

JOINT MEETING OF THE  
ATLANTIC HIGHLY MIGRATORY SPECIES  
AND BILL FISH ADVISORY PANELS

JOINT MEETING

February 10, 2003

at

Holiday Inn

Silver Spring, Maryland

MONDAY, FEBRUARY 10, 2003

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1:10 p.m.

GREETINGS AND INTRODUCTIONS

MODERATOR CHRISTOPHER ROGERS: Good afternoon, everyone. Hope you all had pleasant travels to get here in Silver Spring. It's always a risk of having a meeting this early in the season to risk the weather, but obviously we want to get a good deal of discussion under our belt, so to speak, before we head off into our rulemaking season and get set up for the summertime fisheries.

We had a lot of comments that last year's meeting in April didn't really leave us enough time to get the rulemaking underway and get the proposed rules out before the season started, so we wanted to move it up -- and again, you run the risk of the weather, but we're glad -- it looks to me like we've got a pretty nearly full house. If there's any AP members who are not at the table and want to do so, please look for a spot. And if necessary, we can get the setup reconfigured, perhaps, to include a few more spaces tomorrow.

RUSSELL NELSON (No microphone): Willie and Glen will be here in a couple hours.

MODERATOR CHRISTOPHER ROGERS: Okay. Willie and Glen are coming up from Carolina. You all received an agenda in the mail, I think either in conjunction with or shortly after your copy of the SAFE Report. So, we're only a few minutes behind time.

We wanted to have some opening remarks from -- we're going to introductions. I know many people are familiar to me, but maybe not all familiar to everybody else. So, why don't we go around this way, counterclockwise. Chris Rogers, Chief of the Highly Migratory Species

Management Division.

JOHN DUNNIGAN: Jack Dunnigan, Sustainable Fisheries at NOAA Fisheries.

WILLIAM HOGARTH: Bill Hogarth, NOAA Fisheries.

MARK SAMPSON: Mark Sampson, Ocean City Charter Boat Captain's Association.

MAUMUS CLAVERIE: Mau Claverie from New Orleans with the Gulf Council up here for the Billfish AP.

ROBERT MCAULIFFE: Bob McAuliffe, St. Croix, Virgin Islands.

RUSSELL HUDSON: Russell Hudson, Directed Shark Fisheries Incorporated.

WAYNE LEE: Wayne Lee from South Atlantic Council.

ROM WHITAKER: Rom Whitaker, Hatteras charter boat captain.

JOHN GRAVES: John Graves, Virginia Institute of Marine Science, here representing the U.S. ICCAT Advisory Committee.

RICK WEBER: Rick Weber, South Jersey Marina.

RANDY BLANKENSHIP: Randy Blankenship, Texas Parks and Wildlife Department, Coastal Fisheries Division.

FRANCIS BLOUNT: Frank Blount, New England Fisheries Council.

IRBY BASCO: Irby Basco, Gulf of Mexico HSM.

PAMELA BASCO: Pam Basco, International Game Fish Association.

MICHAEL LEECH: Mike Leech, also with the IGFA in Fort Lauderdale.

ROBERT ZALES, II: Bob Zales II, President of Panama City Boatmen Association.

RUSSELL NELSON: Russell Nelson, Fort Lauderdale, Florida.

MARK FARBER: Mark Farber, University of Miami, academic appointment to the AP for billfish.

RAMON BONFIL: Ramon Bonfil, Wildlife Conservation Society.

SHANA BEEMER: Shana Beemer, Audubon.

TIM HOBBS: Tim Hobbs, National Coalition for Marine Conservation.

WILLIAM GERENCER: Bill Gerencer, Portland, Maine.

VIRDIN BROWN: Virdin Brown, Chair, Caribbean Fishery Management Council.

ELLEN PEEL: Ellen Peel, Billfish Foundation.

PHIL GOODYEAR: Phil Goodyear, Fishery Consultant.

RAYMOND KANE: Ray Cane, General Category Tuna Association.

RICHARD RUAIS: Rich Ruais with East Coast Tuna Association.

CHARLOTTE GRAY: Charlotte Gray with Oceana. I'm sitting in for David Wilmot.

HENRY ANSLEY: Henry Ansley, Georgia's Department of Natural Resources.

DAVID CUPKA: David Cupka, Chairman, South Atlantic Fishery Management Council. I'm here this week actually representing the Atlantic States Marine Fisheries Commission.

GLENN ULRICH: Glenn Ulrich, South Carolina Department of Natural Resources.

GAIL JOHNSON: Gail Johnson, Fishing Vessel Seneca.

NELSON BEIDEMAN: Nelson Beideman, Bluewater Fishermen's Association.

JACK DEVNEW: Jack Devnew, commercial rep, Virginia.

ROBERT PRIDE: Bob Pride, Virginia, also representing the Mid-Atlantic Council.

JILL STEVENSON: Jill Stevenson from the Maryland Department of Natural Resources Fisheries Service.

MODERATOR CHRISTOPHER ROGERS: That's Paul Wallace over there with the headphones on. He's going to do our transcription for us. Thank you, Paul.

KARYL BREWSTER-GEISZ: Karyl Brewster-Geisz, National Marine

Fisheries Service.

MODERATOR CHRISTOPHER ROGERS: Looks like we had the arrival of Sonja. You want to introduce yourself, Sonja.

SONJA FORDHAM: Sonja Fordham, The Ocean Conservancy.

MODERATOR CHRISTOPHER ROGERS: Thank you, all. It is a joint session of the Billfish and HMS Advisory Panels. So, you're pretty much interspersed at the table here. I guess if space does become limiting, at some point we could invoke a unique session of the Billfish Panel and the HMS's can step aside, or vice versa. But as long as there's enough room, we can continue as we are in joint session.

We have a whole bunch of new faces with the HMS Division, and I'd like everybody to introduce, both young and old -- or new and old, so to speak. We're all young at heart. Why don't we start over there, and I see a few of us over there.

(Staff introductions without microphone)

MODERATOR CHRISTOPHER ROGERS: Okay. Thank you, all. That about covers everybody in the room, but a few members of the public, some enforcement agents and not the least of which is our government ICCAT Commissioner over there, Glenn Delaney, a familiar face. I won't disclose the persons who are enforcement agents, because they're traveling incognito.

Bill Hogarth, you want to give us a welcome or --

WILLIAM HOGARTH: I'll let Jack --

MODERATOR CHRISTOPHER ROGERS: He's going to defer to Jack. Delegation of authority.

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WELCOME/INTRODUCTIONS

JOHN DUNNIGAN: Actually, I think he's going to defer till tomorrow, but thank you for coming, Bill. I know you weren't planning on being here this afternoon.

Let me also pass along the best wishes of Rebecca Lent, who is

not going to be able to be with us this week. Rebecca is in Seattle at an international scientific meeting on sea turtles, which I think if this meeting hadn't occurred during these days, many of the folks around the table would have liked to have had the opportunity to participate in as well, so -- but she sends her best and looks forward to meeting with everybody again in the near future.

I just have a couple of things that I'd like to say to help bring you all up-to-date as to what's been happening in the HMS world since the last time we got together and what it looks like our plans are for this year. We're at a point now where our fishery management plans are four years old. They're getting increasingly close to that point where nominally at least routine reviews trigger in the EFH guidelines for example require that EFH provisions be revisited every five years.

So, we're coming to a point in our management program for Atlantic Highly Migratory Species where it's almost time to step back and take some broader looks at a number of issues, as well as dealing with a lot of ongoing specific things, and I'll talk a little bit about what some of those things are in just a minute.

Over the past couple of years we have made a number of changes to the plans to address issues such as bycatch, and the new SAFE Report that I believe you've all received does have some specific information in it relative to the effectiveness of these measures.

So what we're doing now as we go through this is to begin to take a little bit broader look at HMS management and we're looking for your advice as to which of these issues are most important, need attention, and where we ought to be best in your opinion be putting the resources that we have.

We have a couple of things underway that you're aware of. There's a Shark FMP amendment that we have started, and we will be working on that very hard over the next year, and it would be really great if we can

see that activity accomplished this year.

We're going to have a scoping meeting for the Shark FMP amendment this afternoon. We're also looking at changes potentially to the HMS FMP and the billfish amendment for bluefin tuna and for marlins. We have new quotas for bluefin tuna and swordfish from ICCAT, and the marlin rebuilding plan at ICCAT was extended this year.

So, all of these measures need to be evaluated and we have to decide whether we need to make adjustments under our framework regulatory procedures, or in fact whether we need to go ahead with amendments to the FMP's. So, these two are items that we will be bringing forward to you over the next couple of days and looking for your guidance.

We made a lot of progress, I think, in moving ahead on HMS issues this year. Just now Chris introduced the HMS Division staff to you, and it's my privilege to be able to tell you that we are now fully staffed.

Chris was able to finish all of those many recruitment actions. You'll recall when we got together last year, the staff was down by about a third, and we're pretty pleased with the folks that we were able to get to come to work in HMS. I've known a couple of them personally, and worked with them in prior lifetimes. They're outstanding people. I've gotten to meet the other new folks that are working with us.

I think that we have a really terrific staff foundation to move ahead on, and hopefully this is going to mean that we're going to be able to be a lot more responsive in addressing priority issues than we have been over the last couple of years. So, I think that's one of the really good things that we had. We're now at critical mass and we ought to be able to respond and address the many and difficult issues that HMS is facing.

And I guess I'd like to just give you some sense as to what we see that those things are. We've got a number of rulemakings that are underway. One that the man to my right started when he was the Division Chief is the incidental catch rule for bluefin tuna. We're working on a shark

emergency rule and as a result of activities at ICCAT this year, the trade documentation requirements for HMS species have become more complicated. And as a result, we're going to be specifically discussing those provisions with you during your meeting this week.

Coming out of ICCAT, the meeting in Spain last October, for bluefin tuna the TAC's have been increased. We are continuing to look at the petition from the State of North Carolina relative to allocations of bluefin tuna. We are trying to decide how to deal with the ICCAT provision that gave our fishermen an additional 25 metric tons in the central Atlantic. And we're just continuing to proceed with our basic specifications, including the possibility for effort controls.

For swordfish, we've got new quotas for swordfish that we have to put into place. The dead discard allowance that we had in 2002 is being phased out. There's a rule that allows 200 tons from -- caught by northern countries to be applied to the northern quota, even if they're caught between five degrees north and five degrees south. And we made a commitment to Canada as a part of our discussions relative to allowing them 25 metric tons of our harvest of swordfish. So, all of those things are going to require us to move forward with administrative actions.

There are trade restrictive measures that I referenced a second ago. A number of countries are now under sanction for ICCAT, and we have to do rulemakings that put all of those sanctions into effect for imports from those countries to the United States.

We've got ongoing questions to deal with in connection with white marlin as a result of the resolution of the petition for listing that was dealt with last year. And as I said, we have two amendments that we have underway to the plans, one having to do with sharks and the other having to do with bluefin tuna permitting requirements.

So, it's good that we have the staff, because we already have a very major set of administrative issues that we're going to have to be dealing

with during 2003. You know, we all knew going into the ICCAT meeting last year that it was going to be a difficult, long, contentious meeting, with lots of issues. And it was.

And what that means for the staff this year is that we now have a lot of follow-up to do on a lot of difficult and contentious issues. So, they will be keeping themselves very busy and as always, look forward to working with our constituencies, and specifically with the Advisory Panel as we move forward.

So, thank you for coming. It's nice to see you all here. And if there's anything that we at the staff level can do for you over the next couple of days, please let us know to make your stay more comfortable, and we look forward to some provocative and interesting discussions. So, thank you very much.

MODERATOR CHRISTOPHER ROGERS: Thank you, Jack. I didn't know that we authorized the appointment of any provocateurs on the panel, but if you're here amongst us, feel free to provoke.

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OBJECTIVES OF THE MEETING

MODERATOR CHRISTOPHER ROGERS: Objectives of the meeting, as all the old-timers, or veterans I should say -- I've got to stop making these references to age -- know that the panels were formed under the SFA amendments of 1996 to Magnuson Act with the intent of providing the Secretary a venue or a means, a mechanism for advice from the public -- much as the councils do in terms of their deliberations for fishery management plans -- for those plans under the purview of the Secretary of Commerce for the direct management authority.

We usually convene the meeting once or more frequently as necessary to provide that opportunity for the panel to channel their advice through us to the Secretary in terms of continuing management or the development of plans -- the plans are in place now, but at this point will be

plan amendments as Jack just referred to.

There are certain provisions under the plans for framework measures that can be done without amending the plans that would be regulatory in nature, notice and comment rulemaking. So, it's a pretty busy agenda -- a rulemaking agenda for us in this coming year, and we certainly wanted to meet with the panel, as I said, as early as possible, risking the weather as it may be, but to get that input as early in the process as possible.

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INFORMATIONAL REFERENCES

MODERATOR CHRISTOPHER ROGERS: I just wanted to go over some what we're calling informational references on the agenda. We did publish a -- the agency did publish a process for Highly Migratory Species management way back in '92, I believe. It came out in final form maybe if not at the end of '92 in early '93 that had been proposed previously. The intent was to be a little bit more transparent as to how the Secretary of Commerce would undertake the management responsibilities for Atlantic Highly Migratory Species and involve the public in the process.

That process that was proposed and then finalized back in the early '90s needed to be amended with the SFA amendments, because the process hadn't envisioned the existence of these panels, the HMS and Billfish Panels. We actually proposed a revised process, taking the panels into account, I believe in '97. I think I have a note here. Yeah, September 18th of '97.

We haven't gotten around to issue a final process, so to speak. We had put that out for comment. We have reviewed the comments received, and due to other priorities just hadn't come to closure on that. So, we have copies available of the process. Again, it was looked at anew in reference to the use and involvement of the Advisory Panels in the process. There are copies available. We will issue shortly a Federal Register Notice, announcing the coming to closure, so to speak, of identifying what the

process is. So, any -- we hope that we're not at a point where we -- even though it's a little bit stale, having been proposed in '97, are revisiting it in its entirety, but again out of interest of getting the views of the panel, if there's any comments, I don't believe we'll have enough time really at this meeting to discuss it in any great detail, but you can certainly contact the office while you're back at your home offices, so to speak, and let us know if there's any major concerns you have before we finalize it.

But just very briefly, the process in Phase 1 is the planning and scoping process. Phase 2 is the preparation and review of pre-draft materials, where we will be working with the panels themselves in a pre-release, so to speak, of the materials that -- before they will go out to the general public.

Upon getting the advice of the consulting parties, as we call them, the Advisory Panel and certain other key players, councils and state representatives, we would prepare the Draft FMP or amendment in conjunction with the proposed rule and undertake a public review process.

Phase 4, then, we would prepare the final documents and the final rule with Phase 5 being approval and implementation. In the council process, that's where the calendar kicks in with the materials submitted through the Regional Administrator by the council and then the Secretary taking action on them.

Again, this process was designed to mimic that as much as possible, although we're not strictly bound by that same time line as is identified for council plans.

Phase 6 then is the continuing fishery management monitoring the regulations in effect, the plan, trying to identify and scope out emerging issues. You know, certainly we are in a Phase 6 at this point, but depending on the deliberations we have over the next day and a half, two days, we will be starting -- we expect Phase 1 again in planning and scoping for future actions to deal with the current issues.

So, again, there will be copies available either at the table or will be handed out to you, and if you'd just take a look at that process and get back to us with any concerns before we actually issue the Federal Register Notice on that.

You had a quick question, Mau? Mau Claverie.

MAUMUS CLAVERIE: Yeah, Chris, did you pass this through the eight council executive directors? Because I would think they are the real experts with experience on this.

MODERATOR CHRISTOPHER ROGERS: Okay. We'll make sure that we mail it out to the executive directors. Certainly those who are representatives of a council here could make sure that the council folks actually get it, but we'll drop that in the mail to them.

MAUMUS CLAVERIE: Thank you.

MODERATOR CHRISTOPHER ROGERS: Rich Ruais.

RICHARD RUAIS: Yeah, Chris, thank you. There's no time frame on any of this. From Phase 1 to Phase 5 for relatively minor issues, if there is such a thing with highly migratory, what would you say is a minimum amount of time that we could expect to go from having an issue -- having a plan amendment to having it finalized?

MODERATOR CHRISTOPHER ROGERS: I would say in terms of a plan amendment, a year and a half would be optimistic. Two years would probably be a good rule of thumb, just because of the time line requirements of doing your NEPA analyses, your Environmental Impact Statement, getting the comment period on that and -- as well as issuing the draft materials, consulting with the panels and undertaking the public comment process at the proposed rule stage, finalizing the documents. Again, there is a NEPA cooling-off period that is invoked of 30 days.

So, just given the minimum time lines, I think you're probably at eight months or so, but allowing more time for preparation, assuming that each issue is not the only issue on our plate and that we do need some lead

time to prepare and address comments, things like that. A year would not be uncommon. A year and a half would certainly be -- I would think the rule of thumb. A year and a half to two years -- again, it depends on the complexity of the issues and the level of analyses -- supporting analyses that are required.

RICHARD RUAIS: And how does that compare with the council process today? A little faster?

MODERATOR CHRISTOPHER ROGERS: Well, it really depends on the respective councils and how they are packaging the issues. I see a lot of information sort of tangentially with amendments that are numbered and sometimes it seems difficult to keep track of whether Amendment 37 is proceeding ahead of Amendment 7 and things like that.

Good things take time, so to speak, and the councils have their own processes with respect to what is required before they actually get submitted to the Secretary.

JOHN DUNNIGAN: Yeah, and if I can comment. You're probably aware that one of the things that Bill got going within the Service is this whole concept of a regulatory streamlining approach. And we're moving forward with that with respect to our regions and the eight regional fishery management councils. But we're also looking at the application of the principals of regulatory streamlining within HMS, as well.

There are standards that are involved, procedures for making sure you're doing the right documentation, and procedures for quality control and quality assurance. And one of the things that we've asked Chris to do is to look at those and basically act as if he was another region putting together an implementation plan for these standards. So, we're going to be applying that same approach to our own FMP activities, as well as to those that occur within the councils and the Regional Office.

MODERATOR CHRISTOPHER ROGERS: Bill Hogarth.

WILLIAM HOGARTH: Let me just add to that. We've sought to have

a group that's going through Magnuson to see if they can find anything from a legislative standpoint that we can do to make the process work more smoothly and quicker. It just -- because we've got one in the southeast that's been going on for eight years. And we've got another one that's I think seven years. It's just not working the way I think anybody intended. So, we will have a group that's going to look at how we can make things work better.

It came to my attention last year, I think it was on monkfish, when we were suppose to close the fishery down, found out that with research and didn't need to, but we had no way through the Magnuson process to open the fishery. You can shut them down by emergency, but you have no way to open up a fishery.

So, we need to look. And if any of you have any comments along that line, I wish you would please send them to me, because this is something we will be looking at over the next few months to try to see if we can find ways to make the process work.

MODERATOR CHRISTOPHER ROGERS: Any further quick observations on the HMS process? Again, we've tried to provide for as much public input, but addressing what I believe was Rich's concern is sometimes we need to be expedient in addressing some emerging issues. Jack Devnew.

JACK DEVNEW: Yeah, thanks, Chris. That was a very interesting point you brought up, Bill, about really kind of an exit strategy, so when the law was formulated in terms of emergency action to take care of crises, when the crises are over, if something's rebuilt, there's not the equivalent mechanism then to either reopen a fishery or reopen a closed area. Does that apply to closed areas, as well?

WILLIAM HOGARTH: It applies to emergencies. We have an emergency basically that shuts down a fishery, but there's not an emergency provision to open up. So, it would be the same thing.

JACK DEVNEW: Thank you.

JOHN DUNNIGAN: And it's even a little broader than that. I

mean, one of the things that we're looking into is this whole question of how much flexibility do we need in a system to be able to respond to changes in scientific information? Because what we're finding is that we're getting new information from our scientists more quickly than we're able to translate it into effective rulemaking and policy. So, we're just trying to figure out ways of making those things work better.

WILLIAM HOGARTH: It works both ways.

JOHN DUNNIGAN: That's right, it works both ways.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie.

MAUMUS CLAVERIE: When Rich brought up his question, the first thing that came to my mind, well, who's overseeing big NMFS? In the council system, we have to pass our plans through NMFS up the chain of command, and I can't figure out in this that we have what you all do. Who is the review authority or whatever you want to call it for big NMFS's HMS stuff? Or do you have one?

MODERATOR CHRISTOPHER ROGERS: Well, in one sense, it's a one-stop shopping in that the Division employees are the originators of the documents and we prepare them for review by General Counsel. There's the national NEPA coordinator, John Hansell. I believe he may attend the meeting tomorrow, if he can. But he will be assessing it for NEPA compliance. General Counsel, of course, we have several headquarters individuals in other divisions who will take a look for particular purposes, whether it's Social Impact Assessment or Regulatory Impact Reviews.

So, we do have eyes other than our own that review the documents, much as a council document would be reviewed once it passed through the region and got to headquarters.

Now, what Jack just mentioned is that the level of review is going to be enhanced at the regional level for council-generated documents as opposed to headquarters, as they call it, frontloading. The process will be frontloaded. One could argue that the HMS has always been frontloaded, so to

speak, insofar as we've had ready access to the ultimate authorities within the Department of Commerce and NOAA, and have gotten input very early on in the process.

It's the same standard of review as would be for a Council generated rulemaking activity. Ultimately, Bill's going to sign off on it, being delegated from the Secretary for the signature authority on plans and amendments.

MAUMUS CLAVERIE: And you all have the same anchors to forward progress that the councils have pretty much, which is NOAA General Counsel and those little things and NEPA and all, but we're working with NMFS all the way through. In other words, we're working with -- and if Bill's the one who's going to make -- if he's -- I don't know, the regional -- would you be the same thing as the Regional Administrator to the council, in dealing with these plans coming out of this group?

MODERATOR CHRISTOPHER ROGERS: I think it would be more appropriate to think of Jack in that position.

MAUMUS CLAVERIE: Jack in that position, okay, and then Bill's the -- of course I know he reads all the plans every night before he goes to sleep, but -- okay. But that -- at first blush, it sounds like you all would be faster than the councils because you're big NMFS, but the truth of the matter is you've got all the same loophole -- hoops you have to jump through that we do.

MODERATOR CHRISTOPHER ROGERS: And I'm sure that reference to General Counsel anchors meant that in a stormy weather you want to have safe harborage and a good anchor; right?

MAUMUS CLAVERIE: -- forward process -- progress, I said.

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STATEMENT OF OPERATING PRACTICES AND PROCEDURES

MODERATOR CHRISTOPHER ROGERS: Okay. Next very quickly I wanted to discuss the SOPP's, the Statement of Operating Practices and Procedures. We

were reviewing the SOPP's -- we have some copies to hand out here. We were reviewing the SOPP's for consistency and we noticed that there were some differences between the HMS Panel and the Billfish Panel. As you recall, under the Magnuson Act, with the authority to form these panels, it was the intent of Congress that a panel be formed for each FMP, and maintaining the billfish as a separate FMP given its unique status as game fish only we were required to set up the two panels.

What we wanted to do is harmonize the two Statements of Operating Practices and Procedures to the extent that they could be, and distribute those for your review here. We don't feel that we need a discussion of them per se at this point. But again, if you would take it to heart as you have some leisure time here, take a look at them.

Often we do meet in joint session, as we are today, and any inconsistencies or differences between the operating procedures might be problematic if we were trying to meet in joint session as to which statement of practice would take precedent. So, again it was our intent to harmonize them, given the intent of being true to the use of the panels in terms of providing advice to the agency, and monitoring and amending the plans and any continuing fishery management -- dealing with issues.

The only real difference in terms of operation of the panels is that the Billfish Panel is on a two-year cycle, so to speak, with half the members expiring each year for allowing some overlap and continuity; and the HMS Panel being a little bit larger, we elected to go with a three-year appointment for HMS Panel members, and with one third expiring each year.

It looks like we got a few more panel members arriving. Hopefully we can squeeze you in at the table here. Some room up here, if you need it. But again, we didn't want to have a belabored discussion of the SOPP's. We think we were true to form with what was on the books, but we're just trying to achieve some consistency between the Billfish and the HMS FMP or the HMS Advisory Panel.

UNIDENTIFIED: (No microphone - Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Well, why don't we give people a chance -- not to read it right now, but again at your leisure in the evening, during the breaks, take a quick look at it and before we adjourn over this three days, you can offer some comments if there are any inconsistencies that folks felt very strongly about and need to be maintained. But we felt that consistency was better in the case of often meeting in joint session as we envision -- as we move forward with HMS management.

MAUMUS CLAVERIE: But you're still going to have two panels?

MODERATOR CHRISTOPHER ROGERS: Yeah, there's still two panels, yes. Russ Nelson.

RUSSELL NELSON: Thank you. Given that we don't have the old SOPP's before us with which to compare, could you maybe aid our reading of this by just tell us quickly what you changed?

MODERATOR CHRISTOPHER ROGERS: Well, there were some references to voting procedures under the billfish and the election of a chair and they weren't the same -- I guess you could say emphasis on those matters in the HMS panel. And we decided to leave it optional. We've had several discussions in the past as to whether the panel themselves wanted to elect a chair to moderate the meeting or not, or whether you wanted to adopt voting procedures.

So, we kind of went the least common denominator approach of making references in the SOPP's so that anything is possible, given the input from the panel, as conditions warrant. If there's a desire for a voting procedure to be invoked, you know, one could be invoked. But generally both panels would tend to operate by having a broad-based discussion on all sides of the issues and seeing what consensus can be achieved in terms of providing advice to the agency.

A little bit of timing, I guess, in terms of how the -- that's more the process, so to speak, as opposed to the SOPP's. I can't recall if there was anything else that was a major issue. Where's Margo? Is there

anything that comes to mind again in terms of harmonizing the two panels? I was talking about voting -- the voting procedures and the election of chair.

MARGO SCHULZE-HAUGEN (No microphone): Whether the panel speaks first or -- speaks first?

MODERATOR CHRISTOPHER ROGERS: Oh, yeah. We had discussed that. The panel meetings are open to the public and often we do have members of the public attending, and to the extent possible we like to provide some periods during the course of the panel meeting for public input. I believe Billfish said the public will speak first and HMS said the panel will speak first. We decided to standardize on the panel speaking first, but again, if you -- as you notice on the agenda, providing some periods for general public comment so that the panel members can hear as well as the agency, members of the public express their views on whatever issues.

Recognizing that it is difficult to get you all together, particularly with the conflicts in council schedules and certainly the expense of bringing everybody together, we thought that preference to the panel speaking first would be more appropriate. Again, not with the intent of excluding the public, but that we really needed to make sure that we got the panel discussion well established during the course of the meeting. Russ.

RUSSELL NELSON: I see in here that the minutes are going to be taken of each meeting. Is that a new part of the SOPP's?

MODERATOR CHRISTOPHER ROGERS: No, we've always taken minutes. We have the sound system that has recorded the complete meeting, and we have paid to get the tapes transcribed. We do what we call put out a summary of the meeting that is not a verbatim transcript, although verbatim transcripts can be provided and have been provided on the Internet. It usually takes a little bit, a month or so after the meeting, to get those out. But we try to put out a meeting summary with the issues discussed and the sense or consensus to the extent it was achieved.

We have contracted with Mr. Paul Wallace, who is quite familiar

with the terminology and acronyms. We think there's been a marked improvement in the verbatim transcripts. Jack Devnew.

JACK DEVNEW: Yeah, Chris, I always get a little disappointed that we don't include -- there's a couple of references here in the first two paragraphs to the Magnuson-Stevens Act, but the -- you know, any reference to the Atlantic Tunas Convention Act is omitted, and I think -- you know, sometimes we fall into -- there's a pitfall in thinking that what goes on relative to Highly Migratory Species exists in a vacuum like most of the rest of the species managed by the Fisheries Service, without consequence or reference to ICCAT, which is the -- you know, one of -- I would argue that it is probably the primary driving force, you know, here.

So, in the future or -- you know, in some manner, I would like to see a reference to the Atlantic Tuna Conventions Act, as implementing -- you know, legislation for ICCAT and -- or the enabling legislation and that -- you know, what we do here has -- I mean, there is consequences to ICCAT, directives flow from ICCAT, and there is a back and forth there that exists and we don't operate in a vacuum.

MODERATOR CHRISTOPHER ROGERS: Thank you, Jack. Well, the panels were authorized under Magnuson. ATCA has its own committee authorized to deal with the international issues and providing for advisory and public input into that process. Certainly we all recognize there is a nexus of the issues that we don't operate in a vacuum. But for the most part, these panels are dealing with the process from the Magnuson Act perspective, and we'll defer to the ICCAT Advisory Committee for the international perspective.

Obviously we're mindful of the intersession and often some of the rulemaking that we will be discussing or dealing with will be -- I guess you could say of an international origin in terms of an ICCAT recommendation. So that's certainly something that we can't lose sight of. But with respect to the SOPP's, at least again the authority is under Magnuson for the establishment of these panels. Mau.

MAUMUS CLAVERIE: I did what you told me not to do. I skimmed it quickly and I probably missed this, but what is your concept about council representation? I'm reading here about terms of members and every so many years, either -- but isn't it whatever council member the council sends, that's -- I mean, there's no real term there.

MODERATOR CHRISTOPHER ROGERS: Right.

MAUMUS CLAVERIE: Okay.

MODERATOR CHRISTOPHER ROGERS: There are appointed members to the panel, which we have enumerated how many there are, and the Magnuson Act does require that the panel be assembled with balance in terms of interest group representation, so we've striven in the past to include -- obviously commercial, recreational, academic and environmental groups.

The panels also include ex officio members of the commissions, the councils, and representatives of the various states, the ICCAT Committee Chair, and it's always at the purview of the state or the council or the commission to nominate their person. So, there's no expiration to that term. It's an ex officio position.

UNIDENTIFIED: (No microphone - inaudible.)

MODERATOR CHRISTOPHER ROGERS: Okay. Well, as I said, if you are not as good a speed reader as Mau, to take a look at those during the breaks and let us know -- let us know if you have any ongoing concerns about the Statement of Operating Practices and Procedures.

On the agenda there was a note here about scientific research. We were working on updating the ongoing list of scientific research activities, hadn't quite completed that, so it's not available. As soon as that is available, we'll get it posted on the Web site. I had a comment from Bill Hogarth.

WILLIAM HOGARTH: While we had that point, most of you have probably seen this, but we have gotten reprogramming from Congress and we have separated the science from the management side of the agency. Mike Sissenwine

will be in charge of the science. The Science Center directors will report directly to Mike. Mike will report directly to me. And then the glimpse of the Northeast Center job will be advertised pretty quickly. And so -- but that is one we were making.

One of the first things I've asked him to do is to get with Nancy Thompson and John Borman and Chris and Jack and try to work out the HMS science. I think sometimes it's left to the hindsight of what money is left or this type thing, and we've really got to bring it up to priority to get it involved.

So, Mike and Chris and Nancy Thompson and John Borman, who is now acting in the Northeast Center, will be working to look at what we can do from HMS standpoint, where the science should be, should it all -- most of it's been in the Southeast. Should it be there? Should we divide up, put some in the Northeast or put it all in the Northeast or put it in the University of New Hampshire or -- you know, just whatever options there are, take a look at it. So, that will be done pretty quickly.

But a lot of the reason for this is that early in the Ocean Commission process that was one thing that they kept hearing, that there was perception that the management was driving science, and that there ought to be some dividing -- some point at which they were divided. So, this is what we're doing and what we've already done. And like I said, Mike will be there and John Borman is acting -- we'll advertise that position immediately.

Also while I'm at it, Roy Crabtree, as some of you may know, is back with us in the Southeast Region as the Southeast Regional Administrator. So, we're slowly getting all our positions filled. I think we've got the head of Protected Resources that's now open. Laurie Allen is acting, but it's open and that will be filled shortly. So, thanks.

MODERATOR CHRISTOPHER ROGERS: Thank you, Bill. We have Viridin Brown and Rusty. Where is Rusty at? Oh, over there. How about we'll go with Viridin and then Rusty, if you don't mind. Sorry.

VIRDIN BROWN: Quick question. Under the conduct of meetings, it says Roberts Rules may be used in the conduct of the meetings. Is that may be invoked -- Roberts Rules may be invoked at the time members see fit, or is it a mandatory -- or do we intend to use that as mandatory?

MODERATOR CHRISTOPHER ROGERS: Well, we put may in there because there may not be occasion where we need to be that formal. But if we do end up with a concern about voting procedures and things like that, or precedents in terms of discussion, public -- where we need to more firmly establish rules of order, it would be Roberts Rules of Order that would be invoked.

I'm certainly not an expert in Roberts Rules of Order, so if somebody deems fit that they need to be invoked, please give me at least 15-minute head start and I'll go consult them.

VIRDIN BROWN: Very well. Just wanted to get an explanation on it. Thank you.

MODERATOR CHRISTOPHER ROGERS: Rusty.

RUSSELL HUDSON: Thanks, Chris. I guess my question for Bill about Mike Sissenwine. Is he taking over Bill Fox's job or is that a different role?

WILLIAM HOGARTH: That's different -- they're different roles.

MODERATOR CHRISTOPHER ROGERS: Okay. Nelson Beideman. I'll try to state your name as I call you so to make sure we get it on the transcript. But if I fail to do so, please identify yourselves.

NELSON BEIDEMAN: Yeah, Chris, just wanted a little bit of clarification. On the combined panels, when there's five council representatives from each panel and there's 22 from each state, does that add up to ten and 44 or is that up to -- you know, five and 22? How does that work?

MODERATOR CHRISTOPHER ROGERS: Well, again, to the extent that we're having -- as Rebecca would say, an engaging debate and the agency is learning from the debate, it's not much of a consequence. But if we did get in

a situation where a vote was going to be called on a particular issue at the request of any panel member, that's when we would have to in a sense decide well, is this a billfish issue and only the Billfish Panel will be voting, or is this an HMS issue? I tend to think that we could avoid a situation of confusion where we're not sure whether it's a Billfish or an HMS FMP issue. You know, certainly we'll have a degree of overlap. But what we'd need to do is segment in a situation like that and then the members present would be a one-party, one-vote situation.

NELSON BEIDEMAN: So, it can actually be 86 valid members on the combined panels?

MODERATOR CHRISTOPHER ROGERS: Well, again, if it came to a voting procedure, I think it would behoove us to decide exactly what plan we were voting on and try to segment it that way. But I would hope that we can avoid those situations. I think those who have been following the ICCAT situation over the last two meeting cycles sort of feel that consensus is much better than getting into voting blocks and things like that. Russ Nelson.

RUSSELL NELSON: At the risk of appearing venal, Chris, I just notice that the last line of the SOPP's say that the members of the AP's, their travel-related expenses will not be paid. Is that just to give you the option or is that what you wanted us to read tonight?

MODERATOR CHRISTOPHER ROGERS: Well, there were no specific appropriations to cover the expenses of the Advisory Panel, and in past years it's always been an attempt to cobble together funds from various sources. I don't believe we've ever convened a meeting where travel expenses were not paid, and there have been verbal assurances from those in higher places than me in the agency that every effort will always be made. But that's just a formality of being able to state that it's not a guarantee, but certainly the intent is to find the resources to cover the panel.

Okay. Just again to touch on the scientific research, recognizing that a lot of research for the Atlantic Highly Migratory Species is

undertaken both internally and external to the agency, we tried to bring it all together to the extent we know about ongoing research activities, and have a list that we were trying to update. As I said, we didn't quite finish it. We'll get that posted to the Internet. I know it's of great utility, too, to the ICCAT Committee. We'll certainly have it available by the -- what's it, March meeting for the ICCAT Committee? April?

But certainly when you see the list, if you're aware of any ongoing research that is not posted, please let us know and we'll get it posted there. Again, it's intended to be sort of a clearinghouse of what's going on in HMS research, so that we're all at least aware of what's ongoing, what has been completed, when we can expect reports that have direct bearing on our deliberations.

We have the regulatory update there. I think Jack did a great job of reviewing where we are. We got a bunch of rules out at the end of last year dealing with the monitoring -- recreational catch monitoring for swordfish and billfish, a new permitting rule for the HMS angling category, some clarifications on the conduct of charter/head boats, as to when they fall in the recreational versus commercial fishing categories.

We have recently issued a shark emergency rule, many of you were at the hearings on that, as well as a proposed rule for incidental catch of bluefin tuna by pelagic longline fleet. Again, I've seen many of you at the hearings that I attended.

On the rulemaking docket, obviously over the next day and a half, two days, we'll be speaking at great length about the issues and how to address them through rulemaking for billfish, for swordfish, for bluefin tuna and for sharks, as well as the BAYS tunas.

So, I think we have a very ambitious agenda. We're looking forward to discussion on all these issues and hopefully can come to some conclusions as to where the agency needs to go, how we're going to proceed with rulemaking on several of these important issues. Some of them are not

new, some of them are sort of emerging. As Jack said, the plans are several years old now and we all know the species are highly migratory and they do move around, conditions do change, and situations arise that need to be addressed.

SAFE Report, that was mailed to all panel members. Hopefully you all received your copies via FedEx. We will have some additional copies available, if they're not here now, at least by tomorrow morning on the table out there. If somebody wants a larger -- actually, you probably don't want to have to carry them back with you on the plane, given the security at airports nowadays, but we can keep a list. If you want 10 or 15 copies mailed to some location, just let us know and we'll work on that.

It is posted to the Web site at this point, as well, for those who want to download particular sections or the entire document, if you've got enough toner and enough paper.

MAUMUS CLAVERIE (No microphone): Chris, are we going to discuss that (inaudible).

MODERATOR CHRISTOPHER ROGERS: We can discuss it. We didn't really envision a laborious discussion at this point in time, but if there are any particular comments on omissions or inclusions that you want to highlight, we can take a few questions on it.

MAUMUS CLAVERIE (No microphone): (Inaudible.) I'm sorry.

MODERATOR CHRISTOPHER ROGERS: This is Mau Claverie, for the record.

MAUMUS CLAVERIE: I would be afraid to open up that box, but how do you want to take comments, by e-mail or something, just informally to you or Jack? Would that be the way to do it?

MODERATOR CHRISTOPHER ROGERS: Yeah, that would be a great way to do it. Give us a call or send us an e-mail. Again, if there's any concerns about the factual material or concerns about how to include something that you don't feel has been addressed, or comments on how to present it, that kind of stuff.

I am concerned that it seems to be growing in size from year to year, and we'll be having some internal discussions as to how to avoid just adding a new 50 pages each year and it becomes too onerous a document to be able to absorb and focus on the current issues.

We also will have available -- if it's not out there, but will be -- a review of state regulations, as they affect the conduct of fisheries for Atlantic Highly Migratory Species. Heather Stirratt from the Commission was instrumental in that regard, having a great deal of familiarity with the state representatives and knowing who to talk to.

The idea here is that under Atlantic Tunas Convention Act, it does require that the Secretary undertake a continuing review in the language of state regulations as they apply to Atlantic Highly Migratory Species, and to make some determinations as to whether federal regulations need to be applicable in waters under state jurisdiction.

There are some instances or have been, and I suspect will continue to be, instances where states may want to be more restrictive than the federal rules, and there are situations where that is appropriate. There may be other situations where it could be in direct conflict. But primarily, the way Atlantic Tunas Convention Act reads is that as long as the Secretary concludes that the state regulations are at least as restrictive and effectively enforced as the federal rules, that the state rules can apply and there's no need for pre-emption, so to speak.

So, what we are trying to do with this list is update our understanding of what is currently applicable within the respective states, as it would affect Highly Migratory Species, and to undertake a formal continuing review, making determinations as to what federal rules would need to apply in state waters.

What we'd want at this point -- particularly those state representatives who are here to take a copy home with them and review the material presented for their states and get in touch with us, and give us

updates, if we don't have the most current information. And maybe we can set up a mechanism for having an ongoing dialogue with the respective states, particularly at any juncture where a state is contemplating rulemaking that would affect Atlantic Highly Migratory Species.

The Act, Atlantic Tunas Convention Act, does afford a state the opportunity for a hearing if at any point the Secretary determines that the federal rules need to apply within the waters under the jurisdiction of that state. So, it is a very formal procedure.

There is no specific timing reference in the Atlantic Tunas Convention Act. It just uses the word continuing review. So, this is one of our ideas of fostering this review by putting this out.

Please everybody take it with you. It's only a few pages. I've seen the one that was done for the Pacific Highly Migratory Species Plan that was addressing the regulations of California, Oregon and Washington, and I believe they had 40 pages. So, I guess they're light years ahead of us on the west coast in terms of regulating Highly Migratory Species. But please do take a look at it and get back to us if there are any concerns, omissions or clarifications that might be necessary. Rusty Hudson.

RUSSELL HUDSON: Yes, Chris, with regards to the Atlantic Tunas Convention Act, that doesn't cover shark, and so I guess my question is there's several states that aren't as strict as the federal rules. What's the plans there? It's been almost a decade.

MODERATOR CHRISTOPHER ROGERS: We are always seeking to have a constructive dialogue, constructive engagement with the states with respect to shark management. There are different procedures for pre-emption under Magnuson. Basically, the fishery has to be predominantly in federal waters and the action or inaction of the state has to be frustrating to the federal management plans. So, we'd have to make that determination.

So, I would tend to say it's probably a higher standard for pre-emption, a lot more deference to state jurisdiction under Magnuson, and that

probably stems from the understanding under ATCA of treaty obligations that the United States is bound by the treaty to act in a certain way, and therefore we have to have a more unified management approach. Whereas under Magnuson, there could be provisions for latitude by the individual states, as long as it's consistent with the management and conservation goals under the federal plan.

So, it's intended to be a cooperative, collaborative approach, and we'll continue to work with the states. We did get some recent comment on the shark emergency rules about ways to work better with some of the states for particular protections of nursery areas or timing of seasons and things like that. So, we will be looking into it.

RUSSELL HUDSON: I assume that the state landings issue will still be a problem for us then for the next short while, at least, because there are some states that when we're closed they're still having people fish that aren't federally permitted, I assume.

MODERATOR CHRISTOPHER ROGERS: Yes, we will be working with the states. I know several states do close when the federal season closes, but others do not, and again, you know the rules as well as anybody. The federal permit attaches a condition that the federal rules apply to that party on that vessel. Mau Claverie.

MAUMUS CLAVERIE: Specifically as to sharks, are you all considering that any intrusion into state jurisdiction by the federal system for sharks would be under Magnuson-Stevens, which means only to the shoreline, the baseline, as opposed to the tuna act, which can go all the way up the Mississippi River to Cairo or wherever. So, in other words, you would only be looking to the shoreline anyway, if you were going to take any action.

The only authority currently would be under Magnuson Act with respect to sharks. If ICCAT were to take up sharks, I tend to think they would be more concentrated on the pelagic sharks as opposed to the coastal sharks.

MAUMUS CLAVERIE: What do you mean by take up?

MODERATOR CHRISTOPHER ROGERS: Take up meaning --

MAUMUS CLAVERIE: Look for scientific data or actually get into the regulatory --

MODERATOR CHRISTOPHER ROGERS: Get into the management. I know there are some concerns about whether the ICCAT convention itself would need to be modified in order to take up sharks. We've had several discussions at the meetings dealing with resolutions on sea birds and turtles as to how far afield the commission is getting in terms of these matters, but there is an interest in at least collecting information on sharks. It would be up to the commission to decide whether management recommendations could be issued, absent amendment of the charter or with the required amendments. But at such time, if it did occur, then perhaps there would be a nexus for Atlantic Tunas Convention Act. But at this time it's purely Magnuson.

MAUMUS CLAVERIE (No microphone): Thank you. (Inaudible) to do with ICCAT (inaudible) NOAA lawyers tell you.

MODERATOR CHRISTOPHER ROGERS: Okay. Well, with that, we wanted to just briefly give folks an opportunity to -- I guess I have a note here to make some comments. We had some recent situations with comments on rulemakings where there's been some publicity campaigns.

Obviously everybody's got a right to comment. We certainly want to hear from everybody on an issue. But in the age of e-mail and information, we can get inundated very quickly in terms of our fax and e-mail boxes can get filled and that does limit our ability to respond when things get clogged, when the communication lines get clogged.

So, I just wanted to make a brief note that if constituent groups are planning a campaign to get comments into the agency on a rulemaking or any other issue, just give us a heads-up. Call us and we'll set something up to electronic reception in a particular mailbox or divert it to a dedicated fax machine or something like that, so that we can continue to go about our business and not risk losing the comments that might be sent in. Joe McBride

and then Bob Pride.

JOSEPH MCBRIDE: Yes, Chris, on that issue, generally speaking you would prefer individual comments signed and so forth, so on, in the past anyhow. Now with the advent of e-mail, would you be willing to accept petition-type scenarios where a statement would come in and X amount of people in that category or involved in that geographic area would sign it, and it would save you 50 or 60 e-mails, that type of thing? But it would lose its validity by being a petition form is what I'm really asking.

MODERATOR CHRISTOPHER ROGERS: Well, with respect to petitions, comments on rulemaking are not generally subject to a vote, per se. When we receive comments, we are looking at the substantive nature of the comments, what are the concerns expressed, what alternatives are being espoused by the commenters as better, what information we may have overlooked in terms of impacts, and particularly adverse impacts on the user groups or interested parties. So, it's not so much that it would lose its validity, because it's submitted electronically as opposed to written signatures by people.

You know, it's certainly helpful to know what portion or segment of the constituency feels a certain way about the issues in terms of numbers of individuals, but again, the greatest concern is on the substantive nature of the comments and what backup is being provided. Bob Pride.

ROBERT PRIDE: Yeah, to your point on the e-mail submissions and the volume and that sort of thing. It seems to me like it would be fairly inexpensive and easy to set up a comment mail server that just received comments, and for each action that's being proposed that you're receiving comments on, just have a separate mailbox. And that way you wouldn't clog up your regular administrative mail server with, you know, someone decided to send a couple thousand one day, you'd still be able to find your administrative mail that you need to handle and you could defer looking at the comments until later.

MODERATOR CHRISTOPHER ROGERS: Right. We do have several folks

within the agency working on what we call our e-rulemaking or electronic rulemaking project, and we will be probably moving a lot more into that arena in the near future. We had a pilot project with respect to one of the HMS rules. I think we got -- we got some feedback that it was a little bit cumbersome the way you had to deal with getting into the system, sort of tailoring your comments on certain aspects of the rule as opposed to making a general comment. And we're looking at the feedback we got and looking at other agencies electronic rulemaking activities to try to certainly expedite, facilitate comment from the public in that regard without losing efficiency, so to speak.

ROBERT PRIDE: Look to the stock market. They really know how to do it.

JOHN DUNNIGAN: The White House has designated the Environmental Protection Agency as the source for the administration's initiative on e-government and e-rulemaking. EPA is now putting together a new site which is going to go live next month where every federal rule that's proposed will be listed on that site, and anybody will in some way be facilitated in getting a comment to the agency.

Some agencies will allow for you to just enter your comment at that site and it will go right into the record. Other agencies at the other end of the spectrum, you could at least get a form there that you could print out with your comment and then mail it in.

We're actively looking at this, not just within NOAA, but on a Commerce-wide basis. There is a group that's responsible for it and we have the lead on that within National Marine Fisheries. So, it is a changing world. But that will actually go live next month.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie, you had a comment, and then Sonja.

MAUMUS CLAVERIE: Well, I was just going to say some of the councils do and some don't, at least last time we looked at it, and they have

some expertise you shouldn't overlook.

MODERATOR CHRISTOPHER ROGERS: Sonja.

SONJA FORDHAM: Sonja Fordham, The Ocean Conservancy. I can't help but mention that it's kind of ironic that at least 5,000 of those faxes were complaining about the fact that you didn't give the public a heads-up. So, you asking for a heads-up is -- we would say right back at ya.

But I would like to know -- so, just to be clear, technically you're still not accepting comments by e-mail; right? And there are things happening, but do you have any idea about whether that will change or when we might know about it?

JOHN DUNNIGAN: Yes, it is true the -- we do not accept comments by e-mail right now, and it's a very controversial issue within the agency. It's months -- you know, before that issue will get resolved. It's not something that you're going to see resolved in the next couple of weeks or anything. So, for anything in the foreseeable future, I think you need to assume that we will not be accepting comments on rulemakings via e-mail.

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ADOPTION OF THE AGENDA

MODERATOR CHRISTOPHER ROGERS: Okay. We're about 15 minutes behind. Karyl Brewster-Geisz is chomping at the bit to start on our shark presentation, but very quickly I wanted folks -- everybody has a copy of the agenda for the next two days -- three days -- two and a half days?

JOSEPH MCBRIDE: Chris, are we going to bypass the agenda section here on the agenda?

MODERATOR CHRISTOPHER ROGERS: No, that's what I'm doing right now. I'm at this point where -- we tried to structure it to try to maximize on the opportunities to touch on all the issues that have been raised to us.

Let me just briefly go over it, that we were going to take up most of the remainder of this afternoon with respect to sharks. We are in a scoping process for a plan amendment. So, we'll have a lot of information to

present on that. Have some discussion by the panel, certainly, and some opportunity for public comment as a scoping meeting to finish out the day.

Tomorrow morning we wanted to deal with billfish issues, pretty much through the entire morning, through lunchtime. Very quickly after lunch, John Graves has agreed to give us a little status report on the 2002 ICCAT meeting and the spring Advisory Committee meeting. 2 o'clock, just a brief presentation of the trade restrictive measures, statistical documents and vessel lists that are all coming out of the commission. This is -- you know, certainly a nexus, as Jack Devnew had mentioned, that we don't operate solely under Magnuson, independent of the International Commission. So, there's a lot of information needs to be presented there.

We do plan on having Gerard Bradley from U.S. Customs Service with us. He's the other agency liaison of Customs in their enforcement branch who will at least be able to learn from the debate. I know there's a lot of ongoing concerns, both in these panels and the ICCAT committee itself, with respect to what Customs can and cannot do in terms of monitoring trade.

We don't want to belabor that, because we do want to get into swordfish and have a good opportunity to discuss swordfish issues, starting after the break tomorrow afternoon, and then Andy Loftus will be by around 5 o'clock to talk about an ongoing project he and Dick Stone are undertaking to help improve the recreational catch statistics for BAYS tuna. And certainly there will be spillover effects into the bluefin and swordfish and billfish catch monitoring in the recreational fisheries.

Wednesday we're going to start off very quickly with bycatch issues, looking at the measures implemented to date under the FMP's bycatch reduction plan, a presentation on the northeast distant experimental fishery for those who have been following that fishery designed to -- an experiment designed to demonstrate fishing protocols that can avoid the capture and interaction with turtles, while still targeting swordfish. A summary of the comments we received recently on the bluefin tuna incidental catch, the

proposed rule dealing with the longline interactions with bluefin.

After the break, talk a little bit about authorized gear and permitting. A lot of issues have come up since implementing the limited access program. I heard some comments about vessel upgrading restrictions being too restrictive, things like authorized gear for certain categories being overly restrictive, things like that. So, we're just going to review what is currently on the books and hopefully have some discussion on -- very brief discussion on ways to improve that situation.

Bluefin tuna starting at about 10:45 on Wednesday, looking at several of the issues that have been presented to the agency prior to the meeting in terms of letters and comments received. Certainly implementing the new quota recommendation from ICCAT is big on our plate. The North Carolina petition for rulemaking that we received, we'll take up that after lunch by summarizing the comments received on that petition and basically rounding out the afternoon with bluefin tuna discussions, closing out with topics for a second AP meeting. We do plan on implementing an amendment to the HMS FMP to deal with the shark situation prior to December 31st this year, and so we have new rules in effect January 1, 2004, and under the HMS process we wanted to have another panel meeting to deal with that -- the progress made on that plan amendment.

So, very briefly, we can discuss whether or not that second meeting this year could be devoted exclusively to this shark situation, or whether there'll be other topics of concern and interest that could be addressed at that time, as well.

So, that's what we planned. We did call this a draft agenda at this point because obviously it hasn't been adopted by the panel. We felt we had a pretty good grasp of what the current issues were, based on communications with many panel members prior to the meeting. But if there are any glaring omissions, or you're not sure exactly where we would take up a topic of interest or concern to you, let's work on that right now. Joe

McBride.

JOSEPH MCBRIDE: Thank you. Glaring omission one. Last year about this time, Chris, I spoke to you about the 50 metric tons taken out of the angling category and placed in the general category, and I had asked you if the option was available for you, meaning the agency, to increase the bag limit for the angling category and utilize some of the underage and assist our industry in the angling category, particularly the charter and head boats.

And this year I got the notice of the meeting, I called your office, you were out of town, vacation, I believe, and I asked that you include that particular scenario -- the ability or the possibility of including a bigger bag limit specifically one fish per angler up to six fish on a charter boat, which was sort of semi-historical bag limits in years past, and up to 30 on a party and charter boat, assuming you had 30 anglers to utilize our underages in that particular area.

Now, it's not on the agenda. You could add it -- I mean, I'm not that uptight about that, as long as we have a chance to discuss that.

MODERATOR CHRISTOPHER ROGERS: We'll take that up under bluefin tuna issues then on Wednesday.

MAUMUS CLAVERIE: Chris, there's only been one edition.

MODERATOR CHRISTOPHER ROGERS: So far we have bluefin tuna --

MAUMUS CLAVERIE: I've gotten several of these over a couple of weeks in the mail, and I don't know if they're all the same.

MODERATOR CHRISTOPHER ROGERS: Well, let's just work with the one that has been handed out. I don't know -- there's no date on it, per se, but hopefully we're working from the same one here, the same version. In the future, we'll make sure they have dates on the bottom in a footer to make sure that we're all speaking from the same page.

What was happening is we were getting comments from panel members, and the public as well, and adding issues, fleshing it out in a little bit more detail as we went along. Wayne Lee.

WAYNE LEE: Thank you, Chris. Last year at the end of the meeting we had some comments by Jack Dunnigan concerning getting HMS data collection and ACCSP. It's been an issue for South Atlantic Council. Could we get an update somewhere during this meeting on where we stand on that issue?

MODERATOR CHRISTOPHER ROGERS: Okay. We could take that up under Tuesday afternoon, the BAYS tuna.

UNIDENTIFIED: -- take it up under the data issue with Andy.

MODERATOR CHRISTOPHER ROGERS: Yeah, that's 5 o'clock tomorrow.

WAYNE LEE: Thank you.

MODERATOR CHRISTOPHER ROGERS: Let's go around this way real quick. Bob Zales.

ROBERT ZALES, II: Yeah, Chris, I had called your office earlier in the week and I had asked for some information to be sent to you from the Council, and had asked for about five minutes to just talk about it a little bit. The Council -- the Gulf Council's SEP has some concerns with a document out there that has to do with charter and head boat statistical information by Doctor Sutton and Doctor Didden.

And during the charter boat moratorium process in the Gulf, we -- in particular Bobby Walker and Claire Peace, discovered a lot of problems with that study and brought them to the SEP at the Council and now the SEP has through the Council sent their concerns to Doctor Didden for comment. And I'd like -- I've got eight copies with me that I can give you to do whatever with, but I'd like to just spend a couple minutes on that somewhere in this next two or three days.

MODERATOR CHRISTOPHER ROGERS: We'll take that up under billfish tomorrow morning. -- from the Gulf Council. Okay. Tim Hobbs.

TIM HOBBS: Yeah, thanks, Chris. I stepped out for a minute, so I might have missed this, but I just wanted to confirm that on Wednesday morning under bycatch issues, are we going to get an analysis of the effectiveness of the longline time and area closures?

MODERATOR CHRISTOPHER ROGERS: Yes, we are.

TIM HOBBS: All right, good.

MODERATOR CHRISTOPHER ROGERS: Rich Ruais.

RICHARD RUAIS: A couple of specific comments on the bluefin section and then a general comment. Specifically, I think I had talked to a few people on the staff about also discussing a harpoon category closure date. It shouldn't take that long, but it's an important issue for us. So, we would like to talk about it under there.

And then I'm not sure where you were planning on taking the comment on specifications -- general category specifications, but I know that's a part of the annual process here, where we talk about multiple catch issues and things like that, and I just don't see it here. So, I'll just remind you that that is one issue.

And the general comment is that it seems that for the last several years, both here and even at the ICCAT Advisory Committee, bluefin seems to be pulling up the tail end of the meeting, and I'm not sure exactly what the rationale for that is, whether that's a good thing or a bad thing. Are you saying that once we start talking about bluefin, we don't stop, and you could sacrifice the rest of the meeting, or you wanted to make sure that it ends by plane arrangements that are coming out?

But I'm starting to get a complex losing out to sharks and some other issues here. So, once in a while, if you'd mix it up and get us in the middle of the meeting or the beginning of the meeting, we won't -- all of us that come for tuna won't feel so bad.

And people get worn out by day three, as well. So, to be fair to all of us, you might think about juggling it in once in a while.

MODERATOR CHRISTOPHER ROGERS: Thank you, Rich. Our actual rationale was that bluefin tuna is such an exciting and riveting topic that we wanted to hold it for last to make sure everybody's on the edge of their seat for two and a half days before we can get to it.

ELLEN PEEL: I can't help but -- Rich, now you know what billfish felt like for years.

MODERATOR CHRISTOPHER ROGERS: Rom Whitaker.

ROM WHITAKER: Well, in light of what Rich was saying, many issues to cover on Wednesday, and rather than starting at 8:30, maybe we should start at 8:00.

MODERATOR CHRISTOPHER ROGERS: Well, I can be here at 8:00, if the train's running on time. I'll plan on it. If we have a quorum, we'll get started at 8:00. Rusty.

RUSSELL HUDSON: Yes, Chris, on Wednesday at 8:30 I see that you have the NED and the bycatch reduction measures and stuff for discussion. Is that going to be for public comment late that afternoon at 3:15?

MODERATOR CHRISTOPHER ROGERS: Well, we could try to have a little worked in of public comment on the bycatch issues before we take the break.

RUSSELL HUDSON: Okay.

UNIDENTIFIED: (No microphone.) Inaudible -- AP --

MODERATOR CHRISTOPHER ROGERS: Right. AP discussion plus public comment. Since we have an extra half an hour now, we'll be able to afford a little more time to the subject. Any other omissions or concerns about the agenda? It's quite ambitious. We're 15 minutes late and we're going to let Karyl Brewster-Geisz jump in on the sharks situation.

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SHARK ISSUES

KARYL BREWSTER-GEISZ: Hi everyone. We've had a very exciting year with sharks last year, with a couple new assessments and we're looking forward to this coming year where we are actually going to be possibly amending every regulation regarding sharks in the HMS FMP. And so we want to spend most of the afternoon discussing that, but we are in the public comment period for the emergency rule, so we are expecting some comments, although many of

them we are hoping will lead into the discussion on the amendment. So, please keep that in mind.

We'll just get right into it. In 2002, we actually had an emergency rule that set the commercial regulations. It set the commercial quota. It suspended the minimum size, it suspended counting dead discards and state landings against the quota, and it suspended the season specific quota adjustments and replaced that with the next season quota adjustments. So, if a quota went over or under, the quota in the following season was adjusted accordingly.

And this emergency rule was based because the peer reviews of the 1998 stock assessment came back and they were pretty negative, and we didn't really have anything else to go on. So, we had to go back and we used the 1996 stock assessment as the basis for these regulations, and we just tried to maintain the status of the stocks while we were going forward doing the stock assessments. And this rule expired last December.

Last May, May 2002, we actually received the first small coastal stock assessment since 1992, very exciting for us. Mote Marine Lab and University of Florida also put together a stock assessment of small coastals, and that became available in the summer of 2002. Both of them had pretty similar results. Basically, the small coastal shark complex is not overfished, but finetooth sharks, which is one of the species in the complex, has overfishing on it. The other three species in that complex, bonnethead, Atlantic sharpnose and blacknose, appear to be doing pretty well.

We also had a new stock assessment for large coastal sharks. We received this assessment the very end of September and made it publicly available in October. We also had an independent peer review that's a non-NMFS peer review of the stock assessment, and I believe copies of both the small coastal, the large coastal and the peer reviews are all available, and as with the SAFE Report, if you want more copies than one to take on the plane with you, please let us know and we can get them for you.

The large coastal stock assessment is not available on the Web because it is such a large document with so many tables and figures and equations, and this was really a very large stock assessment. They did numerous models and sensitivity analyses. The underlying result was that the complex itself was still overfished and that overfishing is occurring. Sand bar sharks, which is one of the major species in the complex for the commercial fishery, is not overfished, but it's still -- overfishing is still occurring on that species.

Blacktip sharks appear to be fully rebuilt, and the peer reviews of this stock assessment were pretty positive all the way around, talking how great -- how much better we did in looking at the models and looking at the data and fully explaining what data sets were used and why. So, we're pretty happy with the stock assessment.

Regarding the quota and the landings, we had underages for large coastals in both seasons. The first season underage was added onto the second season per the 2002 emergency rule. Per the 2003 emergency rule, which we're under now, the underage of the second season will be added to the quota for the second season coming up. And then we were under for both small coastals and pelagics.

We had a couple other regulations come out. Of course we talked about this last time, the national finning ban. I won't go into too much detail. It just does for the Pacific the same thing that we had in the Atlantic regarding finning regulations.

We also have a proposed rule for exempted fishing permits. This is mainly related to sharks, because we do have that display quota of four sharks. Basically, the main thing that this is proposing is right now you have to apply dart tags to each shark that is landed for display purposes, and the proposed rule actually proposes using pit tags. And that along with increasing monitoring and reporting of exempted fishing permits is pretty much all that's in that proposed rule.

The shark observer program, which had been voluntary since 1994, was mandatory for the first time in 2002. It's run by the University of Florida, George Burgess and Alexia Morgan. They observed a total of 60 trips last year, 133 sets, 214 sea days, with two to four percent coverage for the commercial fleet. As you can see, that 72 percent of the observed catch, large coastal sharks. So, that's -- and this is all just bottom longline. This is not the drift gillnet that John Carlson takes care of in the southeast.

We are currently being run under another emergency rule. The emergency in this case was -- on some of the species, it was overfishing, but the main emergency was the fact that we did not have regulations in the books that were based on the best available science. The emergency regulations on the book were based on the 1998 stock assessment, which in 2002, the end of 2001, NMFS declared was no longer the best available science. And keeping those regulations on the book would be illegal, basically.

This rule expires on June 30th with a one-time extension allowed of 180 days. We're currently in the public comment period for this. We've had four public hearings. We've received many comments, some really good substantial ones and also many comments from National Audubon Society and Ocean Conservancy. So, we are looking at these comments and we are looking to see what sort of amendments we might want to make to the regulations in place and whether or not we want to extend this or come up with another rulemaking before June 30th.

I'll just quickly go through what's in the emergency rule, so everyone knows. The final action for the commercial quota splits the groups, as was suggested in the HMS FMP, between the ridgeback and non-ridgeback groups. This is for -- and you can tell these species apart when it's just a log, because the ridgeback has the ridge and non-ridgeback does not.

It has the ridgeback quota of 783 metric tons dressed weight and the non-ridgeback of 931. This does appear to be an increase and it is for the blacktip, but it is based on state landings and federal landings. It is

not based purely on federal landings like the quotas had been in the past.

We considered a number of other quota alternatives, including the HMS FMP levels, the 1997 quota level, which we've been following for so long, and other -- playing with just using particular groups of landings.

We suspended the minimum size for ridgeback sharks. We did this because the minimum size in the HMS FMP was based pretty much just on sandbar sharks, and according to the stock assessments, sandbar sharks appear to be doing well. There's still overfishing, but they're not overfished anymore. And we were afraid that a minimum size could actually increase discards of all ridgeback sharks and that maybe we wanted to rethink that rather than going forward at this time with it.

We reduced the small coastal shark quota, pretty substantially if you look at it. It used to be 1760. It's now 326. And that actually caps the landings at the highest level. And that's because we do have some concerns over the finetooth sharks that there is overfishing occurring on them, and we don't want overfishing to continue.

We are going forward with counting dead discards and state landings after federal closure against the federal commercial quota, and that is because the new quota levels do consider state landings when they were set. So, taking off any extras off of that, it seems to be pretty reasonable to maintain the mortality levels.

And as I said before, we are now going to be counting the over and under harvests, in the same semiannual season. This means if you go under in the summer season, the following year the summer season would have -- get that underage back again, instead of going to the winter season.

And all of these -- all of these measures are in the emergency rule. They're not part of the amendment. But all of these -- the quota levels, the season quota adjustments, the counting dead discards, all of those are up for grabs when it comes in the amendment. We don't know what we're going forward with now.

As far as the season dates right now, the ridgeback large coastal ends April 15th and the non-ridgeback ends May 15th. We've had a number of comments that the non-ridgeback happens during the pupping season, and both the environmentalists and commercial fishermen do not appear to like that. At the same time, up and through 1996, the season was always closed in May. We also had comments that once the ridgeback is closed to non-ridgeback, people landing non-ridgeback would be discarding ridgebacks, and once again both the environmentalists and the commercial industry feel they don't want to be discarding the ridgebacks when non-ridgebacks closed.

I am saying these comments so you know what sort of comments we're receiving, but also these feed back into the amendment, what we want to do for the amendment, whether we want species specific quotas or group quotas, things to think about. And once again, no closure dates expected yet for small coastal, blue sharks, porbeagles or the other pelagic sharks.

The comment period ends on Friday, so there's still plenty of time to get your comments into us. And that's it for the first part. That's the emergency rule and the 2002 in review, and I guess we'll have a break before going into the scoping, but I will take any comments now. Or questions.

MAUMUS CLAVERIE: It's not a comment, it's a question. Mau Claverie. I was a little confused -- get me straight. Did you say there's some provisions that are in the emergency rule that are not in the rulemaking rule?

KARYL BREWSTER-GEISZ: All of them are up for grabs in the amendment.

MAUMUS CLAVERIE: In other words, they're alternatives?

KARYL BREWSTER-GEISZ: Right. We don't have any set alternatives yet, if you look at the issues/options. They're all sort of groups of alternatives. But everything, the commercial quotas, the minimum size, all of that we will be discussing in terms of the amendment.

MAUMUS CLAVERIE: So, they could be carried forward because

they're in there.

KARYL BREWSTER-GEISZ: They could be carried forward, they could be completely redone. Rusty.

RUSSELL HUDSON: Rusty, the Directed Shark Comm. It says here you can send your written comments to Chris, but then it has a fax number. And if I remember the Federal Register Notice didn't say anything about faxing, but I'm assuming it's okay to fax comments by Friday?

MODERATOR CHRISTOPHER ROGERS: Jack.

JACK DEVNEW: Just had a few questions -- taking some notes on your slide presentation. In 2002 in review, you talked about the complex is overfished, for instance, on large coastal sharks. The sandbar sharks were not overfished, but overfishing was occurring, et cetera. And blacktip sharks are rebuilt.

What is the trend over the last few years? Has the trend been -- are you able to identify it with the data that you have? Is the situation getting worse? Are they rebuilding? Are they -- you know, can you comment on that? And then I have a couple of other questions, as well.

KARYL BREWSTER-GEISZ: Well, for those of you who might remember the 1998 stock assessment was pretty dire in terms of blacktips and sandbars. So, I would say the trend was going down, but is now leveling off, starting to go up for some species.

JACK DEVNEW: Okay. Another question is the experimental fisheries, those landings, are they -- I mean, if any of them die or anything are they included in the quota, or is it completely outside any of the quotas?

KARYL BREWSTER-GEISZ: You mean the sharks taken for public display under the exempted fishing?

JACK DEVNEW: Correct.

KARYL BREWSTER-GEISZ: They're included definitely in the stock assessment and everything, so -- yeah, there is a 60 --

JACK DEVNEW: Are they considered mortality? I mean, if they --

they're removed from the population so --

KARYL BREWSTER-GEISZ: Right, they're removed so they are -- there are so few of them actually taken that it wouldn't make too much of a difference.

JACK DEVNEW: Okay. On the state landings and counting everything now, how does the Fisheries Service differentiate between state and federal landings to avoid any duplication?

KARYL BREWSTER-GEISZ: When the fishery is open -- the federal fishery is open, state landings in the federal are discounted. Once the federal season is closed, you still get the dealer reports coming in from the states, and that's all state landings. That's not --

JACK DEVNEW: But when they're concurrent --

KARYL BREWSTER-GEISZ: When they're concurrent, they are generally considered the same. They're not really split.

JACK DEVNEW: Do you have a high degree of confidence that there's not double-counting going anywhere, that you're getting a report from a state and a federal for the same fish?

KARYL BREWSTER-GEISZ: We get them from the dealers, so it is from the dealers. It's not coming from the state. We count them from the dealers.

JACK DEVNEW: All right.

MODERATOR CHRISTOPHER ROGERS: I had Mike Leech, then Ramon, then Shana.

MICHAEL LEECH: I've got a question on the -- I understand the minimum size four and a half feet for -- that applies to other than the ridgebacks is still in effect.

KARYL BREWSTER-GEISZ: It's in effect for the recreational fishery. It is not in effect for the commercial fishery.

MICHAEL LEECH: And is that just in federal waters? Because what I'm getting at is I see a lot of landings in recreational bonnetheads, and

they don't get to be four and a half feet. So, I presume that's coming from state landings that -- where the minimum size doesn't apply.

KARYL BREWSTER-GEISZ: Right, if it's a recreational landing in state waters, that would be state regulations. In federal waters, it's federal. If it's commercial landings and you have a federal permit, the commercial limits apply even in state waters, unless the state is more restrictive.

MODERATOR CHRISTOPHER ROGERS: Ramon.

RAMON BONFIL: Ramon Bonfil from Wildlife Conservation Society. I actually have a very large -- probably too large number of questions and comments regarding the whole process that hasn't been very clear to me, and perhaps the first one I want to make is that I think HMS Division has to work harder on trying to make a very transparent and clear process on how they arrive to decision making and regulations.

From reading the stock assessment reports and all the materials that have been submitted, it is very evident that there has been a selective process of picking up recommendations or results and arriving to -- what appears to me a very different picture of what was actually written in the stock assessment reports.

We had, the Wildlife Conservation Society, the task of trying to reproduce how you guys arrived at the numbers that have been quoted. The probabilities that you have been quoting us backing up the decisions you're proposing or actually have already implemented as emergency rules and things just don't seem to fit.

So, my first goal is for you guys to -- if possible, if there is time here, to give us a more detailed analysis of how did you pick up which ones were the ones that you took into account to arrive to the probability levels that you are quoting us backing up the 20 percent increase in blacktips, or keeping the status quo in the fishing of sandbar sharks.

I have with me all the materials that were submitted and just

basically on the probability levels, it is not clear in any of your documents which runs were you considered for arriving to a 70 percent probability and a 75 probability of things being okay in the future at the levels of quota that you're proposing.

The only material that I have at the moment here is all the figures and tables that are part of the stock assessment report, and things just don't match.

We have to acknowledge that there is a great degree of uncertainty in the results of both sandbar and blacktip modeling results. This is apparently not addressed -- this has been lost somewhere in the process. Stock assessment report is a little bit ambiguous on saying this is the status of things because it is impossible to say things are exactly here or there.

They give a range of assurance. They say things like it appears that and why is at or may be above a certain level, but they never said we are totally safe. However, in the reports of backing up the regulations, things suddenly have changed and we are here -- somebody at some point has erased part of their uncertainty and suddenly things are perfect, deterministic and everything is either okay or not okay.

This is dangerous. This is very worrying. And my call for you is to try to explain to us more clearly how have you arrived to this process and reviewed your figures, because from our analysis the risk at the moment -- if we take all the numbers that are included in these figures, which I suppose are the ones you'd use for arriving to the numbers, the probabilities for sandbars are 54 percent only of things being well ten years from now, and that's extremely low probability. For blacktip sharks, apparently it's 59 percent only.

Obviously there is some misinformation here. I'm not accusing anybody of trying to cheat. It just needs more clarity and more transparency, because from our perspective things are not as rosy and okay as they seem to

be.

Finally, just to try to summarize things, I think that the decisions that are being taken are extremely risk-prone. First of all, on the face of the uncertainty of the stock assessment; second, considering what are harvest rates number of times here that sharks are specifically vulnerable species that need to be more precautionary. And I don't see the precautionary approach being applied here at any point, and that is very, very worrying.

MODERATOR CHRISTOPHER ROGERS: Thank you, Ramon. Shana.

KARYL BREWSTER-GEISZ: Thanks, Ramon.

MODERATOR CHRISTOPHER ROGERS: Then Rusty, then Sonja, then we'll take a break.

SHANA BEEMER: Just to follow up on Ramon's comments. He'd said that you were positive about the -- that the peer reviews said that you were positive about the results of the peer review, but they did say that while they didn't -- you know, disagree with the methods that were used, they didn't -- you know, there was just too much uncertainty to really tell, and too many different models and -- you know, the models just weren't weighted as to which ones were more realistic.

And then also I just had a question. You know, I certainly don't disagree with the results of this stock assessment, but I'm just curious is how you all think that blacktips could have recovered so quickly, given their life histories. Like was the previous assessment wrong and they are really better off, or how could they have recovered so quickly?

KARYL BREWSTER-GEISZ: The current stock assessment does talk about where the differences are in blacktips, and it does come to the conclusion that there were mistakes made in the 1998 large coastal stock assessment. And that's where the differences came from for those mistakes.

MODERATOR CHRISTOPHER ROGERS: Rusty, then Sonja.

RUSSELL HUDSON: Rusty Hudson, Directed Shark. I guess I got one question and then two points I wanted to make. I'll make the two points

first. The '98 workshop on blacktip had come to the conclusion in the Western Gulf of Mexico unless you shut down Mexico and the U.S. over there, that blacktips were in danger of extinction. That was based on one model basically run in the whole '98 workshop.

But with the 2002 results and NMFS in their Fish News reported that blacktips were fully rebuilt. And so that is quite a contrast as far as it goes. And it actually -- the number of blacktips that we see indicates a healthier population than the '98 workshop ever showed, and so we were real glad that the 2002 showed an improvement, because Doctor Bonfil actually helped us be able to sort through some of the Mexican landings, since that's his home countries.

But with -- going to the second statement, small coastal shark and the dead discards issue. I've got a little problem with that, because when you get into the March 2002 small coastal shark assessment, Table 12, you'll see the shrimp trawl discards from the last 30 years, and the minimum year is one million pounds, approximately, a little over that. And the peak year is about three million pounds. And currently, since you rolled back our small coastal from four million down to about three quarters of a million pounds, when you're waiting until 2005, then you're going to have an accumulation of two to six million pounds of potential dead discards from the shrimp trawl fleet that will be deducted off of a three-quarter million pound quota. Got a little problem with that.

And the other question, when you started talking about when we're closed for large coastal fishing, for instance, and that the federal dealers that are sent -- you know, that are federally permitted, the dealers that purchase from both, that's obvious -- federally permitted fishermen and non-federally permitted fishermen. I guess there's no restriction on the dealer. He can buy wherever.

And so it makes me kind of wonder about some of that, and we do have an influx of Mexican shark, some of the very same sharks that have been

coming into this country frozen now. And I believe a lot of that comes through Texas and stuff like that, you know, as far as the buying and stuff. So, it sort of worries me that we as the fishermen cannot go and fish during the closed season, but the fishermen that have no federal permit can in the state waters, then all that comes off our quota. And the same thing with the exempted fishing permits for shark for the aquariums. I always felt that was coming off the commercial quota, too.

So, I know like where I was trying to make some of these concerns in my comments that I submitted to you, I'd like to see a little dialogue engaged on that to try to develop some solutions, because if we're buying the same sharks from Mexico that we're not allowed to catch, it's sort of anti-productive, I believe.

KARYL BREWSTER-GEISZ: The exempted fishing is its own quota, 60 metric tons. It doesn't come off the large coastal quota.

MODERATOR CHRISTOPHER ROGERS: Sonja.

SONJA FORDHAM: Sonja Fordham, The Ocean Conservancy. I'll try to be brief, but I appreciate having the opportunity to attend the public hearing, and you will get my comments in writing.

I would preface this by saying you mentioned that you had received comments from my organization and National Audubon, and I would clarify that those comments are from our members or people that have received our information. You can call it a publicity campaign, but we would call it an effort to educate the public on what is happening with the management of their resources. But as far as I know, the National Audubon and TOC have not submitted their comments yet. So, those would be from individual people, not from us --

KARYL BREWSTER-GEISZ: Yes. Thank you for the clarification. Sorry.

SONJA FORDHAM: And just a general concern. You talked about that the emergency was that other regulations from '99 would go into effect if

you didn't change the rules. But actually you could have done that through normal notice and comment, and we're very concerned that this problem -- and this is the fourth emergency in a row for sharks -- stems from the fact that sharks aren't getting a high enough priority within the HMS Division.

So, if the stock assessment and the resulting documents and decisions would have been made in a timely manner, you wouldn't have had the need to take the emergency, and there would have been more opportunity for the public to comment before you took action.

I want to echo Shana and Ramon's concerns about the model runs and how you arrived at these numbers. And I went through this at public hearing. I would just say in general we're concerned that there seems to be little weighting or explanation of how you got to these numbers, and I think you're probably used to hearing this from me, but I hope that you take to heart what Ramon said, because he has specific expertise in this area, I don't, but in fisheries population assessment, and he and his colleagues have been active participants in the SEW's, and if they can't understand where the numbers are coming from, I don't know how the public can. So, I hope you take that seriously.

Basically, I'll just run through the main concerns. We don't believe that the desire to increase the quota really equals an emergency, and we're concerned that you seem to have raised the entire large coastal quota of 22 species based on a good outlook that was not really confirmed for one species, under your own admission that you don't really know how to -- you're not really comfortable implementing a species specific quota yet.

So, you're trying to target the increase on blacktips, but it seems like we don't really know how to do that yet. So, we're very concerned about the impact on the bycatch species, particular the ESA candidate species, the dusky shark and sand tiger in particular. We're concerned that this is the fourth emergency in a row and that -- so the shark fishery is being managed without prior notice and comment to the public, and that's of great concern to

us and our members.

We still feel there's very little justification for suspending the minimum size and we see that it's up again in the issues and options paper. So, again we feel like this is something that was supported by commercial industry and conservationists and went through a scientific review process and yet was just sort of done away with rather quickly.

I want to stress there's -- in the power point presentation and in your presentation, you continue to refer to sandbars as doing okay, and sandbars are still being overfished. So, I don't think that's okay or that they're doing well, and I would urge you to stop referring to sandbars as doing okay.

As you mentioned, a lot of us are concerned about fishing extending into the pupping season. We don't understand why it's gone from a -- sort of a notice that the fishery is going to close to a predetermined season that extends into May. And you mentioned that there hasn't been a fishery for a long time in May, but as many of us have said, that was actually intentional at the beginning of the shark plan that you start in January so you're finished by the spring pupping season. So, that's why we're particularly concerned about April, May and June fishing.

And overall I think, as Ramon said, this is an exceptionally risky move in a situation that we feel really clearly warranted a transparent and precautionary process. So, we're exceptionally concerned about it.

I have just two questions. And I realize that public comment probably couldn't respond to this, but we'd like to get a list of the states that are causing these overages or that are not in compliance or matching the federal restrictions because we're very eager to help get them in line, and --

KARYL BREWSTER-GEISZ: On the table we do have the list of the state regulations. It's very drafty, but it is a beginning.

SONJA FORDHAM: Okay. Will I be able to figure out which states are out of --

KARYL BREWSTER-GEISZ: Yes, it's very clearly marked.

SONJA FORDHAM: Okay. And one thing I haven't been able to figure out is this, why we did go from what we used to do is just figure out or try to guess when the quota was going to be met, go from that and then close the fishery to a predetermined season.

KARYL BREWSTER-GEISZ: In the HMS FMP we went from giving I think it was five days notice of a fishery closure to announcing the date of the fishery closure 30 days before the season even opens, based on catch rates. And that's because the five days -- and we only get dealer reports -- in the southeast we get the dealer reports twice a month, in the northeast we get it once a month, and we were finding that by the time we even know that the fishery is approaching reaching the quota, it's already past where it would have reached the quota.

And so we decided that that was just leading us to always going over the quota, whereas if we announced when the season is closing ahead of time, the fishermen have a chance to set up their markets, their know where it's going to be, they don't have to go out and race for the fish because they know the season is going to close on this date, and it also gives us a chance to look at the catch rates and try to estimate when the season is going to close, and any overages and underages can go on the following year, or get taken off in the case of an overage.

SONJA FORDHAM: Okay. That's helpful and seems logical, but it's still going into May is going to remain a problem, considering pupping. But thank you.

MODERATOR CHRISTOPHER ROGERS: All right. Let's go ahead and take a break. We can take a few more questions after the break and then we'll get on with the forward looking discussion of where do we go from here in shark management.

[BREAK: 3:06 P.M. to 3:44 P.M.]

MODERATOR CHRISTOPHER ROGERS: Okay, folks. We'd like to get

started on our forward-looking presentation about shark management.

GLEN HOPKINS: -- April 15th, and there's say only been 50 percent of the quota caught. Is there any room in there to extend that season at all?

KARYL BREWSTER-GEISZ: Under the current regulations in the emergency rule, no. We would take the 50 percent underage and we would add it on to the following year.

GLEN HOPKINS: So, there's absolutely no chance it's going to go past April 15th this year and there's -- definitely it's going to be open till May 15th for the non-ridgebacks, the way --

KARYL BREWSTER-GEISZ: Well, I wouldn't say it's absolutely set in stone. If we do decide that there are substantial comments that we need to consider, we could amend the emergency rule. But we would make sure to give fishermen enough time to arrange for that and change their markets and their plans. At the moment, it is April 15th for ridgeback and May 15th for non-ridgeback.

GLEN HOPKINS: Okay. I would also emphasize then with the controversy we're having about the species, specifically the non-ridgeback and everything, if you're definitely going to do that, I would suggest you have real strong observer coverage and maybe you can learn from this. Maybe -- it's only a four-week long thing, maybe it will be a good thing. Perhaps a bad, but thank you.

TIM HOBBS: Yeah, thanks, Chris. I guess I had first a question and then a couple of comments. It seems that -- well, first I'd like to say that Ramon made some good points earlier about the uncertainties in the assessment. But even assuming that the assumptions that NMFS used were correct, it's still not clear to me that the catches of the species other than blacktip and sandbar, that seem to be the most needed of catch reductions are really going to receive the reductions that are required.

From my reading, it seems that the quotas were developed by

keeping -- in the case of ridgeback, of keeping the sandbar catches constant and then taking the catch of the other species and cutting it in half and then adding that to the quota. But is there any reason to believe that just because -- you know, the quota was set that way that the catches of the most vulnerable species are actually going to be reduced by 50 percent? I mean, is there any mechanism in place to enforce that?

KARYL BREWSTER-GEISZ: It's not enforceable in the fact that the quota is set. And once the quota is reached. Obviously as things happen, we would start noticing it and make adjustments as we could.

TIM HOBBS: Okay. I guess -- I mean my comment to that is that it just seems that NMFS is managing to maximize the harvest of the more abundant species while neglecting the other species in the complex. And you know, part of this is looking back at what was done in this emergency rule, but part of it is also, you know, looking forward. And I would hope that NMFS would not neglect the vulnerable species and set catch limits at a level that will certainly allow the species that need the reductions the most to actually benefit from the management measures.

We can't -- we should be managing to protect the most vulnerable stocks, not to maximize the harvest of the more abundant species. I think there's a difference in management philosophy there that needs to be examined, especially for sharks that are particularly vulnerable to overfishing.

And you know, if there's a way to either keep catches of sandbar constant or increase catches of blacktip without, you know, threatening the other vulnerable species, then let's talk about that. But to my knowledge, there's no way to do that. So, you know, if we have to cut catches overall to achieve the reductions for the species that need it, then I think that's what we have to do.

KARYL BREWSTER-GEISZ: Thanks.

ROBERT HUETER: Thanks, Bob Hueter, MOTE Marine Lab. Well, this fellow just stole my thunder, because that's basically the point I was going to

address.

First I want to go back and echo a lot of what Ramon said earlier, having been part of the stock assessment process myself. It is interesting how uncertainty does become certainty when you're back is against the wall and you have to make a rule.

And I understand where you're coming from on that, but that aside, looking at the realistic effect of a rule like this, this quota increase, and adding to what he just said, you're raising the allowable take of the non-ridgeback species and you're doing that based on numbers that you have supposedly gotten out of the stock assessment, that that group can withstand a 20 percent higher catch. But you're then reducing that number saying that you want to see half the number of these other species that are not the target species, the hammerheads, the tigers, the lemons, the nurses, you want to see only half of those landed.

Okay. You're telling the fishermen go ahead and go catch more of that group. What you're assuming then is that the fishermen are going to change their behavior. They're going to change their fishing methods to then target more blacktips and less of the other species.

What evidence do you have that that's going to occur? Because by simply raising the allowable TAC in that group, it seems to me that proportionally you're going to raise the catch of all of those other species groups, and that large coastal complex, which NMFS itself says is overfished and is being overfished, is going to be depleted even further.

I don't understand the logic there. I don't understand what it is that -- where the checks and balances are that are going to make that 50 percent reduction in those vulnerable species in the large coastal complex.

KARYL BREWSTER-GEISZ: I'm not quite sure how to respond to that one, other than to clarify that the fishermen probably will not change their fishing practices because they are already targeting the blacktip and the sandbar. The other species are bycatch species. They are not the ones that

are being targeted for. They're generally not the ones being landed.

And also as a point of clarification, both of these comments are very good, and they do set the stage for looking forward in how we set these quotas and where everyone wants this fishery to go.

MODERATOR CHRISTOPHER ROGERS: Bob Pride. Did you finish, Bob?

ROBERT HUETER: Well, you know, I'm certainly not here to beat you guys up. I'm just trying to get the information as to how you got this. My overall assessment of this is this is one of those engineered type solutions, and maybe looks good on paper and it's very valiant in terms of what it's trying to achieve, but I'm just not sure that it's going to work out in the fishery. You know, maybe this is much ado about nothing, because this is an emergency rule and it's temporary and so on and so forth, but I would hate to see this approach get so entrenched into the management -- you know, overall scheme that this just then gets carried over to when we do the amendments to the FMP. So, I think there's a real logical flaw in this one item. So, thank you for addressing it.

MODERATOR CHRISTOPHER ROGERS: Thanks, Bob. Before I go onto you, Bob Pride, just a reminder. Let's try to come to a closure pretty quick on the emergency rule itself. Any very important, significant observations you have. Some of the comments we just received are certainly quite good, quite valid, but I think more appropriate for the longer term discussion that we want to embark upon pretty quickly here.

ROBERT PRIDE: Thank you, Chris. I'll try to be brief. First I'd like to echo the comments that started with Ramon's comments and say that I do agree with that general line of reasoning.

The second thing I'd like to say is that when I attended the public hearing up in New Jersey, we had a discussion about more data being available. And it seems to me that one of the key elements of data that was missing for our decision-making is the bycatch of other species when you're in this directed blacktip fishery. So, if that data could be presented when we go

forward, that would be great.

MODERATOR CHRISTOPHER ROGERS: Rusty and then Mau.

RUSSELL HUDSON: Thank you, Chris. Rusty with Directed Shark. When I participated along with Doctor Hueter and Doctor (inaudible) at the Shark Evaluation Workshop last summer, I did request from an industry point of view an assessment of the commercially important sharks besides blacktip or sandbar to be conducted at that time. Unfortunately, because of time constraints, that was put on the back burner for the next workshop. I don't know if that's two, three, four years down the road, but -- in the plan.

And one of the difficulties that we had with that was that a lot of those animals are commercially important, and some of those animals are -- like the bignose, virtually untapped resource that is not overfished but is identified as being overfished. And I think we need to clear the confusion.

So, the thing that Ramon said about transparency I agree with 100 percent because after we were closing up the workshop, they did not have any assessment results, just a preliminary assessment result on a little bit of modeling -- and they said it was looking better, but we requested in writing several times a follow-up meeting so that we could be able to discuss the results, the trends, the different models, et cetera. And NMFS did promise in their document that they would do a retrospective analysis and look for any bias in those particular reports. Doctor Hester reminded me of that, and I submitted that in my comment a little while ago.

So, we need to be able to increase the mix of allowing the stakeholders, whether it's the commercial or the environmental communities, to participate with NMFS in those discussions of where this analysis is taking us. But we didn't get any glimmer of what was going on with that until the report came out itself. And it sort of made us feel that that wasn't right, particularly when everybody's identifying large coastal as overfished, and yet we have a problem with the other 20 species.

Some of those species, many of those species, are now on

prohibited species list. And you keep identifying them every year to Congress as being overfished, when in reality certain species you will never be able to assess, for example the narrowtooth. I don't know of a single animal narrowtooth caught in the U.S. waters yet. I know of two or three bigeye sand tigers caught in 2,000 feet of water on the bottom, and that's a rare event animal.

So, you'll never be able to model that animal, but the modeling for dusky, for bull shark, for the two main hammerheads that I worry about -- and that's the scalloped hammerhead and the great hammerhead -- and then you have the silky shark and you have the spinner shark and the tiger shark. You get into a lot of life history characteristics and stuff that would make a big difference if you could start plugging in the numbers.

Dusky before it was prohibited for commercial was the third most caught large coastal shark landed by weight. That means you have a lot of numbers and some of those numbers ran up into a quarter million pounds or more a year for all these years of management. And I think that it would be important to get that modeling started ASAP so that we can not necessarily run to CITES and say this is a candidate species for endangered situations when we have reports from Jack Music and George Burgess showing an explosion of dusky shark pups in the Mid-Atlantic regions. It's a localized thing and we have reports from other people that run into large full grown duskys in some of their fishing. And these are type of things like tiger sharks, when you have a fast growth animal that winds up going to Africa or South America or wherever in a short period of time, and when they become large in a few years they have ten to 80 pups or the scalloped hammerhead has a dozen to three dozen pups, it's a big deal because you get into a fast rebuilding plan, especially when people aren't allowed to fish them or fish them as much. I want to be able to let everyone around this table know that before management started in '93, the kill was off the record books. It wasn't corrected. The best that you have is like 15 million pounds. I believe it was double that. When we started the

plan, it was six million pound quota in '97 and got cut to three. In '99 it was supposed to get crunched down to a million point something from Maine to Texas and the Caribbean. And we had a problem with that.

And so we as stakeholders that had unfettered access were encouraged to get into the fishery, turned around and had to go to a great expense, go to the judge and then be able to try to get some fairness about the economic impact. That was what came out of that. You wound up going and saying that '97 it wouldn't hurt us. You turned around and said -- after the remand to do the economic assessment in May of '98 that it would devastate us, basically speaking. And it did.

I lost my business, and I wound up staying involved with all of these issues because certain other fish stakeholders were still in the business somehow. I don't know how. Probably because they still had some other fisheries to fall back on. But we have now limited the access and I would like to get together with Ramon and Doctor Hueter and everybody else at a workshop again soon and start looking at these other important animals, because whether sandbars overfished, fully fished or not overfished anymore, that's something that can be fleshed out. Blacktip having been near extinction, now all of a sudden it's fully rebuilt.

This should raise the alarms that before you go and eliminate the directed shark guys or the small coastal guys with dead discard issues and stuff -- and you're right, this is something that we need to keep on fleshing out through the March 17th and on after that, but I'm just sort of worried because now Audubon and The Ocean Conservancy have filed another lawsuit against NMFS. We're going to have to go to the expense of intervening so that we can be able to at least participate in that process to see that there's a fair court day -- or a fair day in court.

And hopefully we can get into the middle of the road, because we have been off on the edges here. I can assure you from my own point of view that a lot of the sharks that we're concerned about being overfished are

not. They have a very robust population that we share internationally with a lot of different groups of people, and we need to be able to start bringing that in.

That's why Ramon was a great help, because he's from Mexico, he was able to take a lot of the Mexican data that Frank Hester was also able to take, and we were able to start getting a better picture. But it's not as good as it can get.

We'd love to have the Mexicans at the table, because we share that resource and like when she makes a comment about finetooth and stuff like that being overfished, you have one boat that's targeting and you have Glenn Ulrich over here that's doing surveys on them, and they could walk on them. And yet you have a finetooth being tagged in Texas, according to your SAFE Report, showing up in Mexico, and so that's a rare event that the Mexicans even give those tags back, from what I understand. But the fact is, is that it's internationally shared.

And so for you to say finetooth is overfished when some years you didn't even have anybody fishing them, we've got a problem here. Again, that word overfished. Because I honestly believe that the 4,000 pound trip limit, the crunching down of that 30 million pound kill down to something less than three million pounds and now we're up to four million pounds. We never got back to the peak of the six million pounds, but the bottom line is is that you need to be able to quit putting us out of business, or putting us into a position where we you have to fight people that we have to work with.

And so we're all for trying to be able to come up with these results. We're real happy with the idea that you increased the large coastal a little bit, but it's still a decrease from what we had. So, we're having to eliminate boats, and that's where that boat buyout situation is now being financed through the Foundation to be able to eliminate the 251 directed shark permits down to some -- as Karyl had told me back in May of 2001, I believe it was, that a maximum economic yield, so that you can sort of fit the fleet to

the quota. And if you have no quota, then you're going to have no fleet. It's -- you know, real easy math.

And so that's what I'm trying to say right now. We can say everything's overfished and endangered of collapse or of extinction, but I don't believe it, and I was able to at least get the blacktip off of the table finally as far as it being near extinction in the Western Gulf, but the reality is, is that we're only beginning to make the science more mature. We're only beginning to complete the database that had big holes in it. And that's why we have to meet more often than once every four years to do a shark evaluation workshop.

We did jump from '94 to '96 to '98, and then we waited from '98 all the way to 2002, and I'm hoping we're not having to wait till 2006.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie, and then we'll get on with the presentation. Willy, on the emergency rule, or can it wait till the forward-looking scoping process?

WILLIAM ETHERIDGE (No microphone): (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Okay. Mau Claverie, then Willy Etheridge.

MAUMUS CLAVERIE: I'm not sure, but I think I'm going to pass until the next section. I want to talk about overfishing one species in a group. That's -- okay, I can do that next time? Okay.

WILLIAM ETHERIDGE: Chris, I just think a way for you to answer Mr. Pride and our friends from the environmental community is that for the first time you are considering the commercial fishermen in your decisions, which is what Congress mandates that you do. And I know that Ramon and these people from the environmental community only concern is the fish. Your concern has to be the fishermen. It's mandated by Congress that it be that. And that's the way that you should answer them when you get pressured that you're not doing your job.

Your job is also not to just look out for the fish. It's to

look out for the fishermen. And I want to commend you for doing it. My comments on the emergency rule that you got at the public meeting but, I would just -- if I was sitting in your place up there, and you got inundated with all these people -- well, believe me, I would love to, from the academia world and that are being paid to protect sharks -- I'm glad that they're being paid to protect sharks, I'm glad that they've got the concern for the shark and I hope somehow that they will see that we also have the concern for the shark, but we are trying to make a living, and for once that you've done something to -- for the first time other than by a judge's orders you've done something that actually is going to make it a little bit better for us to make a living, you're being inundated with all these people from the environmental community -- most of them being paid to be here -- telling you that you're not doing your job. I just want to thank you for partially doing your job.

MODERATOR CHRISTOPHER ROGERS: All right. I'll give you a fair warning when I intend to fully do my job. Why don't we move on with the presentation.

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SCOPING FOR THE HMS FMP SHARK AMENDMENT

MODERATOR CHRISTOPHER ROGERS: Again, this is a scoping process. The intent is to open up the FMP for an amendment, and a lot of issues on the table.

KARYL BREWSTER-GEISZ: Hi again. This presentation is based on this book, the issues and options. Everyone should have a copy. If not, there are copies on the back table. And this is going to be an exciting year. A lot of the discussion we've heard so far, exactly the type of discussions we want. So, please keep it up.

MAUMUS CLAVERIE (No microphone): (Inaudible.)

KARYL BREWSTER-GEISZ: It's been publicized through our normal channels.

MAUMUS CLAVERIE: You mean everybody in the world? Yeah, okay.

KARYL BREWSTER-GEISZ: The purpose of scoping is -- in this whole document is to revise the shark measures in the HMS FMP, and this could potentially mean all of the shark measures, large coastals, small coastals, prohibited species, pelagic sharks, deep water and other sharks, all the commercial quotas, minimum size limits, anything related to sharks, this amendment could possibly encompass.

Basically, we have the two new stock assessments, the large coastal and the small coastal. We are expecting a pelagic international shark stock assessment in 2004, that ICCAT is sponsoring, I believe. And based on the Magnuson-Stevens Act, not under ATCA, because we don't have that authority, but under the Magnuson-Stevens the intent would be to rebuild and prevent overfishing of Atlantic sharks.

We also hope to revise the procedures for issuing exempted fishing permits, those -- regarding sharks, and that's the display permits for aquariums. But this is also research permits for people working on billfish or tunas, potentially research on sharks, so that's a big deal, as well. And basically what we hope to come up with in the scoping is we're looking basically for brainstorming sessions, what would work, what wouldn't work, what has worked in other fisheries.

And one thing that I really want to stress that we've been hearing in all of this is that if we go forward with one particular management measure, it could have impacts on other management measures. For example, quota management measures can impact trip limit management measures. If we set a particular quota and the fishery is closed, those species are still being caught as bycatch. So, people with -- incidental permit holders and directed permit holders can't land those species during a fishery closure. Do we really want that to happen? Do we want some incidental landings, rather than the dead discards?

So, please keep this in mind as we run through the presentation. And then all of these comments, we will try to think about every

single one of them and we'll come up with a proposed rule. Those of you on the councils and all of our consulting parties would receive a pre-draft of what we're thinking of, and then we would go forward with the proposed rule based on the pre-draft.

This is a very brief outline of what's going on. We had the Notice of Intent for this last November. The public comment period for doing an amendment ends on March 17th. We've done the issues/options paper and right now we're in the comment period and the scoping meetings. And this is our first scoping meeting, and we have seven -- six more throughout the rest of the comment period. And we hope to have everything in place by January 1st of next year, though that is a tight time line.

I'm not really going to go through these background slides, because we had them all in my previous presentation, and they're all basically the same. We do have a slide showing the landings and dead discards for large coastal sharks. They have been going down, which is what you would expect, seeing how the quota has been going down. And now we come to the heart of the issues and the options. Basically, this doesn't set any particular quota level. It doesn't even talk about a particular quota level or a particular minimum size. It's outlining some of the options we have and some of the major issues that we've come across. We're expecting more issues to be brought out and more options to come onto the table.

So, keeping in mind what I said before about management measures in one group will affect management measures in another group, I'm going to start and I'm just going to run through the slides quickly, and then we can go back as we need to to each slide. But this way you have an idea of what's coming up and what we're also looking at, because I know this is going to be new to a lot of people.

Accounting for mortality. We talked about this a little bit. This is counting dead discards. This is counting state landings after a federal closure. This is the overharvests and underharvests. Where, how, do

we want to account for these sources of mortality for the fish.

Quotas. We have -- commercial quotas will definitely be a big issue. It already is a big issue under the emergency rule. It was a big issue in the HMS FMP. What we've heard before is that we want -- that people want species specific quota levels. That could mean that we end up closing the fishery early to account for one particular species that's really bad off. Or it means keeping the fishery open, but having dead discards of those species that the quota has already been reached.

For quota classifications, we could have an aggregate, such as the large coastal/small coastal. We could have groups, such as the ridgeback or non-ridgeback. We could go with species specific. We could go with spatial specific. Having a particular quota for the Gulf of Mexico versus the Mid-Atlantic bight. Temporal specific. We've heard today about having the fishery open during pupping season. Do we want to try to set up quotas around specific species pupping seasons? And that could be difficult because species all have different pupping seasons, and the pupping season depends upon whether it's in the warmer water, and going up north, some of the pupping seasons are delayed up north.

Gear specific quota levels for the bottom longline and the gillnet are probably the major gear types, but you have rod and reel in there, as well. Any combination of those. The moratorium on individual transferrable quotas expired last fall, so we could actually go toward ITQ's.

The quota basis. Do we want to have constant landings, year after year, the same amount of landings regardless of what that's doing to fishing mortality? Do we want to have a constant fishing mortality where we always aim to have a fishing mortality of .2 and when the stock assessment shows we're above, we lower the quota. Do we want to have individual quotas? That's going back to the individual transferable quotas.

Quota administration. How do we adjust the quota? Do we adjust it annually, every year based on reports? Do we adjust it only when we have

new information with the stock assessment? Do we adjust it every season? And these are all things that we're thinking about, all things that are on the table. And this is somewhat long, so I'll try to rush through these.

Fishery closures. Sonja had asked before about how we started setting the date in stone. So, I won't go too much into that, but that once again is on the table. We have heard from some people that they really prefer not having the advanced notice, that they like having the five-day notice. But we also hear from other people that they like having the 30 days notice, having the chance to set up their own markets and not have to worry that the weather is bad and they can't go fishing, and maybe they should go fishing.

Minimum sizes. We've talked a little bit about that. Currently the recreational is under the four and a half foot fork length. Commercial, the minimum size for commercial is suspended right now, but it was also four and a half foot fork length. And that is based on the age of first maturity for sandbar sharks.

Do we want to protect juveniles and reproductive females with a minimum size? Do we want that to be group specific, such as the ridgeback minimum size, which right now is suspended? Do we want to go more species specific? We have had comments that the ridgeback minimum size is good for sandbars, but it's not good for silky and tigers.

Sex specific. Maybe instead of a minimum size, we only want male-only harvest, which you can tell with sharks because of the claspers. I know it's difficult with the other species.

Would we rather have time/area closures? I know that some females when it's coming up to pupping season they actually congregate, and maybe we could have a time/area closure around that pupping area.

Trip limits. Right now the commercial directed fishery has a 4,000 pound trip limit. We have had comments that with the upgrading restrictions for the directed permit holders that this trip limit may not be needed. I've also heard people say that they'd rather have the trip limit and

get rid of the upgrading restrictions. So, that's a possibility.

Once again, species -- some of the species, all of the species, none of the species. One comment I had at the beginning of the -- right after we released the Notice of Intent was he would rather have the 4,000 pound trip limit be based on an average landing, because he says that once he pulls up all the sharks, he's not sure exactly how close he is to the 4,000, and he's been ticketed before for landing 4,100 pounds. He said that if you actually looked at his average landings the past three times, you'd see that the average was under the 4,000.

Incidental permit holders. They are limited to five large coastals, 16 pelagic and small coastal per trip. And these are the fishermen that are supposed to only be catching sharks incidentally. They are not targeting them. They're going to be catching these sharks incidentally whether the fishery is open or closed. Do we want to allow them to land a certain amount of fish when the fishery is closed? If we do, that would affect how much quota is available for directed permit holders. But we could do something similar to what's done in the swordfish fishery. Once the directed fishery is close, the directed fishermen can also land swordfish incidental to their other fishing. So, these are things we could think about.

Recreational. Right now recreational fishermen are allowed one shark per vessel per trip, plus one Atlantic sharpnose per vessel per trip. We could keep that type of grouping. We could add other groups. We could have charter/head boat specific trip limits, tournament specific trip limits. We could add in bonnetheads, male-only harvest, all different possibilities there.

Minimum sizes. We have information showing that the minimum size in the recreational fishery has not been adequately enforced, may not be effective, and that comes into difficulty with the state waters versus federal waters. So, it's hard to tell exactly what's going on there.

Landing form. Recreational fishermen are required to land sharks

whole. They're allowed to bleed and gut them, but they are not allowed to cut off the fins or cut off the head and tail. Once again, do we want to keep that? Do we want to make it charter/head boat tournament specific?

Authorized gear. Right now the current regulations don't distinguish between the commercial and recreational gear types. Starting in March, we will have that recreational permit, so people with commercial gear, unless they have the recreational permit, wouldn't be allowed to land sharks recreationally, but they could still get that recreational permit and land sharks with a pelagic longline recreationally. It would be odd to do that, but you could.

And of course in all of our fisheries we have bycatch problems. We do have the observer program for the bottom longline and the observer program for the drift gillnet. And so we're looking at a number of different options to reduce bycatch, both protected species and bycatch of sharks, such as closing the nursery and pupping grounds or the overwintering grounds.

Prohibited species, back in 1999 we added a number of species to the prohibited species list. If people have information data they specifically want us to look at to remove some of those species, we could do that and think about it. We do have some species that are possibilities for the endangered species, such as the dusky or the night, but we've also heard from commercial fishermen that they catch a lot of dusky sharks now.

Finetooth, there's a possibility that maybe we want to add that to the prohibited species list. Maybe time/area closures to protect some of these species instead of having them on the prohibited species list.

Deepwater and other species, this was added to the management group prior to the shark finning prohibition act. And that was basically they just closed the loophole in case some fishermen decided they wanted to go out and fin some of these rarely caught species. Do we want to remove these species from the management group and just have them as data collection only,

like we had before the HMS FMP.

Essential Fish Habitat. We are coming up on the five-year review for essential fish habitat, and so we were thinking we might include the shark essential fish habitat in this amendment, depending on the time. And so we are asking all Advisory Panel members and all members of the public that if you know of any information that we may not know about, or that you really think we should look at, please let us know.

Restructuring the exempted fishing permits. This allows live capture of HMS and access to the closed areas. We've had usually -- like for the display quotas for sharks, people have to actually submit a proposal of how many sharks they want to catch, and we actually have a quota set aside for this public display use. Do we want to have a permitting system instead of an exempted permitting system for these people? And the same goes with research for all of HMS and exempted fishing for all of HMS. Aquariums want HMS.

So, as I said before, the comment period ends March 17th and you should send us all the comments. We do have a pretty large group working on this, because this is a big rulemaking. You can contact me; Heather Stirratt, who has left for the Seattle international meeting; Greg Fairclough, who's right over there; and we have a few other people working on it, as well.

So, that is the big group, as I said. We are looking at everything and I can go back to any slide you have questions about. I'm not sure how to accept the comments. As I said, I want this to be sort of a brainstorming session, as we go through everything.

MODERATOR CHRISTOPHER ROGERS: Just to reiterate, though, the comment period is open till March 17th. We have several more regional scoping meetings planned and we invite all the AP members and anybody that you know is interested in the topic to attend those meetings, as well, to participate all throughout. This is the first of many opportunities to comment through March 17th.

It's a lot of material to go over. We don't expect that

everything will be dealt with here at this table in the afternoon available to us. But again, to start the brainstorming process, help us to improve the presentation, so to speak, when we do go out to the regional meetings and help us to prioritize your concerns. We can rewrite the entire book for shark management or we can focus our attention on certain key issues.

KARYL BREWSTER-GEISZ: Is someone is interested in going to scoping, the scoping schedule is on page 44.

MODERATOR CHRISTOPHER ROGERS: With that, why don't we start proceeding. We want to go this way because we've gone this way a couple of times. Showing my right-handed bias, so we will start on the left side and go around. Jill, Bob, Bill. Glenn, I guess. I'm sorry.

JILL STEVENSON: I guess I have a question and a comment. One is I'm concerned that this amendment is shark specific in that the FMP is obviously multispecies and a number of our fisheries are multispecies, and I'm just wondering how you guys have thought out -- particularly with regard to bycatch reduction -- how you can implement management measures in shark -- for sharks that may have bycatch reduction implications in multispecies fisheries.

I mean, do you expect that as you go along you're going to be expanding this to include other fisheries? I guess specifically I'm thinking of the pelagic longline fishery, which doesn't take a huge number of large coastal sharks, but I think there were 100 tons, and I just think that we need to be thinking about this in a broader picture, not just the shark world. Do you have any thoughts about how you're going to address that?

MODERATOR CHRISTOPHER ROGERS: Be my guest.

KARYL BREWSTER-GEISZ: We are planning another amendment shortly on the heels of this one, bycatch in the pelagic longline fishery, we are working on diligently with other concerns. To the extent that they overlap with the shark concerns, like I was talking to someone during the break about the blue shark problem in the northeast distant. Obviously whatever management options come up for sea turtles and other bycatch in the pelagic longline

fishery, we would not want to increase bycatch of sharks. So, we would be working towards all that.

We also -- pelagic longline, we have lots of ways to deal with the bycatch. Most of the shark fishery comes from the bottom longline, and that's -- there aren't as many bycatch reduction measures in place in bottom longline at this time.

JILL STEVENSON: So, what you're saying is that if there were to be measures that were generated out of this shark amendment process that related to the pelagic longline fishery, you would put them off to consider them comprehensively with other pelagic longline measures? Is that kind of the plan, with the follow-up? I'm just concerned that -- you know, you're going to go forward with one set of measures and then you're going to follow up with an HMS FMP amendment that's broader and there's, you know, going to be some weirdness there in how they all apply.

MODERATOR CHRISTOPHER ROGERS: Well, unfortunately there's no way to avoid the weirdness, so to speak. We are under some pretty tight time constraints. Obviously we're dealing with sharks on an emergency rule basis. We're definitely sensitive to the comments received about not affording full notice and comment in past years dealing with the shark situation on an emergency basis, so we are pretty keen, in fact required, necessary to get the amendment in place by January 1 next year, so that puts shark issues, at least the highest priority issues, on a fast track. To the extent we can capture any ancillary bycatch issues within this amendment process, we will do so.

If it requires that they be dealt with in terms of a more comprehensive approach on dealing with other matters in the pelagic longline fishery, we will have to deal with it that way. As we'll see throughout the course of this meeting, there's potential for multiple amendments to the HMS FMP. Bluefin, swordfish and other issues, as well. So, it's going to be an issue of timing and availability of resources. So, we really do need to prioritize. But given the backdrop of what shark management has been, this is

a priority issue for the agency to move forward.

ROBERT PRIDE: Thank you, Chris. Jill stole most of my thunder there, but I do have another comment or question. On the recreational bag limits, one of the things that always confuses me is that we are talking about vessel limits, and vessels have different passenger capacities. So, it would be nice to see the rule -- at least examine the possibility of a per person, even if it's a fractional per person. So, if you have three people on board, you could have one shark. If you have six people on board, you could have two sharks or something like that. Because, you know, all of us do have vessels -- I can't take more than three or four people fishing, but Joe might be able to take 50 people fishing, so --

GLENN ULRICH: I'd just like to make a couple comments. I think that we should strongly consider regional management of shark resources, because many of the more recent life history studies and genetic studies indicate that we have regionally distinct populations for many of these species of sharks.

And another comment on the recreational bag limit, I think that we should recognize that there are three species in the small coastal complex for which there is a de facto prohibition on any take because of the four and a half foot fork size limit. They just do not get that large.

And lastly, I think it would be -- it may be premature to consider adding finetooth to the prohibited species list, because in our estuarine sampling in South Carolina in the last two years, neonate and juveniles have been the dominant species in our estuarine sampling, part of the Coast Span program.

MODERATOR CHRISTOPHER ROGERS: David Cupka.

DAVID CUPKA: Thank you. I have a comment and then a question. The comment has to do with the issue that Glenn touched on there about the de facto prohibition because of the size, and I wanted you to be aware that there is currently a bill moving through our state legislature that

would do away with the size limit on bonnetheads, and also make changes there on the bag limit for sharpnose and bonnethead. But I wanted you to be aware of that.

The question I have has to do with exempted fishing permit for display purposes, and a number of us have been concerned about that in the past and we've brought the issue up at ASMFC, trying to deal with it. And I believe there was an effort made to try and develop a standardized database where the states could input information on permits that they had granted people to capture sharks, for example, for display purposes. And also in which NMFS would put their data, so we could see what the total impact would be in terms of these permits that are being granted for that particular reason. And I was just curious what the status of that effort was at this point, and I don't know whether you or Karyl could address it.

KARYL BREWSTER-GEISZ: The last I heard, ASMFC tried to set up a meeting with all the relevant people and there wasn't enough interest, nor was there enough money. So, it's still something we are pursuing with them. At the moment it is not a top priority to get this database running. We are in the process of -- we have a proposed rule out right now regarding these exempted fishing permits and then this amendment that we're hoping to take care of some of our internal problems, which will help us in setting up this database in the future.

MODERATOR CHRISTOPHER ROGERS: Just to follow up. What we're trying to do in the amendment is to reverse the course, so to speak. Instead of management by exemption. The reason it became an exempted fishing program for public display collections is that for the most part the collections were occurring during closed seasons or the target were the prohibited species. Therefore, an exemption was needed.

What we'd like to do in this amendment is convert it to a more affirmative as opposed to an exemption process. As we sort of scope out exactly how it would work as -- if you want to call it a public display or

scientific collection permit, something to that effect, a more affirmative process that will help us decide exactly how the database would be constructed, we'll certainly be sharing it with the Commission and making it accessible to member states, to see what sorts of cooperation can be achieved.

But we're very sensitive to the fact that in our exempted fishing management program a lot of collectors are requesting the federal permit, but they seem to be predominantly collecting in state waters. And there's concern about who's responsibility it is for maintaining the reporting logs, how many are actually being authorized to be taken, how many are actually being taken under those authorizations from the respective states. It's been quite confusing for both the states and NMFS as the federal manager.

So, it's going to take some doing. It's going to take some coordination. As Karyl said, there's some more pressing issues with the Shark Board at the Commission, but it's not -- not that we're disinterested and we hope to at least make some progress this year. Glenn, want to follow up on that?

GLENN ULRICH: I had -- hope you can let me get another comment in. I was wondering what the thinking was for not including smooth dogfish in the management unit. We include all the deep water sharks that many people will never see, and yet the smooth dogfish is excluded. I understand that the spiny is under a Council plan, but there's no plan -

KARYL BREWSTER-GEISZ: Smooth dogfish is in the deepwater and other management group.

GLENN ULRICH: Oh, it is?

KARYL BREWSTER-GEISZ: Yes. Spiny dogfish is the only one that's not in this management --

MODERATOR CHRISTOPHER ROGERS: I thought I saw Jim Donofrio's hand up before, but I don't see him sitting up in the chair. Tim. Tim Hobbs.

TIM HOBBS: I just had a quick question on process, Chris. You mentioned that there's a chance maybe the other amendment, say for bluefin or

swordfish, might be needed in the future. If that decision is made, would a new amendment be started -- you know, while this one is outstanding? Would those issues be added to this amendment? And would we have to wait for this amendment to be completed before another one is started, or how would all that work?

MODERATOR CHRISTOPHER ROGERS: To use a technical term coined by an earlier panel member, weirdness. It could be simultaneous. As we can take up the issues. I know it could be strange when we have an ongoing amendment process to deal with bluefin tuna issues versus sharks versus swordfish, but it is a lengthy process, as we had discussed before, with the scoping period, the draft documents and the notice and comment. What we'll try to do is -- as we go on with this meeting, and address the issues -- as I said, prioritize. What issues can be dealt with through framework amendments to the plan in the next six to nine months time period and what issues need to be dealt with through plan amendment and try to get a sense of exactly how we'll take them, either sequentially or simultaneously.

It will be an onerous task for us and a difficult situation for folks to keep up with. But that's -- I don't think we can afford to just say that we're not going to deal with bluefin matters this year because we're dealing with sharks. We're going to have to try to do it somewhat simultaneously.

HENRY ANSLEY: Henry Ansley, Georgia DNR. When you say that you're dealing simultaneously, does that mean that you're sort of dealing with them together? In other words, you might have some bluefin things mixed in -- I mean, it's just one big amendment?

MODERATOR CHRISTOPHER ROGERS: Well, it could work both ways. It could work either way. We'll have to again play it by ear, as we see the issues emerge, the discussion that ensues over the next couple of days, and try to scope out exactly how we should proceed. Theoretically, we could undertake a separate process for an amendment to the same plan.

If folks follow the council system, there are a lot of plans where simultaneous amendments are going through the system. Some advance faster than others and sort of get overtaken. But it can happen simultaneously, concurrently, and we'll try to feel our way through it so that we have the maximum ability to respond to the emerging issues.

HENRY ANSLEY: Well, to that, could something be put in? I mean, effective regulatory things such as the question about more restrictive state regulations versus that they would apply if they were more restrictive over the federal ones in state waters? Could that be one of the -- for example, even though that doesn't necessarily apply to sharks? I guess it could, but is that something that could be brought up?

MODERATOR CHRISTOPHER ROGERS: Yeah, that certainly can be part of this scoping process. As I said, we started on this process of investigating and summarizing the state regulations, and we are looking for more input on where the states want to go with respect to shark management as well as the other HMS species. I had Shana and Ramon and then Irby Basco, then Sonja.

SHANA BEEMER: Thank you, Chris. I just wanted to urge you as you're going through this scoping process and developing the plan to try to look at protecting mature females and pups kind of as a separate entity. You'd mentioned the time/area closures on pupping grounds. You talked about, you know, reversing the extension of the season. And you know, as we've seen with spiny dogfish, it's really important, you know, given sharks to protect the mature females for the future of the fishery.

KARYL BREWSTER-GEISZ: How would you suggest we protect the mature females? Do you like the --

SHANA BEEMER: Like you said that --

KARYL BREWSTER-GEISZ: -- idea of a minimum size or time/area closures?

SHANA BEEMER: Yeah, like you'd said that in some species the

mature females, when they're about to reproduce. I'm talking about when they're about to reproduce, not all year long. So, you know, you said that some species, they aggregate when they're -- you know, during the pupping season. That's what I meant.

And then secondly, for the deep water species, you know, we haven't had a big fishery around those species obviously, and rather than -- you know, having to deal with a problem down the line, we'd really urge you to add those species to the prohibited species list, rather than -- you know, even removing species that are presently on the list. Because the vulnerability of the biological -- you know, late maturity, it's even worse for deepwater sharks than the sharks that live higher in the water column. Thanks.

MODERATOR CHRISTOPHER ROGERS: Ramon.

RAMON BONFIL: Thanks a lot, Chris. Ramon Bonfil, Wildlife Conservation Society. I wanted to address a very general problem that I don't see addressed in the issues and options paper. I don't know if it pertains there, but I'm going to have a go at it.

The issue that I see is the problem of information availability. We all know very clearly that one of the problems we have faced for many years with the shark fishery in particular is the lack of enough information and data on what was the status of the resource back 20 years ago and what the catches even had been of particular species, and we have been groping with trying to cope with these things for years.

Rusty was just mentioning earlier that he would like to see new species stock assessments being done for silkies or tigers or duskies. I think that is a very commendable goal and we all agree with that. The problem we have is where is the data to do all that? And that's the point I'm trying to address. We don't have enough information and if we don't look into the future, specifically trying to address that problem, we're going to keep finding ourselves in the same position five years from now and ten years from now.

Karyl was earlier putting some slides up there and one that particularly caught my attention was the one of observer coverage. If I remember right, the coverage at the moment is two percent. That is ridiculous. It is -- from my point of view as a scientist trying to extrapolate a range of questions about the resource from a two percent coverage is almost statistically speaking, just trying to shut the sun with one finger. It's not going to lead us anywhere.

What we need to do is to increase coverage of the observer programs. And why do I say this? Because otherwise we're going to keep having things like people coming up here -- me, myself, I could and say well, I hear or I saw the other day that there were no sharks or that there were many sharks, and the credibility of our statements as scientists or as fishermen, if we don't back them up with data, are worth nothing.

So, I've heard that Rusty was saying that there's a lot of young and juvenile duskies all around the place now, and he said an explosion of duskies. I don't want to say that he's lying, but I want to see the numbers. I want to see the papers published. I want to see the evidence from a credible source.

And from that point of view, observers hired by the government or paid by the fishery probably -- maybe that would be the most cost effective way to do it. That's not my issue. But having enough coverage of observers, not only on the gillnet fishery, but on all the fisheries that are lacking of data is the only way to go into the future, because otherwise we're going to keep finding ourselves here playing games about who believes the statements of each other.

And that is something that I don't see addressed at all in this document. That's what worries me. What about observer coverage and what about starting to set some specific goals and saying okay, why don't we implement for the next few years a goal of a ten percent minimum coverage for the entire fishery? Or a 15 percent or a 50 percent.

I don't -- particularly at this moment I don't have the elements to recommend a specific figure, but what is obvious is that the two to five percent that we have at the moment is almost worth -- it just -- it's just to keep people believing that we're doing something about it. So, I would like to see something specifically implemented in this document to try to address and put a specific goal for observer coverage. Thank you.

KARYL BREWSTER-GEISZ: Just to clarify, I believe it was two percent in the first season, four percent in the second season, and it was mandatory for the first time in 2002. But since 1994, I think they've averaged right around three or four percent. And also the drift gillnet is 100 percent during right whale calving season and 53 percent the rest of the year. So, we do have a lot of observer coverage on that fishery. And the goal is to match what they have in the biological opinion for the pelagic longline fishery, which is five percent. But there's nothing saying we can't add that to this paper or to the presentation. So, thank you.

RAMON BONFIL: Just to follow up a little bit on that, you're saying that there's a scientific recommendation of five percent?

KARYL BREWSTER-GEISZ: For the pelagic longline fishery in the biological opinion.

RAMON BONFIL: Yeah, I think that it would be very healthy to do a specific study, maybe hire somebody to look not at the pelagic situation, but at the large coastal fishery and say what is the scientifically needed coverage of observers, given the uncertainty in the data or the reliability of the data, and then gear that, and maybe it would be -- maybe it would show the four percent is adequate, which I doubt. Maybe it would say that 12 percent is what we need. And then we should move forward with that.

MODERATOR CHRISTOPHER ROGERS: Irby Basco.

IRBY BASCO: Thank you, Chris. A couple comments. One on the enforcement aspect, I'd like to see some options on VMS included. I think we all know the value of that.

And the other comment I have was about a more concerted effort to be able to try to get the states to come in line or comply with the federal regulations, because I have personally witnessed people going supposedly in state waters, but they're actually in the EEZ, and catching blacktip shark and coming back and saying they caught them in state waters.

So, if the states would follow suit and follow through with federal regulations, I think we'd have a better chance of enforcing this thing and maybe help the stock. Thank you.

MODERATOR CHRISTOPHER ROGERS: Thank you, Irby. Sonja.

SONJA FORDHAM: Sonja Fordham, The Ocean Conservancy. I have quite a few comments. I'll try to -- I'll have some general reactions and then a few specific suggestions.

And again, I think overall, realizing that sharks for the most part are being overfished and the complex as a whole is overfished, and we know about their biological vulnerability, I was quite surprised that in general there are very few options that would actually strengthen shark protection.

So, overall I see you mentioned in several places that measures in place have been effective, or there's been noncompliance, and the examples would be with the state -- the state landings and also the recreational bag limits and the recreational size limits. But instead of coming up with a plan to really address the problem, it seems to be that the general way you're going is to account for it, either account for the extra landings or we can do away with these bag limits or weaken them, and the same for the size limits.

So, I would prefer to see at least a few options that would improve the chance of success, rather than just give up if you were faced with noncompliance. And I think that you'll have a lot of partners here in this room and other agencies.

I agree with Irby's comments about the states and just make sure you know that Atlantic States Marine Fisheries Commission has finally finalized their spiny dogfish plan. So, they do have a shark board that should be ready

to start addressing some of these problems, and I really think it's high time that we take that opportunity, now that their dogfish plan is done.

On a similar note, there's a lot of talk about there's discard problems, but instead of a real plan with, like Ramon said, specific goals to address discards, there seems to be just the idea that we would relax measures to allow landing. The most disturbing example is the one for dusky sharks that oh well, they're being caught, so let's just allow them to be landed. And so again we're accepting this, that this can't go away, instead of really coming up with a plan to reduce and avoid bycatch and minimize discard -- not just discards, but discard mortality, as mandated by law. So, I don't think that simply landing the discards is going to really address the problem.

And on the bycatch issue, it's particularly frustrating after so many of these meetings. I know last time we met we had a long discussion about -- or I had a long discussion about the most problematic fisheries for shark bycatch. So, we talked about the shrimp trawl fishery and there was information on the menhaden and the Gulf menhaden fishery in the worst months, and yet there's no -- still no plan of action to address these problems, just sort of accounting for them as if they will never go away.

And that relates to -- I think there are a few general misleading statements and I hope you keep in mind that this is a public document for -- you know, as it's complete for the public to look at and try to get an idea of what you're thinking and where you're going. And there's an understatement of an overfishing problem. It says in the text that overfishing could still be occurring for the complex, and actually you only have one species where it's not occurring. So, I think that's misleading and understates the problem of overfishing.

And then also in the bycatch section there's this talk of well, we're using all tools that we have in the HMS fisheries, and as you know, most of those tools are being used for the swordfish and tuna and not so much for sharks. They're getting more information, but I don't know of any specific

tools that we're using to reduce bycatch.

Then it also talks about how well, there's bycatch in all fisheries and you can't -- instead of really saying well, we have a mandate to try to address this problem and here's how we're going to do it. So, I think that's misleading for the public.

Again, if you go through the tables, just like last time, the actions that are taken for bycatch are for the other fisheries. There's just information collecting for sharks, and I think it's high time that we start taking action.

I see that you have time area closures proposed and that's I think good and worthwhile, but I think there should be at least some sort of gear fix or gear restriction as an option for scoping and talking about, because there should be more than just time area closures to reduce bycatch.

So, overall, you cite a lot of situations or statements from industry. They said this was burdensome. They said this was a problem. And I feel like you've heard them and perhaps you haven't heard the environmental community, and I will give you a couple examples where you've really gone and hurt my feelings.

Under the prohibited species discussion, it says that -- this is where you're suggesting perhaps we should remove dusky shark from the list. And this, as you can imagine, is particularly troublesome considering it's a candidate for ESA listing. And you note that the fishermen have said that this process is burdensome. And unfortunately when you have a ESA candidate, there is going to be some burden. And what we're trying to do by protecting them is avoid more burden, if they get listed, that will be much more of a burden for the fishing industry.

And then it also says how they have such high bycatch mortality that prohibiting them increases mortality. I don't know how they're any more dead than when they're landed, or I don't really understand that statement. So, again, it's this idea that we're going to relax the program

instead of address it. And there don't seem to be many options here to strengthen this.

And that ties into what Shana said about adding the deepwater species -- this is where you really hurt my feelings, because I think I'm the only one who's ever brought up the deepwater species at these meetings, and the only suggestion I've had is that -- based on what Shana said, you know, that sharks are vulnerable to begin with, so the deepwater species are even more slow-growing and more vulnerable, and we're trying to avoid problems in the future. So, we've asked for years for them to be added to the prohibited species listed, and instead it's not on here. And so I don't think you're hearing us.

And I noticed in that your Draft National Plan of Action for overcapacity -- for the FAO-IPOA on overcapacity, deepwater sharks are actually listed under the category of suspected overcapitalization, and that really surprised me. So, we can't really say that there are no problems here and this is too precautionary. I think this is really logical in a precautionary approach.

Then I had -- on essential fish habitat, again specifically at the American Fisheries Society Shark Habitat Symposium in Baltimore I made a specific request that -- because there were a lot of results presented and NMFS had had a crucial role in all this research, and there were some great maps about habitat and so forth, and pupping grounds and all the stuff that we talk about, and I asked not only that the results from that symposium be forwarded to the HMS AP but that also that the scientists and the managers take -- make an effort to make something really a user-friendly document so that we could discuss it.

And I don't see that here, and I also don't even see any mention that this AFS symposium was held. I think it was really useful information that could really guide this process, and we have an opportunity to not just protect habitat, but to protect these sensitive life stages, and also protect

the pupping females, something we keep talking about. But again, there's no strategy, there's no action plan.

So, that's troubling to me. There's some information in the SAFE Report that talks about how particular closures have been effective, and yet that's not presented here.

And so lastly, one of the suggestions we had before that I want to just put on the table is that we noted in the SEW document that you do single out dusky sharks as one of the few species where you might have information sufficient for an assessment in the near future; and considering all that's been said today, I would like to suggest that you try to move towards that, incorporating the dusky shark information into the next SEW and trying -- it would help us get towards what Tim was talking about, managing for the whole complex and protecting the weaker species.

And I agree with what Ramon said about observers. And I realize that all of these ideas cost money, so I just want to let you know that my organization is actively working to put your shark budget back in the NOAA budget. So, thank you for the opportunity.

KARYL BREWSTER-GEISZ: Can I respond? One thing about this document, it is not a plan of action. It is not a proposed rule. I didn't mean -- we didn't mean to hurt anybody's feelings when we put this together. It is meant strictly as a brainstorming document, put out some ideas that we've heard over and over and over and over again from some people, and see where we come up with. There may have been some ideas that we missed. We didn't intend to miss them. But we do intend for this to be brainstorming. There is no course of action in here. It is not intended to have any course of action other than to give us ideas of where people want to go.

You mentioned the deepwater and others. I just wanted to clarify that right now the only regulation on the deepwater and others is the finning. You could -- that's definitely an option to put it on the prohibited

species list. It's one that we probably should have mentioned in the document. The EFH document, we are using that -- we are using that data when we go into talk about the exempted fishing -- exempted -- essential -- got exempted on the mind -- essential fish habitat portion of this document.

Right now all we are looking for from this document is just information on what data we should be using. We do have a draft of that symposium document, but it has not been finalized yet. And the dusky shark, we have -- Protected Resources actually has made the request to the Science Center to assess dusky sharks. So, hopefully something will happen within the next few years regarding dusky sharks, but I don't expect it by the time we have to go final on this amendment. I think I covered all the things I meant to.

SONJA FORDHAM: I think the only thing you misunderstood is just that you may not intend this to be a plan of action, but that's what we're saying. We want you to have a plan to address these problems with specific goals and strategies. And I don't think all of it is as difficult as you might think.

KARYL BREWSTER-GEISZ: Well, I think that will come forth in the proposed rule stage. Right now we're not sure where people want to go. Until we know where we're going, it's tough to come up with a plan. When we have an idea from all of these scoping meetings, how people want the fishery to look in five years, in ten years, in 15 years. That's when we start looking and trying to get the plan and proposed measures and really look at how they react to one another.

Right now this isn't meant to be a plan. It's just meant to brainstorm. Sit down, talk to friends, talk to scientists, talk to everybody and try to figure out where they want the fishery to be.

SONJA FORDHAM: Okay. Well, I just think that a good starting point would be your legal mandate, so if we can just agree that a plan of action towards meeting your legal mandates would be a good place to start. Thanks.

MODERATOR CHRISTOPHER ROGERS: Thank you, Sonja. I have Randy Blankenship -- oh, I'm sorry. Frank Blount, Randy, Wayne, and Rusty, then Mark Sampson, just to continue our linear treatment. Then Mau Claverie, okay. Okay. Glen Hopkins, as well. So, let's go.

FRANCIS BLOUNT (No microphone): (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Thank you. Randy. Got a loose connection? Okay.

RANDY BLANKENSHIP: Randy Blankenship, State of Texas. I have several things. First of all, the listing of regulations from all the states, I want to point out that when you look at Texas's list -- don't even pay attention to what's written there, because what we have is actually quite a bit more restrictive than what's there. Heather talked to my secretary to get this stuff, and I wasn't available. So, for one thing, the billfish limits are equivalent to what the federal limits are right now, including swordfish, and shark has a game fish status in Texas, which means it can only be landed on pole and line, and the bag and size limit as you see here is correct.

Now, in addition to that, regarding small coastal sharks and finetooth sharks overfishing status, I know that listed in the documents here that bycatch in shrimp trawls is a major source of mortality. And I have several questions here, so I'm going to pose some of them and you can respond. One is -- and I know this is for scoping purposes, but do you have any idea how you might go about trying to manage that?

And I know that in one of the documents it speaks about or at least mentions that you're aware that TED's can exclude some sharks, but it doesn't give any accounting for that. And I was wondering are you going to try to account for that? Is that part of how you might deal with shark mortality from shrimp trawls?

Also, as you go through this, I don't know what the cutoff was on the data being used for the stock assessments, but a recent happening with shrimp management in Texas is the creation of a nearshore closure on the

southern Texas coast to shrimping during a good portion of the year. So, that basically takes about half of the Texas coast during several months and makes it off limits, and that provides a lot of protection for a species like finetooth.

And lastly, the subject is on large coastal sharks and the size limit for recreational fishermen, the SAFE report says that that size limit is ineffective. We talked about that actually last year and one of the points that I want to make first of all is that law enforcement remains an issue here, because recreational fishermen don't have any -- basically, other than a moral reason, they don't have any reason for obeying that law, because there is no enforcement.

Now, I know that a big part of that right now is homeland security and law enforcement is elsewhere. They're spending their time and their money elsewhere, and I completely understand that. In lieu of that, since they're not around, I would suggest that if it's at all possible to do a lot more public education, that would be beneficial, because I talk to a lot of recreational fishermen and I see them when I'm fishing offshore, and what I witness is appalling. And it's not necessarily people -- you know, there's that issue there that you get by with the state limit, catching in federal waters and then bringing it in, but they'll flat out say I don't even know what the limits are for sharks. Because they don't. Because they don't take the time to find out what it is. And that applies for other species besides sharks. It applies for other managed species, as well.

So, I think it would be really beneficial to do a lot more public outreach, whether -- and there's several ways you could do it. One particularly good way is maybe spending some time with some of the fisheries writers for different magazines, newspapers and getting the word out that way, so that it appears in the magazines that these fishermen read. Thanks.

MODERATOR CHRISTOPHER ROGERS: Thank you, Randy. Glen Hopkins.

GLEN HOPKINS: I just have a few comments and possibly a question

or two. First of all, as a person that's been involved in sharks for quite some time, and I think just about everybody else that's been involved would have to agree, that in 1993 when the plan was first implemented that the future looks better for the whole complex than it did then. And so even though this may sound doom and gloom, I feel a whole lot better than I did ten years ago at the same time. So, I feel like the plan has worked and now we need to fine-tune it a little.

A couple of things that have been said that -- there's something we proposed a long time ago was going with this quarterly season, instead of semi-annual, and automatically close that spring season when not only are sharks aggregated for pupping, they're at the point -- I'm catching, you know, sharks with pups in them now, but they're not near-term. At that time they are and they do gather.

We have a pretty large run of duskies in the springtime, also. That would alleviate that problem. So, go with a January opening and keep it closed until July and have a July opening, and then an October opening. You'd have to adjust your quotas in thirds instead of halves, but I think that would solve a whole lot of issues with one fell swoop, and it would also help the fishermen markets -- our markets would be better because there wouldn't be the glut. We'd be able to target more the desired species because they'd be gathered up at that time. That was one of the main things.

Another question in there is size limits. I'd just like to emphasize that as fishermen, the size -- we're going to target large sharks to start with. If we catch small sharks, we're going to move. You're talking a value of the fin is six times, as I say, a small shark versus a large shark. So, anybody that has any business sense at all is going to rather catch one large shark than say 30 or 40 small sharks, and you're going to make six times the amount of money.

So, if we do catch small sharks, it's by accident. We're going to move on. If we have a regulation where we have a size limit and we have to

discard, even if it's a sandbar, say a 30, 40 percent mortality, that's more fish that are going to the bottom. That really does self-regulate itself for the fishermen.

I know we're trying to fine-tune more to species specific, and I think that's a noble effort and something that can be done, but it's going to take a little time. I think when my personal experience was dealing with observer -- having observers on the boat, where I actually learned to identify -- I guarantee you half of the shark fishermen around here can't identify most of the sharks, but if you've got a trained observer on the boat and you work with that person, you learn and you learn how to tell them apart, and that will come in handy in the long run. Perhaps with those nice turtle handling guideline things you have, you could do the same thing with shark ID, give those to everybody that shark fishes. It will be a little bit expense, but you could learn by it. Another was species --

KARYL BREWSTER-GEISZ: Regarding the ID -- I'm sorry, Glen. I don't mean to interrupt you. I'm over here. It's hard to tell with these speakers. We do have an ID guide coming out shortly, which would be a nice waterproof thing that the fishermen could have on board. So, that is in the works.

GLEN HOPKINS: Okay, good. One thing I have is there's no logbooks required for recreational charter boats or anything, is there? I mean -- and there is for shark?

JOSEPH MCBRIDE: If you're federally registered for any fishery, you have to have a logbook and you have to report what you catch recreationally or otherwise on a given day.

GLEN HOPKINS: Okay. I was going to say being involved in the workshops and everything, the recreational data that they're working with is -- it's a joke. I mean, there's absolutely nothing there to be interpreted from that. So, if you could start along those lines somewhere, getting some kind of good recreational data, that would give you a good cross-section of what's

really going on in the whole complex.

And then the last thing I wanted to address was the dusky and I have a real problem with duskies. In the perfect world, if I catch the fish, I turn it loose and he swims away and reproduces someday is fine, but when you've got 80, 85 percent mortality, these fish are not reproducing, and to address what Sonja said, how can it be helping if you land those? It can't be helping if those fish are counting towards the quota. Those fish on the bottom are not being counted towards the quota.

Give you an example. If I'm fishing and I've got say 3,000 pounds on my boat instead of 2500, because I've thrown away 500 pounds of duskies, then I'm probably going to go to the dock with my 3,000 pounds. If I've only got 2500 pounds, then I'm going to say well, there's a good chance I'm not going to catch my limit, so I'm going to set back tonight and so there's another set where I may kill so many duskies.

I mean, those are -- like I said, in a perfect world, if I could turn them loose and they'd live, it would be one thing, but when they make up 10, 15 percent of my catch and only 15 percent of them survive when I throw them back, we're not helping the duskies at all the way it is now. I don't know the perfect answer, but it needs to be addressed.

I do not like throwing back something that I know is not doing anybody any good. I don't want to bring it to the dock because I lose my license, but they are not being helped. I know it sounds ridiculous, but one thing that could possibly be done is allowing them to be landed, but emphasize that we feel there could be a problem with duskies, try to get a good faith -- thing from the fishermen. As personalities are, if you make a law, it's one thing. But if you ask them in good faith or a promise, hey, catch any live ones, I'm going to turn them loose, and of course there's going to be pirates, you know, in any business. You know, it may not work, but it would be better than having it the way it is now. I know I would do it and 90 percent of the people I work with would do it if they were asked just for the good of the

fishery. I guess that's it.

MODERATOR CHRISTOPHER ROGERS: Okay. I've got Wayne Lee, Rusty, Mau Claverie and Mark Sampson and then Jack and Nelson, Joe McBride. Any members of the public want to speak? Just one hand back there? Two hands. We've got John Kegler and David Baker. We've got about 45 minutes left, so I think we can handle that if we continue with the AP members and then let the two members of the public speak.

So, we'll go in that order. Wayne, Rusty, Mau, Mark, Jack, Nelson. Oh, Joe McBride, as well. Wayne.

WAYNE LEE: Thank you, Chris. Glen actually made both the points that I want to bring up, but I want to bring them up again because I've got them from other fishermen, and that is the season thing with regards to starting in January and closing the season in March and having it close March, April and June and then open it up again. I've heard that from a number of different shark fishermen and I think that's something that we need to work on. I think Rusty even has pointed that out.

The other issue is on the dusky sharks. Some of the fishermen that I've talked to, the fish are being killed. They're not being harvested. They're not being accounted for. They go to the bottom. It does nobody any good. I think we need to find a way to allow some kind of a bycatch allowance for those dusky sharks, so that at least we start accounting for them in terms of the stock assessment, so we start finding out what's going on. It's not only a total waste as far as the fishermen go -- they're out there on the water -- but it's a total waste scientifically because we have no way to account for those in our stock assessments or anything else. And I don't think we're ever going to get enough observer coverage to figure all of that out. So, I would just ask that that be an item of consideration in our issues and options to look at the potential of landing a certain amount of those dusky sharks. Not only will it help the fishermen, but it will help in our counting for those. Thank you.

KARYL BREWSTER-GEISZ: Thank you, Wayne. I do want to clarify just one thing. Any of the species that are discarded are required to be reported by commercial fishermen. So, they are accounted for in the stock assessment.

RUSSELL HUDSON: Rusty Hudson, Directed Shark. To follow up on what Karyl just said about the duskies, as part of the observer coverage, it's varied between two and four percent, but they have accounted for a lot of the discarding and it's prorated across the entire fleet, I suppose.

And as far as dusky goes, I was asked to at least reference some positive information, and if you have the SAFE Report in front of you, on page 251, the next to last paragraph towards the bottom, it talks about the VIMS data showing a decrease in relative abundance before '92, but in recent years has shown an increase in relative abundance. The shark observer program also has mentioned that they have shown an increase from '74 through '99, particularly for the duskies, less than 110 centimeters, which is a juvenile. But they've got to come from somewhere, because there's only X amount of pups a fully mature dusky will have. And so that's something I wanted to bring to your attention.

Wayne mentioned about the four seasons. January through the end of March is one of the quarters that we look at. April through the end of June would be what we call the pupping season closure. And in particular, the pups that is mostly worried about are the sandbar dusky pups, which are going to be found nearer to shore.

Now, I actually have an idea that we could open up a fishery outside of 300 feet and we can avoid those juveniles. But the full-term female sandbars would be nearer to shore to dump off their pups when they're full-term. So, that was an idea, opening up July through September, and then October through December would be a good way to get a balance.

Two to four percent on the observer coverage is not adequate. I agree with Doctor Bonfil about this. We have shot for five percent, I believe

is the goal, but we've never really achieved it. So, if we could at least get the five, if not ten percent, that would be a good start.

A question on clarification. On the EFH, essential fish habitat, are we going by what is published in the '99 HMS text?

KARYL BREWSTER-GEISZ: At the moment we're going by what's published in the '99 text and in those figures. But we are looking at that to see if we need to rework those designations based on new information.

RUSSELL HUDSON: I believe you do, because Doctor Matlock avoided three different times when I suggested that his data wasn't complete and I could bring up stuff from Jose Castro's books and Stuart Springer's stuff and et cetera, and show that there was a lot more known about nursery grounds and things like that than was ever included in the EFH situation. So, that's something that we need to -- I will be submitting some comments on.

I believe I saw someplace a six percent by weight of LCS dead discards total, but I couldn't find the reference, but I have found some references on dead discards that -- you know, when I look at the page 247 in this 2003 -- you have the IPOA, the International Plan of Action for sharks, and you have one through ten aims.

Number eight says encourage the full use of dead sharks. And being that we account for them when they are dead discard, it would be nice if we had a second harvest situation or some way to monitor that, because since the year 2000 we cannot legally fish for dusky sharks, but yet we still have a mortality involved there that I would like to somehow eliminate, and if the IPOA says get rid of dead discards by utilizing them, then why can't the NPOA follow a similar track?

On your exempted fishing permits, prohibited species, sand tigers is a prohibited specie. It concerns me a lot when you have two offspring with that animal. It's a curio. It was one that we readily accepted along with the whale shark, basking shark, great white shark and bigeye sand tiger, to be all prohibited in '97. Yet the aquariums are allowed to capture them. I don't

know if you track the mortality associated with the aquariums and their utilization of that particular animal, but it still bothers me that it's okay for them, it's not okay for us in certain situations. So, it's two different worlds there.

And bycatch. On page 192 of the same SAFE Report, Table 8.2 at the bottom shows your expanded estimates of bycatch just in the shrimp trawl fleet, and you only have one year that you have finetooth, and that's the -- or two years, '93 to '94. And that's expanded. Whereas you have zero pounds for all the rest of the years. That's bothersome.

And then when you look up at the menhaden purse seine you have an identification of the number of sharks, but what it doesn't tell you is that a lot of those blacktips were usually young of the year, small animals, so that when you get to page 194, you start talking about nine percent by number of our large coastal sharks that are being considered a bycatch and a dead discard. And I have a problem with that because of the fact that it's such a small animal compared to the blacktip that we would normally be targeting would be an adult animal -- a certain amount of bigger juveniles.

So, I think I never have got a clear answer on that. But stockwise, on page 217, you have a Table 8.9 that shows stockwide mortality attributed to U.S. bycatch for highly -- stocks on shark is found -- with large coastal ranging between 10 and a half percent and 15 percent by number of animals in these three years used as an example, '98, '99 and 2000. And to me that needs to be translated back into weight so that people can see that readily because that's really what we're talking about. When you go and tell us something in metric tons, we in our minds have to then convert all the way to the 4,000 pound trip limits and what does that mean.

Well, with the current quota for large coastals, ridgeback, non-ridgeback, that's 3.7 million pounds. That's up from 2.8 million, a 900,000 pound increase. But we had a 5.7 million pound peak in '96 when they got to the weight in '97. So, we're still a couple of million pounds under the peak

year of harvest.

But that is small in comparison to the ten to 30 million kill rate that was occurring before '93. So, I agree with what Glen said that the management plan since '93 has benefited sharks in the U.S. a great deal, but at the same time we're sharing these animals with Mexico and we have to be able to have some Mexican scientists here at this table speaking for Mexico.

I think that's important, because this is going back into that shared resource and it's a type of thing that we should be able to somehow start putting all the cards on the table. Because there's a lot of problems with the dead discards going on as they have and it's being promoted by regulations -- regulatory discards, it's just not good.

And so I would like to see you do a set-aside. I don't care if it's a second harvest or some kind of thing. Dead is dead. And that's the type of thing that we'd like to avoid. We're going to be reducing the number of boats through a buyout of some sort, perhaps, or maybe some other attrition. But the reality is we've got 251 permit cap. We cannot have any more directed permits until you increase that from Maine to Texas. And so this is a type of thing that once we get it down to a fleet that will fit, like I say, 90 boats catch 90 percent of the quota, and 40 boats catch half the quota, and half the quota's caught in Florida.

So, as far as large coastal sharks go, we'd like to reduce these discards. We'd like to increase the science. And yet we're going to need to have this data. And with the observer coverage, at least we are monitoring some of the dead discard rate, but we need to increase that monitoring up to at least the five percent level.

So, I don't know how we can do this, but I've requested 100,000 pound set-aside for certain species that are commercially important and run into, and in particular I'd like to see an experimental fishery started for bignose, so that if we do close April through June inshore of 300 feet, at least somebody has an opportunity to start an experimental fishery outside of

300 feet, focusing on bignose, targeting. Because that population may rival sandbar, from what Stuart Springer said years ago, and you can tag them off New Jersey and then there again biologists have done a lot of tagging for them for the last 20 years, and they show up in Texas in less than a year. And they get very big and they have a great -- (inaudible) -- and yet the animal is just not fished, yet you keep telling Congress they're overfished, and they're not.

And yet it comes back to when you don't know, just like I hear them talking about the deepwater complex -- there are some of those deepwater sharks that are a bycatch in some fisheries in the northeast. I forget the exact common name, but there's a black something or other kind of shark, but it was commonly seen.

And I had brought it up in earlier comments that you were not including that, and that was that. And just like the six-gill, the bigeye six-gill and stuff like that. Those animals could be developed into a market, whether it's the squalene from the liver, the meat, that I understand is utilized in some parts of the world, and yet it's on the prohibited species list. Again, not assessed, and won't be probably for a decade or more at the rate we're going. And so these are the kind of things that concern me, and when we go get into our March 17th comment written, I hope to expand on this a little bit more so that we can at least flesh it out later on. Thank you.

MODERATOR CHRISTOPHER ROGERS: Thank you, Rusty. Bob, you want to say something?

ROBERT MCAULIFFE: Since Rusty brought it up --

MODERATOR CHRISTOPHER ROGERS: Microphone, please.

ROBERT MCAULIFFE: Yes, since Rusty brought it up, even with the six-gill and all the other sharks within the Caribbean, I don't think you're accounting for any of those. Every other island nation, including the American islands, every shark that's caught is harvested and consumed. But I don't see any of those numbers in your figures anywhere, and that's a large amount of sharks, probably close to equal to the total American harvest. How's that

being accounted for? Just a question.

MODERATOR CHRISTOPHER ROGERS: If it's close or equal to the harvest, it's certainly a significant amount that's not well-represented in our data. So, we'll have to improve our assessment and accounting for catches in the Caribbean region. Mau Claverie.

MAUMUS CLAVERIE: Thank you. Man, I've got four pages of notes. But luckily it's in this little bitty book. The first thing I wanted to speak to was discuss earlier and I said I wanted to bring it up now and instead of then, and that's when you have one species that's got a biological problem and it's being caught in a group or whatever you call it. According to the guidelines, that can be fished down to ESA level or to just before ESA level if you can justify it. I don't know what it takes to justify it, apparently not a whole lot if it's wanted to be done.

We've faced this issue in the Gulf Council and came to two different conclusions over the years. I like to look at it from a conversation point of view, but in the early '80s when we were messing with king mackerel, there was a provision submitted to us by NMFS that would allow us to fish king mackerel down to just before the ESA listing. The Council members didn't believe me when I said that, and guess who said I'm right and the Council voted absolutely against letting that happen? That was Craig O'Connor. He was our attorney at that time.

We've got a yellowfin group similarity where they're part of the deepwater group or complex and they are biologically sensitive, so to speak, and we -- the Council refused to have a separate quota for them so that if -- you know, they got overfished we'd shut it down. And Mike Mackelmore (phonetic) said that's fine because the guidelines allow it, as long as you don't get down to endangered species. So, that's a response -- I mean, I think that ought to be discussed in the document when you're talking about the species that are sensitive, that are being caught in a group, and whether you're going to have a separate quota for them when they get -- reach the

quota, you shut the whole thing down -- the bycatch is killing them and that kind of thing.

In the document we've seen so far we have a cross measures problem. I don't know if it's a problem, but it's something you need to think about. We've faced this on the Gulf Council and come up with one motion that covers several options, because some options that you go one way on that, you want to go a different way on the other, and say you want to be aware that -- the first one, the one I saw that led me to -- I don't know how you're going to handle it in this document, but you need to discuss it, is that if you have trip limits, whether you have -- with or without the aggregate, if that's cross-connected to whether or not you're going to count dead discards against the quota, for instance, that's across, and they were in two different places you see -- somehow or another you've got to link them together, we quite often have people that say well, I don't want to vote on this until I understand what's going to happen over there. So, this is one of those kinds.

The idea of public or aquarium display and the permit they need, it seems to me that because of social and political sensitivity to these kind of labels, that it would be logical just to do the positive and call it aquarium permits or public display permits. Aquarium might be better, because you know lobsters are on public display, but that's not what we're talking about.

So, there's international political implications. If it's a scientific quota, remember the Japanese fleets were fishing the southern bluefin and Australia and all of them got real upset about that and they wanted that in addition to their quota, and those kind of things we shouldn't invite that by calling it scientific or experimental.

The question comes up of how many FMP amendments, and we are faced with it all the time on the Council system. There may be one issue in an amendment that's going forward that gets a kink in it, and you have to either stop the whole thing or pull that out and put it in another amendment.

On the other hand, if you have too many issues in a single amendment, you've got to remember that these amendments are put out to the public. You get public comments, you have public testimony, you have time spent in a Council meeting or in this meeting, and you have a limited time for an agenda. The fishermen that come testify usually have five minutes, maybe ten if there are only a few of them, and if you have too many issues, it's impossible for the public to cover them adequately. So, you have to keep that in mind, too.

On the other hand, there's a thrust afoot to have holistic management, and I don't know how that will work, because one fisherman could talk all night if it's every issue involved in every fishery. So, that needs to be decided, how you're going to do that. I mean, the fewer the better for the public, because there's less to chew on, but there's more times you have to come and chew. So, the same thing.

And Karyl, you put a slide up there about how to count mortality, and you confused two Council members that I know of, okay, with that. And the public's always confused about that. And that is -- and I don't remember exactly how you captioned it, but I put down how to count mortality, and that is, is it -- you need to clarify whether the mortality you're counting is for management purposes or whether it's for scientific data purpose. And the way you put it up, it didn't make that distinction.

I would suggest that you would say how to count quota, how to count mortality for quotas, if that's what you mean, because that count is different from the science count, which includes all mortality. Okay? So, that may make it easier to understand if you make that change.

Then you have in management measures individual quotas. And if you're going to have seasons or trip limits or overall TAC, you're going to have a derby of some sort. And having experience with derby, we kind of try to avoid it if possible, which leads to IQ's, which basically and theoretically I'm not too much in favor of, but that's a different issue.

But if you look at page 75 of the SAFE Report, the issue of vessel repairs it says was admitted from the Highly Migratory Species FMP, and we discussed that and we had a lot of experience with that on the Gulf Council with the derbies we were having, particularly red snapper derby, and fisherman after fisherman said how not only bad weather and you fish in bad weather and all those stories, but also you don't have time to make repairs, because you're fishing in this derby and if something -- if a pump goes out, you wait until that section of the derby is over before you fix the pump. Now you're in trouble.

And so that should have been in there and it needs to be in there. But also we learned from the Coast Guard Seventh District, the last time we met in Florida, they gave us a briefing, and when a fisherman is not making a profit, maintenance and safety equipment is first on the list of getting the ax. And so we're kind of -- although they wouldn't say so, but I mean, that kind of speaks for IQ's as being seriously -- because that's a better chance for the individual fisherman, but you can also do that with buyouts and all that stuff. But that needs to be discussed in the document.

And this idea about if this is a brainstorming thing -- and it is, but scoping is the first formal step in an FMP or an amendment to an FMP, and the sooner an idea gets into the FMP process, the more the public has time to input into it. There is a point when if you -- on the council system, I don't know how you all -- but on the council system there is a point that if you put it in the document now, you have to back up and put that point through the public process like everything else has been through. So, there is -- it starts getting concrete right at the scope -- this process here.

And then Rusty was concerned about the fish in the aquarium -- the sharks in the aquarium, and you had said earlier that the number of sharks in the aquarium doesn't really have any impact worth getting excited about to the resource, but there is a positive aspect to that -- I suppose you're getting a lot of comment on that now -- about good PR and good education and

all that kind of stuff. So, if you're going to put this in there, be sure to put all those comments in, too, please. Thank you. Four pages.

MODERATOR CHRISTOPHER ROGERS: We're glad they only put out small note sheets. Mark.

MARK SAMPSON: Thank you. I'll try to be quick here. The short part of my comments here, as far as the recreational management of sharks and your issues and options, recreational retention limit, I would have to go right now -- as we stand right now, at status quo, our recreational retention limits, the numbers, basically status quo except as some people have mentioned before some of your head boats carrying usually more than six passengers, some kind of allowance so that perhaps more than one shark could be retained, given a certain percentage of paying customers on board.

As far as again backing up to the classification part, sex specific retention of these fish, possibly requiring anglers to retain only male sharks, while that might -- I would just be careful with that.

Certainly sharks are one of the few fish out there, I guess, that it is relatively easy to determine the sex; however, it is not always as easy to do as it might seem. Certainly with some animals, especially mature male animals, sometimes it's very easy to spot those claspers and realize what you have and make your decision, when we're tagging the sharks where you're almost always trying to determine the sex before we release them.

And I know that the handling of these animals at the boatside sometimes can be a handful. If you have a large fish and you're trying to get him to roll over so you can see those claspers, that can be a problem if he doesn't want to do it. Sometimes it's not a problem at all. Again, sometimes he doesn't have to roll over, you can see them.

You get an obstinate fish and many times we will just report, you know, sex unknown, and release the fish, because he gets obstinate and the handling problems involved -- it gets to the point where we're beginning to fear we might hurt the fish in just trying to determine the sex before we

release it. So, we just cut him loose and let him go.

Also on smaller animals, immature males I think a lot of times the claspers in proportion are not as large and you have to get a good view of them and people might make mistakes and you might see animals that are -- you know, brought aboard deck or whatever and all of a sudden they realize it's a male, too late. So, I would be careful with that.

Having said that, I think the big picture there is the species specific management on this. You know, I say this not trying to embarrass myself, but I'll do this in saying it, in some groups that I find myself with, particularly fishermen, I'm often introduced as a shark expert, and I say that with great humility considering the fact that the true shark experts are in this room now I realize. And I'm not trying to elevate my position. What I'm trying to do is point out the fact that among most of the public it's not that I have this great knowledge of sharks, it's just they don't know nothing. I mean, if they consider me to be an expert, let me tell you something.

As the shark management plans have come to be over the years here, I think a lot of us -- certainly I was well aware it was proceeding ahead pretty much under the premise that we've got to get something going here. If we stop and try to manage all these species individually, it's going to take too long, the public doesn't know what's going on. In time, that will come to be.

And obviously by some of the comments we're hearing here about what they're reading in this report and seeing out there, species specific management is becoming more of an important thing here, and of course too you can't properly do that kind of management unless the user groups are aware of what the heck they've got on the end of their line, in the hold or whatever.

And I did hear of the guidebook that you're preparing. Two years ago I heard talk -- I know production takes --

KARYL BREWSTER-GEISZ: It takes a long time in coming.

MARK SAMPSON: I think that that should be a huge -- a number

one priority of the agency right now is to educate the public, not just the recreational fishermen, but I think the commercial fishermen, too. Everybody they can, but particularly the user groups, on what's what.

I mean, even myself -- the great, you know, expert -- when I find myself in different waters than I'm accustomed to sometimes I'll encounter fish that -- or even in my home waters sometimes you get one of these animals that maybe you have to take a second look or look at the teeth or something, just to make sure you're right.

And yet it is again trying to manage these sharks in lump sums like this, it would be like trying to manage the tunas all in one group, you know? It just is not going to work. And it seems that it's become more and more obvious that as we move ahead with the management of sharks overall and you're seeing some recovery and some not recovery -- it's just becoming more and more important to be able to manage them species specific.

But to just come out right now with regulations -- throwing in species specific regulations and expecting the public to be able to adhere to those, or follow them, even if they have the best intentions, there's going to be problems.

So, I would recommend that NMFS very aggressively get involved with somehow trying -- and I don't have the answer on how -- but I can tell you one thing, if you just print up a bunch of guidebooks and just start putting them out at shows or mailing them to the permit holders or whatever, that's a step in the right direction, but it's not really going to -- it's not going to do it to the extent that it needs to be done to properly manage these animals as they should be.

And again, the more knowledge that the user groups have of the different species as they catch them or just interact with them, that's going to spill over into the data that you want to collect -- that you need to collect -- and get good, accurate data from all the user groups and should just help all the more with everything else. So, above all, I would think that it

would be appropriate for you all to take that course of action.

MODERATOR CHRISTOPHER ROGERS: We've got Joe McBride, Jack Devnew, Nelson Beideman and then members from the public.

JOSEPH MCBRIDE: Thank you, Chris. A couple of quick questions. On page 24, 25 -- perhaps, Karyl, you're more familiar with this -- where did you get these numbers from the recreational landings of the different species of sharks?

KARYL BREWSTER-GEISZ: It was the data collected for the stock assessment.

JOSEPH MCBRIDE: Okay. But who does the stock -- because understand I'm a layman. If you think Mark is being modest, I'll be much more modest. I probably don't know half what he knows, but who collects it for you.

KARYL BREWSTER-GEISZ: For the most part it's MRFSS data.

JOSEPH MCBRIDE: MRFSS data, okay.

KARYL BREWSTER-GEISZ: But there's also I think the Texas data, as well -- different survey data.

JOSEPH MCBRIDE: I'm sure there's other agencies helping you out. But a couple of questions. For example, on Table 4.7, on thrasher sharks there on the year 2001, there were none landed in the United States?

KARYL BREWSTER-GEISZ: None reported through the surveys.

JOSEPH MCBRIDE: Okay. Let me -- I'm going to tell you -- and again I'm no expert on sharks, but we've landed at least 30 or better in the harbor of Montauk alone, including many tournaments that you had officials at from -- not Woods Hole, but from Point Judith and so forth, because they do the biological examining. So, there's something wrong with that figure. I mean, you know, I'm not sure what the figure should be, but I could probably tell you anecdotally that there are over 30 I could personally attest to in the harbor of Montauk alone. I don't know what -- unless we have the only thrasher sharks on the east coast, which somehow I doubt.

You go over to the dusky shark and we have 5,703. Isn't that a

closed fishery? Who's landing these fish? I mean you're prohibited from landing, aren't you?

KARYL BREWSTER-GEISZ: These are harvest, they're not landings.

JOSEPH MCBRIDE: Oh, they're people caught them and released them and so forth?

KARYL BREWSTER-GEISZ: Right.

JOSEPH MCBRIDE: Oh, okay. That helps me out. Now, to go over to respond to this particular scenario, the discussion on duskies and sandbars, now -- and again this is anecdotal. At one time in our geographic area, our summer shark would be particularly sandbar and an occasional smattering of larger dusky sharks. We don't see them anymore. Now, I'm assuming -- I'm not going to question anybody's integrity as to about the recovery, I don't know the statistics, I hear arguments from the environmentalists that they don't accept all the criteria, I hear from the guys on the water they get plenty of them -- we don't see them in our area.

But those sharks and the sandbar sharks are now -- here's where I might be wrong, correct me if I am -- are the finning sharks, where there's more money in the fins than actually probably in the meat per se.

And I would be concerned if there wasn't a factual diagnosis of the status of those particular sharks that if you allowed a bycatch or an incidental catch or whatever terminology that you might end up with a directed fishery for them if they're the real money sharks, because the dusky fins are bigger than the sandbar fins, and the brown huge sharks are more valuable, let's say, than blue sharks, et cetera, et cetera.

Assuming all of what I'm saying is correct, and that's the way I get it anecdotally, but I'd be concerned about that type of scenario where you would have theoretically -- and I'd be the last one to want to waste the fish, but you've seen history in the Gulf of Mexico you had an incidental catch for bluefin tuna, which began becoming a directed fishery for bluefin tuna allegedly and so forth and so on over the years. That's been cut out, I think.

So, I just want to throw that out for discussion. I don't know if anybody else is aware of this. And I would like to agree with Mark -- and Frankie and I talked about this some -- if the sharks are -- and God willing they are -- improving in status, that a little consideration for the needs of the sportfishing industry -- the guys that make a living certainly in the charter and head boat industry on the fishing, one portion of which would be sharks, that we be taken into consideration, also, and on the basis similar to what you did last couple of years with the bluefin tuna, you know, four per boat, whatever the case may be, a little more on the head boat, you know, not necessarily one a person, but whatever we need to get by with. Thank you.

MODERATOR CHRISTOPHER ROGERS: Jack Nelson. Jack and Nelson.

JACK DEVNEW: Thanks, Chris. A few comments. Number one, I think that the -- there was one comment about VMS. I think that's going to be overtaken by port security, homeland security issues, in the not-too-distant future. Briefings we've had down in the port of Norfolk indicate that the homeland security is going to be putting something on every single vessel that is out there, could be a sailboat, a canoe, anything. You will be seeing some type of electronic tracking device so that they know where all these vessels are.

So, it's something that you may want to check out with -- I think the whole issue for the fishery may -- there may be some way to dovetail it or something, but it may well be overtaken by other events, which makes it a very nice business opportunity for somebody out there.

Number two, with respect to measures, I would recommend that you avoid consideration of any time/area closures at present. I don't think -- time/area closures are something that require very good data, very high level of data, and my confidence in that data before we go closing the ocean at certain times and places -- and I think it's been from every corner -- all I've heard here today is a lack of confidence in data by the environmental industry. They say there's great uncertainty in the data. There has been

comments from recreational, from state directors, everywhere there seems to be a great deal of uncertainty in the data. So, I would avoid time/area closures.

That being said, you will have the industry that has -- you know, has indicated a willingness -- you know, to go to a type of seasonality, which I would think would go a long way to addressing some of the concerns of the environmental industry that they have raised.

Another issue is that -- and I want to revisit something that Mau said. I think an overriding concern should be to -- you know, across the broad spectrum of the user group, you know, there's a backdrop -- regardless of the source of mortality, whether it be a degradation in water quality, you know, industrial runoff, there's a wide source -- quite a variety of sources that contribute to a stock being considered overfished. So it's a very unfortunate choice of words or term and -- because it leaves the impression that all sources of mortality are from commercial fishing, which we all know is far from the case.

Anyway, once you get to that position there is only one way to address the thing, and that's just to start whacking the commercial fishermen or the recreational fishermen. So, the only people that sacrifice in this entire equation is the users, and so when you get to a situation where you have some positive movement and some demonstrable good trending, there should be some -- they should reap some of the benefits of that sacrifice. Otherwise, there's going to be a continued alienation of the fishermen from the agency. So, I think it's very important to bear that in mind.

And with that in mind, back to Mau's -- and I said it before, as well, you know, whether the -- you know, perhaps a certain fishery needs to have less effort in terms of the number of boats or something like that. And that's a tough issue. But of paramount concern is that the people in it -- that are allowed to fish in it need to be able to make a good living so that they can put money back into the boats. It's an unsafe situation.

As many of you know, I'm in the -- you know, marine insurance

business and where we see claims coming out of is those fisheries -- I mean, they come out of everywhere, but those fisheries that are highly stressed and unprofitable, they simply don't have them, and they've got no choice, because they can't -- you know, you've got a situation with the straits of Florida closure -- you know, I don't even want to go into the politics that killed the buyback there, which was equitable. There should have been a buyback if you're going to go ahead and put -- there has been no redistribution of effort. Most of those guys have just flat gone out of business. And it's been terribly wasteful.

And Rusty spoke about it before, people going out of business, but as they're going out of business, they're going to see a daily and a gradually deteriorating environment that is going to beget more disaster.

Last point is with respect to dead discards. In a planet with finite resources, I don't see how we as a somewhat enlightened society can justify throwing over a dead fish. A dead fish is a dead fish, bring it in if you have to, give it to charity. If you don't want it sold, don't sell it. But don't throw it over. Thank you.

MODERATOR CHRISTOPHER ROGERS: Nelson Beideman.

NELSON BEIDEMAN: Thank you, Chris. A couple of things. First off, pelagic longline observer coverage was mentioned, and I think we really need to work at trying to shift the standard, because when you look at pelagic longline, there's such a variation in sets, there's such a variation in trips, and there's really no way to standardize that.

What we're really talking about is number of hooks. That's what really counts is how many hooks we're observing. And I think you'll find that if you look at that it's somewhere around eight, nine percent. If it needs to be higher, it needs to be higher, but hooks is what really counts.

Also the term bycatch, it's still being misused around the table. If a recreational fishermen goes out trolling for tuna and he catches a mahi mahi, it's not bycatch. It's a good meal. It's a secondary catch. And

the same thing with the commercial boat. If it's a marketable species, it's a secondary catch. It's not bycatch. You know? If the shark bites the head off of the mahi on the way up and you throw the head back in the water, it's still not bycatch. It's a discard, but not bycatch.

I think that it's very important that we move toward -- you know, what several have mentioned, and that's that, you know, there should be a reasonable allowance to cover inevitable incidental catch regardless of what species it is, whether it's bluefin sharks, sword or what. You know, it's simply unethical and immoral to unnecessarily waste good fish.

One other thing that was touched on about 300 feet. I'd like to add a little bit more to that. I think what we keep doing with large coastal sharks is trying to find measures that would work as effectively as what we all originally focused on, and that was closing pupping areas during the pupping season. And because we haven't been able to get states to do those -- you know, discreet closures, we have to keep trying to find other things that can be done.

Well, if it comes to closed seasons, I know that there's a big difference in the pupping by area and when the pupping's taking place in the inshore waters down south, the shark fishermen up north are still fishing 30, 40 miles offshore. And it's not all pupping sharks.

So, I think it would be, you know, very unfair just to say well, you know, the whole season is closed because we don't have the ability to get the states to do the right thing, so this is -- you know, the only broad-brush approach that we can get something done. I think that would be, you know, very, very unfair and would rather see some kind of staggered season if it came to that.

KARYL BREWSTER-GEISZ: Would a regional basis be acceptable, sort of a staggered season regional-wise?

NELSON BEIDEMAN: I never hear why can't we get the states and what states can't we get, you know, to do a pupping season closure? I mean,

I'd like a little more information on that. But yes, regional would be -- you know, more preferable to -- you know, the broad-brush that would take in areas that are not in the pupping seasons.

MODERATOR CHRISTOPHER ROGERS: Thank you, Nelson. Let's hear from our public attendees. We have David Baker and John Kegler. Anybody else over in the gallery?

(No response audible.)

MODERATOR CHRISTOPHER ROGERS: So, we'll take David Baker and John Kegler and then I know Bob Zales wanted to speak. Why don't you come up here and grab one of the mikes. We've got an empty seat.

DAVID BAKER: Thank you very much. Good afternoon. My name is David Baker. I'm the head of research and development of Aquatic Release Conservation, and please accept these comments from Aquatic Release Conservation. We are commenting today as a gear design technician, past stakeholder in the fisheries, a public and a concerned conservation organization.

Most of the principals or the personnel of Aquatic Release Conservation have worked in the Atlantic commercial shark bottom line fishery since 1984. We owned and operated several 65-foot commercial longline vessels that were fishing from -- (inaudible) -- North Carolina to Panama City, Florida in the Gulf.

We discontinued our shark fishing operations in '93, mainly due to Hurricane Hugo's destruction of our fishing vessels, and we were unable to recover after that. Since 1992, ARC has been designing, developing and field testing hook removal devices for the safe and efficient removal of hooks from economic and regulatory discards as well as endangered and protected species in order to ensure the released bycatch the maximum probability of survival, consistent with the numerous fishery laws.

Aquatic Release Conservation has worked in cooperation and as a fisheries partner with various research labs and centers, the commercial sector

and management, as a gear design technician. Aquatic Release Conservation codesigned and codeveloped the ARC dehooker, the NOAA Laforce (phonetic) line cutter and the NOAA Epile (phonetic) biopsy pole. These devices were utilized in the 2001 and 2002 NED experimental design fishery for the specific purpose of safe and effective removal of hooks, gear and line from sea turtles brought on board and those that are too large to be brought on board and they must be left in the water. These tools have significantly increased the survivability of these protected species.

Aquatic Release Conservation would like to submit the following comments for the record and for consideration by the HMS AP. Issues, 6.2.2.1, number 1, reducing bycatch of protected species or resources. Bottom longline. Number 1. Require the guidelines for the safe handling of sea turtles captured in bottom longline interaction to be posted in the wheelhouse status quo. ARC agrees with this and endorses this status quo measure, but believes the current safe handling guidelines and laminate card should be augmented and enhanced with a sea turtle safe handling and release guideline handbook.

ARC is convinced that operators of the vessels that interact with protected species in the shark bottom longline fishery should have adequate information in the additional form of a guideline protocol handbook in order to better educate them on the proper handling and release procedures and tools. The vessel operators should have access to the literature on effective tools and techniques that have been tested and scientifically proven to work in other similar fisheries that interact with protected species.

The panel of experts from management, academia, NGO's, commercial fishing industry and gear technologists should develop comprehensive release protocol or guideline handbook. NOAA Fisheries should fund as well as oversee the development, printing and distribution of such a handbook. The benefits derived from the comprehensive safe handling and release handbook could prove to be a valuable asset and management tool in the reduction of post-release

mortality. This handbook could be an important part of the proposed workshops on handling and release procedures.

ARC respectfully recommends that the HMS AP consider that in addition to the status quo requirement to post the sea turtle safe handling laminate card in the wheelhouse, a sea turtle safe handling and release guideline handbook be distributed to all Atlantic shark bottom longline vessels in order to educate the fishers on the state of the art release and handling guidelines and techniques, procedures and tools.

Number 2. ARC supports the requirement of line cut clipping equipment on board all shark bottom longline vessels. Only to remove the line and the gear from sea turtles and other marine mammals that cannot be avoided and must be released in the manner that ensures the maximum probability of survival. Experts in the NOAA technical memorandum 455 including veterinarians, research institutes and academia unanimously agree that trailing gear left on released turtles most likely creates a serious injury.

The consensus of those experts is that all trailing line and gear should be removed prior to release. However, ARC believes that the HMS FMP should clarify the type and specification of line clipping devices to be on board, as they have done in other similar fisheries. The recent final analysis of the 2001 and 2002 NED experimental design indicate tremendous success in the use of a specifically designed line clipper, the NOAA Laforce line cutter.

This specifically designed line clipper has proven successful in the removal of all line and gear from entangled sea turtles that were too large to be brought on board and must be left in the water. ARC respectfully recommends that the HMS FMP specify a NMFS-approved and designed line clipper, that it be on board and used in the Atlantic shark bottom longline fishery.

Number 3, requiring the dehooking devices to be on board the vessels. ARC supports and endorses the requirement of dehooking devices on board the Atlantic shark bottom longline vessels in order to safely remove hooks from sea turtles and other bycatch that cannot be avoided in this

fishery. And they must be released in the manner that ensures maximum probability of survival.

However, as in ARC's earlier comments, we believe that the HMS FMP should clarify the type and specification of the dehooking devices to be used in order to identify those devices that have been successfully tested in other similar fisheries with the protected species interaction.

There are on the market today numerous types and sizes of dehooking devices that may or may not work in certain fisheries for certain species. In order to keep the release consistent with scientifically valid protocols, and to ensure the maximum probability of survival, the HMS FMP should specify a NMFS-approved dehooking device be on board and used in the Atlantic shark bottom longline fishery.

The consensus from the experts comments in the NOAA technical memorandum 455 indicates that hooks left in sea turtles constitutes serious injury, and if possible should be safely removed. The recent final analysis of the 2002 NED experimental design fishery indicate tremendous success in the removal of almost all the hooks -- and that's circles and J-hooks -- from the incidentally caught sea turtles in the Atlantic pelagic longline fishery with a specific designed dehooking device.

Therefore, Aquatic Release Conservation again respectfully requests that the HMS AP consider recommending the HMS FMP specify a NMFS-approved/designed dehooking device to be on board and used in the Atlantic shark fishery.

Require fishermen to attend workshops that teach the proper techniques for handling and release of protected resources from hooking or entanglement in order to minimize the post-release mortality. Participation mandatory. Aquatic Release Conservation supports and totally agrees with this proposal.

Dennis Lee and Doctor Sheryan Epperly of the Southeast Fisheries Science Center conducted similar workshops for their observers training for the

2001 and 2002 NED experimental design fishery in Miami, Florida. Comments from the observers indicate tremendous success in transference of the handling and release techniques.

Final analysis reports indicate success in removing almost all the hooks and line from entangled and hooked sea turtles in the water and on board the vessel. Further success was noted on protocols and procedures to safely handle and resuscitate sea turtles that had been brought on board.

Sea turtles are among the hardest species in which to remove a hook, due to the nature of the species and the fishery. For instance, the skin is extremely tough. The location could be problematic, the large and robust nature of the turtles, freeboard heights, fishing operations, and obviously ocean conditions and harsh seas.

Special techniques, tools and coordination among crew members are essential for the safe release of sea turtles. The training that the observers received at the observer workshops proved invaluable. When they had to transfer and release -- the released and gear removal techniques to the captain and crew at sea, they were able to do it because they were trained with the proper protocols.

If the HMS FMP recommends or mandates the possession and use of line clippers and dehooking devices in the Atlantic shark bottom longline fishery, then handling and release workshops would be critical to the successful transference of these techniques and procedures.

It should be noted that in the past voluntary workshops of similar nature have not worked very well, mainly due to the nature of the fisheries, and to individual fishing schedules, geographic location of the workshops, and the financial abilities to attend.

ARC believes that these obstacles could be overcome by the incentives from the National Marine Fisheries Service, coordinating with the commercial sector as to the times and locations of the workshops, as well as a possible compliance sticker for the successful completion of courses. A

compliance sticker placed in the wheelhouse for completion of the workshop would also further aid enforcement during inspections. Aquatic Release Conservation recommends the HMS AP consider this valuable training tool as a viable management measure for the HMS FMP.

Number 5, closed areas with high sea turtle interaction. Aquatic Release Conservation has always preferred other alternatives rather than closed areas due to the hardships that they cause fishers, their families, the fishing community as a whole, and not to mention the problems they create in establishing a viable marketplace and food for the public.

Successful mitigation measures in the recent experimental fisheries have proven to be a much better method of reducing mortality associated with interactions between protected species and fisheries than that of closures. These type of precautionary measures allow for fishers to continue to fish while significantly reducing mortality.

Advancement in handling and release procedures, techniques and tools to reduce post-release mortality have achieved such a high level of success that they should warrant serious consideration by the HMS AP to recommend reasonable and prudent alternatives other than the measure of closures.

Further evidence is the unprecedented cooperation between the Bluewater Fishermen's Association's vessels and their efforts in the recent NED experimental design to cooperate and communicate amongst themselves to avoid heavily populated areas of sea turtles, even at the short-term expense of the individual vessels.

Issue 6.2.1.2, minimize sizes and other limits to reduce mortality, time/area closures again. Aquatic Release Conservation is opposed to time/area closures to reduce the mortality due to loss of recreational fishermen or opportunity and the disparity between the states and regions that this measure may cause. Other precautionary measures could be adopted that

would dramatically reduce the mortality in this fishery.

The recreational industry has been voluntarily releasing bycatch for several decades. Both the U.S. recreational anglers, as well as the U.S. commercial fishers are some of the most sophisticated and conservation-minded anglers and fishers in the world today.

Aquatic Release Conservation was invited to attend the Congress of Recreational Fisheries hosted by IGFA last summer. We were extremely impressed with the efforts by the recreational sector to address and solve the bycatch problems. Several precautionary measures were discussed at this meeting, including safe handling and release procedures that included the use of dehooking devices to remove all hooks from the incidentally caught bycatch in order to release the bycatch in the manner that would ensure maximum probability of survival.

It is my understanding that the International Game Fish Association has implemented an observer program for its fisheries, and could adopt protocols and procedures similar to that of the bottom longline fishery and their handling and release workshops that are being proposed.

With observers on board, problems such as species identification, proper handling and release techniques and reporting compliance would be solved. Recreational organizations such as the Billfish Foundation, RFA, IGFA, ASA and the Maryland Charter Boat Association, and many others, have long since been proponents and advocates of the fishery conservation and ethical angling.

As leaders they have transferred these ethical angling practices to the junior anglers, who will eventually be responsible for our own fisheries. The recreational fishing industry as a whole has always had a tendency to self-police itself. They have strong affiliation ties with each other and impressive support from their members. They conduct numerous workshops and seminars to educate junior anglers on ethical angling practices.

If appropriate funding were available from NOAA Fisheries to conduct further handling and release workshops in a coordinated, consistent

manner in the recreational fisheries, more drastic precautionary measures such as time/area closures may not be necessary.

Finally, restructuring the exempted fishing permit issuance process. Concerns have been noted that exempted fishing permits should not allow access to closed areas for the purpose of bycatch reduction experiments and that commercial sale of fish caught during exempted fishing activities should not be allowed to offset the cost of conducting scientific research.

Aquatic Release Conservation, although we acknowledge these concerns as valid, we do not necessarily agree with them. The access to closed areas for experimental fisheries, especially in the NED, provide researchers with a sea turtle sampling size large enough to adequately obtain the critical data needed to properly assess the protected species and their interactions with fishing operations.

This valuable data can be then used to determine the overall specifics of this protected species and their interaction with the numerous fisheries, both nationally and internationally. In order to prove -- excuse me. In order to provide incentives for the fishers to participate in experiments and to offset experimental costs, it is not unreasonable to allow the fishers to retain and sell their catch, a good portion of which would be brought up dead anyway.

This would seem to be a prudent utilization of the resource. The international interaction attributed to sea turtle mortality is far greater than that of the U.S. The U.S. is responsible for approximately five percent of the total sea turtle mortality globally. If we did not allow experiments to be conducted in our closed areas, or even if we shut down our fisheries completely, it would do little or nothing to address the global mortality of approximately 95 percent.

It is apparent from the final analysis of the 2001, 2002 NED experimental design fishery that these types of cooperative experiments between management, industry, academia can provide valuable information and successful

mitigation measures that can be transferred to other fisheries that interact with protected species nationally and internationally, thus reducing mortality of protected species globally.

I want to thank the HMS AP for allowing Aquatic Release Conservation for the opportunity you allow its comments and views to be heard today. Unmistakably, the solicitation of comments from the various stakeholders and the public in regard to these issues and options set a positive and reassuring tone to innovated and successful fishery management. We applaud the efforts of this management regime, headed by Doctor William Hogarth, and Aquatic Release Conservation is confident that the continued cooperation and transparency between management, academia and concerned stakeholders, NGO's and the public is the key to proper successful fisheries management. Thank you very much.

MODERATOR CHRISTOPHER ROGERS: Thank you, David. John Kegler.

JOHN KEGLER: Thank you for allowing me to speak. These are my personal comments, since the groups I normally represent usually ask me to review them before I produce them, and since we have time you'll get a written comment from them.

I kind of feel like I've just gone two or three rounds with Mike Tyson and didn't win. What you're proposing doing is so totally contrary to my own personal experience that I have the following comments.

NMFS records for unidentified sharks in the large coastal species in 2001 for New Jersey was 220,000 pounds. The sharks they identified only came to 95,000. North Carolina had 325,000 pounds of unidentified large coastal sharks. And Louisiana landed four or five times more unidentified large coastal sharks than they identified.

My proposal would be that if any commercially landed shark is unidentified, then it can't be sold. And the second thing as part of that, your landings of shark fins are a major part of the economic value of the fishery, and most cases or almost all cases there's no identification where the

shark fins came from.

If you can't identify the shark fins, how can you manage the fisheries? So, I would like to suggest that they require that the shark fins sold be identified by species.

The third thing is economically, the commercial fishery has destroyed the large coastal shark fishery in the state of New Jersey. The economic losses by private and charter boats in the state of New Jersey in dollars far exceeds the dockside value of commercial shark products. Such economic losses are not accounted for anywhere in your studies.

And the last item, and this is a question, on the 17th of January Science magazine, a study in Canada from Dalhousie University in Halifax, Nova Scotia was titled The Collapse of the Shark Fishery. You can argue with the data, but the question I have is they claim that they used U.S., Japanese and Canadian longline and other shark data. Their position was that the shark fishery has collapsed. My question is how can NMFS shark data as reported here today be totally opposed and contrary to the Dalhousie University study when they purport to be using the same database?

KARYL BREWSTER-GEISZ: The article in Science only used one database, the pelagic longline database. The large coastal stock assessment used over 20 databases to come up with these answers. That's just part of the answer. There's a lot more to it when you get into the details on what they did.

JOHN KEGLER: It's just that my own personal experience, for instance, is that when I take canyon trips based when I got a boat that was capable back in '86, I would go to the canyon 80 miles out, I would pass 25 to 30 sharks on my trip to the canyon, either out or back.

Today I can go to the canyon and come back and never see a single shark. It's totally contrary to where you're going with this management. I should still be able to see sharks. If I don't see them, they aren't there. And they aren't part of the population.

The second part is that when I first got the boat in '86 and made my first deepwater shark trip, I caught seven large coastal sharks that I released alive in the same day. Today I can take seven trips in July and August, targeting the same large coastal sharks, and never see a shark. The population can't be in very good shape if I can't even find a single fish. But of course that's anecdotal information, it doesn't count. Thank you for allowing me to comment.

MODERATOR CHRISTOPHER ROGERS: Thank you, John. We had Bob Zales and then we'll have to call it an evening so everybody can get something to eat.

ROBERT ZALES, II: Chris, mine -- in the essence of time now -- because basically I'm going to be talking data, and if what I say tomorrow can revert back to what's going to be said here I'll just do it in the morning. If that's okay with you.

MODERATOR CHRISTOPHER ROGERS: We were going to move on to billfish in the morning.

ROBERT ZALES, II: Well, it all has to do with HMS and whatnot in here, so basically my comment is going to be about the whole thing and how data related --

MODERATOR CHRISTOPHER ROGERS: We will be talking about data collection, data issues later on.

ROBERT ZALES, II: The whole data complex. So, if you want, I can do it in the morning.

MODERATOR CHRISTOPHER ROGERS: Okay. In the afternoon we'll be talking about data issues. If it's specific about billfish or sharks --

ROBERT ZALES, II: You want specific now about sharks?

MODERATOR CHRISTOPHER ROGERS: Well, if you have a few brief comments specifically to sharks, we could take them now.

ROBERT ZALES, II: Just briefly, and this has to do with the data that everybody's here talking about, and through my involvement with the

data program in the Gulf, I've been asked to work with the Fisheries Science and ACCSP and whatnot in what they're doing on the east coast now.

At a meeting I was at a couple weeks ago in Jacksonville, it became obvious to me that the guys in the northeast that are having permits and having to put out logbooks to maintain these permits, the only reason why they're filling logbooks out is to maintain the permits, because essentially everybody that was there said that these logbooks are being filled out and thrown in the garbage once they get the permit.

So, obviously the data that's in here, if it's not being used from them, and it's their understanding that it's not being used in assessments, it's not being used anywhere in the Service, so what you've got -- you've got one arm of the Service telling people you've got to give me data and you've got another arm of the Service saying well, thank you very much but we don't want it. And that's a problem, especially when you're trying to develop a very new data program and you're trying to convince people to cooperate, and they've been doing things that they've been told to do for 15 years, now you're asking them to do something voluntarily. The two don't match and obviously that's a problem in this stuff.

And the other part of it is the letter that I am going to give you tomorrow about the Didden study, that data is used in this SAFE Report, and the information that I have from the Gulf Council has some serious problems with that data, and the Council is now taking it up and they're going to consider that in the future in all of their stuff, and you all need to do the same thing with HMS because if it's flawed data it has no business being anywhere out there, and until Doctor Didden responds to this request, I would suggest that you either remove it or put a big caveat in this SAFE Report about the information from the other side about that data.

MODERATOR CHRISTOPHER ROGERS: Thank you, one and all. I think we'll call the meeting closed. Frank.

FRANCIS BLOUNT (No microphone): Just one question. Mau, if

(inaudible) -- Mau made a statement (inaudible) multispecies complex you could fish down to ESA on one species? Can somebody (inaudible) because I'll tell you as Chairman of the New England Groundfish Committee, that would make my life a lot easier.

MAUMUS CLAVERIE: You can read it in the guidelines.

MODERATOR CHRISTOPHER ROGERS: The current guidelines or former guidelines? The post-SFA guidelines? We will research that.

With respect to tomorrow morning, there was a question on Wednesday moving the start time from 8:30 to 8:00. Does anybody have the same feeling about tomorrow? Do you want to start at 8:00? All right. 8:30. Because Bill Hogarth will be here about 8:30 for some opening remarks. So, see you all at 8:30 tomorrow. Thank you for your participation.

WHEREUPON:

THE MEETING WAS SUSPNEDED AT 6:30 P.M.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my

knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 5th,  
day of May, 2003.

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PAUL T. WALLACE. Notary Public  
My Commission Expires  
October 3, 2008

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