

U.S. DEPARTMENT OF COMMERCE

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NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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HIGHLY MIGRATORY SPECIES ADVISORY PANEL
MEETING

+ + + + +

TUESDAY, APRIL 15, 2008

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The meeting convened at 1:00 p.m.
in the Hilton Hotel, 8727 Colesville Road,
Silver Spring, Maryland.

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Adjourn

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

2 (1:00 p.m.)

3 MS. SCHULZE-HAUGEN: All right. Can
4 you folks in the back please take a seat, and
5 we'll go ahead and get started? I see some
6 folks coming in. There should be materials
7 for everyone in the back, so if you don't have
8 your (Inaudible) we'll be sure to get you one.

9 So welcome to the Atlantic HMS
10 Advisory Panel Meeting. Thank you for coming,
11 and just to start off I'd like to do some
12 introductions of all the panel members,
13 particularly some of the new members, identify
14 some of them for you, give you an update on
15 some of the HMS staff.

16 I'm going to turn it over to Paul
17 then to just talk very quickly about some of
18 how we're going to run the meeting based on
19 some of the feedback that we've gotten from
20 you all over the past couple of meetings, and
21 then I will give a quick update on what we've
22 been doing since the last meeting in October,

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1 have a quick enforcement update, and then a
2 break.

3 And I want to take this time just
4 to let everybody know. Some of you heard at
5 this morning's session we've had a very recent
6 change in some of our internal guidance, all
7 the way from Department of Justice, that
8 government-sponsored meetings are not able to
9 provide refreshments any longer, so coffee and
10 cookies are not in the back of the room, I'm
11 sorry to say.

12 This happened very late last week,
13 and so we have not been able to figure out how
14 to provide such refreshments within the
15 current guidance, but for this meeting,
16 unfortunately, we do not have that ability.
17 There is a coffee shop in the restaurant, as
18 well as a gift shop that sells water and sodas
19 and candy bars and things like that.

20 So we'll have slightly longer
21 breaks so that folks can go ahead and get
22 that. I would recommend that you bring your

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1 own coffee in the morning, and we will really
2 try and figure out how to fix this for the
3 next meeting, and so with that, let me welcome
4 some of the new members.

5 Tim Palmer here is from the
6 (Inaudible) Fishery, as well as Jim Williams,
7 a new recreational member. Myron Fisher in
8 the back -- thank you -- as well as Sean
9 McKeon here are some of the new faces that
10 will tell us a little a little bit about
11 themselves in a few minutes when we go around,
12 but just to give you a little update on some
13 of the HMS staff, we have a new sea grant
14 fellow, Jess Beck, who has joined us. Our
15 former sea grant fellow, Heather Halter, just
16 recently found out she passed the Florida Bar,
17 so it was very exciting for her.

18 We have Ron Rinaldo here in a
19 different capacity. He recently retired in
20 January but is attending the meeting as a
21 public citizen now, so it's good to -- so it's
22 good to see Ron.

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1 We also -- Craig Cockrell, who is
2 here, has been a summer student with us for
3 several years and comes back over spring
4 breaks and winter breaks, has graduated and is
5 now on contract with us on a full-time basis,
6 and just to let you know, Russ Stone is in
7 leadership training this week, so we won't be
8 seeing him.

9 And with that, why don't we go
10 around? I probably should have started with
11 this. I'm Margo Schulze-Haugen, Division
12 Chief of the Atlantic Highly Migratory Species
13 Management Division, and with me is --

14 MR. RISENHOOVER: Hi, Alan
15 Risenhoover, the Director of Sustainable
16 Fisheries.

17 MS. SCHULZE-HAUGEN: So if we could
18 maybe go around the room and just who you are,
19 what you represent, and a little bit about
20 yourself.

21 MR. PALMER: My name is Tim Palmer.
22 I'm a swordfish (Inaudible) fisherman from

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1 Stuart, Florida.

2 PARTICIPANT: That's you.

3 MR. PALMER: Okay. That's me.

4 MR. CODDINGTON: Ron Coddington.

5 Most of you have met me at other meetings.

6 I'm a representative from the Southeast

7 Swordfish Club, a recreational representative.

8 MR. AUGUSTINE: Pat Augustine, Mid
9 Atlantic Fishery Management Council and the
10 Atlantic States Marine Fisheries Commission.

11 MR. FONTELLA: Vince Fontella, a
12 former longline captain.

13 MR. DEBERSIA: Tom DePersia, a
14 charter boat captain, President of Stellwagen
15 Bank Charter Boat Association.

16 MR. SCHRATWIESER: Jason
17 Schratwieser, Conservation Director for the
18 International Game Fish Association.

19 MR. LINGO: Mark Lingo with Texas
20 Parks and Wildlife.

21 MR. HUDSON: Russell Hudson,
22 Directed Shark Fisheries.

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1 MR. MCKEON: Sean McKeon, North
2 Carolina Fisheries Association.

3 MS. BELCHER: Carolyn Belcher,
4 Georgia Department of Natural Resources,
5 Coastal Resources Division.

6 MR. VONDERWEIDT: Chris Vonderweidt,
7 Atlantic States Marine Fisheries Commission.
8 I am the proxy for Vince O'Shea, our Director.

9 MR. SAMPSON: Mark Sampson, Ocean
10 City Charterboat Captains Association.

11 MR. WHITAKER: Rom Whitaker, charter
12 boat, Hatteras, North Carolina.

13 MS. FORDHAM: Sonja Fordham,
14 Director of Shark Conservation for Ocean
15 Conservancy.

16 MR. HUETER: Bob Hueter, Mote Marine
17 Laboratory.

18 MR. STONE: Dick Stone, National
19 Marine Manufacturers Association, North
20 Carolina.

21 MR. MCBRIDE: Joe McBride, Montauk
22 Boatmen's and Captain's Association, sitting

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1 in for Jim Donofrio, the RFA, a charter boat
2 captain on Long Island.

3 DR. BOUSTANY: Andre Boustany, Duke
4 University.

5 MS. MILLER: Shana Miller, the Tag-
6 A-Giant Foundation.

7 MR. GERENCER: Bill Gerencer,
8 Portland, Maine.

9 MR. PINEIRO-SOLER: Genio Pineiro,
10 Caribbean Council.

11 MR. GREGORY: Randy Gregory, North
12 Carolina Division of Marine Fisheries.

13 MR. WEBER: Rick Weber, South Jersey
14 Marina.

15 DR. GOLD: John Gold, Texas A&M
16 University.

17 MR. RUAIS: Rich Ruais, Bluewater
18 Fishermen's Association and the East Coast
19 Tuna Association.

20 MR. WILLIAMS: Jim Williams,
21 recreational from Florida.

22 MR. DELANEY: Glenn Delaney. I'm a

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1 commercial rep here in D.C. I worked with
2 Bluewater and East Coast for a long time.

3 MS. JOHNSON: Gail Johnson. My
4 husband and I own and operate a swordfish
5 vessel fishing (Inaudible) from Maine.

6 MR. FISHER: Myron Fisher, charter
7 fish out of Louisiana.

8 MS. MERRITT: Rita Merritt, South
9 Atlantic Fishery Management Council.

10 MR. HEMILRIGHT: Dewey Hemilright,
11 commercial fisherman, North Carolina, fishing
12 vessel Tar Baby.

13 MS. SCHULZE-HAUGEN: Could we maybe
14 have the staff introduce themselves? Is there
15 anyone? All right. So what I'll do now is
16 just walk through some of what we've been
17 working on over the last six months, and at
18 the end I'm going to try and give you just a
19 quick update follow-up from the last meeting
20 where we tried for the first time a summary
21 presentation of what we had heard and go
22 through some of what we noted down at that

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1 point and just give you a little update on
2 where some of those actions are. Some things
3 are completed. Some are underway, things like
4 that.

5 So with that, just some statistics
6 on what we've been doing since the last AP
7 meeting in October. For rule-making and
8 operations, the billfish tournament circle
9 hook requirement went into effect January 1.

10 We've also published three proposed
11 rules with two more in progress and published
12 two of those proposed rules in final form, as
13 well. Continued work on the draft EFH
14 Amendment 1, a release to Final Shark
15 Amendment 2 EIF last Friday. We'll have some
16 detailed discussions on that this afternoon.

17 We are working on Notice of Intent
18 to prepare amendments and EISes for upcoming
19 Small Coastal Amendment 3 and Caribbean
20 Amendment 4. Also working on an Issue 28 EFP,
21 exempted fishing permits, scientific research
22 permits, or letters of acknowledge to date.

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1 Oversaw a total of 64 workshops.
2 This is including the protected resources,
3 handling and release, and shark carcass
4 identification workshops, again, to date, and
5 about 2,200 people have signed up for the
6 Atlantic HMS news listserve. So we've been
7 pretty busy, and I'll walk through a lot of
8 these here, focusing on the ones since the
9 last meeting.

10 On the Essential Fish Habitat
11 amendment, as you recall, phase one of the
12 five-year review was completed in the
13 consolidated HMS FMP, and that is where we
14 presented updated data by all of the species
15 that we manage by life stage, and we are
16 working now on phase two, which will update
17 those EFH designations and consider any
18 appropriate and necessary management measures
19 to reduce fishing impacts on the habitats.

20 We've talked about this on a couple
21 of AP meetings. We had a good session last
22 meeting, and we're not moving quite as quickly

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1 as we had hoped on this, now looking at a
2 proposed rule in the fall.

3 Some of the reasons for the delays
4 include data -- including data beyond the U.S.
5 CEZ, whereas previously we had only looked at
6 data within the U.S. CEZ. We've had a lot of
7 discussion with some of our scientists that
8 feel even though we can't identify EFH beyond
9 the EZ, we should include that data where
10 we're comfortable with it, so we're looking at
11 a lot of the observer data from the Grand
12 Banks and other areas. So that has meant that
13 we've had to go back and rework some of the
14 data for some species.

15 We're also incorporating for all of
16 our species and all of their life histories
17 the approach of using the probability
18 boundaries that we talked about at the last
19 meeting. That takes time. We're managing 39
20 shark species and several other tunas, and
21 they all have multiple life stages, so just
22 working through that data does take time.

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1 And then staff resources, we've
2 been relying fairly heavily on some rotational
3 assignment folks coming through other parts of
4 the agency from some of the folks that do a
5 lot of charting and mapping, and as they are
6 available we make progress, and as they go
7 back to their regular jobs, we don't.

8 So, but we are continuing to work
9 on it, and, as I said, we're looking for a
10 proposed rule on changes to the EFH
11 designations, as well as any management
12 measures necessary for the fall.

13 On the shark amendment, as you
14 recall, there were new assessments for several
15 species, and this is something that we've been
16 working on for some time. The notice of
17 intent scoping meetings held a little more
18 than a year ago. Proposed rule and the draft
19 environmental impact statement released last
20 summer.

21 We went to all the councils,
22 multiple public hearings, and a couple of

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1 comment period extensions. Finally, the
2 comment period closed just before Christmas,
3 and the final EIS was released to EPA last
4 Friday, and so you should have seen that come
5 over the email list.

6 Where we are now is the EPA will
7 publish the Notice of Availability this
8 Friday. There will be a 30-day resting period
9 or review period, and then we'll be issuing
10 the final rule, hoping to have that out late
11 spring for an effective date mid-summer, and
12 again, we'll have a detailed discussion of
13 that this afternoon going through all of what
14 is in that.

15 And one note. It's not directly
16 related to the amendment but is related to
17 some of the recent shark measures and
18 particularly fishery closures that have
19 happened. We did receive a request from the
20 State of Florida for a fisheries disaster
21 declaration. I have responded to them that
22 additional information is necessary, but I

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1 wanted to let folks know that that request did
2 come in, and we are starting to talk with them
3 about that.

4 Since the AP, as well, we published
5 the final rules for the shark 2008 first
6 season. This was something that had published
7 just prior to the last AP meeting, and what
8 this rule did was account for fairly extensive
9 over-harvest in the first seasons in the South
10 Atlantic in `06 and `07, as well as the Gulf
11 in `07.

12 You can see the statistics here.
13 South Atlantic exceeded by 278 percent in `06,
14 so there was negative quota available in `07,
15 and some landings came in primarily from some
16 state water fisheries, so, additionally, 300
17 percent exceedance in the Gulf of Mexico.

18 So what this action did was closed
19 all of the fisheries, the large coastal
20 fisheries in federal waters until the
21 amendment is in place, so the fisheries will
22 reopen under the management measures contained

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1 in the amendment.

2 Small coastal and pelagics open
3 January 1 and will open May 1 with baseline
4 quotas, and then, just so folks know, we have
5 been sued by Southern Offshore Fishing
6 Association on this action, and we are in the
7 debriefing cycle for this right now.

8 On swordfish revitalization, this
9 is again something that we've talked about at
10 a number of AP meetings. This final rule came
11 out last summer and increased retention limits
12 and eased some of the vessel upgrading
13 restrictions.

14 Since the last meeting, what we've
15 been focusing on is a lot of the
16 correspondence with individual permit holders
17 on what the new vessel limits are for their
18 permits and their boats. They were given 45
19 days from the time the rule published, and we
20 sent them what our information was for them to
21 correct any errors or deficiencies in our
22 records, and we did receive 25 letters.

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1 I believe we've probably heard from
2 all the folks we're going to, and a lot of
3 those vessel baselines were changed based on
4 records that were provided, and we're
5 continuing to receive comments that this rule
6 is not sufficient to address some of the
7 persistent swordfish under-harvest that we're
8 seeing.

9 We are also continuing to have a
10 request for chartering, being able to use
11 foreign vessels to fish off U.S. quota, and so
12 that's something that I wanted to let folks
13 know, and there is also going to be a
14 presentation on this action, which is what
15 we're calling the Tuna Longline Permit Renewal
16 Rule. It also has a shark dealer workshop
17 component.

18 This rule directly follows from the
19 Swordfish Revitalization Rule and some of what
20 we were finding when we were going through the
21 correspondence and the records where what we
22 were finding is due to the different

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1 operations between the southeast region that
2 issues the swordfish and shark limited access
3 permits and the tuna longline permits that are
4 maintained or there's a possibility through
5 the Aqualand site if there's no changes or
6 through our Gloucester office.

7 Due to some of the differences in
8 those databases, some of the tuna longline
9 vessel permits were not renewed. Some were
10 not able to be renewed. If the vessel had
11 been sold, there was not a no-vest ID status,
12 but basically you were able to park the permit
13 without a boat.

14 That wasn't an option for tuna
15 longline permits, and so what we ended up with
16 when we were looking at the records and fully
17 realized that some folks -- there could be a
18 mismatch in the available permits.

19 Some folks might not be able to
20 physically get all the permits that they
21 needed to go fishing, and so what we've
22 proposed is to eliminate that renewal

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1 requirement that you can't renew your permit
2 if it is not valid the previous year.
3 Sometimes we call it the Sunset Provision.

4 You've got a year to renew just for
5 the tuna longline permits, and so it would
6 remain -- maintain the requirement for
7 swordfish and sharks, so it's an attempt to
8 keep the number of permits that are needed to
9 complement each other available. This
10 proposed rule also includes an element for
11 shark dealers that are required to attend
12 shark carcass identification workshops.

13 Again, due to some database
14 administration issues, we found that people's
15 non-shark dealer permits might get held up if
16 they sent a proxy and didn't send a proxy for
17 every location, even if sharks were not
18 received there, and so what this action would
19 do is change the requirement that proxies
20 would have to be sent for all places where
21 sharks are received. It maintains the intent
22 of the requirement that processors can

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1 identify sharks but would not require that if
2 sharks were not being received at a particular
3 location.

4 On bluefin tuna, the `08 specs were
5 published December 31, just in time for the
6 new year, established baseline quotas with a
7 50 percent rollover cap. It's consistent with
8 the ICAT recommendations. Established a
9 general category limit for June through August
10 of three large, medium, or giants per day, as
11 well as an angling category limit of one
12 school and two large schools, small, medium
13 per day.

14 This is consistent with what had
15 been maintained last year, and what we found
16 when we got to the angling category landings
17 early in January was that the angling category
18 had actually exceeded its quota, large school
19 small-medium subquota, by about two and one-
20 half times, which in total for the angling
21 category meant it was about 175 percent, and
22 so on February 8 we did an in-season action,

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1 which reduced the retention limit to one large
2 school small-medium per day.

3 We did not feel that we needed to
4 reduce the quota available because of the
5 large amount of quota available to the U.S.
6 overall but wanted to make sure that the
7 category stays within its quota this year and
8 so reduced the retention limit.

9 Also, on bluefin tuna, some of you
10 may recall we had 100 percent of (Inaudible)
11 coverage in `07 during the spawning season
12 from April through June to get a very
13 complete, comprehensive understanding of what
14 the fishing impacts were and what was going on
15 in the spawning grounds. We have decided to
16 continue that but expanded it to three months
17 instead of two to more fully capture the
18 spawning time. So we're in the middle of
19 that, started March 9, projected to go
20 through June 9.

21 And just to let folks know, there
22 is also a new bluefin tuna stock adjustment

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1 this since June conducted by the scientific
2 body of ICAT, the OCRS, and we're expecting
3 international management measures to be a
4 major focus at the upcoming annual meeting in
5 November.

6 One of the things you would have
7 noticed, hopefully, in your email is also a
8 proposed rule on the International Trade
9 Department published April 4. We have some
10 hearings at the end of April in some of the
11 major ports on the East and West Coasts, and
12 the comment period closes May 5.

13 This rule will implement the new
14 bluefin tuna catch document, the change from
15 the bluefin tuna statistical document, which
16 had been primarily a trade tracking document
17 now to a catch documentation document, and so
18 there will be some changes for the U.S.
19 primarily in terms of re-export needing
20 additional documentation, but this will bring
21 us into compliance with the ICAT
22 recommendations.

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1 We're also proposing that shark fin
2 exporters, importers and re-exporters obtain
3 the international trade permits. It's not a
4 reporting requirement at this time, but by
5 requiring the permit itself will help us
6 better identify the universe of folks that are
7 involved in this industry.

8 Also, clarifying requiring that a
9 U.S. agent must obtain the ITP for foreign
10 companies that want to do imports, and there
11 is a number of other measures adjusting
12 reporting timelines, implementing the new
13 definition of import from the Magnuson Act,
14 harmonizing tariff codes, things like that, so
15 we'll have a presentation on this, I believe,
16 Wednesday afternoon.

17 And the rule that is not quite out
18 yet is the proposed rule on greensticks,
19 harpoon on charter head boat and sea turtle
20 control devices. This is the one that we are
21 going to be presenting, I think, tomorrow
22 morning, but you don't have it just yet, but

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1 we are proposing to authorize greensticks as a
2 separate gear and looking for specific
3 comments on some of the ways to capture
4 reporting on it, also proposing to authorize
5 harpoons on charter head boats, looking --

6 Again we've, I think, proposed for
7 non-for-hire, as well as requiring sea turtle
8 control devices. Right now, one of those
9 devices is recommended but not required, and
10 we are proposing to require at least one. We
11 really hope this rule to come out very soon,
12 if not this week, next, with a final rule
13 shortly after the close of the comment period.

14 Swordfish (Inaudible), largely here
15 is a reminder that this rule is in place right
16 now but that there -- international management
17 measures are also up for review this year at
18 ICAT in November, and we are starting the
19 process for an `08 specs adjustment to adjust
20 for under-harvest, and you can see some of the
21 landing statistics here. We are consistently
22 under quota at this point, so this is

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1 something that we'll be working on in the near
2 term.

3 And some updates on workshops, this
4 remains a heavy investment of staff time and
5 resources to maintain these programs, keep
6 them going. Protected resources, handling
7 release workshops now, almost 1,000
8 certificates issued. We have held 46 of these
9 to date, including grandfathering in 122. The
10 shark carcass identification required now as
11 of January 2008 has held 18 workshops to date
12 and issued over 200 certificates.

13 So these are open to the public,
14 although they are required by certain permit
15 holders. Folks that are interested can
16 attend. We would just need you to coordinate
17 with the contractors running them on
18 availability and space.

19 And so down below you can see some
20 of the outreach, some of what we do to try and
21 let folks know, particularly focusing on
22 permit holders for which these are required.

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1 So this is something you'll see. We put out
2 the schedule quarterly, and we're now working
3 on quarter three dates and locations.

4 For exempted fishing permits, and,
5 again, this captures scientific research
6 permits and letters of acknowledgment, as
7 well, a total of 28 to date, 14 AFPs for a
8 variety of things, and I can share with you
9 what some of those are, three scientific
10 research permits, five shark display permits -
11 - these are for aquariums -- and six letters
12 of acknowledgment.

13 Again, these are our researchers.
14 They let us know what they're doing, and we
15 acknowledge, since we do not regulate shark
16 research under Magnuson, that it is research.

17 And I just wanted to let you know about this,
18 because all of these require some level of
19 analysis, and so is a fair amount of work for
20 us.

21 They're issued on a calendar year
22 basis, so in the first quarter of every year

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1 folks are renewing their permits, putting in
2 new requests, and so it's something that takes
3 a bit of our time. A lot of you, particularly
4 some of the academics, receive some of these,
5 so I'm sure you know some of the time that can
6 be involved with them but wanted to let you
7 know that it's not an insignificant amount of
8 work for us.

9 One of the exempted fishing permits
10 that -- I guess two have been issued for two
11 boats. It was for pelagic longline research
12 in the closed area. This is something that
13 the agency and the AP talked a bit about last
14 year.

15 Initially it came in as a request
16 from industry for 13 vessels in the closed
17 areas. We put that out for public comment,
18 got a lot of comments back on that.
19 Ultimately, the agency decided not to issue
20 the EFP to industry but that the research was
21 of merit and that what the agency would do is
22 basically take on the research itself and

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1 conduct the research under a rigorous
2 scientific protocol, testing the bi-catch
3 measures under the fishery as it operates now.

4 We had a comment period on the
5 environmental assessment that we did for that
6 EFT, and the decision for our intent to
7 proceed published January 4. There are two
8 boats that are authorized at any one time,
9 although three in total are authorized in case
10 one breaks down, and we have an update on this
11 Thursday morning. Four trips have been
12 completed to date, and one is either underway
13 or very recently concluded, and so that is
14 proceeding.

15 Quickly touching on litigation, the
16 Blue Ocean Institute lawsuit to close the
17 spawning grounds for bluefin tuna on the Gulf
18 of Mexico has been completely briefed. We're
19 now waiting for the Court. Anyone's guess
20 when the Court will rule. Their dockets are
21 very full, and then, as I mentioned, Southern
22 Offshore Fishing Association for the first

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1 season (Inaudible) 2008 is in the briefing
2 cycle right now.

3 Some of the other things of note,
4 the Small Coastal Amendment should come out --
5 the notice of intent should come out in the
6 next week or so. That will be implementing
7 rebuilding plans for black nosed sharks for
8 which overfishing is occurring, and it's
9 overfished. Apparently, the primary mortality
10 is bi-catch in shrimp (Inaudible), so we'll be
11 working closely with councils and states on
12 some of those measures.

13 We are also going to be -- we've
14 kicked off the process for our Caribbean
15 Amendment, looking at some of the unique
16 characteristics of Caribbean fisheries, some
17 of the infrastructure and concerns unique to
18 the Caribbean. We'll have a presentation on
19 some of the pre-scoping meetings that we've
20 had in that area, I believe, tomorrow
21 afternoon.

22 The white marlin ESA determination,

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1 the listing was not warranted, published in
2 early January, and so that was some good news.

3 Also, we've registered so far 159
4 tournaments. Last year was a record 299 for
5 the year. Maybe we'll make 300 this year, and
6 so they're continuing to come in.

7 If you recall, there is a four-week
8 period, advance period, for registration, so
9 this isn't the total number by far. As the
10 spring and summer tournaments roll in, the
11 number is expected to go up.

12 For non-tournament landings, these
13 would be reported through either our call-in
14 system or the website that is now live. We
15 have a total of 91 swords, two blue, one white
16 marlin, and 81 sailfish that have been
17 reported.

18 There was some question earlier.
19 Some folks may not be aware that the internet
20 option for reporting is live, and we can
21 provide that website for folks. Hopefully,
22 that's much more convenient than calling in

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1 and getting a message and playing phone tag.

2 And then, also, this is an
3 internal. The last bullet here is HMS meets
4 over the phone quarterly and once a year face-
5 to-face with enforcement, both enforcement
6 attorneys, enforcement agents, as well as
7 Coast Guard, to review enforcement actions,
8 regulatory changes that we've either made or
9 that have been requested, and it's just a good
10 opportunity for us to talk about how things
11 are working and how to improve the process.
12 We had that meeting last February.

13 And then, just to wrap up, just to
14 touch back on some of what came out of the
15 last meeting, again, I'm drawing this from the
16 summary that we did at the end of last
17 meeting, so these are some of the things that
18 we have completed.

19 The comment to provide ARC. This
20 is the protective handling and release
21 workshop contractor, the full suite of
22 available and authorized gear, including

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1 swordfish rec landings in the landings update.

2 You should have seen one of those already.

3 Getting the AP summary -- meeting
4 summary out more quickly. Again, we'll try
5 and do that again this time. Providing
6 clarification. This was primarily for
7 reporting based on the discussion on the five
8 percent fins-on requirement, as well as not
9 moving forward with RFDs for the bluefin tuna
10 fishery. We did not do that this year.

11 Some of the things that are
12 underway, meaning we're actively working on
13 them either in a rule-making or presentation
14 and deliberation, permits. We had a lot of
15 very specific, very good comments on some of
16 our permitting options at the last AP meeting,
17 and we'll be -- you know, the tuna longline
18 rule specifically is responding to some of
19 those suggestions, and we'll be talking about
20 some of the other options, implications, or
21 ramifications of ways forward with some of the
22 permit issues tomorrow morning.

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1 So this is just a list of some of
2 the suggestions that came in, conducting the
3 time area research, and we are working on
4 incorporating also a billfish recreational
5 landings update as one of our regular,
6 probably monthly, updates that we put out over
7 the web and listserve.

8 Greenstick, authorizing that as
9 well as the charter head boats. Harpoon use
10 and the sea turtle gear was recommended to
11 proceed at the last AP meeting, and, as I
12 said, we're very close to having that rule
13 out. We'll be talking about it.

14 The recommendation to allow
15 landings of blacktips and bull sharks and
16 improve education for shark recreational
17 species, you'll see in the discussion of EIS
18 some changes made that respond to this.
19 There's some things on the educational aspect
20 that we're working on, as well, and improving
21 swordfish marketing is something that our
22 partners and communications folks are helping.

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1 And we've had a couple of meetings
2 with industry on some of the ways the agency
3 can help, as well as continuing some of the
4 suggestions on rule changes. This is
5 primarily outside of a rule-making context but
6 some things that we can do.

7 And then -- and this is not
8 intended to be an exhaustive list, but some of
9 the things that were suggested to us last time
10 that we're still considering. As I mentioned,
11 chartering arrangements for foreign vessels to
12 fish U.S. quota is something that's continuing
13 to come in as a request. We're still looking
14 at that.

15 Under essential (Inaudible)
16 habitat, establishing bluefin tuna habitat
17 area, a particular concern in the Gulf of
18 Mexico, something that we're looking at in the
19 EFH Amendment. A suggestion to change the
20 charter head boat (Inaudible) retention limit
21 to one per person, as well as improving dealer
22 reporting. This is a continuing thing for us.

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1 We're looking at our options to improve the
2 information we get.

3 Suggestion to require circle hooks
4 and buoy gear, as well as revisiting,
5 considering target catch requirements in the
6 longline fisheries for bluefin. Some of these
7 things would be rule changes or could be even
8 SMP changes, so we're continuing to look at
9 them, wanted to let you know basically that we
10 heard you, and we haven't forgotten.

11 So I think with that I'd like to --
12 there are a couple of other things I wanted to
13 touch on just to let folks know. It's not in
14 the presentation. The integrated trade data
15 system is an effort that is required of all
16 federal agencies. We're at the beginning
17 stages of that.

18 For those of you that are involved
19 with imports and exports and customs, this
20 will be fairly large changes to the way
21 businesses are done, a lot more electronics
22 information, data entry, so that will be

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1 something. I believe there is an ANPR, an
2 advanced notice of proposed rule making, that
3 should be coming out in the next several
4 months. That's being led by Chris Rogers, who
5 so many of you know, in the Office of
6 International Affairs.

7 Folks may also be aware of a
8 petition to ban swordfish imports that was
9 received by Center for Biological Diversity
10 recently. The agencies are evaluating that
11 and determining the next steps, and there has
12 also been a request by the pelagic longline
13 industry for a cumulative effects assessment.

14 I wanted to let folks know that we had
15 received that as part of the marketing, as
16 well as a hearing on the Hill tomorrow morning
17 on IUU and shark finning, some of the other
18 things underway, and I can give folks more
19 information on that if you're interested.

20 And so before we turn it over for
21 the enforcement update, just wanted to say,
22 you know, we're quite busy. I think we always

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1 are and probably always will be, but wanted to
2 let you know we are trying to be responsive to
3 AP's suggestions and comments, either through
4 the AP meeting itself or outside.

5 Operational aspects of things, some
6 of the data collection measures and operations
7 that we have continue. They're always in the
8 background, and we are really looking forward
9 to a good AP meeting, getting good,
10 constructive feedback. We value your input,
11 and if there is anything that we need, you
12 need, please don't hesitate to ask.

13 So, with that --

14 PARTICIPANT: (Inaudible)

15 MS. SCHULZE-HAUGEN: Sure. Yes,
16 that's fine.

17 PARTICIPANT: Okay. I just turned
18 this on. It works? Is that too loud?
19 Better? Okay. Any questions on Margo's
20 presentation and the status of operations?
21 Yes, Rick?

22 MR. WEBER: I don't think anyone can

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1 help but be impressed with the workload that
2 you have before you and that you have
3 completed since the last meeting, and I just
4 have a couple of questions.

5 I don't think I've ever seen you
6 have angling category test data quite this
7 early. Usually that's something that doesn't
8 come out until the summertime, and you're
9 already projecting that the angling category
10 is over by 175 percent, so something happened
11 in terms of speeding up the analysis of the
12 wade data, or what changes were made so that -
13 - that allow you to conclude already, you
14 know, in the wintertime, because your action
15 came out in February to reduce it to one, so
16 you obviously knew in January to start
17 planning, and I've just never seen that
18 timing.

19 Maybe you can just tell us what
20 changes took place to do that, and do you know
21 where the increase in catches of small --
22 large schooling and small mediums took place

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1 to put that category so far over?

2 MS. SCHULZE-HAUGEN: No, sorry. No,
3 I think it was my fault. We often get and
4 have often gotten some preliminary information
5 in January-February time frame. They're
6 preliminary because the final piece of year-
7 same data is not often available until the
8 summer, which is sometimes why -- there we go
9 -- where some of the wait information,
10 specifically what we wait to announce the
11 final numbers. That still is not available
12 and is not expected to be available until the
13 summer.

14 So what we're using is some
15 preliminary estimates, looking at trends, and
16 part of the reason we took the in-season
17 action in February prior to the final, final
18 data is given the magnitude of the over-
19 harvest and not wanting a repeat of that this
20 year.

21 Looking at the fisheries starting -
22 - felt fairly comfortable that the final

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1 year-to-year data wouldn't change the
2 magnitude considerably and so felt that the
3 reduction in bag limit was warranted based on
4 that preliminary number, but the final, final
5 numbers will still come out closer to the
6 summertime, and the final question on location
7 was largely off, I believe, New England area.

8 If you want more specifics, I believe I saw -
9 - Thanks.

10 PARTICIPANT: Thanks, Margo. Terry
11 and then Tom and Pete, and Terry, just a
12 reminder.

13 MS. BEIDEMAN: Can I say --

14 PARTICIPANT: I'm sorry to
15 interrupt. Just a reminder. We state our
16 name for the record. Thank you.

17 MS. BEIDEMAN: I'm Terri Beideman,
18 for the record. Margo -- excuse me -- can I
19 get a copy, or can you make up a copy of that
20 presentation? Lots of data, lots of info,
21 nice and concise, better than my notes.

22 MS. SCHULTZE-HAUGEN: Sure.

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1 MS. BEIDEMAN: If I could, that
2 would be great. Thank you.

3 MS. SCHULTZE-HAUGEN: Yes, we can
4 work on that.

5 MR. DEPERSIA: Tom DePersia. Was
6 that change in the bluefin retention limit
7 from three fish -- from three fish to one
8 fish, or was that from three fish to two fish,
9 because it was a little misleading by the --

10 MS. SCHULTZE-HAUGEN: Right. I
11 should have said that the school limit is
12 still one, so it's three. Where it was two
13 large school small-medium and one school to
14 two, we're at one large school, small-medium,
15 one school.

16 MR. AUGUSTINE: Pat Augustine, not
17 Pete Augustine, but that's okay. Margo,
18 toward the end of your presentation, I believe
19 the last -- second to the last or third to the
20 lastly you talked about suggestions still
21 pending from the AP in October.

22 I wonder if your staff -- I know

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1 you've got a load of work to do, and you've
2 done an outstanding job so far. I wonder if
3 your staff or us will have a chance to look at
4 the still outstanding suggestions that are
5 pending to be looked at to stack rank some of
6 those.

7 So, in our opinion, there may be
8 something that we think should rise to the top
9 of that list of -- I think you've got about 20
10 on two slides. I do think the idea of
11 changing retention for charter boats and some
12 of these other folks should be moved up if, in
13 fact, we're trying to use up some of our quota
14 so we don't lose as much in the future.

15 MS. SCHULTZE-HAUGEN: What I think
16 we could do pretty readily is provide the AP
17 summary presentation, which has more than what
18 I presented here, just as it was done at that
19 time. That would be pretty easy for us to
20 provide if folks want to take a look at the
21 complete list. I was trying to summarize.

22 PARTICIPANT: You know, you

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1 mentioned that Florida has already put in a
2 request for disaster for the shark fishery. I
3 thought that that was going to be automatic in
4 the amendment, that there was actually a
5 provision in the amendment that once it was
6 implemented, you know, reducing it to almost
7 an experimental fishery, that NMFS would make
8 the determination of a disaster, but the
9 process -- the way the process works is
10 individual states actually have to request
11 that you make the disaster determination?

12 MS. SCHULTZE-HAUGEN: Yes. It can
13 happen, I think, two different ways, and I may
14 hand this over to Alan, but I believe a
15 governor can make the request or Congress can
16 make a directive, and there is different
17 processes for both.

18 PARTICIPANT: Right, and the
19 amendment didn't -- I don't think it said that
20 we would automatically request it, so I think
21 what they had included in the amendment was a
22 discussion of disasters, and so we're still

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1 looking at internally how do we process those.

2 You know, we've gotten disaster
3 requests from a number part of the country, a
4 number of states in the country, and we'll
5 likely get more. We may need to check on that
6 a little bit more, Rick, and look at the exact
7 language.

8 MR. WEBER: I'm sure there was
9 language in the amendment, because we spent a
10 lot of time talking about it at an AP that we
11 thought the amendment ought to be the driving
12 vehicle to move forward with disaster relief,
13 knowing how draconian the new quotas were
14 going to be.

15 MS. SCHULTZE-HAUGEN: But you're
16 right that there was a discussion in the plan
17 and still is of (Inaudible) disaster and how
18 they work, but in terms of an automatic
19 implement the amendment, declare a disaster,
20 that was not what we were discussing at the
21 time.

22 PARTICIPANT: Okay. Let me hear

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1 from Rom first and then Tom.

2 MR. WHITAKER: (Inaudible)

3 PARTICIPANT: Thanks, Rom.

4 MR. DEPERZIA: Tom DePersia. You
5 had mentioned that you're looking to authorize
6 the use of harpoons on charter boats because
7 it seemed like at the AP meeting that
8 everybody was in approval to it. I'm a little
9 confused there, because I thought it was
10 suggested that there was argument on either
11 side and that it was going to go to public
12 hearing before any decision was made. Is that
13 still the case, or is it imminent that it's
14 going to be authorized?

15 MS. SCHULTZE-HAUGEN: Well, yes,
16 it's going to be part of a proposed rule that
17 will be presented tomorrow morning. It was at
18 the request of Peter Weiss's group, whose name
19 -- the group escapes me right now, and so it
20 was in response to that request.

21 You're right. There are
22 alternatives. There was a discussion at the

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1 last AP meeting. The proposal should come out
2 next week, and we'll have hearings, and no
3 final decision has been made.

4 PARTICIPANT: Another question?
5 Ellen.

6 MS. PEEL: Am I understanding
7 correctly -- Ellen Peel, Billfish Foundation,
8 recreational. Am I understanding under
9 swordfish you are proposing or considering
10 reviewing and possible authorization of
11 chartering arrangements with foreign nations
12 to catch part of the U.S. swordfish quota at
13 the same time you're considering reducing the
14 charter, the U.S. charter head boat retention
15 level of swordfish?

16 MS. SCHULTZE-HAUGEN: No, it
17 wouldn't be a reduction to charter head boat
18 swordfish. It would be changing it to one per
19 person. I believe the way it went in -- let
20 me double-check the way the phrasing of the
21 rule was, but no, it was not an intent to
22 reduce it.

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1 MS. PEEL: That's what I wanted to
2 clarify. Thanks.

3 MS. SCHULTZE-HAUGEN: Rick might be
4 able to jump in.

5 MR. WEBER: (Inaudible)

6 PARTICIPANT: Thank you, Ellen.
7 Joe?

8 MR. MCBRIDE: Joe McBride, I guess
9 representing New York and the Recreational
10 Fishing Alliance. In my ignorance, I wasn't
11 at the last couple of meetings, and the
12 harpoon scenario -- and I know Peter Weiss is
13 under the general category of Tuna
14 Association, I think, is what you're looking
15 for.

16 What is the rationale for a charter
17 -- I mean, I'm a charter boat captain, and
18 what would be the rationale to go harpooning
19 for bluefin tuna on a charter? I could see,
20 as a stretch in the imagination, maybe a
21 private boat doing it that wanted to catch
22 fish, and secondly, what category would any

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1 catches go against, the general category, the
2 harpoon category, et cetera? Did you discuss
3 this?

4 If you didn't, then it's a moot
5 point that I wasn't at it. Don't worry about
6 it, but you won't come out with those
7 discussions in the proposed rule, and here,
8 with the people that might be concerned about
9 it, in my ignorance I don't know how you
10 rationalize the harpoon category and the
11 charter and party boat business, aside from
12 the practicality of it, and secondly, does it
13 go against which category of harpoon category,
14 general category et al?

15 MS. SCHULTZE-HAUGEN: Well, it was -
16 - I think the idea behind the request was to
17 increase opportunities to land bluefin tuna on
18 trips, and so this will be discussed tomorrow.

19 I believe it's tomorrow, and so all of the
20 alternatives, pros and cons, I would welcome
21 you to weigh in at that point. Sarah and/or
22 Randy will go through that in depth. It's in

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1 the category quota is what I'm being told.

2 PARTICIPANT: Rich, go ahead.

3 MR. RUAIS: Rich Ruais, and further,
4 Joe, as you know, when you have the charter
5 boat permit, the first fish you catch per day
6 determines whether you're in the angling
7 category or you're in the general category,
8 and what the request is for is if you catch a
9 giant or if you see a giant, you could
10 actually use the harpoon to catch it, and it
11 would still apply as in the general category.

12 The general category, you're
13 permitted to use harpoons. This would be
14 charter -- the charter boat would also be
15 contributing to the general category harpoon
16 catch, and the people who hold the hearing in
17 New England will find that it's turned into
18 where it was one thought that it would be a
19 simple issue. There's a lot of people that
20 have very strong feelings about this, and
21 you're going to hear them when you get to New
22 England.

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1 PARTICIPANT: Joe, go ahead, and,
2 please, can you speak into the mic? Thanks.

3 MR. MCBRIDE: Yes, Rich, what I
4 wanted to find out, I'm trying to save some
5 money to mount the harpoon gun on the bow of
6 my boat when I go fishing. I'm just trying
7 to, you know, get along with that. Thank you.

8 PARTICIPANT: Well, I think we're
9 good. I think we're ready to move to the next
10 topic.

11 MS. SCHULTZE-HAUGEN: I believe
12 we're going to have a couple of different
13 presenters who are, I think, slowly making
14 their way to the front, and one of the ideas
15 is that wanting to let folks know just what
16 some of the enforcement actions are, the
17 approach and some of the concerns, and give
18 you an opportunity to ask some questions, so
19 you'll find it informative.

20 MS. ENGELKE-ROSS: Hi, I'm Meggan
21 Engelke-Ross from NOAA Office of General
22 Counsel for Enforcement and Litigation, and

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1 we're going to be presenting some of the
2 enforcement activities from the last year.

3 With me is Jeff Radonski, one of
4 the Special Agents in charge -- I mean,
5 Assistant Special Agent in charge in the
6 Southeast Region, Chris German, who is our
7 Coast Guard Liaison Officer, and hiding on
8 this side is Steve Campbell, who is a Special
9 Agent in the Southeast Region in Louisiana,
10 and John Reghi is in the back from Office of
11 Law Enforcement headquarters, so we'll all be
12 able to answer questions after this.

13 I'm going to go first, just because
14 I was going to give a little bit of an
15 overview about the civil enforcement structure
16 at NOAA. We did this in a little more detail
17 at the AP meeting a year and a half or maybe
18 two years ago, but I'm not sure that everyone
19 who is here now was here then, so I'll move
20 through it a little more quickly than I did
21 then, but if you have any questions about what
22 the enforcement framework is, I'd be happy to

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1 answer those.

2 Basically, the important thing to
3 know is that here I'm really only talking
4 about civil administrative enforcement, which
5 is the process by which cases are referred to
6 NOAA for prosecution, and they may be handled
7 either -- the cases -- there's a few ways
8 cases can be disposed of, but this would not
9 include cases that proceed criminally, which
10 have been primarily under the Lacey Act now,
11 which is a statute that deals with interstate
12 and international trade and illegal products.

13 Many of those cases do go criminally, and
14 those cases are handled by the Department of
15 Justice with support from NOAA, and they move
16 forward through U.S. District Courts.

17 Most enforcement is really targeted
18 at trying to achieve voluntary compliance, and
19 this happens through education and outreach,
20 and Jeff could probably speak a little bit
21 more to how this happens on the ground, but my
22 examples of this kind of activity include

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1 presentations at boat shows, presentations
2 like this, things where Office of Law
3 Enforcement is available to speak to the
4 public about the enforcement program.

5 Cases are developed under most of
6 the statutes that NOAA administers by the
7 Office of Law Enforcement, the United States
8 Coast Guard, and state law enforcement
9 personnel operating under joint enforcement
10 agreements with NOAA.

11 The lowest level of enforcement
12 action that actually carries some form of
13 penalty with it are verbal warnings and fix-it
14 tickets, which are issued on scene. They can
15 be considered a prior violation if later
16 violations occur, so that may be considered in
17 assessing penalties for future violations.

18 Summary settlements and written
19 warnings are the next stage for lower level
20 violations. Again, they're issued typically
21 on scene. They carry -- in the case of a
22 written warning, it's literally just a written

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1 warning.

2 A summary settlement is a low level
3 penalty amount that can be challenged or just
4 paid. Written warnings can also be issued by
5 my office, the Office of General Counsel for
6 Enforcement and Litigation once a case package
7 has been forwarded to my office.

8 And the next level is civil
9 prosecution, in which what is called a Notice
10 of Violation and Assessment or a Notice of
11 Permit Sanction or a Notice of Proposed
12 Forfeiture is issued by my office to the
13 violator. Respondents have 30 days to respond
14 to these either by challenging the allegations
15 contained in them, entering into a settlement
16 with the Agency, or requesting a hearing
17 before an administrative law judge.

18 The least number of cases that we
19 tend to see are cases that proceed criminally,
20 although they are quite significant because of
21 the penalties involved in terms of jail time
22 and criminal records and those sorts of

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1 things.

2 This is a breakdown of the cases
3 handled by my office by statute. So HMS cases
4 would fall in the 72.6 percent of cases that
5 are Magnuson Act cases, and you can see that
6 the other large ones are National Marine
7 Sanctuaries Act, Endangered Species Act, and
8 Marine Mammal Protection Act. The number of -
9 - the remaining 7.8 percent includes Halibut
10 Act, Atlantic Tunas Act.

11 The reason why most HMS cases are
12 prosecuted under the Magnuson Act instead of
13 the Atlantic Tunas Convention Act is because
14 the regulations are promulgated under dual
15 authority of those two statutes, and the
16 Magnuson Act has more developed enforcement
17 provisions and higher civil monetary
18 penalties.

19 This is the number of cases
20 referred to my office overall in the last
21 couple of years, and you can see in fiscal
22 year `07 it was 492 cases and about \$2 million

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1 in penalties collected, \$7 million in
2 penalties assessed, but this is around the
3 country, so this is not just Atlantic HMS
4 cases.

5 This is just to kind of put the
6 whole thing into context, because that
7 includes all of the regions of the country,
8 Pacific Islands, Alaska, Southwest Region,
9 Northwest Region.

10 In terms of HMS cases that were
11 prosecuted last year, in the Southeast Region
12 21 cases were prosecuted by my office with a
13 Notice of Violation and Assessment. Some of
14 these also carried with them permit sanctions
15 and forfeiture of illegal products. There
16 were \$208,000 in penalties assessed, and these
17 cases represent 29 counts, because obviously
18 some of these 21 cases had more than one --
19 more than one count charged.

20 I broke them down by type of
21 regulation violated, and you can see that the
22 biggest ones were the prohibition on use of

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1 live bait by longline vessels in the Gulf of
2 Mexico, violations involving undersized fish
3 or fish landed in illegal form, shark
4 violations.

5 Those include prohibited species as
6 well as finning cases, people who did not have
7 a permit, and a couple others like non-
8 reporting. I think that non-reporting case is
9 a recreational angling non-reporting case, two
10 cases involving not having the required sea
11 turtle by catch mitigation gear.

12 In the Northeast Region, there were
13 ten cases involving violations of HMS
14 regulations that were charged last year with
15 \$273,000 in civil monetary penalties. A lot
16 of these involve tuna violations of some kind
17 or another, 15 counts of not having an angling
18 permit, illegal sale of a bluefin tuna,
19 failure to maintain tuna in the form
20 specified, those kinds of cases, and I'm going
21 to give it to Chris.

22 MR. GERMAN: I'm going to cover --

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1 that's the enforcement portion of this
2 discussion. The first is just to tell you
3 with some pie charts and give you an idea that
4 the majority of our cases are Mexican EZ
5 incursions. That's down off the Mexico-Texas
6 border.

7 And then live bait issues was a
8 fifth of them, and the other large one was
9 permitting. You see the remainder of those
10 that we do enforce at sea, which is not all
11 the regulations. They can't all be enforced.

12 Some need to be at the dock, and that gives
13 you an idea of what we're looking at, and then
14 I'm going to run over a couple of cases.

15 The first one is the launch
16 incursion, and you can see from the deck of
17 that 87-foot patrol boat what they're looking
18 at. It's not a whole lot of sharks, but when
19 you look at the number of incursions, which in
20 2004 it was 212 detected incursions, obviously
21 those we don't see, so that number would be
22 higher for actual, and that decreased down to

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1 99 in the last fiscal year.

2 And these are just those small
3 boats like you can see there attempting to ram
4 the Coast Guard boat, and that's the size of
5 vessel that's coming over the long lining or
6 just vertical hook and line for sharks and
7 snapper, and that's why we're bringing those
8 into HMS.

9 The Coast Guard recently purchased
10 three new 33-foot special purpose craft. They
11 do about 70 knots or so, maybe a little more,
12 and so the Mexicans have stopped running.
13 They realize now they can be outrun, and so
14 that's really brought down the potential for
15 injury and damage to both the illegal
16 fishermen and the Coast Guard folks, and they
17 are -- the fishermen, the Mexicans, are
18 returned to Mexico through CBP, and then the
19 boats are housed and eventually destroyed if
20 the Mexicans don't come back and get them, so
21 that's one category.

22 A second is carcass condition, and

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1 this just gives you an idea of what that looks
2 like. This particular one came from a
3 boarding by the Coast Guard cutter *Resolute*.
4 They have live bait well violations, as well,
5 with three separate bait wells on board, and
6 this is just one of the fish, indicating what
7 they look like when they're not in proper
8 condition.

9 And the final one I wanted to cover
10 is live bait wells, and this is just a picture
11 of a bait well with the red circle showing the
12 PVC pipes where the water is flowing in and
13 out. This one is from the cutter *Dauntless*,
14 and this particular patrol they had an
15 embarked NOAA agent with them, which we'll do
16 with NOAA and with the states, bring them on
17 board to both broaden what we're looking at
18 and give the NOAA agents a chance to see what
19 we're doing out there, as well, and they found
20 350 live bait fish that were thrown overboard,
21 and they had king mackerel without a permit,
22 as well. This is about 170 miles offshore,

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1 and the vessel is escorted back to pier, where
2 NOAA agents took over the case from there.

3 Those just are three types of cases
4 and a general idea of what the Coast Guard
5 does, and I'll hand it over to Jeff for after
6 we hand our cases to the Coast Guard
7 (Inaudible) NOAA.

8 MR. RADONSKI: This is one issue
9 that we're having to deal with more and more,
10 and it's dealing with positions in either
11 foreign countries on the high seas or a
12 combination of both. Longliners have to have
13 permits or authorization in foreign EEZs, and
14 they also have to have a high seas permit for
15 the longliners.

16 This is a case that we're looking
17 at where it involves the EEZ of the United
18 States, the Bahamian EEZ, as well as high seas
19 areas, and that -- then we're looking at
20 Operation Mind Games. U.S. Attorney's Office,
21 when we have long-term investigations, always
22 want to have a name to it, so this one is

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1 Operation Mind Games because the boat involved
2 was the *Therapy*.

3 Recently we've received convictions
4 in this case. This is a case that involved
5 two charter boats, both named *Therapy 4* --
6 they just had different documentation numbers
7 -- where they were harvesting sailfish and
8 then putting high pressure on people to have
9 it mounted. The vessel was getting 50 percent
10 of the mount price, which was actual deposit.
11 That money went to the boat.

12 We are looking at the period of our
13 investigation that this company got around
14 \$200,000 just in mounting contracts, and the
15 true investigation here as we were looking at
16 was the wire fraud, where passengers were
17 being frauded out of money to have these
18 mounts done. The passenger thought that they
19 were having their real fish mounted. It
20 turned out to be a plastic replica.

21 In this case, actually, when we did
22 the plea agreements it came down to they got

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1 charged for Lacey Act violations for violating
2 state laws, failure to report to NOAA but
3 failure to report under state law, and the
4 take of under five fish. One crew member has
5 already been sentenced to one year in prison
6 term. That one-year prison term, even though
7 he's low-level, resulted because of his prior
8 criminal history dealing with narcotics.

9 Another one sentenced to three
10 years probation, \$3,000 fine, and the
11 remainders of them will be sentenced May 21,
12 but in this case also we are forfeiting one of
13 the *Therapy* boats, and the other boat, the
14 subject has to pay us 125 percent of its
15 value, and we've already had that boat
16 surveyed, so we'll be presenting that to the
17 Court on how much they have to pay at time of
18 sentencing.

19 Operation Limbo Line, this is an
20 operation out of Trinidad Tobago. This was a
21 long-term investigation. This is the second
22 boat out of that investigation. The first

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1 boat we nabbed was actually a Barbados citizen
2 owning a U.S. documented vessel, and we
3 charged him with providing to the Coast Guard
4 false information of documenting the vessel.

5 He claimed on his application as a
6 U.S. citizen. He was arrested, and he spent
7 45 days in jail and then paid a \$5,000 fine
8 and was released by the judge after that.

9 The second one deals with a
10 Canadian flagged vessel that was operating out
11 of Trinidad Tobago. It did not have any
12 Canadian permits and was not reporting its
13 catch, and target species was yellowfin tuna.

14 The vessel was operating on the high seas,
15 and the illegal product was imported into
16 Miami.

17 This individual, the boat owner,
18 was George Townsend. He has pled guilty now
19 to Lacey Act charges involving the operation
20 of the boat and violation of Canadian law, and
21 he will be sentenced June 2. Next slide.

22 Gulf of Mexico -- and you're

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1 hearing a lot about his live bait issue where
2 vessels are going out, harvesting live bait,
3 which is prohibited use in the Gulf of Mexico,
4 on longlines. Investigative-wise, just in the
5 last few months here is a snapshot of \$80,000
6 in illegal catch, and these are cases that are
7 documented by Coast Guard and further followed
8 up by NOAA agents.

9 In these cases, OLEs utilizing BMS
10 and our other law enforcement techniques and
11 getting the intercepts at sea with the Coast
12 Guard, but this is something that we have
13 stepped up our enforcement activities, so
14 there's more cases that we are looking at, but
15 I just wanted to highlight a little bit that
16 this is an activity that we are taking
17 seriously down in the Gulf of Mexico.

18 Northeast Division. Okay,
19 Northeast rep couldn't make it this time, but
20 you can see that in the HMS world they're
21 dealing with Atlantic bluefin tuna and
22 compliance and other HMS species, but they do

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1 spend a lot of time in the Northeast on the
2 bluefin tuna fishery, and concerns they have
3 is filets that are concealed, and
4 investigations are dealing with false
5 statements to the agents or to the Coast
6 Guard, and in this case there's some NOVAs
7 pending.

8 Another fileting at sea, yes,
9 basically, just trying to show what kind of
10 condition that these products would be found.

11 I don't know if this one was -- how they had
12 this stashed, but one of the things we are
13 concerned with is illegal product being hidden
14 on a boat when we have to do searches and find
15 it.

16 Dealing with an illegal sale, you
17 can see NOVA. Undersize, you can see that we
18 utilize here the summary settlement system.
19 Yes, I really don't know what that one is.
20 Oh, here is the scope of the investigation,
21 dealing with numerous complaints, and they're
22 looking at being sold to restaurants and the

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1 focus area is in New Hampshire and Maine.

2 So four restaurants, three fishers,
3 and three other individuals were involved.
4 Does it say what -- okay.

5 MS. ENGELKE-ROSS: I think it's
6 still an ongoing investigation.

7 MR. GERMAN: Yes.

8 MS. ENGELKE-ROSS: (Inaudible)

9 MR. GERMAN: But I think here you
10 can look and see some of the conditions of
11 product that they're having sent off for DNA
12 testing. Our cases are not always that
13 simple. Depending on the condition we find
14 the product in, we will have to have some type
15 of forensics work up on it, either DNA or
16 other possible ways of identifying the
17 species, and then just general they're
18 continuing other investigations with
19 prosecutions pending.

20 Shark fin case, issued a NOVA 5000.
21 That's fine. You know, we are seeing issues
22 always with shark fins, as well. I think that

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1 -- you know, we just wanted to give a real
2 quick overview of what enforcement is doing at
3 the prosecution to -- at sea and the
4 investigative work, so if you have any
5 questions, feel free to ask.

6 PARTICIPANT: Ellen. Microphone on.

7 Oh, it's not going on? How about the next
8 one over?

9 MS. PEEL: Okay. Very good. Thank
10 you. Ellen Peel, TBF, recreation. This isn't
11 a question but a thank you to the whole law
12 enforcement team for your efforts particularly
13 on the charter vessels that were fishing
14 without HMS permits, landing undersized fish,
15 selling them, for under covering that and
16 staying with it despite probably a lot of
17 pressure.

18 The recreation community, we don't
19 want participants in our fishery like that.
20 It's not good for the fish or the fishing, so
21 thank you, and keep up the great work, and we
22 hope that we don't have any of those in the

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1 fishery much longer, but thank you very much.

2 PARTICIPANT: Thank you, Ellen.
3 Joe, Sean, Rick.

4 MR. MCBRIDE: Very quickly, to
5 reiterate what Ellen just said, thank you very
6 much. In the area of education, you might
7 want to get to the various fishing stations in
8 the Northeast and propagate the necessity for
9 an HMS permit for tuna fishing, shark fishing,
10 et al.

11 A lot of people don't know unless
12 they're in the charter or party boat business
13 that they're required to have these permits
14 even to fish recreationally, so it would
15 probably be a benefit to collecting
16 information, and it would probably -- you
17 know, it was an old cliché I used, "Don't make
18 a law you're not going to enforce, because it
19 lowers value."

20 So you're doing a good job in what
21 you're doing, but you might want to expand the
22 information aspect, at least in the Northeast,

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1 so that there are more people getting their
2 HMS permits. Thank you.

3 PARTICIPANT: Well, one thing I know
4 in the Southeast, a lot of the states publish
5 our federal requirements along with theirs in
6 spreadsheet format, especially states that
7 require licensing, and that helps us a lot,
8 because we're really limited on the number of
9 people or how much money we can do to send out
10 pamphlets everywhere.

11 A lot of it is interaction from OLE
12 is person-to-person. Agents meeting people on
13 the docks are dealing with it, so some of this
14 is having the states helping us out, as well,
15 in publishing what the requirements are.

16 PARTICIPANT: Go ahead, Joe.

17 MR. MCBRIDE: Most of the
18 tournaments and most of the professional shark
19 fishermen, whether they be -- guys who are
20 serious know the regulations. It's the
21 majority of people -- for example, in the
22 harbor of Montauk we have approximately 100

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1 charter party boats, and we have probably
2 another 100 serious fishermen. You might have
3 200, 300, you know, recreational boaters, many
4 of whom probably do not have the permits, not
5 because they're law breakers. They just don't
6 know.

7 Every marina, when it comes to
8 tournament, requires that they see the permit
9 for the boat that entered the tournament, but
10 they don't -- they're not the policemen on the
11 dock, either, that go up and check 300 other
12 boats out, but it's just a suggestion. I
13 don't know if it's beneficial. Do what you
14 can, and we very much appreciate what you're
15 doing.

16 PARTICIPANT: Thank you, Joe. Sean,
17 Rich, and then Shana.

18 MR. MCKEON: Thank you. Sean
19 McKeon. I have a question for a counselor.
20 As a lot of us are aware, most of you are
21 aware there has been some concern about the
22 ALJ court system with respect to the Coast

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1 Guard and that the ALJ courts and some of the
2 judges who came out and expressed in the
3 newspapers quite publicly that they've been
4 forced or been told that they should rule in
5 favor of the Coast Guard.

6 I'm wondering if you could explain
7 from NMFS' standpoint the relationship that
8 you all have. I understand it's a contractual
9 relationship with those same courts, and in
10 light of that concern that came out of those
11 hearings that were here in Maryland -- I
12 believe it was a representative from Maryland
13 -- is there any effort on the part of your
14 office to scrutinize that relationship more
15 thoroughly and investigate or look at the
16 similar incidents with respect to the
17 commercial industry?

18 MS. ENGELKE-ROSS: We are aware of
19 some of the inquiries that were made into
20 Coast Guard ALJ handling of certain cases with
21 respect to -- I believe they were all with
22 respect to merchant mariner licensing

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1 revocation cases, which are handled under a
2 completely separate set of procedural rules
3 than the rules that govern NOAA's civil
4 enforcement proceedings, which were drafted by
5 my office and promulgated by NOAA that govern
6 -- under the Administrative Procedure Act to
7 govern things like the scope of discovery and
8 timing of hearings and what kind of witness
9 testimony is allowed and those sorts of
10 issued.

11 Those regulations are available in
12 the *Federal Register* and also on the website
13 of my office if you have questions about what
14 kinds of rules govern our proceedings, and
15 those rules govern not only our behavior and
16 what -- aside from our own ethical rules,
17 those rules govern how we conduct the
18 hearings, what respondents are required to do
19 and allowed to do at hearings, and also what
20 the judges are allowed to do.

21 Our relationship with the Coast
22 Guard administrative law judges is that we

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1 have a contractual agreement with their office
2 to handle our cases that get referred for
3 hearing. At one time, NOAA had its own
4 administrative law judge, one administrative
5 law judge.

6 We moved to this system largely
7 because of the volume of cases and also
8 because the location of the Coast Guard ALJs
9 around the country really lessens the burden
10 on respondents and on the Agency, because we
11 tend to hold hearings in a location requested
12 by the respondent or in the nearest possible
13 place where we can hold the hearing.

14 We have not -- to my knowledge, it
15 would be inappropriate for me to speak beyond
16 my scope of knowledge, but to my knowledge we
17 have not considered changing our relationship
18 with the Coast Guard ALJs.

19 PARTICIPANT: Sean, a quick follow-
20 up?

21 MR. MCKEON: Yes, I think -- I
22 appreciate your answer. I was -- I think the

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1 concern was the influence that the Chief
2 Justice of ALJ, the Chief Judge is having on
3 some of his colleagues, and I guess my
4 question is more to is that a cause of concern
5 to you, as you do have that relationship with
6 them, and are you looking into -- have you
7 looked at the hearings, the testimony of those
8 hearings, and are you following up with your
9 own concerns about your relationship with
10 them?

11 MS. ENGELKE-ROSS: This is probably
12 going to get a little too far into the weeds
13 for most people's interest, but the focus of
14 that inquiry was on -- was pretty focused.
15 Judge Massey's complaints about the influence
16 exerted on the ALJs by the Chief Judge was
17 really focused on scope of discovery and her
18 feelings that she was limited in how much
19 discovery she was permitted to allow
20 particularly with regard to the hemp oil
21 defense for merchant mariners whose licenses
22 were being revoked for operating vessels under

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1 the influence of illegal substances.

2 We have discovery rules in place
3 that limit discovery, as well, but not with
4 regard to any particular piece of evidence.
5 There have never been allegations made that
6 discovery was limited that a judge wanted to
7 allow with regard to any particular type of
8 discovery.

9 Our hearings are quite different
10 than the types of proceedings that I think
11 were being discussed here in terms of pretty
12 lax. Most of our respondents are pro se,
13 which means they aren't represented by
14 counsel, and the judges tend to be extremely
15 lenient in the types and amount of evidence
16 and testimony that they allow respondents to
17 present. So there really isn't anything.
18 There have been no allegations for us to look
19 into.

20 PARTICIPANT: Thank you, Meggan.
21 Rich and then Shana.

22 MR. RUAIS: Yes, on the shark

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1 finning issue, this committee has spent a lot
2 of time talking about that and looking into
3 it, and so has ICAT Advisory Committee Species
4 Working Group, as well, and it's very
5 frustrating for all of us, because we can't
6 seem to solve the dilemma.

7 We have fishermen who are trying to
8 comply, you know, faithfully with the five
9 percent limit, but even when you do, there are
10 times when you come back with seven percent,
11 and they're getting violated, and yet they're
12 not finning. They're not high grading.

13 It's just simply a problem, and,
14 you know, we've asked for a fix of HMS, but
15 Margo's group is up against the Magnuson Act,
16 because the five percent is actually written
17 into the Magnuson Act, so that makes it a
18 really difficult way to go.

19 The only thing we can do is,
20 please, until it's fixed, for discretion on
21 the part of enforcement that, you know, there
22 is plenty of evidence out there that the

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1 fishermen are trying to comply. There is
2 scientific recognition of the problem at ICAT,
3 and the solution is going to be very complex.

4 It may require amending the Magnuson Act,
5 and that's not going to happen any time soon,
6 so in the meantime we just have to ask for
7 some discretion on the part of law
8 enforcement.

9 Another issue that's recently come
10 to my attention and I hadn't heard about it in
11 the past is the issue of pelagic longline
12 boats trimming tails off of tunas. One boat
13 was recently temporarily written up for it,
14 and I've heard from several other boats that
15 they received warnings over it, and there is
16 practically not a boat in the fleet that, you
17 know, has the storage capacity to keep the
18 entire tail.

19 I think the intent of the
20 regulation is so that you can get a fork
21 length measurement, but typically what the
22 fisherman does is trim the tail, and he also

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1 wants to keep a piece of the tail so he can
2 get a tail rope on it and get it off the boat,
3 but some trimming of the tails has to take
4 place in order to have a practical fishing
5 operation.

6 So, again, that's another one where
7 maybe that one we can work on the regulation
8 and fine-tune the regulation to make it clear
9 that trimming is allowed, but you have to make
10 sure the fork is there for the measurement.

11 The other issue is actually two-
12 fold. One, I had heard a while back from
13 somebody in the Gulf Coast Guard that the
14 Coast Guard was considering taking away vessel
15 stability permits if they didn't weld shut
16 some of the holes in the freeboard where they
17 used to use the live bait wells, and obviously
18 there's still some infractions ongoing, and
19 that really doesn't seem to just be a real
20 appropriate solution to whatever, you know,
21 violations of live bait continue to go on.
22 You know, anyways, it seems to be an extreme

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1 solution to that problem.

2 My last question is on the Mexican
3 incursion. Has the Coast Guard noticed we
4 recently at ICAT gave Mexico 200 metric tons
5 of -- I'm sorry, 175 metric tons of bluefin
6 tuna quota, and we put a restriction in the
7 international agreement that they couldn't
8 fish that bluefin tuna in the Gulf of Mexico,
9 anywhere in the Gulf of Mexico, because it's a
10 spawning ground. Couldn't directly fish, just
11 like we can't.

12 They have a 25-ton limit that they
13 can catch, but does your surveillance cover
14 and have you seen any increased Mexican
15 activity on the bluefin ground? I mean, we're
16 aware, by the way, that recently there's been
17 a shift in the hot spots for bluefin spawning
18 in the Gulf of Mexico.

19 At least some scientists believe
20 that the tagging data is showing that, that
21 the principal spawning grounds now in the Gulf
22 of Mexico are in Mexican waters right below

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1 the boundary line between the United States
2 and Mexico. So I'm wondering if the Coast
3 Guard does any aerial flights and if they've
4 seen any recent increase in activity in
5 vessels that would look like they were
6 directing for bluefin tuna. Thanks a lot.

7 MR. GERMAN: I think we'll start at
8 the end and work our way up, make sure we
9 don't miss anything here. As far as the areas
10 we surveil, you know, ask General Schwarzkopf,
11 what was that, during the First Gulf War? His
12 response to that, "I'm not going to discuss
13 the areas that we surveil or don't surveil."

14 But as far as that particular area,
15 I haven't heard any of those same sort of
16 reports coming up from our field folks out in
17 that area, so I really can't give you a solid
18 answer to that question other than we're
19 looking everywhere, right.

20 So on your other question as far as
21 the welding of the hole, I know there was an
22 option that had been floated around, but I

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1 hadn't heard of any further progress on that,
2 so I think that's just soft talk. I haven't
3 heard anybody from the Coast Guard cite any
4 confirmation of that.

5 Does that answer both of those you
6 were looking for?

7 MR. RUAIS: (Inaudible) There was a
8 case with NOAA LLE had where part of a
9 settlement agreement was that the violator was
10 going to agree to weld the hole, the live bait
11 well holes in the hull up in order to not get
12 any litigation further down the road or get a
13 ticket like that, and that offer was rejected,
14 because we did not want to alter the stability
15 of the vessel if they were using that as a
16 stabilizing tank or something like that.

17 My personal experience on that, and
18 I've seen and boarded dozens and dozens of
19 these boats, and if you are actually going to
20 use that tank as a stabilizing tank, you
21 should have a way of forcefully bringing water
22 from the outside into the tank and removing it

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1 at will via a valve and a pump, and these
2 tanks aren't set up that way. There are
3 hundreds of holes in the tank that allow the
4 tank as the boat rises and falls in the water
5 to siphon water in and out, the sole purpose
6 of which is to aerate and circulate for live
7 bait.

8 So their argument of that
9 particular tank being used as the ballast tank
10 to me would be an easier argument to win if it
11 had a valve and a pump that can control the
12 water going in and out. So that was offered
13 up as part of a litigation point to weld the
14 hole shut, and NOAA rejected it, because we
15 didn't want to be responsible for any ballast
16 issues on the vessel.

17 PARTICIPANT: Well, Rich, I'd like -
18 - there's a few other people who have not had
19 a chance to ask any questions yet.

20 MS. MILLER: I first just wanted to
21 echo the thanks from others around the room
22 for the work that you all do, because

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1 obviously regulations if they're not enforced
2 don't help anything, and also a special thank
3 you to Steve and his group for -- they just
4 recovered an archival tag from a bluefin tuna,
5 which is really great, so kudos to you.

6 And then, also, for the live bait,
7 you cited five cases in the Gulf of Mexico.
8 How many boardings are we talking about? Is
9 this a frequent thing, or is this five out of
10 200 boardings?

11 PARTICIPANT: Actually, there's a
12 lot of numbers that are on this presentation
13 that aren't accurate, because cases are still
14 in litigation. It's actually a lot more cases
15 than the five that we're just not at liberty
16 to talk about.

17 With the advent of VMS, we're not
18 just out there boring holes in the water
19 anymore, by happenstance trying to board
20 somebody. We're using intelligence showing
21 that a particular vessel has visited a known
22 live bait site and anchored there for a

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1 certain amount of time that gives us
2 historical data and reason to target that
3 vessel, and the vessels that we target, I'd
4 say, are almost 100 percent.

5 If we target it using VMS
6 intelligence and go after it, we board it and
7 find live bait violations. So we are doing a
8 lot of boardings, but we're -- if we had a
9 batting average, I'd say it's almost 1,000.

10 PARTICIPANT: Thank you. Glenn,
11 Sonja, Rom. Oh, I'm sorry. Did you want to -
12 -

13 MS. ENGELKE-ROSS: -- which was
14 really -- I'm glad that you brought this up,
15 because I think there's a lot of confusion
16 about what the function of the rebut table
17 presumption is. I think a lot of people
18 describe it as the five percent rule, as if
19 there is a prohibition on possessing sharks
20 whose weight is in excess of five percent.

21 If you go to the prohibitions
22 sections, the prohibited acts section of the

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1 Magnuson Act, and actually read the
2 prohibition on shark finning and then read the
3 rebuttable presumption, the rebuttable
4 presumption is really just there as an aid to
5 enforcement, because the way that the ban, the
6 finning ban, is structured, fishers are
7 allowed to remove the fins from --

8 Currently, they are allowed to
9 remove the fins from their sharks, maintain
10 the carcasses and the fins separately, and the
11 prohibition is on possessing or landing sharks
12 without the -- shark fins without the
13 corresponding carcasses or finning the sharks
14 and discarding the carcasses at sea.

15 The rebuttable presumption is there
16 because the likelihood of enforcement actually
17 being there to observe someone cutting the
18 fins off their shark and tossing the carcass
19 overboard is, as everyone knows, although
20 we're watching everywhere, we can't actually
21 be everywhere.

22 The focus is really on the landing

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1 and possession requirement, and without that
2 five percent rebuttable presumption, we would
3 actually have to establish that every single
4 fin did not belong to any of these carcasses,
5 which would require extensive, expensive, time
6 consuming DNA testing or some other kind of
7 means of actually establishing that the fins
8 and the carcasses don't correspond.

9 And I think that the important
10 thing to focus on is the word "rebuttable."
11 It's a presumption that enforcement is allowed
12 to make that if you have fins whose weight is
13 ten percent of the carcass weight that we
14 believe that you've discarded some carcasses
15 at sea.

16 If you can establish by
17 presentation of evidence, you could go get the
18 fins and carcasses. Well, not you. One, a
19 fisher could go and have DNA testing done,
20 present that evidence, present witness
21 testimony about what occurred on the vessel.

22 It's just a presumption. The

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1 opportunity is there to present evidence that
2 our presumption is wrong, and so it's really
3 not a five percent rule. It's a presumption
4 that enforcement can use without which the
5 finning ban would be extremely difficult to
6 enforce.

7 So I think that's an important
8 point to make, because a lot of confusing
9 comments have been made about the function of
10 the five percent rule and whether or not five
11 percent is the right number. I mean, in some
12 ways it's irrelevant, because the five percent
13 is in the Magnuson Act now, so that's
14 currently the state of the law, but it's not a
15 five percent rule. It's a rebuttable
16 presumption based on five percent.

17 PARTICIPANT: Thank you. Glenn.
18 Glenn, Sonja, Rom, and Vince.

19 MR. DELANEY: Actually, that last
20 discussion inspired another point. I'm not so
21 sure, at least one case I'm familiar with,
22 that there was a reasonable opportunity for

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1 the defendant to present evidence in support
2 of his defense at all.

3 In fact, some of these cases are
4 being prosecuted based on a paper trail long
5 after the carcasses and fins have entered in
6 trade, and there is absolutely no possibility
7 for something as extraordinary as a fisherman
8 getting DNA analysis to match up his fins and
9 carcasses.

10 The whole thing is completely
11 ridiculous, but in any case, I think there is
12 legislation that's been introduced in the
13 House. I'm not entirely familiar with all the
14 details, and I know there's some folks here
15 that are, and maybe they'll choose to speak to
16 it.

17 Maybe I could ask someone to tell
18 us what's in there in terms of the finning
19 provisions and the five percent provision in
20 the Magnuson Act. I think it's even going to
21 be the subject of a hearing in the House
22 tomorrow.

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1 So, you know, just to Rich's
2 comment, you know, maybe there is some
3 recognition by the shark community that I've
4 talked to. You know, there has been some
5 indications that they do acknowledge that
6 there are some tremendous differences in
7 species, fin ratios, and that's something that
8 ought to be addressed, and an alternative
9 approach needs to be developed, particularly
10 on the bluefin tuna, because the Mexicans
11 really pursued very aggressively at ICAT last
12 year an increase in their bluefin tuna
13 allocation to the west, and, you know, it's a
14 little hard to understand where those fish
15 would be taken other than in direct violation
16 of ICAT rules, which prohibits directed
17 fishing in the Gulf of Mexico.

18 And we actually received a
19 commitment, I thought, from our colleagues
20 from the Coast Guard that work with us on ICAT
21 -- and I can't think of his last name right
22 now. I know him so well, but I won't put him

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1 on the spot. Maybe that's better -- that the
2 Coast Guard would follow up on that issue,
3 because, you know, some of us on the
4 delegation were very, very concerned about
5 providing that bluefin tuna allocation to
6 Mexico, knowing that, you know, it's highly
7 unlikely that it could be legally harvested,
8 and so, you know, that the Coast Guard would
9 make a special effort to try to follow up
10 either on the ground or on the water and find
11 out what the heck was going on there.

12 So maybe that's not a question but
13 just to point to check in on and see if
14 there's any activity that's ever been followed
15 up on looking after Mexico and in the Gulf of
16 Mexico on bluefin tuna.

17 MR. GERMAN: Thank you for the
18 comment. I'll take a look at that and see if
19 there is anything. Nothing has been reported
20 to me, though.

21 PARTICIPANT: Thank you, Glenn.
22 Sonja, Rom, and Vince.

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1 MS. FORDHAM: Sonja Fordham, Ocean
2 Conservancy. Thanks, Glenn, for the teaser.
3 I'm so easily teased. Yes, I just wanted to
4 add that, well, from our perspective the
5 conservation groups have long acknowledged
6 that there are problems with fin-to-carcass
7 ratios in general and that alternate measures
8 are needed, and there is pretty much
9 scientific and conservation group consensus
10 that the best means to implement and enforce a
11 finning ban is to require that sharks be
12 landed with their fins attached, which is why
13 we were grateful for this discussion from
14 enforcement in the presentation last year
15 about this time and are still supportive and
16 pleased that the National Marine Fishery
17 Service is moving in this direction for the
18 Atlantic.

19 The bill is called the Shark
20 Conservation Act of 2008, HR 5741. A hearing
21 is tomorrow in the House, Natural Resources
22 Subcommittee on Fisheries, Wildlife, and

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1 Oceans at 10:00 a.m. The bill is introduced
2 by Chairwoman Bardallo.

3 It does remove the five percent
4 language as has just been discussed in detail
5 but also closes some important or some glaring
6 loopholes that have gotten in the way of
7 proper enforcement of the finning ban. It
8 also sets up a system to encourage other
9 countries to make sure that shark finning is
10 banned and ultimately the possibility that we
11 could impose sanctions on countries that don't
12 ban finning.

13 So we would certainly welcome
14 support for this bill from the commercial
15 industry and recreational fisherman and any
16 other interested parties. That would be
17 wonderful, and also a similar action in the
18 Senate would be a good idea, we think, and
19 conservation groups are still interested in
20 pushing for fins attached.

21 But I wanted to ask as a follow-up
22 then if the bill -- in the case that this did

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1 turn into law and the five percent -- the
2 rebuttable presumption was removed, I know in
3 the past enforcement has said on the record
4 that the fins attached strategy would be left
5 for them in terms of enforcing the finning
6 ban. I hope that's still true, and I guess I
7 would ask for any comments on that and also
8 urge you any way that you're able to get that
9 across in the debate over this Shark
10 Conservation of 2008. Thank you.

11 PARTICIPANT: Yes, well, on that
12 issue, I mean, we're looking at it as two-
13 fold. Number one, we do look at historical
14 documents for the five percent rule or
15 whatever, if that was changed to whatever was
16 accomplished, but we are still having to deal
17 with paperwork after the fact, dockside, at
18 sea, and probably most importantly, keeping
19 the carcass or the fins on the carcass at sea
20 is going to be our best bet for at-sea
21 enforcement.

22 That will alleviate the problems

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1 where we have people that are taking
2 hammerhead sharks and then cutting off the
3 fins, storing or concealing the fins, and the
4 carcasses are long gone. Here, if we have a
5 requirement there where they have to have the
6 fins attached, anywhere on that boat we find
7 loose fins would be a violation.

8 So that would make it easier for
9 us, but down the road for investigations, I
10 think the five percent rule or at least the
11 ratios, that some form of it would be helpful
12 for us, too, because we're not going to be
13 everywhere, at every dock or at sea and board
14 every vessel.

15 PARTICIPANT: I just want to say for
16 enforcement purposes, the five percent rule
17 doesn't always work, but it gives us a good
18 go-by. It keeps us from having to count every
19 fin, but, for instance, during the boarding
20 process, if we interview the captain and ask
21 him, "How many fins are you taking per shark?"
22 and he says, "Our standard practice is to take

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1 four," and then you count 100 carcasses, and
2 there's 600 fins on the boat, you have to
3 assume that some finning is going on, where if
4 the fins are attached, it's not necessarily
5 so.

6 On another enforcement issue, if
7 you count 100 carcasses, and there's 400 fins
8 on board, you would assume that he's not
9 finning, but he still could be high grading
10 there, keeping the carcasses, you know, and
11 then keeping the big fins and throwing the
12 other ones aside.

13 So in order to enforce that, the
14 best way for us is to have the fins attached.

15 It also makes the log easier to identify in
16 the event that somebody has got a prohibited
17 species. That helps us out, but we're not
18 talking about people that are on the fringe of
19 a three percent or five percent.

20 We have recently made cases where
21 after a commercial fisherman got his limit of
22 4,000 pounds of shark and 200 pounds of fins,

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1 we would find on the vessel an additional
2 concealed 500 pounds of fins, which, when we
3 counted, physically counted the fins in a two-
4 day trip after the fisherman got his limit, he
5 caught and finned an additional 1,000 sharks
6 in a two-day period, and you look at this guy,
7 and he's making 15 trips a month.

8 That's the kind of stuff, you know,
9 that we need help with. The guy that's go a
10 couple of fins over, a couple of fins under,
11 we're not getting beat up on that stuff. It's
12 the guys that are going out there and
13 intentionally doing it. He's allowed 200
14 pounds of fins on a trip, and he brings in 700
15 pounds. That has nothing to do with five
16 percent.

17 PARTICIPANT: This has been a great
18 exchange, and I'm betting we could just talk
19 about finning for the next three days, okay,
20 but there's three people that haven't had a
21 chance, and we're running out of time on this
22 agenda item, so I'd like to proceed with Rom,

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1 Vince, and Terri and then call it there.
2 That's okay.

3 MR. WHITAKER: Okay, can you hear
4 me? All right. Well, we had our electronics
5 expert, Joe McBride working on it, so we got
6 if fixed.

7 Anyway, Rom Whitaker, Hatteras
8 Charter Boats, and this is for Coast Guard.
9 Come September I'm going to be required to
10 have a transportation worker's identity
11 credential, a TWIC card I think that is
12 called, for \$135 more, and I personally feel
13 like this is a license to buy a license, but
14 since we're pretty -- we're on a pretty --
15 you're checked out pretty good when you get
16 your captain's license by the Coast Guard, and
17 they do a great job with that, and I thank you
18 for that, but will this TWIC card be enforced
19 by Coast Guard, by U.S. Marshal, by Department
20 of Transportation people? I'm just wondering
21 who's going to be checking it.

22 PARTICIPANT: Right. Since it is a

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1 Homeland Security, Department of Homeland
2 Security initiative, the Coast Guard and the
3 other agencies within Homeland Security will
4 be checking that.

5 PARTICIPANT: (Inaudible)

6 PARTICIPANT: Correct. Since we
7 belong to the Department of Homeland Security,
8 that's where our allegiances lie.

9 PARTICIPANT: Okay, we have Terri,
10 Dewey. I'm sorry. I'm sorry. Vince. I
11 crossed you off too soon. Sorry about that.
12 Go ahead.

13 MR. MONTELLA: I'm not real clear on
14 the case of George Townsend, and you sounded
15 like you were pretty familiar with it when you
16 gave the presentation. He had a Canadian
17 vessel fishing the high seas, discharging in
18 Trinidad, selling the fish to Miami, I assume
19 from an approved exporter from Trinidad to an
20 approved importer in Miami. Where do the
21 charges lie, and is there Canadian charges, as
22 well?

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1 MR. RADONSKI: Well, the charges lie
2 using the Lacey Act, and the underlying law
3 is the Canadian fisheries requirement. Those
4 fish, in essence, under the Lacey Act were
5 harvested illegally, because the boat was not
6 permitted for that activity.

7 It was an IUU boat, so it was not
8 legally fishing. The fish were illegally
9 harvested by that boat, and the mode of
10 transportation was Trinidad to Miami.

11 MR. MONTELLA: (Inaudible)

12 MR. RADONSKI: Number one, he is a
13 U.S. citizen. Number two, it's product that
14 came to the United States, and under the Lacey
15 Act, fish and wildlife that is taken contrary
16 to someone else's law and then brought to the
17 United States is illegal.

18 That is one of the main purposes of
19 the Lacey Act is to combat illegal fishing
20 activities and then bringing it here to the
21 United States, the fact that the U.S. dollar
22 is actually driving that poaching activity.

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1 MR. MONTELLA: (Inaudible)

2 MR. RADONSKI: This isn't a lawsuit.

3 This is a criminal -- that was a criminal
4 investigation, and in that case the only one
5 that was charged was George Townsend for his
6 activity, and he was owner/operator of the
7 (Inaudible).

8 MR. MONTELLA: Thank you.

9 MS. BEIDEMAN: Terri Beideman. Not
10 to spend a whole lot of time on the five
11 percent rule, although it reminds me very,
12 very much of the two percent bluefin tuna
13 rule, which was a disaster from the beginning
14 and ended up even worse, and I would caution
15 at the same time that landing with fins
16 attached is very close to tails on tuna issue,
17 which is a storage issue on a fishing boat,
18 and the reason I can hear the complaint about
19 tails on tuna is because it's somehow gotten
20 more back into being required again is that
21 there's just not enough space with these tails
22 sticking all over the place, and I suspect

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1 with fins attached --

2 I'd be very interested, and I think
3 you guys are the enforcement guys. You don't
4 write the rules. The rule makers, writer
5 people, are the ones that have to be really
6 careful about how they put this together.

7 If they're going to change the five
8 percent, obviously, is wrong, but landing them
9 with it attached could also be a nightmare, so
10 it has to be carefully done and consider that,
11 you know, there are storage issues. There is
12 -- you know, especially tails-on tuna is a
13 nightmare. The fork remaining is fine.

14 You don't need long flukes, you
15 know, sticking out all over the place, frozen
16 fish, you know, cold fish stabbing people
17 trying to move around in a fish hold. It's
18 not a good thing, so that's all I have to say.

19 Thanks.

20 PARTICIPANT: Terri, thanks. We
21 have two more speakers, two more people that
22 are going to contribute, and then we're going

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1 to have to cut it off. It's already 3:00. We
2 scheduled a 3:00 break, so let's make it
3 quick.

4 MR. HEMILRIGHT: Yes, Dewey
5 Hemilright. I've just got a couple questions
6 and a few observations. Imagine that. One of
7 my questions is how many cases have been
8 prosecuted under the Shark Fin Prohibition Act
9 of 2000? How many have been successfully
10 prosecuted?

11 MS. ENGELKE-ROSS: I don't -- are
12 you asking about since the Shark Finning
13 Prohibition Act was enacted? I don't have
14 those numbers, but we could probably get back
15 to you with those numbers.

16 MR. HEMILRIGHT: Well, do you have
17 a guess or anything like that?

18 MS. ENGELKE-ROSS: No, I would not
19 hazard a guess. Some of those would have been
20 before I even started working in this office,
21 so I wouldn't be able to hazard a guess, but
22 we could probably come up with a response to

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1 that. Somebody actually may have come up with
2 a response to that. I just don't happen to
3 have that information.

4 MR. HEMILRIGHT: I was just
5 wondering. A little observation here about
6 the bill that's going to be introduced
7 tomorrow or is introduced or is speaking
8 about. The uniqueness about us when we're
9 fishing and cleaning these carcasses is
10 everybody thinks it's just easy. Just go
11 ahead and leave the fins on the shark. Hey,
12 that's the magic wand.

13 It's not the magic wand for the
14 fishermen. When you're catching in our area,
15 65 to 70 percent are sandbar sharks. You
16 know, you clean them a lot different than you
17 do a mako shark, and the people know how you
18 clean mako sharks and leave the knuckles on
19 where the dorsals are and -- I mean the pec
20 fin, and so leaving these shark fins on these
21 sharks is meaning that you're going to have to
22 -- one, I think you're going to lose a lot.

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1 The meat's going to suffer a little bit the
2 way it's -- how healthy and how good you can
3 take care of the meat leaving the fins on,
4 whether or not it's bled and different things
5 like that.

6 And the second thing is storage on
7 the boat, you know. When you clean these
8 carcasses, you've got a lot that's like this,
9 and you go to put that on something. Now all
10 of the sudden you've got tails and fins and,
11 well, people tell me, "Oh, just leave it on
12 naturally."

13 Well, why the hell don't they come
14 up with the idea how to do it, you know,
15 because it's not that easy to take care.
16 We're the (Inaudible). You know, we use that
17 meat. Everybody out there, as you read these
18 reports and paperwork and the (Inaudible), you
19 know, you would think that everybody is just
20 out there finning sharks.

21 Well, that ain't the case, and when
22 you go to look at this five percent law and

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1 the rebuttable presumption stuff, enforcement
2 can just decide if they want to charge you
3 with this and allow you to rebut yourself, or
4 they can decide to charge you with the five
5 percent law.

6 You know, it's kind of like
7 arbitrary and capricious, whatever we want.
8 We'll charge you with one or the other,
9 whichever we can prosecute you more, but this
10 shark fin is just -- the whole time of the
11 five percent law, the National Marine
12 Fishery's own best science took an average
13 when they made up this law.

14 The last paperwork we've seen
15 that's going to ICAT had charts that National
16 Marine Fisheries and other scientists have put
17 together had finning -- had fin ratios of up
18 to nine percent, 37 sandbar sharks. We don't
19 hear about that.

20 The catch-all on this ain't -- I
21 mean, I'm not so sure. Suppose a boat comes
22 to the dock, and these fins -- I mean, how are

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1 you all going to tell that everybody comes to
2 the dock with their fins on their sharks? You
3 can't be everywhere, and you're not going to
4 be.

5 I mean, so I don't see the -- you
6 know, nobody talks about the food value of
7 this meat and how when you're coming up there
8 in the summertime you've got to pull this
9 thing out there on the dock and reclean the
10 thing, because you can't sell it -- to sell
11 it. You know, it would be different if there
12 was an enforcement officer at every stop or a
13 boat checking every shark boat out there, but
14 that just ain't the case.

15 PARTICIPANT: Dewey, we hit this
16 pretty hard last time with the same remarks.
17 Do you have a specific question for the -- for
18 our enforcement folks?

19 MR. HEMILRIGHT: Yes, I do.

20 PARTICIPANT: Thank you.

21 MR. HEMILRIGHT: If a boat comes
22 to the dock with the shark fins landed or the

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1 fins on the shark and you but then shark fins
2 off, and say I come up there, and I buy them
3 shark fins, and I load my boat with shark fins
4 that I bought from somebody legally, and I
5 want to sell out in the middle of the ocean,
6 and I get stopped by the Coast Guard, am I
7 going to be charged with finning?

8 MS. ENGELKE-ROSS: I think that
9 we're wandering down a slippery slope of
10 hypothetical enforcement questions. We are
11 aware of the bill that's been proposed in the
12 House. We are looking closely at it.

13 Rebecca Lent from NOAA's Office of
14 International Affairs is testifying in the
15 hearing tomorrow about shark conservation,
16 management, and enforcement and about IU
17 fishing in general, and it would be premature
18 for us to talk about the effect of that bill
19 in this setting, but we are aware of it. We
20 are aware of the concerns that have been
21 raised with regard to the shark finning, to
22 the five percent rebuttable presumption.

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1 We are talking to HMS as they look
2 at reg development and some of the other
3 activities that they have undertaken with
4 regard to sharks. It would be premature for
5 us to say what we would do in any particular
6 scenario, and we can't answer that question.

7 PARTICIPANT: Rusty. We're running
8 on Coast Guard time.

9 MR. HUDSON: Rusty Hudson, Directed
10 Shark Fisheries. Just an observation. I
11 don't remember your name on the end beside --

12 MR. CAMPBELL: Steve.

13 MR. HUDSON: Steve -- beside Jeff.
14 I know Jeff very well, and I commend you for
15 busting poachers. That's not an issue with us
16 at all in our industry. Generally, though,
17 legally we can remove six fins of the eight
18 fins that exist on the shark, counting the
19 ventral fins. The second dorsal and the anal
20 fin, as you know, for the last couple years
21 you cannot remove.

22 Now, that's just an observation,

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1 but poacher, get him. Get him out of the
2 business, but with regards to a person
3 honestly filling out his log books, and he
4 gets himself in trouble with the fin ratio for
5 honestly filling out his log books, we may
6 have a little issue, but that's a statement,
7 observation. I'll end it there.

8 Now, one question for Jeff. I've
9 asked this question before. Paul Raymond made
10 the statement that you don't need the upper
11 tail. If you're going to leave the fins on
12 the animal, you're going to dress it now a
13 whole different way after a quarter century of
14 behavior.

15 You're going to put it looking like
16 a swordfish virtually on the dock. Why do you
17 need the upper tail that we do not and have
18 not ever sold, especially with like thrasher
19 sharks with a six-foot upper tail of a six-
20 foot carcass. Could you elaborate on that?

21 MR. RADONSKI: Well, elaborate in
22 which way? I mean, I understand in the --

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1 MR. HUDSON: (Inaudible)

2 MR. RADONSKI: Well, enforcement, we
3 have recommended that that would be -- we
4 think that could be allowable or an avenue to
5 go to for the tail, but it's going to come
6 down to what is written in the regulations,
7 and, you know, it's not something that
8 enforcement is going to do but say that we can
9 understand it, but we're not the ones writing
10 the regulations.

11 MR. CAMPBELL: On the example that I
12 gave you, Rusty, during the course of the
13 interview of that boarding, I asked that
14 specific fisherman how many fins he was taking
15 off of each shark, and he answered, "Four,"
16 and then when you count 100 carcasses and 600
17 fins, you know, I'm not that great at math,
18 but the goes-into, you know, doesn't work, you
19 know, in that two goes into four twice and all
20 that stuff. I mean, he gave me a statement,
21 and then the evidence proved differently.

22 MR. HUDSON: And Steve, to close,

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1 I agree with you wholeheartedly. The man
2 wound up lying to you, and he was lying to the
3 rest of the industry by performing the
4 behavior that he was doing. I hope that you've
5 got him out of the business.

6 MR. CAMPBELL: We're working on it.

7 MS. SCHULZE-HAUGEN: Well, thank
8 you, Meggan, Chris, Jeff, and Steve for a very
9 informative discussion, and thanks for all of
10 your comments. In response to a couple of the
11 comments, we can provide copy of the shark
12 legislation that's been introduced, as well
13 as, I believe, Rebecca's testimony has been
14 cleared and is part of the public record if
15 folks are interested in that. So we'll work
16 on getting that to you.

17 In light of our inability to have
18 refreshments, Rick Weber, either in sympathy
19 or desperation, has gotten some cookies for
20 us, so they will be put on the back. So thank
21 you, Rick, and let's have a slightly longer
22 break so folks can have a chance to get a

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1 drink. Convene back at 3:30. Thank you.

2 (Whereupon, the foregoing matter
3 went off the record and resumed at 3:30 p.m.)

4 PARTICIPANT: Folks, it's time to
5 start migrating back to your seats. Okay,
6 folks, I think we're ready if you can find
7 your seats, please. Thank you.

8 MS. SCHULZE-HAUGEN: All right. If
9 folks could take their seats, we will get
10 started with the Shark Amendment presentation.

11 MR. CLARK: All right. Good
12 afternoon, everyone. My name is Michael
13 Clark. I work for HMS up in Silver Spring
14 primarily on shark management measures but
15 also on ICAT and exempted fishing permits, and
16 what I'd like to present to you today is a
17 sort of a summary of the final EIS that was
18 recently released, and some of you -- spoke
19 with some of you last week about measures
20 contained therein, and this is essentially
21 sort of a culmination of, for those of you
22 that remember, the meeting that was in

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1 Alexandria back in 2006 with the Notice of
2 Intent being issued.

3 We came, but we had a pre-draft at
4 last April's AP meeting that was presented to
5 you all, went out with the proposed rule and
6 the draft EIS in July of 2007, and then,
7 again, just have released the environmental
8 impact statement, which basically just
9 describes the analysis surrounding the final
10 measures that would be implemented via a final
11 rule, and again we're hoping to get that final
12 rule effective by July of this year. So just
13 to give you a little -- an idea of where we
14 are and also to remind you that comments on
15 this EIS are being accepted until May 19.

16 So, again, the objectives, I
17 basically want to sort of refresh your
18 memories with what was proposed back in July
19 in the draft EIS and proposed rule and
20 describe some of the comments that we've
21 received, provide a summary of those.

22 The full list of comments that were

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1 received and the Agency's responses you can
2 find in the hard copy of the plan, and then
3 also give you a little better idea of some of
4 the additional analysis that took place based
5 on public comment and also how those analyses
6 might have affected the final measures that
7 are contained in this document that would be
8 also included in the final rule later on this
9 summer.

10 If you will recall, we did -- we
11 looked -- our NEPA analysis was slightly
12 different on this action than we've done it in
13 the past. We looked at five different
14 alternative suites, and within each suite
15 there would be measures that corresponded to
16 these seven key topics, quotas, species
17 complexes, retention limits, primary closures,
18 rec measures, et cetera, and again the idea
19 with that was to simplify the analysis and
20 also simplify the public's understanding of a
21 particular alternative suite.

22 Just to give an example, if there

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1 is a lower quota that needs to be implemented,
2 it would follow suit that a modification of
3 retention limits and potentially a
4 modification to reporting would also -- would
5 make sense with that lower quota, and so
6 combining those actions facilitated analysis
7 and gave the public a slightly better idea of
8 what exactly what suites would contain and how
9 it would affect these different key topics.

10 So, again, there were some
11 adjustments based on comments that were
12 received and the analysis that took place
13 between when the comment period closed and
14 now. Again, some of the proposals were
15 changed from between the draft and the final.

16 We did create a new non-sandbar
17 large coastal shark quota base on
18 recommendations from the Southeast Fishery
19 Science Center, and I'll provide more
20 information on that later. There were over
21 harvests that occurred in 2007. Those are
22 accounted for in this rule-making, again, more

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1 on that later.

2 We set regional quotas. If you
3 recall, during the draft period we went out
4 with a proposal to basically implement just
5 one region. Currently, there are three, the
6 North Atlantic, South Atlantic, and Gulf of
7 Mexico regions and also correspondingly with
8 these revised quotas and revised retention
9 limits somewhat, as well.

10 So now I wanted to provide you with
11 a summary of some of the comments that we
12 received. I'll try and organize these by the
13 key topics but also on just other measures
14 that were included where we received a lot of
15 public comment. I'm not going to read through
16 all these, obviously, but just to give you an
17 idea of what some of the comments were and how
18 that affects exactly what, you know, what was
19 modified between draft and final.

20 So, again, the Science Center
21 recommended that we should use shark dealer
22 reports and not log book data in establishing

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1 the non-sandbar large coastal quota. We did
2 get questions about the over-harvest that
3 occurred in 2007, how those would be addressed
4 in the future. A lot of people felt that the
5 proposed non-sandbar large coastal shark quota
6 was too low and that, you know, we also got
7 comments about potential modifications to the
8 porbeagle shark quota as opposed to an
9 outright prohibition on porbeagles.

10 With regard to retention limits, a
11 lot of commercial fishermen simply stated that
12 the 22 non-sandbar large coastal shark limit
13 that was proposed is just simply not
14 economically viable, not worth, you know, not
15 worth putting gas in the boat for.

16 The gill netters mainly
17 concentrated around Stuart, Florida, and it's
18 about five to seven active vessels in that
19 fishery. They felt that this retention limit
20 wasn't really fair for them, because they
21 don't interact with a lot of sandbars.

22 A dusky is just mainly a black tip

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1 and small coastal shark fishery, so again they
2 wanted -- they provided some suggestions as to
3 how a more economically viable non-sandbar
4 shark retention limit might look, and I
5 believe the number that they had thrown out
6 was 75 and that NMFS should also -- should
7 have proposed back last summer region-specific
8 retention limits just to address the fact that
9 there's, you know, there are differences
10 between species composition and between the
11 Gulf and Atlantic regions.

12 On time area closures, as you might
13 recall, the South Atlantic Fishery Management
14 Council in their Amendment 14 had measures
15 that would have -- that resulted in closures
16 to bottom longline gear. There is actually
17 eight areas, and I have a map that'll show you
18 what those are, and we did get some comments
19 on those, specifically would VMS be required
20 for enforcement of these areas, and also would
21 there be sort of a transit exemption for
22 people that are just passing through.

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1 Did receive a lot of comments on
2 the shark research fishery, and I'll provide
3 more information on how that would look, how
4 that would work later on in the presentation,
5 but, again, we did get a lot of comments on
6 the need to provide more information on how
7 vessels would be selected, what data were
8 needed and necessary for the Agency, and also
9 just a little more information on how those
10 boats might be picked, how the distribution
11 would look geographically and temporally and,
12 you know, and obviously a lot of people were -
13 - a lot of the commercial permit holders were
14 quite interested in learning more, because
15 they are interested in applying and being a
16 part of that fishery, but again, more detail
17 on that in a few slides.

18 On reporting, we got a lot of, you
19 know, a lot of comments from dealers and
20 others stating that the requiring that
21 circular reports be received within ten days
22 of the end of a reporting period is not enough

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1 time for dealers to report.

2 On the other side, some folks were
3 in favor of more frequent reporting to prevent
4 over-harvest, and then also just comments and
5 questions on what the current definition of a
6 shark dealer is and essentially who needs to
7 report federal shark landings.

8 Seasons and regions. We did
9 propose one region, as I mentioned before, and
10 one season opening January 1 with the
11 exception of 2008 and got comments stating
12 that NMFS should consider federal closures in
13 April, May, and June to protect sharks that
14 might be pupping in certain regions. An
15 opening on July 1 might be more equitable for
16 folks that might not have sharks available in
17 their regions on January 1 and, again, some
18 other comments that you can see there.

19 Finning. We did receive a lot of
20 comments on the proposed measure to land all
21 sharks with all fins naturally attached.
22 Obviously, a lot of fishermen didn't think

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1 that this was going to be a practical way to
2 market their products as far as dealing with
3 what happens at the docks and some of the
4 issues that might occur there.

5 Also got comments on the five
6 percent, and the carcass ratio was just
7 something that was going to be looked at, a
8 lot of questions on that and just a lot of
9 concerns, obviously, among the commercial
10 sector on how this really could change a lot
11 of the price structure and their ability to
12 get a good price for shark fins and shark meat
13 with this fins-on requirement.

14 Did receive a lot of comments, as
15 well, on our proposal to prohibit porbeagle
16 sharks. Did receive a lot of comments in
17 favor of the prohibition and also received
18 comments against the prohibition, and then
19 sort of in the middle certain folks that
20 mentioned under quotas would propose that
21 basically that the quota be reduced to roughly
22 what current fishing level is and, just so

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1 folks know, the current porbeagle commercial
2 quota is 92 tons a year, and landings have
3 been around about a ton and a half per year,
4 so there's a pretty big discrepancy between
5 what the quota is and what is being landed.

6 Recreational measures. Did receive
7 a lot of comments. We came out with a
8 proposed list of species that would be -- that
9 could be landed in the recreational fishery,
10 and these -- for folks that don't know, these
11 are the HMS angling permit holders and then
12 also the charter head boat permit holders, and
13 our list that we specifically had solicited
14 comments on was in order to sort of reduce the
15 risk that fishermen might be keeping a
16 prohibited species or a species that, you
17 know, that we're concerned about.

18 Received a lot of comments on that,
19 on some of the economic impacts, especially in
20 the Gulf area of not allowing blacktip
21 spinners and bull sharks, and then, just
22 generally speaking, what sort of plans does

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1 the Agency have for improving outreach and
2 improving the ability for, you know, for
3 recreational fishermen to be able to
4 positively identify exactly what sharks
5 they're interacting with in order to make sure
6 that they're compliant with the law.

7 On the science, we received a lot
8 of comments on that. Obviously, a lot of
9 people felt that the findings of the sandbar
10 shark assessment are not sufficient due to
11 data that were not included. How -- generally
12 speaking, how does the Agency deal with
13 landings that might be occurring outside of
14 our waters, especially in stocks that are
15 straddling between here and Mexico?

16 Did receive comments, as well, that
17 NMFS should be more precautionary and reduce
18 the quota for sandbars even more to
19 potentially facilitate a faster rebuilding
20 time and then, again, just more generally
21 speaking, given the long rebuilding time
22 periods for these species, and some of you

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1 might recall that it might take -- you know,
2 the assessment found for dusky sharks it might
3 take up to 400 years. Is it really even
4 feasible to rebuild these stocks?

5 The economic impact. Obviously,
6 the economic impact of the proposed and final
7 measures will be severe, especially for the
8 commercial sector, and received a lot of
9 comments to that fact that obviously, again,
10 related to the 22-head retention limit outside
11 the shark research fishery. That's a drastic
12 reduction from a 4,000-pound draft weight trip
13 limit for a directed permit holder.

14 Was a buyout of the commercial
15 shark fishery considered, and what would be
16 the ramifications of that? And, again, if
17 we're sort of globally speaking, if NMFS were
18 to shut down the shark fishery, this would put
19 more pressure on imports, and the need to
20 import shark produce into the country was
21 another comment. And then, lastly, and Margo
22 alluded to this earlier, if NMFS does go with

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1 the status quo, NMFS should declare fisheries
2 disasters.

3 Again, just to -- getting back now,
4 to complete it with the comments, refresh your
5 memory on the alternative suites that we
6 looked at, this is slide number 15.
7 Alternative Suite 1 was the status quo.

8 Alternative Suite 2 would have been
9 a limited shark fishery for directed permit
10 holders only. I believe the retention limits
11 under that for directed permit holders would
12 have been eight sandbar and 22 non-sandbar.

13 Alternative Suite 3 would have
14 expanded that somewhat and include the
15 incidental permit category, as well. However,
16 it would decrease the retention limit because
17 of the fact that there would be that many more
18 participants to four sandbar and 10 non-
19 sandbar.

20 And then Alternative Suite 4, which
21 was the preferred alternative, and it's still
22 currently the selected alternative at this

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1 stage with, you know, with the modifications
2 from the proposed, which would basically carve
3 out the entire sandbar quota for a shark
4 research fishery. Those vessels would be able
5 to land other sharks, as well, but they would
6 be able to fish for and land and sell sandbars
7 and other non-prohibited species.

8 Furthermore, outside of that
9 research fishery, there still would be an
10 allowance for non-sandbar large coastal, and
11 I'll provide more information on that, and,
12 again, with the -- it would also allow
13 recreational landings under the HMS angling
14 and charter head boat permit categories.

15 Alternative Suite 5 was, you know,
16 sort of the other bookend from status quo, and
17 that would be to close all recreational and
18 commercial shark fisheries.

19 So these tables, I'm just going to
20 go through the seven key topics. You'll see
21 on your left is what was in the draft. On the
22 right is what is currently in the final

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1 environmental impact statement, and the
2 highlights -- the yellow highlights are what
3 has changed between the draft and final.

4 As I mentioned before, there were
5 over-harvests in 2007. Those over-harvests
6 were accounted for over a five-year period,
7 and that was in order to ensure that the shark
8 research fishery could start in 2008 because
9 of the pretty significant over-harvest that
10 occurred in 2007 might have not allowed that
11 to happen if they were all accounted for in
12 one year, and this is flexibility we would
13 want to maintain in the future so that all
14 over-harvest might not necessarily need to
15 come off the next year but could be looked at
16 over multiple years potentially.

17 So the shark research fishery would
18 have an allowance for sandbar and for non-
19 sandbar, so these ten vessels that would be
20 selected to participate in that fishery would
21 be the only vessels authorized to land sandbar
22 and other sharks while they're pursuing

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1 sandbars, and the adjusted quotas, which would
2 be for the next five years, would be about 87
3 tons for sandbar. That's about 200,000 pounds
4 and 37.5 tons for the non-sandbar large
5 coastal. That's about 82,000 pounds.

6 Outside the shark research fishery,
7 again, as I mentioned, the sandbar sharks
8 would be prohibited. These quotas changed
9 based on the Science Center chimed in and
10 provided us with additional guidance, stating
11 that it might be -- it might be better to not
12 use log books as the basis for that quota but
13 rather to use shark dealer reports. Shark
14 dealer reports would include state landings,
15 so it would be more representative of the
16 overall mortality, and these quotas are
17 slightly larger than what was proposed.

18 Again, after considering the over-
19 harvest that occurred in 2007, it would be an
20 adjusted quota, and, again, we had originally
21 proposed one region. What we're going forward
22 with at this stage would be two regions, the

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1 Gulf and Atlantic, so basically the north and
2 south Atlantic would be combined.

3 Gulf quota just under 400 tons,
4 about 857,000 pounds, and then the Atlantic
5 quota would be 187 tons, about 414,000 pounds.

6 Status quo for the quota for small coastals,
7 450 tons, and status quo for the porbeagle
8 shark quotas.

9 Another deviation, we had
10 originally proposed prohibiting porbeagle
11 sharks. Rather, we would -- at this stage
12 we're selecting to reduce the quota down to
13 the commercial quota from 92 tons to 1.7
14 metric tons, which is currently what landings
15 are.

16 A little more information on the
17 shark research fishery. So essentially how we
18 envision this as it's working was that NMFS
19 would come up -- would publish a notice in the
20 *Federal Register* on an annual basis that would
21 basically outline the shark research fishery
22 objectives for that given year, and that would

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1 have a shark board, which is composed of
2 scientists, HMS, and also a protected resource
3 specialist that would confer and determine
4 what sort of the research needs are for a
5 given year.

6 Permit holders that have a directed
7 or incidental permit would be able to apply,
8 and those vessels, if they have been compliant
9 with observer coverage in the past and don't
10 have any HMS-related notice of violations or
11 NOVAs, then they could potentially be included
12 in the list of eligible vessels with the
13 caveat that, again, we want to ensure spatial
14 and temporal coverage of this allotted sandbar
15 shark quota. We want to get samples for life
16 history studies from all the regions from all
17 the seasons to ensure that, you know, that
18 this quota is adequately spread around.

19 So now these vessels that are
20 selected for the research fishery would still
21 be able to fish outside of that under the
22 reduced retention limits. They would have

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1 higher retention limits, more in line with
2 what the retention limits have been for the
3 directed fishery within this research fishery,
4 but if an observer were unavailable to go on a
5 particular trip, or if somebody --

6 If a fisherman wanted to make an
7 additional trip outside of the research
8 fishery, they could certainly continue to do
9 that, and so, again, that's, again, sort of
10 how we're envisioning that working, and it
11 would be, you know, between five and ten
12 vessels approximately and, again, it sort of
13 depends on the number of applications we
14 receive.

15 If we only receive ten
16 applications, and all the vessels are
17 qualified, and they're spaced out throughout
18 the different regions, then potentially all
19 boats could be picked. If we get 30
20 applications, then we would need to make a
21 random draw from the eligible vessels.

22 Again, the objectives for the

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1 upcoming year are basically, you know, fall in
2 line with what was recommended at the last
3 large coastal assessment completed in 2006,
4 basically more life history work on large
5 coastal sharks, size distribution to sandbars,
6 genetics work, and then also some PSAT tagging
7 of(Inaudible) soft fish and dusky sharks
8 potentially, and then also we could -- there
9 has been some interest in doing some work with
10 trying methods to experiment with different
11 fishing techniques to reduce by-catch of
12 prohibited species and/or, you know, protected
13 resources, as well.

14 So, again, that was just a little
15 detour to give you a little bit more
16 information about the shark research fishery,
17 getting into retention limits. As mentioned
18 before, within the research fishery those
19 would be specific and designed based on the
20 research objectives.

21 Outside the research fishery we had
22 proposed 22. We're going forward with 33.

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1 Again, the quota had increased somewhat based
2 on the Southeast Science Center's
3 recommendation to use shark dealer data rather
4 than log books, so the trip limits or
5 retention limits increased, as well.

6 We had originally proposed having
7 the same retention limit for directed and
8 incidental permit holders, and we are changing
9 that. The directed permit holders would be
10 allowed to catch 33 non-sandbar, and the
11 incidental permit holders would be able to
12 keep three non-sandbar, and that was just
13 based on what incidental permit holders had
14 reported in their log books, and, again, these
15 are through 2012.

16 You know, the quota is adjusted,
17 and so is the retention limit. After 2012, it
18 would increase, as the quota would, to 36 and
19 three, respectively, for the directed and
20 incidental permit holders, again non-sandbar,
21 and, again, we are maintaining the requirement
22 to land all sharks with all fins naturally

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1 attached.

2 Regions. We had originally
3 proposed one region for all shark species
4 based on comments that we received, and in
5 order to more equitably address some of the
6 over-harvest that occurred in 2007, also to
7 provide flexibility with potential measures
8 that might be coming forward with the Atlantic
9 States plan, and also to maintain consistency
10 with the stock assessment for blacktip we
11 would go forward with two regions, basically
12 Atlantic and the Gulf of Mexico.

13 For reporting, the research fishery
14 on all trips, underneath the auspices of that
15 there would be 100 percent observer coverage
16 on those boats. Observer forms would also
17 provide a means of staying on top of landings
18 in that fishery. Observers and log book
19 requirements outside of the shark research
20 fishery would stay the same.

21 The modification of the timing of
22 when dealer reports must be received would be

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1 maintained. One change, though, we had
2 proposed counting unclassified sharks is
3 sandbar sharks. We would basically in the
4 final EIS look at what dealer reports from a
5 particular region and a particular -- from a
6 particular period of time, look at the species
7 composition of that and use that to fill in
8 the blanks as far as unclassifieds, and we
9 could also use observer data, because there
10 would still be some level of observer coverage
11 outside the shark research fishery and look at
12 that to come up with a species composition to
13 be able to properly allocate the unclassified
14 sharks to the category that they belong in.

15 Seasons, again we had -- with the
16 exception of 2008, we proposed opening the
17 shark season on January 1 of every year
18 thereafter, and we're maintaining that. We
19 had at the draft stage proposed closing both
20 non-sandbar large coastals, which would be
21 outside the research fishery -- or, I'm sorry,
22 yes, outside the research fishery and sandbars

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1 when either hits 80 percent, and the final
2 measure is we'd like to close all of the
3 seasons when each of the individual quotas are
4 at 80 percent, and that would be with five
5 days notice on that.

6 The time area of closures. These -
7 - I have a map in the next slide, but, again,
8 these are regulations that we're complementing
9 being implemented by the South Atlantic
10 Fishery Management Council Amendment 14, and
11 we're going to keep those same -- those same
12 time area closures that they are going forward
13 with in place, and the final measure -- here's
14 a quick map from the east hump down in the
15 south to the (Inaudible) off of South
16 Carolina.

17 The recreational measures, again,
18 we specifically asked for comments on the
19 species that fishermen might be most likely to
20 positively identify and not confuse with a
21 prohibited species. Did receive a lot of
22 comments on that and did make some

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1 modifications to that list, the list of
2 species that HMS charter head boats and HMS
3 angling permit holders would be able to keep
4 most notably, but we still wanted to have a
5 sort of a morphological characteristic that
6 people that might not have as much experience
7 with identifying sharks would be able to key
8 in on as a means to identify what they should
9 be able to keep and what they can't keep, and
10 the way it shakes out is basically all non-
11 ridgeback sharks plus tiger sharks.

12 That would include the blacktip,
13 spinner, and bull sharks, also include the
14 fine-tooth and the blacknose and then, again,
15 as I mentioned before, we had proposed
16 prohibiting porbeagle sharks for both
17 commercial and recreational anglers, and we
18 are modifying the quota and not going forward
19 with that prohibition at this time.

20 The modification of the stock
21 assessment schedule, we had proposed having
22 stock assessments at least every five years

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1 and are maintaining that in the final EIS.
2 Now just one thing. I don't want people to
3 get the impression that the next stock
4 assessment is going to happen for at least
5 five years from 2008.

6 The last assessment took place in
7 2006, and CDAR is meeting pretty soon to
8 determine their schedule. I think the next
9 large coastal assessment is scheduled for
10 2010, so this wouldn't necessarily impact
11 that, and then again, just the timing of the
12 release of the annual safe report, same as at
13 the draft stage. We release that safe report
14 in the fall of each year.

15 And, again, if anybody has any
16 questions, we do have an email account set up
17 to take comments on this. Obviously, we can
18 take them via fax. If you want to give me a
19 call, I can give you my direct line, and you
20 can give comments over the phone. That's
21 fine, or, again, send them in snail mail.
22 That's okay, as well. Look forward to hearing

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1 what you all's thoughts are on this.

2 PARTICIPANT: Before we -- could you
3 turn yours off, Mike?

4 MR. CLARK: All right.

5 PARTICIPANT: Thanks. I don't know
6 what's wrong. Okay, how's this? Okay, before
7 we get started, let's -- I'm thinking you've
8 been on this topic since right around November
9 of 2006, and the Advisory Panel has been kind
10 of along the journey on this amendment. I've
11 kind of been here, I think, for almost two
12 years now, and it's on every agenda.

13 We have been providing you a chance
14 to give input and to give feedback all along
15 the way at every AP meeting. We'll continue
16 to do that today. I just wanted to -- I
17 wanted to make sure that we manage the time
18 that we have.

19 Does anybody have the time right
20 now, the time? Four o'clock? Okay, so I
21 believe we have a public hearing scheduled for
22 4:45. Is that -- I'm sorry, a public comment

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1 period scheduled for 4:45. Big difference.
2 You're right. Sorry about that folks. I've
3 got to be very careful with my language here.

4 So I want to get a sense of who is
5 likely to want to weigh in on this topic just
6 by a show of hands, by kind of raising hands
7 high. It doesn't mean that you're obligated
8 to it, and it doesn't mean if you didn't raise
9 your hand, you can't. I just want to get a
10 sense of that, kind of give me a sense of how
11 much time we have, and also I want to point
12 out that I think this time around I'd like to
13 allow everybody to go first before anybody has
14 another shot at the mic.

15 Is that okay? Is that a reasonable
16 -- so no one's going to get a second and third
17 chance to speak until everybody has had a
18 chance to speak once that wants to. Is that
19 fair enough? Okay. Let's see who wants to be
20 on the agenda.

21 I saw Rusty's hand go up first.
22 Rusty, I'll put you on. Who else? Is that

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1 Chris over there? Okay, and then Sonja and
2 Lisa. Okay, hang on. I'll get the rest of
3 you. Don't worry. Don't worry. Yes?

4 PARTICIPANT: (Inaudible)

5 PARTICIPANT: Okay, and that's --
6 absolutely.

7 PARTICIPANT: I've just got
8 questions. I haven't got a comment.

9 PARTICIPANT: That's fine. That's
10 fine, and I would normally say why don't we
11 get questions out of the way first, but
12 there's really no such thing as a question.
13 What I've noticed is questions really kind of
14 blend right into commentary, into
15 observations, recommendations.

16 It's very difficult to tease apart
17 those things, so I'm not going to ask you to
18 do that in your head, so when it's your time,
19 you can ask a question. You can make an
20 observation or a recommendation. You can make
21 a comment. You decide how you want to use
22 your time, and I'll decide if you've used too

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1 much time.

2 How about that? Okay? So do --
3 oh, I'm sorry. Rusty, Chris, and I had Sonja,
4 and that's enough for right now. I'll get to
5 everybody. Go ahead.

6 MR. HUDSON: Rusty Hudson, Directed
7 Shark. Mike, on, I guess it was your third to
8 last overhead about the shark science, you
9 made the comment about 2010 potentially being
10 the end date of when you can do your next
11 large coastal shark assessment.

12 I have two observations. One is
13 that with the Atlantic blacktip assessment I
14 have never got a satisfactory answer out of
15 this book yet, but I point it out that in 1990
16 all the way back to the early eighties you
17 have zero pounds of landings for the
18 commercial fleet on the east coast of Florida
19 all the way up to the eastern seaboard.

20 Well, we started out our fishery as
21 a blacktip fishery. Furthermore, in June of
22 1992, I provided both private log books with

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1 species breakouts as well as dealer weigh-out
2 sheets and stuff to Dr. Michael Perrick
3 (Phonetic) at the National Marine Fishery
4 Service's Miami lab.

5 That data was available before this
6 last assessment, so what I'm saying is why do
7 we still have this zero pounds of landings of
8 blacktip on the Atlantic side when you have
9 that in-house data? And there is a few other
10 rescue attempts on the Atlantic blacktip so
11 that you can do a real assessment based on
12 real landings. There's millions of pounds of
13 landings there, and so that's one observation.

14 The second observation, as a result
15 of the flawed science based on the incomplete
16 database for the sandbar, mostly caused by
17 Jack Musick's inability to have provided in a
18 timely way his data on his 30-year longline
19 series. Jack Musick has agreed with the
20 industry and has provided that data for those
21 sandbars all the way back into the early
22 seventies.

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1 It breaks it out according to
2 species, size, sex, and stations, and I would
3 like to know how we go about making sure,
4 since he's retired from them and that my
5 scientist, who has agreed to all this, Dr.
6 Frank Hester, that we, NMFS, everybody get on
7 the same page so that that data can finally go
8 into the model so that we can see that the
9 selectivity curve that was applied was too
10 small and that in reality we are catching
11 adult sandbars, quite a few of them.

12 I was actually intrigued by the
13 fact that you had 44 percent mature sandbars
14 off the Mid-Atlantic bite in that Origin II
15 effort, which is traditionally known for its
16 juveniles, but those two needs was something
17 that needed to be done, and it also affects
18 the dusky assessment, which incidentally was
19 in-house, should have been more public.

20 So the Musick data affects both
21 those issues, and so 70-something pound
22 carcass averages for duskies is unrealistic

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1 when we were catching 200-pound carcasses that
2 we had to cut into smaller sections, 50-and
3 70-pound sections, in order to accommodate
4 them in our ice hold, same thing with the big
5 tigers.

6 So that's really what I'm asking
7 you. I don't know if Alan can give me the
8 answer or if it's somebody like Steve Morowski
9 that can give me the answer, but we need that
10 data on the table. We need this assessment
11 before 2010, and then I believe that all of
12 our concerns can be answered more fully by
13 doing better science. Then you can use this
14 as an example rather than a bulls eye. So
15 that's my comment.

16 PARTICIPANT: Thank you. Thanks,
17 Rusty. Okay, let's keep going. Okay, I've
18 got Chris, Sonja, Lisa, and Bob, and I'm sure
19 there are more, but that's who I have right
20 now. So, Chris, right here, I think you had a
21 question.

22 MR. VONDERWEIDT: Yes, Chris

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1 Vonderweidt, Atlantic States Marine Fisheries
2 Commission. I just have three. I think
3 they're questions, pretty specific.

4 So the amended trip limit of 33 to
5 account for the over-harvest, I'm just
6 wondering do you guys have any idea of how
7 long that's projected to last under kind of
8 the changing fisheries conditions or even
9 under the existing effort as far as throughout
10 the year, since there is not going to be the
11 trimester season anymore, but, you know, it's
12 a pretty small trip limit, so it'll probably
13 go longer than before?

14 My second question is when you guys
15 close at 80 percent, with some of the other
16 species that we manage, sometimes these
17 closures aren't always correct, and, you know,
18 they go back, and it might be 50 percent
19 rather than 80 percent. I'm not really
20 positive how your reporting system, in fact,
21 works, but if it shows up that maybe you're
22 only at 60 percent or you're only at 50

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1 percent, will the fishery open back up?

2 And then, finally, I realize that
3 there's a large small coastal quota, which
4 never really gets hit or filled up, but I'm
5 just wondering -- and, also, porbeagle is the
6 northeast state -- why there is not regions or
7 why you decided to go with no regions for
8 small coastal and porbeagles. So that's the
9 three.

10 MR. CLARK: Thanks, Chris. I'll
11 start with the first. We based the retention
12 limit on the number of directed trips that
13 have happened in the past, so those would be
14 reported in log books, and that was -- you
15 know, again, we had to have a number to try
16 and estimate how effort would be affected.

17 Now, obviously, that was under a
18 4,000-pound trip limit, and a lot of people
19 are going to find that this, potentially, that
20 this 33-head limit is not necessarily as
21 economically viable or worth, you know, sort
22 of going out just for that purpose, but to be

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1 -- I mean, we're expecting that it would last
2 throughout the year because of that
3 assumption.

4 It's a very conservative approach
5 as far as the number of trips that have
6 occurred under a much larger trip limit versus
7 now, but again, we, you know, would obviously
8 want to keep a good handle on the landings and
9 make sure we don't have any over-harvest, but
10 our intent now is that that would last for the
11 calendar year.

12 The second question, we're going to
13 still do a proposed and final rule-making at
14 the end of each year, so if there were a
15 situation where, say, the fishery might have
16 been shut down prematurely, those numbers
17 could be looked at as far as setting future
18 quotas address -- again, we wouldn't know the
19 timing issue.

20 We wouldn't know for some time
21 afterwards that there was an error, but there
22 are ways that that could be accounted for,

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1 and, again, like you mentioned, the small
2 coastal shark fishery is not primarily, you
3 know, a meat fishery and not as much on the
4 fins, obviously, because they're much smaller
5 and have lower value, and essentially I think
6 our justification for keeping the regions
7 we're in for the non-sandbar large coastal
8 were because of the blacktip assessment and
9 also to deal with those over-harvests that
10 occurred in 2007, in addition to trying to
11 maintain the potential to maybe just implement
12 measures specific to the Atlantic consistent
13 with what becomes finalized with the coastal
14 plan.

15 Those justifications didn't
16 necessarily exist for small coastals as far as
17 why one would want to maintain the regions,
18 and so rather, in order to more better adapt
19 to changes in fishing effort, rather than
20 coming out with a regional quota that could
21 then be exceeded and need to be addressed, we
22 wanted to keep just one larger number and then

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1 decrease the likelihood that that number would
2 be increased in any respective area, if that
3 makes sense.

4 So you have 454. Say we split it
5 in half, you know, roughly 220 tons a side.
6 Well, if the Gulf catches 350 in one year,
7 that's not an over-harvest in the Atlantic
8 catch. It's nothing. That's not an over-
9 harvest of the 454. It's an over-harvest of
10 the Gulf portion of that, so this provides us
11 with a little more crossover between the two
12 regions.

13 MR. VONDERWEIDT: Thank you.

14 PARTICIPANT: Sonja, Lisa, and then
15 Bob.

16 MS. FORDHAM: Thank you. Sonja
17 Fordham, the Ocean Conservancy. I will try to
18 be brief and concise, but you did deliver,
19 present a lot of information. I'm trying to
20 make eye contact. Okay.

21 I just had maybe a bit of a nit-
22 picky comment about your slides first before I

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1 go, and just generally I think the ones
2 talking about the comments received on the
3 fins attached and the porbeagle are not really
4 properly representing the comments of the
5 conservation organizations and a lot of the
6 concerned public, and in the -- well, for
7 porbeagle I know we said that it was more than
8 well founded and expressed concerns about them
9 being endangered, but in particular with the
10 fins attached, I think here you might even be
11 doing yourself a disservice, because there
12 really is a strong and growing support for
13 this measure, widespread concern, widespread
14 support.

15 I know that it was -- this fins
16 attached measure was the focus of most of the
17 NGO testimony that we heard at our last
18 meeting and a lot of the comments that I saw,
19 so I think it would behoove you to present it
20 in that manner, that it's -- you have a lot of
21 support for that issue.

22 I wanted to -- Ocean Conservancy is

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1 generally supportive of the amendment. I have
2 some comments in a moment. We appreciate the
3 attention to sharks in this panel, just to
4 begin with, and I wanted to say that I also
5 appreciated that NMFS took the time to call
6 interested parties and give us an opportunity
7 to talk through these changes. That's very
8 helpful. We appreciate it.

9 I'll start with the worst, I guess.

10 We're deeply dismayed about the porbeagle
11 decision, and I recognize this is still a
12 dramatic reduction in the quota, but from our
13 perspective this is still a species that is
14 considered endangered by the IUCN in this
15 region and actually Canada, that it's really
16 deserving of the strongest support, the
17 strongest protection we can offer under the
18 HMS FMP.

19 I also recognize that with a
20 species that has a recovery time period of
21 about 100 years it provides some opportunity
22 to explain away the mortality and justify that

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1 different takes won't really matter in the
2 long run, but we just feel that it's best to
3 do as much as we can for the species to avoid
4 further problems and start this long recovery
5 as soon as possible, and that would certainly
6 involve ending the targeting for this
7 particular species. So we'll continue to push
8 for that.

9 We are generally pleased that the
10 sandbar catch will be also dramatically
11 reduced. We hope that the cuts are enough.
12 They're not in line with our testimony, but we
13 also hope that the research fishery works and
14 yields valuable information that's sufficient
15 to justify it. I do think that it will need
16 very close monitoring.

17 We still are concerned about the
18 other large coastal sharks, including the
19 blacktip sharks, considering the status is
20 officially unknown, and, frankly, the record
21 for conservation of this group is not good.

22 I would offer tentative support for

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1 the decision on the regions. I still have to
2 think it through, but I think that you give --
3 you make good arguments in terms of the
4 upcoming ASMFC shark plan and the difference
5 between the blacktip -- probably the status of
6 the blacktip populations.

7 And then, lastly, I just wanted to
8 -- we talked about this already today, but I
9 did want to express our strong support and
10 appreciation for the measure requiring that
11 sharks be landed with their fins attached.
12 That is the most straightforward and the only
13 fool-proof approach to banning finning.

14 So we have talked a lot about this
15 today, but the points that I don't think got
16 covered were that this measure should also
17 help to vastly improve the data collection for
18 sharks, particularly when it comes to species
19 identification and therefore benefit
20 assessments.

21 And, lastly, another point that we
22 didn't get to was that I think this decision,

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1 if it becomes final, also sets up the U.S. to
2 lead another charge to tighten and improve
3 finning bans all around the world and just to
4 remind you that too often finning bans are the
5 only safeguards for sharks in other parts of
6 the world, so implementation and proper
7 enforcement of the finning bans is
8 particularly important. Thank you.

9 PARTICIPANT: Thank you, Sonja.
10 Lisa, Bob, then Dewey.

11 MS. GREGG: Lisa Gregg, Florida Fish
12 and Wildlife Commission. I had a couple of
13 questions and a couple of comments. One is on
14 the dusky sharks and where they would be
15 prohibited for collection for public display.
16 I'm assuming this is under an EFP.

17 Is this something that you would
18 like the states to follow through with also?
19 I don't know if you want me to continue to ask
20 my questions.

21 PARTICIPANT: (Inaudible)

22 MS. GREGG: Okay. All right, and

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1 the reason why I ask is because we're
2 currently undergoing rule-making for the State
3 of Florida Special Activity License Program,
4 and if that's something that we need to
5 address in our program also, then we'd like to
6 know what NMFS's preference would be on that.

7 Let's see. Okay. On page D-31,
8 comment number 18 where you talk about the
9 length of time for landings information to be
10 reported, the comment that was -- the language
11 that was in there is paraphrased incorrectly
12 from our letter.

13 We had specifically asked that NMFS
14 establish in rule the length of time that it
15 would take them to process the information
16 that was submitted to them, and the comment
17 states that the time required for NMFS to
18 process that information should be public
19 knowledge. So I just wanted to point that
20 out.

21 Page D-32, comment number 3, I
22 don't know if this was a typo or what it was,

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1 but in the first sentence where you stated you
2 received comments from Atlantic States Marine
3 Fisheries Commission and the State of Florida
4 that NMFS should open the season on July 15
5 instead of January 1, we stated July 1 or just
6 July, actually, in general, and in the slide
7 you had said July 1.

8 So I don't know if the ASMFC had
9 specifically requested the 15th. We just said
10 July, but, again, the slide said the 1st, and
11 the comments say the 15th, so I wasn't sure
12 what the exact representation was going to be.

13 Page D-46, again, a missing
14 comment, number 20. You go from 19 to 21, and
15 I just wanted a little bit of clarification on
16 the sandbar shark research fishery.

17 One of the comments that we had
18 made was -- or one of the things we had
19 emphasized was that the research fishery
20 should spread out the collections over space
21 and time to both ensure equitable resource
22 allocation and sampling among the regions, and

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1 on page D-50, comment number 6 I think
2 addresses that where you say is NMFS going to
3 provide flexibility regarding where and when
4 vessels fish.

5 And one of the statements that's
6 made is that NMFS intends for the quota to be
7 available for the shark research fishery to
8 last throughout the year so that samples are
9 collected from vessels fishing in all regions
10 and seasons, and I just didn't understand how
11 that interplays with the established seasons,
12 the retention limits, the regions, and all of
13 the things that are included in the preferred
14 alternatives. It's just the issue of how the
15 collections will be spaced out wasn't
16 specifically addressed for the research
17 fishery.

18 MR. CLARK: Okay, for the first
19 comment on dusky sharks, I mean, I guess it's
20 obviously not our call to make for the State
21 of Florida, but consistency, I mean, in the
22 past has been good, and, again, just so folks

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1 are aware, we basically do not allow any dusky
2 sharks to be collected for display, but they
3 would be able to be collected for scientific
4 purposes.

5 And then with regards to the
6 spreading out the quota in the research
7 fishery over space and time, essentially I
8 think we're going to have, you know, real-time
9 information coming in from the, you know, the
10 observer sheets that they fill out on board
11 the vessels, so we're going to know basically
12 in real time how much quota we've used and how
13 much quota is left, and I think we will have
14 some ability, you know, to ensure when
15 observers might be available.

16 So the hope is that, you know,
17 based on landings as they come in, and, again,
18 this would be under essentially an exempted
19 fishing permit, so they would be exempted from
20 the requirement to adhere to 33 non-sandbar
21 large coastal and be exempted from the
22 prohibition for the rest of the fishery on

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1 sandbar sharks.

2 So the retention limits are going
3 to be, again, dependent upon the research
4 needs, and so how the retention limits jive
5 with what's actually landed on a given trip,
6 that's something that would be hashed out as
7 the fishery goes forward, but, again, the idea
8 is to maximize the samples that we obtain from
9 not just sandbars but all large coastals and
10 sharks throughout the different regions and
11 throughout the calendar year with the
12 exception of July, because it's, you know,
13 starting late in 2008, but that's the intent.

14 PARTICIPANT: Thank you, Michael.
15 I'm trying. Bob, Dewey, Myron, and Sean.

16 MR. HUETER: Thank you. Bob Hueter
17 from Mote Marine Laboratory. First I want to
18 -- as I did in my written comments back in the
19 fall, I want to commend NMFS for these
20 substantive changes that are in this
21 amendment, too.

22 Just a reflection, I've been

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1 watching the situation since the late eighties
2 and early nineties, when the gentleman to my
3 left here, Dick Stone, was in charge of the
4 operational team. In 1993, Dick Schaeffer
5 announced the implementation of the FMP at our
6 conference in Mote, and ever since then it's
7 just apparent that we have not been winning
8 this battle, so these changes are definitely
9 needed.

10 I have three questions or points.
11 The first is a question. Mike, is there
12 somewhere in the EIS, or can you give us some
13 figures with the changes and with the
14 modifications in this final amendment?

15 What approximately are the percent
16 reductions, if everything works, that are
17 going to go into effect in landings in large
18 coastal sandbar, non-sandbar between last year
19 and this year? I mean, what kind of a cut are
20 we really looking at in the commercial
21 fishery?

22 MR. CLARK: I think, and, again, I

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1 don't have specific numbers in front of me,
2 but a 33 non-sandbar trip limit, you know,
3 could be, depending on the size of the fish,
4 could equate to approximately about 1,000
5 pounds dressed weight, and currently the trip
6 limit is a 4,000-pound dressed weight limit
7 and also allows sandbar, which has been the
8 cornerstone of the fishery commercially
9 because of the fin value. So I would say
10 approximately 75 percent on a trip basis.

11 However, as you can see, the non-
12 sandbar large coastal quotas, they've
13 increased somewhat since the proposed phase,
14 and combined with the shark research fishery
15 quotas the overall quota for large coastal
16 sharks hasn't decreased that much. You know,
17 it was 1,017 metric tons, and so the overall
18 amount of product that might be landed is not
19 that substantial.

20 However, what is very substantial
21 is the decrease in what a fisherman could
22 catch on an individual trip, which is

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1 significant, because this is -- this drives
2 the decision on whether or not to put gas in
3 the boat for a specific species versus I'm out
4 fishing for snapper, grouper, tilefish, or
5 other species, and on the way back I might
6 make a short set for sharks.

7 So I think, again, the overall
8 reduction isn't that significant, but taking
9 away sandbars from the general -- from people
10 outside the shark research fishery and on a
11 per-trip basis, it's pretty substantial.

12 MR. HUETER: Okay, so if the quotas
13 are filled, then the sandbar population will
14 get some relief, but that relief may be
15 translated into greater pressure on the other
16 species, correct, if the quotas are filled?

17 MR. CLARK: Yes, but the retention
18 limit is, you know, again, is a significant
19 reduction, so targeting sharks is, you know --
20 and, again, the decision would have to be made
21 based on an individual and what market prices
22 are, but the targeting of sharks for 33 head

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1 is, you know, that's a significant change from
2 4,000 pounds.

3 MR. HUETER: Okay, well, we'll let
4 that go for the moment and see how that works
5 out. On the research fishery, I like the idea
6 of this scientific board comprising units
7 within NMFS, and I would just -- a comment on
8 that. I would just ask. I'm sure they would
9 have, anyway, but I ask that they would
10 coordinate their activities and the operation
11 and design of this research fishery with non-
12 NMVS entities such as our National Shark
13 Research Consortium that includes Virginia
14 Submarine Science, University of Florida, and
15 our group at Mote. So I would hope that we
16 would be part of the conversation to talk
17 about what's needed there.

18 The last thing is on the observer
19 coverage, and I see that John Carlson has
20 joined us, and I want to commend John on the
21 excellent job he's done to run observer
22 programs for this fishery.

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1 You mentioned that there still
2 would be some percentage of observer coverage
3 on the non -- in the non-research fishery, the
4 non-sandbar boats. Do you know about what,
5 and what's happening with the gill net
6 fishery? Does that continue, and does that
7 continue to have 100 percent observer
8 coverage?

9 MR. CLARK: The gill net fishery
10 requirements would still continue. Again,
11 there was a rule published last fall that did
12 provide some exemptions to the 100 percent
13 requirement depending on the area and assuming
14 that the boat does have BMS, but outside the
15 research fishery we would try and maintain
16 comparable levels of observer coverage.

17 The tricky part with that is that
18 determining target. These could become --
19 these could become snapper-grouper trips, and
20 if snapper-grouper are the predominant
21 composition of the catch, you know, we need to
22 hash that out as far as who would be

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1 responsible for those observer coverage
2 requirements. But to answer your question, we
3 intend to try and keep the levels similar to
4 what they have been outside the research
5 fishery.

6 PARTICIPANT: Thank you. Dewey,
7 Byron, Myron, and -- Dewey, Myron, and Sean
8 and Joe.

9 MR. HEMILRIGHT: Dewey Hemilright.
10 Looking back over the sandbar research
11 fishery, I used to call it the guinea pig
12 fishery, but I think I've changed my title for
13 it to the gopher fishery, because it kind of
14 appears in here that you could be told where
15 to go, when to go, how to go, and all these
16 objectives.

17 I mean, is the person that's chosen
18 to put ice on his boat, bait on his boat, take
19 the observer, and he's going to go catch
20 sharks, or is he going to be told where to go,
21 how to go, when to go, what time to go and
22 where to sit and all this stuff? It appears

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1 like with all this coordination and all this
2 bureaucracy that, you know, it's almost like,
3 hell, they ought to just rent a boat and go
4 fishing themselves instead of the fishermen.

5 Number two thing, are the states --
6 how much of this quota is going to be taken up
7 by the states in their state water fisheries,
8 because the federal -- the state water
9 fishery's quota comes off the federal quota,
10 so you're telling me that there's going to be
11 no more state water fisheries for sharks?
12 Because in the Atlantic States Marine Fishery
13 plan, they tell us there's going to be
14 fisheries, but they don't tell where the quota
15 is coming from.

16 So are we to assume that -- how
17 much of this final quota of the sandbar quota
18 or non-sandbar, how much of this is going to
19 be eaten up by state water fisheries?

20 MR. CLARK: Okay, to the first
21 point, Dewey, I mean, again, one of the
22 primary objectives of the research fishery is

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1 going to be to try and keep some fishery-
2 dependent data for the next stock assessment.

3 So to the extent that the observer
4 is not going to be there to dictate, you know,
5 specifics on fishing practices and whatnot,
6 the idea is to sort of have some level of
7 fishing effort that mimics historic retention
8 limit in historic areas when fishermen have
9 been targeting sandbars.

10 So, again, the intent is not to
11 infringe, you know, on the captain's decisions
12 on where the gear is set and, you know,
13 assuming it's not, you know, a closed area,
14 but where the gear is set and how it's
15 deployed.

16 The second question, the shark
17 dealer, I mean, the shark dealer reports would
18 include state landings. That's what we're
19 using now, not log books, so the quotas that
20 are being implemented would include the entire
21 mortality, both state and federal.

22 As far as the exact breakdown by

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1 state and federal landings, I don't have that
2 information in front of me, and it's very
3 likely to change in the future, so I don't
4 know that exactly, but, again, the dealer
5 landings would include state sharks that were
6 landed in state waters and reported to state
7 dealers, not just federal.

8 MR. HEMILRIGHT: And so is that by
9 state water fishermen?

10 MR. CLARK: Yes, that would be --
11 those would be caught by state water fishermen
12 if they're sold to a state dealer.

13 MR. HEMILRIGHT: So, in other words,
14 there would always be a open state water
15 fishery.

16 MR. CLARK: No, but the -- what has
17 occurred in the past -- the past mortality
18 would be included in the current quota so that
19 when state landings are reduced in the future,
20 the quota already has that in mind. It
21 already has that state water contribution
22 built in.

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1 PARTICIPANT: Okay. We'll move on.
2 Myron, Sean, and then Joe.

3 MR. FISHER: Myron Fisher. Beside
4 the 80 percent threshold, is there any other
5 accountability measures to stop overages,
6 especially in the case of some state water
7 staying open, and how would that be -- what
8 would happen the next year so that I could see
9 what's built into the system, because 80
10 percent looks like it's giving a lot for
11 research, but the remaining 20 percent can be
12 swallowed up.

13 MR. CLARK: Well, first of all, let
14 me preface that that we've, you know, we've
15 increased our efforts to outreach, outreach
16 out to states to ensure that, you know, they
17 are consistent with state seasons because of
18 what happened last year in the Gulf of Mexico
19 and the significant over-harvest that occurred
20 in state waters, and, for the most part, we've
21 had a pretty receptive response from the
22 states that we've been working with.

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1 I guess if the quota were exceeded,
2 depending on the species it was exceeded for,
3 those over-harvests would obviously be taken
4 off either the next year's quota or
5 potentially over multiple years. Again, and
6 then that would be -- and each year that would
7 require a certain level of analysis and a
8 proposed and final rule-making that the public
9 would be made aware of.

10 PARTICIPANT: Thank you, Myron.
11 Sean and then Joe.

12 MR. MCKEON: Sean McKeon, North
13 Carolina Fisheries Association. Thank you for
14 your presentation, Mike. Very thorough. I've
15 been to a couple of these meetings. This is
16 my first one as a member, so I forgot how much
17 fun they were. I observed a couple of them,
18 and it's a little disconcerting.

19 You know, the document states many
20 times how (Inaudible) economic impact is going
21 to be quite severe, but, you know, you listen,
22 or I'm listening, and for some that doesn't

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1 seem to be enough. Nothing short of the
2 complete destruction of this domestic shark
3 industry will satisfy them, and that's very
4 disconcerting.

5 And I'm glad, listen, that the
6 environmental groups are here and represented.

7 They occasionally come up with useful
8 insights, but they shouldn't be running the
9 show, and they shouldn't be driving the engine
10 of shark management, in my opinion.

11 I think the porbeagle decision,
12 while a little small step in the right
13 direction, was a good one. Thank you for
14 that.

15 I did like to address the issue
16 that keeps popping up and seems to be getting
17 lobbied for here, and that is the Shark
18 Conservation Act, the fins attached
19 requirement. There are myriad problems with
20 that that I hope are vetted through the
21 council process thoroughly before you all go
22 out on this limb here and support this

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1 wholeheartedly.

2 Particularly, I did not see your
3 representative statements. I would like to
4 get a copy of those testimonies, because I
5 think that would be useful, and I think it's
6 important to note that dressing sharks at sea
7 and removing fins legally is very much
8 different than finning, and we are totally
9 opposed to that and always have been, but I
10 think there just seems to be this merging of
11 the two, and I think that's troubling to me.

12 I think that one of the areas you
13 need to look at with this fin requirement is
14 with respect to the hazards involved in the
15 product, and I think that the burden should be
16 on the Agency to determine that their
17 regulations are not the cause, in fact, of
18 product liability issues.

19 I think to run after this idea
20 because it's going to be easier on enforcement
21 is wrong-headed. It may be easier on
22 enforcement, but there are things like not

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1 enforcing at all that are easier on
2 enforcement, and I don't think anybody would
3 encourage that, but I think there's a lot of
4 problems with this that have to be thoroughly
5 vetted before the Agency should go out and
6 support this concept. I think the
7 Conservation Act is really a shark industry
8 elimination act at this point.

9 PARTICIPANT: Sean, thank you.
10 Joe, go ahead. Joe McBride.

11 MR. MCBRIDE: Joe McBride, Montauk
12 Boatmen's & Captain's, RFA, whatever. A
13 couple of years back, we commented on the, at
14 that time, the recovery of the sandbar shark,
15 and in an aside I'm not going to dispute
16 whether I noticed at that meeting they were
17 actually recovered or not. Obviously, there's
18 a problem with sandbar sharks in contemporary
19 times.

20 I had stated that the sandbar shark
21 in the Northeast, particularly Long Island and
22 Montauk specifically, was our summer shark

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1 fishery where you had to go no more than ten
2 miles to have a shark fishery, and I said at
3 the time two years ago we didn't have that
4 fishery anymore, whereas it was a directed
5 fishery for the charter and party boats and
6 the recreational boats. We've provided a lot
7 of economic activity in and around the Long
8 Island area, particularly in Montauk.

9 So, you know, whether the shark had
10 recovered, but they didn't recover in the Long
11 Island area, I couldn't tell you. I'm not a
12 scientist, but if you're going to have a
13 sandbar research fishery, and if you're going
14 to only have it in areas where it's profitable
15 to go fishing for sandbar sharks, you're not
16 going to do proper research, in my mind,
17 geographically as to whether the conditioning
18 of those sandbar sharks in the Northeast, and
19 I suggest that whatever number of boats you
20 utilize for the research project that some of
21 them be put forth from the Northeast area,
22 whether Shinnecock, Montauk, et cetera.

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1 I know there are some boats in the
2 Shinnecock area that longline, or one boat in
3 particular longlines for fins from sandbar
4 sharks. I have an idea where he fishes, but
5 so obviously there's some sort of a fishery,
6 whether -- how big it is, how many sharks, you
7 know, that's the scientific research that
8 you're supposed to be trying to do, and I
9 would suggest you don't exclude those areas
10 from your research, please. Thank you.

11 I'm sorry, one other quick comment.

12 The gentleman -- somebody over here mentioned
13 the economic impact. The cost of fuel today
14 in Montauk is probably \$5.00 a gallon for
15 diesel, and it's not going to go down.

16 A fishery that you can go ten miles
17 instead of 30 miles, you know, you can do the
18 math and figure that in our industry that's a
19 great savings for us economically, and we
20 would like to see that fishery come back into
21 our area, certainly during the summer,
22 especially with the restrictions on some other

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1 close area fisheries such as (Inaudible), et
2 cetera, that are hurting the party boats and
3 the charter boats and the private boats in our
4 area.

5 So the economics, I would love to
6 find out that you would tell me that it was
7 worthwhile in our geographic area to redirect
8 summer shark fishers. I wouldn't hold my
9 breath for it, certainly, but thank you again,
10 just an economic consideration, as I mentioned
11 before. Thank you.

12 PARTICIPANT: Thank you, Joe. I've
13 got about 4:40. Oh, I'm sorry, I didn't --
14 Tom, go ahead.

15 MR. DEPERSIA: Yes, I just wanted to
16 comment that I support your decision on the
17 porbeagle sharks in reference to recreational
18 fisheries. It's one of the few sharks we have
19 in New England. Not a whole lot of porbeagles
20 are caught, but it's one of the few places in
21 the world that you can catch one, and for the
22 number of fish that are caught up there I

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1 think it would be a negligible impact on the
2 quota, and so I'm glad we don't have to
3 prohibit the fishing, and I think it would be
4 impossible to identify, for most of the
5 fisherman to identify porbeagles as compared
6 to a mako, let's say, so I think it's a good
7 decision.

8 PARTICIPANT: Thank you, Tom.
9 Margo, would this be the right time to ask if
10 there is anybody in the audience that intends
11 to make a comment during the public comment
12 period? Is there anyone here that's not a
13 member of the Advisory Panel that would like
14 to address this group on -- any subject of the
15 day is actually fair game, I think.

16 It doesn't appear -- okay, so
17 unless -- did I miss anybody back here? Okay.

18 All right. No, it doesn't appear so.

19 (Whereupon, the foregoing matter
20 went off the record.)

21
22

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