw your attention to the map on the
20 left side of the screen. This is our EFH as it
21 currently stands and the HAPC as it currently
22 stands. And if you recall, I had indicated that
23 the HAPC has to be contained within EFH.

24 In this case, through various
25 revisions we have realized that the HAPC and the
26 EFH do not overlap in certain parts of the
27 Chesapeake Bay and in Delaware Bay.

28 So our intent here is to, through the
29 process of revising our EFH, not only are we
30 going to be delineating EFH back into Chesapeake
31 Bay and Delaware Bay through our normal EFH
32 revision processes, but we also wanted to modify
33 the boundaries of the HAPC so that it does
34 reflect some of the new data points that we have
35 in those areas.

36 I also want to point out that if you
37 look on the right side of the screen that is
38 going to be your proposed updated EFH and your
39 potential HAPC.

40 Areas inside of Pamlico Sound are no
41 longer contained within the HAPC. And that is
42 because scientific information that we had from
43 our science centers indicated that we didn't have
44 as much data inside Pamlico Sound as we had
45 outside of Pamlico Sound.

46 And the recommendations provided to us
47 from our scientists were that if we were going to
48 focus on the areas that were most important, we

1 would modify that HAPC so it was just be
2 inclusive of the off-shore areas.

3 All right. The next HAPC alternative
4 is focused on lemon sharks. And the next two
5 alternatives are thinking about the creation of
6 new HAPCs, by the way.

7 So this HAPC is supported by a body of
8 literature that indicated that areas off of Cape
9 Canaveral were potentially important for juvenile
10 lemon sharks and areas off of Jupiter Inlet might
11 be important for adult lemon sharks.

12 And it's connected between the two
13 because, in particular, the body of literature
14 supporting a Jupiter Inlet HAPC suggested some
15 genetic connectivity between the two areas. And
16 so, right now, our preferred alternative is to
17 create one HAPC that encompasses both sites.

18 The Cape Canaveral HAPC encompasses
19 aggregation areas where juvenile lemon sharks
20 were observed to come back year after year. They
21 had relatively high site fidelity for alongshore
22 troughs and sandbars that were located close to
23 shore. And the Jupiter Inlet area large numbers
24 of lemon sharks were observed to aggregate in
25 reef and offshore structure in and around Jupiter
26 Inlet.

27 Okay. The next alternative is looking
28 at creating new HAPCs for sea and tiger sharks.
29 The first area that we are looking at under this
30 alternative is in Delaware Bay. The COASTSPAN
31 surveys which are conducted by the Northeast
32 Fisheries Science Center has consistently found
33 that Delaware Bay is important for all life
34 stages of sea and tiger sharks.

35 And, in addition, there's a growing
36 body of literature that is largely being
37 developed by folks from Delaware State University
38 and their colleagues which suggests that these
39 areas are important for neonates, young of year,
40 juveniles, and adults.

41 I also want to point out that one
42 study, in particular, which used acoustic tagging
43 noted that there were high core use areas outside
44 of Delaware Bay and to the south of the mouth of
45 the Bay. So we have included that in the
46 boundaries of a potential HAPC.

47 The next area for sand tiger sharks,
48 which these two areas were pulled together into a

1 single alternative, is in the PDK Bay System that
2 is the Plymouth-Kingston-Duxbury Bay System.
3 It's fairly small.

4 It's located on the coast of Central
5 Massachusetts. And sand tiger neonates and
6 juveniles were consistently found to be using
7 this area in research that was recently put
8 forward by Jeff Kneebone and some folks from
9 Massachusetts.

10 So we identified that all of these
11 areas, they did meet the criteria of the HAPCs.
12 And in some cases they were either ecologically
13 unique, they were susceptible to development
14 activities or to anthropogenic use, or they were
15 just simply rare and being identified as a very
16 important nursery habitat in some cases.

17 All right. So important to note, just
18 a couple of reminders. EFH designations and
19 HAPCs are not time/area closures. They do not
20 automatically mean a time/area closure.

21 Updating EFH foundries in conjunction
22 with implementing a time/area closure requires
23 additional notice, comment, rulemaking, and
24 detailed ecological, economic, and social
25 analyses.

26 So as you look through this draft
27 amendment you'll see that there are no
28 implementing regulations and so just wanted to
29 kind of hit that point home here.

30 And then finally, I also wanted to
31 remind everybody that these EFH designations are
32 part of the habitat consultation process provide
33 us a means to identify measures to avoid,
34 minimize, or mitigate adverse impacts that may
35 result from federal activities, so actions that
36 are authorized, funded or undertaken by the
37 Federal Government. And this does include
38 adjustments to FMPs, so both RFMPs and other
39 FMPs.

40 All right. Timeline for this draft
41 amendment. We, as I mentioned, we had just
42 released it yesterday actually. We just released
43 it so it is open for public comment.

44 We are planning and scheduling some
45 webinars and public conference calls in November
46 and December. And we are going to be providing
47 additional opportunities for public input at the
48 council and commission meetings which are in

1 September, October, and December.

2 In our comment period, because we are
3 trying to span multiple Council and commission
4 meetings that do extend through the fall, we have
5 an extended comment for this amendment and it
6 goes thru December 22nd of this year, so.

7 At this point I will take any
8 questions. I do want to draw your attention to
9 the website down at the bottom of the screen
10 first, though, because we are going to be posting
11 all of our related documents on this web page as
12 well as individual maps for each species.

13 So if you have certain critters that
14 are near and dear to your heart and you want to
15 focus your comments just on them, you will be
16 able to go and look for individual maps for those
17 particular species, provide comment on them, and
18 we also will have shapefiles available.

19 So those folks who are interested in
20 playing around with GIS, you'll have an
21 opportunity to pull those shapefiles in and kind
22 of take a closer look and see where the
23 boundaries are. So thank you very much.

24 FACILITATOR BROOKS: Thanks, Jen, very
25 much. That was a lot of information so let's
26 open it up to questions from the AP again. As
27 always, I would ask for folks to start with
28 clarifying questions.

29 If there was anything that Jen
30 presented that you didn't quite get or want to
31 hear again or want to understand better, that
32 would be helpful. And Jason, let's start with
33 you.

34 MEMBER ADRIANCE: Thanks, but to be
35 fair I think Rich put his card up first.

36 FACILITATOR BROOKS: Rich, to be fair.
37 Was that -- no, are you in?

38 MEMBER RUAIS: Oh, I'm first?

39 FACILITATOR BROOKS: You're first.

40 MEMBER TAYLOR: You don't need to be
41 fair to him.

42 FACILITATOR BROOKS: Someone deferred
43 to you.

44 MEMBER RUAIS: Somebody deferred to
45 me?

46 FACILITATOR BROOKS: Someone deferred
47 to you, Rich. Now, do you want to use that now
48 or do you want to save it for later in the

1 meeting. What's your pleasure?

2 MEMBER RUAIS: It's a new day. Is
3 that a chip I could put in the bank?

4 FACILITATOR BROOKS: Go ahead, Rich.

5 MEMBER RUAIS: The first, I have a
6 clarifying question and that is - what's the
7 criteria for making a change to EFH for, say, a
8 newly discovered spawning ground?

9 Is there an established criteria for
10 -- and/or any other major physiological
11 characteristic that you would want to base a
12 change to an Essential Fish Habitat on?

13 MS. CUDNEY: Okay. Good question.
14 So, and I want to focus it just on EFH, so are
15 you wanting to know that for HAPCs and for EFH or
16 just EFH?

17 MEMBER RUAIS: Just --

18 MS. CUDNEY: Just the EFH?

19 MEMBER RUAIS: -- EFH.

20 MS. CUDNEY: Okay. So the process for
21 the EFH, basically, the gathering of the
22 information and deciding what to include. We went
23 out and identified both subject matter experts,
24 people that have published literature out there.
25 And through the Five Year Review process it was a
26 very comprehensive literature review.

27 And so if we identified anything that
28 looked like it was new that warranted
29 consideration, we contacted those authors and
30 asked if they would be able to provide
31 information to us.

32 So in the case of the Slope Sea
33 spawning areas, that information was actually
34 provided to us by the Northeast Fisheries Science
35 Center. They knew that we were working on this
36 and just through processes of reaching out to
37 people and trying to find that information, they
38 let us know about it.

39 So at this point if something was in
40 the literature, you know, we aren't really in a
41 position to say something is better than
42 something else. Just, you know, we take the
43 information that's provided to us, so.

44 FACILITATOR BROOKS: So just to
45 follow-up on Rich's question. It's a
46 consultative process, there isn't sort of clear,
47 crisp criteria that necessarily say HAPC or not?

48 MS. CUDNEY: Well, HAPCs are --

1 FACILITATOR BROOKS: And I'm not
2 talking --

3 MS. CUDNEY: EFH -- yes.

4 FACILITATOR BROOKS: Yes, EFH I mean.

5 MS. CUDNEY: Yes, at this point
6 because we are, you know, we basically run the
7 model on the information we have and then we put
8 the results out there and we take public comment
9 on that.

10 And that's where a lot of that dialog
11 is going to happen and we get that feedback of,
12 you know, yes, you should consider this, no, you
13 shouldn't consider this in your EFH models. And
14 because there is so much information that is
15 wrapped into this, if people want to get into the
16 nuts and bolts of different species, we can
17 definitely do that either now or offline, so.

18 MEMBER RUAIS: Thank you.

19 MS. CUDNEY: Yes.

20 FACILITATOR BROOKS: Jason.

21 MEMBER ADRIANCE: Thanks, Jason
22 Adriance. A couple of comments probably
23 disguised as clarifying questions. So I saw you
24 acknowledged the Slope Sea and I noticed the
25 expansion in the Gulf based on, I think, what did
26 you say, a moderate probability of encountering
27 larvae? I'm curious, are there any alternatives
28 considering adding the Slope Sea? I didn't see
29 any. And if not, why not?

30 MS. CUDNEY: Okay. So at this point
31 we had a single alternative for looking at the
32 HAPC. And the Slope Sea was considered to be
33 part of the EFH, but not the HAPC. This does
34 kind of come to rarity of the habitat and
35 ecological function.

36 In this case the Slope Sea had been
37 identified as potential spawning habitat, but its
38 relative importance, I think, to the Western
39 Atlantic bluefin stock is still being analyzed.
40 There's not a huge body of literature on it yet.
41 And so, we basically wanted to just start with it
42 under consideration for EFH and not include it as
43 a HAPC.

44 FACILITATOR BROOKS: Jason, did you
45 have any other questions or no?

46 MEMBER ADRIANCE: No.

47 FACILITATOR BROOKS: Okay. Andrew.

48 MEMBER MARSHALL: Thank you, Andrew

1 Marshall. On Slide 17 is a new HAPC in the PDK
2 area you mentioned. That's one of the most
3 important commercial oyster areas in
4 Massachusetts. How would that affect commercial
5 oyster growers?

6 MS. CUDNEY: So we would not be
7 passing any implementing regulations on oyster
8 growers. So that would be basically probably a
9 effect would come about through the habitat
10 consultation process.

11 If it's something like if they have to
12 get a permit, you know, if they're applying for
13 grants to do improvement projects for the oyster
14 facilities, then as part of that process they may
15 have to consult with the Office of Habitat
16 Conservation.

17 So by identifying this as both EFH and
18 as a HAPC that's just going to increase the
19 scrutiny on the activities, make sure that
20 they're not going to detrimentally effect the
21 sand tiger neonates and juveniles.

22 FACILITATOR BROOKS: Thanks. Mike.

23 MEMBER SISSEWINE: Yes, I wanted to
24 go back to the issue of the Slope Sea and the
25 distinction between EFH and HAPC. As I
26 understand it, the determination of Essential
27 Fish Habitat is really data driven, model driven.
28 It's essentially a process of analyzing data and
29 seeing what area encompasses 95 percent of the
30 observations.

31 Whereas the HAPC process is a much
32 more subjective one. It's based on the
33 literature, what do people say about the
34 importance of areas, and so forth. Is that
35 correct?

36 MS. CUDNEY: All right. Yes, in this
37 case the EFH delineation is data driven as you
38 indicated. The HAPCs, so basically any area that
39 we would consider as a HAPC has to meet one of
40 those four HAPC criterias.

41 So the literature, basically what we
42 were looking for was literature that either
43 indicated that it was a rare and unique habitat
44 that was critically important for the stock, that
45 it had a incredibly important ecological function
46 so a lot of our nursery habitats fall into that,
47 or that it was susceptible either to human
48 degradation or development activities.

1 MEMBER SISSEWINE: Yes, all of which
2 are professional judgments, but they are
3 judgments, they aren't strict criteria. But
4 going back to the EFH determinations, so it's
5 about, essentially, the density of observations
6 that have occurred at some point in time.

7 I guess the comment I wanted to make
8 is that in the case of bluefin tuna and larvae,
9 we have a unique situation where those density
10 determinations are going to be heavily influenced
11 by the difference between the intensity of
12 surveying in some areas relative to others.

13 I'm sure that's also true for other
14 species, but it's really striking in this
15 particular case. I don't have any view on what
16 should be done about it, but I do think it's
17 something to be considered in the future in terms
18 of how to analyze data with respect to
19 contouring. Thank you.

20 FACILITATOR BROOKS: Thanks. Let's go
21 over to the other Mike.

22 MEMBER PIERDINOCK: Oh, there we go.
23 Mike Pierdinock, a question about process here.
24 Many of these areas are within state waters, so
25 my question is if it does get the EFH
26 designation, who has the regulatory authority
27 over that designation, is it NOAA, is it the
28 state regulatory agency, is it both? Who is it?
29 Who has that authority?

30 MS. CUDNEY: EFH is for federally-
31 managed species. So basically what we're doing
32 is recognizing the areas that might be important.
33 So if a federally-funded project is happening,
34 then we would be consulted on it.

35 Now, with the state/federal issue,
36 basically federal agencies are required to
37 consult, state agencies can consult. And if NMFS
38 becomes aware of a project that the state is
39 doing, they may offer to provide consultation to
40 minimize any adverse impacts.

41 But those recommendations are just
42 recommendations. There's no enforcement of
43 recommendations. It's basically just how the EFH
44 regulations are written.

45 MEMBER PIERDINOCK: I guess that I'd
46 just have to say that this kind of language
47 concerns me that the purpose that minimizes, to
48 the extent practical, the adverse effects of

1 fishing and non-fishing.

2 After dealing with the Stellwagen Bank
3 National Marine Sanctuary's attempt to make a
4 designated habitat research area that wanted to
5 prohibit recreational fishing and charter boats
6 because bottom jigging with that hook had an
7 adverse impact on the habitat, therefore they
8 didn't want us in there to fish. Thankfully,
9 that was defeated.

10 This kind of language concerns me of
11 the attempt to do the same and then that the
12 location of this within state waters that the
13 state would not have the ability to also have
14 some authority over what would be done within
15 that area.

16 MS. CUDNEY: Well, through the course
17 of the habitat consultations, basically, the
18 state would have the ability to decide whether or
19 not to accept recommendations for their projects
20 if they engaged in consultation.

21 MEMBER PIERDINOCK: Okay. Thank you.

22 FACILITATOR BROOKS: Good. Let's go
23 over to Scott and then across to Shana and Ben
24 and I think Mike's back in.

25 MEMBER TAYLOR: My question is
26 specifically about the proposed area for lemon
27 sharks off of Jupiter Inlet. That was something
28 that I kind of got involved in when a group of
29 fisherman, actually, a group of divers were
30 concerned that there was commercial fishing
31 activity going on off of Jupiter, which was not
32 the case.

33 Bob actually put them in contact with
34 me. And I want to echo what Mike is saying here
35 because it really concerns me that that
36 particular area is very unique in that it's the
37 closest place the Gulf Stream comes to the United
38 States.

39 There's very little continental shelf
40 there. The majority of the water falls within
41 state waters and there was never any commercial
42 activity in that particular area.

43 The divers that were diving on those
44 lemon sharks, several dives a day, noticed a
45 decline in the aggregation of the fish over time.
46 And their assumption was that it was from fishing
47 activity, which was not the case. I mean, I
48 basically know if whoever it was that was shark

1 fishing, if there was anything in there it was
2 recreational.

3 So you have an area that really
4 doesn't encompass federal waters. Where it does
5 encompass federal waters the Gulf Stream is at
6 four or five knots there and so it doesn't lend
7 itself fairly, you know, to any commercial
8 activity.

9 And so what my concern is much along
10 the lines, I guess, where that Rich started,
11 which is that you essentially have a user group
12 that comes in that didn't get the exact answer
13 that they would have liked and now we have an
14 area that is essentially a state area that is
15 being considered for a, I believe you said it was
16 a HAPC there, correct?

17 And so I was wondering if you could
18 speak a little bit more about the criteria. And
19 obviously what our concern is, is that you could
20 have a user group that is the user group that's
21 looking to get that designation. And the fact of
22 the matter is that, it's my personal belief, that
23 the activity that they're engaged in has probably
24 got more to do with the loss of the aggregation
25 than any commercial fishing that's in there.

26 And so, you know, how do you really
27 differentiate that? You know, you put 15 divers
28 in the middle of an aggregation four times a day,
29 you're going to get a response, okay. I mean,
30 it's not limited to any one user group.

31 And so, I was hoping that you could
32 speak a little bit about the criteria
33 specifically for that area.

34 FACILITATOR BROOKS: So why don't you
35 go, Jen, and then --

36 MS. CUDNEY: Okay. Sure. So in this
37 case the paper that we had identified was
38 produced by Jim Kessel in 2014. And so the first
39 thing I want to point out is that we'd identified
40 this paper and we started our Five Year Review.

41 So we had flagged these areas before
42 they brought this information forward in response
43 to last December's shark specs rules. So this is
44 based on the literature that we found, not
45 specifically based on the concerns that we heard.

46 In this sense we're, you know, we try
47 to keep this scientifically driven. So in this
48 sense the Jupiter Inlet HAPC, you know, the paper

1 that Dr. Kessel produced indicated that there
2 might be come ecological importance to the area
3 because you have these adults that are
4 aggregating in these rec sites.

5 It seemed to be fairly unique. We did
6 notice when we were looking at that literature
7 and at the Cape Canaveral literature, that the
8 authors had indicated that this might be a
9 climatic transition zone.

10 So as the sharks are moving north or
11 south along the coast, they encounter temperature
12 regimes that, you know, may not be as preferable,
13 so they basically find a habitat that they like
14 and start to aggregate there on the borders of
15 these current boundary areas.

16 So in that sense they could be fairly
17 unique. We also -- and again, the reason that
18 the two areas are linked and you have such a big
19 area along the coast there included in the HAPC
20 is because of the genetic connectivity between
21 the two areas.

22 So there are a couple of reasons why
23 we picked that to include that as a HAPC
24 alternative. If you go in and look at the
25 document, you may also notice that we have two
26 other alternatives, one for each area to consider
27 it as a smaller, more discrete HAPC. And so that
28 is out and available for public comment, so we
29 encourage feedback on those options Does that
30 answer your question somewhat?

31 FACILITATOR BROOKS: Let me invite a
32 couple other people into this conversation. Lisa
33 and Rich both wanted to get in on this and Bob,
34 is your card up to jump into this one as well?
35 Okay. Go ahead, Lisa.

36 MEMBER GREGG: Okay. I understand a
37 lot of the trepidation and concern from fisherman
38 with regards to making any kind of designation to
39 anything. Part of my job is I do what's called
40 agency commenting. So I work on commenting on
41 permit applications and things for large coastal
42 construction projects like port expansions,
43 offshore oil and gas activities, and things like
44 that.

45 The only thing that an EFH designation
46 or a HAPC designation, without any regulatory
47 mechanisms in them, is going to do is just kind
48 of highlight the area and just let people know

1 that it is an important ecological area that
2 needs to have a little bit of additional
3 attention paid to it for activities that are
4 occurring in those areas.

5 And, again, the designations do not
6 affect any kind of state permitting processes or
7 any kind of state management. It doesn't affect
8 state management in any shape or form. So just
9 from a state manager, no, I am not concerned
10 about EFH or HAPC designations without any
11 regulations associated with them.

12 And it does help in a lot of respects.
13 In Southeast Florida around the lemon shark area
14 we've got lots of other HAPCs, we've got them for
15 corals, we've got them for reef fish. We're used
16 to working with them all the time.

17 And all it does is when you get into
18 the middle of a coastal construction project, it
19 just says, okay, this is an area of particular
20 concern for some type of reason, we need to try
21 and find a way to minimize impacts from these
22 projects to those areas. And so it's not
23 regulatory, it doesn't lead towards a closure or
24 any of that kind of situation, so --

25 FACILITATOR BROOKS: Thanks.

26 MEMBER GREGG: -- just from a state
27 management perspective, we're not concerned about
28 that.

29 FACILITATOR BROOKS: Questions for
30 Lisa?

31 MEMBER TAYLOR: I don't think maybe I
32 was clear as I could have been because in this
33 particular case. I think at least, not so much
34 the paper that you had, but the consensus that
35 came out of that group that was trying to bring
36 this information forward was over the fact that
37 they believed that there was commercial fishing
38 activity that was going on there and that because
39 there is not commercial fishing activity, the
40 only fishing that really goes on there is
41 recreational.

42 You know, the question then becomes
43 that, you know, there's other impacts once this
44 thing essentially gets, you know, listed even
45 though it may not necessary affect specific
46 regulation. It then opens the door then for
47 there to be some sort of action in that area.

48 Is that not correct in the way that

1 it's not just a designation in-and-by-itself?
2 Then how does it become more restrictive than
3 just the designation?

4 FACILITATOR BROOKS: So the concern is
5 is this a slippery slope and is it more than just
6 sort of a yellow caution sign or --

7 MEMBER TAYLOR: That's, I guess, what
8 --

9 FACILITATOR BROOKS: -- could it
10 become a stop sign or --

11 MEMBER TAYLOR: That's really what my
12 question is.

13 FACILITATOR BROOKS: -- a stop light
14 or something like that?

15 MEMBER TAYLOR: From the commercial
16 standpoint it doesn't affect my constituency, but
17 it creates what I was concerned about - a
18 dangerous precedent in the way that a particular
19 area may get looked at, I guess is a better way
20 to phrase it then.

21 MS. SCHULZE-HAUGEN: So I think, and
22 this came up, I think, in the March meeting as
23 well. How does the designation of habitat areas
24 intersect with fisheries management changes and
25 like a time/area closure. And that's why we were
26 trying to highlight that these were not the same.

27 EFH and HAPCs are about the habitat.
28 And so, if fishing is affecting the habitat, and
29 that's typically bottom tending kind of gear,
30 then you may have an intersection where a HAPC is
31 closed for fishing because the fishing itself was
32 affecting the habitat.

33 Our gears are largely pelagic and
34 whether, you know, a hook goes through a
35 temperature that's 65 degrees, it's still 65
36 degrees whether the hook is there or not. And so
37 we don't tend to have very many restrictions on
38 fishing in habitat areas.

39 The exceptions there are some of the
40 bottom longline. Caribbean areas are closed
41 because that is bottom gear and it has impacts on
42 coral. What I think people are worried about is,
43 well, you put in a HAPC, suddenly we're going to
44 say there's fishing problems on the stock. And
45 that's where we end up where fisheries management
46 leads to regulations, closures. But that's more
47 about the stock and concerns there.

48 So we have area closures where we also

1 have HAPCs for sandbar bluefin tuna. And think
2 about the histories of those species and the
3 stock status concerns we've had for them. And
4 that's what's been driving us to implement
5 fisheries and management restrictions in
6 important areas.

7 For lemon sharks, as we talked about
8 in March, we don't have that information that
9 there is stock status problems, fishery problems.
10 And so this is looking at a unique area that I
11 think you just said, it's unique. In lemon shark
12 aggregations there, there's something about that
13 area.

14 And so this is what we can do to
15 protect that area from port expansions, dredging.
16 Things give it a little more attention so that
17 the reason they're there stays.

18 FACILITATOR BROOKS: So I want to give
19 it over to you and then I'm going to get Bob and
20 then him.

21 MEMBER GREGG: And Scott, I will tell
22 you that your observations of the area and the
23 people that use it in the manner that it is used
24 is accurate and we're aware of it. Okay.

25 MEMBER TAYLOR: So can I respond?

26 FACILITATOR BROOKS: Is this a
27 response?

28 MEMBER TAYLOR: Can I just respond
29 real quick, Margo? My response to you is that
30 that's not quite the whole story. Because the
31 way that I was introduced to these people, they
32 wanted to change the entire commercial opening
33 season for Florida as it affected commercial
34 fishing, which the agency didn't do.

35 But clearly there was motivation in
36 here that went beyond just in getting that area
37 declared. They told me that when they approached
38 me and asked essentially for me to help to
39 exclude anybody that may be commercial fishing
40 that's there in the area.

41 So even though this particular area is
42 not applicable, the motivation and the push to
43 get to this area associated with a HAPC was
44 clearly linked to what their perception was of
45 commercial activity. Otherwise they wouldn't
46 have approached NMFS and asked NMFS to change the
47 commercial opening season from January 1 south of
48 wherever it was Carolina to June.

1 So I think that it's kind of a global
2 concern that we have as it may impact other areas
3 and other things. It might have commercial
4 impact.

5 FACILITATOR BROOKS: Margo.

6 MS. SCHULZE-HAUGEN: Well, so while
7 there might be a desire by certain constituencies
8 to implement fisheries management regulations,
9 that doesn't translate automatically to fisheries
10 management regulations.

11 And so we have very clear purpose,
12 statutory guidelines, things like that for our
13 actions. And so we did not change the shark
14 season. You'll hear in a few minutes we're
15 proposing a January 1 opening for 2017 as well.

16 So we heard those concerns. The
17 information that was in the literature and what
18 was presented to us indicates some specialness to
19 this area and that's what a HAPC gives it some
20 additional scrutiny in the consultations.

21 So, you know, hearing the concern,
22 looking at what's available to us, what's
23 appropriate to do with the tools we have, this is
24 what we propose.

25 FACILITATOR BROOKS: Let me let Rich
26 and Bob weigh in on this and then we'll go back
27 to the queue. Rich.

28 MEMBER RUAIS: Thank you. Back to the
29 Slopery Sea, sloping Slope Sea.

30 FACILITATOR BROOKS: Rich, I wanted to
31 just keep this on the lemon sharks for now.

32 MEMBER RUAIS: Okay.

33 FACILITATOR BROOKS: Okay.

34 MEMBER RUAIS: I'll wait.

35 FACILITATOR BROOKS: Okay. If you
36 would hold off.

37 MEMBER RUAIS: Yes.

38 MEMBER HUETER: Yes, Bob Hueter, Mote
39 Marine Lab. The request that Scott just referred
40 to was based on a lack of knowledge of that
41 group.

42 And when we got together that group
43 with Scott and you, Margo, you and Karyl, and got
44 people educated, I think that they realized that
45 they were asking for the wrong thing. So just as
46 Margo just said, just because it was requested
47 doesn't mean it's going to go through.

48 I think the more interesting question,

1 going back to something Scott said, goes to the
2 disconnect that we have in terms of the federal
3 regulation of this area in that NMFS's power to
4 regulate is only in terms of fisheries,
5 basically.

6 And what Scott brings up in terms of
7 the impact of diving is not, as we've talked
8 about, Margo, on the phone, is not, you know, as
9 part of your marching orders. You can't regulate
10 diving. But there is really good reason to
11 believe that ecotourism, in this case diving, is
12 affecting this aggregation.

13 So when we start looking beyond
14 habitat, at the actual phenomenon of the
15 aggregation and look at the actual impacts and
16 separate out the effects of fishing from the
17 effects of diving, we may find that diving is the
18 main thing.

19 So diving is under the purview,
20 though, of the state, diving regulations. So
21 now, I'm going to break the rules and ask across
22 the table.

23 FACILITATOR BROOKS: That's not
24 breaking the rules, just to clarify.

25 MEMBER HUETER: Okay. To my colleague
26 with FWC, how then will FWC proceed with that
27 information if it comes to light that diving is
28 possibly the driving factor for disturbing this
29 aggregation? What can be done within the state
30 system to regulate that as opposed to regulating
31 fishing?

32 MEMBER GREGG: A short answer, we'll
33 cross that bridge when we get to it. Let's see.
34 But what I think what it comes down to is that
35 diving in the sense of, you know, when it comes
36 to like fish feeding activities and things like
37 that, that's always been a hotspot with our
38 commission. And so I don't think that that's
39 something that they're going to take lightly.

40 But, I mean, once the science is
41 there, once there's been papers published, you
42 know, that's actually looking at the potential
43 impacts, examining them for that area then that's
44 something that the Commission can't ignore, just
45 like they couldn't ignore the papers that were
46 written that identified the aggregations and the
47 timeframes and things like that.

48 So I think that we just need to get

1 that, you know, published and get it out there
2 and then approach it. And then it'll be who's
3 going to take that issue to the Commission, you
4 know, so.

5 FACILITATOR BROOKS: Thanks, Lisa.

6 MEMBER GREGG: Yes.

7 FACILITATOR BROOKS: So let's go over
8 to Rich and then Shana, Ben and Rick.

9 MEMBER RUAIS: Thank you, Bennett.
10 Just in case there's somebody in the room that
11 isn't aware, but political or bluefin in terms of
12 the science and the politics and the management
13 has been a minefield since 1982. So all sort of
14 to protect this hypothesis that was in place.
15 And it's been guiding management since that time.

16 And this new article by NOAA scientist
17 from the Narragansett Lab in the Northeast
18 Fishery Center threatens to just slightly
19 elaborate and expand upon that current
20 hypothesis, not destroy that hypothesis.

21 And it's not something that industry
22 certainly on from the United States side is
23 looking to expand quota anytime soon. Believe
24 me, we are awash in quota and it hurts us quite
25 seriously.

26 But anyways, I was happy to hear
27 Jennifer's first answer on what the criteria is
28 to get new research basically incorporated into
29 an essential EFH, HAPC update. And I recognize
30 Margo's valid point that getting into an
31 Essential Fisheries Habitat document does not
32 necessarily mean there's going to be any
33 regulations that result from that. It just
34 depends upon what the activity is, all very
35 legitimate points.

36 There's a question I need. But what
37 I was disturbed about was I think Jennifer's
38 response to Jason's question about would the new
39 research make it into the new EFH review plan.

40 And I think I heard the answer was no,
41 that it's, you know, it's new and, you know,
42 there's a lot more work to do, all of which we
43 agree with. But I would point out that it is,
44 according to the criteria you mentioned earlier,
45 it's published research in PNAS, it's NOAA
46 research.

47 I mean the authors, if you look at the
48 significance of the research, it says we present

1 unequivocal evidence that Atlantic move into and
2 spawn in the Slope Sea. These are the Northeast
3 Fishery NOAA scientists.

4 This is not industry scientists,
5 industry paid scientists at all. This is simply
6 NOAA scientists and counter the current
7 assumption that the Gulf of Mexico and the
8 Mediterranean Sea are the exclusive spawning
9 grounds.

10 Now, the point I'm trying to make is
11 first of all I don't see any justification for
12 not including that in a document that talks about
13 what might be currently or potentially Essential
14 Fish Habitat, is potentially limiting other
15 scientists and/or those people that make the
16 decisions on where research funding is going to
17 go from saying, well, I guess that's not a real
18 priority issue because it's not even Essential
19 Fish Habitat.

20 Hasn't even been identified as
21 potential research, you know, Essential Fish
22 Habitat, so therefore let's put it into these
23 more pressing issues that other scientists have
24 on their mind and want to continue with. And we
25 know that to be the case in the circles where
26 these decisions are being made.

27 So our concern is that this is going
28 to be brushed under the rug. And from what we
29 understand from reliable reports from several
30 people on the working group meeting that
31 concluded in Madrid in late July, it's exactly
32 what the intent is of the U.S. Government right
33 now.

34 From the Southeast Fishery Center,
35 some of the scientists there, is they don't want
36 focus on this research right now because it would
37 violate to some extent because what it's
38 basically saying is it isn't just the Gulf of
39 Mexico. I'm almost done.

40 It isn't just the Gulf of Mexico, it's
41 any place where the conditions are right for
42 bluefin tuna, the temperature, physiological
43 features. They seem to like semi-enclosed areas.
44 And it also points out other potential spawning
45 grounds that should be investigated as well.

46 So all we want is we want to make sure
47 that it's getting its proper attention and that
48 it's getting the future research it needs to do

1 what's necessary before it's incorporated in
2 management which may be a decade or more away for
3 all I know. It might be a hundred years away.
4 The point is we shouldn't be ignoring it --

5 FACILITATOR BROOKS: So let's let the
6 agency respond to the question.

7 MS. SCHULZE-HAUGEN: We're not
8 ignoring it, Rich. Can you put up the example.
9 Oh, right there. No, the next one.

10 Rich, the Slope Sea research is what
11 generated the pink polygons on the northeast,
12 right there. That data is included in this
13 amendment. This is the model output of all of
14 the data sources on bluefin tuna.

15 And what you will see is a higher
16 density in the Gulf of Mexico noted by the other
17 colors, and that the Slope Sea data -- so what
18 we're purposing is Slope Sea would be added as
19 Essential Fish Habitat, not a HAPC because the
20 information isn't quite as robust and it may very
21 well be due to density of sampling, but time will
22 tell.

23 So we have EFH on the Slope Sea and a
24 HAPC currently in the Gulf that we are proposing
25 to expand based on additional research. So it is
26 included. How it plays out through the ICCAT
27 stock assessment process, that's a different set
28 of folks with a lot more brain power than me, and
29 we'll see how that goes.

30 And so right now, it is included, it
31 is proposed as EFH, and we are taking public
32 comment.

33 FACILITATOR BROOKS: Okay. Yes, we
34 do. Shana.

35 MEMBER MILLER: Following Rich's
36 comment I'm afraid I'm not going to be able to
37 help myself on the Slope Sea, but I will start
38 with something else.

39 It's good to see that you're proposing
40 to expand the HAPC in the Gulf of Mexico, not
41 just the [Muhling] paper. You mentioned their
42 support for it in that paper, of course, but also
43 electronic tagging has suggested purported
44 spawning behavior in the northern part of that
45 area.

46 The NOAA larval survey has expanded
47 into that area because of density of larvae
48 found, you know, north of Cuba for example. And

1 also it would make sense given the loop current
2 that larvae, even if they weren't spawned right
3 in that region, would be, you know, drifting into
4 that region. So that's good to see.

5 On the Slope Sea, first of all, I was
6 at the data prep meeting. I think there was 100
7 percent consensus that more research should be
8 done in that area including from the U.S.
9 scientists, so, Rich, I have to beg to differ on
10 your point about that.

11 And, of course, the paper was
12 published. The lead author was a NOAA scientist,
13 but there's also been a response published by the
14 Southeast Fisheries Science Center scientists
15 who, you know, one could argue have more
16 experience with bluefin.

17 So I think they called into question
18 several of the conclusions of that study. I
19 agree there was unequivocal evidence that there
20 was spawning in the Slope Sea in 2013, but it's,
21 you know, a limited sample.

22 There was another paper presented at
23 the data prep meeting by EU and U.S. scientists
24 looking at habitat for bluefin based on modeling
25 throughout the North Atlantic. And they found
26 that in that Slope Sea in 2013 when those larvae
27 were collected that there was anomalously good
28 habitat for bluefin in that year.

29 So I think we all agree that there
30 needs to be more research. But I think it makes
31 sense for you at this point, as you're proposing,
32 to delineate it as EFH rather than a HAPC at this
33 point because there's just not enough data to
34 support that, so.

35 And then lastly on sand tigers, kind
36 of like the public comment from yesterday, there
37 has been a nursery ground discovered in the
38 southern part of the Great South Bay in Long
39 Island, New York, and those data are not
40 published yet.

41 They're just published in the papers
42 like we saw yesterday, newspapers, not scientific
43 papers. But I would encourage you to reach out
44 to the New York Aquarium folks who have done that
45 research because they have quite a large sample
46 size. Thanks.

47 FACILITATOR BROOKS: Thanks, Shana.
48 Ben.

1 MEMBER CARR: So I would like to agree
2 with basically everything Shana said, but I'd
3 also raise concern about the Flower Garden survey
4 that's going on and the fact that we know there's
5 work defining a EFH or HAPC in an area of known
6 degradation, and what any affect or funding could
7 be diverted for research or possibly RESTORE
8 money to look into what's going around in the
9 Western Gulf as it relates to the migratory
10 species.

11 MS. CUDNEY: Okay. So there is a
12 research recommendation section in the draft
13 amendment and, you know, and what we can do is we
14 can make sure that when people provide comment
15 like this that their concerns are reflected in
16 those research recommendations.

17 And that provides a basis for
18 researchers who are applying for grants. You
19 know, they can specifically point to a document
20 that says this is a recognized research need and
21 it provides a stronger justification in the
22 evaluation of grant proposals.

23 So that is an immediate, you know, I
24 guess a immediate response to this. I mean, this
25 amendment doesn't, you know, put money aside for
26 anything. It's not really involved in that
27 funding process, but I think that's how it could
28 be used.

29 If people are particularly interested
30 in those areas, they can point to the information
31 that's in here and say hey, this is EFH, it's
32 newly recognized EFH, there's a review of it in,
33 you know, Chapter6. It's been also recognized as
34 an area that where we need more information, so I
35 think you could write a pretty good justification
36 for additional money.

37 MS. SCHULZE-HAUGEN: So Randy just
38 noted, as well, that this would be something that
39 could come up tomorrow in the NRDA long-term
40 restoration stuff.

41 FACILITATOR BROOKS: Rick, you've been
42 waiting patiently.

43 MEMBER WEBER: Rick Weber. I have
44 lived under EFH. I spent more than two decades
45 trying to fix winter flounder EFH because my
46 experience is that the consultation process
47 involved zero consultation. It involved going,
48 looking at the chart, being told that I was in a

1 zone that was winter flounder EFH and therefore,
2 no, you may not dredge in the wintertime.

3 I don't wish to hear your facts about
4 the fact that there are no flounder. I don't
5 want your letters from scientists that there are
6 no flounder. There was zero consultation.

7 And I'm happy to hear Lisa say she
8 uses it in her permitting letters. And I'm glad
9 that you use it that way, but this was coming
10 from an NMFS employee. I mean, it really very
11 much depends on who is sitting in that
12 consultation seat.

13 So I think Mike is right to be
14 concerned and I think Scott is right to be
15 concerned. Because I agree, it's supposed to
16 start a consultation process, but if you don't
17 have anyone who wants to talk to you, there's no
18 consultation, there's no conversation. And it's
19 not just for Federally-funded projects, it's for
20 Federally-permitted projects.

21 If you have to go to the Corps, you
22 have triggered the consultation process. And I
23 don't know that I have much of a question other
24 than in with these two species we're talking
25 about, would it come back to NMFS? Would it come
26 back to HMS?

27 If we triggered consultation does my
28 local rep have the ability or can I appeal past
29 her to get to your judgment rather than simply
30 using it -- where does that consultation happen
31 between the Corps and NMFS?

32 MS. CUDNEY: All right. So I heard a
33 couple of comments there. So first of all, we
34 don't do the consultations. We are available if
35 our habitat folks want to ask questions and we've
36 actually been working with them through the
37 course of this amendment to try and develop more
38 useful products to funnel more information to
39 better inform them when they're doing the
40 consultations.

41 But right now that process is
42 something that the Office of Habitat Conservation
43 is responsible for. And so I can't really think
44 of a situation where we would be in a position to
45 override what they would say.

46 MS. SCHULZE-HAUGEN: No, we don't
47 override, but I remember one case where there was
48 some question and the habitat office folks

1 reached out to us as kind of the species experts.
2 And so I think if there is a question, they're
3 certainly willing to engage and get our input on
4 a specific project. But as a matter of course,
5 they handle those processes.

6 So I mean, you could always ask for us
7 to have a conversation, but it is their job and
8 we give them the information as the basis of
9 their consultation.

10 FACILITATOR BROOKS: Margo, would they
11 ask for Rick in this case, to the habitat staff
12 local to consult with you all or would it be Rick
13 going to you and saying hey, I think it would be
14 helpful to have your thinking in the mix on this?

15 MS. SCHULZE-HAUGEN: I think either.
16 You know, if you've got a concern, either way.

17 MEMBER WEBER: I won't know when I
18 need you until I need you, you know. I mean, you
19 don't find out that you have a project being
20 blocked or friends and coworkers have a project
21 being blocked until they're actually at that
22 point.

23 And I think that's the only thing that
24 I want to drive home to the whole group is there
25 was the idea that this doesn't do anything
26 automatically, that it's going to trigger a
27 conversation. And my experience has been it
28 triggered things automatically just by being
29 inside the box. And we'll see how it goes, you
30 know. I mean, we need to protect fish. I get
31 it, but --

32 MS. SCHULZE-HAUGEN: Just don't call
33 me about winter flounder.

34 FACILITATOR BROOKS: I think both
35 Mike's want to get back into the conversation, so
36 we'll go Mike and then over to Mike.

37 MEMBER SISSEWINE: Yes, I'll be
38 quick. But this figure which basically weighs
39 out the density of or number of larvae of bluefin
40 tuna taken. It gets to a point I made earlier.

41 Margo made the point that the Gulf of
42 Mexico area is red and much more intense and so
43 on. And I just wanted to point out and reiterate
44 that we don't know that that's in fact
45 representative of reality.

46 It can just be an artifact that there
47 are many more surveys in the Gulf of Mexico than
48 there have been off the Slope Sea. That's

1 unknown. I'm not arguing it one way or another.
2 That's just something that one needs to take into
3 consideration in interpreting data.

4 The question I actually had is very
5 much follows up on the discussion we just had.
6 And that is, okay, the habitat conservation
7 people who are going to actually be involved or
8 conducting these consultations if they're
9 necessary.

10 Which habitat consultation people?
11 There's a headquarters office and then there's an
12 office in each region. And my observation is is
13 that the headquarters office basically deals with
14 big projects whereas most of the type things,
15 like your dredging project or divers off of
16 Jupiter Inlet, are going to be dealt with by the
17 regional folks.

18 And so, I guess what I'm just asking
19 is what sort of process is there going to be to
20 make sure that the regional folks are actually
21 connected up with HMS habitat issues as they are
22 with, you know, groundfish or whatever, the
23 things they normally deal with?

24 I don't think it's necessarily a
25 problem, but there needs to be some work done to
26 formulate that so that these things get the
27 proper attention.

28 MS. CUDNEY: So we are consulting with
29 national and regional staff on this. I'm located
30 in the southeast. I've been working very closely
31 with Ginny Fay and David Dale and some of the
32 other habitat folks in that area.

33 And I mentioned that we are working
34 with them to try and identify products that are
35 more helpful to them through the habitat
36 consultation process. And so that is going to be
37 an ongoing discussion. And, you know, in the
38 northeast it would be the northeast regionally
39 located folks that are doing the consultations.

40 So, I mean, I'm reaching out to the
41 southeast folks. We have people that can reach
42 out to the northeast folks or I will do it
43 myself.

44 Coming back to your comment about the
45 density, I did want to point out that yes, the
46 model is sensitive to density of points. You may
47 have situations where you just have long term
48 sampling that's occurring in some areas and not

1 in other areas.

2 We're aware of that and it's one of
3 the significant limitations of the method that we
4 have. But given the nature of our data, we
5 determined that it's still the best approach.

6 And that's where checking with the
7 public and doing the public comment period, doing
8 these AP consultations, consultations with the
9 councils and commissions, and checking with our
10 scientists to make sure that what we're
11 presenting actually makes biological sense is so
12 important.

13 FACILITATOR BROOKS: Thanks. Mike.

14 MEMBER PIERDINOCK: Mike Pierdinock.

15 I just have to expand again upon what's been said
16 and with Rick. I mean, we sit here and we're
17 concerned with EFH and who's going to be in
18 charge.

19 We've had it happen. I mean, that's
20 why we brought up the national monuments. That's
21 why I brought up the wind turbines. We're
22 constantly told they're in charge.

23 This is Stellwagen National Marine
24 Sanctuary with their DHRA, they were pushing it.
25 Then GARFO got involved. They said these guys
26 are in charge. So we're constantly running into
27 this and concerned that that's going to happen
28 again.

29 So that's more of a comment, but as
30 far as the Slope goes, I believe me and my other
31 recreational charter boat and commercial people
32 are here because we're at the front lines.

33 Now all I can say is is that for years
34 we've suspected that the Slope is an area where
35 this takes place. We suspected that for a long
36 time. Finally, a study's done by NOAA to confirm
37 such and then we hear the kickback by those
38 around the table or elsewhere.

39 So I'm just disappointed in that
40 process because we're always told you have to
41 have good science and you have to have research
42 and so on and it's been done and I thought it was
43 peer reviewed and accepted.

44 So I can just, that to say I've had my
45 disappointment in what some are saying around
46 this table. But once again, I believe I'm here
47 as a result of my other brothers, my recreational
48 charter or, you know, commercial brothers. We're

1 at the front lines, we've seen this, we've
2 suspected this for years and that study confirmed
3 it. Thank you.

4 FACILITATOR BROOKS: Thanks, Mike.
5 Bob and Rich, I think your cards are leftovers,
6 but is that right?

7 MEMBER RUAIS: No, it's not.

8 FACILITATOR BROOKS: Yours is not.
9 Okay. Then Rich, go ahead. Oh, sorry, and then
10 Andre. Actually, Andre, why don't you get in.
11 You haven't been in the conversation yet, and
12 then I'll grab Rich.

13 MEMBER BOUSTANY: Also following up on
14 the Slope Sea comment. So one of the questions
15 that remains unanswered and unaddressed is from
16 which stock the larvae came from that are found
17 in this area. And obviously, everyone wants to
18 take a lot of caution before going out and
19 changing management.

20 One of the big areas of caution, and
21 this is something that folks should be aware of,
22 is that current ICCAT regulations don't allow
23 targeted fishing of bluefin tuna in western
24 Atlantic spawning grounds.

25 So that could potentially be an issue
26 for some people that target bluefin in these
27 areas if those do, in fact, turn out to be
28 western Atlantic spawning grounds. So something
29 to think about before we rush forward and start
30 declaring, you know, some of these areas as
31 western Atlantic bluefin tuna spawning grounds.

32 FACILITATOR BROOKS: Thanks. I'm
33 going to put you on hold for one more second
34 because I see Ron's card up and he hasn't been in
35 yet and then back to Rich.

36 MEMBER WHITAKER: Well, I kind of echo
37 Mike's comments about where who you asked is in
38 control because it does get confusing sometimes.
39 But I look at this slide up there now and it
40 shows larvae in the Gulf of Mexico, off North
41 Carolina, and the Slope Sea, so those fish are at
42 those places pretty much different times of the
43 year.

44 I mean, they're off Carolina January
45 through April, up in the Slope Sea June through
46 October, Gulf of Mexico, I guess, during the
47 summer.

48 So to follow up on what Andre says, I

1 mean it appears by this that they spawn year
2 round and it could have a great impact on us.
3 And so I think we have to be careful sometimes
4 when we say EFH. Thank you.

5 FACILITATOR BROOKS: Thanks, Ron.
6 Rich.

7 MEMBER RUAIS: Just two quick
8 comments, one in response to Jennifer's request
9 for more AP or AP comment on issues related to
10 EFH.

11 I would point out that the new paper
12 actually caught 67 bluefin larvae, which is 20
13 percent higher than a decade-old average from the
14 entire Gulf of Mexico. And they also conclude
15 that larvae data further support the conclusion
16 and the majority of spawning occurs outside the
17 Gulf of Mexico.

18 And to Andre's comment, I mean, I
19 think that does raise a real fundamental question
20 of, and one is quite baffling, what is the
21 percentage of the larvae that are being spawned
22 in that area. Is it east in the Atlantic? Is it
23 west in the Atlantic? Can it both? Could it
24 possibly be both? I'd ask the geneticist that.

25 So what do we have, a mix here? Then
26 do we go back to one stock management and maybe
27 we adopt the Mediterranean regulation of not
28 necessarily protecting spawning grounds, but
29 using that as your key spawning grounds and key
30 fishing grounds and don't fish the rest of the
31 year for certain user groups. So I think there's
32 an additional comment why this should be
33 included. Thank you.

34 FACILITATOR BROOKS: Thanks. Looking
35 around, I think the only two people who have
36 their cards up aren't in the room. So Andre, you
37 want to jump back in? Okay.

38 MEMBER BOUSTANY: Yes, mine went back
39 up after Rich's comments. So in terms of, Rich,
40 your comment or your question about whether or
41 not we should be managing these as one stock or
42 two stocks as we currently manage them as two
43 stocks at least, the genetics are pretty clear
44 that the Gulf of Mexico and Mediterranean Sea are
45 genetically distinct and not interbreeding to any
46 appreciable level.

47 So the two stock management definitely
48 makes sense as to the parentage of the larvae in

1 the Slope Sea that's unresolved. But that, I
2 would agree with you, has a lot of potential
3 management implications. So it's just something
4 to be aware of. Be aware of the management
5 implications of various interpretations of the
6 data.

7 FACILITATOR BROOKS: Thanks, Andre.
8 All right. So thanks for that conversation, Jen.
9 I think you got a pretty good set of input there.

10 I think the main things I was hearing
11 were, first of all, just I think the EFH
12 territory continues to sort of confuse people and
13 has a lot of gray, both in terms of how, you
14 know, wanting to understand how designations are
15 set and getting a better feel for that and really
16 understanding what's the linkage between EFH or
17 HAPC designations and, you know, any sort of
18 regulation or constraints on activity that may
19 follow, and how that actually plays out in
20 practice as well, regardless of what the, you
21 know, what the rules are. So a lot of concerns
22 around that.

23 Some questions around what are the
24 ramifications when designations are in state
25 waters and does that constrain what states can
26 do, does it force what states can do. So a
27 number of issues around there.

28 Some other just smaller points that
29 came up, obviously, maybe not such a small point,
30 conversation around the Slope Sea and what are
31 the ramifications of a spawning ground there. Do
32 the designations adequately capture that? Is the
33 research on that area sufficient? Obviously,
34 that's not what we're talking about today, but
35 some of the issues that came up.

36 A couple other points were just to
37 keep in mind the impact of sampling density and
38 what that might do to some of those heat maps up
39 there.

40 We need to look at the shark nursery
41 off of Long Island and a handful of other
42 comments as well. So I want to thank you all.
43 We are about 15 minutes ahead of schedule.
44 Margo, is your pleasure to jump into the next
45 topic or go to break early?

46 MS. SCHULZE-HAUGEN: We can go to
47 break early.

48 FACILITATOR BROOKS: Okay. Let's go

1 to a early break and we will reconvene at 10:30.
2 Thank you all very much.

3 (Whereupon, the above-entitled matter
4 went off the record at 10:18 a.m. and resumed at
5 10:36 a.m.)

6 FACILITATOR BROOKS: All right. Let's
7 get started again here. We've got a lot more to
8 cover still this morning. If I can ask the folks
9 at the back of the room to come to the table,
10 find your seats. Thanks.

11 All right. So at this point we want
12 to jump into a couple of proposed rules around
13 Atlantic Shark Management. And I will hand it
14 off to Guy DuBeck to walk us through a couple
15 presentations. All yours.

16
17 MR. DuBECK: Thank you very much. So
18 I'm here to talk about the 2017 shark season
19 rule. So proposed rule came out the end of
20 August. We're proposing some adjustments to the
21 base quotas due to over and underharvests.

22 We're proposing to open all the shark
23 management groups again on or about January 1st.
24 We are also proposing to make a few changes with
25 the commercial retention limits for the directed
26 permit holders.

27 We're proposing to start the Western
28 Gulf sub region at lower amounts of 30 large
29 coastal other than Sandbar sharks per vessel per
30 trip.

31 Last year the fishery in the Western
32 gulf was only open for 8 or 9 weeks. You know,
33 we're hoping that the lower retention limit with
34 slow the harvest in the area of sharks and also
35 potentially keep the season open longer until
36 April when the state of Louisiana has their state
37 water closure.

38 And they've asked that once their
39 state water closure in the past is in fact that
40 we close the federal fishery to mirror that so
41 everything's closed at the same time.

42 We're hoping maybe that with the lower
43 potential limit we could extend the season in
44 April and then potentially have the closures at
45 the same time.

46 In the Eastern Gulf, we're proposing
47 to keep it at 45 large coastals per trip. Right
48 now, the Eastern Gulf is still open. Landings

1 are roughly about 50 percent for all the large
2 coastal fisheries.

3 In the Atlantic, we're proposing to do
4 the same thing we did this past year where we're
5 opening up January at 36 large coastal sharks per
6 trip. And then if quotas harvest quickly,
7 approximately 20 percent of the quota is caught,
8 we'd reduce the potential limit down to three or
9 fewer and then consider the in-season criteria
10 later on and increase it back up to 45 sometime
11 around July 15th like we did this year.

12 So here's some proposed changes to the
13 quotas for this coming year based on
14 underharvest. The Gulf of Mexico blacktip
15 management group subregional quotas are going to
16 be increased. The Eastern subregion quota will
17 be increased by roughly 11 metric tons while the
18 Western subregion will increase by 100 metric
19 tons.

20 We're also going to increase the Gulf
21 of Mexico and Atlantic smoothhound shark
22 management quotas based on underharvest. As you
23 see here, pretty large increases because the
24 landings have been really low currently right
25 now.

26 So we can only carry over 50 percent
27 of the base quota and that's what the 50 percent
28 of the base quota is, so the quotas would
29 increase by these amounts.

30 At this time we're not proposing to
31 change the Western Gulf hammerhead management
32 group quota based on overharvest since the total
33 regional Gulf of Mexico landings have not
34 exceeded the 2016 quota.

35 As you know that the Western Gulf
36 exceeded the quota, they landed 142 percent of
37 their quota, but right now since the Eastern side
38 of the Gulf is under, the total amount has not
39 been exceeded. However, since the Eastern Gulf
40 hammerhead fishery is still open, if landings
41 continue to increase and if they exceed another
42 4,000 pounds, then we'd be reducing the Western
43 Gulf quota based on any overage to that amount.

44 For the Atlantic blacknose fishery,
45 we're proposing not to change the quota based on
46 overharvest. As you remember in 2012 and 2015
47 the quotas were severely overharvested and we
48 thought we carried over the overharvest over the

1 past few years.

2 We were going to continue to reduce
3 the Atlantic blacknose quota by 1.5 metric tons
4 through 2018, but since this year's blacknose
5 fishery was closed when we projected it was going
6 to hit 80 percent and it did not reach 80
7 percent, we're going to carry forward any of the
8 underharvest to account for any of the
9 overharvest from previous years. So in 2017 it's
10 going to go up to the base quota.

11 So here's kind of table where we lay
12 out, you see on the top, by the subregion or
13 region, manager group, the 2017 annual adjusted
14 quotas. The asterisks are the quotas that were
15 adjusted based on underharvest in 2016. We've
16 got the quota linkages, if there is any, for the
17 managed groups. There's the commercial retention
18 limits for the directed permit holders and also
19 the season opening dates.

20 And as I just went through, we're
21 adjusting the blacknose and the smooth-hound
22 quotas in the Gulf and then the retention limits
23 by the subregions and then, again, proposing it
24 on or about January 1st.

25 Now, onto the Atlantic and the
26 pelagics and the research fishery. Again, the
27 same thing, the tables the same with the columns.
28 We're proposing the smooth-hound fishery in the
29 Atlantic to increase based on under-harvest.

30 And then, also, we're proposing not to
31 change the Atlantic blacknose quota to cover
32 because the underharvest covers the overharvest
33 from past years. And then, I described what
34 we're proposing to do again this year for the
35 Atlantic large coastal fishery, the retention
36 limit and again, January 1st for all sharks.

37 So we kind of talked about this at the
38 last AP and then also Scott brought this up a few
39 minutes ago, some information we considered
40 regarding the opening dates.

41 You know, last year after the final
42 rule was published we received extensive public
43 comments regarding the lemon shark aggregation
44 off of Florida. We received a ton of emails,
45 lots of phone calls, received a petition to
46 postpone the opening dates, had an emergency
47 hearing that had 20,000 petitioners sign.

48 There was numerous articles that were

1 published about the season opening dates. And
2 then we received a request from the Florida Fish
3 and Wildlife Conservation Commission to develop
4 management measures for additional protection for
5 lemon shark aggregation. We also held a
6 conference call to answer any questions regarding
7 the Atlantic commercial shark fishery.

8 Like I've mentioned we received a
9 petition to postpone the opening date that
10 challenged our decision to open the fishery in
11 Florida in January and requested a emergency
12 hearing to delay the start date.

13 We denied the request because the
14 request provided no new information that was not
15 previously considered by the Agency and did not
16 present recent unforeseen events or recently
17 discovered circumstances that would cause
18 problems in the fishery.

19 As you remember last AP meeting, Dr.
20 John Carlson came here and gave a nice detailed
21 presentation about the lemon shark biology. And,
22 you know, based on his data presented indicated
23 that the lemon sharks may be more productive than
24 previously thought.

25 Commercial fishery is not having an
26 impact on the lemon shark in the aggregation area
27 or elsewhere, and also that the current data on
28 relative abundance suggests that the population
29 is stable.

30 And then recently, Jen gave the
31 presentation about Amendment 10, how we're
32 preferring in certain HAPC changes for lemon
33 sharks and also other HMS species.

34 So we're proposing January 1st start
35 date, again. Reasons for proposing that are, you
36 know, there's no evidence that the lemon shark
37 landings have negatively impacted the population.
38 The petition, again, did not present any new
39 information that we have not already considered.
40 And then January 1st opening date meets the
41 management objectives of the consolidated HMSFMP
42 and it's amendments.

43 However, we will be considering,
44 through this rulemaking, any comments on the
45 opening date and any new information on lemon
46 sharks or any other species that have not
47 previously considered in the final rule and may
48 adjust the opening date if warranted.

1 So here's kind of slide we put in here
2 about the -- right now this is the Atlantic large
3 coastal landings through the end of August broken
4 down by species and total landings. And you can
5 see that, you know, the five species and then the
6 total landings, and right now the quota's at
7 roughly 54 percent and the hammerhead quota is
8 roughly at 40 percent.

9 Again, this is just landings from
10 Maine through Florida and it does not include the
11 research fishery and then, because of
12 confidentiality we lumped some of the species
13 together.

14 Currently, right now the comment
15 period is through September 28th. We're
16 accepting comments on this rulemaking and here to
17 accept comments.

18 FACILITATOR BROOKS: Great. Thanks,
19 Guy. I see Rusty has his card up. Scott and
20 Lisa, I think yours are leftovers, is that right?
21 Okay. Rusty, please.

22 MEMBER HUDSON: Yes, thank you. With
23 the Slide 9 at the bottom, the hammerhead, I
24 discussed this with you yesterday. Is it
25 possible that you can break out the scalloped,
26 the smooth, and the great for now and so that we
27 can see actually what our landings are for those
28 three species?

29 Because scalloped is the only one that
30 is required directly by CITES, but law
31 enforcement with their lookalike things grouped
32 them all together. But the reality is that on
33 the dealer level, we have to identify species
34 specific scalloped, smooth, and great.

35 So it'd be nice to see what kind of
36 numbers there are. And I guess the tiger and
37 silky, based on what I was told, was the
38 confidentiality was folded right there. Thank
39 you.

40 MR. DuBECK: So Rusty, after we talked
41 I looked at that and because of confidentiality
42 we couldn't break the hammerheads out any
43 further. But every year in the SAFE report we
44 put in the landings by species at the end of the
45 year and we do break it down more by species
46 levels. And I think the hammerheads are broken
47 down too, by great, smooth and at the end of the
48 year.

1 MEMBER HUDSON: With that said it's
2 been, since we started all the training for the
3 dealers and stuff, how accurate do you feel or
4 how effective has been the species ID for shark
5 on the dealer level? Have we gotten real close
6 to 100 percent now?

7 MS. BREWSTER-GEISZ: So, I think we're
8 very close to that. There are a couple of
9 states, mainly in the Gulf, that have gone
10 backwards and are allowing for unknown sharks to
11 be reported by state dealers.

12 FACILITATOR BROOKS: Anyone else?
13 Dewey?

14 MEMBER HEMILRIGHT: Thank you for your
15 presentation there, Guy. I think the last couple
16 APs ago I made some requests before about state
17 water landings catching the quotas of sharks.

18 And I was kind of wondering how you
19 all are dealing with the landings of the state
20 water non-permitted boats and how you account for
21 what they're catching, any observers and what
22 their discards are. Because it's quite clear to
23 me and it's been for a number of years that your
24 state water landings particularly on the east
25 coast are the ones catching the quotas.

26 And going back to what Guy just said
27 I wonder why in the SAFE report there's not
28 confidentiality, but yet here there's
29 confidentiality. There's no way to know who's
30 landing these sharks. Why not put them out so
31 it's more transparent? Why in the SAFE report is
32 it transparent about the species, the scalloped,
33 the smooth, or the great or the tiger and silky?

34 But particularly through the state
35 water fisheries, you all have no control over
36 that, you don't know what they're landing, you
37 don't have no species identification, you don't
38 have no observers and you don't know what they're
39 discarding. So how can you manage a federal-
40 managed fishery and not know what's happening in
41 the states?

42 FACILITATOR BROOKS: So two questions,
43 it's why are the confidentiality issues not an
44 issue in the state report, in the year end SAFE
45 report?

46 MR. DuBECK: So to answer the
47 confidentiality issue, since these landings are
48 during the season are not finalized yet and the

1 fishery's still open, at the end of the year the
2 confidentiality is not an issue where a lot more
3 dealers, fisherman are landing sharks. Again,
4 the fishery's still open, only 54 percent of the
5 quota's caught.

6 At the end of the year when it's 100
7 percent of the quota's caught, that's not an
8 issue. That's why the SAFE report is broken down
9 more by species. But since the fishery is still
10 only half the quotas are landed, that's still an
11 issue.

12 FACILITATOR BROOKS: And then the
13 second question around how to account for
14 activity landings in state waters.

15 MS. BREWSTER-GEISZ: So, Dewey, that
16 is an issue that we grapple with a lot. Along
17 the east coast we work very closely with ASMFC.
18 All the states, Florida through Maine, follow the
19 ASMFC shark plan.

20 All the vessels need to be permitted,
21 they all open and close with us, and most
22 importantly, every state from the Atlantic, all
23 the dealers are required to be federal dealers.
24 So there are no just state dealers. They are
25 federal dealers.

26 So we get all of the landings from
27 Florida through Maine. When we start looking at
28 the other states, we don't have that advantage.
29 So we don't have that advantage in the Gulf.
30 It's much harder to tell. We work as closely as
31 we can with some of the states, like Louisiana
32 and Jason. We talk with them all the time.

33 I agree with you about the observer
34 coverage. It is up to the states to implement
35 the regulations for their vessels. And we work
36 with them as much as we can.

37 FACILITATOR BROOKS: Thanks, Karyl.
38 Jeff and then, David.

39 MEMBER ODEN: Karyl, did I hear you
40 say that all the boats are permitted? I mean,
41 the in-state boats, I mean, they're not
42 permitted. And to that point recently, you know,
43 a guy in our area in the shark research fishery
44 ended up relaying to me that, you know, these
45 guys are going out and they're clueless as for
46 half of these guys don't even know the ID on the
47 shark.

48 You know, one particular boat brought

1 dusky in and didn't know better. And I mean, it
2 just boggles my mind that these guys go under the
3 radar where we have every, you know, everything
4 from VMS. And I know you were getting ready to
5 rescind that, but I mean, again, to Dewey's
6 point, it's mindboggling.

7 And, you know, to another point I'd
8 like to make, you know, those of us that had
9 directed shark from you, a good portion of us are
10 also pelagic longliners. And with our study,
11 which we did the other day with Walter, we showed
12 that, you know, what we do catch, and we can do
13 it quickly, you know, we can release alive.

14 And, you know, to the other point,
15 these guys are going out and setting gear with
16 this, you know, in state waters, leaving it
17 overnight. I mean, they're clueless about it
18 and, you know, they're not concerned about it.

19 I'm not sure what your shark research
20 protocol asks for. I think, what is it, a three-
21 hour soak? They're letting it soak all night
22 long. And, you know, under the radar. Anyway,
23 thanks.

24 MS. BREWSTER-GEISZ: So let me jump in
25 here. I don't think they're under the radar.
26 You guys are raising valid points with
27 representatives from the Atlantic States
28 Commission and several key shark fishing states
29 here.

30 We don't have the authority in state
31 waters, but not to throw Randy or Jason or Max
32 under the bus, but this is under their purview.
33 So I guess I just did, but. You know, so, I
34 mean, states are huge partners in fisheries
35 management, particularly for sharks where we
36 don't have the authority to the shore. So I
37 would open the floor to maybe some responses from
38 them.

39 FACILITATOR BROOKS: We'll go under
40 the bus in a second to talk to you all. David
41 and then, Dewey and then, to the bus. Dewey, go
42 ahead.

43 MEMBER HEMILRIGHT: I've been dealing
44 with sharks and shark fishing probably for 20
45 years and I've heard this constantly from you
46 all. My understanding of you all's requirements
47 is you all's manage this species throughout their
48 range. That's pretty sound and you're sure of

1 that.

2 What we're asking, and what I'm asking
3 is for my constituents, is state water fisherman
4 don't have to ID sharks, don't have to go to
5 class to be able to ID the sharks.

6 I don't know if they have to go
7 through the same requirements that I do to have
8 to go to a total release and stuff like that.
9 The state water landings are taking care of
10 landing the sharks to federal quota is what I'm
11 telling you.

12 So you're going out there and you're
13 taking observers in federal boats, which is not
14 that many. There's no observer coverage in the
15 state waters, you don't know what they're
16 discarding.

17 So I don't understand how you can go
18 set federal trip limits in the federal waters
19 when the majority of landings in certain areas
20 are coming from state water fisherman that you
21 know nothing about.

22 And as far as the Atlantic states
23 management of sharks and being your partner, I
24 don't have a lot of faith in that, none
25 whatsoever.

26 So what I'm asking you in my continued
27 questions at public comment meetings and many
28 comments here, which I'm able to do, and your
29 answer seems to be always it's the state's
30 problem.

31 Well, I'm a federal permitted dealer
32 and so are my constituents. I'm asking you
33 what's the outlook of the management of sharks in
34 state waters that you have the authority to do,
35 the management throughout their range?

36 And so that's what we're kind of
37 asking for because as we see the recovery and our
38 surveys and more shark fishing, it should be more
39 shark fishing opportunities for the federal guy
40 who most of this has been rebuilt on his back.
41 But the answer that continues to get from you all
42 is it's the state waters.

43 But if the state water people don't do
44 nothing about it, you're in charge of managing
45 stock throughout its range and these species and
46 the recoveries.

47 So I guess I'm kind of throwing in
48 comments and questions. How can you set federal

1 limits when you know nothing about what the
2 states are catching?

3 FACILITATOR BROOKS: So, Margo, why
4 don't you.

5 MS. SCHULZE-HAUGEN: Well, I guess I
6 feel like it's not that we don't know anything.
7 We do count state landings, we're getting state
8 landings through the dealers.

9 Do we have the same level of
10 information from federal fisherman as state
11 fisherman on discards and things, no we don't.
12 But I think it's not that we know nothing. And
13 hearing your concerns in a forum where the actual
14 authorities are sitting, I think is helpful.

15 I think raising this, particularly at
16 the Atlantic States Commission meeting on, I
17 don't know, imposing state water fishery observer
18 programs, I don't know how that would be
19 received.

20 You know, these are things that could
21 be done, but, you know, Magnuson is very clear.
22 It is a federal statute. Federal authority is
23 three to 200 miles. So we're supposed to be
24 managing within that.

25 It doesn't automatically mean that
26 because one of a federally-managed species goes
27 into other waters states have no role. So I get
28 that there's management jurisdiction issues,
29 there's problems there, willing to work it out.
30 I think I'd like to hear from our partners.

31 FACILITATOR BROOKS: Yes. So, Dewey,
32 I think what you're hearing is yes, that, you
33 know, understanding of the frustration and
34 there's a jurisdictional barrier.

35 And I think the conversation I'd like
36 to hear is so if there is a barrier what can
37 constructively be done to address the kinds of
38 issues that you're raising. I'm going to go to
39 Lisa and then over to David.

40 MEMBER GREGG: Margo, I think the
41 elephant on the couch is preemption and we can go
42 ahead and all say it. I mean, NMFS does have the
43 ability to preempt states. And NMFS has
44 threatened to do that before when it comes to,
45 you know, red snapper and other species. So I
46 think what Dewey's trying to ask is why is this
47 situation any different because that's what he's
48 asking for.

1 MS. SCHULZE-HAUGEN: So I understand
2 your request, Dewey. You are asking the National
3 Marine Fishery Service to preempt state
4 authority. That is the request?

5 MEMBER HEMILRIGHT: Easy now, no.
6 That's not it at all. I've just been sitting
7 around this table for 20 years and I'm asking
8 you, I guess, to do your job. And --

9 MS. SCHULZE-HAUGEN: But my job is in
10 federal waters.

11 MEMBER HEMILRIGHT: Okay.

12 MS. SCHULZE-HAUGEN: And we have an
13 interstate shark plan that we go to the board
14 meetings, we try and work through amendment
15 processes and have consistency. I mean that's
16 our job is to work with our partners.

17 Preemption, yes, I guess that comes up
18 every once in a while. It would be a pretty
19 significant thing. We don't throw that word
20 around lightly. And I mean, is there a situation
21 now that would warrant that, I guess would be the
22 question I would have.

23 Is over-fishing in state waters
24 affecting, you know, to the degree that that's
25 something that the agency should consider? I
26 guess that's the question I would have for you
27 all. And again, can I please go to the bus?
28 Yes.

29 FACILITATOR BROOKS: Public
30 transportation bus riders. Max, you would be
31 timely.

32 MR. APPELMAN: This is my first
33 welcoming to this table so thank you for that.
34 You know, I'm --

35 FACILITATOR BROOKS: It was good to
36 see you this one time. You probably won't be
37 back. Go ahead.

38 MR. APPELMAN: And that's a point I'm
39 going to make right now, is that I am here in
40 place of the coastal sharks plan coordinator on
41 behalf of Bob Beal, Executive Director.

42 I think some of the individual state
43 directors might be more appropriate for what this
44 question is. I can only speak to what's
45 specifically written in our plan, which is more
46 or less complementary to the federal plan.

47 Regarding permits and other things
48 that I'm hearing, yes, all fisherman do require a

1 state commercial fishing permit, all dealers do
2 require a federal permit and we do, you know, I'm
3 pretty sure that landings are through SAFIS and
4 the other ACCSP portals.

5 So, I mean, that's all I can really
6 speak to now and today. If there's other
7 specific questions I'm happy to jot them down. I
8 will note that I'm taking a lot of notes here.
9 I'll be relaying this to the appropriate people.
10 Thank you.

11 FACILITATOR BROOKS: Thanks. Let me
12 go to Jason, then over to Michael.

13 MEMBER ODEN: Yes, I guess I'll try to
14 crawl out from under the bus. So all our
15 fisherman are permitted. And I would say our
16 rules mirror the federal regulations pretty
17 closely.

18 We work with HMS. Do we have
19 observers on state boats? No, but I believe you
20 could make some inferences from the observers
21 that have been with federal boats off of
22 Louisiana. I don't think the fishery's
23 overfished in our state waters. I believe we
24 watch it closely and we work with Margo and her
25 staff.

26 FACILITATOR BROOKS: Michael, then to
27 Jason, then to Carolyn.

28 MEMBER LUISI: All right. Thank you.
29 So I sit on the shark board for the state of
30 Maryland along with my other colleagues. And,
31 you know, to Max's point I think it's the board's
32 intention when we take management action to do it
33 in a way that we are doing the best we can as
34 states to complement the federal rules.

35 It's a complementary plan. It's not
36 a joint plan with HMS. So the states aren't
37 obligated like they are in other plans with the
38 council. So some states engage at the council
39 level on plans that are done jointly, so that
40 both the states and the council implement
41 identical measures.

42 This is a complementary plan with the
43 HMS plan. And, you know, we just had a
44 discussion at the last board meeting about
45 portions of a recent amendment that the states
46 needed to consider implementing and, you know, I
47 think we do everything that we can.

48 We have different resources. States

1 don't always have the same resources to put
2 observers on boats. I think that would be
3 something that would be very challenging in my
4 state.

5 You know, we don't have a tremendous
6 state water shark fishery. So I can't speak for
7 the states that do. But, you know, in thinking
8 about what I would have to do in order to match
9 every single one of the measures in the rules
10 that are federally established it would be an
11 awful challenge.

12 But it is always our intention to get
13 as close to that as possible knowing the
14 importance of the information as it goes into the
15 assessment work in determining landings, you
16 know, that correspond with the quotas that are
17 set. Thanks.

18 FACILITATOR BROOKS: Thanks, Michael.
19 And, Rusty, I know your card is up, I'm going to
20 finish up with the state reps. So Randy and then
21 over to Carolyn.

22 MEMBER GREGORY: So, anyway, Dewey, as
23 you know, our proclamation complements the
24 federal ruling as well as the ASMFC rules that we
25 have in our plan. You know, if at some point,
26 you know, we need to change some of that, you
27 know, come to our commission. They're the ones
28 that can change it, I guess, is the best thing
29 that I can tell you.

30 MEMBER BELCHER: So, Max, just so you
31 know, if you're taking over coastal sharks, I'm
32 currently your chair for the shark TC. We've not
33 really had to do too many physical meetings in
34 the last couple years, but I think over the time
35 windows that we've been doing this, we've really
36 worked the state reps to make sure that we do
37 pretty much mirror to the best of our abilities
38 what goes on with the federal regs.

39 Georgia's kind of a unique bird
40 because we don't allow for the commercial gear in
41 state waters. So for us, we basically say that
42 if you're going to land sharks, which is very
43 minimal, you have to hold to the recreational
44 quota to land it, which is one fish per day.

45 So it's not going to be a very
46 lucrative commercial fishery for us in Georgia,
47 but you have to go through a federal dealer. So
48 all of those are captured and basically held to

1 that level.

2 I know the one thing that works on our
3 benefit for the Atlantic side is the fact that we
4 have ACFCMA which basically binds that states can
5 be found out of compliance for not following the
6 interstate fishery management plan, which is the
7 one thing that the Gulf of Mexico does not have.

8 So it does bode for us that, you know,
9 if you've got a state that is not living up to
10 its end of the ISFMP, it can be found out of
11 compliance and as such the fishery can be shut
12 down.

13 So I think for the Atlantic side we've
14 done a pretty good job that the states do the
15 best that they can do. I mean Florida, I'm
16 speaking for Lisa at this point, has been much
17 more restrictive in how its state water fisheries
18 for sharks have been handled over the last few
19 years.

20 Hammerheads have been given more
21 protection. Lemon sharks have been given more
22 protection. So there's a lot being done within
23 ASMFC to make sure that we are pretty much
24 keeping up with conservation equivalency with the
25 federal regs.

26 FACILITATOR BROOKS: Thanks. Lisa.

27 MEMBER GREGG: I mean, with regards to
28 shark sport is the same as Georgia. Actually, we
29 haven't had a commercial fishery in state waters
30 on 21 years, so since 1995.

31 Everybody's been limited to the
32 recreational bag limit, recreational gear. We
33 haven't had commercial gear or a commercial
34 fishery to speak of in state waters for 21 years.

35 FACILITATOR BROOKS: Thanks to the
36 partners for those comments. David, you've been
37 waiting for a very long time, and then over to
38 Rusty.

39 MEMBER DONALDSON: I was going to say
40 here a little while back I came up to the fish
41 house with a load of sharks and I saw some other
42 sharks laying there on the dock and they were
43 obviously blacknose and a fellow there on the
44 dock had cleaned them.

45 They were blacknose sharks and I said,
46 man, those are prohibited in the Gulf. We're not
47 allowed to have them. He said oh, I didn't know.
48 And so, even though they've been to the

1 identification course, they still don't know.

2 I want to ask you all is there any way
3 I can be a proxy for the fish house? Since I'm
4 the only federally permitted vessel there, is
5 there any way I can be a proxy, that I can go to
6 the class without having to show I get a paycheck
7 from the fish house, like a dock worker or
8 something?

9 MS. SCHULZE-HAUGEN: Let's talk off-
10 line about that. You have to have an association
11 with the dealer, but I don't know what our
12 options are to show that.

13 MEMBER DONALDSON: All right. Okay.
14 I mean, because, I can look at them and tell
15 pretty much, anyways, what the species were. So
16 I just kick those sharks overboard, I told him,
17 and get rid of that stuff that's prohibited
18 unless you want to get into serious trouble.

19 And the other thing is on that
20 proposed 38 of large coastals for the Western
21 Gulf, I was talking to some of our boys in
22 Louisiana yesterday and they'd just as soon keep
23 it 45 and get it over with, you know. Because
24 they're going to be shut down in April anyway, I
25 guess April, May, June, when the state season
26 shuts down any. So I don't know, the guys I
27 talked to said they'd rather have it left at 45.

28 FACILITATOR BROOKS: Rusty and then
29 Sonja.

30 MEMBER HUDSON: Rusty Hudson. Two
31 things, Atlantic States Marine Fisheries
32 Commission Coastal Shark Advisory Panel. Now, I
33 used to be the chair. Of course, I was told I
34 could only have a two year tenure. The guy that
35 took over has been there about a half a dozen
36 years now.

37 We have not met in a half a dozen
38 years. We have had like two conference calls.
39 I've asked them, Atlantic States, time and again
40 when Vince O'Shea, now Bob Beal, why don't we
41 have a meeting, why don't we expand some of the
42 membership.

43 So they did finally ask and went out
44 for, you know, comment and people to do
45 applications. So anybody on that level, that'd
46 be great.

47 In the Magnuson Act, Section 306 for
48 state jurisdiction, 104-297, Section B, the

1 Secretary shall promptly notify the state when
2 circumstance is not consistent with our RFMP.
3 And the appropriate council of such determination
4 make an opportunity for the state to correct any
5 inconsistencies.

6 After going through what we did with
7 the hammerhead thing this year and then getting
8 ratcheted down, we can't keep taking these kind
9 of underfishing kind of situations that, you
10 know, then cost us money.

11 And like Dewey said, it's on our
12 backs. We're the ones that have been federally-
13 mandated and trying to do everything by the rules
14 and it's not easy because there's a lot of rules.

15 And Lisa's right, state of Florida has
16 basically had eliminated our shark fishery. For
17 commercial, it's one hook, one shark and that's
18 it.

19 So again, we'd like to see
20 consistency. And I've asked about this a lot.
21 Yesterday I didn't get to finish my one thought,
22 but again, in state waters, coast ban stuff
23 particularly up around mid-Atlantic and things
24 like that, dusky recruitment index could have
25 been combined with the Virginia FEMS data.

26 We could see that dusky juveniles and
27 stuff. The problem is is that we didn't have a
28 recruitment index for our dusky update. And the
29 only way we could've gotten one in there is to
30 have had a standard assessment and be dealing
31 with industry actually participating.

32 That's what was the problem. At the
33 SEDAR Steering Committee where these decisions
34 are made, the change in our fishing behavior, as
35 I talked to Margo this morning, and these other
36 things with this database that's just sitting
37 there, we need that in our sandbar stock
38 assessment coming up. And they can be put there.

39 There's a couple other things that
40 need to be revisited there, the biennial, the
41 triennial. There's so many things that affect us
42 in the federal level and it all goes back the
43 state, the nursery grounds and stuff like that.

44 Conversion rates, the 1.39 is not
45 right. The 2.0 is correct. Enric and I were
46 harmonizing about that all night. I can go on
47 and on, but I'm going to stop.

48 FACILITATOR BROOKS: Thanks, Rusty.

1 Sonja.

2 MEMBER FORDHAM: Sonja Fordham, Shark
3 Advocates International. I want to once again
4 agree with Rusty, as I usually do, in that it
5 would be great to have ASMFC shark meeting in
6 person, that it's about time for that.

7 And I kind of just have a process
8 question because I see that for the ASMFC, at
9 least for the Atlantic side, it seems that the
10 next steps might be rather clear if there's so
11 much concern about this problem. And the annual
12 meeting in October already has shark section that
13 I assume Karyl will be attending some agenda
14 items.

15 So I'm wondering about the process for
16 getting some more discussion about, at least, the
17 Atlantic issues and how to better streamline and
18 ensure consistency.

19 And if that's still possible, I would
20 suggest that maybe the ASMFC could prepare a
21 white paper really clearly outlining these for
22 the broader public so we could have a in-depth
23 discussion in October. Thank you.

24 FACILITATOR BROOKS: Thanks, Sonja.
25 Lisa, were you looking to get back in or is that?

26 MEMBER GREGG: No.

27 FACILITATOR BROOKS: Okay. Well, I
28 thank you all for the discussion on this.
29 Clearly, more conversation's to be had amongst
30 and with partners. So thank you all very much.
31 Let's shift to the next proposed rule, again,
32 around small coastal shark retention limits. So,
33 Guy, back to you.

34 MR. DuBECK: All right. So, I'm back
35 for another presentation. So now we're going to
36 be talking about modifying the commercial
37 retention limit for the blacknose and non-
38 blacknose small coastal fishery in the Atlantic.

39 Again, these management measures are
40 only for fisherman fishing south of 34 degrees
41 latitude. So it would be from, you know, only
42 for those fisherman for Florida and Georgia, yes.
43 South Carolina.

44 So here's a quick, kind of, outline of
45 the presentation. So, kind of, more background
46 information about blacknose sharks. So first
47 assessment was SEDAR 13 where we determined there
48 is one stock for both the Atlantic and Gulf of

1 Mexico regions.

2 It was determined that the stock was
3 overfished rather than fishing and we adapted a
4 management plan for rebuilding in Amendment 3
5 where we established separate blacknose and non-
6 blacknose small coastal quotas, linked the
7 quotas.

8 We continue to allow gill nets in the
9 shark fishery. Based on comments from fisherman,
10 they are able to avoid blacknose sharks. And
11 we've encouraged all shark fisherman for many
12 years to avoid blacknose sharks and not land
13 them.

14 And we also stated that if fisherman
15 continue to land and target blacknose sharks,
16 we'd implement more management measures to ensure
17 the rebuilding in the stock.

18 So again, blacknose sharks were
19 assessed again in SEDAR 21. It was concluded
20 that there's two separate stocks, one for the
21 Atlantic and one for the Gulf.

22 Atlantic was determined to be
23 overfished for fishing period, while the Gulf
24 stock assessment was not accepted and therefore
25 its status is unknown.

26 We adapted the rebuilding plan in
27 Amendment 5A where we divided the blacknose and
28 non-blacknose small coastal quotas into separate
29 regional quotas in the Gulf and Atlantic and then
30 linked the regional quotas.

31 Recent years we've had some fisherman
32 been landing large numbers of blacknose sharks.
33 The non-blacknose small coastal fisheries closed
34 early due to the quota linkage, most recently
35 this year in May 2016.

36 Then the non-blacknose small coastal
37 quota has been underutilized and a lot of the
38 small coastals must be discarded once the
39 fisheries are closed. And then the blacknose
40 quota has been exceeded in 2012 and 2015 as
41 explained last presentation.

42 So here's kind of a slide of landings
43 of blacknose sharks. So these are all the
44 vessels with tracked and incidental permits that
45 are landing blacknose sharks.

46 On the side you've got the years
47 starting 2010 when we started measuring measures
48 under Amendment 3, got the number of vessels that

1 were landing blacknose sharks, number of trips
2 that were taken that landed the blacknose sharks,
3 and then we also the percent weight of blacknose
4 landed per trip.

5 So as you could see in the beginning
6 of the management measures for blacknose sharks
7 we had 29 vessels. They took 200 trips that year
8 and majority of the trips were landing in a total
9 percentage of weight that was landed blacknose
10 sharks accounted for about anywhere from zero to
11 25 percent of that.

12 In 2015, you see the number of vessels
13 has decreased to 20 and the number of trips cut
14 in half to 91. And a good number of the trips
15 you can see were targeting blacknose sharks,
16 where 31 of the trips landed more than 76 percent
17 of the weight was blacknose sharks. And some of
18 them were 100 percent straight blacknose sharks
19 that were landed per trip.

20 And then, most recent management
21 change for the small coastal fishery was
22 Amendment 6 where we created new management
23 boundary for the small coastal fishery where we
24 removed the linkage, prohibited blacknose sharks
25 north of 34 degrees, while we kept the linkage
26 and the quota and allowed landings of blacknose
27 sharks south of 34 degrees.

28 But after Amendment 6 came out we've
29 been receiving lots of comments from fishermen
30 and a request from South Atlantic Fishery
31 Management Council to address discards of non-
32 blacknose small coastals in the Spanish mackerel
33 gill net fishery.

34 Commenters stated that they're
35 discarding a lot of small coastals, they're
36 unavoidable, they're very marketable and even
37 though the quota remains to be dramatically
38 underharvested, they don't see a reason why they
39 can't be landing those.

40 And then they also said that, you
41 know, they would improve the economic opportunity
42 for these fisherman if they were able to land
43 these fish.

44 So here's a couple of goals of the
45 rulemaking. You know, continue rebuilding
46 blacknose sharks and their fishing. Achieve
47 optimal yield of the blacknose and non-blacknose
48 small coastal fisheries and then also reduce the

1 discards of the small coastal sharks.

2 Here's a list of the three
3 alternatives. We have a couple sub-alternatives
4 for Alternative 2 and 3 that I'll go in more
5 detail in a few minutes.

6 And so the first alternative we have
7 is no action. So no actions, do nothing, keep
8 everything the same way, you know, still have no
9 retention limits for the directed permit holder
10 that can land small coastals, keep the quotas the
11 same.

12 And we'd still be in the same issue we
13 have every year where the fisheries are closing
14 in the South Atlantic earlier and fisherman would
15 be discarding the small coastal sharks later in
16 the year.

17 Here's kind of a layout of the number
18 of trips per year of Atlantic blacknose sharks
19 based on the average landings per trip. We've
20 got the years on the left-hand side and then the
21 average weight of blacknose sharks landed per
22 trip and then calculated how many trips it would
23 take that average weight to land the entire
24 quota.

25 As you could see, in the beginning of
26 the management measures it took 271 trips to land
27 that quota based on the average weight. But in
28 2015, the average weight dramatically, pretty
29 much doubled from the beginning of the managed
30 measures of over four pounds and the number of
31 trips are less than a hundred.

32 The average is about 212 pounds landed
33 per trip and then roughly to catch that the
34 entire blacknose quota would be a little over 200
35 trips.

36 So Alternative 2 is an alternative
37 that was suggested to us by fisherman and also
38 the South Atlantic Fishery Management Council
39 where they wanted to see if we can establish a
40 commercial retention limit for the non-blacknose
41 small coastals, so the sharpnose, bonnethead and
42 fine tooth.

43 We'd have a retention limit for them
44 for fisherman south of 34 degrees once a
45 blacknose quota is reached. And then we'd have
46 to adjust the blacknose shark quota to account
47 for any dead discards because we'd remove the
48 linkage and leave the fisheries open, so we'd

1 have to account for dead discards.

2 The three sub-alternatives we looked
3 at are -- and we looked at whether a potential
4 50, 150 or 250 non-blacknose small coastal per
5 trip would be established once the blacknose
6 quota's reached. And then the adjusted blacknose
7 quota based on their retention limit.

8 And then the next slide here, I'll be
9 talking in more detail about where these numbers
10 came from. So we calculated the blacknose quotas
11 that needed to account for the dead discards of
12 blacknose sharks for the various retention
13 limits.

14 So each alternative is there with the
15 potential retention limit. So I'll start with
16 the top one alternative to A where we looked at
17 once the blacknose quota is reached the non-
18 blacknose small coastal fishery would turn into a
19 retention limit where they'd be allowed to land
20 50 sharks per trip.

21 Now, we calculated how many blacknose
22 sharks would be discarded per retention limit and
23 that's based on the observer data. And then we
24 calculated the discards based on the trips of
25 gill nets average number of trips taken per year,
26 and then the potential dead discards of blacknose
27 sharks and that was based on the rate from the
28 assessment.

29 Then we calculated the number of dead
30 discarded sharks into a weight based on a five-
31 pound average weight from, again, from the
32 assessments. And then we calculated what that
33 weight would be minus what the current quota
34 would be.

35 So as you see as we increased the
36 potential non-blacknose small coastal retention
37 limit, the blacknose quota would be much smaller.
38 So to give an example is, you know, if we
39 implemented Alternative 2C, the blacknose quota
40 would be only 13,000 pounds.

41 So we turned the non-blacknose small
42 coastal into a retention limit that much sooner
43 than it is right now. So based on those landings
44 come March/April, the blacknose quota would be
45 reached and then the non-blacknose small coastal
46 fishery would turn into this retention limit of
47 250 per trip.

48 We do not prefer this alternative

1 because with these alternatives the small coastal
2 fishery, that retention limit would happen that
3 much sooner because of the blacknose quota being
4 reduced. We feel that some of the other
5 alternatives were more appropriate for management
6 measures.

7 So the preferred alternatives we're
8 considering are Alternative 3, which is establish
9 a commercial retention limit for blacknose
10 sharks.

11 We considered a retention limit of 50,
12 16, and 8, but we prefer 8 blacknose sharks this
13 time based on some of the comments we received
14 from the AP members at the last AP meeting. And
15 here, we'll go into more detail looking at the
16 numbers.

17 So we're looking at the retention
18 limit and the number of trips it would take to
19 fill the blacknose quota. Under the different
20 retention limits we then calculated that using
21 the average weight of five and then how many
22 trips it would take to fill the quota, that's if
23 every trip landed the full retention limit every
24 single time.

25 As you see under Alternative 3A with
26 a 50 blacknose retention limit, the quota would
27 be filled in a little over a hundred trips. So
28 we'd be in the same issue we are right now where
29 the fishery would be closing in May/June.

30 The preferred Alternative 8 would, if
31 everyone landed that full amount every single
32 time, would take about 700 trips to fill the
33 blacknose quota, in essence would not close the
34 fishery based on that average weight and that
35 retention limit. So that's why we preferred this
36 alternative at this time.

37 So just kind of the timeline, so
38 proposed rule came out the beginning of August.
39 We've held a webinar, a public hearing down in
40 Cocoa Beach. We're talking to the AP today.

41 Next week, we'll be down in the South
42 Atlantic Fishery Management Council to talk to
43 the council. And then the comment period ends on
44 September 20th and we're hoping to get this
45 implemented for this next season so we cannot
46 have the same issue and move forward.

47 Here are some comments we received
48 through the end of August. So a lot of the

1 commenters feel we should finalize Alternative 3C
2 which is the eight blacknose retention limit for
3 the directed permit holders.

4 We feel that if you were doing an
5 eight for the directed permit holders, then the
6 incidental permit holders should get no retention
7 limit or a lower amount to make it fair for the
8 different permits.

9 Some commenters feel that, you know,
10 that eight is actually not low enough and they're
11 afraid that the fishery will still close early.

12 We received comments that we should
13 consider a new alternative to put in a retention
14 limit range somewhere where we have our coastal
15 fisheries where we should consider a range every
16 year of 0 to 16 and then, potentially, in-season-
17 wise change that to ensure that blacknose and
18 non-blacknose small coastal quotas are fully
19 harvested.

20 We see comments that our average
21 weights for blacknose sharks are dramatically,
22 you know, much lower than what we're seeing and
23 it goes back to the alternative where they're
24 thinking that eight is not low enough where when
25 you're considering some average weights that
26 they're seeing for blacknose sharks are between
27 10 and 20 pounds.

28 We see comments that we should remove
29 quota linkages for the small coastal fishery and
30 also we see comments that we should consider
31 another assessment for Atlantic blacknose, an
32 updated assessment in 2018.

33 Like I mentioned comment period is
34 through September 20th and we're seeing comments
35 in and we'll talk to AP right now and get some
36 comments.

37 FACILITATOR BROOKS: Great. Thanks.
38 I see Marcus and Anna wanting to get in. And
39 Rusty, is your card up for this one too? Okay.
40 And then Scott.

41 MEMBER DRYMON: Marcus Drymon from
42 State of Alabama. I just had a question on where
43 the five pounds dress weight came from and I
44 would also echo that 10 to 20 seems much more
45 reasonable, you know, it's much closer to what we
46 see in our area.

47 MR. DuBECK: So the five pounds was
48 from the assessment. That was based on fisherman

1 that were using gill nets, targeting blacknose
2 sharks. That was the average weight that the
3 assessment came up with.

4 FACILITATOR BROOKS: Anna.

5 MEMBER BECKWITH: Yes, you guys don't
6 hear this a lot, but I just wanted to say thank
7 you. You guys have been great. We prepared a
8 concern, presented it from our fisherman. And
9 you guys did a really nice job of working with us
10 quick stop. And we look forward to hosting you
11 guys and discussing some more comments at the
12 South Atlantic Council next week. But I just
13 wanted to extend my appreciation.

14 MEMBER HUDSON: Pushing the wrong
15 button. Okay. Rusty Hudson.

16 FACILITATOR BROOKS: Could you move
17 the mic a little bit.

18 MEMBER HUDSON: Thank you, Rusty
19 Hudson. First off, Guy, thank you for your
20 presentation. Thank you for having been in Cocoa
21 Beach on August 24th. And we had a pretty good
22 meeting there.

23 The five pound rule as far as the
24 dress weight, I mean the five pound dress weight,
25 we have problems with that. Our dealers say it's
26 about eight to ten. And so that's more recent
27 data than SEDAR 21.

28 And likewise, we were in support of 3C
29 because of the fact that we wanted to be able to
30 catch our 582,333 pound stress weight of non-
31 blacknose small coastals versus the 37,921 pounds
32 of blacknose that's available.

33 As you heard at the meeting and I
34 brought up the toggle up/toggle down, not sure if
35 you can implement it. It sounded like you cannot
36 unless you do another kind of rulemaking.

37 But the toggle up at least allows us
38 to be able to catch the bigger allocation by
39 making sure that even if the eight is too high
40 and it's really ten pound instead of five pounds
41 that then we could've toggled it down and been
42 able to get down to two or four sharks like you
43 heard at that meeting just to make sure that we
44 can get this half million pound plus.

45 It's been seven years data accumulated
46 on blacknose. It needs an update or a standard
47 update at the very least if we're just going to
48 add in data, take three months to do it, four,

1 whatever, and that can be decided on September
2 20th-21 in South Carolina when the HMS
3 representatives at the SEDAR Steering Committee
4 where these decisions are made.

5 I really wish on hindsight that we had
6 made dusky into a standard. Then we could've
7 made some of those differences, but it's too late
8 now as far as COASTSPAN recruitment, et cetera.

9 And how to achieve OY, well, that
10 toggle rule may get you there. I fought hard,
11 long to be able to get that done for the large
12 coastals and it is the managers ability to
13 whether you manage on a half year, quarter year,
14 whatever.

15 I like the 20 percent thing. Of
16 course, with electronic reporting in place in
17 August 2014 or '13 or whatever it's been now, a
18 while, they should be able to understand the
19 comparisons between the written record and the
20 electronic.

21 That 80 percent should go up to at
22 least 90. What did we hear, even up to 95, stuff
23 like that, Guy, at the meeting. That way we
24 cannot be shut down prematurely and be
25 underfishing again. So thank you very much.

26 FACILITATOR BROOKS: Yes, please,
27 Karyl.

28 MS. BREWSTER-GEISZ: Thanks, Rusty.
29 So you may remember a year, two years ago,
30 Delisse actually gave a presentation to the AP
31 about whether or not we could move up to the 90
32 percent or 95 percent. It's still too early. We
33 cannot.

34 We do have, as I mentioned, some
35 states that are reporting unknown sharks. It's
36 not as easy as we thought it was going to be. We
37 are not yet to the point that we can get rid of
38 the 80 percent. And I encourage you to go back
39 and look at the presentation. It's very similar
40 now.

41 MEMBER HUDSON: And in response, I
42 encourage you to look at the Secretary's ability
43 to talk to each of those states after all of
44 these years. Thank you.

45 MS. SCHULZE-HAUGEN: So just an
46 observation, this is now the second time
47 preemption is kind of drifting in the wind. And
48 I don't get the overall sense that the panel is

1 exceptionally pleased with our actions. So it's
2 an interesting dichotomy to be criticized and
3 then encouraged to preempt.

4 MEMBER HUDSON: Well, the Secretary
5 has a little bit of liberties and stuff like
6 that. And I understand that states can either
7 match her stuff or be even more restrictive like
8 Florida has been.

9 We, generally, in Florida, accounted
10 for half of the catch historically. But once
11 sandbar got took away and a few other things have
12 occurred, we're just a, what's the word, boutique
13 fishery, I keep hearing, yes.

14 We have become very small. We're
15 probably five percent or at the most ten percent
16 of what we were doing before the shark management
17 plan. We're been shut down six months out of
18 every year since 1993. That's a lot of positive
19 growth for these stocks.

20 And I believe every one of these
21 stocks -- I never believed blacknose was ever in
22 trouble on the Atlantic side. And using the
23 proxy of the shrimp fleet in Texas and a
24 percentage of that applied to our fleet that
25 hardly even exists, that's where I caught my
26 blacknose running the shrimp boats during the
27 '80s.

28 It wasn't many. And once the turtle
29 excluders came in that went away because, you
30 know, once they get to one, two, three years old
31 they get firm and they go out that ramp unlike
32 the sharpnose that the Georgia Bulldog video
33 footage being misidentified. They fold up. They
34 go into the bag. They get through the bars, even
35 the four-inch bars, you know. So there's talk of
36 the two and a half inch. I don't know.

37 You know, there's ways to micro-manage
38 it, but the bottom line is that population's at
39 equilibrium. We need to have an update. We can
40 get rid of this linkage.

41 It's a great meat in the market from
42 the blacknose, a nice, white, firm meat and it
43 has a decent yield. All of that matters when
44 you're feeding people. So thank you very much.

45 FACILITATOR BROOKS: Let's hear from
46 Scott and then over to David, and then --

47 MEMBER TAYLOR: I mean, I also echo
48 the effort that's going in, particularly in light

1 of the fact that the only place that this really
2 applies to our fisherman. I've got a couple of
3 guys that would like to fish the small coastal
4 sharks and haven't had the opportunity for the
5 past few years because of the seasonal component
6 of when they actually are going to do it.

7 You know, that the Spanish mackerel
8 fishery is really pretty much executed from, you
9 know, about October and it's over February or,
10 you know, or March. And that most of the small
11 coastal activity for us, at least in the south,
12 would have been an interim fishery for them in
13 the late spring or early summer, which has been
14 closed every single, you know, year.

15 Besides the statement, mine is a
16 question. I know that a couple of years ago, and
17 I don't think that your slides actually broke it
18 out as that the largest number of the blacknoses
19 were actually being caught by a small number of
20 people.

21 Has that continued to be the case and
22 is it being closed because of specific targeting
23 of those fish, whereas with the Spanish mackerel
24 gill net fishery that's almost an incidental, you
25 know, landing number.

26 So, you know, those two things are
27 separate and distinct if we have a couple of
28 individuals that are directly targeting it and as
29 a result of the targeting keeping us from being
30 able to maximize on the half a million pounds of
31 the other non-related small coastals.

32 MR. DuBECK: So you're right. So in
33 the beginning and once we implement management
34 2010 there's, you know, the little incidental
35 landings, you know. But most recently, the past
36 couple years, there's been a few fishermen
37 targeting.

38 And you saw on the graph that they're
39 landing. A hundred percent of their catch is
40 blacknose sharks and some of the landings are
41 pretty high and, you know, the quota's only 34-
42 37,000 pounds. If you're landing 1,500 pounds a
43 trip, it goes by really fast. And there are some
44 fisherman that were targeting them.

45 MEMBER TAYLOR: So, I mean, this is
46 probably the only really one guy that I know
47 around this table here that's really engaged in
48 the small coastal fishery, you know, in the Gulf,

1 which is, you know, which is David.

2 I mean, I'd be curious to know what
3 the reason is that knowing that you're going to
4 close down the small coastal fishery, what the
5 rationale would be for specifically targeting,
6 you know, the blacknose and whether or not within
7 the industry itself that we can do some outreach.

8 I'm not suggesting we get them into
9 the corner and flog them, but, you know, that we,
10 ourselves, can, you know, maybe have some, you
11 know, some input in the direction of mitigating
12 that.

13 Certainly, I know as a dealer that I
14 would have, you know, impact on what I would
15 accept from my fisherman and what I wouldn't. So
16 maybe we can -- I'd like to hear that, if
17 possible without kind of doing what I'm not
18 supposed to do across the table.

19 FACILITATOR BROOKS: I never knew this
20 ground rule of not asking across the table. Did
21 it get out of hand? All right. Well, you know,
22 it's hard to imagine, but, no, I do think, you
23 know, conversation's good. David, you were next
24 in the queue anyway, so go.

25 MEMBER DONALDSON: So back in 2010
26 when they did the blacknose dock assessment,
27 well, that they were going to -- one of the
28 bayonets or for shark fishing from South Carolina
29 to Texas because of the blacknose.

30 You know, I told them we can stay out
31 of the blacknose. And they believed us and let
32 us try it and, you know, lowered the quota
33 drastically.

34 And that first year, well, I got
35 together with some of the dealers and on the east
36 coast and the west coast because that's when the
37 Gulf and Atlantic small coastals, blacknose,
38 everything was combined. We got together and
39 said, man, don't even buy them. If you don't buy
40 them, the boats won't bring them in. So just we
41 got together and worked it out and that's how it
42 worked that first year.

43 Well, the next year somebody didn't
44 get the memo or didn't think about it, you know,
45 because I told them, you want 40,000 pounds of
46 blacknose or do you want, you know, a percentage
47 of that 400,000 pounds of small coastals. And
48 the deal is, you know, that's a good way to look

1 at it.

2 Well, the next year the fellows, a
3 longliner there out of Daytona, well, started
4 catching the blacknose for two years in a row.
5 Well, then the other fellow that was gill netting
6 the blacknose said forget this, they're shutting
7 us down before I even get a chance to do it, I'm
8 just going to do it. For three years in a row he
9 went up there and towed that small quota.

10 And his quota ought to be double that
11 because they went by a five pound average anyway
12 and that which came out of Spanish mackerel gill
13 net observed catches, not the shark gill net. Or
14 if it did come out of the shark gill net, it came
15 out of the five inch gill net that they were
16 targeting Atlantic sharpnose with.

17 Yes, you may catch a five pound
18 blacknose like that and that's where those
19 numbers came from, either that or the gill net
20 for the Spanish mackerel fleet, which was totally
21 wrong.

22 It should have come out of the large
23 mesh or the long line and went with a ten-pound
24 or 11-pound average, that way the quota would be
25 80,000 pounds or, you know, 40 metric tons,
26 whatever it is. And that's part of the problem,
27 but you all. And I don't want to do it. That
28 answer --

29 MEMBER TAYLOR: So essentially, the
30 entire fishery for those years was being shut
31 down over two or three guys?

32 MEMBER DONALDSON: Yes, that's
33 correct.

34 MEMBER TAYLOR: And was all that fish
35 flowing through one dealer?

36 MEMBER DONALDSON: No, two different
37 dealers, started it up to the north and then it
38 worked a little further south, which is north of
39 you, you know.

40 FACILITATOR BROOKS: Thanks. Mark.

41 MEMBER SAMPSON: Thank you, Mark
42 Sampson. Every meeting the topic of blacknose
43 come up. It's always a commercial issue. I
44 realize it's a complex issue. It's an important
45 issue in the commercial fishery.

46 I don't want to add any more
47 complications to it, however, and I always bring
48 it up too, we'll squeak about blacknose and the

1 recreational fishery and this is another one.

2 Okay. So for recreational anglers,
3 the blacknose are considered a large coastal
4 shark, correct? They're in that complex.
5 They're under those regulations.

6 MS. BREWSTER-GEISZ: Small coastal.

7 MEMBER SAMPSON: Okay. What's the
8 minimum size on blacknose shark for recreational
9 fisherman?

10 MS. SCHULZE-HAUGEN: It's the 54
11 inches because that's --

12 MEMBER SAMPSON: Pardon me?

13 MS. SCHULZE-HAUGEN: Fifty-four
14 inches.

15 MEMBER SAMPSON: Fifty-four, so it's
16 the same minimum size as the large coastal
17 sharks.

18 MS. SCHULZE-HAUGEN: There is a single
19 shark minimum size.

20 MEMBER SAMPSON: Okay. Well, what are
21 the chances, anybody, of a blacknose shark
22 achieving a fork length of 54 inches, anybody?

23 MS. SCHULZE-HAUGEN: You could fluff.

24 MEMBER SAMPSON: Yes, right. Okay.
25 I'm sure our biologists will agree with that. So
26 effectively, again, the recreational fisherman
27 are excluded from retaining any blacknose sharks.
28 And I point this out every year. We've been just
29 sort of dropped off the scale as far as that
30 goes.

31 Has there been discussion, have you
32 all had discussion amongst yourself, has it ever
33 been on the table, that situation? I mean, have
34 you ever sat down and said well, now, how can we
35 work the recreational angler into this or they
36 haven't squeaked about it, so let's just not
37 worry about it.

38 Is there anybody, other than myself as
39 recreational shark angler, who's ever brought it
40 up to you and has any concern about catching?
41 You know, I'm hearing this is a marketable
42 species, you know, it's the populations are
43 relatively good. It's not on a prohibited
44 species list.

45 I'm just wondering why a recreational
46 angler has no chance at all, if they wanted to,
47 of retaining one of these fish.

48 MS. SCHULZE-HAUGEN: To respond, it's

1 not prohibited, but it's overfished so stock
2 status isn't wonderful. What I would say is that
3 we took a fairly simple approach to recreational
4 retention for sharks years ago, largely based on
5 species ID concerns that remain to this day.

6 So, I mean, we had a discussion
7 yesterday about dusky sharks and ID and people
8 are bringing those in and they've been prohibited
9 for a long time.

10 So to say well, we need a separate
11 limit now for blacknose, I would say well, how
12 confident are we that people could identify
13 blacknose from dusky from sandbar from silky, you
14 know, I mean, the list is long.

15 So I think we would have to think
16 through all of those issues before we could
17 really think about having the separate retention
18 limit, size limit for blacknose.

19 MEMBER SAMPSON: Okay. And again, you
20 know, I'm not necessarily even suggesting that
21 efforts be made to allow the recreational angler
22 to take them. I'm just kind of miffed by the
23 fact and want to go on public record because
24 maybe someday this will be a big issue.

25 Somebody down south would bring it up,
26 they're going to realize, man, we're catching all
27 these sharks, I'd like to bring one home for my
28 family. There's a pretty good commercial fishery
29 for them. We see the commercial guys taking
30 them/selling them, but I can't keep one for my
31 family.

32 That might be important to somebody at
33 some point. So I just want to go on public
34 record for, you know, at least bringing it up
35 here so that at least maybe somebody will say
36 well, Sampson talked about it years ago, but
37 nobody listened to him, you know. Yeah, and
38 thank you.

39 FACILITATOR BROOKS: Scott.

40 MEMBER TAYLOR: That raises a good
41 point now that I'm curious about something. Is
42 there any record at all of recreationally
43 reported small coastal sharks of any kind? Do we
44 get reports, you know, of them?

45 MEMBER GREGG: Well, there are some
46 species that are exempt from that 54-inch minimum
47 size limit in Florida. So those species are
48 Atlantic sharpnose, blacknose, blacktip,

1 bonnethead, and fine tooth and smooth dogfish.
2 We don't meet them and we don't do that because
3 our regulations are conservation equivalent, so.

4 MEMBER TAYLOR: That's all in the
5 Atlantic.

6 MEMBER GREGG: Well, you said if there
7 are any reports that they've been caught
8 recreationally.

9 MEMBER TAYLOR: Let me rephrase that.
10 This is still a federally-managed species that
11 you keep data on retentions of. So the question
12 is is there any record at all reported to the HMS
13 of recreationally landed small coastal sharks?
14 Are the people actually calling in and saying
15 hey, I landed a blacknose shark.

16 I mean, in the case of a blacknose, it
17 couldn't be a blacknose, but there are sharks
18 that the recreational sector -- or is that sector
19 doing any reporting or is this the same issue
20 that we have in general with the recreational
21 sector? Because clearly there's a lot of numbers
22 of people there.

23 MS. SCHULZE-HAUGEN: So there's not a
24 call-in for blacknose sharks. So the data on
25 blacknose sharks would be coming from the
26 surveys, largely the MRIP survey.

27 I don't know it offhand. We provide
28 it every year in the SAFE report, a species
29 breakout of landings by the recreational
30 community.

31 MEMBER TAYLOR: Any small coastals
32 involved here?

33 MS. SCHULZE-HAUGEN: Oh yes, there's
34 a lot. Yes, a lot of small coastals. I don't
35 know specifically about blacknose, a lot of
36 sharpnose. And just to be clear, I over-
37 simplified a bit. We do have different rules for
38 hammerhead. There's a different size for
39 hammerheads and then there's a different
40 allowance for sharpnose and bonnethead.

41 MEMBER TAYLOR: So that is account for
42 in the numbers now as well, is what I'm asking?

43 FACILITATOR BROOKS: David, was your
44 card left over or do you want to get back in and
45 then over to Rom?

46 MEMBER DONALDSON: I was wondering
47 where back in the 2010 stock assessment as well
48 for the blacknose, I was wondering whether the

1 2.2 pound average dressed weight shark. Well,
2 that's what it said. It said that a recreational
3 fisher lands an average 2.2 pound dressed weight
4 blacknose. I was wondering where in the world
5 they got that number if there's a 54-inch size
6 limit.

7 MS. BREWSTER-GEISZ: We'd have to go
8 back and take a look at that, David.

9 FACILITATOR BROOKS: Rom.

10 MEMBER WHITAKER: Yes, Rom Whitaker,
11 Hatteras Charter Boat. Just to reiterate what
12 Margo said, Atlantic sharpnose, a lot of are in-
13 shore boats and are head boats. I don't want to
14 say they target them, but they do catch plenty of
15 them and they are reported to the state agencies.

16 And my other point, and I'm not trying
17 to step on anybody's toes, but I know Dewey and
18 Jeff brought up about the -- and there was some
19 other people about you going into state waters.

20 And I'm not sure if they're looking to
21 make the guys meet the same requirements as the
22 federal fisheries or whether just to take over
23 management of that fish in the state waters, but
24 all I would advise is be careful what you ask for
25 because the rock fish and cobia and other things
26 come in there. So I'd be careful what I ask for.

27 FACILITATOR BROOKS: Thanks, Rom.
28 Mark and David, your cards are still up. Do
29 either one of you want to get back in? Okay.
30 Anybody else care to comment on this? All right.

31 So a few things. A number of comments
32 are on the weight and that seems to be not
33 squaring with what people are experiencing out
34 there. Potential within industry discussion
35 around perhaps with one or two fishermen who are
36 targeting and maybe there's some progress to be
37 made there.

38 A request to update the assessment,
39 get rid of the linkages. Some comments as
40 earlier around questions whether the states are
41 fully engaged in this and managing it as actively
42 as the federal partners are.

43 And then a little conversation here at
44 the end around the rec fishing and whether or not
45 the size limit is, in fact, precluding
46 recreational fishermen from engaging in this
47 fishery at all.

48 And then questions around the extent

1 to which rec landings of small coastal sharks are
2 capturing data. And I think we're hearing yes,
3 they are with these surveys.

4 David, you look like you wanted to
5 jump back in.

6 MEMBER DONALDSON: Oh, as for some of
7 the fellows. I've talked to several different
8 fellows in South Florida about the blacknose,
9 whether they're wanting it. The ones I've talked
10 to pretty much said eight head limit, but don't
11 limit the other small coastals. Leave that
12 unlimited, you know, per trip, but make the
13 blacknose eight head per trip. That way you
14 could still make a little bit of money during the
15 mackerel season or something instead of two head
16 or zero head, yes.

17 FACILITATOR BROOKS: Thanks. All
18 right. If not, we should go to lunch. And we
19 can get you out a few minutes early. I think
20 well, we're just only five minutes ahead, so
21 let's just reconvene as planned at 1:30. Yes,
22 1:30 sharp because we need to hear from all the
23 councils.

24 Margo, do you have a good count on the
25 councils that want to be presenting or do we need
26 to take stock of that right now?

27 MS. SCHULZE-HAUGEN: I think they all
28 are.

29 FACILITATOR BROOKS: We're going to
30 hear from everybody?

31 MS. SCHULZE-HAUGEN: Yes, I think so.

32 FACILITATOR BROOKS: Okay. All right.
33 Good. So let's reconvene 1:30 sharp because we
34 do have a lot of council presentations. Thanks,
35 everybody.

36 (Whereupon, the above-entitled matter
37 went off the record at 11:55 a.m. and resumed at
38 1:35 p.m.)

39 FACILITATOR BROOKS: All right. So it
40 appears that a few people may have ordered extra
41 large lunches and are late getting back to the
42 table. But we do have a bunch of stuff to get
43 through this afternoon, so we should start.

44 As I mentioned earlier, we've added to
45 the agenda 45 minutes for updates from the
46 regional fishery management councils. We're sort
47 of beta testing this and we don't know exactly
48 how much time that will need. And whether that

1 will be, you know, a ludicrously long amount of
2 time or whether you'll all be chomping at the bit
3 to go for another hour and a half.

4 So we'll learn from this time. And
5 you know, if we need to add more time for this
6 agenda next time, we will. But for today we'll
7 have to manage this a little bit closely.

8 We will hear from four of the councils
9 right now. So we'll hear from New England, South
10 Atlantic, Mid Atlantic, and the Gulf of Mexico.
11 The Caribbean we're going to hold off on just
12 because we will roll right after this into the
13 Caribbean Fisheries Management discussion. So
14 thanks Marcos for that.

15 So with that, I think I will just
16 defer to whatever council wants to start up here.
17 I know we've got one or two that have slides and
18 one or two that are just going to talk. So Pam?

19 MEMBER DANA: Thank you. I'm Pam Dana
20 and I represent the Gulf of Mexico and I live in
21 Florida. I vote out of Florida. And I do have a
22 charter boat business there.

23 The bulk of our time spent in the Gulf
24 Council is on the reef fish complex. In fact,
25 right now we don't have any HMS items on our
26 management agenda.

27 Basically we have great challenges in
28 the reef fish complex trying to balance fairly
29 the allocations and seasons between the
30 commercial sector, recreational, private
31 recreational sector, and the for hire charter
32 sector.

33 Red snapper continues to be our hot
34 button issue, no boos accepted, with the private
35 recreational sector having only gotten nine days
36 of red snapper fishing in the federal waters.

37 The short season has led to various
38 states in the Gulf to go non-compliant with the
39 federal government by opening up their state
40 waters for red snapper fishing.

41 And the shorter seasons have led
42 additionally to the federally permitted charter-
43 for-hire boats seeking and getting, by a very
44 slim margin, sector separation for red snapper.

45 This year that sector separation
46 allowed for the federally permitted for-hire
47 charter guys to get 46 days, again in federal
48 waters. Being a federally permitted charter for

1 hire, we are not allowed under Magnuson rules to
2 fish in state waters.

3 So there you go. There's a new push
4 under way by the federal charter for hire to
5 extend sector separation from private
6 recreational on an array of reef fish. So beyond
7 red snapper and going into reef fish.

8 This push for sector separation in
9 other fisheries is being driven partially by
10 other fish stocks being closed early this year,
11 amber jacks and triggerfish. And that's due,
12 according to MREP, an increase in recreational
13 sector fishing its allocation early.

14 There's a distinct frustration among
15 our Gulf state reps in federal management and
16 MRIP calculations which has led to the states
17 pushing for regional management of red snapper.

18 And that comes and goes which leads me
19 to data collection. Currently the Gulf Council
20 is designing an appropriate system for electronic
21 log books for the federally permitted charter for
22 hire. But the desire for the electronic log
23 books by the charter fleet has been voiced for as
24 many years as I've been on the council and that's
25 been almost two terms.

26 But as I said yesterday, many in the
27 charter for hire federal fleet set forth on their
28 own to do a pilot project. So it's voluntary.
29 But they've volunteered to put VMS onboard the
30 vessels, and are reporting real time after the
31 trip on their catch and effort.

32 The private rec, like everywhere else,
33 is pushing back to some extent on data
34 collection. It's not that they don't want to
35 report on their catch, it's just there's some
36 push back.

37 We have created in the Gulf Council a
38 private recreation sector AP to go into effect in
39 January to consider ways that they can report on
40 the catch and increase their seasons,
41 particularly for red snapper. And the MRIP
42 should probably pay attention to that so that
43 they can weigh in as appropriate.

44 Moving away from reef fish, the Gulf
45 had been working closely with the South Atlantic
46 Council on joint amendments for king mackerels,
47 Spanish mackerel, and cobia because we do share a
48 common stock that has a mixing ground in the

1 winter in the Keys area, South Florida.

2 Now this wasn't always easy. But
3 after years of back and forth, we finalized
4 several amendments. And those went to the
5 Secretary. The Gulf then moved into a
6 reallocation of our king mackerel within our
7 various Gulf zones to reflect historical trends
8 and needs.

9 We're now considering a reallocation,
10 or I probably should say a temporary lease of our
11 king mackerel from the recreational sector to the
12 commercial sector.

13 The recreational sector is
14 significantly underfishing their king mackerel
15 annual allocation. And so, we've increased their
16 bag limits. And again, we're looking to move
17 some over from the recreational temporarily to
18 the commercial.

19 We're also keeping an eye on cobia to
20 determine if, perhaps, a year class or so was
21 lost as a result of the BP oil spill. Cobia
22 annually migrate through northwest Florida and
23 then through Alabama. And their destination in
24 the springtime to Louisiana to spawn.

25 And so, it was pretty much that timing
26 when the BP oil spill happened. And we've got
27 many fishermen who do fish for cobia long term,
28 over a long period of time I should say, many
29 years, that have noted a decrease in the number
30 of cobia during their annual migration.

31 Others though have said this is
32 cyclical, that some years they are robust and
33 some years there's not so much. So anyway, our
34 most recent stock assessment said that cobia was
35 healthy. So we're in a wait and see mode.

36 Jennifer, who gave the presentation
37 this morning on Amendment 10, is going to come to
38 the Gulf Council in October to present that
39 amendment on the Essential Fish Habitat for the
40 bluefin and the expansion in the Gulf and get our
41 comments.

42 And finally, our council has been
43 weighing in on the proposed expansion of the
44 Florida Garden Banks National Marine Sanctuary
45 which proposes to expand its footprint six times
46 over its current size.

47 And we are concerned, obviously, with
48 the impact that such an expansion would have on

1 historical fishermen and shrimpers. And to what
2 extent the current EIS has evaluated thoroughly
3 the economic and social benefits. And how it's
4 going to impact our particular, our historic
5 commercial fishermen. I think that's about it.

6 FACILITATOR BROOKS: Great, thanks.
7 If there's a question or two, we can do that. If
8 not, we can just hop to the next council. Okay.
9 Thanks so much Pam. Anna?

10 MEMBER BECKWITH: So I'm just going to
11 touch on a few points of interest in particular
12 that the South Atlantic is working on.

13 First of all, I'm going to start with
14 the charter for hire. We are doing the for hire
15 reporting amendment which is on track for final
16 approval in December.

17 Our charter fishermen are currently
18 participating in a pilot study that is looking at
19 the reporting application. And actually the
20 validation method for that self-reported data.
21 So we expect to have them collecting or self-
22 reporting in September. And we should see some
23 results over the next year on that.

24 We did establish for the charter for
25 hire a control date of June 15, 2016 for our
26 three open access charter headboat permits. Of
27 course, the dolphin wahoo, the snapper-grouper,
28 and the coastal migratory pelagics.

29 And we are beginning development on a
30 limited entry amendment for those three fisheries
31 which I'm sure will not be contentious at all.
32 So we will be learning from some of the lessons
33 from the Gulf Council. And maybe even the
34 discussion of sector separation will come up. So
35 I'm looking forward to being entertained over the
36 next few years.

37 From the commercial side we, as you
38 guys know, have a June 30, 2015 control date for
39 the dolphin commercial fishery. That was, of
40 course, set on the date that the fishery closed
41 in 2015.

42 We did approve a commercial trip limit
43 for the dolphin commercial fishery which is
44 currently under Secretarial review which is a
45 4,000 pound step down when 75 percent of the
46 commercial ACL is met.

47 The idea behind that was to make sure
48 that the fishing, that the majority of the

1 fishing that occurs for the pelagic long liners
2 could move forward without a trip limit. But
3 there was some portion of the ACL that would be
4 conserved for the hook and line with that step
5 down.

6 We currently have Amendment 10 to the
7 dolphin wahoo FMP which is in a scoping format
8 and is available on our website. And next week
9 we will be taking a look at that public scoping
10 document and the comments that we received.

11 And the primary points of interest are
12 we are considering establishing a commercial ACL
13 for dolphin based on gear type. So it would be a
14 percentage for pelagic long lines versus hook and
15 line.

16 Something else that's under
17 consideration is allocation strategies that could
18 potentially help the commercial season keep from
19 closing. And there's quite a few different
20 options under consideration.

21 One of the things that as a Council
22 we're looking at these allocation strategies for
23 is to add some flexibility to the way we manage
24 these fisheries. And to consider these sort of a
25 tool in the toolbox for use maybe not only for
26 dolphin, but we have yellowtail under discussion.

27 And there may be other opportunities
28 to utilize in both directions, not only
29 commercial recreational allocation being lent or,
30 you know, borrowed to the commercial. But
31 potentially vice versa as well.

32 We've also been having some great
33 discussions on optimum yield. And other hot
34 topics for us recently have been cobia. So
35 unless anyone has questions, those are the
36 highlights.

37 FACILITATOR BROOKS: Thanks Anna very
38 much. Any questions for Anna? Okay. If not,
39 Mike or Jason, who wants to go next?

40 MEMBER LUISI: I'll just say, you
41 know, Mid Atlantic is going through a little bit
42 of a transition right now having just taken on
43 the Chair. And our AP representative for our HMS
44 committee also left the council.

45 So with all of that said, Jason is
46 going to provide the presentation today. But in
47 the future it will either be me or whoever will
48 be our next HMS Chair at the Mid.

1 MR. DIDDEN: Thanks Mike. So my name
2 is Jason Didden. In addition to normal FMP
3 duties, I staff our HMS committee. Most of
4 that's related to, kind of, generating comments
5 from the council on things you guys are doing.

6 I guess the only action I'll note that
7 may be kind of most relevant is we just did an
8 action on unmanaged forage fish that will limit,
9 kind of, the spin up of new fisheries or expanded
10 fisheries on currently unmanaged forage fish. So
11 that could have some relevance to HMS species.

12 But what I'm mostly here today is to
13 kind of flag three issues that have kind of
14 percolated up through constituents at the council
15 that was asked that I kind of flag them for
16 further consideration for by NMFS HMS and the AP.

17 The first one came up, I got a call
18 from a Mid Atlantic constituent saying I'd like
19 to go out and bring a gill net with me as I'm
20 going and catch some butter fish and mackerel on
21 my way out to do HMS fishing. And can I do that?

22 And he had talked to three or four
23 people and gotten a bunch of different answers.
24 And I think what I figured out, and Mario can
25 correct me if I'm wrong, but while he could do
26 that to catch squid, mackerel, butter fish if he
27 wanted to as a recreational person, he can't have
28 that gear onboard while he's fishing for HMS.

29 And beyond that, he can't really
30 actually even have a regular throw net like you'd
31 use for bait, would be illegal to have onboard
32 while you were fishing for HMS. And that was
33 surprising to a lot of people at the council when
34 I kind of relayed that.

35 So in some action, you know, we think
36 it would be good to consider given, probably,
37 most charter boats out there and private boats
38 that are out there fishing for HMS have throw
39 nets onboard. That may be something good to
40 clarify.

41 While I did find one video from some
42 guys down in Panama who tried to cast net a tuna,
43 I don't think that's a real common occurrence.
44 But it's probably on most boats that are out
45 there. So that's one thing we wanted to flag.

46 Another is when we were going through
47 our forage action, there were certain times when
48 we would have liked a little more interaction

1 with HMS staff. And maybe, you know, maybe kind
2 of keeping in tune with, you know, what the
3 advisory panel might think about some things.

4 So we've had some back and forth with
5 Margo about some ways to maybe improve that
6 communication. I think that will happen. So
7 those first two are pretty simple, from my
8 perspective.

9 The third one that's been coming up in
10 similar accounts and meetings in terms of like,
11 you know, constituents come up during new
12 business, is that it seems we've gotten a lot of
13 reports, it's just a tremendous amount of under
14 the table sales of HMS species.

15 And you know from, I think, from our
16 perspective, you know, if you don't know how many
17 fish are being caught -- and it seems like that
18 undocumented catch might be a large proportion.
19 That kind of really erodes kind of a fundamental
20 part of management.

21 And you know, I did -- I guess
22 informal research, I guess it would be anecdotal.
23 But most people who I talked to kind of concurred
24 that there's likely a substantial amount of
25 unreported rec sales going on.

26 But anyway, it was really difficult
27 for me to figure out -- I mean, I was able to
28 wade through some of the compliance guides and I
29 think start to get a sense. But it was difficult
30 for me to figure out first, who can sell. Next,
31 you know, what are the requirements? If you're
32 going to sell with some of the permits that allow
33 it, do you have to sell it to certain dealers?
34 What are the reporting burdens on the dealers, on
35 the seller, on the vessel?

36 And again, you know, anecdotally it
37 sounds like it's happening. But you know, in
38 terms of the scale relative to quotas, who knows?
39 So what is the extent of the problem?

40 And then, you know, if it seems like
41 it's a fairly sizable problem then, you know,
42 what are either enforcement things that need to
43 occur to enforce the existing laws, or are there
44 some new regs that would help, you know, get a
45 better handle on what actual landings are?

46 So given, you know, we keep kind of
47 getting these concerns at the council but we
48 don't, obviously, have the expertise that you

1 guys have. And so it seems like it could be
2 something for a work group whether it's, you
3 know, NMFS staff or, you know, some people from
4 the AP or however you guys do work groups. I'm
5 not sure.

6 But it seems like something worth
7 looking into if potentially there's a substantial
8 compromising of the data on what total catch is.
9 Thanks.

10 FACILITATOR BROOKS: Thanks. And can
11 I just ask one clarifying question on the first
12 point, on the throw nets, was the ask just to
13 clarify what the rule is? Or to actually change
14 the rule?

15 MR. DIDDEN: I think it's to change it
16 since I've clarified with Margo before that it
17 actually is illegal. So it would be to allow it
18 for bait purposes, not as any kind of actual HMS
19 gear type.

20 FACILITATOR BROOKS: Understood.
21 Margo, you wanted to jump in.

22 MS. SCHULZE-HAUGEN: Yes. So on the
23 first issue, this comes up almost every year
24 where people ask for this. And we have regularly
25 checked in with our enforcement folks. We have
26 established authorized gear as meant for
27 targeting HMS. And that the allowance of other
28 gears for capture is not authorized.

29 And it's been pretty consistently told
30 to us by enforcement compromising to their
31 ability to determine how fish were caught. And
32 so we've followed their lead and not allowed cast
33 nets for bait because of that impact on the
34 enforcement.

35 So I think that's the history of why
36 it is the way it is. And so, I understand what
37 you're saying. But I don't, we would need to go
38 back to enforcement folks.

39 And I mean, given the series of
40 discussions about how people want the regulations
41 to be enforced, you need to have enforceable
42 regulations. So having a request to change a
43 regulation to make it less enforceable is
44 something I think we'd want to really think
45 through before we did that.

46 So I just wanted, Jason, the letter
47 from the Mid Atlantic Council was actually much
48 more specific than what you've got on the slide.

1 And so I wondered if you could actually maybe
2 read what the bullet points that was on the
3 letter.

4 MR. DIDDEN: And again, I was just
5 looking for a brief update. I don't have that
6 letter in front of me. Again, I think the main
7 thing is, you know, some kind of work group that
8 would kind of dig into the potential of either
9 illegal sales or under reporting of what would
10 otherwise be legal sales.

11 And a creation of a work group to
12 study that and try to determine the extent of the
13 problem. And what some potential fixes might be
14 if it seems like it's a sizeable problem. That's,
15 I think, the crux of the matter since, you know,
16 some of those issues, you know, it's hard to get
17 a sense of, you know, the extent of the problem
18 without digging into it a bit more.

19 MS. SCHULZE-HAUGEN: Okay. I remember
20 requesting an Operator License and only
21 permitting vessels that were Coast Guard
22 documented is at least a couple of the specifics.

23 So in terms of a work group, a subset
24 of the panel that would be working on an issue,
25 that doesn't tend to be how we work. We tend to
26 have full meetings where there's full
27 participation.

28 So I think what we could, kind of
29 consistent with how we've been doing things,
30 offer, is a dedicated session on recreational
31 sale and things. We could certainly ask our
32 enforcement folks to come to that and
33 participate. But I know there are other folks
34 that want to get in.

35 FACILITATOR BROOKS: So Marcos and
36 Tim, your card -- you're all good? Okay. So
37 Marcos and then to Rich and then to Rick.

38 MEMBER HANKE: I have a concern.
39 Actually that's news for me about the cast net
40 situation. In the case of the Caribbean, that's
41 almost mandatory. Without that, we cannot fish
42 because our small boats that go out, on the way
43 they catch their bait with the cast net and fish
44 for the tunas. Right?

45 And I think, and I'll put myself in
46 this position, if there is any working group to
47 work this around and to find a way to change the
48 regulation to allow some logic into this.

1 It's very hard to catch a tuna with an
2 eight feet cast net. It doesn't matter how fast
3 it sinks, right, in 1,000 feet of water. And
4 there is other issues to consider. But please
5 consider me on that process to change this
6 because it's a big loophole. It's a big problem
7 especially for the Caribbean and probably people
8 from Florida.

9 MEMBER RUAIS: Hi. In New England,
10 historically bait nets were used on all of the,
11 on the majority of the rod and reel boats, but we
12 did come across and dealt with that enforcement
13 issue. And the result was fishermen now use the
14 rod and reels and -- what's the Japanese.

15 PARTICIPANT: The Sabiki.

16 MEMBER RUAIS: Yes, I can never say it
17 right. And they have no trouble catching their
18 bait. Now if there are areas where you can't
19 catch, you know, catch bait vis a vis that
20 manner, then your options -- and you want live
21 bait. You need live bait. Then I certainly
22 would entertain a regional exemption if you
23 needed something like that.

24 I don't know that, I've not heard any
25 calls in New England to altering the rule. We
26 get plenty of bait. So anyway, just my two
27 cents.

28 FACILITATOR BROOKS: Thank you. Rick
29 Weber?

30 MEMBER WEBER: First thing I want to
31 do is go on record in support of some type of
32 recreational session with OLE, with OLE doing
33 more than a presentation. I'd like to see them
34 come and engage.

35 You know, many time OLE and Coast
36 Guard are here, they present to us. But we don't
37 engage in colloquy. There is no, this would be
38 better. There's none of that.

39 And if there was a session, if we tie
40 so many of these pieces together that we've spent
41 two days talking about where recs are not
42 reporting and how are we going to do this and all
43 of those things -- or today we started, you know,
44 you were joking about the bus.

45 But maybe the states for that one day
46 or half day session should bring their
47 enforcement people as well. Maybe we should have
48 a little bit more conversation about where JEA

1 begins and ends. And what are their powers? And
2 how can we make it better for the states without
3 preemption? But how can we make clearer what we
4 were intending? I don't know. But it's a common
5 thread.

6 And writing new rules that may or may
7 not be enforced, we'll never do it from this room
8 regulating if we don't have the other half of
9 enforcement.

10 And that will now tie into the second
11 comment. Because this net thing, it's much like
12 the lure we just discussed before lunch. You
13 know, it's a fully encased little piece of
14 natural inside the artificial.

15 But the way the rule is written,
16 there's no latitude. There's no opportunity to
17 discuss. My understanding is that even after you
18 have the live bait aboard with a Sabiki rig, you
19 better not reach out with a six inch by eight
20 inch net to therefore dip it out or you have a
21 net aboard.

22 If there is no discretion, at some
23 point this becomes ridiculous. Whether it's one
24 square foot, ten square foot, 100 square foot --
25 at some point as you get smaller and smaller, we
26 can all agree you weren't HMS fishing with that.

27 And that's the other half of the OLE
28 problem. It seems like they don't engage. And
29 when they do engage, they don't see any
30 discretion or latitude.

31 So yes, I'd love a session where we
32 were talking about where we thought they may be
33 over-enforcing beyond intended. And under-
34 enforcing and not, cutting our regs off at the
35 knees by a couple of high profile or even well
36 warned.

37 You know, if OLE would let it be known
38 that 2017 was the year of recreational
39 enforcement. And here's the things we know
40 you're doing. We know you're taking fish out of
41 the water. We know you're selling. We know
42 you're doing this. We know all of these things.
43 And we're coming. And we're not going to have
44 great sympathy for you after we have warned you
45 that we're coming.

46 Now you've given the likes of Andrew,
47 Fly, and other people who have listeners a story
48 to get their listener's attention. But we can't

1 do that from here. We need OLE to do that. But
2 I think there are ways that we can do education
3 and outreach through that.

4 FACILITATOR BROOKS: Let's take a
5 couple more comments and then let the New England
6 Council present. Mike?

7 MEMBER PIERDINOCK: Thank you. The
8 only thing I'd like to add, you know, as Rich
9 indicated the way things operate up in New
10 England or up in Massachusetts, we're using
11 Sabiki rigs, or rather hook and line in order to
12 get our bait.

13 The only exception to that is if we're
14 going after bunker, pogies, or you know,
15 menhaden. Depending upon the time of year, we're
16 getting them near shore with a cast net.

17 So it would be nice if we had the
18 ability to do that. Theoretically we're doing it
19 before we leave the dock. Or you know, sometimes
20 that is not necessarily the case.

21 So I don't know if there's any
22 flexibility to get that. Because you know,
23 hooking into them, they don't last too long. So
24 I'd just throw it out there for consideration.

25 FACILITATOR BROOKS: Tim?

26 MEMBER PICKETT: No, just to kind of
27 echo on all that and, kind of, I'm jumping sides
28 from the commercial to the recreational but also
29 including the commercial down by us. Most of, or
30 a lot of the commercial hand gear fishermen in
31 South Florida also bait fish.

32 So they'll have nets on the boat and
33 would have no clue that this exists. And I would
34 say 90 percent of the recreational boats down in
35 South Florida have a net on the boat all the
36 time, at least from Jupiter to Key West. You
37 know, it's just a very common thing.

38 It would be a total claim of ignorance
39 by everyone, you know, would have no idea that it
40 would even be an issue because it's so
41 commonplace. So you know, kind of two sides of
42 the coin there. So just wanted to say what's
43 happening in South Florida.

44 FACILITATOR BROOKS: So it's an
45 awareness issue as well. Scott and then over to
46 Rom. And then we'll shift to New England
47 Council.

48 MEMBER TAYLOR: I also wanted to echo

1 that. That you know, any of the charter boats
2 down in the Florida Keys routinely are going to
3 cast net their ballyhoo before they go out.
4 They're engaged in fishing for sailfish, an HMS
5 species. They're going to carry the HMS permits.

6 Clearly it's not applicable for the
7 commercial boats being as live bait is prohibited
8 on the boats to start with. We're not talking
9 about nets for the purposes of catching HMS
10 species directly. We're talking about nets for
11 the purpose of using the bait.

12 But it does require, you know, a clear
13 clarification. Because you know, it's a much
14 different fishery in the south than it is, you
15 know, up there in the north where the nature of
16 the bait is such that it can be Sabiki. A lot of
17 the species these guys catch, they can't catch
18 that way.

19 FACILITATOR BROOKS: Rom?

20 MEMBER WHITAKER: Yes. Rom Whitaker,
21 Hatteras charter boat. I apologize, I was out
22 talking about sharks. I should have been in here
23 listening about cast nets. Because are you
24 kidding me?

25 I mean, we cannot carry a cast net --
26 I mean, I may be in violation right now. Because
27 I guarantee there's at least one on my boat. But
28 we king mackerel fish in the fall. We use them
29 for live bait to catch live bait.

30 But I don't know if any of you all
31 bought a cast net lately, but a 10 or 12 foot
32 cast net is \$400 or more. And I can't imagine
33 anybody wanting to throw that on a tuna or a
34 white marlin or a swordfish.

35 I'm about blown away. I just don't
36 understand it. So do I have to take mine off to
37 be legal? Somebody can answer that.

38 MR. MCHALE: All right. So if we have
39 enforcement on the line, please pay Rom Whitaker
40 a visit. So there is some clarification here.
41 And none of this is lost on Margo or myself or
42 the rest of the division.

43 And there is confusion within the
44 fleet because there are different regulations as
45 they pertain to fishing for billfish and other
46 Atlantic tunas versus bluefin tuna. And the
47 regulations are crafted differently.

48 It is in the situation where bluefin

1 tuna is involved that the regulation, and I'm
2 paraphrasing, is that you cannot have
3 unauthorized gear onboard your vessel, period.
4 It doesn't get into the details of whether or not
5 that unauthorized gear is the gill nets that they
6 used to use in New England. Or whether it's a
7 cast net. Or whether it's a midwater troll for
8 squid, mackerel, butterfish. It doesn't get to
9 that nth degree of then teasing out the different
10 gear types.

11 Now it is different when you start
12 talking about the other highly migratory species.
13 Then you can't use those gears to then catch said
14 species.

15 So yes, nobody here around this room
16 expects anyone to cast net, you know, on a highly
17 migratory species or a bluefin for that matter.
18 But the regulation has stood and it's stood for a
19 reason for some time.

20 Because as you go up and down the
21 coast and as you interact with all these various
22 fisheries, trying to define what a bait net is is
23 very difficult. And hence why we have discussed
24 this around the table, and still open to the
25 discussion.

26 But why we've never really come to
27 term of then, how do you then define it? I mean,
28 we've defined circle hooks around this table.
29 And that was kind of an interesting conversation
30 over time.

31 It's then how do you define? So the
32 bait net and the cast net you're using, Rom, how
33 would an exemption be carved out for that?
34 Versus you know, the 50 foot gill net panel in
35 New England.

36 And then what are some of the
37 interactions with some of the other FMPs? In New
38 England, it's herring. So what about the herring
39 management measures there? So there is a lot of
40 overlap. Hence why it's not necessarily a quick
41 hit or why it still is on the books for what it
42 is.

43 So to give you that direct answer,
44 technically it is a violation if you have a net
45 onboard your vessel while you're, kind of, in
46 possession of bluefin tuna.

47 And that is ultimately where we then
48 defer to the discretion of the Office of Law

1 Enforcement to then make a determination of
2 whether or not that warrants a violation or not
3 based upon what they're observing in any
4 instance.

5 FACILITATOR BROOKS: Thanks, Brad.
6 That's a helpful clarification. Rom and then --

7 MEMBER WHITAKER: Well, okay. I
8 understand where you're coming from. But I
9 totally agree with Rick, we need to have some
10 kind of recreational or for-hire meeting with OLE
11 or whoever is enforcing so we know where we
12 stand.

13 FACILITATOR BROOKS: Marcos, very
14 last, very quick word.

15 MEMBER HANKE: Very quick, spicy
16 point. In the Caribbean, all the Caribbean small
17 boat permit that you guys want to develop -- and
18 there is a great logic that everybody are
19 adopting and pursuing with the cast-net issue,
20 you're just throwing over the window. Point one.

21 And second, if there is any
22 measurement or anything that you guys can write a
23 letter or announce that cast net are allowed
24 under those parameters, diameter, sinking rate,
25 mesh size and so on. Then we can make a group
26 and come up and help with the logic.

27 There is any mechanism that can be
28 done like that?

29 MS. SCHULZE-HAUGEN: So what I heard
30 you asking is for us to define a cast net.

31 MEMBER HANKE: We can do that.

32 MS. SCHULZE-HAUGEN: Well if you have
33 ideas, I'd love to hear them. But we've got to
34 take it onboard across all the regions. So we
35 need the input of everybody.

36 FACILITATOR BROOKS: Crucial?

37 MR. DIDDEN: Again, I happened upon
38 this issue trying to answer a question for a
39 constituent. I think it was more the general HMS
40 engagement in the rec sales and reporting that
41 were, kind of, of most interest to the council.

42 The other thing was just something
43 that turned up in some other research. Thanks.

44 FACILITATOR BROOKS: Understood. But
45 it clearly caught a lot of attention here. So
46 just clearly there's an issue around
47 clarification around carrying cast nets, bait
48 nets, et cetera. So I think that's one issue.

1 And then I heard the potential for
2 three different sort of focused conversations
3 whether it's, you know, likely a focus session at
4 HMS AP. One around cast nets, one around the
5 illegal sales issue, and then maybe more broadly
6 OLE and, you know, law enforcement-type issues.

7 So I'll leave that to Margo and her
8 staff to figure out how to carry that forward.
9 We should push to the New England Council and get
10 a quick update. Mike?

11 MEMBER SISSEWINE: I'm going to put
12 the -- oh, you do have them there. Okay. First,
13 how much time do I have since we're done with the
14 agenda item? Five minutes, six minutes,
15 something like that?

16 FACILITATOR BROOKS: Five would be
17 great if that's not squeezing you too bad.

18 MEMBER SISSEWINE: Okay. Actually
19 the New England Council doesn't actually have a
20 lot of discussion or interaction on HMS species,
21 which is interesting.

22 I mean, we occasionally hear from Rich
23 when he comes to a meeting with a particular
24 issue. But for the most part, it's not a high-
25 profile issue in New England in spite of the fact
26 that the long tradition of the importance of the
27 HMS fisheries in the region, as indicated by
28 things like Wicked Tuna and Perfect Storm and so
29 on and so forth.

30 So HMS is very important to New
31 England. But the New England Council has very
32 little engagement on the issues. Maybe that's
33 because the New England Council is so overwhelmed
34 with other things.

35 This slide indicates the area that's
36 New England. And it actually extends into an
37 area with shared stocks with Canada as well as
38 south and west from approximately Rhode Island to
39 an area that's shared with the Mid-Atlantic.

40 And those connections to the Mid-
41 Atlantic and to Canada are very important because
42 they are real. There are valuable resources that
43 are effectively jointly managed with the Mid-
44 Atlantic Council. The most notable being
45 scallops which is the most valuable single
46 species fishery in the country.

47 And there are valuable resources that
48 are managed jointly with Canada. Most of the

1 principal groundfish resource is under various
2 agreements. There's also valuable resources
3 managed jointly with the Atlantic States Marine
4 Fisheries Commission, most notably lobster which
5 is the second most valuable resource in New
6 England and among the most valuable in the
7 country.

8 The New England Council also is
9 dealing with the reality that, according to the
10 agency's climate vulnerability analysis, it's
11 probably the most vulnerable region in the
12 country in terms of the likelihood of things
13 changing their distribution and potentially
14 affecting management as a result.

15 So having said that, the Council has
16 18 voting members based on what the statute says.
17 That's pretty straightforward. It has ten FMPs
18 which I believe is, if not the most, is a high
19 level of fishery management plans compared to
20 other councils. They're listed there.

21 The ones that dominate the workload
22 are New England multispecies, which is all the
23 traditional groundfish stocks, 20 of them that
24 are managed by annual quotas or ACLs. The sea
25 scallop resource which is very valuable, of
26 course.

27 Atlantic herring dominates or commands
28 a tremendous amount of energy and time because
29 it's a high-profile forage species. And some of
30 the interest in there is from the constituency
31 for highly migratory species for bluefin tuna.

32 So while bluefin tuna isn't discussed
33 by the New England Council, it's certainly a
34 large stakeholder group, not only for bluefin but
35 other HMS species that are very interested in
36 what goes in New England with respect to forage
37 species, mainly herring.

38 The other FMPs are all important also.
39 But they don't dominate the landscape the way
40 groundfish, sea scallops and probably herring do.
41 Will you go to the next slide?

42 Organizationally, again, it's very
43 busy. There are probably more meeting days than
44 there are days in the year because there are many
45 groups that meet simultaneously.

46 There are ten species committees which
47 primarily go with the FMPs. Each of these are
48 served by plan development teams which are made

1 up of council staff and agency people and
2 academics.

3 These are the groups that do the heavy
4 lifting, that do all the technical work. And
5 they meet very frequently and chew up tremendous
6 amounts of human resources.

7 There are 11 advisory groups that meet
8 almost as much as the committees. There are
9 other groups that are just doing the business of
10 the Council, Executive Committee, and observer
11 Policy Committee that's been heavily engaged in
12 an industry-funded monitoring amendment.

13 There's a Research Committee, the
14 Scientific and Statistical Committee that
15 everybody has. And there's a committee on
16 enforcement and vessel monitoring. There's an
17 ecosystem-based management committee.

18 And there are joint committees for
19 planning purposes, the Northeast Regional
20 Coordinating Committee and the Transboundary
21 Management Guidance Committee. I never really
22 knew what that G stood for. Anyway, that's
23 dealing with the U.S.-Canada bilateral
24 arrangements on groundfish.

25 And there's also a risk policy working
26 group which has developed a risk policy for the
27 Council. If you'll go to the next slide.

28 Each year there's a prioritizing
29 process which generally identifies about 50
30 products, 50 or more products that have to be
31 produced during the course of the year by all
32 these committees and PDTs and all that sort of
33 stuff.

34 Those products are specs, what are the
35 ACLs for various stocks, framework actions,
36 amendments, policies and reports of various
37 types. And so let me just run through very
38 quickly some examples of those sorts of
39 activities.

40 Under scallops we're, right now or
41 over the next few months, going to be engaged in
42 setting ACLs for the scallop fishery, the annual
43 catch limits.

44 Scallops has a very complex scheme of
45 rotating areas where you can fish and cannot
46 fish. So each year there's a detailed process to
47 identify those areas of small scallops to be
48 protected and those areas of large scallops that

1 are ready to be harvested in this rotating area
2 scheme.

3 There's also a research set-aside
4 program by which the industry has agreed and
5 supports setting aside a portion of the resource
6 to be used to pay for research.

7 It's a large program. It's worth \$15
8 million a year which is large compared to most of
9 the research programs we have on fisheries. And
10 it involves a lot of management of the program,
11 just the details of what are the priorities, how
12 do you select the grants, how do you get the data
13 back and so forth. So that's a very busy
14 process.

15 This year there will be a five-year
16 review of the limited access general category IFQ
17 program for scallops. There's an Omnibus Habitat
18 Amendment that's just been submitted to the
19 agency which changes some of the essential fish
20 habitat and some of the habitat areas of
21 particular concern.

22 And this is very, very relevant to
23 where scallop fishing will be allowed in the
24 future and will not be allowed. So there will be
25 amendments to the scallop plan, not necessarily
26 amendments, but there will be actions that will
27 be necessary in order to harmonize scallop
28 fishing with these new determinations on
29 essential fish habitat.

30 There are also issues of, and very
31 thorny issues, of dealing with AMs,
32 accountability measures, for some of the choke
33 stocks that are caught in this fishery, things
34 like windowpane flounder.

35 Next slide on groundfish. There are
36 20 stocks for which there are specs set, ACLs and
37 so on. Some of those are multi-year, though.
38 This year, there will be a lot of attention, as
39 there is every year, on the three shared stocks
40 with Canada: cod, yellowtail flounder and
41 haddock.

42 There's also a new stock assessment on
43 witch flounder, which will require new specs.
44 There are, there is lots of discussion and
45 concern and angst about how to get the
46 monitoring, particularly at-sea monitoring,
47 requirements in groundfish for the sector program
48 to be more workable in terms of actually

1 producing the data that's needed and being
2 affordable.

3 And a lot of this has to do with the
4 ongoing discussion about who pays for the
5 monitoring. Is it the agency or is it the
6 industry, which of course has a great deal of
7 influence on people's opinions about how much
8 monitoring is enough.

9 There will be a five-year review
10 process started for the sector program, as
11 required under regulations. There's always --
12 groundfish, the fishery itself is valuable, but
13 much less valuable than it had been historically.

14 But bycatch of some of these minor
15 species in terms of groundfish become very
16 important to the viability of other fisheries
17 like scallops.

18 So a lot of the process dealing with
19 groundfish management is actually, how do you
20 allocate these very valuable small amounts of
21 some groundfish species such that the traditional
22 groundfish fishery has access? But you don't
23 undermine the ability to prosecute a very
24 successful and profitable scallop fishery. So
25 that's a very big topic area, and so on. You can
26 see all sorts of workload there.

27 On the herring front, the issue of
28 herring as a forage species is very high-profile.
29 There's a management strategy evaluation process
30 going on that's aimed at setting an ABC control
31 rule for herring, recognizing its nature as a
32 forage species.

33 There's tremendous interest in this
34 from the lobster industry that uses the herring
35 for bait. And from the HMS community that views
36 herring as critical for their success. As well
37 as environmentalists broadly and people who are
38 interested in not having haddock caught in their
39 herring fishery. And not having alewives which
40 are a coastal species that also mix into this
41 fishery.

42 So it is a very complicated and
43 controversial management plan.

44 FACILITATOR BROOKS: Mike if you could
45 wrap up shortly, that'd be helpful. Thanks.

46 MEMBER SISSEWINE: So Omnibus Habitat
47 Amendment is about to go into fact. That will
48 have cascading effects on changing other plans.

1 And there's work going on, there will be work
2 going on on a deep sea coral amendment. And
3 there's work going on on ecosystem-based fishery
4 management plan. And a new observer policy as
5 well. It's busy.

6 FACILITATOR BROOKS: It's always busy
7 in New England fishing. I know there are a
8 couple of cards up. I'm actually going to pass
9 on them because we're a little behind.

10 So what I would like to do is just
11 remind us all that, again, this is sort of our
12 first test at, you know, squeezing the councils
13 in here and wanting to make time for that. We
14 really did not know how much time to allocate
15 here.

16 What I'd like to do is just -- I know
17 there's, I think you all get an evaluation or a
18 survey at the end of these AP meetings. So if
19 you all could give us your thoughts on, you know,
20 how you would incorporate this into the meeting.

21 My quick sense of it is, if Margo and
22 staff can get a scan ahead of time of what are
23 the hot issues, you know, that will help us
24 allocate, you know, some time.

25 And maybe we sort of focus in on one
26 or two at each AP meeting. And then just have
27 some, you know, fairly focused updates from the
28 rest of the councils. So anyway, your thoughts
29 on that would be appreciated.

30 So with that, let's turn to the
31 Caribbean fisheries management issues. And
32 Delisse Ortiz and Randy Blankinship, I think, are
33 going to be giving us some updates on that.

34 And Mike, if you would turn your mic
35 off that would be great.

36 MEMBER SISSEWINE: Oh, I'm sorry.

37 MS. ORTIZ: Okay. Good afternoon,
38 everybody. I'm going to take this a little bit
39 to the tropics here. And talk about some of the
40 recent requests that we've received from the
41 Caribbean region in terms of some management
42 changes that they would like and some of the
43 potential challenges with those requests and
44 potential options that we have in moving forward.
45 So hopefully at the end, there will be a
46 discussion.

47 But I'll go first through a little
48 background under current management, the requests

1 that we've received. And then I'll bring to the
2 AP a lot of questions that we have for you to
3 hopefully discuss and get feedback from you.

4 Just the background, a little bit
5 about federal HMS management in the U.S.-
6 Caribbean region is mostly in the area within the
7 EEZ around Puerto Rico and the U.S. Virgin
8 Islands. It covers, again, tuna, billfish,
9 sharks and swordfish.

10 And we have jurisdiction in federal
11 waters. Although in some cases, we do have
12 jurisdiction in territorial waters. In 2010,
13 Puerto Rico adopted HMS federal regulations for
14 Puerto Rican territorial waters. So extending
15 federal management of HMS all the way to the
16 shore such that fishermen who capture HMS had to
17 comply with our regulations and permit
18 requirements.

19 However, in the USVI they've had a
20 moratorium on commercial fishing licenses since
21 2001, and that's continued now. So even if folks
22 have an HMS federal permit, unless they have a
23 state commercial fishing license from the USVI,
24 they can't land any HMS.

25 So like I mentioned, many fishermen
26 have been asking us to allow them to retain
27 sharks through one of the HMS permits that we
28 have that was specifically, sort of, carved out
29 for the Caribbean. It's called the Commercial
30 Caribbean Small Boat Permit.

31 Right now it has a retention limit of
32 zero for sharks and it has a retention limit of
33 two swordfish per vessel per day. And so a lot
34 of the fishermen would like for us to increase
35 that retention limit. And in addition, to be
36 able to land more swordfish. So basically up the
37 retention limit.

38 In terms of sharks, they're really not
39 a target fishery. It's more of an incidental
40 fishery. When they're targeting other species
41 such as snapper and mackerel, they tend to catch
42 some sharks. And so they would like the ability
43 to retain those. They can sell the meat.
44 Apparently a lot of folks like some good pinchos,
45 you know, made with the shark meat. And again,
46 it's not a lot of value in terms of fins and
47 meat. But it does, you know, it does provide
48 good income for the locals.

1 Like any other individual who would
2 like to retain sharks and swordfish or any HMS,
3 they have to have, the vessel owners must obtain
4 a valid recreational or a commercial permit and
5 follow all the fishing regulations, which, as
6 we've come to realize in this AP, can be very
7 confusing and there can be surprises.

8 This is a table that lists the
9 swordfish fishing permits that an individual may
10 need to fish recreationally or commercially for
11 swordfish as well as for sharks. So there's a
12 variety of permits.

13 On the recreational side, you have the
14 general angling permits, charter head boats, the
15 general category permits. On the commercial
16 side, you have the limited access permits. Then
17 you'll see that there's HMS commercial Caribbean
18 small boat permit that's specifically for Puerto
19 Rico and the USVI as well as the swordfish
20 general commercial permits that would allow for
21 swordfish fishing.

22 Since a lot of the folks in the
23 islands just don't really have access to the
24 limited access permits, they're kind of
25 financially out of their reach.

26 They also have to follow the retention
27 limits. And this is sort of just a picture of
28 our compliance guides. On the left, you'll see
29 the swordfish regulations and the different
30 retention limits depending on the type of permit
31 that you have.

32 So on the top you'll see the rec
33 limits. And then on the bottom, the commercial
34 limits depending on the permit you have. And on
35 the right you'll see the sharks.

36 Right now we're talking in terms of
37 the Caribbean. They would be mostly focused on
38 the HMS Commercial Caribbean Small Boat Permit.
39 It currently has, again, a swordfish retention
40 limit of two which is, kind of, equal to the
41 swordfish general commercial permit which also as
42 a default has a retention limit for the U.S.
43 Caribbean of two swordfish per trip per vessel.

44 Although right now, with in-season
45 adjustments, it's at six. Unfortunately, the
46 commercial Caribbean small boat permit doesn't,
47 we don't have the ability of in-season
48 adjustments. So right now the default is two.

1 In terms of shark retention, the HMS
2 commercial Caribbean small boat permit has zero.
3 So again, that's one of the requests, is to
4 increase that limit and allow the opportunity to
5 retain sharks at incidental levels.

6 This is a close-up of the commercial
7 Caribbean small boat permit regulations. The
8 permit was made specifically to, sort of, fit the
9 culture and, sort of, structure and fisheries of
10 the Caribbean region.

11 So there's a vessel size restriction
12 of 45 feet. It allows individuals to fish for
13 tunas, not including bluefin, and swordfish at
14 the moment. So you'll see the number of fish per
15 vessel. This is a per-day limit, not a per-trip.
16 Then minimum size requirements. And then the
17 different authorized gears.

18 The ability that this permit also
19 provides is that usually for HMS fisheries, if
20 you want to sell you product, you have to sell to
21 an HMS federally permitted dealer. With this
22 permit, you are the dealer so you have the
23 ability to be the fisherman and the dealer. If
24 you catch your fish, you basically sell it to
25 yourself. And the reporting requirement that you
26 have at the current moment is that you report to
27 the territory.

28 So in the case of Puerto Rico, you
29 would report to the Department of Natural
30 Resources, same with the USVI. And again, that
31 was done because these are small boats that are
32 going out and just catching a small amount of
33 fish that they want to either bring home or to
34 sell to a local restaurant.

35 In terms of the distribution of
36 permits, there are no limited access permits for
37 sharks or swordfish. Most of them are rec
38 permits. And there's very few Caribbean
39 commercial small boat permits. And there's quite
40 a few of the general commercial swordfish
41 permits. In terms of dealers that they can sell
42 to, there's maybe just a few swordfish and tuna.
43 But again, no shark dealers in both islands.

44 These are the requests that we've been
45 getting. Again, to allow a shark retention limit
46 through this Caribbean permit for both islands
47 and also to create a small multi fishery shark
48 quota that incorporates the unique traits of the

1 islands that can be quite different from the
2 mainland.

3 In terms of swordfish, again, increase
4 that two swordfish per vessel per day limit so
5 that they have the opportunity to have access to
6 the swordfish fishery which is gaining a lot of
7 interest in the islands.

8 In terms of what the landings are for
9 swordfish, it's not a lot. This is, again, for
10 both the USVI and Puerto Rico across years. And
11 you see that the landings in pounds per dressed
12 weight for the last five years is not high.

13 So we're talking at, sort of, an
14 incidental level here. And again, this data is
15 from self-reported data from commercial fishermen
16 that report to the territories. And that data we
17 receive gets passed onto the Southeast Fishery
18 Science Center. And we get those reports.

19 In terms of commercial shark landings
20 in pounds dressed weight in Puerto Rico and the
21 U.S. Virgin Islands for the last five years,
22 you'll see sharks by area over the last five
23 years.

24 And you can see there are sharks
25 landed. There are not a lot. The one thing that
26 I wanted to mention is that some of these sharks
27 are in the prohibited list. They're marked by an
28 asterisk such as the Caribbean reef shark, seven
29 gill shark. The scalloped hammerhead has two
30 asterisks because it has been considered a
31 threatened species in the Caribbean region
32 recently.

33 So there's some things to work out if
34 we were to potentially consider the retention of
35 sharks in the Caribbean.

36 And so, what I'll do now is that we'll
37 go over the requests and some of the challenges
38 that, as the agency, we face. And some of the
39 options that we would have moving forward in
40 considering these requests. And hopefully, I'll
41 get feedback from the Council. Or at least have
42 you guys think about it and provide us with any
43 suggestions.

44 So for the first one, the first
45 request, allow landings of sharks with the
46 Caribbean small boat permit. So like I said,
47 some of these species are prohibited.

48 So on the left, you'll see the

1 challenges. On the right, the options. So the
2 first one, these species are prohibited. So
3 potential options would be do we maintain in the
4 prohibited list, or do we allow just the
5 Caribbean to land the currently authorized
6 species?

7 Because they do also have lemons and
8 bulls and tigers which are authorized under our
9 regulations. So is the question do we just keep
10 them, keep just only authorized species, or do we
11 actually remove these kind of regional species,
12 hence Caribbean reef, Caribbean sharp nose? Do
13 we get them out of the prohibited list and we
14 allow folks in the Caribbean to retain these
15 sharks?

16 Now these prohibited species were
17 placed on the prohibited list based on a criteria
18 that I'm kind putting in a very small print just
19 so you would have as a reference. And in order
20 to delist a species, it would have to meet at
21 least one criteria.

22 This has never been done, we have
23 never taken a species out of the prohibited list,
24 so it would be something new. And we would have
25 to go through each one of these steps to
26 determine if it meets at least one of the
27 criteria, and if we can actually delist it.

28 And the criteria, just folks can see.
29 The first one is biological information indicates
30 that the stock warrants protection. Second,
31 information indicates that the species is rarely
32 encountered or observed caught in HMS fisheries.

33 The third one, information indicates
34 that the species is not commonly encountered or
35 observed caught as bycatch in fishing operations
36 for species other than HMS. And the last one is
37 that the species is difficult to distinguish from
38 the other prohibited species.

39 So again, if it meets one of these
40 criteria, then we can delist it. The other
41 question is, if we do remove it from the
42 prohibited list, which management group should
43 the species go in?

44 Right now we have different management
45 groups. These are in the prohibited list. Do we
46 put it in the large, in any of the large coastal,
47 small coastals, or pelagic groups? Or do we
48 actually create a new management group that's

1 specific for just Caribbean shark species?

2 The other thing is in terms of quota.
3 Right now, any Caribbean landings are counted
4 against the Gulf of Mexico commercial shark
5 quota. So the question is, do we maintain the
6 current structure?

7 Do we allow landings of authorized
8 shark species only and continue to count those
9 landings against the Gulf of Mexico? Or do we,
10 again, remove species from the prohibited list
11 and count those against the Gulf of Mexico?

12 Or we delist and authorize their
13 harvest only in the Caribbean region since they
14 tend to be predominant in this area. And create
15 its own Caribbean quota.

16 In terms of the retention limit, right
17 now it's set at zero. So the question is do we
18 establish criteria to adjust the retention limit
19 so we can move up? What should that retention
20 limit be?

21 And then, like any of the folks who
22 are required to buy, you know, right now anybody
23 selling a shark has to do it through a shark
24 dealer, a federally permitted shark dealer. And
25 they have to go through identification workshops.

26 So do we require those dealer
27 workshops? And do we require them to report
28 electronically like all our federal HMS dealers
29 currently do, shark dealers currently do?

30 In terms of scalloped hammerheads,
31 that's something we have to consider. They are
32 landed. And any management would require
33 considerations in the region as it's listed as a
34 threatened species in this area under ESA.

35 And then for swordfish, again, the
36 retention limit is set at two. We don't have in
37 season adjustment criteria. So the question is
38 do we actually establish the criteria to increase
39 the limit? What should that range be?

40 What should the default retention be?
41 Should it be the same as the swordfish general
42 commercial permit where it's set at two and we
43 have the ability to increase it? And again, what
44 should that limit be?

45 And I think those are the few
46 questions that I had for you now. And I'll just
47 take any thoughts or comments, questions.

48 FACILITATOR BROOKS: Thanks Delisse.

1 I think we should go to Marcos first. And just
2 let you amplify anything that you want.

3 MEMBER HANKE: I have a lot of things
4 to say. But first, a clarification on the
5 presentation. When you talk about the seven
6 gill, I couldn't see from here. How much of
7 those, how many of those are reported?

8 MS. ORTIZ: The sevengill, very few.
9 It was like one or three in the last like three
10 years.

11 MEMBER HANKE: I have a sense that
12 this will not be an issue once we decide which
13 species are going to be included to customize a
14 group of Caribbean species. That guy probably
15 can be out under consideration in terms of the
16 listing, that guy from the list.

17 MS. ORTIZ: The sevengill came out
18 because we also search for any prohibited species
19 that were also caught outside of the Caribbean.
20 Because we wanted to get a sense of what were
21 other species that were prohibited species that
22 were landed outside of the Caribbean. And the
23 seven gill was one of them.

24 So like you said, you're carving
25 something out for the Caribbean, I mean it would
26 be something to consider. But it could also be
27 focused solely on the species that are caught in
28 the Caribbean region.

29 MEMBER HANKE: Now I'm going to first
30 answer the majority of the questions that you
31 made, the list of questions that you guys already
32 heard about it. But the one, the AP to have the
33 benefit of that.

34 It attracts my attention that, at
35 least, the process doesn't include new science.
36 On the list of answers that we have there, at
37 least on my understanding.

38 Because those considerations in the
39 past was not using our data to establish the list
40 of sharks. It was using someplace else. I'm not
41 a specialist on this but I consult with a lot of
42 people.

43 It's not necessarily the same dynamic,
44 you know, in Florida, in the Gulf or whatever.
45 You know, if you have new science that should be
46 enough reason to delist it, the way I see it.

47 The way I see this, it has to be the
48 own Caribbean quota with the specific

1 characteristics. For example, those guys don't
2 know how to identify those sharks. That will be
3 a long process of educating them.

4 And the incidental interaction. They
5 are not shark specialists. We should consider
6 that on the quota. And maybe being a quota of
7 multi species, a list of multi species on that
8 quota with all the rationale behind it.

9 Follow up to this, on that list
10 shouldn't include endangered species like
11 scalloped hammerhead for example. That is a
12 shark that is pretty easy to identify. Right?

13 But Caribbean reef shark is
14 everywhere. It's not letting the fish on the
15 reef, on the dropoff. Just before I came here I
16 hooked up three tunas. And before the clients
17 ate, all the three tunas was gone because of
18 shark interaction.

19 And that's not a rare event. That's
20 every single day. And that came out on the
21 council meeting when Randy and Delisse made the
22 presentation. Around the Caribbean, the shark
23 presence is increasing. And that interaction is
24 increasing.

25 One thing that I think we should
26 consider is because there is interest and there
27 is research, proposals for approval for new data,
28 new scientific data to come, is that we should
29 take a precautionary approach once we establish
30 this custom quota for the Caribbean because of
31 the specifics of our region using whatever
32 biological, on that list with whatever shark is
33 the most sensitive to overfishing or whatever, as
34 the reference to establish that quota.

35 That's maybe one way of looking to
36 this to make sure we don't damage the shark
37 population on the area. Just one idea.

38 And electronic report, the way I see
39 it, with the Caribbean permit should be
40 mandatory. Maybe with other methods along. But
41 I think the people that will target shark fishing
42 specifically with that permit, if there is any,
43 they will enjoy the possibility of electronic
44 report since the beginning once the system start
45 to run with the whole logic that I'm pursuing and
46 looking for.

47 That's what I need to say about the
48 questions. And now I want to add to the

1 presentation that you guys made by saying the
2 orientation after the council meeting, Randy and
3 Delisse made a presentation to a group of
4 fishermen that request the orientation without
5 too much advertisement in Puerto Rico.

6 Maybe for your scale of participation
7 it's not much. But we have more than 20
8 something fishermen in the room with one leader
9 of the fishing community inviting them. Very
10 informal, not big noise about it.

11 And people went there with a big
12 compromise. And the attitude of learning and
13 fixing the problem that is hurting them. And
14 this a meeting that I'll never experience with
15 something that is really affecting their
16 livelihood. And the positive attitude that they
17 had on that meeting, for me, was overwhelming and
18 very good.

19 And thanks to Roberto Silva that was
20 the person that engaged on those invitations and
21 so on. And thank you to Randy to Delisse. I
22 want to take the time to say that Delisse was
23 instrumental on that dynamic that I just
24 described.

25 Being from Puerto Rico, having family
26 from there and speaking in Spanish, the first
27 barrier of communication was done on the first 30
28 seconds when she started to speak. And I think I
29 encourage HMS to include her on these effort
30 because she was instrumental on that part.

31 Just briefly, I have an idea. We have
32 seven pueblos, seven counties represented, north,
33 east, west, Maricao, Fajardo, Ceiba, Luquillo,
34 Arecibo, Arroyo, Yabucoa. And not just fishermen
35 but the fishermen with the fish house or fishing
36 village representatives on it that have a bigger
37 effect.

38 The presentation on the council made
39 by Randy and Delisse, it pretty much have the
40 same feedback of the issues that was brought in
41 Fajardo, with something extra which was the
42 report of the oceanic whitetip caught on long
43 liners close to Puerto Rico.

44 And I've been educating myself about
45 the longlining activity and industry around. And
46 I want to say that they have been, the captains,
47 the dealer, and I spoke to the owner, available
48 to collaborate with collecting data on this

1 fishery that is not necessarily related to the
2 small Caribbean boat permit. But it is important
3 to know about that.

4 They have in one set 147 interactions
5 with oceanic whitetip ranging, this is the report
6 that the dealer gave to me through the Captain,
7 from 40 pounds, not dressed, that you release, 40
8 pounds to full grown oceanic whitetips.

9 In a five day trip, between 450, they
10 estimate between 450 and 550 hooks lost because
11 of the shark interaction. They are assuming they
12 are oceanic whitetips. Please go over, correct
13 me Scott if I'm doing something wrong here.
14 Because I don't want to speak for your operation.

15 And I think this is an opportunity on
16 this context now to collect information on sharks
17 on the Caribbean. And we shouldn't lose this
18 opportunity.

19 Something else I want to say is that
20 the pilot project for that improvement for
21 Caribbean species, for reef fishes, and so on.
22 The methodology was so overwhelming during the
23 presentation to the council, after 30 days of
24 tryout in St. Thomas and Croix and Puerto Rico,
25 it's the dragon with three heads that behave
26 totally different from each other. The fishery
27 on each island is completely different. The way
28 the fishing is there and the target species,
29 everything.

30 FACILITATOR BROOKS: Marcos, I want to
31 ask you to try to limit it because we've got a
32 bunch of people in the queue. Thanks.

33 MEMBER HANKE: I'm finishing.

34 FACILITATOR BROOKS: Perfect, thanks.

35 MEMBER HANKE: We have 13, during 30
36 days on those islands, 13 recorded sharks plus
37 one unknown. They report a sharpnose, I'm
38 assuming the Caribbean sharpnose which is the one
39 that I identify on my area which is very common
40 on shallow water in our area. Lemon, reef shark,
41 and nurse shark.

42 And I spoke to Todd and I endorse this
43 methodology to collect that data for HMS. You
44 guys should explore and get in touch with Todd.
45 Because if he get approved to run this all the
46 way around in Puerto Rico, he have the way to do
47 it correctly that is compatible to the Caribbean.

48 And I want also to say thank you to

1 Bob Hueter to engage on, to develop the science
2 in Puerto Rico. We have a proposal running. If
3 it's approved, we're going to have new science
4 coming up.

5 And I don't want to speak much about
6 that because the PI is him on the research if
7 it's approved. And that's it. Thank you.

8 FACILITATOR BROOKS: Thank you very
9 much. Appreciate it. I've got six people in the
10 queue. We'll go Bob, Tim, Sonja, I think it's
11 Dave in the corner, and Marcus, and then Jason.

12 MEMBER HUETER: Okay. Bob Hueter,
13 Mote Marine Lab. So first of all, thank you
14 Marcos for that wonderful overview. And thanks
15 for the plug for my grant proposal. So hopefully
16 that's heard.

17 I'm going to speak just to the shark
18 fishery aspects of this, big surprise there. And
19 I'm not going to ask any questions. I'm just
20 going to make some points for the record.

21 First of all, this is truly a case
22 where the data are insufficient to take
23 significant action. In the preparation of this
24 proposal and in talking to my Caribbean partners,
25 we've looked at the landings data in Puerto Rico
26 in particular.

27 And they have fluctuated so much over
28 the years, without real changes in the fishery,
29 that I don't think they're to be trusted. If you
30 go back to 2007 and 2008, the shark landings were
31 about 21,000 pounds. And now they're far less
32 than that.

33 So I think there's massive under-
34 reporting going on. And there's also massive
35 misidentification of the sharks that are being
36 caught.

37 For example, there's a shark called
38 the vilma, V-I-L-M-A, which can range from
39 sevengills or sixgills all the way to certain
40 kinds of dogfish. So they seem to use that name.
41 It's kind of like the name cazon that you hear in
42 Mexico for any of the smaller sharks.

43 So we really have a real data problem.
44 And to move forward with management measures
45 would be really problematic. So I say fund the
46 studies, the cooperative research to get the data
47 now.

48 Given that, I would say do not remove

1 any of these species from the prohibited list.
2 You don't have the basis for that with the
3 exception of possibly the Caribbean sharpnose.
4 As Marcos points out, they're very abundant.

5 And personally I've not looked into
6 this but I'm not sure why they were ever listed
7 in the first place. So I think that bears
8 looking into. So with that possible exception, I
9 wouldn't make any other changes for now. I'd be
10 precautionary.

11 Next yes, the Caribbean needs to have
12 its own quota. That's the ideal. I mean, to
13 count their catches against the Gulf of Mexico
14 quota is sort of crazy. I don't know if we have
15 any stock information that provides a basis for
16 this that there's an exchange going on.

17 So we need to develop -- when we have
18 better data, we need to develop quotas for the
19 Caribbean on their own.

20 And last, my understanding on the
21 electronic reporting issue, that would be great.
22 But in Puerto Rico it's not up and running yet.
23 It won't be until at least 2018 is what I'm told.
24 And for the fishery in general, for all fishers
25 until at least 2020.

26 So this is not something that's easily
27 put into place like within the next year. Thank
28 you.

29 FACILITATOR BROOKS: Thanks Bob very
30 much. Tim?

31 MEMBER PICKETT: I have a question and
32 a comment. I'll start with the question. You
33 said early in the presentation about the
34 moratorium on commercial permits in the USVI.
35 How does that apply with the Caribbean small boat
36 permit?

37 I noticed it said, you know, no new
38 permits within three miles. But obviously, they
39 have to go -- I'm just not sure how it works. If
40 it's applicable, if they're allowing new permits
41 of this kind and they just can't fish within
42 three miles. Or how that works.

43 MS. ORTIZ: So right now, so there's
44 a moratorium on state commercial fishing. So
45 zero to three in the USVI. So folks could get an
46 HMS Caribbean small boat permit.

47 But the problem is because there's a
48 moratorium, unless they have a state commercial

1 fishing license, they wouldn't be able to land
2 anything that they have under that federal
3 permit.

4 MEMBER PICKETT: Okay. Perfect,
5 that's what I wanted to clarify there. In terms
6 of the limit, you have an interesting situation
7 here in Puerto Rico that's very similar to South
8 Florida with the accessibility of everything.
9 Their weather is quite a bit nastier than ours is
10 at times.

11 So that limits the accessibility. But
12 still very accessible. Two fish is really kind
13 of not a worthwhile number. So I think you
14 should cautiously approach increasing that.

15 Because two fish is, I don't want to
16 say a useless number. But if you're buoy fishing
17 and, you know, which is one of the approved
18 gears, and you have 15 sets of buoy gear out
19 there, you can catch way more than two.

20 Two is a tough number to justify
21 getting people up and motivated about it. But I
22 would be cautious about going too high because
23 it's an open entry deal. And it's, you know,
24 because of the accessibility.

25 So for the same reasons why myself and
26 others were very strongly against having the
27 general category in South Florida. Just because
28 of the accessibility. And because people were
29 heavily invested in that fishery anyway with
30 limited entry permits.

31 So I would say approach that
32 cautiously. But certainly more than two.

33 FACILITATOR BROOKS: Okay. That's
34 what I wanted to clarify. So yes, increase more
35 than two but be prudent there. Thanks.

36 MEMBER FORDHAM: Thank you. Sonja
37 Fordham, Shark Advocates. Thank you for the
38 presentation. Building on what Bob said, I was
39 curious, you mentioned smooth hound permit being
40 applicable. But you didn't mention any smooth
41 hound landings. So I would love to know if
42 dogfish or some kind of smoothhounds are also
43 fished in the region.

44 I have mostly questions. Slide Number
45 12, I'm sorry that I might be being dense on
46 this. So the reported landings, who is taking
47 these if the small boat fishermen can't? Should
48 I just read out all my questions? Okay.

1 So the Slide 12 with all the landings,
2 what kind of vessels are landing them? And about
3 the prohibited species, you went through sort of
4 the delisting process. But like Bob, I think it
5 would be good to look back and see how they were,
6 why they were listed, which criteria they met to
7 be listed.

8 And frankly, I don't even remember if
9 we had the list first and built the criteria
10 later or not. But I would agree with Bob,
11 obviously, to take a precautionary approach. But
12 particularly with respect to the seven gills
13 because of the reproductive biology which, as you
14 know, would be much different than the sharpnose.

15 And it also jumps out at me that Slide
16 12, most of the landings are unclassified sharks.
17 So I just wonder if you anticipate that your
18 action would help to get the catches recorded to
19 the species level.

20 And if that's, if you anticipate that,
21 I think that would be a good thing to flag when
22 we talk about the next steps. Because that's
23 obviously important to know what kind of sharks
24 given that you have a range of strategies. And
25 in particular, the scalloped hammerhead.

26 So it would be really good to know how
27 much of that is hammerhead in particular. But
28 other species at risk. I think that's all I
29 have. Thank you.

30 MS. ORTIZ: Thank you Sonja. So going
31 to the first question, what vessels are landing
32 them? It's a combination of state vessels and
33 federally permitted vessels. So vessels that
34 have the HMS commercial Caribbean small boat
35 permit.

36 Now both of those, like those type of
37 vessels, the state vessel that doesn't have a
38 federal permit and one that does would be
39 reporting to the states. So that's where we're
40 getting that data.

41 They report to the Department of
42 Natural Resources. And then they send that
43 information to the Southeast Fishery Science
44 Center. And then we have access to that
45 database. So that's where the data is coming
46 from.

47 Second question in terms of the
48 prohibited list, why were they listed? If memory

1 serves me right, they were listed around, well
2 there were some in '93, some in '99.

3 And the criteria that they were put
4 there was because they might indicate to be
5 vulnerable to overfish. And there was
6 insufficient data. So as a precautionary
7 approach, they were put on the prohibited list.
8 And that was really basically, what's in the FMP.

9 Third question, most are unclassified,
10 do we expect for any future actions to improve in
11 this? Absolutely. I mean, I think I agree with
12 you. One of the bigger problems is just shark
13 identification. Folks don't know and they just
14 put tiburon and, you know, go with that.

15 So I think a lot of it is outreach and
16 education. And any future action that we would
17 do would definitely have that as the, sort of,
18 priority going forward, just educating folks.
19 And they're eager. I mean, based on the informal
20 meeting, they want to know more. They're open to
21 it. Did I miss any?

22 FACILITATOR BROOKS: Thanks. I've got
23 a few people in the queue. And I do want to note
24 we're sort of at the time. So if the speakers,
25 we'll get you all in. But I would ask you to be
26 as focused as possible. Dave and then Marcus.
27 Okay. Marcus, did you want to get in?

28 MEMBER DRYMON: I did, yes.

29 FACILITATOR BROOKS: Okay. Please go
30 ahead.

31 MEMBER DRYMON: Just quickly, this is
32 Marcus Drymon, State Representative from Alabama.
33 And this kind of mirrors what Bob was saying
34 earlier. And Marcos, maybe you can answer this.
35 How are people differentiating between a
36 Caribbean sharpnose and an Atlantic sharpnose?

37 As far as I'm aware, the really only
38 reliable way to differentiate between them is via
39 vertebral counts. So it seems like perhaps
40 moving them from prohibited might also be a
41 logistically, you know, prudent thing to do.

42 Secondly, I was looking at the
43 landings, the same table that Sonja was talking
44 about on slide 12. And if you look at tiger
45 sharks between 2013 and 2014, there's an order of
46 magnitude increase.

47 Just curious if you had any
48 explanation for that. Or if you knew what was

1 going on there. Or is it even, it almost looks
2 like it might a typo it's such a drastic
3 difference in relation to the surrounding years.

4 MS. ORTIZ: I don't exactly. But
5 reading in some of the fishery regulations for
6 Puerto Rico, I know there was a moment, several
7 years, where the island went through sort of a
8 recession.

9 And there was a lot of conflict
10 between the Government and the fishermen and a
11 lot of distressed. So there was a lot of folks
12 that refused to protest and get any data and help
13 the agencies.

14 So I know that worked in there. There
15 were a lot of people that just got out of the
16 fishery. It wasn't worth their while. And then
17 in later years as things started getting better
18 and there were Government changes, things
19 improved quite a bit.

20 So I think that is a factor. And then
21 the other one, like Bob said, there could be a
22 lot of just massive under-reporting going on or
23 over-reporting.

24 MEMBER HANKE: Can I answer that
25 quickly?

26 FACILITATOR BROOKS: Yes.

27 MEMBER HANKE: People, once they got
28 aware what the Caribbean small boat permit means,
29 they got afraid of reporting the sharks to the
30 state. Because of implication because of the
31 zero quota they was living with before the
32 Caribbean small boat permit was in place. Right?

33 And this is the last turn for
34 everybody or are you going to --

35 FACILITATOR BROOKS: We need to wrap
36 up.

37 MEMBER HANKE: Because I need to wrap
38 up with five things.

39 FACILITATOR BROOKS: Hold on because
40 there's a few other people I want to get in here.

41 MEMBER HANKE: Yes.

42 FACILITATOR BROOKS: Jason?

43 MEMBER ADRIANCE: Thanks. Jason
44 Adriance. And since you would like it kept short
45 and it's gone around the table a few times, I
46 think the Caribbean zone quota is, at this point
47 the logical way to go, I don't see tying to the
48 Gulf quota.

1 FACILITATOR BROOKS: Thanks Jason.
2 Scott?

3 MEMBER TAYLOR: I saw a rare
4 opportunity in the last two days that actually
5 mentioned swordfish. So I'm going to take it at
6 this particular moment.

7 Delisse, I understand that in order to
8 actually use the new entry level small boat
9 swordfish permit that's in Puerto Rico and the
10 Virgin Islands, did I understand that right that
11 you have to have a state permit in order to land?
12 So that's somewhat limiting, the first part.

13 MS. ORTIZ: So that's for the USVI.
14 So in this USVI there's a moratorium since 2001
15 non-commercial fishing licenses. So unless you
16 have one, then you can't land any HMS under your
17 federal permit because you can't go through state
18 waters.

19 And it's not like a swordfish.
20 Caribbean permits small boats also includes tunas
21 as well.

22 MEMBER TAYLOR: And so I want to take
23 this opportunity, after having an opportunity for
24 a couple different reasons yesterday to talk to
25 Marcos and having firsthand knowledge, because
26 I've got some boats down there right now, of
27 what's going on down there in Puerto Rico, given
28 the abysmal state of our swordfish landings, I
29 would encourage you to do everything we possibly
30 can to develop that fishery down there from the
31 hand gear and a local standpoint.

32 I think it's probably one of the few
33 opportunities that we really have where
34 geographics lend themselves, you know, to that type
35 of fishery. Both from the standpoint of deep
36 dropping and also from the buoy gear fishery.

37 It's, you know, basically tailor made.
38 And speaking to Marcos yesterday, they can both
39 fish the north side and the south side of the
40 island. You know, there the drop offs are very,
41 very rapid. They're not having to fish far from
42 shore.

43 You know, for those of you that know
44 me, I was very active in that hand gear fishery,
45 you know, initially. And I actually had the
46 opportunity, Marcos, to talk to Tim Palmer today.
47 For those, he said to say hello, would be more
48 than glad to come down there and run a seminar

1 for you.

2 And do whatever we possibly can to
3 promote that fishery down there. I think it's
4 something that we really should encourage and
5 develop. And I would encourage the staff to make
6 it such that the retention limits are
7 economically viable for the boats to do that down
8 there.

9 FACILITATOR BROOKS: Thanks Scott.
10 Ben?

11 MEMBER CARR: So I have follow up to
12 Sonja's question about Page 12. But can we go to
13 Page 9 real quick? I'm just unclear about how
14 many vessels are reporting under commercial to
15 account for the landings on Page 12.

16 MS. ORTIZ: I don't have that
17 information with me right now.

18 MEMBER CARR: I mean but which of the
19 permits are basically accounting for Page 12?
20 All of them? Or is the angling one empty?

21 MS. ORTIZ: No just commercial.

22 MEMBER CARR: So it's not many boats?

23 MS. ORTIZ: No.

24 MR. BLANKINSHIP: Yes and state
25 vessels. So there are some vessels that are
26 reporting that are not represented here because
27 they don't have a federal permit.

28 FACILITATOR BROOKS: Okay. Marcos,
29 you get the last word here.

30 MEMBER HANKE: Thank you. About the
31 question Caribbean sharpnose, when I was studying
32 marine biology in University of Puerto Rico on
33 the course of etiology, one sharpnose caught by a
34 local fishermen was taken to the class.

35 And the etiologists took all the way
36 through to the shark. And that identification,
37 that's why I'm pretty sure what it is. And maybe
38 you have a mix of species there. But because
39 what I read on the geographic distribution, most
40 likely to be a Caribbean sharpnose.

41 And to close up, my idea is it is
42 important to be mindful that there is less people
43 applying for the Caribbean small boat permit
44 which a great, great effort to fix many problems
45 of the misreporting, the dealer problems, and so
46 on that we fixed.

47 But they are not applying because this
48 shark quota is not there. The bird is not flying

1 because there is no way to fly yet. And also,
2 there is a dual interpretation between the state
3 and the federal regulation from the fishers.

4 And that dual interpretation makes it
5 hard for the system to work. If the HMS fixes
6 the quota, that problem is going to be erased.
7 Then there will be a way for the fishermen to
8 conduct on a legal way with some logic on this
9 fishery.

10 And just for you guys to know, on the
11 same orientation meeting they request me to do
12 workshop on managing tuna and HMS to introduce to
13 the market. Preparation was tuna.

14 And all the bells and whistles behind
15 that -- because it's an industry that needs
16 advice. They need guidance to develop this
17 fishery in a good way. And we are working hard
18 for that to happen. Thank you.

19 FACILITATOR BROOKS: Thank you Marcos
20 very much. We should let you get to a break.
21 We're a little bit behind. I'd like to ask us to
22 make this a ten minute break and catch up a
23 little bit of time.

24 So we will reconvene here at 20 after
25 3 sharp. And can I just see how many public
26 commenters we think we'll have for this session?
27 Greg? Okay great. Thanks. So 3:20 we'll start
28 up again. Thank you.

29 (Whereupon, the above-entitled matter
30 went off the record at 3:09 p.m. and resumed at
31 3:22 p.m.)

32 FACILITATOR BROOKS: All right. If
33 folks will find their way back to the table we'll
34 get going again. Thank you. All right. So we
35 are sort of in the home stretch here, final
36 stretch.

37 We're being joined by Angela Somma
38 with the Office of Protected Resources. And Dr.
39 Chris Rogers with the Office of International
40 Affairs and Seafood Inspection. And I apologize,
41 I don't know the name of the third person up
42 there. But I will let Angie introduce.

43 Or actually we don't even have Chris
44 here. There's two people.

45 MS. SOMMA: Right. Thanks. As
46 Bennett said, I'm Angela Somma with NMFS's Office
47 of Protected Resources. I have a couple of our
48 Fish and Wildlife Service colleagues who are

1 responsible for CITES implementation.

2 Rose Gnam is the Chief of the
3 Scientific Authority for the U.S. Fish and
4 Wildlife Service. And Craig Hoover who is Chief
5 of the Management Authority for the U.S. Fish and
6 Wildlife Service.

7 So we're going to talk briefly today.
8 We do have the 17th meeting of the Conference of
9 Parties to CITES coming up in late September.
10 The meeting will take place September 24th
11 through October 5th in Johannesburg, South
12 Africa.

13 Just a couple of slides on some CITES
14 background. In the United States, the U.S. Fish
15 and Wildlife Service has the lead and the
16 statutory authority for implementing CITES.

17 When it comes to marine proposals, we
18 do coordinate. NOAA Fisheries does coordinate
19 with the U.S. Fish and Wildlife Service. And we
20 provide scientific information and other guidance
21 related to marine species that may be listed
22 under CITES.

23 A CITES goal is to regulate
24 international trade of species and animals and
25 plants to ensure that commercial demand and
26 international trade in those species do not
27 threaten their survival in the wild.

28 The basis for listing species under
29 CITES include their biological status, the role
30 of international trade may be playing in their
31 decline, and management of species.

32 There are three appendices to CITES.
33 And species are listed in one of three
34 appendices. Addition to those Appendix 1 or
35 Appendix 2 requires a two-thirds majority vote of
36 the parties at a conference of the parties. An
37 addition to Appendix 3 is a unilateral decision
38 by the country that lists it in Appendix 3.

39 Appendix 1 species are those species
40 that are threatened with extinction under CITES
41 criteria. And international commercial trade is
42 prohibited in Appendix 1 listed CITES species.

43 For Appendix 2, those are species that
44 are vulnerable to over exploitation but are not
45 currently at risk of extinction. International
46 trade and harvest on the high seas is permitted
47 and tracked.

48 It is not prohibited but it does

1 require findings under CITES and permits in order
2 to export CITES Appendix 2 listed species. They
3 must make a finding that those species were
4 legally acquired and the harvest is not
5 detrimental to the survival of the species.

6 As I mentioned, the next conference of
7 the parties is coming up September 24th in
8 Johannesburg, South Africa. And there are
9 several marine proposals that will be considered
10 at that meeting.

11 The mobula species devil rays have
12 been proposed for Appendix 2. The United States
13 is a co-sponsor of that proposal with Fiji and
14 several other CITES parties.

15 Other CITES parties have proposed
16 listing silky shark and thresher sharks in
17 Appendix 2. The thresher shark proposal
18 identifies big eye thresher as meeting the
19 criteria. And is proposed for inclusion due to
20 their decline.

21 With common and pelagic threshers
22 proposed for inclusion based on similarity of
23 appearance. Under the CITES listing criteria,
24 species can be included in a listing based on
25 similarity of appearance.

26 As the United States was a co-
27 proponent of the mobula species, we will support
28 that proposal. We are still evaluating the shark
29 proposals. But we have made a decision
30 tentatively that we are inclined to support the
31 silky and the thresher shark proposals at the
32 conference of the parties.

33 So that's a brief introduction. Rose,
34 I don't know if you'd like to add anything else.

35 MS. GNAM: Do we want to add on the
36 silky and the thresher sharks, I think our
37 position that we lean to is to basically
38 tentatively support those proposals with a
39 delayed implementation period.

40 MS. SOMMA: The United States is
41 seeking an 18 month delay in implementation
42 period to be able to work out all of the
43 logistics if those species are added to the list.
44 When the shark proposals were adapted at the last
45 conference of the parties, hammerhead species as
46 well as oceanic whitetip and porbeagle, they were
47 passed with an 18 month delayed effectiveness
48 period.

1 And we thought that was very useful in
2 implementing those listings. And so we are
3 seeking to have a similar delayed effectiveness
4 period for those.

5 FACILITATOR BROOKS: Anything else you
6 want to present? Or just open it up to questions
7 and comments? All right. AP, any questions or
8 comments? Mike?

9 MEMBER SISSEWINE: Thank you. Thank
10 you for the presentation. In former years there
11 was an agreement in effect that there would be a
12 consultation with fish experts under FAO prior
13 to, as the development of scientific advice for
14 listing and so forth.

15 I'm wondering if that's still
16 occurring. And if so, how it relates to these
17 particular species, the silky and thresher.
18 Thank you.

19 MS. GNAM: The FAO expert panel met on
20 all the marine species proposals at the end of
21 June in Rome. Their expert review are posted on
22 the CITES website for COP17.

23 The expert panel found for the mobula
24 rays a favorable review. For silky and thresher
25 sharks, the reviews were unfavorable. I should
26 give a little history though on U.S. positions.

27 We've not always, unlike some other
28 countries, based our position based on what the
29 FAO expert panel concludes in their review.

30 MEMBER SISSEWINE: Yes. I mean,
31 obviously it's not binding. But if the U.S.
32 isn't going to follow that scientific advice,
33 does it have some alternative scientific basis
34 for concluding that the advice is not the best
35 available?

36 MS. GNAM: It's a little more
37 complicated than that in that the FAO, if you
38 look at the CITES listing criteria for species,
39 there basically are some recommended numerical
40 thresholds for decline.

41 FAO takes a very stringent, very
42 strict review of those criteria. And looks at
43 that a species has to decline up to 80 percent.
44 The U.S. has always felt, and if you look at our
45 history on when that footnote was negotiated, has
46 always felt that this is way too high a bar for
47 an Appendix 2 species.

48 Appendix 2 is not species that are

1 currently threatened with extinction. So to
2 expect an 80 percent decline seems somewhat
3 stringent.

4 So we have looked at the scientific
5 data. And tried to evaluate it based on our own
6 internal looking at that scientific data for each
7 species proposals and not tie it directly to the
8 criteria FAO has accepted.

9 MEMBER SISSEWINE: I mean again, I'm
10 looking for a position that's science based. And
11 the expert panel of FAO are experts. I know a
12 number of those people. Or I used to know many
13 of them very well. I'm a little out of touch
14 with it now.

15 And so, to say we think that the FAO
16 panel is putting in place too stringent a
17 criteria, if there's some policy basis for that,
18 fine, so be it. That's appropriate I guess.

19 But you know, to just say we don't
20 believe that science without having some
21 alternative -- the idea of an 80 percent decline
22 being, in essence rejecting that as a criteria
23 that FAO is using because it's too stringent a
24 bar is sort of worrisome.

25 Because I would guess that there are
26 literally dozens of domestically managed
27 fisheries in this country that are below 80
28 percent of B zero. I mean, more than dozens.
29 Probably 100 or more.

30 So we're in essence saying that we
31 have, you know, one standard that we're rejecting
32 on the part of the scientific group at FAO. But
33 we're widely using a different standard in terms
34 of what we list in the U.S. as overfished. But
35 we certainly don't petition that they be put on
36 the CITES list. Thank you.

37 FACILITATOR BROOKS: Thanks Mike. Let
38 me go to Sonja.

39 MEMBER FORDHAM: Thank you. Sonja
40 Fordham, Shark Advocates. I submitted written
41 comments during the U.S. comment period with some
42 other groups in support of the two sharks of the
43 mobula ray proposals.

44 I just wanted to take this opportunity
45 to thank the U.S. for co-sponsoring the mobula
46 proposal. We talk a lot here about how sharks,
47 because of their life history, are particularly
48 vulnerable.

1 And I just want to underscore that
2 these rays are really and truly some of the most
3 biologically vulnerable with the ocean with
4 having just one pup every couple years or so.

5 In my opinion, they should have been
6 listed last time with the mantas. It's the same
7 market, as a lot of people know, for gill plates
8 in China.

9 And we are getting at least anecdotal
10 reports that since some manta protections have
11 gone into place, there is increased pressure on
12 the mobulas.

13 The IUCN shark specialist group has
14 really highlighted this group of animals as the
15 next global priority because of their
16 vulnerability. And like a lot of other "flat
17 sharks" these have been under appreciated even
18 when it comes to sharks.

19 So I'm really happy to see this
20 attention to them. I'm hopeful that a listing
21 under CITES cannot just help to safeguard mobulas
22 but to also help facilitation of the listing for
23 the manta rays under Appendix 2.

24 And last, hearing a few concerning
25 things about the capacity for Fiji to get a full
26 delegation to the COP. So I just want to
27 highlight that I think the U.S. given their
28 expertise and leadership in general, a last point
29 where marine conservation will be, can really
30 provide a great help to the main proponents. So
31 thank you.

32 FACILITATOR BROOKS: Thanks Sonja.
33 Terri, we'll head down to you.

34 MEMBER BEIDEMAN: Okay. So these are
35 Appendix 2 listings that you're proposing? I'm
36 going to have to concur with Dr. Sissenwine on
37 the rationale.

38 Particularly because it affects, when
39 these things happen at CITES, you know, the
40 United States, of course, takes it seriously,
41 comes back and implements it. And we don't have
42 particularly, at least the industry doesn't have
43 like a strong sense that that's happening
44 everywhere.

45 So we feel, once again, that often,
46 particularly when we propose it or co-sponsor
47 things, that we're being sacrificial a little
48 bit, sacrificial lambs.

1 And the data deficient situation with
2 regard to sharks globally, you know, I know you
3 have to exercise precaution. But at the same
4 time, you have to consider the ramifications on
5 our fisheries of these listings. And whether or
6 not other countries are actually doing it. And I
7 don't see a lot of teeth in trying to make that
8 that's happening. Thanks.

9 FACILITATOR BROOKS: You want to jump
10 in on that?

11 MS. GMAN: I guess to clarify once
12 again, the U.S. is a co-sponsor, a proponent of
13 the devil ray proposal. We are not a co-
14 proponent on the thresher or silky sharks.

15 The U.S. did not submit shark
16 proposals for the COP. However, 50 countries
17 that felt it was needed did submit a proposal.
18 And so, now we're in a process where we're
19 evaluating the information. We're looking at
20 what the U.S. position should be at that COP.
21 And I do recognize some of the concerns that have
22 been expressed here. And definitely that's why
23 we're looking at delayed 18 month implementation
24 period. Because we do feel there will be some
25 challenges to these listings, particularly
26 thresher if it were to be adopted.

27 We're committed to working with you.
28 Really to understanding more about this fishery.
29 Because unlike the previous shark proposals, our
30 understanding is that thresher and silky but
31 particular thresher is really mostly geared
32 towards a meat trade and not a fin trade per se.

33 I mean, I've had people tell me they
34 discard the fins for threshers and they really
35 focus on the meat. And so, we think that that
36 definitely is an implementation challenge.

37 And that said, we seek to understand
38 whether that meat remains in the U.S. How is it
39 exported if it is exported? You know, where are
40 the ports of landing? We have lots of questions
41 that deal with how we would implement this
42 listing. And we don't want to be unfair to our
43 U.S. fishermen.

44 And to address your point, we are very
45 actively engaged in CITES with other countries
46 looking at their implementation of the listings.
47 Our bar for any listing is we don't see them as
48 paper exercises. We see it as the first step in

1 a process to get effective regulations,
2 sustainable use, and legal trade in a species.

3 And so, whenever these items come up
4 in CITES significant trade and resolutions, we
5 are very much at the forefront of arguing that
6 countries need to effectively implement listings.

7 Since the last shark listings, we've
8 been actively engaged in many workshops in
9 Central America with their fishing industry to
10 help them implement the listings. We're
11 committed to building their capacity so that,
12 basically, when they make a non-detriment finding
13 it has the same robust rigor as a U.S. non-
14 detriment finding.

15 So it's not an easy thing. And it
16 takes time. But we are committed to that. And
17 share that concern that you expressed.

18 In terms of the science, I think this
19 is one where, you know, we're looking at the
20 science. We're looking at what our experts tell
21 us. We're looking at the FAO.

22 But when we look at these proposals,
23 it isn't just the status of that species in the
24 U.S. It is looking at it globally. And when we
25 look at silkys in particular there, we think in
26 the Pacific there is a deficiency.

27 Some of those populations do meet the
28 criteria. FAO comes up with like an executive
29 summary conclusion looking at the population
30 globally with the U.S. factored in.

31 Our concern is how do we get better
32 management then for these other populations that
33 FAO did acknowledge some of the populations do
34 meet the 80 percent decline criteria. Maybe as a
35 whole the species doesn't. But how do we get
36 there and try to do better for these shark
37 species as a whole?

38 So I hear the concerns expressed here
39 today. And you know, as we said, this is a
40 tentative position. We're going to be looking at
41 information that we get.

42 But if you look at the public
43 comments, we have received quite a lot of
44 comments that were supportive of these actions.
45 And so, we don't tie our decision making just to
46 FAO. We look at everything in totality. You
47 know, ICUN, look at other groups and what they're
48 telling us too.

1 FACILITATOR BROOKS: Thank you. Yes
2 go ahead Terri.

3 MEMBER BEIDEMAN: Thank you for that.
4 I just feel like it's important that
5 international bodies and international rules and
6 things like that take a look at our relative
7 impact.

8 And I realize that it's a little bit
9 apples and oranges with you guys. But you know,
10 our relative impact of this country's fishermen
11 on certain stocks is nil. And you know, so I
12 think that factor needs to go into the equation
13 somewhere. Thank you.

14 FACILITATOR BROOKS: Thanks Terri.
15 I've got four people in the queue. I've got
16 Rusty, then Mike, then Rich, then Shana. And
17 Ben, I think your card maybe was a leftover?
18 Yes. Okay. So Rusty?

19 MEMBER HUDSON: Rusty Hudson, Directed
20 Sustainable Fisheries. In my past life I was a
21 shark fin buyer. And the common thresher, we do
22 sell the fins to the Orient. And it is allowed
23 to be caught and sold. It is a meat market and a
24 fin market.

25 The big eye thresher is prohibited and
26 has been since 1999 for our country over from
27 Maine to Texas and the Caribbean. The pelagic
28 thresher appears not to exist in the Atlantic
29 Ocean.

30 If I recollect correctly about the
31 silky and thresher listings, it was proposed in
32 the Indian Ocean region. And I would discourage
33 you to do anything with common thresher.

34 Silky shark worldwide distribution
35 almost as thick as blue sharks. Can't tell you
36 about the genetics, whether there's similar
37 scenario with the same population segments like
38 you have with the scalloped hammerhead.

39 But I went through that exercise with
40 the hammerheads. Scalloped hammerhead was listed
41 by CITES for Appendix 2 for record collection.
42 Now we have to go through an entire whole new
43 protocol with Fish and Wildlife Service in order
44 to export the fins of the scalloped hammerhead.

45 And to appease the law enforcement
46 even though you can tell the differences. The
47 smooth hammerhead and the great hammerhead, all
48 three are allowed to still be landed by our

1 commercial fleet, our bottom long line fleet.

2 But in the case of the smooth
3 hammerhead, it's not as common for us to see
4 that. It was mostly a pelagic animal. I believe
5 as to agreement with ICCAT, silky is no longer
6 allowed to be landed by our pelagic fleet. And
7 perhaps even by our HMS recreational license
8 people.

9 But it is, as I said, allowed to be
10 landed by our normal coastal shark fishery. And
11 it is considered coastal shark. So I would see
12 quite a lot of silkys at one point from my
13 pelagic fleet up until I stepped away from that
14 business in the late 90's.

15 But I keep track of all that business
16 because I consult for all of the shark industry.
17 So I would definitely discourage any kind of
18 thing with silky and any kind of thing with
19 common thresher.

20 I don't have a problem with manta rays
21 or devil rays or things like that. I mean, I've
22 always tried to release them in the best
23 condition I could when I interacted with them
24 which was usually with my shrimp gear near shore.

25 And so, all of this becomes
26 problematic as we have to probably follow a
27 similar protocol to create written records. And
28 then to go through processes if we're exporting
29 anything.

30 And I can't speak for the California
31 thresher fishery that existed down in Southern
32 California. You'd have to look into it a little
33 bit more. But I'll just end it there.

34 FACILITATOR BROOKS: Thanks Rusty.
35 Mike?

36 MEMBER PIERDINOCK: Thank you. Mike
37 Pierdinock. I don't need to repeat what's
38 already been said which I agree with Dr.
39 Sissenwine and colleague way down at the end of
40 the table as well as Rusty.

41 I just want to note, I fish north of
42 Cape Cod and south of Cape Cod in the waters
43 there. You know, as far south as the dump which
44 is, you know, 30 or 40 miles east of Montauk.
45 There's no lack of common thresher sharks.

46 And to see this being thrown in the
47 table is concerning and where this ultimately
48 could go. And the fact that it looks, there's an

1 inclusion and it looks like the big eye thresher
2 -- there's no big eye threshers up there.

3 So I'll just once again say there's no
4 lack of common threshers. I'm concerned where
5 this ultimately would go. Charter boat captains,
6 recreational anglers, and tournaments rely on
7 this species.

8 And to have this ultimately end up
9 somewhere where we don't want it to end up could
10 have a detrimental impact on all of us. Thank
11 you.

12 FACILITATOR BROOKS: Thanks Mike.
13 Rich?

14 MEMBER RUAIS: Rich Ruais with the
15 American Bluefin Tuna Association. With all due
16 respect, I think you've dodged the question
17 basically that Dr. Sissenwine was asking you.
18 And that is why is the United States proposing to
19 disagree with the FAO scientific experts?

20 Do we have a better group of
21 scientists than the FAO experts? What are the
22 implications down the road? Any time a country
23 doesn't like a listing, they simply say we're not
24 going to listen to the FAO experts this time
25 around.

26 The only justifications you gave was
27 when he offered you the option of saying we have
28 a policy maybe that gives us reason. And you
29 mentioned the numbers of countries. Oh well, 50
30 countries are supporting it. So therefore, maybe
31 we need to do it. Comments, overwhelming
32 comments to do it.

33 We know how the comments, electronic
34 comments, how easy it is to generate them today.
35 That's not a legitimate basis over solid
36 scientists.

37 And I'd like to know where's the list
38 of the scientists you use where you think you can
39 substitute their judgment for that of the FAO
40 scientists? Thank you.

41 FACILITATOR BROOKS: Someone want to
42 speak to that? Or have we covered that
43 sufficiently?

44 MS. GNAM: I'll try once more to try
45 to explain our policy on the FAO expert panel.
46 Basically if you look at the history of the
47 United States, there's a long history of being
48 supportive of shark conservation at CITES.

1 The very first time the U.S. took a
2 proposal for hammerheads, dusky, and sandbar
3 shark at Cutter, COP10, some of you may remember
4 that COP, essentially FAO that time, the panel
5 found that they didn't meet the criteria. And
6 basically the U.S. still supported those
7 proposals.

8 And then the next COP comes and COP13
9 for the hammerheads, we get a review from FAO
10 that supports it. I mean, I'm sure all of you
11 are aware that you can look at scientific data
12 and there are gray areas.

13 And we think that, based on the
14 arguments we've heard from some of the scientists
15 for the specific countries, basically they're
16 making some arguments for their populations. And
17 that's what we're looking at.

18 I know, I grant you we've said in our
19 previous Federal Register notices, we're not
20 finding a problem with the U.S. management of
21 this species. But CITES takes a global
22 perspective.

23 And so, I guess we need to weigh that.
24 We'll take the concerns we heard today back to
25 our leadership. But it is not the U.S. I want
26 to be absolutely clear on this. The U.S. is not
27 obligated by the FAO panel review in any shape or
28 form on any proposal.

29 We have a history of supporting the
30 proposals themselves on when the information
31 presented in the proposals. We've seen panels.
32 We've participated at FAO panels. We just
33 recently participated at the Nautilus, review of
34 Nautilus for this COP.

35 There are ways of scientists
36 connecting the dots and interpreting data
37 differently. And so, we appreciate the FAO
38 review. But as I've said, there have been other
39 groups that have looked at the same data traffic,
40 World Wildlife Fund, and their scientists have
41 drawn different conclusions.

42 I think for threshers in particular,
43 there is a conflict of differing opinions among
44 scientists on thresher sharks and their current
45 status. And I acknowledge that.

46 And that's about the best I can say
47 right now. I don't know if my colleagues want to
48 add anything.

1 FACILITATOR BROOKS: Thank you.
2 Appreciate that. Shana?

3 MEMBER MILLER: Thanks. I'm Shana
4 Miller with the Ocean Foundation. And I also
5 work closely with PEW. I want to echo Sonja's
6 support of the U.S. leadership on sharks.

7 And as you say, there's been a long
8 history of support for sharks at CITES from the
9 U.S. And just, I mean you said it very clearly
10 in your presentation. But just so everybody
11 knows, Appendix 2 does not ban trade or wouldn't
12 ban trade of any Appendix 2 listed species. So I
13 think maybe, hopefully, that would allay some of
14 the concerns.

15 But if I may, I'd like to go over to
16 the Pacific. You know, getting at Mike's point
17 of decline. Pacific bluefin have declined by
18 97.6 percent from unfished levels. The
19 rebuilding target that's been adopted by the
20 RFMOs is just 6.4 percent of the unfished levels.
21 We had another meeting a couple weeks ago. There
22 was no agreement to change management. That was
23 a joint meeting between WCPFC and IATTC. And we
24 were really disappointed that they U.S. would not
25 support even adding an agenda item on Pacific
26 bluefin at CITES let alone a resolution.

27 The science came out too late to work
28 on a proposal. But still, you know, we were
29 disappointed that the U.S. wouldn't support even
30 an agenda item to raise Pacific bluefin at CITES.

31 And we hope that the U.S. can take
32 more leadership on Pacific bluefin at the COP.
33 Because certainly, the RFMOs are not doing it.
34 Thanks.

35 FACILITATOR BROOKS: Thanks Shana.
36 Anybody else wanting to jump in on this? Okay.
37 So I guess main things I'm hearing are one,
38 obviously some concern about deviating from the
39 FAO experts and their recommendations.

40 Several people weighing in on avoiding
41 silky and thresher for listings. As well as some
42 thanks around the table for engaging on the shark
43 issues at the CITES forum.

44 And then lastly, a request to think
45 about, not to think about but to actually at
46 CITES Pacific bluefin tuna issues in the coming
47 years, months.

48 So if that's it, I think we will let

1 you all go. Thank you Angela and team.
2 Appreciate it very much. All right.

3 So our last primary presentation today
4 will be from Dr. Chris Rogers with the Office of
5 International Affairs and Seafood Inspection.

6 DR. ROGERS: Good afternoon. It's
7 great to be here. And it's even better because
8 after making several of these presentations for I
9 don't know how many years, there are actually
10 final rules for at least two of them. And one
11 about to be final. So it's an accomplishment.
12 But obviously, most of the work will be in
13 implementation.

14 So I'm going to talk about three
15 regulatory items from the Office of International
16 Affairs and Seafood Inspection. One is our
17 recently published final rule on the import
18 restrictions under the Marine Mammal Protection
19 Act.

20 And the other is our final rule for
21 integration of trade monitoring programs within
22 the ITDS, the International Trade Data System, a
23 government wide program. And then finally our
24 seafood traceability initiative.

25 So first we'll start with the Marine
26 Mammal Protection Act. The driving factors for
27 this rulemaking, obviously global bycatch is a
28 recognized threat to marine mammals. It's been
29 dealt with in U.S. fisheries. A lot of concerns
30 about bycatch abroad and how we can address that.

31 The U.S. does import about 90 percent
32 of its consumable seafood at this point. So we
33 have a dual concern both in terms of a level
34 playing field for U.S. fisheries which can be
35 disadvantaged when we do have protections in
36 place for marine mammal bycatch, but also we have
37 an influence that we can exercise by the strength
38 of our market.

39 A key driver for this driver, in fact,
40 was a petition. It was a petition to prohibit
41 swordfish imports from long line fisheries that
42 had significant marine mammal bycatch.

43 Specifically in the petition they were
44 looking at imports of swordfish from Singapore.
45 Singapore is not a fishing state per se but a
46 processing state for many fleets in the Pacific
47 region. And there was concern about the marine
48 mammal bycatch in those fisheries.

1 So in receipt of that petition, we
2 concluded that we actually needed to do
3 rulemaking to be clear and establish a formal
4 process.

5 The petition was issued or submitted
6 to the agency on the premise of Section 101.A.2
7 of the Marine Mammal Protection Act, basically
8 requiring the Secretary of the Treasury wherein
9 Customs lied at the time -- Customs is now in
10 Homeland Security.

11 But nonetheless, the act stated
12 Secretary of the Treasury shall ban the
13 importation of commercial fish products where the
14 kill or incidental serious injury of ocean
15 mammals is in excess of United States standards.
16 And Secretary of Commerce shall insist on
17 reasonable proof.

18 So the act put the onus on the foreign
19 fisheries, the flag nations of those vessels, the
20 exporters to provide that proof to the Secretary
21 to ensure that these products were admissible
22 under the provisions of the statute.

23 The reason we concluded rulemaking was
24 necessary was the U.S. standards. For those
25 familiar with the Marine Mammal Protect Act
26 implementation domestically, we set up take
27 reduction teams and look at each fishery or
28 combination of fisheries in a unique setting in a
29 unique context.

30 So we don't have a clear uniform
31 standard across all fisheries. So we needed to
32 figure out exactly how we could articulate a U.S.
33 standard. And that's why we engaged in the
34 rulemaking process to gather public comments on
35 that.

36 It was lengthy. I think we received
37 that petition in 2010. Here we are in 2016. We
38 went through a proposed rule and comment period
39 that lasted about a year. The proposal was
40 published last August. The final rule published
41 this August.

42 What does the final rule require? It
43 starts a five year exemption period that
44 parallels the five year exemption period we had
45 domestically in implementing the Marine Mammal
46 Protection Act, the so called commercial
47 fisheries exemption that existed for five years.

48 And during that period, we will start

1 the process. I guess you could say the ball is
2 in court to start the process by classifying
3 foreign fisheries.

4 We will develop what we call a list of
5 foreign of fisheries, notify the countries
6 participating in those fisheries of our concern
7 about marine mammal bycatch, encourage them to
8 develop a regulatory program. Certainly we can
9 assist in communicating how we have dealt with
10 these problems domestically through our take
11 reduction team processes.

12 They have to provide a progress report
13 midway through the exemption period. And by the
14 end of that five year period, they have to apply
15 for and receive a comparability finding. In
16 other words, we will make a finding that their
17 marine mammal bycatch mitigation measures are
18 comparable in effectiveness to United States
19 standards.

20 If they fail to receive a
21 comparability finding, then their products of
22 those fisheries may be subject to import
23 restrictions under the authority of the Marine
24 Mammal Protection Act.

25 First off what we will do, as I said,
26 is initiate the process with developing and
27 communicating this list of fisheries. They'll be
28 classified initially in two ways, exempt
29 fisheries that would correspond under our own
30 domestic program to a Category 3 fishery, a
31 remote likelihood of interactions with marine
32 mammals. And we have standards for that under
33 our Category 3 criteria.

34 But for what we call domestically
35 Category 1 and 2, we call those export fisheries.
36 They will be the list that is communicated to the
37 foreign exports. These export fisheries are
38 known or assumed to have marine mammal
39 interactions that are of concern, a level of
40 concern of the United States. And therefore will
41 be subjected to the program of engagement and
42 consultation with exporting countries.

43 For all fisheries, whether they be
44 exempt or export, the requirement that is
45 absolute within the U.S. standard under the
46 Marine Mammal Protection Act is that intentional
47 killing must be prohibited.

48 So here's just a diagram showing the

1 process. We'd start off with the U.S.
2 identifying those foreign fisheries, those
3 foreign export fisheries of concern. We'll
4 notify the exporting countries.

5 We will have consultations to explain
6 why we concluded that these export fisheries are
7 a concern. And why we wish those countries to
8 provide more information about marine mammal
9 bycatch in those fisheries.

10 How those fisheries are regulated,
11 where they operate, what information they have
12 through observer programs or log books about
13 marine mammal bycatch, independent information
14 about marine mammal interactions in those
15 fisheries. And then to embark on a regulatory
16 program to address those concerns.

17 They would submit a progress report
18 midway. We just don't want any surprises at the
19 end of the five year period. So that's why we
20 require a progress report.

21 Afterwards, they would submit an
22 application for a comparability finding. That
23 would be a U.S. decision based on how we have
24 addressed marine mammal bycatch in similarly
25 situated fisheries domestically and the
26 effectiveness thereof. And we'd compare that to
27 the effectiveness relative to the foreign
28 fishery.

29 If a comparability finding is denied,
30 the country can certainly reapply after taking
31 additional actions. If it's granted, then
32 obviously the products can continue to flow into
33 the U.S. market.

34 There is a four year review. And
35 there are provisions for revoking also a
36 comparability finding if information arises that
37 would indicate the basis for that comparability
38 finding no longer exists.

39 So it's a pretty involved process. It
40 will take some time to implement. But we already
41 know that many foreign exporting nations are very
42 interested in seeing this list as soon as we can
43 get that developed and get that out.

44 The scope of how this rule might
45 affect our exporting partners, about 120 nations
46 export fish products to the U.S. Fifty nations
47 or more export tuna and swordfish.

48 We import a total of about 67 marine

1 species. Tuna, shrimp, and salmon are the
2 largest volume imports. And the top exporting
3 nations are Canada, Chile, China, Japan, Mexico,
4 Taiwan, Thailand, South Korea, and Vietnam. So
5 certainly those countries are keenly interested
6 in this rule.

7 We are doing some outreach at this
8 point in time. The rule was just published in
9 August. It can be found, there is a docket on
10 the Federal Register website to see the final
11 rule and its requirements. Resources and
12 material are posted on our International Affairs
13 website. We have some fact sheets there.

14 We will do a series of public
15 webinars. These are geared not only for
16 interested U.S. parties but exporters. We tried
17 to cover the clock so to speak so we can allow
18 some dial in for the webinars from Europe and
19 Asia as well. So you're certainly free to
20 register for those webinars and listen in.

21 And Nita Young of our office who is
22 the principal author of the rule and certainly
23 the best expert we have on its implementation,
24 she'll be conducting some outreach over the next
25 several months. And certainly leading the
26 process towards the development of that list of
27 export fisheries.

28 So do you want me to go through all
29 three? Or do you want to break?

30 FACILITATOR BROOKS: Let's pause here.

31 DR. ROGERS: I would propose we break
32 then. And we'll take questions on this one.

33 FACILITATOR BROOKS: Let's take a few.
34 I'm sure there's some interest around the table.
35 So Scott, we'll start over there with you.

36 MEMBER TAYLOR: First of all, I want
37 to obviously applaud the Agency and everybody
38 that worked on this. It's certainly a big step
39 in the right direction that the U.S. fleet with
40 everything that we have to comply with, certainly
41 not limited just to the marine mammal
42 interaction. It puts us at a severe disadvantage
43 from a complete marketability standpoint. It
44 really puts us at an inability to compete. In a
45 lot of countries, the domestically produced
46 product is the product of preference.

47 Just a little background, I manage a
48 fleet of longline boats. In our case, we are at

1 a disadvantage simply because of quality, price,
2 and transportation issues have made us so that we
3 just financially can't compete in a marketplace
4 that doesn't always recognize and preference
5 domestically produced products. And so the only
6 hope that we have of survivability, given the
7 continuing regulatory constraints that are put on
8 us, is that the tabletop and the playing field -
9 however you want to call it - gets leveled.

10 So while I applaud this, there are two
11 comments that I'm going to make. One, I know
12 there's nothing we can do about, which is
13 obviously a five-year implementation. It doesn't
14 exactly give us much in immediate relief right
15 now. But the second part of it concerns me to a
16 much greater level. And I think that as you
17 start to talk about traceability, I think you're
18 going to talk about that and some of the other
19 things.

20 This will apply to that as well.
21 Which is really the ability for us to have a
22 level of verification that's going to mean
23 anything from particularly a lot of these third
24 world countries that export product here into the
25 U.S., where you virtually can get anything rubber
26 stamped. If you've been down there and actually
27 seen the way that these fisheries operate, you
28 know, you would understand. And I'm not saying
29 that you haven't, but you would understand what
30 I'm talking about. This is not like the
31 Department of Commerce here in the U.S.A.

32 I have a great deal of concern that
33 the product that's going to wind up here is in
34 fact going to be constrained to the same criteria
35 that the U.S. is requiring in a meaningful way.
36 Because if they have to do all of those things
37 obviously we're going to compete. And I was
38 hoping maybe that you could speak a little bit to
39 what your plans are in terms of having that level
40 of verification coming from this as this
41 develops. I think that's the most important
42 part, I guess, of implementation.

43 FACILITATOR BROOKS: So verification.
44 What does that look like? What is the thinking?

45 DOCTOR ROGERS: Well, our thinking is
46 obviously once we publish the list of fisheries
47 and contact the affected nations and begin
48 consultations. We will certainly share what is

1 required of similar U.S. fisheries domestically.
2 There may be some cases where we say, well the
3 gear is the same. The species, swordfish, that
4 they're targeting is the same. The marine mammal
5 species that they're interacting with are
6 similar. There may be situations that are very
7 similar. Where we can encourage the, if you want
8 to say, direct adoption of the U.S. practices,
9 best practices.

10 In other situations, they may not be
11 strictly comparable. So we can certainly advise
12 on the types of things we do. Again, drawing on
13 our cape production team process and the variety
14 of mechanisms that we have applied here in the
15 United States' fisheries. And come up with an
16 agreed measure. Obviously, we don't want to face
17 a situation, nor do the exporting countries want
18 to face a situation where in five years, they
19 drop the application in our laps and we say,
20 "Sorry. We can't give you a
21 comparability finding."

22 There's an interest in maintaining
23 access to the U.S. market and certainly our
24 interest to some extent in helping these
25 countries achieve marine mammal bycatch
26 reductions similar to what we have achieved in
27 the United States. So it's a process of
28 consultation, examination, visiting, capacity-
29 building, technical assistance. Will we have
30 people on the docks in these countries? We
31 likely don't have the resources to have U.S.
32 enforcement agents. It's probably not lawful
33 under those countries to have our law enforcement
34 personnel on their docks.

35 But to the extent that we have third
36 parties that may be interested. Buyers, sellers,
37 environmental NGOs that have information. They
38 can certainly advise and help us engage in that
39 dialogue with those nations. And you're saying,
40 "Well we looked at your regulatory program. You
41 told us you implemented, but we have evidence
42 that bycatch is still occurring, that serious
43 interactions are exceeding the levels that you
44 reported. That we may have to revoke your
45 comparability finding. In which case X many
46 species that we currently receive from your
47 country could be in jeopardy of being
48 restricted."

1 So, that's the ability to emphasize
2 that we mean business. And the trade restricting
3 measure is the stick, if you will. Our ability
4 for technical assistance is the carrot. And we
5 will use both approaches.

6 FACILITATOR BROOKS: Sorry, just a
7 quick follow up question. Is there any challenge
8 component of the law? Where if a U.S. third
9 party wanted to challenge the finding of
10 comparability?

11 DOCTOR ROGERS: Well, the issuance of
12 a comparability finding certainly could be met
13 with different reviews. We just heard a
14 challenge, so to speak, to the FAO finding about
15 the CITES listing proposals. There may be
16 differences of opinion as to effectiveness, or
17 likelihood of effectiveness. If that information
18 is brought to bear, we can certainly consider it.
19 We can demand more information.

20 Again, the standard here under the
21 Marine Mammal Protection Act is that the foreign
22 exporting nation must provide reasonable proof.
23 So if it's not reasonable or not believable, not
24 plausible, we would have grounds to revoke the
25 comparability finding.

26 FACILITATOR BROOKS: Terri?

27 MEMBER BEIDEMAN: Nice to see you,
28 Chris. I haven't seen you in a while. I want to
29 thank you for moving this along. It's been
30 awhile in the pipeline and we're glad that I
31 didn't get lost. We know that we all have
32 concerns about it, but we do agree, let's get it
33 rolling. We do have of course, a market that
34 countries like to come into. And I think that,
35 you know, we are the gold standard here.

36 I have a little concern with the
37 interpretation of comparability since we are more
38 zero mortality rate goal. I'm real curious to
39 see what that's going to look like elsewhere.
40 But I'll hold my tongue, at least for now. But,
41 I know that you have to walk a really careful
42 line with the WTO and other trade issues with
43 putting in these types of things. And you know
44 what, I think it's a good first step and I
45 certainly concur with others around the table
46 about trust but verify. I think that's critical.

47 I'm pleased to hear that the
48 governments are going to be the ones who actually

1 sign on the dotted line. Because we all know
2 that companies come and companies go. And you
3 can change your name in two days and be something
4 else. Thank you very much for finally, at long
5 last, seeing these and I wish you Godspeed on
6 that.

7 FACILITATOR BROOK: Thanks, Terri.
8 Mike, and then up to Rich.

9 MEMBER SISSEWINE: Yes, thank you.
10 I certainly understand the desire to level the
11 playing field and I support that 100 percent.
12 But looking at this particular approach, it's
13 pretty obvious it's going to be resource-
14 intensive. You know, all this is going to take a
15 lot of people, a lot of FTEs and so on. So I
16 think some of the things you have to consider are
17 the relative benefits of this action versus three
18 more people doing shark assessments in the
19 southeast center. Or something of that nature.

20 Now, I know that's not your problem.
21 But I think as a community, those are the sort of
22 issues that need to get weighed and I do have
23 concerns about them. I have concerns about them
24 because this workload is all going to come up in
25 the next several years. The proof in the pudding
26 as to whether it's actually useful is going to be
27 five, six years out, and who knows how long.

28 And so in the interim, we are
29 investing lots of resources without really any
30 proof that it will work. And so I really am
31 concerned about making that investment without
32 doing a pretty critical analysis of the
33 likelihood of success. One of my concerns on
34 that is is that for some species that we are
35 trying to protect, and therefore level the
36 playing field so everybody protects them. It's a
37 true conservation issue.

38 You know, we're worried about killing
39 a right whale in a lobster fishery. Because
40 that's an endangered species, among the most
41 critically endangered and a true conservation
42 issue so that I can see that being effectively
43 argued in terms of the level playing field
44 between U.S. lobster fishermen and Canadian
45 lobster fishermen.

46 But when you talk about killing a
47 marine mammal that's not at all endangered, let's
48 call it a California sea lion - that's anything

1 but, or a seal in New England right now. How is
2 the World Trade Organization going to - so the
3 reason that we don't kill California sea lions or
4 whatever other marine mammal population is in
5 high abundance, is purely a societal judgement on
6 the part of the U.S. It's our cultural
7 judgement, our value judgment.

8 How is the World Trade Organization
9 going to respond to us essentially trying to
10 impose that societal judgement on Canada?
11 Norway? Other countries that don't feel the same
12 way. And to me, that's a pretty fundamental
13 issue that I want to understand before I invested
14 in three people to collect data in Indonesia
15 versus three people to do stock assessments in
16 the southeast. Thank you.

17 DOCTOR ROGERS: Well, unfortunately we
18 don't have a WTO expert here before you. We did
19 work closely, very closely - sometimes we felt
20 too closely with our colleagues at the Office of
21 the U.S. Trade Representative in doing this rule.
22 You're right that there are provisions under the
23 general agreement on tariffs and trade for
24 environmental protections. And there is, I guess
25 you could say, a line that is drawn between
26 societal norms which may not be shared across
27 countries versus a legitimate concern for stock
28 conservation or stock recovery.

29 So, yes. We may be challenged with
30 respect to certain species if there's not a clear
31 cut case for conservation or recovery. And just
32 a general societal norm on the part of the United
33 States in terms of comparable and effectiveness,
34 where we're preserving marine mammals that may be
35 abundant. In some peoples' minds, too abundant.
36 But that's the provisions of the Marine Mammal
37 Protection Act that we have to implement.

38 So there is a risk there. With
39 respect to the resources, yes we do recognize
40 that. We have put forward in the presidential
41 budget request additional personnel and resources
42 to conduct this work. We'll see if that works
43 its way through the complicated budget process
44 between the President and the Congress. But it
45 doesn't speak to the issue of what's the best use
46 of these people?

47 And we do have concerns about
48 uncertainty and stock assessments domestically.

1 Whether they be for the exploited resources or
2 the protected resources. And some might argue
3 it's a better way to expend limited resources on
4 the part of the Agency to improve our science
5 basis for management and conservation
6 domestically.

7 But as I'm sure you all will
8 recognize, a lot of these species, highly
9 migratory species in particular and protected
10 resources that are encountered in those highly
11 migratory species fisheries are global. They're
12 trans-boundary and conservation will take an
13 effort of this sort. We certainly understand
14 your concerns, and if you want, I can get you in
15 contact with some of our USTR folks. And they
16 can tell you about the risks inherent in a rule
17 of this sort. But, probably we won't understand
18 those fully until we do get a challenge and see
19 how it's litigated.

20 FACILITATOR BROOKS: Thanks, Chris.
21 Chris, I know you've got more you need to walk
22 through. And we need to make sure we leave you
23 time. Rich, do you have one last quick comment
24 on this one?

25 MEMBER RUAIS: Yes, it might not be
26 that quick.

27 FACILITATOR BROOKS: I actually need
28 you to make it quick. We do need to let Chris
29 get to the rest of his presentation.

30 MEMBER RUAIS: I did sacrifice a few
31 earlier opportunities when you asked me to. And
32 I was gracious about it, I thought.

33 FACILITATOR BROOKS: Thank you, Rich.

34 MEMBER RUAIS: Chris, thank you very
35 much for this work here. And it shows that you
36 have more than ably carried out the competent
37 work that you did for ICCAT as the Compliance
38 Committee Chairman for so many years and save so
39 many fisheries as a result of that.

40 But I do have a few specific questions
41 and no qualifications on the fact that you
42 carried out good work at all. One, under this
43 import restrictions on marine mammal on countries
44 that are not meeting the same standards as our
45 Marine Mammal Act, does it require the actual
46 fishery - are you restricted to restrictions on
47 imports on only fisheries that are killing the
48 subject species?

1 In other words, getting grey seals on
2 longlines, then you'd be able to clearly restrict
3 imports on those species. Because they don't
4 meet the same standards if they presumably don't.
5 But is that the way it works? Or what is this,
6 you mentioned intentional killing. And I'm
7 wondering, there are still - well, Canada for
8 example that still has controlled kills. Sable
9 Island in particular and elsewhere, where the
10 overall population is just out of control. And
11 it's out of control in the Gulf of Maine and it's
12 out of control in Monomoy. But we won't talk
13 about that yet. We'll just mention it here. But
14 what is the intentional killing part? Can we use
15 that? That's my first question.

16 FACILITATOR BROOKS: Let's let Chris
17 respond.

18 DOCTOR ROGERS: Okay. Thank you for
19 the compliment and the tough question. Two parts
20 to the question. One is, how do we apply this?
21 It's fishery by fishery. So it will be as we
22 would define a fishery domestically, under
23 Magnuson Act, some combination of gear, area, and
24 fishing method, et cetera. So for example, if a
25 country had a Yellowfin tuna fishery by purse
26 seine and a Yellowfin tuna fishery longline, we
27 would examine those independently and see where
28 the marine mammal bycatch situation warranted
29 action to meet U.S. standards. And again,
30 comparable in effectiveness is the standard.

31 So if we gave a comparability finding
32 to the purse seine fishery but not the longline
33 fishery, it would be the longline caught
34 Yellowfin tuna that would be prohibited. And we
35 would have to put mechanisms in place to certify
36 that the Yellowfin tuna coming from that country
37 are not from the longline fishery or are from the
38 purse seine fishery. We'd have to put mechanisms
39 in place with government certification. So
40 that's how that would work.

41 If we, for example, determined that
42 none of the Yellowfin tuna fisheries from country
43 X were comparable had bycatch mitigation measures
44 comparable in effectiveness, then we could ban
45 Yellowfin tuna in its entirety from that country.
46 But we do have to make those comparability
47 findings on a fishery by fishery basis.

48 With respect to the intentional

1 killing, one of the aspects of this rulemaking
2 that was so difficult, and the reason why we
3 didn't take the petition to ban swordfish
4 Singapore on face value and just do it under the
5 statute was this notion of, what is a U.S.
6 standard? And how varied it can be across
7 fisheries. So, that was one of the aspects of
8 the U.S. Marine Mammal Protection Act that was,
9 in essence, absolute and clear. No intentional
10 killing.

11 We made that part of the rule that if
12 there is intentional killing, we did have some
13 examples in the past where marine mammals were
14 intentionally killed for use as bait and trap
15 fisheries and things like that. The example you
16 raised was intentional killing with respect to,
17 if you would say, protecting aquaculture
18 operations.

19 So that is an absolute under this
20 rule. And how we would apply that, again. We
21 couldn't give a comparability finding to any
22 fishery whereby intentional killing of marine
23 mammals was implicated in some way. With respect
24 to the particular concerns about aquaculture, I
25 guess you could say the influence and education
26 we got from our colleagues at USTR were that we
27 need to avoid forcing particular regulatory
28 solutions abroad.

29 In other words, this comparable in
30 effectiveness was a good standard because we make
31 a comparability finding. So, the notion of
32 forcing countries - again, under our social norm
33 that you can't kill a marine mammal
34 intentionally, was deemed a risky approach. So
35 basically how this would work in an aquaculture
36 situation would be that if your national norm
37 statutes regulations would allow intentional
38 killing in a situation like, let's say salmon
39 aquaculture, there would have to be a
40 certification that the particular facility that
41 is exporting to the United States has not
42 exercised intentional killing.

43 MEMBER RUAIS: What about population
44 control?

45 DOCTOR ROGERS: When you say
46 population control, I presume you're concerned
47 about killing what somebody deems as excess
48 population or using removal? Catch them here,

1 move them there? Or just -

2 MEMBER RUAIS: Right. I mean the
3 point - if a country is trying to use ecosystem-
4 based management. If you ignore the marine
5 mammal component to it, you're not doing
6 ecosystem-based. You're doing some sort of
7 partial limited ecosystem-based management. Same
8 is true with dogfishing under the Magnuson Act.
9 Those things will prevent you from doing that.
10 So I'm talking about controlled hunts so that you
11 wouldn't have grey seals, for example, eating
12 eleven pounds of codfish a day in certain areas.
13 Would that kind of intentional killing qualify as
14 enough for the United States to cite restrictions
15 on longline imports of swordfish and Bluefin tuna
16 from Canada?

17 DOCTOR ROGERS: You gave an example of
18 killing something that would eat cod. Well, if
19 we made a direct link that there was an
20 authorized program of killing marine mammals in
21 order to improve the prospects of cod fishing,
22 that may be a situation where we could draw a
23 conclusion that there's a direct link in
24 intentional killing in the management of a
25 fishery. But we'd have to make that link.
26 Obviously, it's difficult. The Act itself talks
27 about the use of commercial fishing technology
28 that results in a serious injury or the killing
29 of marine mammals in excess of U.S. standards.
30 So it's really directed towards the fishing
31 activity itself. But we did discuss and make
32 that link with respect to salmon aquaculture that
33 if an intentional killing occurs in an
34 aquaculture facility, that product would not be
35 eligible for entry into the U.S. market.

36 FACILITATOR BROOKS: Rich? Final
37 point.

38 MEMBER RUAIS: Yes. Final, quick
39 point. I rarely disagree with my good friend
40 Mike Sissenwine, but in this case being concerned
41 about cost at this point in the program, I just
42 don't share that. I do think there are ways at
43 getting some of this information. I think those
44 people who like to watch science programs at
45 night - Nat Geo programs, World Wildlife Fund
46 programs, you can find all of them.

47 And there's scientific literature.
48 You can find just in the Canadian literature, you

1 can find where they're still talking about the
2 nature of the seal hunts. The use of birth
3 control pills. Things like that that may not be
4 intentional killing - abortion, maybe.

5 FACILITATOR BROOKS: This was going to
6 be a quick point. Go.

7 MEMBER RUAIS: I'm getting to it. But
8 you get my point that there are places, I think.
9 Plus, I wouldn't underestimate industry doing its
10 own research to find instances where there are
11 other countries that are not living up to the
12 standards that U.S. fisherman are living up to,
13 with sea turtles and marine mammals. Thank you.

14 FACILITATOR BROOKS: Thanks. Chris,
15 we should let you push on to your remaining
16 presentation.

17 DOCTOR ROGERS: Thank you much. Okay,
18 the next rule. We actually started this one even
19 before the Marine Mammal Protection Act Rule. We
20 did an advanced notice of proposed rulemaking
21 back in 2009, and that was to integrate our
22 programs with the International Trade Data
23 System.

24 Again, the U.S. imports about 90
25 percent of its seafood. Several products and/or
26 nations are subject to either monitoring programs
27 or embargoes. We have a dolphin-safe labeling
28 program, we have several regional fishery
29 management organizations where we catch
30 documentation schemes. We do have embargoes on
31 certain countries because of their dolphin
32 interactions in certain Yellowfin tuna fisheries.
33 So that's the premise for the need for monitoring
34 imports of certain products.

35 The Customs Modernization Act of 1993
36 established what we call the National Customs
37 Automation Program, ACE/ITDS. ACE is the
38 Automated Commercial Environment. ITDS is the
39 International Trade Data System. So as customs
40 likes to say, ACE is the mechanism, the portal.
41 ITDS is the concept of a single window of
42 entering and extracting information.

43 Given the, I guess you could say, lack
44 of progress in some parties' view of the Customs
45 Modernization Act implementation of that
46 automation program, the Safe Port Act actually
47 gave a little jump start to the project by
48 mandating and participation by all agencies that

1 make admissibility decisions. So in other words,
2 if the FDA has a food safety concern and they can
3 admit or reject a product based on the food
4 safety concerns, they are an admissibility
5 agency. Likewise, we are an admissibility agency
6 for where the fish was lawfully acquired or
7 properly labeled, or subject to an embargo or
8 meeting RFMO catch documentation requirements.

9 So, we are a partner government agency
10 mandated to participate in the project. To
11 further it along even more quickly, the President
12 issued an executive order in February of 2014.
13 It called for streamlining the exports/import
14 process and mandated that all partner agencies
15 actually use and become fully integrated in that
16 single window by December 2016. Obviously to
17 complete the project under the current
18 administration.

19 So that accelerated customs as well as
20 well as all of the other partner government
21 agencies. That's the PGA circle you see there.
22 The partner agencies. Under the partner-based
23 processes of the past, the trade community was
24 working in a paper environment with certificates
25 and documents with those partner government
26 agencies. They were electronically submitting
27 entry filings with customs. But customs then had
28 to talk to the partner agencies. Have you
29 received the documents? Can this be cleared for
30 release at the port? It was very slow and
31 cumbersome. It involved a lot of paper. Some
32 people had to use couriers to expedite things,
33 that was costly.

34 But under the single window vision to
35 the right side of the screen, you can see that
36 the ACE, the Automated Commercial Environment, is
37 used by the trade to submit all information
38 electronically. And all of the partner
39 government agencies will receive that information
40 in real time electronically, and communicate back
41 through ACE to the trade. So release of goods
42 will occur much quicker. And the information
43 necessary to make those admissibility decisions
44 will be available to the partner agencies much
45 quicker.

46 So streamlining the process is the
47 goal. And there are 47 partner government
48 agencies involved in the project. National

1 Marine Fisheries Service is one of them. We
2 issued our final rule in August of this year.
3 The final rule requires the use of the ACE/ITDS
4 single window for collecting data at entry and
5 export.

6 It's three existing programs that were
7 converted. The Highly Migratory Species
8 International Trade Program, that's the ICAT
9 documents for big eye swordfish, Bluefin tuna,
10 and other RFMOs as well. The Antarctic Marine
11 Living Resources Program, Antarctic krill and
12 toothfish - also called Chilean sea bass, are
13 monitored under that program. And then the Tuna
14 Tracking and Verification Program. That program
15 assures that any tuna labeled as dolphin-safe
16 offered for entry into commerce in this country
17 can substantiate that labeling on the packaging.

18 So the rule requires an import or
19 export permit. We have a National Permitting
20 System. It's web-based, it's self-service, it's
21 24/7 in its availability. And based on some
22 folks getting their permits this week, it seems
23 to be about a 15 minute process. So it should be
24 quick. Anybody who needs a permit or suddenly
25 finds out that they need a permit. When a
26 shipment is rejected, it should be able to
27 rectify that literally within a half an hour.
28 That information will be passed back to CBP,
29 Customs and Border Protection, that they have a
30 permit.

31 The data will be collected in two ways
32 via a message set as part of an entry filing.
33 Normally, customs requires that the U.S. importer
34 or the customs broker acting on their behalf
35 provide certain data elements. What the product
36 is, its tariff code or classification, volume,
37 value, who the exporter is, and certain
38 information on the entry or entry summary form.
39 It's electronic and what the partner government
40 agencies have done is they have appended certain
41 data requirements. They're all linked based on
42 the tariff code reporter.

43 So somebody makes an entry for
44 swordfish, that will be flagged as a commodity of
45 interest to the National Marine Fishery Service.
46 The system will note that certain data elements
47 are required in addition to what customs
48 requires. That would be flagged nation of the

1 harvesting vessel, ocean area of the catch, date
2 of landing, certificate number. So certain data
3 elements will be provided in the message set.
4 And then certain documents - for example, on the
5 tuna tracking and verification program, a
6 captain's statement or an observer statement will
7 attest to the fact that dolphins were not killed
8 during the fishing operation and the purse
9 seiners in the tropical Pacific.

10 So those statements are obviously not
11 going to be reported electronically. We are not
12 requiring somebody to type in the statement and
13 submit it electronically. We are saying, get us
14 an image of that statement so that we can look at
15 it and use it for corroboration of the claim.
16 It's a combination of both the imaging system and
17 the message set.

18 FACILITATOR BROOKS: Chris, I'm going
19 to just jump in to let you know we are getting
20 extremely tight on time. So to the extent that
21 you can step through it -

22 DOCTOR ROGERS: All right. Well, we
23 just won't take any questions from Rich in the
24 future, then.

25 (Laughter.)

26 DOCTOR ROGERS: All right. Let me run
27 through this one very quickly. So the importer
28 or the exporter - I should have amended this
29 slide to show the export side as well. So
30 importer record exporter must obtain the permit.
31 The person actually making the filings, the
32 customs broker, or a freight forward or shipper
33 under the automated export system will submit the
34 data and the documents either through the message
35 set or the document imaging system.

36 Software developers have a role to
37 play in that they need to develop for those
38 customs brokers software. They can transmit the
39 message sent in a way that can be understood by
40 CBP and ourselves, and test and certify that
41 software in the automated commercial environment.

42 So a quick summary. We are
43 transitioning these three programs to the
44 automated filing via the ACE single window
45 message set. And document images will be used to
46 collect that information and make our decisions.
47 We basically have a feed from customs now, every
48 five minutes. So we are seeing that in as real

1 time as you can get.

2 Utilizing inter-operable web services
3 to communicate any issues, warnings, reject
4 notices to the trade. Secure file transfer
5 protocol to get the data from CBP. We have
6 consolidating the permitting requirement. So a
7 single permit, we call it the International
8 Fisheries Trade Permit. One permit, all
9 commodities. So we don't have a situation of
10 having an importer or exporter issued multiple
11 permits. Just one permit, all commodities will
12 be effective for this program.

13 The implementation date is September
14 20th. So at that point, any electronic filings
15 with CBP will require the NMFS data and/or
16 document images. As in the other rule, we do
17 have information on our website. We've had a
18 number of webinars with the trade to highlight
19 the requirements and get them onboard by the
20 effective date. Again, September 20th. Very
21 important. And you can review that compliance
22 guide on our website. So, thank you.

23 FACILITATOR BROOKS: Thank you, I
24 appreciate it very much. Do you have anything
25 else you need to present on?

26 DOCTOR ROGERS: Well, I had another
27 presentation on the seafood traceability proposed
28 rule, but do we want to take any comments on
29 this? Or has everybody heard it so many times
30 and they're familiar with it.

31 FACILITATOR BROOKS: We don't want to
32 take comments on this. If you want to get to
33 traceability, you should just jump to it.

34 DOCTOR ROGERS: All right. Well, let
35 me jump right to traceability. This is very
36 similar in nature combating IUU fishing and
37 seafood fraud. Out of our oceans conference that
38 was initiated by Secretary of State Kerry awhile
39 back. We're having a third in the series next
40 week. IUU fishing and seafood fraud were
41 identified as major concerns. As a result of
42 that conference, the President formed a task
43 force by issuing a memorandum to relevant
44 departments and agencies. It said come up with
45 some recommendation, in short order, on what we
46 can do.

47 So that report had fifteen
48 recommendations. Recommendations 14 and 15 of

1 that report are on combating illegal fishing and
2 seafood fraud. They said that we need to set up
3 a seafood traceability program. Recognizing that
4 it might be difficult to do all at once, it did
5 acknowledge that we should take a risk-based
6 approach, or a priority approach to figure out
7 which species were most at risk for illegal
8 fishing or seafood fraud and start the program
9 with those with the eventual expansion to all
10 seafood.

11 We created a docket on the federal
12 rulemaking portal and issued a number of Federal
13 Register notices. First, asking for
14 recommendations and implementing the
15 recommendations of the task force. How to
16 identify those priority species. What data
17 elements would be necessary for establishing
18 lawful acquisition, as opposed to illegal
19 acquisition. And how could that data be
20 transmitted along the supply chain.

21 We developed some proposed principals
22 for identifying those priority species, applied
23 them to a list, and took further comment on that
24 list. We also, as part of the project, asked for
25 some comments on principles and criteria for
26 identifying trusted traders that would help
27 streamline the import/export process under the
28 seafood traceability program.

29 So all those notices and public
30 comments can be viewed in the Federal Register,
31 or the Federal Docket Management System at
32 regulations.gov. There's a good snapshot. I
33 would note that we ended up with two different
34 dockets. One because the initial one was started
35 as a non-rulemaking docket and it did end up
36 being a rulemaking activity.

37 But they are linked, as you can see
38 when you click that button - you'll see a few
39 more docket details. You'll see related dockets.
40 So you can go back and forth between the notice
41 and comment to those notices as well as the
42 notice of the proposed rule itself and comments
43 received on the proposed rule. So both dockets
44 are easily accessible through regulations.gov.

45 In terms of the proposed principles
46 for those priority species. We're looking at
47 enforcement capability of where those species
48 were caught globally. Catch documentation

1 schemes, were they in effect? Were they working?
2 Complexity of the chain of custody and
3 processing. As to how IUU product could
4 infiltrate that supply chain. History of species
5 substitution and mislabeling. History of
6 violations, illegal fishing infractions. And of
7 course, the concern about human health risks that
8 might pertain from either mislabeling or
9 adulterated product. Or even illegal fishing, as
10 we might expect it, illegal fishing is not
11 regulated, by definition, and therefore can pose
12 human health risks if the fish are not properly
13 taken care of.

14 That resulted in a list of priority
15 species subject to the proposed rule: abalone,
16 Atlantic cod, blue cod, dolphin fish, mahi mahi,
17 grouper, king crab, red king crab, Pacific cod,
18 red snapper, sea cucumbers, shark, shrimp,
19 swordfish, and the major tunas. We note that
20 because of our colleagues at USTR highlighting a
21 risk of WTO national treatment, they were
22 concerned that since we were including
23 aquaculture products within the traceability
24 program, not just wild capture fishery products,
25 that we did not have the same level of record
26 keeping and reporting at play for shrimp and
27 abalone in domestic aquaculture operations as we
28 would be requiring for imports.

29 They were very concerned about a
30 national treatment issue. So we did identify
31 that as an issue in the proposed rulemaking and
32 asked for comments about that. Another note.
33 Although we excluded Bluefin tuna initially in
34 that list of priority species because of the
35 ICCAT catch documentation scheme and the fact
36 that the Commission for Southern Bluefin Tuna
37 also has a catch documentation scheme.

38 We ended up putting it back in the
39 rule because of our concerns about a gap with
40 northern Bluefin from the Pacific Ocean that was
41 incompletely covered under the ICCAT scheme. So
42 Bluefin tuna were included in the rule, although
43 not included in that initially published list of
44 priority species.

45 What would the rule require?
46 Essentially the same as the ITDS integration rule
47 for those current programs. Electronic
48 submission of SBP data and the NMFS message set

1 that would identify what we call the harvest
2 event. Who caught it, how they caught it, where
3 they caught it, who authorized this catch? So
4 nation, ocean area, vessel authorization, that
5 kind of information. It will be a real-time data
6 feed from CBP to NMFS with image files of
7 documents.

8 So if a country does require catch
9 documents, perhaps they're a contracting party to
10 ICCAT or CCAMLR. Or they have a program in place
11 because of their exports to the EU, and the EU
12 does have its own program with documentation.
13 Those documents can be imaged similar to what we
14 explained with the ITDS integration rule through
15 the document image system of CBP. We make a pre-
16 release evaluation of admissibility. Was it
17 lawfully acquired? That's what this rule is
18 basically about. Was it a lawfully acquired
19 product? If not, it can be excluded from the
20 U.S. marketplace.

21 How it affects fraud - not directly,
22 but indirectly. If it's mislabeled or
23 misrepresented, we cannot determine that it was
24 lawfully acquired. And obviously you're trying
25 to obscure something by misrepresenting it. So
26 it will indirectly enable us to deal with the
27 fraud issue, at least at the border.

28 Fraud, further down the supply chain,
29 at the retail level is another matter. And the
30 rule does require other than the import reporting
31 but record keeping on the part of importers. And
32 all of the information about the process for the
33 Presidential task force, including the rulemaking
34 for recommendations 14 and 15 is posted at this
35 website, iuufishing.noaa.gov. It's a wealth of
36 resources there. Also, the docket itself under
37 regulations.gov.

38 Our plan is to finalize this rule
39 expeditiously. The action plan from the task
40 force had, I'll say somewhat ambitiously
41 identified a timeline of publishing the final
42 rule in August of this year. Having it effective
43 in September, and having the National Ocean
44 Council Committee to evaluate its effectiveness
45 in December of this year. As I said, that was
46 ambitious and we had proposed a rule and we're
47 trying to get it out as quickly as possible this
48 fall. And we probably won't have much to

1 evaluate with respect to effectiveness by
2 December. But we recognize that we do need some
3 period of delayed implementation in order to
4 allow the trade to come in to compliance with the
5 transmittal of information through the supply
6 chain. I hope at some future AP meeting to say
7 that this one was finalized, too. And hopefully
8 it won't be more than the spring meeting, or -
9 when is your next meeting?

10 MS. SCHULZE-HAUGEN: Sometime in the
11 spring.

12 DOCTOR ROGERS: Sometime in the
13 spring. All right. Hopefully we will talk about
14 a final rule then.

15 FACILITATOR BROOKS: Thank you very
16 much. I really appreciate the briefing. I'm
17 going to exercise a little executive prerogative
18 here. We're not going to be able to take any
19 questions right now just because of time. Are
20 you going to be staying around until the end of
21 this meeting or do you need to scoot?

22 DOCTOR ROGERS: If I need to stay
23 around, I'll stay around.

24 FACILITATOR BROOKS: Okay, I'm just
25 thinking that if people may have a question or
26 two, then they can ask you afterwards would be
27 great. But at this point, let me invite up Karen
28 Abrams from the Office of Sustainable Fisheries
29 to give us an update on national rulemaking and
30 policy.

31 MS. ABRAMS: Hi. I'm Karen Abrams.
32 I'm at a funny angle. I'm with the Office of
33 Sustainable Fisheries, Domestic Fisheries
34 Division. And I'm going to give you a brief
35 update on several national policies and
36 rulemakings. So a combination of things that we
37 have recently completed and some things that are
38 still in the works. First, these are in reverse
39 chronological order.

40 The first one is a fisheries
41 allocation policy, where our most recent release
42 was July 27, 2016. It's a policy related to
43 fisheries allocation, creating a transparent
44 process for assessing when to review allocations.
45 It calls for the identification of triggers
46 within three years. And it lays out different
47 options for identifying what those triggers can
48 be. It was developed with input from the Council

1 Coordination Committee and also with the Atlantic
2 HMS division.

3 There's a link there if you'd like to
4 check it out and follow up with any questions.
5 The whole idea is to create a more transparent
6 process for reviewing allocations. It's not
7 requiring a review per se, nor is it requiring
8 that the triggers be codified in an FMP. Just
9 that they be documented somewhere so that the
10 process is very transparent and predictable.

11 I'm not going to go through the
12 details of this graphic, but I'm just to give you
13 a sense of what's in the policy. Another item
14 that was recently finalized on June 29, 2016. We
15 finalized the final rule for the domestic
16 provisions of the 2010 Shark Conservation Act.
17 This rule is the last, the third of three
18 separate rulemakings related to the 2010 Shark
19 Conservation Act. There was a separate
20 rulemaking for the international provisions. And
21 then a rulemaking through amendment nine for the
22 2006 consolidated HMS plan for dealing with the
23 smooth dogfish exemptions.

24 The rule basically codifies the
25 provisions that are in the Shark Conservation
26 Act. One thing to note is in the proposed rule
27 we had some discussion - the proposed rule was
28 released in 2012, and we had some discussion
29 about - it was at a time when there were some
30 state laws coming and being enacted that were
31 raising some questions about how state laws would
32 interact with the Magnuson-Stevens Act. And so
33 there was some discussion the proposed rule about
34 how that might affect possible preemption of
35 state shark fin laws.

36 The final rule does not contain that
37 language anymore because between the proposed
38 rule and final, we have been in conversations
39 with those states. Ten so far, and we continue
40 to engage with states as new laws get enacted, to
41 work out the specifics of what's going on with
42 their law, and how it will be implemented. And
43 so far, the conclusions of those interactions
44 we've documented in a series of letters. They're
45 available on our website, also here on this
46 slide. We've concluded that there is not a
47 conflict based on the facts - based on those
48 conversations. Any conflict between the state

1 laws and the Magnuson-Stevens Act.

2 And then in May of 2016, the Agency
3 published and released an EBFM policy. The
4 policy is a broad document explaining what the
5 Agency means about EBFM. It provides a
6 definition for EBFM. It includes a policy
7 statement for EBFM asserting NMFS support for the
8 use of EBFM to improve decision making. It
9 outlines and includes six principles dealing with
10 everything from the foundational importance of
11 laying out objectives and doing planning to
12 fundamental science addressing tradeoffs
13 providing management advice.

14 It acknowledges a lot of the existing
15 work that has been ongoing in this arena by the
16 Agency and the councils and HMS for the last
17 several years. It also recognizes EBFM as part
18 of a continuum. There is often confusion about,
19 what do you mean by EBFM? So in addition to
20 including the definition for the purposes of the
21 policy, it lays out EBFM in the context of a
22 broader continuum, moving from single species
23 management to ecosystem approaches to fisheries
24 management. Which is pulling in those
25 environmental factors into your single species
26 management.

27 EBFM is looking across multiple
28 fisheries and can be done through fisheries
29 ecosystem plan. And so it's just really laying
30 out the framework for what the Agency means by
31 EBFM so that the Agency and the councils and you
32 all can continue to make the progress you're
33 making in implementing EBFM. So those are the
34 items that are done. That have been finalized.

35 There are also a few things that I
36 wanted to mention that are still in the works.
37 That are still actively being worked on. One is
38 a roadmap. It's out in draft form for
39 implementing the EBFM policy. That roadmap I
40 think was released towards the end of August.
41 It's available for public comment for October 15
42 of this year. And really, what it is, it is a
43 roadmap. It explains how, over the next five
44 years, the Agency intends to actually implement
45 this policy that I just mentioned earlier.

46 And again, here's a web link if you
47 would like to look at that further. But I do
48 encourage you to take a look at it and submit

1 your comments. It's not a rulemaking, so if you
2 go to the website, there's contact information
3 for how to submit your comments.

4 Another item of interest that is still
5 in the works is the final rule for National
6 Standard 1 guidelines. So, as you may or may not
7 remember, we published a proposed rule in January
8 of 2015. We received over 100,000 comments.
9 National Standard 1, of course, relates to ending
10 and preventing overfishing while achieving
11 optimum yield.

12 That rulemaking is currently under
13 review at the Office of Management and Budget.
14 It doesn't establish any new requirements per se
15 to revise FMPs, but is really building on the
16 knowledge that we've gained since implementing
17 ACLs and AMS. It's clarifying and cleaning up
18 some of the language and clarifying where there's
19 been inconsistency. And clarifying where
20 flexibilities lie while still being clear that it
21 is required to end and prevent overfishing. So
22 that rule is under review right now at OMB.

23 We also have in the works a proposed
24 rule implementing the 2012 Billfish Conversation
25 Act. That rule is meant to codify the law which
26 prohibits the importation of billfish into the
27 United States, and that's been in effect since
28 the enactment of the law in 2012. That proposed
29 rule - so that's in the proposed rule phase - is
30 still with OMB as well. So that is the status of
31 that proposed rule.

32 And then the last rule I wanted to
33 mention is a rule for implementing Section
34 303(a)(11) of the Magnuson-Stevens Act. It is a
35 rule interpreting the requirement to establish
36 standardized reporting methodologies to assess
37 bycatch. We published a proposed rule in
38 February of this year. We received numerous
39 public comments. We are working right now to
40 review and address those comments and finalize
41 the rule. And again, if you have questions,
42 there is the web link for that. I said I would
43 be short, and I was.

44 FACILITATOR BROOKS: Thank you, Karen,
45 very much. I appreciate that. If there are one
46 or two burning questions for Karen? We can take
47 them. All right. If not, thank you Karen, very
48 much.

1 MS. ABRAMS: You're quite welcome.

2 FACILITATOR BROOKS: At this point, we
3 should shift to public comment. And I know we
4 have at least one speaker, Greg DiDomenico.
5 Anyone else who wishes to make any public
6 comments? All right. So, Greg. If you would
7 find a microphone at the table, I would
8 appreciate that.

9 MR. DIDOMENICO: How's this?

10 FACILITATOR BROOKS: Oh, that's good.
11 Sure. Yes. We hear you.

12 MR. DIDOMENICO: In the interest of
13 time, I really am going to be as brief as
14 possible. Some of you have heard this from me as
15 late as the last time you met. But let me
16 introduce myself. My name is Greg DiDomenico.
17 I'm the Executive Director of the Garden State
18 Seafood Association. And I want to talk to you
19 about what I think is a potential problem with
20 the permitting of HMS fisheries and tell you why
21 I brought it up to you and why I brought it up to
22 the Mid-Atlantic Council. And also, in saying
23 that, I do appreciate the response from HMS staff
24 on this topic.

25 What I had once thought was just
26 anecdotal reports or sour grapes from our members
27 and other commercial fishermen, I think now has
28 been proven to be more than just that. The issue
29 of unregulated or illegal or unreported HMS
30 species I believe is rampant up and down the
31 entire coast. I believe to the extent that our
32 members who are involved in selling some of these
33 species, during the time when the fish are very
34 available offshore here in the Mid-Atlantic, they
35 find it difficult to even sell their fish.

36 I also continue to get reports from
37 members of mine in New Jersey who share ports or
38 slips or neighborhoods with fishermen who
39 routinely tell them - these guys are longliners
40 or other types of fishermen - who routinely are
41 told that they are crazy for following the rules.
42 They see them all over town. They sell their
43 fish wherever they want. And now, again what I
44 thought was anecdotal and perhaps sour grapes, is
45 real.

46 So in the interest of fairness, we'd
47 like these issues to be addressed. Food safety.
48 We all know these are histamine-producing fish

1 and need to be taken care of not only in the
2 interest of public safety, but according to
3 pretty strict passive guidelines. We think that
4 is a serious issue and should be taken seriously
5 for the benefit of the public.

6 Number three is what seems to be a
7 biological or management issue. I feel strongly
8 that the reporting of these HMS species of
9 numerous permits that the HMS has numerous
10 species of different possession limits and times
11 and places and other requirements. I believe the
12 reporting requirements are lacking. I believe
13 that the consequences are not there, like they
14 are for other commercial permits.

15 And I believe that of the 7,000
16 permits that HMS gives out, only 85 people are
17 reporting landings. Now if my numbers are wrong,
18 then someone should correct me and I will
19 certainly will take that to heart. But if you
20 have 7,000 people or vessels who are capable of
21 fishing, landing, selling, and only 85 are
22 reporting. That seems to be a great disconnect.

23 Now, the other part of this that I'm
24 pursuing is that the term "commercial fishermen"
25 is often, I think, misused. From what I can
26 tell, the application requirements for some of
27 these 7,000 permits are just that you have to
28 provide HMS or the Agency with the documentation
29 number. So of those 7,000 people or those 7,000
30 vessels, are any of those vessels following the
31 same strict guidelines as all the other
32 permitting requirements?

33 Such as U.S. commercial fishing vessel
34 safety sticker, of which is a pretty difficult
35 and costly issue to comply with. Do they have
36 VMS onboard? Do they have VTRs? Do they ever
37 take an observer? Do they have to report? Is it
38 voluntary? If you don't report are there
39 consequences? These are the critical parts that
40 commercial fishermen have to deal with. So who
41 are these 7,000 vessels? Are they for-hire? Are
42 they private anglers? I don't know. But I
43 believe that's where the serious conservation
44 issue is. That's where I believe the serious
45 fairness issue lies.

46 Lastly, because I know the time is
47 getting late. The agencies made it perfectly
48 clear as has the Mid-Atlantic Council that

1 ecosystem based management is going to be
2 conducted and done in the U.S. and U.S.
3 fisheries. The Mid-Atlantic Council has taken
4 very critical look and has taken serious steps to
5 control fisheries on forage, both unmanaged and
6 managed.

7 Yet we're worried about prey to such
8 extent that the councils are taking action, the
9 agencies are developing serious policies about
10 prey as their role in ecosystem based management.
11 But we're not going to apply the same critical
12 nature and the same critical regulations to
13 predators. That is a huge disconnect. The Mid-
14 Atlantic Council just finished the Forage
15 Amendment. They are going headlong into
16 ecosystem based management for many other
17 regional councils.

18 And there's been an impact to that.
19 A regulatory impact to all members, to commercial
20 fishermen because the Mid-Atlantic Council's
21 overall policy is that we need to manage prey
22 very critically and in some cases very
23 conservatively to save them for other fish, for
24 predators. Yet we don't really have a very good
25 grasp on the predators that are managed under the
26 highly migratory management. It's a serious
27 disconnect.

28 So in the interest of fairness and
29 safety and the other things that I have talked
30 about, I'd like the AP to really consider this
31 issue. I'd like them to, I think, solve the
32 problem that I see and work with the Mid-Atlantic
33 Council. And certainly I will do that and
34 certainly I will work with HMS to do the same.
35 But again, in the interest of these things that
36 I've just spoken about, we'd like some action
37 taken. Thank you.

38 FACILITATOR BROOKS: Thanks, Greg.

39 MS. SCHULZE-HAUGEN:

40 Yes, thank you Greg. And thank you for
41 bringing these concerns to us. You indicated
42 when you first started speaking that you have
43 evidence. I think that would be important for
44 you to share for us to pursue.

45 MR. DIDOMENICO: Margo, just recently
46 - I hate to even admit that part of my job is to
47 pay too much attention to social media. It's
48 sad. It takes up too much of my time. But just

1 recently, there was an article written about
2 tournaments or billfish or HMS species. And the
3 author describes that he fishes offshore and
4 listens to people sell fish on a live auction
5 over the radio. He says, come right up to the
6 boat, highest bidder.

7 Now, that's the most egregious example
8 that I can think of. The other examples are too
9 numerous to mention. People in the charter
10 industry, people in my organization tell me
11 countless stories about backdoor sales. OLE has
12 already made it pretty clear to me that this is a
13 serious topic. They make cases wherever and
14 whenever they can.

15 And, if you think about it from an
16 enforcement perspective, how does the Coast Guard
17 or NOAA law enforcement tell who a commercial
18 fisherman is? One way of telling is taking a
19 look at a fleet of boats catching tuna or
20 whatever it is and saying, oh there's a boat with
21 his documentation number clearly displayed on his
22 hull. Oh, he's got a SOLAS A Life Raft. He's
23 got an EPIRB. He's got a vessel sticker. Oh,
24 and by the looks of it, he doesn't have any
25 paying customers onboard.

26 How will they tell the difference?
27 They tell the difference and they'll only take a
28 look at who is identified correctly as a
29 commercial fishing vessel. They might pass a
30 private angler with one of your permits that
31 allows them to sell. They might pass up a for-
32 hire guy with a permit that allows them to sell.

33 At this point, who do you think they're going to
34 target? That's the problem.

35 MS. SCHULZE-HAUGEN: Okay, so thank
36 you. What I'm hearing is a mix of enforcement of
37 existing rules. Maybe some lack of understanding
38 of how the rules work. If someone has a
39 commercial permit, they are a commercial vessel.
40 Recreational permits do not allow sale. And what
41 is considered, by some, as commercial vessel, you
42 know, I'm not going to get into that. But we
43 have permits, we have very clear rules on selling
44 to permitted dealers. If someone is selling to
45 the backdoor of a restaurant, that's an illegal
46 activity. That's not necessarily a rule change.

47 So I hear you. I get that it's an
48 issue. I would encourage you to provide more

1 specifics. And whether you want to go to our
2 enforcement hotline to do that, that would be
3 fine as well. But specifics are going to be
4 really important for us to figure out a fix. And
5 whether it's getting enforcement agents to
6 particular ports or restaurants, or whether it's
7 a rule change.

8 I think these issues come up with
9 enough frequency that we intend to pursue it.
10 There have been a number of requests for kind of
11 a recreational enforcement discussion. A really
12 deep dive into the issues. So I think we will
13 look into it. And the more specifics we have to
14 look, I think the better off our looking will be.

15
16 MR. DIDOMENICO: Margo, before I just
17 literally - not a rebuttal. Just 30 seconds.
18 We're getting a little bit confused in the
19 semantics. Even Jason Didden from Mid-Atlantic
20 Council referred to it as rec sales. I don't
21 know if they're rec sales or not. If they have a
22 permit to sell provided by your office, then they
23 are commercial fishermen. They are a commercial
24 vessel that doesn't have to report. Doesn't have
25 to get a safety sticker. Doesn't have to take
26 observers. Doesn't have to throw out VTRs.
27 That's the problem. If they want to be
28 commercial fishermen, hop on in. Get the
29 equipment. That's the problem.

30 MS. SCHULZE-HAUGEN: So, we have very
31 clear permitting rules. Not all of the same
32 regulations apply across all commercial
33 fisheries. We have some legal commercial vessels
34 that do not have to have VMS. That is not an
35 illegal activity. So, I'm hearing a mix. That
36 they're not really true commercial guys because
37 they don't have all the rules that some of our
38 commercial vessels do. And that's not actually
39 how the regulations are structured.

40 So what I'm hearing is both a
41 combination of enforcement focus as well as - we
42 can lay it out in a future meeting of what the
43 regulations actually are by category. If you
44 have a commercial permit, you are a commercial
45 vessel in our eyes. Whether the coast guard
46 decides to board you or not, again. We are
47 getting in more to enforcement territory.

48 FACILITATOR BROOKS: Let me just say,

1 Greg, I'm going to ask you to hold off for now.
2 I think there's obviously a much deeper and
3 longer conversation that we need to have on this
4 topic. And I think we should save it for the
5 next AP meeting or if there's a different forum
6 for doing that. So we can tee it up properly and
7 really give it the time it merits and deserves.
8 As Margo said, this has come up several times
9 already. This is clearly an issue that needs and
10 warrants a focused conversation. Can you hold on
11 or go fast?

12 MEMBER LUISI: Very fast. This is
13 obviously an incredibly important issue at the
14 Mid-Atlantic Council. So I'll make the
15 commitment to engage our HMS Committee, Margo.
16 And we can work with you guys to maybe clarify
17 just some of the things that seem - that we seem
18 to be off-track with. Whether or not - maybe we
19 can get a presentation at an HMS Committee
20 meeting to clarify some of these rules. And then
21 we can bring that back to the AP at the meeting
22 in the spring.

23 FACILITATOR BROOKS: That sounds
24 great. I think unbundling some of these issues
25 will be helpful. Figure out where the effort
26 really needs to be. I do want to check quickly
27 and see if any of our teleconference
28 participants, if there was anyone on there who
29 wanted to make a public comment. Okay. If not,
30 then I will hand this off to Margo.

31 But before I do, I will just remind
32 folks that tomorrow from eight to eleven again,
33 it will be in the Cedar Room. Not in this room,
34 but in the Cedar Room of this hotel there will be
35 a workshop to better understand and provide some
36 feedback into the restoration planning effort
37 related to Deep Water Horizon. Again, this is a
38 fairly informal conversation but we really
39 encourage as many of you as possible to be there
40 for that conversation. And with that, Margo. I
41 almost turn to you. Pardon?

42 MEMBER CARR: Do you know what floor
43 that is?

44 FACILITATOR BROOKS: I do not. But I
45 suspect the people downstairs do. It's somewhere
46 between the fourth floor and the first floor.

47 MEMBER GREGORY: It's on the first
48 floor.

1 FACILITATOR BROOKS: First floor.
2 Thank you, Randy. Okay. Margo, all yours.

3 MS. SCHULZE-HAUGE: Okay. So this is
4 what we've done at the last of many AP meetings.
5 This is the synthesis that my staff has been
6 collecting through the meeting. I haven't seen
7 it. I've only seen it with you all. It is meant
8 to be a high-level takeaway, not a verbatim
9 discussion. We have transcripts for that. They
10 will be available in a matter of weeks. And so,
11 what I would say is that if you see some major
12 issue that we have missed or mischaracterized,
13 please let me know. This is not intended to be
14 set in stone. But if it's a more minor point, I
15 would ask that we leave that for the transcripts.

16 So again, jumping in. Comments from
17 the overview. Kind of continuing on with what we
18 were just talking about. Recreational non-
19 reporting of swordfish. How do we fix this?
20 Surface landings and illegal sales. We will add
21 a note in the presentation online on the source
22 of the data. There was the question on where
23 those fish were coming from. The commercial
24 reporting is closely monitored and recreational
25 reporting is an important issue. And there's
26 also support for a tagging program for landed
27 swordfish.

28 This was an idea that came up in
29 Amendment 8 several years ago, that we talked in
30 some detail about, a tagging program. And so I
31 think there is some interest in maybe revisiting
32 that in the note of the North Carolina increased
33 daytime fishing. And I've called TBF supporting
34 tagging.

35 Okay. Also from the overview. A
36 suggestion that I think we have some good ideas
37 on when getting an HMS permit online, these are
38 the open access permits. Potentially doing an
39 opt-in or opt-out option. Where if the default
40 is to opt-in, you have to actively opt-out of
41 getting permit information. Or listserv notices,
42 there may be a way for us to get information out
43 to more of our permit holders.

44 And then we need more information on
45 the reasons why anglers need to work between the
46 porbeagle and tuna fisheries. Explaining how the
47 ICCAT fisheries are defined domestically. And
48 then general comments from day one intro.

1 Penalty for not returning a tag. We have some
2 regulations here, as well as a link.

3 And this would be relevant to
4 everything. The General Council Summary
5 Settlement Website. When they get through fully
6 with all of the violations that they find, they
7 are posted here. So you will see things that are
8 in progress are not posted. It's when it's all
9 said and done. But that is a website that you
10 can reference for what has been gone through that
11 process.

12 Failure for reporting. Taking of
13 Atlantic tuna tagged under a tag and release
14 program is \$250 for the first offense, and \$500
15 for the second. So I think we have some of these
16 penalties already in place. On dusky sharks.
17 SEDAR 21 update concerns about the relative
18 abundance of the indices of the relative
19 abundance factors such as climate change, species
20 distribution shifts maybe impacting results.
21 Particularly in fixed station surveys.

22 The results may indicate shifts in
23 fishing practices as a result of the prohibited
24 status or closed areas, bycatch avoidance that is
25 not related to abundance. The number of
26 northeast longline sets have decreased overtime,
27 whereas the number of dusky sharks caught have
28 increased. Lots of concern that results will
29 lead to further reductions in fisheries and lots
30 of questions about the assessment, including
31 overall uncertainty, impact on projections,
32 overall catch levels recommended, and the
33 handling of data points that do not match the
34 model. A fair number of requests for a new
35 assessment or a standard to consider these
36 concerns and potentially make changes, updated
37 life history, data point methods, and looking at
38 new research that's coming through.

39 So we've got a few notes here. The
40 stock assessment update is posted. The addendum,
41 which is what Enric presented, it will be posted
42 in a couple of weeks. And that's the Draft
43 Amendment 5B. Proposed rule will be out next
44 month. We will be in touch with you all in the
45 near term on an AP meeting for that. Likely,
46 early December.

47 On Bluefin tuna catch reporting.
48 Reporting noncompliance, when does it cross from

1 an enforcement issue from an educational one. We
2 still have some technical issues, reporting by
3 phone after office hours. I think a phone app
4 would help with that. Seek opportunities to
5 streamline reporting efforts underway by multiple
6 entities, especially for-hire vessels. We are
7 hearing that on multiple fronts that's unclear.
8 I think there's a lot of opportunities there to
9 try to have one-stop shop or close to it.

10 But note also that OLE officers have
11 been out in the field doing outreach. So I think
12 we are getting support from enforcement on that.
13 We are continuing to look at pelagic longline
14 reporting discrepancies. I know trips do not
15 coincide with the month, so we may have a lag
16 there. And then some appreciation for the three
17 school bluefin limit for charter headboats. We
18 may have helped convert potential discards to
19 landings, and that is helpful for booking
20 clients.

21 On the individual bluefin quota for
22 pelagic longline, anxiety is diminishing about
23 leasing but access is still a concern. For the
24 upcoming proposed rule, provide more quota.
25 Particularly at the beginning of the year for
26 planning. The value of PLL is highest early in
27 the year. The timing is important, pro or con,
28 depending on location and timing of activity.

29 Concern that NMFS might use the
30 smaller number of active vessels to justify a
31 smaller transfer. Some question about how
32 fishing activity would be defined, and if
33 providing more quota incentivizes inactive
34 vessels to become active. A comment that it
35 would be good to provide sufficient IBQ to
36 realistically allow another Bluefin. And then a
37 question on the designation on Gulf versus
38 Atlantic. Appreciate not breaking the pie into a
39 million pieces.

40 Consider counting PLL December/January
41 straddling trips against prior year quota. And
42 then continuing concern about the complexity of
43 the rules when the longline category is not
44 catching its overall quota and concerns about the
45 overall viability of the fleet.

46 On the purse seine question. How much
47 2016 purse seine was leased to PLL via the IBQ
48 system? 46,000 pounds. I forget who asked that,

1 but hopefully they are still here. That was
2 approximately 167 fish. Comments on potentially
3 having a year-round fishery for the general
4 harpoon and charter headboat categories not
5 having seasons.

6 And then some of these issues should
7 be considered at the three-year review, including
8 potential permit sale of percent quota and the
9 desire to revisit buy boats to support offshore
10 fishing activity. And the group applauds Rom's
11 success at reuniting lost button with owner. So,
12 shout out to Rom there.

13 The swordfish directed tuna longline
14 vessel upgrading proposed rule, general support
15 for the removal of upgrading restrictions.
16 Interest in revisiting the swordfish handgear
17 upgrading restrictions. And if considering
18 swordfish handgear permit upgrading restrictions,
19 must consider South Florida issues and changes in
20 the buoy gear fishery. So I think that is
21 something that we can circle back on as well.

22 For white marlin research, Dr. Graves'
23 new research. Support for leaving white marlin
24 in the water. When releasing, to keep them off
25 ESA. Concern the U.S. is not accounting for
26 post-release mortality of marlins and support for
27 enforcement actions regarding pictures of people
28 pulling fish out of the water. Support for
29 suggesting creative ways to take release photo.
30 I think there's some good potential there. And
31 note the sampling design may not always reflect
32 reality. And that a quick photo likely takes
33 less than five minutes, but we need to consider
34 the potential implications of the number of
35 anglers practicing poor release techniques.

36 On our MRIP and HMS recreation
37 implementation plan, again. Hearing loudly,
38 avoid duplicate reporting requirements. And that
39 there are many data collections between the
40 states and LPS and MRIP. For-hire captains don't
41 want another logbook requirement but a single
42 portal would be appreciated. It can be
43 confusing, required versus mandatory reports that
44 may result in underreporting. I think this was
45 related to state requirements versus federal
46 requirements. That a captain's report and a
47 client's trip summary may conflict. And I think
48 there was greater confidence in the captain's

1 report.

2 Restrict persistent nighttime phone
3 calls from the LPS, can be intrusive. And some
4 people are blocking the number, which is not what
5 we are looking for. Suggested improvements for
6 our implementation plan. A lot of support for
7 the smart phone app as a way of getting easier,
8 faster, reporting. But that we need improved
9 compliance monitoring enforcement. A comment
10 about providing the enforcement agents access to
11 all the databases. A confirmation number is a
12 good way for enforcement to check whether a fish
13 has been reported.

14 Consider expanding the successful
15 catch card programs to other states. I think
16 we've looked at that. And we can revisit that
17 again. And that in Puerto Rico, the plan should
18 include computer and paper reporting options.
19 Because many anglers don't have smartphones.
20 Communicate better the difference between caught
21 and landed kept, where that's confused.

22 So turning to today. Draft Amendment
23 10. A question about the criteria for EFH
24 designations. Which data was included. Consider
25 whether Slope Sea should be an EFH or HAPC.
26 Consider the ICCAT implications of such. Concerns
27 about designations of HAPC for lemon sharks and
28 implications in state waters. And then confusion
29 about what an EFH designation does in terms of
30 consultations and conservation recommendations.
31 How is HMS division staff included in those EFH
32 consultations? And then, confusion about what
33 HAPC is and what it means for fisheries
34 management. So we have a neat little graphic
35 going here. I kind of like that one.

36 And then, consider the impact of
37 sampling distribution on larval density as well
38 as determining distribution of other species in
39 EFH. Lots of concerns about EFH being a slippery
40 slope towards more management actions, more
41 restrictions. General support for, I think, the
42 HAPC expansion in the Gulf of Mexico for Bluefin
43 tuna. And support for continued research on this
44 subject and the Slope Sea.

45 Recommendation to investigate nursery
46 ground for sand tiger sharks in Great South Bay.
47 We will certainly follow up on that. And then in
48 the public comments, the white shark nursery

1 ground off Long Island. We should protect white
2 sharks there. And then a post-presentation
3 comment, note to specify in the presentation the
4 importance of habitat associations. Refining EFH
5 by depth or habitat features.

6 On the 2017 commercial shark season,
7 proposed rule. Request to present shark landings
8 by species in addition to management group,
9 particularly hammerhead sharks. Concern
10 regarding fisherman landings and interaction
11 discards in state waters. There's no observer
12 coverage, fewer requirements, and less training
13 than the federally permitted fishermen.
14 Discussion about the difference between state
15 council and federal regulations, and the need for
16 consistency. And then at Western Gulf,
17 preference for a higher retention limit in the
18 beginning of the year.

19 On small coastal shark retention
20 limits, I think some support for using a higher
21 average weight. Support for alternative 3C, 8
22 blacknose sharks per trip. And suggestion that
23 NMFS should also consider toggling retention
24 limit. We have a range and then move it up and
25 down end season, as we have for large coastals.
26 The need for a stock assessment for blacknose
27 sharks. Discussion on why a few vessels are
28 targeting and the impacts on other fishermen.
29 And a discussion regarding small coastal wreck
30 size limits and the importance of these species
31 to recreational fishermen as well. So, blacknose
32 shark max size is four feet. So that would be
33 less than 54 inches.

34 Fishery Management Council updates.
35 Follow up with law enforcement with a dedicated
36 AP discussion on casted bait nets, as well as the
37 recreational reporting and sail issue. And then
38 in your feedback, I think we're looking for
39 whether we're kind of adding a more permanent
40 council update to the agenda would be of interest
41 to you all. And then Caribbean. The Caribbean
42 small boat permit, consider a Caribbean-specific
43 multi-species shark quota. Excluding the
44 scalloped hammerhead, as the ESA listed.

45 Consider mandatory electronic
46 reporting, and consider increasing the swordfish
47 trip limit. Fund research for studies in the
48 Caribbean. I know Bob made that comment, as have

1 others, with the previous proposal. Support for
2 exploring removal of species from prohibited
3 species list except for Caribbean sharpnose
4 shark. Although data is lacking. Promote
5 outreach and education to address underreporting
6 and species ID.

7 And then looking into oceanic whitetip
8 interactions that are happening in Puerto Rico.
9 That those maybe able to assist with some
10 research or tagging programs. Public comment
11 from other noteworthy dates. So this is a recap
12 of bits on number of proposed rule comment period
13 ends. So small coastal retention limits ends
14 September 20th. SEDAR AP, September 22nd.
15 Vessel upgrade, September 26th. Shark Specs,
16 September 28th. And then you get a breather.
17 And then it's EFH on December 22nd.

18 Tomorrow is the Champions for Change.
19 This was a White House initiative. I'm looking
20 for nominations. This was on the Fish News. I
21 have more information if you're interested. But
22 just to note, that one is due tomorrow. And then
23 Pete, the AP guy has managed to get his photo on
24 the slide. So if you could please send your
25 receipts in a week from now. We would greatly
26 appreciate it. Please return the table tents and
27 the main badges. And we really do read those
28 surveys, and look to them to build on next
29 meetings.

30 So with that, I would like to say
31 thank you, a tremendous thank you for all of the
32 HMS staff that help get this meeting up and
33 running. Get you all here and then take notes so
34 that I can deliver a synopsis at the end. It is
35 a ton of work. And we work really hard to act on
36 AP suggestions and have things for you in time
37 for AP meetings. I push them really hard, and so
38 this is my public opportunity to say thank you to
39 them. I really appreciate everything that they
40 do. So I hope you appreciate it as well.

41 (Applause.)

42 MS. SCHULZE-HAUGEN: And with that, I
43 hope you all have safe travels home if you're
44 leaving tonight. And if not, then I will see you
45 tomorrow at the workshop. So thank you and we'll
46 be in touch.

47 (Whereupon, the above entitled matter
48 went off the record at 5:26 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Highly Migratory Species
Advisory Panel Meeting

Before: US DOC/NOAA

Date: 09-08-16

Place: Silver Spring, MD

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