

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

JOINT MEETING

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(Morning Session)

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8:10 a.m.

### GREETINGS AND INTRODUCTIONS

MODERATOR CHRISTOPHER ROGERS: Good morning, all. Welcome to day three of the joint meeting of the Billfish and HMS Advisory Panels. We have a few empty seats around the table, which is disconcerting at 8:10. What are we doing? We should have started at 7:30. We do have an ambitious agenda. There's several people who have expressed an interest in something called bluefin tuna, which we have heretofore not deal with on this panel. So, we'll have to see what that's about later on in the day.

What do they say, save the best for last? A holdover from yesterday's agenda is Atlantic swordfish. What we'd like to do very quickly is go through a presentation of what happened at ICCAT with respect to swordfish quotas and how we feel we need to adjust the regulations to establish new quotas and several other regulatory matters, and then we'll have a quick discussion on that, and hopefully can move on and get back onto our planned agenda for today.

We've also had a request for revisiting billfish, at least briefly, and yellowfin tuna. But we'll have to put that off till later in the day and get on with the items planned for today. So, we'll do swordfish bycatch, very quickly deal with some authorized gear permitting issues, and hopefully still get into bluefin tuna before lunch. So, Tyson will present some information on swordfish.

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### SWORDFISH - 2002 AND BEYOND

TYSON KADE: Good morning. Some of this presentation overlaps with a bit of what John Graves said yesterday, so I'll try to go through as quick as possible so we can continue on and catch up with the agenda.

Last year or in 2002 at ICCAT the SCRS conducted new stock assessments for North and South Atlantic swordfish. They found that the North Atlantic swordfish stock has improved from a low of 1997, or in 1997, to a level approaching maximum sustainable yield, and the South Atlantic swordfish stock appears to remain stable.

They found that the maximum sustainable yield was a little over 14,000 metric tons. You can see the confidence intervals. The yield in 2001 was almost 10,000 metric tons, but that's probably a preliminary number and a little low. The next stock assessment will be in 2005. Not as much is known about the South Atlantic swordfish stock, so that's why a lot of those not estimated are there, and the next stock assessment is going to be in 2005, as well.

The recommendations that they made in 2002 were setting the TAC in the North Atlantic at 14,000 metric tons for 2003, 4 and 5. A little over 30 percent of that is allocated to the United States, and that's not including dead discards and quota for other contracting parties. We have a dead discard allowance of 100 metric tons in 2003, 80 of which I believe is for the United States, and there's a zero dead discard allowance in 2004 and beyond that.

Our quota is 3,877 metric tons in 2003 and 3,907 in 2004 and 5. We also agreed to transfer 25 metric tons to Canada in 2003, 4 and 5, and also we have the agreement where we can harvest up to 200 metric tons within five degrees north and five degrees south.

This is a graph of the swordfish biomass, and I've marked where the ICCAT TAC is, so as you can see, the stock is -- was assessed to be almost recovered based on the strong young of the year classes, and even with the current TAC it's projected to slightly increase in the future.

For South Atlantic swordfish, ICCAT set the TAC at 15,631 in 2003, and that increases slightly into the future. The U.S. quota is 100 metric tons in 2003, 4 and 5, and an increase in 2006. And we have a provision where we can carry over our underharvest from 2002 into 2003, and I believe that extends out into the future.

Looking at the rulemaking that we're going to pursue based on this recent ICCAT year, right now we're working on a fishing year quota adjustment for 2002. We're a little behind, but that's expected to go to the Federal Register shortly.

We're also going to be implementing regulations that will put into place the 2002 recommendations that I just reviewed, and we have some other regulatory actions scheduled for swordfish.

This is the fishing year quota adjustment for 2002, basically carries over underages from the 2000 and 2001 fishing year. I put up the numbers of what the 2002 fishing year quota will be for North Atlantic swordfish, and also this rulemaking will serve to finalize the -- what was the 400 metric ton transfer to Japan, I guess that was in the 2000 regulation. Since then, they have come back to us and clarified that they would only need 215 metric tons based on the dead discards in the specified area.

The 2002 recommendations from ICCAT that we'll be implementing are adjusting North and South Atlantic quotas, putting into place that 2003 dead discard allowance, the 200 metric tons from that five north, five south area, and the 25 metric ton transfer to Canada, basically what I just reviewed.

Other things that we'd like the panel to provide input on that we're looking at is potentially adjusting the quota structure for swordfish. Right now it's a directed category, incidental category and a reserve category. And we're wondering if we should expand that to include a recreational category. Also, we would like to formalize some guidelines as to how we allocate the quota to different categories, how we would do in-season transfers.

We're also looking for inputs as to how best to utilize reserve category; should we look at a system similar to bluefin tuna, try something else. And hopefully the AP can provide some input on that. And that's about it.

**MODERATOR CHRISTOPHER ROGERS:** Questions, concerns, comments about what's on the horizon for Atlantic swordfish? Again, to sum it up, we will need to do a rulemaking to at least implement the new quotas for North and South Atlantic swordfish, and there may be some other issues that we could address if the panel would give us some advice as to whether these other matters are necessary at this time, or at least would be beneficial in terms of managing the swordfish quota.

So, we'll go around this way, do it in a linear fashion as yesterday. Anybody?

**UNIDENTIFIED:** Can we come back?

**MODERATOR CHRISTOPHER ROGERS:** We can come back. See how quickly we get through. Nelson Beideman.

**NELSON BEIDEMAN:** Just a preliminary comment, and that's about the disappointment in ICCAT of raising the quota. As it turned out, we just had no leverage when Canada went with the E.U. and Japan, it was the United States standing alone. Very, very disappointing. We feel that it will end up in -- you know, a negative situation for North Atlantic swordfish that will have to be turned around again, but that's the situation we're in.

There's some positive things. Well, I hate to say that this is positive, but the United States will not be -- you know,

doesn't have the ability to take its quota in the next several years. So, perhaps we won't be entering a negative decline again, but we'll see.

MODERATOR CHRISTOPHER ROGERS: Gail Johnson.

GAIL JOHNSON: Thank you. Kind of surprised me there with your options, but I wanted to echo that speaking for our operation, we were a little surprised and unhappy about the increase in quota, especially when the recovery depends so heavily on the incoming juveniles, and unfortunately at present we don't have a way to measure in the United States the continuation of that influx of juveniles or the strength of them. Thank you.

MODERATOR CHRISTOPHER ROGERS: Tim Hobbs. I didn't see your hand. Okay. Before we get to Tim then -- we're going down the table. Jim Donofrio.

JAMES DONOFRIO: Thank you. I want to express my disappointment at our meeting at Spain last year allowing the European Community to accept and go -- accept that 14,000 TAC. It's just unheard of. As I said to you in the meeting, it's almost like they treat this as an alfalfa crop. They just keep cropping off the young ones here. It's crazy.

And we've got a lot of rebuilding going on in our own EEZ because of measures here, and of course we heard the word that -- you know, the Spanish have been great partners in this. They haven't been great anything. They stayed away from the fish because they weren't viable to catch. And as soon as now they've got the TAC up here and the juveniles are rebuilding thanks to mostly our measures they're going to go steal them again.

And I think -- you know, it's about time we get stronger and tougher at ICCAT. Instead of worrying about credibility -- we've got great credibility. Everyone forgets that Germany is funding the common fishing policy, and they're slapping our President around right now and we've got to worry about credibility with these people? We are very credible. And so we always go over and we have to walk on eggshells for them. And yet they're very tough on us.

It's about time we get tough on them. And I'm talking about our State Department people, as you know, Chris, who like to get along -- go along to get along over there, and we need to get tough. And this is ridiculous how we go over there and we have to always give up something. And they're going up here and just going to crop these fish off again, these juveniles. Thanks.

MODERATOR CHRISTOPHER ROGERS: Rich Ruais.

RICHARD RUAIS (No microphone): (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Is that not working?

RICHARD RUAIS: (Inaudible) the U.S.'s objective on swordfish was the statement by the SCRS chairman and the way it was presented at the meeting. He left no doubt and provided the European Community in particular all the ammunition they needed to stand tall on 14,000 and not back down at all in the face of what was going on behind the scenes, the strong U.S. commissioner effort to get some moderation put into it.

And I just want to suggest it's obviously too late for this year, but what could have potentially worked to soften that and minimize that was we had two very capable U.S. scientists at the meeting who, knowing what the U.S. objective was on swordfish, could have had some influence, maybe, exerted some influence with the SCRS objective, or failing that -- if he continued, our scientists could have taken the mike, in my view, and provided some of the concerns -- some of the risk involved with setting a quota this high this early on in the recovery plan.

So, for the future, you know, I think we ought to consider that. If we feel strongly about it, then put our scientists into the fray a little bit more. In my view, from what I saw, that didn't happen at all. The U.S. scientists did not participate at that point, didn't participate in the meeting. What was going on behind the scenes, I don't think there was much going on. But I think he could have had an impact.

But clearly what was devastating from our perspective was the opening statement of the SCRS chairman, and there

was just no way, once you've got that kind of a statement on the floor that the European Community or many of the other delegations involved are going to back down from that. There's just no reason for them to give it up. They don't view this conservation effort the same way the United States does.

MODERATOR CHRISTOPHER ROGERS: Bill Gerencer.

WILLIAM GERENCER: I echo all the disappointment in the rush to increase the quota, and I view the fact that we probably won't take our share of the quota as good news/bad news, as good news for the fish. Long term, this could be potentially difficult for the United States, because as countries join ICCAT and seek a share of different quotas, they're going to point out that we don't harvest our share and attempt to take it from us. And so while it's good news for the fish in the short term, we're vulnerable to losing quota share, because we can't harvest it. And with the larger harvest quota or larger share of that, we're going to have an even more difficult time harvesting it.

MODERATOR CHRISTOPHER ROGERS: Tim Hobbs.

TIM HOBBS: Yeah, thanks, Chris. We too were disappointed that the quota was raised. I think somebody at the meeting estimated that the average size Atlantic-wide in the North Atlantic stock was 50 pounds. So, these are just -- these are juvenile fish that we're talking about here.

I think that in the short term we may be able to resist -- you know, other countries attempting to take our quota. We went into the last meeting with a large underage. Not only did we preserve that, but we actually ended up increasing our share. But again, there's little doubt that in the long run that that is an untenable position in the way to proceed.

And so I think we need to talk about restructuring our swordfish fishery here in the United States, and figuring out ways to enhance our ability to harvest swordfish, especially in a sustainable and selective manner.

And there's a number of things that I think we could be doing on this front. First off, as far as the hand gear sectors go, I don't think there's any reason that the hand gear sector should continue to remain closed access. A lot of the hand gear fisheries -- you know, the rod and reel fishery, especially the harpoon fishery, are very selective. They can harvest large mature fish. If NMFS is worried about juvenile mortality, we can consider a higher minimum size for those sectors.

I mean, there are ways to control the problems that we might encounter while still opening them up. There's a number of things we could talk about -- ways to go about opening up the hand gear sectors. But you know, we think there should be a commercial rod and reel open access swordfish fishery, maybe much like the bluefin tuna general category permit. The recreational fishery, you know, should be opened up. We were disappointed to see the bag limit put in place. Not that it's a completely unreasonable bag limit, but you know, the rationale that was used to justify it, we think was somewhat faulty.

And even with the longline sector, you know, we're finding ways to reduce, you know, their juvenile mortality, and I think we need to continue to look at ways to do that, but maybe it's also time to reconsider measures -- you know, possibly such as the minimum size that routinely require dead fish to be tossed overboard. They could be, you know, accounted for and landed. There could be a number of problems with rushing into that, but I'm confident that we could solve those problems.

So, there's a number of things that I think we need to do here domestically to restructure our fishery, to take advantage of the quota that's available to us, but in a -- you know, a selective manner. You know, we're taking care of the various problems that different sectors of our fishery have, and there's a way to move forward, and I think we really need to have a serious conversation about that. And I think there's a lot of measures that could be done in a short term to begin doing that, and then some more measures in the long term.

So, we will look forward to talking further about this. There's a lot of issues here, but I think we need to begin really focusing on this. Thanks.

MODERATOR CHRISTOPHER ROGERS: We'll continue around the table and do a second pass, if necessary.

Anybody before Mike Leech?

(No response audible.)

MODERATOR CHRISTOPHER ROGERS: Okay. Mike. Mike Leech.

MICHAEL LEECH: My main concern is with the recreational angling aspects of the swordfishery, and I was surprised when we got the notices from NMFS about the restrictions on the recreational fishery that in part says they were imposed -- intended to moderate the expansion in the recreational swordfish fishery and better conserve this overfished species. Another quote is help avoid excessive mortality and ensure long-term stability.

Gosh, it sounds like the future of this fishery and the health of this fishery rests with the recreational anglers. And yet you estimate that -- I think 20 tons was your estimate. I think that may be high, but I would accept that estimate, which is about -- based on the average size of the fish, about 500 fish.

At the same time, you say that discards from the U.S. longline fleet was 27,000. That's almost 50 times what our entire catch would be. At the same time, we see a 35 percent increase in the overall quota in the Atlantic. And it just absolutely -- I just cannot see the reasoning for the restrictions on the recreational fishery. As this gentleman pointed out, I think you would be wanting the recreational guys to catch as much of the quota as they could so the overall United States fleet does not lose that quota. Because certainly the longer you go without catching your quota, the more pressure is going to build up for the part of that quota to be taken away from the United States. And I just can't see the logic or the reasoning on why the recreational landings would be restricted in any way.

Also, very concerned about what seems to be a foregone conclusion that less than two years after the closed areas in the Straits of Florida, we're now going to see longliners go back in there fishing on what we know is a nursery area, what we know is -- for the most part, just juvenile fish. The statistics on the recreational tournaments show that 96 percent of the fish are under the average breeding size of the females, which is 150 pounds. And plus there's going to be gear conflicts in there, as the longliners come in with what has now been established as a recreational fishery.

The recreational people have been very good at self-regulating, the tournaments have a minimum size far above the legal size, and I would like to hear your comments on why you feel the recreational fishery with their 20 tons needs to be restricted. Thank you.

MODERATOR CHRISTOPHER ROGERS: Well, that was a rulemaking that has already been issued and final. I don't know that it's going to benefit us, given the short time frame to rehash what was stated in the rulemaking documents themselves. We certainly had issues with the emergence of a fishery that we were not able to monitor very closely at the time -- at the current time, so there is a concern about getting monitoring in place, and assessing what the level of effort was. All indications were that the activity was increasing. I think you'll agree with that. We had a very interesting meeting down there at Fort Lauderdale, very well attended hearing. So, we had some concerns.

Obviously we have a commercial hand gear category and it was always the intent of the agency that commercial hand gear would be able to participate in that fishery in an area that was closed to longliners to protect juveniles. But there was an ongoing concern that the continued expansion of a recreational fishery that was by some reports turning into a commercial fishery. So, there were a lot of factors at play in determining that a bag limit was appropriate for the fishery at this time. It's not to say that the bag limit can't be adjusted as we improve monitoring and get a better handle on the number of participants and the actual number of landings. As you said, the 20-ton figure is subject to debate at this point. We don't know exactly how much is being landed, but we did have some concerns that -- and uncontrolled expansion in an area that had just been closed at great social cost, so to speak, to an established commercial industry, and the interest in developing a commercial hand gear fishery in that area was always foremost in our minds in terms of issuing those hand gear limited access permits.

We've heard that perhaps we need to revisit the fact that it needs to be limited access, but certainly what we tried to do is establish what will be an appropriate limit for recreational use of that resource. Again, recognizing it was a sensitive closed area. Various factors had gone into play. It wasn't any single aim that led us to the conclusion that a bag limit was appropriate. We did take into consideration the various comments received, and did increase the bag limit from

what had been originally proposed. And again, recognizing it as recreational use. The amount of fish, average size of the fish, the sensitivity about the nursery area. All those factors were explained in the rulemaking documents.

It can be adjusted in the future and we hope to -- as I said, as we have established the permitting program and the reporting program, come to some better understanding of exactly what the magnitude of the fishery is, and adjust it accordingly. We manage bluefin tuna by adjusting the bag limits and we can do so with swordfish.

I don't know that that satisfies you. If you're not a proponent of that bag limit, I don't know that there's anything that we could do other than to relieve the bag limit and we'll see how it plays out. And again, our hope is that with the permitting and the reporting system, we can get a better handle on exactly what the magnitude of the fishery is, how fast it's growing, and do a better job at managing it. So, it was in a sense a precautionary approach at this point in time. Not intended to limit the fishery in its re-emergence, so to speak, but moderate until we had a better situation in terms of data collection.

MICHAEL LEECH: If I could make one more comment. I don't argue at all the fact that you want to monitor the fishery, and I think we've done a good job of that. You're now going to require permits. You're going to require reporting, phone-in. So, you're going to have a good handle, plus you monitor the tournaments that are springing up. I think there was five last year.

I don't argue with that at all. I think the bag limit of one per angler is the thing that will impact the recreationals the most. It will cause some dead discards in a fishery that's almost 100 percent clean. It will impact some of the swordfish tournaments. I don't think anybody's even going to argue with the three per boat. There's no reason for it.

And it's kind of ironic that when there's a lack of data in the commercial fishery, that's used as an excuse that we can't do anything. But when there's a lack of data in the recreational fishery, it seems to be used as an excuse that we've got to put a whole bunch of restrictions on there right away to bring it under control because it might expand from one half percent to one and a half percent or even two percent, and that seems to be something that would be a bad thing in your eyes.

MODERATOR CHRISTOPHER ROGERS: Frank.

FRANCIS BLOUNT: I've got some of the same concerns. I do have a problem with the bag limit, not so much the one per person but the three per boat, regardless of the length of the trip. It seems like for the last few years the service has done everything it can to put the long range trips out of business. We have gone to, you know, three yellowfin, regardless of the length of the trip.

Now it's the swordfish. It's three per boat, regardless of the number of people and regardless of the length of the trip. So, you have a bag limit of one per person, which okay, if you're on a center console down off Miami someplace, maybe that's a good bag limit. I'm not going to comment on that. You're talking about these regulations for an uncontrolled expansion in a certain area. Well, these regulations aren't for a certain area. They're for the entire east coast.

So, you have a -- you're taking a fishery and curtailing a fishery that's been a traditional fishery up north. You know, three fish is not -- I mean, it's a good night. There was one trip last fall boats had more than that. I shouldn't say one trip. The boats were catching more than that.

Now we're taking a cut on a fishery that you said is expanding. I would hope that a fishery can expand on a rebuilding resource. We're not supposed to be having a declining fishery when a resource is being rebuilt. There's something -- and furthermore, we're transferring 25 tons of our quota to Canada. The recreational catch isn't even 25 tons.

So, we're worried about an expansion of a fishery. We can't catch it, so we're going to give it to Canada and tell the recreational you can't catch anymore. There's just something drastically wrong here. And you know, the daily limit is what has me the most upset.

The service has done everything it can to make sure that boats cannot do multiple-day trips, and that's where the

fishery in the northeast has been for the last 30 years. We don't have the access to fish right off our shore like we used to. We travel hundreds of miles now to go out on an overnight trip, two-day trip, three-day -- we don't even do three-day trips anymore because of the yellowfin bag limit that is in.

There's just something drastically wrong here, and if that can be addressed, I'd like to see that addressed. Thank you.

MODERATOR CHRISTOPHER ROGERS: Okay. Glen Hopkins.

GLEN HOPKINS (No microphone): I don't really want to get into -- anyway, there's a lot of issues that -- I'm not a real strong swordfisherman, but just the injustice of what's happened as far as everybody knows what's happening. But I just wanted to address the different categories type thing, similar to what these folks have brought up, but there is in place an incidental longline category, and he's talking about a bag limit of one or two -- three fish a trip or whatever, but that category currently is you're allowed two swordfish per trip, and most trips are two, three, four days for most of these incidental boats.

There's a small number of boats that there's already quota in place for it. The quota's never even nearly approached. And I just want to make a recommendation that it seems to me to be real simple, just to increase that from two fish to say ten fish, 12 fish per trip, just to use that quota that's already in place.

MODERATOR CHRISTOPHER ROGERS: Okay. Anybody else on this side? Bob McAuliffe.

ROBERT MCAULIFFE: We have a little situation down in the Caribbean, which you all are very familiar with, because I've been burning your ears about it for a long time. Now you've opened up a recreational fishery, they get a permit, they're allowed to go out there and take three fish, Coast Guard boards them, they're perfectly legal.

One of my artisanal fisherman goes out there. He's got a tuna permit, Atlantic tuna permit, and he puts a swordfish in the boat. Coast Guard boards him, he's in big trouble. Now, these recreational fish that are being caught down there, this is technology and boats that have come down from Florida that have developed it up there and now are being very successful in the Caribbean because it's almost a virgin territory again. I'd like you to find one of those recreational fishermen that takes one of those swordfish home and throws it in a skillet and eats it. They end up in the restaurants. But our commercial fishermen, they can't do that. And I've been begging you guys for years now please open up the hand gear permit for our fishermen again.

We're not catching the quota. The total catch of the Caribbean fishermen probably would not equal one good longliner. And I'm a longliner, too. But we need some help down there. All these recreational fishermen are complaining about bag limits. We're not allowed anything. We have no bag limit. And we're trying to make a living at it.

And to convince you, I've brought you pictures so you know it's true. Now, if the Coast Guard boarded that man's boat, he would have lost his tuna permit. It's not fair. Let's see what we can do to help the commercial fishermen. Recreational fishermen are already making enough money to support their families. These people are not. Let's see what we can do to help the people that have to feed their family from catching fish.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie.

MAUMUS CLAVERIE: Thank you. Two things. One, we started out hearing about the disaster at ICCAT and I just look at it a different way. We went -- ICCAT went with the science on swordfish, and we shouldn't be bitching about that. True, we were hoping the science would be more conservation-oriented, but it wasn't.

By contrast, I think it was southern albacore, ICCAT wanted a higher TAC than the scientists recommended, and ICCAT changed and went to the lower scientific recommended TAC. So, there's an indication that they were following science. The disaster relative to following science, of course, was eastern bluefin tuna. That's what we ought to really be upset about.

But if you're going to live by that sword, you've got to die by that sword. I don't know -- I agree with Rich that our scientists maybe should have been in it closer to the heat, but I don't know if that's a good idea to put scientists on the

political line. But they were active in -- behind the scenes, I know that, and it just didn't work. I mean, the feeding frenzy of the idea of more fish available overwhelmed the scientific community, but our commissioners did put the warning on the floor. So, we were living by that sword and dying by that sword.

Anyhow, I fully agree with what's been said about the recreational limitations are kind of inappropriate, maybe, but I remember that when the swordfish plan was first developed, it was by the five councils. And in the Gulf Council, we separated the recreational fishery -- swordfish fishery out of the package, because there were so few fish being caught recreationally that it didn't even matter. I think there were about six a year in the Gulf.

I don't know what the situation is in the Gulf now, but I would imagine it's still a very low number. And the limit may or may not impact anybody, but the concept of putting a limit on when there are fish available, just because NMFS can't keep up with it, seems to be not within the optimum yield requirements of the Magnuson-Stevens Act. So, I would encourage you to examine that carefully. Thank you.

MODERATOR CHRISTOPHER ROGERS: Joe McBride.

JOSEPH MCBRIDE: Thank you, Chris. I'm not going to speak specifically to the swordfish issue, but I'm going to speak to this divisiveness of some of the members on the panel. You know, name-calling from Group A to Group A is not going to help the problems of individual groups. And let me correct something. I see Frankie was very upset. Frank's family -- I hope I'm not intruding on your personal business, Frank -- runs a number of head boats, successfully, out of Rhode Island. In the northeast -- now I'll speak specifically about Long Island, which I'm familiar with, the head boat industry is taking a big beating.

These people, just so you all know, are commercial fishermen that have to abide by the recreational regulations. But their families are just as important to them as any other commercial fisherman's family. And I take great umbrage at the idea that people on a head boat or a charter boat are out there playing.

Now, I have no objection to avocations, I have no objection to whatever regulations they're under, but these people are just as important to their families as you are to your families. So, please when some of these regulations come out and some of these requests, as Frankie made, they're not made just to have more fish per se. They're made to maintain their industry just as you want to maintain your industry. And that goes for all of us. That's number one.

The head boat industry in the northeast is taking a severe beating, as to a lesser degree some segments of the charter boat industry. The charter boats are more versatile because they're smaller, they don't maintain the same expenses and so forth, economically. The regulations not only on offshore species, as Frank said, it used to be if you couldn't fish A, you could fish B. Well, the fluke regulations have the head boats out of business in the northeast. The scup and sea bass, all of the bottom fisheries, codfishing non-exist -- Frank's fleet, one of the premier codfishing fleets in the northeast, don't bother anymore in their geographic area because of the paucity of fish, for whatever reason, for whoever overfished them.

The one thing that's factual, Frank's boats didn't overfish them and my boat didn't overfish them. We don't have them anymore. Now, he goes off to the edge -- and that was a source in the wintertime, like -- (inaudible) -- for years, in late September and early October before all quota of the bluefin, schoolfish, that's our fishery. Without it, we get killed, we lose a month of fishing opportunities for our people, meaning our families and our crews and the people who are on our boats.

So, it's a very dire situation. And when Frank goes to the left, you cut him off to the left. He goes to the right, you cut him off to the right, with regulations of one kind or another, state or federal. So, it's not something that we're saying that gee, I can only take one fish home today or two fish home today. There's a good segment of the fishing recreational industry that make their living, their sport fishing industry, and they're to be considered that way when you're making decisions.

And that's what I think Frankie's saying. I think he's saying much too modestly -- and we're not talking about going out and buying a boat which you can go then take your family to dinner on. If that boat doesn't sail, that business goes defunct. And so does my business go defunct, and the people -- my colleagues, 100 charter boat captains in Montauk,

without appropriate fisheries to back us up. And I've never asked for equal fisheries. I've asked for equitable fisheries. Give us something to work on. But if somebody fishes -- overfishes their fishery, don't come and try to take our fish away so we can't make a living anymore and we have to sacrifice for the greed of some other group. So, thank you very much.

MODERATOR CHRISTOPHER ROGERS: Jack Devnew.

JACK DEVNEW: Thanks. A little heated here. I don't think that -- by the way, just a quick little comment relative to the last couple of speakers -- I don't think the artisanal fishery -- fishermen down in Puerto Rico and the Virgin Islands have contributed to the overfishing of this species.

I'm a little -- actually, I'm quite distressed here with the nature of where this conversation and whatnot has turned, and -- for several reasons. I'm having a real hard time reconciling the position of Tim's group down there and what he said relative to their past positions on things, you know. Right now we have several people around the table advocating a wholesale increase in effort and a closed area or an area that has been closed, you know, for the specific purpose of avoiding small swordfish. That was one of the major driving points was to avoid small swordfish.

We've heard some people talk about controls that are in the recreational fishery. You know, and the monitoring and the recordkeeping and the voluntary -- this is fantasy, absolute fantasy. And I'd point to -- you know, let's take a look at page 85 in the SAFE Report.

Okay. We have the number of -- we have a chart here, and it talks about bycatch issues associated with the rod and reel fishery. In 2001, we have 285 fish released in the recreational fishery, of white marlin. Of blue marlin we have 68. Sailfish, there were none. Fantasy. This is from, what, one month out of Rudy Inlet in Virginia? One port? You know? Is this from one charter boat working out of Fort Lauderdale? This is fantasy.

The number of fish that are taken to the boat. Most of them live, some of them die. There's mortality there. There's going to be mortality, if you go ahead and increase that fishery. And not only that, you just -- I mean, the ink's not dry on the closure. It's been two years. It hasn't even been monitored to see how much fish we're -- you know, we're putting in the bank for the resource here. And you want to go ahead and have an expansion in an area where you just knocked a bunch of people out of business. You ought to be ashamed of yourself. I mean, it's -- I can't believe what I'm hearing.

I guess I'll just -- I'll just leave it at that. But you know, to think for one minute there's going to be any level of monitoring over an increased recreational fishery in the Straits of Florida, which is where most of this effort's going to occur -- you know, the northeast, fine, because you're going to see much; the Gulf, fine, you're not going to see much -- the straits of Florida, you know, what? 100,000 boats you said the other day, Mike? You got 100,000 boats in two counties in Florida? Well, there'll be 100,000 of them shortly.

UNIDENTIFIED: (Inaudible.)

JACK DEVNEW: Well, I know there will and most people here know there will. That's where this is going. And it's appalling.

MODERATOR CHRISTOPHER ROGERS: Jack Dunnigan.

JOHN DUNNIGAN: Just a side comment. Over the years, we've all been concerned about the tone of the discussion around this table. These are I know difficult issues. I think the last couple of comments have been fine, but in my mind, they're bringing us to the edge. So, let's step back and -- you're here to advise us, and if it goes much further, I'm going to stop listening. So, keep that in mind as you comment. Thank you.

MODERATOR CHRISTOPHER ROGERS: Further to Jack's comment, we are running out of time with respect to swordfish. I know a couple of comments have been made on the ICCAT situation. You know, that's sort of water under the bridge from the perspective of where we need to go from here. We need to do a rulemaking. In its simplest form, it would just be implementing the new quotas that we got from ICCAT.

What we really hope to get some constructive feedback on would be additional measures that could be proposed at this time and put out for public comment. Adjustments to the bag limit, you know, that's certainly something that we can put into the mix. But belaboring what happened at ICCAT and the interaction between the sectors and who caused the problems is not a productive discussion at this point.

So, let's try to keep on the point of where do we go from here with swordfish, what measures can be proposed this year and put out for public comment. Nelson.

NELSON BEIDEMAN: A couple of things on the ICCAT issue. First off, what happened in the South Atlantic swordfish isn't very well known or focused on. But the United States went from 384 metric tons down to 100 metric tons. And basically, you know, the E.U. walked in, sat down, and basically declared the U.S. fishery as a theoretical fishery and that they weren't going to make sacrifices so that the United States could hang onto a theoretical fishery.

And there was no chance, no discussion, of the United States being able to hold quota that it had not harvested. It was just cut and dry, boom, we lost 284 metric tons of our quota in the south.

Any ICCAT meeting now, we're going to walk into the meeting on North Atlantic swordfish and it's going to be the same thing. I mean, it's inevitable. That's the way it is.

On the science, you're right in one respect, Mau, that they had a very strong case, but we also had a very strong scientific case that they chose to conveniently ignore. And the chairman of the SCRS being from the E.U. and he just kept repeating, repeating, repeating that -- you know, the table was justified to raise the quota on North Atlantic swordfish. And they never really formally took into consideration that -- you know, over 75 percent is in age one, two, three, four, which is a tremendously strong argument that should have been better considered at the SCRS level.

The biggest problem, you know, continues to be recreational sales. That is a huge problem, and it's getting worse. It's getting worse in that area. And you know, we congratulate the National Marine Fisheries Service for the steps that they have taken, and as far as the recreational fishery, it's tremendous.

I wish that we could bring back a harpoon fishery, but I don't know that that's in the cards for anytime in the near future, because a harpoon fishery was lively and -- you know, viable when there was 150 or greater percent of the MSY, and we certainly don't seem to be heading that way with ICCAT on North Atlantic sword.

I think what -- you know, Frank is saying has some merit as far as, you know, the long trips. And I didn't take anything he said, you know, disparaging against charter boats or anything of that nature, but long trips are a different matter, especially when they're outside of the nursery areas that have been closed for specific reasons.

As far as the 25 tons with Canada, basically Canada walked into that meeting and their industry perspective was they were going to walk out with their share of 14,000 metric tons. One way or the other, they were going to walk out with it. And if they had to do it by demanding that quota shares between the top four be revisited, then that's what they were going to do.

The 25 tons kept them to their minimal level that they would not raise that issue, but any ICCAT meeting, you know, we could be up against that.

And as far as the Caribbean, you know, as we stated, you know, before, there's some kind of a communication glitch down there, and if there's consideration of opening a hand gear category specifically, you know, to that area, that's something that we could perhaps support.

But let's not forget one thing. Since 1990, the U.S. pelagic longline fishery has fought for every international quota cut, has fought for the turning around of North Atlantic swordfish from the decline to rebuilding. We haven't done that to be displaced out of this fishery, and yes, we have some bycatch problems and we're trying to work on them, we're trying to work on them for small swordfish, we're trying to work on them for turtles, we're trying to work on them for billfish, we're trying to work on them for sharks. Very complex situation.

And the United States, you know, may decide that it doesn't want pelagic longline. But the world is not going to decide that. Pelagic longlining is going to be around for a good, long time, and it's something that we feel -- you know, needs some serious research work in cleaning up.

And you know, the U.S. fleet is at the spearhead of that type of attitude, that we hope will someday spread. But we're not in this to be completely displaced out, you know? We're hoping that we'll find the solutions that pelagic longline can fish and avoid -- you know, bycatch to acceptable levels and that we can export that technology across the globe so that there's mortality reductions in billfish and sharks, et cetera, because -- you know, it's large problems that if they're not figured out, we're going to sit at this table and it's going to get worse and worse and worse.

So, I just wanted to throw that out there. There's a lot else that I could say about these areas, these nursery areas, and the reasons that they're closed. But I might get Jack and Chris on the edge of their seat unnecessarily.

MODERATOR CHRISTOPHER ROGERS: I'm always on the edge of my seat. It's 9:05. We really have a lot to move on to. We'll have a few more comments, but again to the point of we have an ICCAT recommendation and unless the U.S. is prepared to object to it at this point we've got to implement it. What is the best we could do with the quota adjustments that need to be put in place and any other ways of managing the commercial and recreational fisheries.

We've heard about the possibilities of revisiting the limited access for hand gear, possibilities of revisiting the recreational catch limits. You know, those are all things that are worthy of consideration as we go forward with this rulemaking. So, let's not revisit what happened at ICCAT. We can plan on strategies for avoiding that in the future at the ICCAT Advisory Committee meeting. Rich and Jim.

RICHARD RUAIS: Well, I apologize in advance for not being to your point here, but a little -- but a little while ago I wanted to make a couple of quick points and I feel strongly about it, and I'll do it very quickly. But when Tim was making his comment about the increase in U.S. share, I couldn't tell whether he thought that was a good thing or not, and I just wanted this group to know that that's an incredible negotiating coup to be able to pull off an increase in your quota share when the world knows that domestically your fleet's been dismantled to the point that you're not even going to be able to catch it, and it actually achieves your domestic objective of trying to leave a few fish in the water. So, I mean, that should have been on the agenda of the -- or supported by the environmental community as it was by the U.S.

The other quick point that I wanted to make was back to Mau. And I know exactly where he's coming from. Throughout the history of fish management, you've always -- we wanted to have this sacrosanct division between science and politics, but today even domestically -- I mean, it's so blurred it's preposterous, with the musical chairs that go around and the input of the environmental groups on the scientific front.

And in the international arena, you would absolutely tie our hands -- I recall very distinctly -- and I think you were there in Marrakesh, if Jerry Scott hadn't have sat down with Zero Sukuzi over billfish issues and science, the door was closed and you could have been down the hallway and you heard what was going on in order to make some progress on where the U.S. wanted to go on billfish, and that was putting our best scientific foot forward at the time, in a little bit of a political arena to get the job done at the time.

So, I think we're beyond that point of saying, you know, oh, we don't want to -- in 1982 we crossed that line with the imposition of a line putting politics into the science, and you can't turn back now. It's too late.

MODERATOR CHRISTOPHER ROGERS: Jim Donofrio.

JAMES DONOFRIO: Thanks, Chris. When you were starting this, I didn't know you were going to talk about the hand gear thing. I thought you were only going to comment on the ICCAT.

You know, one of the things that upsets me about the agency and some of these proposals is that you have printed history of this recreational fishery dating back many, many years ago, very robust fishery, from the Straits of Florida right on up to Cape Cod, the Vineyard and Nantucket Sound, all in there. We'd like to recapture that history while we have an opportunity, and not lose quota. And I think it's incumbent upon you to get some hand gear permits. You've

got sport boats out there in the general category. Boatrims, Hatteras's, Vikings, Merits, whatever, getting general category permits, a long history of catching bluefin within a quota.

So, as far as I'm concerned, as long as we're fishing within the quota system, sale of fish is not a conservation issue to me, personally. I think it's a bunch of baloney when people say oh my god, they're recreational selling fish. If they're selling them illegally, yes, that's a problem. But if they have a legal permit and they're selling them, they're catching them with a rod and reel on a sport fishing boat, that doesn't bother me because we're fishing under a quota. We have a quota of swordfish to maintain. What's the difference? It's a dead fish. It's a utilization issue and for some people it's a moral issue. And they've got a problem. I don't.

And I'll tell you why I don't have a problem, because you want to talk about commerce, we have more commerce in the sport fishing industry than most people imagine. Think about the jobs that -- the money that is just into this whole boat-building, tackle, everything, service. So, we're commerce, too. We fuel boats up. We go to the fuel dock. We ice boats up. It's all commerce. So, the commercial industry and the recreational industry, we're all commerce. We're all commercial, as far as spending lots of dollars.

So, how we can utilize this resource best and maintain our quota, I suggest -- and I agree with Tim, because we have letters both from both organizations and the IGFA and others, get the hand gear permits out there. Get them out there. Help the artisanal fisheries, the traditional people. Let our boats -- the guys that want to sell fish -- Nelson's right, if they're sports and they're selling fish, they're wrong, they're violating the law. We don't condone that. But if they want to go sell their fish off their Merit boat or their Viking boat or whatever, give them a charter boat permit similar to what you do with bluefin and let them bring those swordfish in at night and sell them.

It's a quota. When the quota's done, it's done. But to give it away, which we might have to do -- and thank God, Nelson's been good over there at ICCAT. He's been protecting, you know, what we have. And I understand some of the horse trading that has to go on for us to use it for leverage, but my fear is that one day Nelson's going to have to tell you go ahead and give it away, to save our billfish maybe, because of the way they come after us, or give up some other part of our fishery, or go after Rich's bluefin.

But I mean, we don't need to have that quota at risk every year at ICCAT we go over there. Let's try to utilize it with our own people in our own country. I mean, that's the right thing to do. I think you need to open these things up here and consider giving hand gear permits out to people that want it.

If the charter boats want them, let them do it. If some sports want to be pure sports, let me get the HMS permit. They'll do their catch and release, they'll bring their legal ones home, their three bag limit. The other guys that want to subsidize their income, let them do it. Let them report their income. Let them report their fish. That's not a conservation issue when you're catching a quota. Thank you.

MODERATOR CHRISTOPHER ROGERS: Ellen Peel.

ELLEN PEEL: One conservation issue I'd like to keep before us all. It was mentioned earlier that most of the swordfish taken not only in areas of the United States, but certainly throughout the Atlantic, are only weighing 50 pounds.

Now, we know ICCAT has a minimum size and it's very small, but perhaps it's time -- we know a large percentage of the recovery in swordfish right now are made up of two year classes of very small fish. Now, we may be back at ICCAT in three years, four years, you know, with a real deficit again. I think the issue of minimum size limit increase needs to be put on the table and reconsidered, both at ICCAT and in the United States.

We do have a lot of small fish we do need to protect so that the fishery continues for years to come, and that we do have larger fish that can be caught. Second, I think the issues raised by Frank and Bob both are legitimate concerns that should be looked at again in terms of multi-day trips and with your artisanals in the Caribbean. Thank you.

MODERATOR CHRISTOPHER ROGERS: Tim Hobbs.

TIM HOBBS: Yeah, thanks, Chris. Just to respond to Rich's point, yeah, of course we were happy to see the U.S. preserve and actually increase its share of the swordfish quota. I mean, we don't want to see that given away, just as much as anybody else. And that's exactly why I'm proposing the things that I said here today. The positions of my organization have been consistent for 15, 20 years on this issue, and I'd be happy to provide volumes of documentation to back that up to anybody that would like to see it.

I think we need to keep it in perspective why, you know, we've taken actions such as the Florida Straits closure and other areas. They were closed because there was mortality on juvenile swordfish and other fish on longline gear that was unavoidable. So, now we've, you know, taken action and lo and behold I guess we'll see a presentation here, but those reductions seem extremely significant. And I think we're taking steps in the right direction.

For different gear types have different types of mortality problems. Rod and reel gear is somewhat more -- is much more selective and doesn't seem to have the dead discards that the longline gear has. And that's -- I mean, there's differences in the fishery.

So, I think, you know, we just need to keep it in perspective what it is we're doing here and why we've taken the actions that we've taken. But again, I think we need to look into ways to expanding our swordfish catch. You know, we've taken actions with the longline sector to reduce their bycatch, and that's fantastic. You know, now we need to look at the other gear types and figure out, okay, let's expand these gear types and what problems are they going to have. For rod and reel gear we're talking about, you know, minimum sizes, bag limits. Those things can effectively control mortality in those fisheries, whereas they can't in some other fisheries, where we've seen closures are more effective. So, let's keep in perspective here what it is we're trying to achieve and I guess I'll leave it at that.

MODERATOR CHRISTOPHER ROGERS: Russ Nelson. Or Willie Etheridge --

WILLIAM ETHERIDGE: Let Russ and then I'll come back.

RUSSELL NELSON: Okay, Willie, thank you. I think we're creating a mythology here that may tend to stick to our chops of enduring the fisheries management system. I don't think recreational people and unlicensed people should sell fish, and I don't think there should be illegal sells. Nelson said, you know, the recreational sales in South Florida are expanding. Chris, your group went through rulemaking in part based on the desire to stem recreational sales or illegal sales. Do you have any data whatsoever on the number of sales by non-federal permit holders?

And I think I mentioned this last year, but you all need to understand that the State of Florida for years has required federal permits when they've existed for exceeding the bag limit and sale. They do so for the king mackerel, Spanish mackerel. They do so for all the reef fish complex.

Unfortunately for swordfish, they didn't do so until January of this year. So, in the state of Florida, if one purchased a \$50 saltwater products license it was perfectly legal to get -- take a swordfish and bring it in and sell it, although one would have to intimate that he caught it in state waters. In South Florida, that's not an impossibility. I would think that those sales that occur probably were not taken in state waters. The swordfish trips I've taken are much more than three miles offshore.

But do we have any documentation, are there any numbers whatsoever -- are there any hard, cold facts to show us the extent of recreational sales that were in effect before the rulemaking that are going on now, and do we have a means of tracking them in the future so we can see if these rules were in fact effective?

MODERATOR CHRISTOPHER ROGERS: Not at this meeting, but we can consult with Florida through their reporting system and we can contact Paul Raymond and several of the enforcement agents have been tracking this in the Florida area to see the level of cases that have been made. Certainly we received anecdotal reports. Some have been followed up on in terms of enforcement actions by state and federal personnel. We have not amassed any database at this point. We know that they were occurring based on primarily anecdotal reports and investigations that were undertaken.

RUSSELL NELSON: So, in effect, you went through rulemaking to establish a bag limit to stem illegal recreational

sales without any data, facts or information on the extent of those sales, merely based on anecdotal reports.

MODERATOR CHRISTOPHER ROGERS: Well, I would presume that if people know that there are illegal sales, they're not about to report them in any systematic way to the agency. We don't know the magnitude of the sales. We do know that they were not intended -- or intended to be nor sanctioned by the federal regulations, and we were trying to deal with the situation. Willie.

WILLIAM ETHERIDGE: My advice to you is that the first consideration that you should make is try to do something about the dead discards. I mean, especially the ones that are not being counted. That's just -- nobody in this room can be in favor of throwing dead swordfish back overboard if we're nowhere near catching our quota. Thank you.

MODERATOR CHRISTOPHER ROGERS: Bob Zales.

ROBERT ZALES, II: Yeah, a couple things. First off, the State of Florida is kind of unique, and I've been in many conversations with my good friend Bob Jones at Southeastern Fisheries over this issue. And the people in my area, the recreational fishermen that I know of, are adamantly opposed to the illegal sale of fish, be it recreational fishermen, commercial fishermen, environmentalists, whoever. Anybody. An illegal sale is an illegal sale.

A big part of the problem is the illegal purchaser. It's kind of like when you're dealing with drugs. If you stop the source, then -- if you stop the source of purchase, you're going to stop the source of sale. If you've got no place to sell it, you can't sell it. And cases need to be made there.

But in Florida, Florida, like Russell described, is unique in the fact that SPL's are easily obtained, they're cheap, and in lack of other regulations they're -- it's loopholes that are taken advantage of.

In many cases, what has been perceived to be an illegal recreational sale has indeed not been an illegal sale at all. It's been a perfectly legal sale under the laws of the State of Florida. And granted, it may have been caught recreationally, but it was sold under a commercial saltwater products license.

So, that aside, I would recommend that in your proposed rulemaking, number one, that you put in there the elimination of the bag limit, proposed bag limit for swordfish for recreationally caught fish, primarily because of -- in your explanation earlier, I don't see the correlation between a bag limit and a sale of fish. If you make it illegal to sell them recreationally, that's how you solve the illegal sale of fish. So, I don't see as that's a player there.

Another part of this problem that I see here is not so much the differences between many people at this table, but it's the problems within the Fisheries Service itself. And it's kind of like you all don't use any interagency memos and talk to each other. It's a situation to where -- the other thing that I'm going to suggest that you do in this proposed rulemaking is figure out some way to straighten out this permit that we're supposed to buy here in another so many days to do this. Because it's like I've discussed with Russ Dunn and some others. Right now, no one knows -- in the State of Florida it's going to be a big problem. I don't know if any official from the State of Florida is at this table, but when I get back home and contact Chairman Roberts of the FWC, I'm going to tell him I can't tell him who's going to need a permit and who's not, and when they're going to need that permit and to do what, because it's unclear as to what's going on.

Whatever state regulation is proposed and enacted by any state has no bearing on what a federal permit requirement's going to be. The State of Florida can come up with vastly more restrictive permitting processes than you do, but your permit will have no relation to that unless they're tied together, and it's going to take the two of you to do it.

So, until you get that straightened out, you're not going to have any more you're not going to know who's going to do what, because nobody's going to know if they're going to have to call you or not. And when it comes to making a case, the enforcement people aren't going to be able to make a case because they're not going to know whether or not these people were supposed to call you or not or supposed to have a permit or not.

So, in this proposed rulemaking I think you need to make it clear as to what it is that you're all going to want in this permit and where this permit's going to be required absolutely certain and when as to how you're going to be able to

enact it.

MODERATOR CHRISTOPHER ROGERS: Mike Leech.

MICHAEL LEECH: We've heard here in the room that the illegal sale of swordfish is a huge problem and getting worse. I don't accuse the commercial guys of breaking the law unless I've got some kind of data or proof. And I would encourage the commercial industry or anybody else in this room, recreational, environmental, whatever, if they have any information on the actual illegal sale of swordfish, notify the authorities, instead of coming out with blanket statements.

We had heard I think last year we were being accused of slaughtering 200 swordfish a week. It was ridiculous. But that's what was being passed around. In order to sell illegally a swordfish you've got to sell it to some commercial outlet. So, if the commercial guys think the recreational guys are selling it, they've got their own industry that's participating in the illegal sale, because you've got to sell it to somebody. I don't think they're going door to door down the street selling a steak here and a steak there.

So, I would encourage -- if there is any information on illegal sales, turn it over to the authorities. If there isn't, I would suggest that until you've got some real data, just don't accuse us of all this illegal activity.

MODERATOR CHRISTOPHER ROGERS: Frank Blount.

FRANCIS BLOUNT: Just two real quick comments. One, I agree with the reporting of the catch, but I really don't think anybody who is illegally selling his fish is going to be reporting his catch. So, I don't see the correlation between those two.

The other thing is I wish we would maybe tell enforcement or maybe tell somebody -- recreational people are not selling their fish. When somebody gets stopped, they should be treated as an unlicensed commercial fishermen, because I'm sure the fine there is far greater than it is for a recreational person.

I mean, I've never heard of a recreational boat being seized. I've never heard of something like that. But if you treated them as an unlicensed commercial fisherman, I think then you'd see something -- it would stop it. I've never heard of, you know, we get -- on the council every quarter, we get the Blue Report from enforcement and they tell us all the different actions. I've never seen a recreational boat on there.

So, I think that's something that should be looked into, and I think if you went in front of a judge, the judge would say you're an unlicensed commercial fisherman, that's far different than a guy who's out there who might -- oh, I didn't know the law and I sold it, I'm sorry, your Honor. So, I think that's something that we should look at -- or the agency should look at.

MODERATOR CHRISTOPHER ROGERS: Wayne Lee. Anybody else before Wayne?

(No response audible.)

MODERATOR CHRISTOPHER ROGERS: Okay. Wayne Lee.

WAYNE LEE: Thank you, Chris. I want to go back to the issue that Glen Hopkins brought up and Willie just commented on on this incidental catch of swordfish. I just saw your note up there, and it appears that's going to be part of your rulemaking. At least I hope it is.

We've talked about this issue for the last three years. That's a category where the fish are not being harvested. It's an area where we're throwing dead discards over. I keep hearing from our commercial fishermen all the time that it's a total waste. So, we have a mandate under Magnuson to reduce our bycatch, and that fits in this category. Increase that in a category where we're not catching the fish now and it will protect the resource plus protect our fishermen.

So, I'm presuming that incidental is under that for adjustment for rulemaking. I'd like to see rulemaking this year, since

we've talked about it for three years in a row. Thank you.

MODERATOR CHRISTOPHER ROGERS: Bob McAuliffe.

ROBERT MCAULIFFE: Yes. First, let me apologize for my emotional outburst. If I offended anybody or hurt anybody's feelings, I didn't intend to. I would suggest that now that you have the HMS recreational permit, that you also make for the Caribbean region a commercial HMS permit, which would include your BAYS tunas, swordfish and shark, and simply do it that way. That seems to me like probably the simplest way of dealing with it.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie.

MAUMUS CLAVERIE: Thank you. Rich, I agree with you, but I'm not going to say more. I wanted to respond to what Bob Zales raised, because I want -- I wanted to do this yesterday when we ran out of time, but Bob has -- says it's confusing who should get this new HMS permit. And I agree with him. It is. But not -- I haven't seen the regulations. I assume that these packets we're getting accurately reflect the regulations. And as I understand it, it says if you just take the one that they dropped on us this morning, North Atlantic swordfish, and look on -- I guess it's the third sheet -- it says the owner of each vessel used to fish recreationally for Atlantic HMS must get this permit.

Well, now yesterday we heard encounters, we heard possession, and all that. I searched the Magnuson Act for the word encounters -- the Magnuson-Stevenson\* Act, excuse me, and it's not in there. So, I don't know what that means. I mean, legally, there's no definition.

But to fish is defined. And if you put a hook -- basically what it boils down to is if you put a hook -- if you look at the definition of fishing in the Magnuson Act, if you put a hook in the water that's reasonably expected to catch a certain species of fish, you're fishing for that species of fish. Now, that's the legal congressional Act of Congress law definition. And when somebody says something else, it adds confusion. So, nobody in the Fisheries Service should say something else.

We went through this at the beginning of the Magnuson Act with the definition of fishing. It took about five years before NMFS finally agreed that they would use the definition in the Magnuson Act. Maybe it was only three years. And it was relative to whether or not the foreign vessels were fishing if they refused to remove a fish from the water, as opposed to putting a hook in the water that's likely to catch a fish.

Now, if you use the definition of possession in the longline fishery, as I recall it's illegal for a longline boat -- a commercial fishing boat to possess a billfish in our waters. And if the definition that we heard yesterday that Bob Zales says the chief enforcement officer in the Southeast says, when you hook a fish you're possessing it, that means he can't -- you can't put a longline in the water, because it's going to hook a billfish and possess it by hooking it. That can't be.

But the word possession is used in the Magnuson Act in the thou shalt not do these things section, and it doesn't define it, but it indicates that you possess it after you've got it, not just when it's on the hook.

But if you look at what the regulation says, and if it says the same thing that this handout says, if you are fishing for, i.e. putting a hook in the water that's reasonably expected to catch a billfish, you need one of these permits.

Now, that doesn't have anything to do with whether you're going to possess it or land it or tag it and release it or what. If you put the hook in the water and it's reasonably expected to catch that, it's it.

Now, the idea of fishing for cod and catching a marlin or a swordfish or something, if that's so unusual that you're not reasonably expecting to catch a marlin when you go for a cod, I would say that it's not fishing. But if you have caught them often enough on that rig that you're reasonably expecting you're going to catch a billfish on this, then you are. It's a little gray, but that's what the language is.

If you change those words, you are changing -- you're confusing people. So, please don't do it. I wasn't confused when I came here, but I was confused when I started hearing some terms I never heard before. And you all, of all people,

need to be very careful about that.

And what you have published that went to us, that we've seen on the board, did use fishing for, then you need the license, the permit. But there are other confusions with this, and I thought about it last night, and all of these that you've shown us -- and this one you haven't shown us, you've just passed out, this one says new reporting process. Well, that doesn't -- it's not really clear whether that's just the new stuff or whether it's the complete new package. And what I suggest is you describe it as a complete new package.

And the difference is that you do not reference tournament fishing in here at all, on the recreational reporting requirements. And what you need to say is that when you report to a tournament that's reporting, and all tournaments have been selected to report, then that -- you've done your duty, unless the tournament director doesn't do it for you. And that's a problem. I think that's not the real world to expect that to happen.

But if you land a fish that's not in a tournament, then this is what you have to do. And these sheets are very misleading on that, so you're going to get a real confusion in the public about which fish need to be reported to the telephone and which fish don't. And that's the problem that very much concerns us in the Gulf about our string of catch and effort data, because it's been based mostly on tournaments for the last bunch of years -- ever since that was instituted.

And if you get people thinking they can phone in instead of deal with the tournament people, they're only going to phone in catches and you're going to lose the effort data. And so it's very critical that that distinction be made and everybody be educated on that. And these documents don't do that. What you've done so far don't do that. What you have on the Internet site so far doesn't do -- as of two days I looked at when I got here.

So, I suggest you really pay attention to that when you go public with this. If you've already gone public, you've got to do something else to straighten it up real quick. Maybe have seminars or something. But if Bob Zales is confused, I know from experience, ever since the name Bob Zales II hit the street, he was very intimately familiar with all the rules and regulations and permits you needed, and he's got more damn permits than NMFS has, I think, himself. And so if he's confused, I think you really better look at it. Thank you.

MODERATOR CHRISTOPHER ROGERS: Well, the handouts and overheads here were summarizing with the intent that we would be discussing it more fully at this table. The outreach materials we have, brochures and compliance guides, in the question and answer format, that hopefully will be much more clear than these summarized overheads that were distributed here.

ROBERT ZALES, II: Chris, if I may just real quick to Mau, my primary concern about the confusion is the state water issue. I've got nine miles I can fish on on the Gulf coast of Florida, and the vast majority, probably 99 percent -- I hadn't seen any figures, but I would estimate 99 percent of shark fishing happens in nine miles.

And so those guys are not going to know whether they're going to need a permit or not, because the state obviously doesn't require it. They may shortly, because I'm going to suggest to Edwin Roberts that the FWC take this issue up, but -- it will be a while before that's done, but that's what you need to clear up is to where the HMS regulatory actions exist, whether it is state waters, whether it's not, where this permit needs to go. Because that's going to depend on how many people go after these permits.

MODERATOR CHRISTOPHER ROGERS: It's 9:30. I'd suggest that we depart from the swordfish discussion. You have something quick to follow up on swordfish so we can get on with the bycatch presentation and still get to bluefin tuna before lunch?

JAMES DONOFRIO: Chris, can you just explain to us what the rationale was for the bag limit when we're under a quota management system. That's the thing that -- you know, to me it's another arbitrary number like the three fish bag limit on yellowfin. You know. We're in a quota management here. Just explain the rationale. I know there's going to be -- not too many people are going to catch more than three swordfish a night, but what's the rationale to put a number when we're in a quota system?

MODERATOR CHRISTOPHER ROGERS: Well, as I said before, and as the documents -- the supporting documents

for the rulemaking itself tried to explain, it was a balance of several concerns. It wasn't any particular concern. There were references and concerns expressed throughout the public comment process about illegal sales. There was concern about having closed the area to pelagic longline gear for the purposes of protecting juvenile swordfish and concern about potential bycatch mortality, dead discards, just with another gear type in the same area in a known nursery area that had just been closed for protecting that purpose. There was concern about moderation within the recreational sector, that we didn't have an effective monitoring system in place, and until we did we needed to be concerned about how things were expanding, whether they were going to expand to the point where discard mortality was going to be a major concern.

So, it was several aspects of the situation that were considered in concert, that no one issue was pointed to -- well, this three per person or one per person as was originally proposed, or one per vessel was an answer to the problem.

What we tried to do was evaluate what was currently happening to the best we could, although primarily it was anecdotal data, and figure out what would be an appropriate limit for a recreational use of that resource in a known nursery area, for which we just had implemented a closure.

Recognizing that there was a hand gear permit and the agency had not prohibited the use of hand gear in a commercial way, in that same nursery area on the premise that hand gear would not have the same dead discard problems as pelagic longline gear had been demonstrated to have.

There was an intent that a commercial hand gear fishery could continue, a recreational fishery certainly should continue to reemerge -- we do recognize that it was quite a vibrant fishery back in the '70s, so it wasn't that we were considering a new fishery that needed to be controlled, but we wanted it to reemerge, redevelop in a fashion that was precautionary until we had better mechanisms in place to assess what was going on, what the magnitude of the catch was, what the level of participation was.

We did consider the comments that one per vessel per day was not sufficient. Therefore, we determined that a three per vessel, one per person up to three per vessel, would be more appropriate in reflecting what current catch rates seemed to be, and trying to accommodate to some extent the head boat sector down in that region in Florida, where primarily the activity was occurring.

We do take Frank's point that some of the Canyon trips that encounter swordfish are obviously multiple-day trips and that's certainly something we can consider. In this rulemaking, we can also consider adjustments to that bag limit, maybe setting it up like we do for bluefin, with the possibility of in-season adjustments. So that as we improve monitoring and we can see what's going on, we can moderate it accordingly.

Certainly we are sensitive to the concerns about hand gear being limited access. A lot of concerns have been expressed on the vessel upgrading restrictions limiting the transfers of those permits, and that may have prevented what we saw to be a potentially viable alternative to pelagic longlining in the Florida straits area, from actually developing, because people can't get ahold of the permits, to restrictions in that program. So, all those things are on the table and we will be fleshing them out more fully in this upcoming rulemaking.

But we looked at the average size of fish that was being reported and determined that a three per vessel -- one per person up to three per vessel was an appropriate limit for a recreational fishery, subject to reevaluation as we improve the information base on that fishery.

JAMES DONOFRIO: Chris, thanks. Now, I understand where you're coming from on the nursery area. It doesn't mean I agree, because it's a different care type and I believe -- you know, we can take care of a fish very quickly and let him go without having him soak on there for a long time. It's a different kind of fishery in my eyes.

At any rate, I think you need to consider, especially for the party/charter boat fleet, that this bag limit may be unreasonable at times. And as Frank said, there's not going to be many nights when they're going to catch more than three swordfish, but if that opportunity comes, just as the fellow from North Carolina said that on the incidental, why not increase this opportunity? It's a quota fishery.

I mean, that's the point that makes me crazy here. It's a quota fishery. When the quota gets caught, it gets caught. And we need to catch it, because I don't know how many more years -- as I said earlier, that Nelson's going to be able to hold off the dogs here before we give it away to somebody else. So, let's try to utilize this thing as best we can for all the user groups here.

MODERATOR CHRISTOPHER ROGERS: Last comment, Jack. Very brief, please.

JACK DEVNEW: Very brief. It just had to do with the minimum size. There's been some comments about minimum size. If the agency considers minimum size, you know, any increase in that, I would advise you to make it relayed only to the recreational catch. The commercial fisheries has addressed the juvenile size by the closure of the longline closure. The whole purpose of it. We even had discussions at ICCAT because of the culture of many of the -- you know, harvesting nations, they don't want to be throwing anything back dead, you know, or alive, quite frankly. Okay?

But the whole purpose of going down that road was an alternate way to address juvenile undersized catch or nursery, so you do a time area closure for that specific purpose and there's been discussion already about having that be an alternate method.

We've done that here. So, I don't think there should be any change in the minimum size with respect to the longline fleet. And quite frankly -- you know, potentially you might even want to consider doing away with any minimum size at all in that fleet.

MODERATOR CHRISTOPHER ROGERS: Thank you, Jack. We're going to have to move on. I know you're interested in this next topic, Tim, so we're going to do the bycatch issues.

Okay. While we're getting materials handed out and getting the presentation set up, Jack has a few words.

JOHN DUNNIGAN: Just process issue. While we're getting organized, I don't know if the word's made it around the table, but that large boom was apparently a transformer that blew in the building across the street. So, keep that level of anxiety -- we're okay.

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### TIME AND AREA CLOSURES

MODERATOR CHRISTOPHER ROGERS: do at this point. We've had a lot of questions raised at past AP meetings about our bycatch reduction program and evaluating its effectiveness. The data do come in over time, and we felt we had amassed enough data from both the logbook and observer programs to at least make a preliminary evaluation of the bycatch reduction program, not only the time and area closures, but also we wanted to report on the experimental fishery, looking at gear modifications or fishing protocols as an alternative to time/area closures in terms of bycatch reduction. And also wanted to briefly summarize the comments that we had received on the incidental catch of bluefin by longliners, the proposed rule we had out recently for comment, and discuss that in the bycatch reduction framework.

So, Joe Desfosse will give us a presentation on the evaluation -- at least an initial evaluation of the effectiveness of the time/area closures.

JOSEPH DESFOSSE: Thanks, Chris. You stole the title of the presentation. This is a summary of the initial review of the effectiveness of the time/area closures. I'll point out that it was a team effort. Tyson, Kim Marshall and myself did the analyses and Karyl provided the oversight.

There were two handouts. One was the presentation. There's also an updated table that goes to Table -- a revised Table 8.4 for the SAFE Report. There were some mistakes that we found in the total BAYS estimates in the SAFE Report, and that table that was handed out today updates the numbers.

The objectives of the closures were to maximize the reduction in the finfish bycatch, minimize the reduction in the target species catch, consider impacts on the incidental catch of other species, and to optimize the survival of bycatch

and incidental catch species.

I think everyone in the room is probably more familiar with the actual closures than I am, being the new person on board here. But just to review, there's two closures in the DeSoto Canyon. They were effective November 1st, 2000. Two closures in the South Atlantic: Charleston Bump, which was effective March 1st, 2001, closed February through the end of April; the East Florida Coast closure, which was effective March 1st, 2001. And two other closures: the Mid-Atlantic Bight June closure and the Northeast Distant Water closure.

The methods that we used to analyze the logbook data. It was based on self-reported data. No comparisons had been made to the observer data sets yet. Numbers of hooks set and the catch data by species was summarized annually by month. We chose 1999 to 2000 as the reference period for the first cut, and compared that to the 2001 data. The calculated percent change in 2001 was compared against the average for 1999 and 2000. Most of the closures went into effect late 2000, early 2001, so 1999 and 2000 was used as the reference period.

The SAFE Report is filled with lots of tables. To make it a little easier on everyone here today, we decided to show you a lot of graphs and charts. Hopefully this makes it easier to interpret the results.

Preliminary results show that the effort measured in numbers of hooks set was reduced by almost five percent. Bycatch reported in the logbooks has also decreased. Some target species kept also decreased. And as most scientists will say, beginning of any study, you need more analyses before you can come to any conclusions.

Here's a graph showing the total numbers of hooks set from 1995 through 2001. As I said before, the number of hooks set declined by about five percent from the 1999/2000 average to 2001.

GAIL JOHNSON (No microphone): (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Use the mike so we can hear the question, Gail, please.

GAIL JOHNSON: I noticed in the SAFE Report you've got the same thing there. It says total Atlantic. I think what you mean is domestic.

JOSEPH DESFOSSE: That's correct, the U.S.

MODERATOR CHRISTOPHER ROGERS: Let's try to get through the presentation first and then we'll take --

NELSON BEIDEMAN (No microphone): (Inaudible.) So, the only closure that this would include would be the DeSoto Canyon; that doesn't have the other closure?

JOSEPH DESFOSSE: No, this is the whole Atlantic reported data set for the -- it includes the Gulf of Mexico and the Atlantic.

MODERATOR CHRISTOPHER ROGERS: U.S.

JOSEPH DESFOSSE: The U.S.

NELSON BEIDEMAN: But is that information on -- you know, through 2001 when the closures in the east coast took effect? Because hooks went down --

JOSEPH DESFOSSE: Yes. Now, looking at some of the actual species, the numbers caught. Here's swordfish. You see a decline in the numbers of swordfish kept and discarded, averaging about 26 percent in both the kept and the discards from the 1999/2000 average.

The tunas, and riding on the Metro last night on the way home I realized that I left out bluefin tuna under -- on these graphs, so I apologize for that. We just have the total Atlantic -- the BAYS tunas here and then the yellowfin and bigeye tuna.

The total BAYS is the upper line, the blue line, which declined almost 23 percent. The yellowfin tuna's the next line, which is red. They declined 33 percent under the kept. And the bigeye tuna remained relatively the same.

The discards, you'll see the numbers of BAYS tunas discarded increased two and a half percent, although the yellowfin declined 23 percent and the bigeyes declined 11 percent.

Sharks, pelagic sharks showed a decline of 16 and a half percent from the 1999/2000 average. The numbers kept increased 16.1 percent. Large coastal sharks, numbers kept declined nine percent and the discards declined 22 percent.

Marlins, blue marlin is the blue line behind me, and white marlin is the other line that's pink here. Both of them declined around 50 percent from the 1999/2000 average.

Sailfish declined 71 percent and spearfish increased almost 20 percent. I'll just point out that that increase was to -- I think the number caught in 2001 was 130. So, relatively small numbers there. And turtles, although it looks like they increased in 2001, again comparing the average 1999/2000 level with 2001, and that declined six percent.

So, how good were the predictions in the time/area rule? The analyses that were done for -- using the data up through 1998, we compared the August 2000 time rule analyses to the percent reductions observed in 2001. The percent reductions were calculated with and without effort redistribution from the closed areas. The following charts do not include predictions from the Highly Migratory Species FMP based on the Mid-Atlantic Bight closure.

All of these graphs or charts now will follow the same format. The first bar that you see is the prediction without the effort redistribution. Using swordfish as the example here, it was predicted that the numbers of discarded swordfish would decline by 40 percent, a little over 40 percent without an effort redistribution, and they would decline by a little over 30 percent with effort redistribution. The actual situation in 2001, the discards declined by about 25 percent, so a little bit less than was predicted using both of those models.

Bluefin tuna actually declined a lot more than was predicted. Declined almost 50 percent. The discards -- it was predicted to decline between -- oh, about three percent or increase a little over ten percent with the effort redistribution.

Sharks declined almost 20 percent or about 15 or 16 percent of pelagic sharks declined that much. The predicted values were between a decline of .2 -- or two percent or increasing almost ten percent. So, the shark -- the pelagic shark discards decreased greater than was predicted.

Large coastal sharks decreased about a little over 20 percent. The predictions there were for decline of about 42 percent or between 42 and 32 percent.

Blue marlin and white marlin actually declined a lot more than was predicted by either of the two models. Both of them declined by almost 50 percent.

Sailfish and turtles: you see sailfish declined over 70 percent, which was a lot greater than was predicted; and turtles declined by six percent, which was close to what the predictions gave.

The changes in the kept fish: Swordfish declined a little over 25 percent and -- which was almost on par with the predictions without the effort redistribution. BAYS tunas declined a lot more than was predicted. Dolphin, mahi mahi, declined less than was predicted by the two models.

Pelagic sharks, the catch actually increased compared to the predictions. The large coastals declined about ten percent, which was less than was predicted by the two models.

So, the additional analyses that are planned, we'll look at the 2002 data. It's preliminary right now. We'll compare the 1999/2001 data with data prior to 1999. We'll also compare the location of the effort or shift in effort before and after the closures. We'll also look at comparing it to the observer data and examine economic impacts.

So, I really breezed through that in trying to conserve some time, so --

MODERATOR CHRISTOPHER ROGERS: Okay. Thanks. We can take questions on this. Just a note that when we were doing the predicted reductions in terms of dead discards or bycatch reductions, that was based on a five-year average of history up to that point. And so the initial graphs that Joe had shown you were based on a two-year average.

So, there was a little bit of a discrepancy there between the actual performance, so to speak, of 2001 versus the prior two years, and then the results based on the modeling approaches that had previously been used. But it just points out the need to evaluate this over time, recognizing that things do change. It's a highly dynamic fishery, as you all know, Highly Migratory Species, and any single baseline or any single point reference year is going to potentially give a different picture.

So, over time we'll probably be averaging the post-implementation years against the full five-year period, and we'll see how we do on average. So, things may change from year to year, but that's to be expected. So, any comments on the bycatch reduction program and the evaluation of -- at least preliminary evaluation of its effectiveness? Let's go around this way. Rom Whitaker.

ROM WHITAKER: Well, just looking at real quick -- of course I went there real quick, but it looks like that the billfish numbers are certainly encouraging at 50 percent reduction, or close to it, and the only other thing I saw there that kind of reflects my views -- and I wasn't sure -- he went through it real quick, but on the turtles it looked like that there was a pretty good decrease in hooks and still there's an increase in turtles or a slight one, and it just kind of -- I mean, at what point do we decide that these turtles are in good shape again? Thank you.

MODERATOR CHRISTOPHER ROGERS: John Graves.

JOHN GRAVES: Thanks, Chris. Joe, just looking at this, I mean, if one of the intents of this was to reduce our discards of swordfish and we were closing putative nursery areas, I would have expected to see a greater reduction in discards of swordfish in numbers than to those that were kept. And I see an equivalent decrease in both adults and discards, and which indicates that there was an effort reduction but not necessarily a preferential reduction in juvenile fish that were encountered.

MODERATOR CHRISTOPHER ROGERS: Rick Weber.

RICK WEBER: I'm just assuming, Joe, that you're going to go back and try to eliminate out other causes -- that 100 percent of what we're looking at here is not going to be allocated to effectiveness or ineffectiveness of the closures, because I don't think it's in anyone's interest to just look at those numbers and say it was or was not as a result of the closures.

MODERATOR CHRISTOPHER ROGERS: And to the point raised by both Rom with respect to turtles, and John with respect to swordfish, obviously the abundance of those organisms is going to be superimposed on the situation. So, it's a lot of factors, effort, abundance, and the actual redistribution of the effort that needs to be taken into account.

JOSEPH DESFOSSE: And just going back to the turtle question, it actually decreased six percent -- the turtle interactions decreased six percent over the average 1999/2000. It's a slight uptake from 2000, but comparing -- we used the average.

MODERATOR CHRISTOPHER ROGERS: Anybody else down this side? Irby.

IRBY BASCO: Thank you, Chris. One quick question here. How effective is the enforcement of these closed areas? Have you all factored that in on your findings here?

JOSEPH DESFOSSE: I really don't know how to answer that question. I haven't spoken with any enforcement people on this. All's we did was look at the numbers reported in the logbooks.

IRBY BASCO: So, -- well, we're just wondering in essence, there's really -- the enforcement is -- I'm not going to say

nonexistent, but because of homeland security we have a smaller amount of enforcement than we had before, which wasn't adequate before. Is that your feelings?

MODERATOR CHRISTOPHER ROGERS: There we go. Lost power by pulling on the cord here. For those who are following the situation closely, due to litigation we did not implement the vessel monitoring systems for the pelagic longline fleet. That has finally been resolved in court and we do plan on implementing that hopefully by May of this year. The Office of Law Enforcement is about to publish a type approval notice, where they would notify the industry of those units that can be purchased and installed that will fit the specifications required by the agency under this program.

That will give us a much clearer picture. We presume that the fleet for the most part was respecting the closed areas, even -- despite the fact that we didn't have vessel monitoring systems in place. But the proof will be, so to speak, when we get the units on board, and the program up and running. Mid-May. Willie Etheridge.

WILLIAM ETHERIDGE: Yeah, I'd just like to make a suggestion that you add the effect on the commercial fishermen that were put out of business for this. I mean, there's been a lot of consideration about the fish, the turtles all that. Zero consideration about those people.

MODERATOR CHRISTOPHER ROGERS: To that point, Willie, it was required, as it is in all our rulemaking, to look at the socioeconomic impacts. We had done a Regulatory Impact Review and a Regulatory Flexibility Analysis for the rule. In the same vein as sort of a retrospective analysis how close were the predictions to what actually occurred, we do have currently a contract with Jim Kirkley at VIMS to take a look at several communities, looking at the vessels that had used those communities as home ports prior to the closures and subsequent to the closures and where those vessels may have relocated, what the impacts on the shoreside infrastructure were. So, we do intend to evaluate the economic impact of the closed area program, as well.

WILLIAM ETHERIDGE: When will that be? When is that supposed to be done?

MODERATOR CHRISTOPHER ROGERS: Well, Jim's currently working on the project. We met with him last year and sort of narrowed -- we didn't have enough money to run the whole coast, so we wanted to target specific communities. We went back and forth, looking at the available data that he could assemble quickly from several communities, and picked one in Florida. We sort of looked at the Savannah/Charleston region as more of a regional as opposed to one single community, and I think New Bedford, but -- and also one port in the Mid-Atlantic.

So, we'll continue to work with him as he gets the data in and look at the ways he was proposing to analyze the impacts and what we can or cannot do, given the limitations of resources. But at least it will give us a preliminary glimpse into what occurred shoreside and how the vessels reacted to the closures.

WILLIAM ETHERIDGE: We had enough money for the animal side of it, but not enough money for the human side of it?

MODERATOR CHRISTOPHER ROGERS: Shana.

SHANA BEEMER: Under the additional analyses you have comparing it to observer data, what was the level of observer coverage throughout this period?

JOSEPH DESFOSSE: I don't know. I haven't looked at the observer data yet.

MODERATOR CHRISTOPHER ROGERS: It was higher than in past years. I know there had been a five percent target under the -- for the swordfish purposes under the ICCAT recommendation. I believe we had dipped below that for several years, but due to increased resources, there was some new funding from Congress for the Atlantic coast observer programs. Certainly we're above five percent in the last two years, but I don't know that we achieved ten percent.

JOSEPH DESFOSSE: It was about eight percent of the hooks.

MODERATOR CHRISTOPHER ROGERS: Tim Hobbs.

TIM HOBBS: Yeah, thanks, Chris. And thanks, Joe, for that presentation. I think these graphs made it a little bit easier to take a look at the effectiveness of the closures. These results really are extremely encouraging. You know, it shows what kind of reductions we can achieve from these measures. And I think that -- you know, this is extremely promising.

To John Graves's point earlier about the number of juvenile discards not going down as much as he had anticipated, I think -- just to follow on what you said, Chris, I mean, again, it seems like there's so many juvenile fish out there that that might have affected the number of discards throughout the fleet. I think the number of discards may have gone up dramatically without these closures, but I think that even shows that it was important that they were in place during this time when there's so many juvenile fish out there. They could have really contributed to increasing the number of recruits into the fishery.

Have you guys identified any other possible reasons for these reductions, aside from the closures, and the changes in fishing effort? I mean, are there any other factors that may have contributed at this time that NMFS has identified?

JOSEPH DESFOSSE: After consulting with Karyl, we're still looking at it. But yeah, this was the first cut, so --

TIM HOBBS: Sure, yeah, okay. We were just curious. And again we look forward to some more analyses. But again, these initial results are extremely encouraging. Thanks.

MODERATOR CHRISTOPHER ROGERS: Ellen Peel.

ELLEN PEEL: Two points. I think on the swordfish -- juvenile swordfish, which John Graves pointed out needs to be looked into. Second, on the billfish report. That certainly is a positive anytime we reduce bycatch. However, I think we all need to not lose sight of the fact that our biggest bycatch reduction challenge is going to have to come -- you know, through ICCAT to get the other countries to even head in the right direction of what we're doing here in the United States.

MODERATOR CHRISTOPHER ROGERS: Phil Goodyear.

PHIL GOODYEAR: Yeah, I'm very encouraged by the numbers, particularly for billfish. But after looking at them, I'm a bit concerned, because my knowledge of the distribution of the abundance of the fish and the change in the amount of effort don't really support -- I can't really believe that these are actually correct numbers.

My suggestion is that, for billfish anyway, there's a fairly significant discrepancy between the numbers reported on the logbook records and those that are seen in observer coverage. And those corrections tend to make fairly significant changes to the estimates of the catch each year. And I think you'll find that that's going to be an important consideration, particularly for billfish.

MODERATOR CHRISTOPHER ROGERS: Anybody else on this side? Nelson.

NELSON BEIDEMAN: Thank you. A couple of things. The fishery was still in a very dynamic state at the end of -- all through 2001. Many vessels that were now displaced from their traditional grounds struggled, trying to keep going during that period. Ultimately, most of those vessels went out of business. It was not nice. It was not -- you know, something that fisheries management should ever be proud of.

And we never got the migration that some had predicted that -- you know, vessels from the south would come up and fish the Mid-Atlantic. In fact, the migration was less than what it traditionally had been, because those vessels were now just simply out of business. And if they couldn't make a go in their home area for the majority of the year, they weren't going to stay in the fishery for a short summer season.

I echo what, you know, John said. I would think that the small swordfish reductions should be greater. I'd also echo what Phil had to say about all logbooks versus observer coverage. Let's face it. Logbooks in this fishery used to be --

you know, as accurate as observer coverage. But politics in recent years have intensified, intensified. Our own organization, we always tend to be observer coverage over logbook coverage, except for the effort items, which are still fairly accurate.

These areas, you know, we contend are very overextensive, and they need -- you know, further looking at as far as the offshore borders, because the bycatch situation was primarily in the western edge of the stream and the offshore edge of the stream in the area of the Straits of Florida where there's shallow water on the offshore side.

Once you get to where there's deeper water on the offshore side of these boundaries, it's a much different picture and when these closures were made, the only thing we could go by is one by one degree squares. And finer scale would probably show that the outer boundaries are a bit overextensive.

And I think that the next time that you look at this you're going to get a much clearer picture of what actually is taking place because -- you know, that transition has pretty much settled down. If there is any migration, the migration primarily has been to the Gulf of Mexico, not to the northern fisheries.

MODERATOR CHRISTOPHER ROGERS: Dave Cupka and then --

DAVID CUPKA: Thank you, Chris. I wanted to ask Joe. These results that you presented this morning are composite results for all the closed areas; right? Is there any plan to look at the individual areas if time permits?

JOSEPH DESFOSSE: Actually, in the SAFE Report there is a summary in that huge table with all the numbers, area by area of what the changes were. I didn't present that here, because it would just take too long, but this is for the U.S. Atlantic.

MODERATOR CHRISTOPHER ROGERS: Jack Devnew.

JACK DEVNEW: I think that -- you know, this is -- you know, right on the face of it, it speaks volumes, you know, of the resource savings that have been achieved, albeit at great cost in the commercial sector, but I think it's something that everyone around the table pretty much, you know, sees for what it is. There's a great decrease there.

I do look forward to future reports to see how the trend -- you know, continues and whatnot. And I do want to bring to the -- just, you know, attention that these closures, none of this was driven by ICCAT in the respect that the U.S. had been in compliance on juvenile swordfish. These measures were taken to address juvenile swordfish, and I think they have, and they're also to address billfish, and they have. And I think that, you know, can be seen as worthwhile.

But at the time of these closures and ever since, the United States has been in compliance with respect to its catch of juvenile swordfish. You know, so as we go forward and see where this data takes us, you know, it should be -- you know, looked at as a flexible plan. Thank you.

MODERATOR CHRISTOPHER ROGERS: Russ and then Mark, then Glenn.

RUSSELL NELSON: The issue of the potential shift in effort was a very big deal when these rules were proposed. Have you been able to take a look at the data on how many of those permits were located -- say in the Florida Straits, those vessels that were located in that area have -- permits have been exchanged, vessels sold, and movements in vessels, get any idea of what the effort redistribution might have been?

JOSEPH DESFOSSE: We haven't looked at that yet, but that will be part of what we do in the future.

MODERATOR CHRISTOPHER ROGERS: I would just note that we have noted a large unexpected number of permits, which are limited access permits now not being renewed, which goes to Nelson's point that rather than redistribution, there's just been a leaving the fishery.

RUSSELL NELSON: Chris or maybe Nelson have any idea -- I have seen on occasion down in the Lauderdale area, boats and vessels with permits offered. Do you have any idea what the value of those permits are now or are they such

that one would just not renew it, give up any future --

NELSON BEIDEMAN: Depending on vessel size, they're quite low. I've heard from 5,000 to 25,000 with the first number being much more predominant.

KARYL BREWSTER-GEISZ: We only have a limited amount of data available on the cost of the permits. And what we have from just a random look through all the transfers and sales was that the permit prices went up to a maximum of 7500. So, much less than what Nelson said.

RUSSELL NELSON: Well, he said 5,000 -- and I think I've seen 5,000. It would strike me as curious that even if the permit was only worth \$5,000 that one would forego renewing it for 25 or 40 or 50 or whatever it is.

WILLIAM ETHERIDGE: If you can't make any money with the -- if you pay \$5,000 for the permit, the bottom line is at the end of the year you haven't made any money, you're not going to go buy it. I mean, there's plenty of them out there available. There was 68 boats put out of business in Florida, and I can guarantee you a lot of those people kept those permits for the first year, thinking that they might get 10 or \$15,000 for them, but they're just -- nobody's going to buy it. There's not been but one new longline vessel built in the United States in 15 years. I mean, that's just -- you know, it just blows my mind that we sit around here and all everybody talks about is the fish, the fish. We have an industry that's just really dying, and nobody don't seem to care a thing in the world about it.

I mean, all we've got to fight about a guy with a Merit wants to sell his fish? Hey, if he wants to sell it, great, because at least somebody else will get a chance to use it. I don't have any problem with that, but it's just -- you know, I always go back to the word fishery, and that includes the human side of it. We sit here and do this report, we put 68 boats, probably 250 people -- I mean, Vince Pyle, you personally know him yourself, Russ -- most of the people in this room do -- he's painting bottom of boats now. Nobody don't seem to care.

MODERATOR CHRISTOPHER ROGERS: Mark Farber and then Glenn Delaney.

MARK FARBER: I'd like to reiterate what Phil Goodyear was saying. I know that this is just an initial review, but after spending many years personally analyzing the billfish bycatch from longline data by bait type, by species, whether it's swordfish or tuna directed, by area, I know that it's really imperative to look at the analysis after it's been adjusted based on the observer data. You really need to look at that right away and see if it says that the data say the same thing.

MODERATOR CHRISTOPHER ROGERS: Thank you. Glenn Delaney, can you come up to a mike? Thank you.

GLENN DELANEY: I just wanted to ask a question, if you plan to relate the catch -- directed species catch and the discards -- you just have it in absolute numbers, and why you haven't related it to a per unit effort analysis, which would seem to be -- you know, it's nice to know the absolute numbers, but it would also be interesting and informative to see if the rates of catch have changed on any of these species.

And then I have one other speech to give, which is -- you know, on Willie's point, I'd like to see the agency maybe do a little more than -- you know, at least in respect to all the people that -- you know, their kids might not go to college or their businesses are gone and their dreams and goals in life have been dashed by the need to conserve a fishery resource. And you know, at least in respect to those people, I think something more than just, you know, a boilerplate socioeconomic analysis -- you know, which gets stuck at the end of a document and nobody pays any attention to and you've satisfied your legal responsibilities under the act, to do something more of a cost-benefit analysis.

I mean, what have we accomplished here? Sure, it's really easy not to go -- it's really easy not to kill fish if you don't go fishing. You can draw a circle around the ocean and we could solve all our conservation problems. But I don't think that's what the Magnuson Act mandate was.

I reiterate what Jack said here, make no mistake. There was no ICCAT conservation and management imperative to go forward with these closures. This was a unilateral extension of authority way beyond any conservation obligation we had internationally.

So, back to the first question, if you could answer that and please do something more than just a couple of pages written, you know, in the back of a document, and do something more about analyzing the cost and benefits of this type of management approach. Thanks.

JOSEPH DESFOSSE: Okay. In terms of the catch per unit effort analyses, this was the first cut. We looked at the numbers -- the absolute numbers. I think what we would do is work with the people down in the Southeast Center, the people who do the assessments, to go over the catch per unit effort data and leave that as part of the stock assessment process.

MODERATOR CHRISTOPHER ROGERS: Okay. And to your second point, Glenn, yes, it is our intent to try to assess what the actual costs were, although it may be limited to several communities. What we tried to do is target communities who might be differentially affected. I had long discussions with Jim Kirkley that, you know, some city in Florida or community in Florida might be differentially affected because it's a year-round closure, versus somebody who was associated with the South Atlantic Bight or the Charleston Bump area, where it's a seasonal closure -- might adapt differently.

So, we wanted to at least have some variety in terms of the responses, the reactions and the costs. But that's a good segue into our next topic, which is that time and area closures we do recognize they are a costly way of dealing with the problem. And to the extent that the agency and industry can cooperate in gear research to see if fishing gear or fishing method protocol can be a more cost effective approach to bycatch reduction, that so much the better.

So, what we wanted to do here is review the experimental fishery that has been authorized for the last two summer and fall seasons in the Grand Banks area, and look at what was accomplished, and trying to avoid turtles was the objective. Basically, the objective was a fishing protocol that could avoid the interaction, capture, mortality of turtles, while still having a viable fishery targeting swordfish in the Grand Banks.

Tyson has been intimately involved with the study group and is going to give us a presentation of what has been accomplished so far. It's been an effort on the part of many people in the agency, John Watson down in Pascagoula, several folks from Protective Resources, and certainly couldn't have been done without the participation of several boats in the industry.

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### SEA TURTLE BYCATCH REDUCTION

TYSON KADE: Thank you, Chris. I'd like to start by giving a little bit of background about the issue. This came about as the result of an Endangered Species Act Section 7 consultation, I guess that was ongoing and started in 1999, went through 2000, and the opinion we're operating under was issued June 14th, 2001. It found jeopardy for the -- found that the pelagic longline fishery was jeopardizing sea turtles and that we needed to reduce the mortality of loggerhead and leatherback sea turtles by 55 percent, either by reducing interactions or by reducing post-release mortality.

To achieve this in the short term, we issued a rulemaking that closed the NED area, which is the large box up at the top of the screen. And in conjunction with that, we created an experimental fishery with the distant water fleet that goes into that area in an effort to find gear modifications or fishing techniques that would meet these reductions mandated by the opinion and in which case we could open the closure.

The other goal of this work is to find technology or gear parameters that are exportable to the international fleets. In looking at this case, it's important to remember that the U.S. fleet is about five to six percent of the longline effort in the Atlantic Ocean. So, we're ideally looking for an international solution.

In 2001, the experiment had its first year. The controls that were tested were natural squid on the offset J-hooks with a branch line directly under the float. This is typically how the boats fish in that area.

Some experimental measures that were tested were blue-dyed squid bait, which was found to have no significant

effect, and also moving the branch lines 20 fathoms away from the buoy. This was also found not to have a significant effect for loggerheads, and actually increased the catch of some of the leatherback turtles.

Kind of incidentally in looking at the data, John Watson down in Mississippi found that reducing the daylight soak time of the gear would lead to a significant decrease in the loggerhead interactions.

So, in 2002, which just wrapped up last fall, we just had the presentation of the data last week. It was decided to go about testing the reduced daylight soak time more robustly to try to form -- or try to gain some statistical insight into how effective that would be. Also, zero offset 18 ought circle hooks, which is on the right. Ten degree offset, 18 ought circle hooks, which is in the middle, were tested, along with trying mackerel as bait and the control were natural squid on offset J-hooks.

So, getting into the results, 488 sets were made in the NED area. I think that was primarily from July to about October. There was 100 percent observer coverage on these trips to record the different target species, incidental catch and the turtle interactions. Also to record some of the -- assist in recording some of the data.

96 loggerhead turtles were interacted with, with zero observed dead, and 148 leatherback turtles were interacted with. Also zero observed dead. In addition, there were a little over 9,500 swordfish and a little over 1,000 bigeye tuna caught.

In looking at some of the data that was presented, as far as the reduction rates, I'm going to have four slides. You can probably -- I don't know if it's easier to see them up there, but looking at the loggerhead reductions, leatherback reductions, and then the swordfish and bigeye impacts.

On the left column, you see the treatments. The one next to that is the general reduction rate. Pretty much all were found to be statistically significant except for a couple of the impacts on the bigeye tuna, which you'll see in a little bit. And also there are 95 percent confidence intervals provided for these means. So, in looking at the treatments, you can see that the circle hook with mackerel was most effective in reducing the loggerhead turtle impact, and also a circle hook with squid was also very effective.

Looking at leatherbacks, the mackerel bait seemed to be most effective, but -- I mean, the circle hooks also were fairly effective. I think they have some problems looking at the leatherback data, because the sample size for that was a little smaller on some of the treatment sets. So, that's why the confidence intervals are larger.

In looking at swordfish, this is actually some of the data that came as a surprise -- looking at the reduction rates, the circle hooks with squid bait reduced the catch of swordfish by about 30 percent. However, when mackerel bait was used, they found that the catch rate of swordfish increased versus the straight control sets. However, when looking at bigeye, they found that the circle hooks increased the target catch whereas mackerel bait made it very difficult to catch bigeye at all.

So, that is something that is of concern at the moment; however, the main focus of the research is sea turtle reduction, so we're not quite sure where that's going to take us in the next year or so.

As I mentioned, the ways to reduce the mortality of these turtles is primarily one can reduce the interaction rate, which I guess is the simplest way of measuring the mortality reduction. Another way is trying to reduce the post-release mortality. So, in conjunction with this gear work, we've been trying to conduct a pop-up satellite tag study to try to assess the mortality of these animals as they're released from the longline gear.

Unfortunately, there has been I guess a few number of tags put out over the past two years. There have been some problems with money, possible attachments of the tags, possible gear malfunctions. But I know that the researchers are working on it and hopefully they can create a more robust study in the near future to answer some of those questions directly.

Until those -- until that tag study is improved, the agency's kind of looking at reducing the post-release mortality as sort of improving the fitness of the turtles, or reducing the severity of the injury when they're caught on the gear. So,

we're kind of looking at this as how they're hooked or how they're entangled.

As you can see -- I don't know if you can see this that well, but the top graph is loggerheads caught on J-hooks and it kind of gives the percent of interactions. In case you can't see it too clearly, on J-hooks, 67 percent of the loggerheads were ingested -- had ingested the hook versus 31 that were hooked in the beak or the tongue or in the mouth area.

And comparing that with circle hooks, the amount ingested decreased to 27 percent and the rest, which was 73, were hooked in the beak and the mouth.

And while ingested versus mouth hook may not sound that significant, ingested is very severe in turtles. They have a soft esophagus and stomach, whereas their mouth is primarily hard tissue, almost like a fingernail type material, so we feel that the mortality of animals hooked in that location would be a lot less.

In looking at leatherbacks, kind of don't see as great a difference. Not too many leatherbacks ingest the hook. They're primarily hooked externally, so we feel that the mortality risk is not as severe. On J-hooks 93 percent of the animals were hooked in the front flipper or shoulder and three percent in the carapace. The rest were two percent and one percent. On circle hooks, 74 were hooked in the front flipper or shoulder and 17 in the beak or mouth.

Which brings me to the next sort of aspect of the experiment. We've been working very hard to develop tools to help improve the removal of gear off the animals that are released. In this picture, you can see a leatherback turtle and some of the gear that is being used to remove the line, take a biopsy sample, and there's also I believe a dehooker that they have over there.

So, this kind of goes through and demonstrates how successful they were in this past year with this new gear and removing all the gear from the turtles, which we feel greatly improves the post-release mortality of these animals. Kind of adding to the solution, we hope.

Here's I guess a clearer picture of some of the gear they have. The ARC Company has been very helpful in manufacturing these tools, talking to the researchers and the boat captains, figuring out what's effective for on-board use. They've made a long-pole dehooker that can take the hooks out of the backs or mouths of the animal, a line clipper to remove some of the line, and below you can kind of see smaller versions of that that they use on the boats.

So, with that, I'd like to acknowledge the groups that have been involved with this, because as has been mentioned before it's cooperative research and it wouldn't be happening or as successful without the full participation, cooperation of all these groups:

Primarily the longline industry, the NOAA Fisheries Observer Program, the ARC Company, the principal investigators, John Watson, Sherry Epperly, Alan Bolton and their staff. And then the NOAA Fisheries managers who've been working on the permits and that sort of issues. So, that's that.

MODERATOR CHRISTOPHER ROGERS: Thank you, Tyson. It's 10:30. Do you want to take a quick break and then have questions or want to take the questions first and then the break?

UNIDENTIFIED: (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Break first, all right, great. 15 minutes, of which we already used five.

[BREAK: 10:34 A.M. to 10:54 A.M.]

MODERATOR CHRISTOPHER ROGERS: Okay. We'd like to have a brief opportunity to comment on the NED experimental fishery information presented. Again, it's the agency's view that gear research is a beneficial approach towards management of bycatch, not only because it can relieve some of the economic burden of time and area closures, but also can result in exportable technologies that can improve the situation worldwide. So, we're going to go around the table this way, since that side has a quorum. Okay. So, Rusty Hudson has some comments on loggerheads. Okay, Rusty.

RUSSELL HUDSON: Okay. Rusty Hudson with Directed Shark. The loggerhead hook location, the ingested portion there on J-hooks, that was quite significant as far as the proportion of the 84 animals with the J-hook.

Now, if you could go to hook and gear removal, two slides away, okay. Of the loggerhead ingested hooks, you only have 12 percent of them removed. Could you explain why you didn't attempt -- or did you attempt to remove more and was there a problem or something?

TYSON KADE: The way the protocols have been set up, we were encouraged by the sea turtle biologists not to try to remove a lot of the hooks, because they weren't sure about some of the dehooking gear. It was the first year it was really being tested in this depth. So, they weren't really sure if it would work, if it might harm the turtle more.

So, on several occasions they did try and that's what that 12 percent represents. So, they're making up protocols and directions on how to remove the hooks successfully. So, hopefully next year there'll be a greater percent of that.

RUSSELL HUDSON: So, out of the 12 percent, I'm just assuming that that was some portion of the 100 percent successful tries of taking the ingested hook out. Because as you explained before, the soft nature of the esophagus and stuff, and you're saying --

TYSON KADE: Right.

RUSSELL HUDSON: -- anything further down the bacteria infection -- the animal will die, potentially. So, you're going to change the protocols so that you can at least experiment with that facet of this dehooking device.

RUSSELL HUDSON: Right. There have been some discussions between the turtle biologists -- I don't think there's been a consensus over what's better for the turtle, having the hook removed from the esophagus or stomach and potentially leaving a hole there, or a rip in the issue or leaving that hook in.

As you can see on the slides -- well, maybe you can't tell the relative size of some of those hooks, but I mean -- I guess the fishermen who are familiar with it will know, but they're, you know, about that big. So, if that's stuck in your throat, that's not going to be that great either. So, the biologists are discussing it to figure out what would be best and provide further guidance.

RUSSELL HUDSON: Okay. As a further note, the J-hooks of course appear smaller than they used to a decade or two ago, I guess. That's just my assumption, based on my knowledge of the circle hooks and stuff like that. But I'm just wondering overall what's your message about using dehooking devices from what you've seen so far? Is it -- it seems to be fairly successful, looks like you removed almost all the external hooks.

TYSON KADE: The devices that we have have been very successful so far, I would say. The only aspect where we would need more work is on the ingested hooks. Those are the most difficult to get out. But prior to this, it was almost impossible to get the hooks off or a lot of the gear off some of these turtles when they're in the water.

Through some of this work and some of the fishermen's own efforts prior to that, they were using these poles to try to -- you know, cut some of the line around the flipper and release it with less gear. Until this year, we didn't really have a successful way of getting a lot of the hooks out from turtles in the water, or even some on the boat. So, this data shows a fairly significant increase in the amount of hooks and gear removed from the turtles, which we feel is a positive step in improving their release -- or decreasing their post-release mortality.

RUSSELL HUDSON: So, part of the turtles you did boat, probably the smaller ones, but you had a pretty decent success rate of dealing with the bigger animals in the water then is what you're saying?

TYSON KADE: Yes. Did you want to speak to the hook question, Nelson?

NELSON BEIDEMAN: The hook is two and one-eighth inch wide, which has a significance in relation to the size loggerhead turtles that we interact with. Two and one-eighth inch wide.

MODERATOR CHRISTOPHER ROGERS: Bob McAuliffe.

ROBERT MCAULIFFE: This is a little off the subject, but has anybody tried that dehooking device on a human, on one of the fishermen?

TYSON KADE: I don't think that would go over well, though.

MODERATOR CHRISTOPHER ROGERS: We'll consider that a rhetorical question.

ROBERT MCAULIFFE: Actually, it's not that far-fetched, because they've actually removed hooks -- veterinarians, out of birds and things like that. So, if a person hooked themselves --

MODERATOR CHRISTOPHER ROGERS: Let's hope that it wasn't deeply ingested.

TYSON KADE: This technology they have for dehooking these turtles is also effective for large finfish or -- you know, like marlins or tunas or stuff like that. You probably wouldn't need the pole-mounted ones, but some of these hand-mounted ones in the bottom picture they're saying are very effective for getting hooks out of finfish.

MODERATOR CHRISTOPHER ROGERS: Mau Claverie, then Sonja.

MAUMUS CLAVERIE: Well, to facilitate getting hooks out of myself, and to release fish quicker, whether they're going in the Igloo or overboard, I've squished all the bobs off my hooks and haven't missed catching any fish. I'm wondering if the industry has tried removing bobs from hooks, whether they still catch fish or not. I don't know.

MODERATOR CHRISTOPHER ROGERS: Haven't tried that one yet. Sonja.

SONJA FORDHAM: Sonja Fordham, the Ocean Conservancy. I have to admit the pie charts I can't read up there or in front of me, so I hope I'm not missing any bad news, but I just wanted to say obviously this is really exciting and encouraging news and I think clearly NMFS and the researchers and the longline industry should be commended.

And you may know we have a sea turtle scientist working in our organization, Mary Dell-Donnelly. I haven't been able to talk to her. She's at the Seattle meeting. But I know that she's expressed real interest and hope about this study, so I would send that forward, and we're both interested in helping to promote such changes with other fleets from other nations.

And to that end, the committee on fisheries at the FAO is meeting in a week or two, and I think that the environmental community or my organization is interested in working not just international NGO's but also the fishing industry to promote this kind of work. And so I would encourage any specific suggestions on how we might do that, and I know that turtles are going to be on the agenda at COFI and I don't think we're all committed to this idea of an International Plan of Action for turtles for a variety of reasons, but that we are interested in FAO having a role and this might be right up that alley.

So, I would encourage anyone with any specific suggestions on what we might try to get out of this COFI meeting to talk directly to either me or Justin LeBlanc is the industry rep, or of course the National Marine Fisheries Service or the State Department. Thank you.

MODERATOR CHRISTOPHER ROGERS: Mike Leech.

MICHAEL LEECH: I thought it was very interesting and appears to have made some progress, and I'm wondering translating it into the real world are any of these changes going to be now required of the -- at least the U.S. fleet to begin with, and then hopefully try to negotiate with ICCAT to get them beyond the fleet. Otherwise, if you don't translate it to the real world and put it to use, all it is is an interesting science project.

TYSON KADE: The experiment was approved for a three-year duration, and we've just completed the second year. So, I would say that we have good indication that some of these measures are very effective, and -- excuse me, in order

to reopen the NED area to the longline fleet, we have to implement a measure or measures that would reduce mortality by 55 percent.

So, it is our intention to go forward with the measures that are effective and try to have that area reopened by -- what, 2004, which would be -- well, the experiment would end 2003, so that's our tentative target date.

And as for the international aspects, that is a significant factor and focus of this experiment. As Bill Hogarth mentioned earlier, there's a meeting in Seattle that's going on right now where the National Marine Fisheries Service provided travel funds for scientists from some Asian countries and some European countries to attend, with a specific focus of trying to transfer some of this technology, or at least encourage some similar research efforts in those countries. So, I'm not sure --

MODERATOR CHRISTOPHER ROGERS: Certain elements are already required.

TYSON KADE: Oh, right. Certain elements, like dip nets and line cutters, are already required on the longline fleet, as well as handling and release guidelines that are posted in the wheelhouse. So, we're slowly making progress.

MODERATOR CHRISTOPHER ROGERS: Okay. Charlotte.

CHARLOTTE GRAY: Thank you. Charlotte Gray from Oceana. While I am very encouraged by the numbers on this sheet, I do have some questions, and I'm not sure actually if Tyson or Nelson might be able to answer at least the first one more easily, but as for the zero offset or no offset -- that is what I'm assuming -- circle hook, was that the same size hook that was used in the Azores study two years ago?

NELSON BEIDEMAN: Not two years ago, but the Azores did look at the 18-0 in 2002.

CHARLOTTE GRAY: Excuse me, yes, 2002. Because it was fairly dramatic, at least in this chart, and I'm not sure -- of course I'd have to -- I think they might have been using squid in the Azores study too, that it seems that -- and I realize the most important thing here is the offset, but just for comparison's sake, if there is an 87 percent reduction from the non-offset -- or just straight circle hook in the NED, but yet I believe in the Azores study there was no significant difference when they were using the circle hook, it tends to reason that these studies may be in conflict, not -- seeing as 87 is a pretty dramatic reduction in catch rate, and if the idea is to export gear technologies, if it works in the NED, and this is actually a true number that it does work, and it doesn't work in the Azores, I think that's worth looking at, because I would be -- you know, I think that we need to be careful that we don't quick jump to conclusions that yea, we found the fix-all, when we may not have found the fix-all. And I would just put that out in front of everybody and the agency to keep in mind these different analyses.

And I don't know if anybody wants to respond to that, but then my second question is in the beginning -- and maybe I missed it in the presentation. You talked about reducing daylight soak hook time, and I don't know if those results were presented here and I missed them or was that included in the hooks -- I mean, was it just that that was -- the soak time was decreased for all of the control and everything or was that actually analyzed too?

TYSON KADE: The soak time -- well, I guess I'll answer them backwards or answer one and pass it back to Nelson. But with regards to the soak time, that wasn't incorporated in that data. The statistician working on it kind of teased it out. Basically, for those results, it was found to support what was discovered in 2001, that it did have a significant reduction in loggerheads, but there was no impact on leatherback turtles. So, I didn't really present that data. I was trying to keep it short and focus on some of the more effective measures.

But with that, there were also some other problems, such as possible danger to some of the fishermen, because they increase the haul-back times of the gear. So, it's hard to say what other impacts that might have. So, I didn't touch upon it and I don't think it's going to be a viable option. But for some of the differences with the Azores study I was going to let Nelson speak to some of the pelagic longline differences or --

NELSON BEIDEMAN: The sample sizes in the Azores, as far as effort, is only one boat -- a very small, plus we've never seen any confidence intervals from the Azores analysis. You know, the National Marine Fisheries Service has

been very, very careful in this program that every step of the way is absolutely tight, dependable. The person that analyzes the data is independent, Arvin Shaw. He's from the pharmaceutical industry. And you know, we've been able to maintain the 95 percent confidence because of the sample sizes, et cetera.

One of the things that hasn't been tested that probably should be, but we can't test everything -- you know, you can only test so many treatments a year, is an opposite offset. And the offset that we're working with, ten degree offset, is very slight and it's primarily, you know, to facilitate the baiting. But you know, by the numbers you can see that the offset actually had greater reductions.

MODERATOR CHRISTOPHER ROGERS: Jack.

CHARLOTTE GRAY: Can I just conclude?

MODERATOR CHRISTOPHER ROGERS: Uh-huh.

CHARLOTTE GRAY: I appreciate that and knowing these differences is definitely important. But I just again want to reiterate -- and I don't at all call into question the study that happened in the NED. I think that was a fabulous cooperation. I think the researchers and observer coverage -- I think that was a really good example of how we should proceed, but I also know that this is one year of data. And again, this is a long-term problem and it is a worldwide problem. And so before we jump in the sack and start exporting technologies and reopening areas that are clearly important, you know, I just think we need to take all that into consideration. Thanks.

MODERATOR CHRISTOPHER ROGERS: Nelson and then Glenn Delaney.

TYSON KADE: A quick comment. In 2003, we're looking to further replicate some of these studies to make it more robust. We're removing -- well, it's still being planned, but tentatively we're planning on removing the daylight soak time restriction to allow the fishermen to fish more like they did previously, and maintaining some of the experimental measures to sort of validate that these reductions are real and that they are significant and that they will meet the 55 percent biological opinion stipulation.

NELSON BEIDEMAN: On that issue, our mandate is 55 percent -- to demonstrate a 55 percent reduction in mortality. What you see up there is up to 92 percent, and that's just in reductions in interactions. The mitigation tools are -- you know, tremendously important, and ever-evolving. And there's a knack, you know, to getting the hooks out and getting the gear off and we've all been working tremendously together to -- you know, learn those things. And that's all benefit in addition to the avoidance -- you know, reductions in interactions.

But we've learned so much in doing this program with the National Marine Fisheries Service, both the policy people and the researchers. It has been a tremendous experience for us and -- you know, I believe vice versa.

One thing led to another to another to another, and it's still leading. What we've done thus far is pretty much a swordfish directed protocol, and it looks like -- you know, if we can match the results for a second year that we'll have something there.

There's a lot more work that needs to be done. That 80 percent of the global pelagic longline fishing is tuna directed. Some of what we've learned already can be transferred directly to sword-directed fisheries, if it proves out. Some of what we've learned already can be transferred to tuna-directed protocols, research on tuna-directed protocols. It's a little bit of a tougher question, but you know, we're already starting to get there.

As far as the 55 and the closure, industry has set its priority at focusing on the third year research and once we get the third year research, you know, if we have any brain cells left, we'll think about -- you know, we've already met the mandate in the (inaudible). But our first priority is the third year of research.

As far as -- you know, there's other things that we probably won't be able to accomplish because there just simply isn't the money for it, and -- you know, survivability -- post-hooking survivability is very important. In order to move this into the international arena, we need to have some of that baseline information. I wish we all could put some research

dollars into that rather than all the lawyer stuff. This year we'll also include hooking timers and time-depth recorder devices that -- you know, we've pretty much had manufactured for the task.

As far as COFI and suggestions, I've got a couple. We need these swordfish-directed protocols tested in other areas. And it's not just these protocols, it's the awareness, it's the leaded swivel, it's the ten percent longer than ball-drop, you know, it's a combination of -- it's a toolbox of things. And to have these tested in other swordfish directed fisheries as quickly as possible would be a real big help.

Also, I think that -- you know, we've got enough under our belt that this year for the ICCAT meeting and this year for the ITTC meeting where most all the pelagic longline fisheries in both oceans will be, I think we should have an information brochure, a nice colorful little pickup -- you know, to begin showing some of these results and encouraging other fleets to start testing some of these things.

It looks promising. It feels promising. We still have a long ways to go. Some of what we're learning -- you know, will be able to be transferred to other species, but it's going to take a lot. And it's a whole new realm for us and we hope that we can all continue to work together. It's been a very positive experience.

MODERATOR CHRISTOPHER ROGERS: Glenn Delaney and then Jack Devnew.

GLENN DELANEY: I'm sure Nelson said just about everything I could say, but I do want to say that I just attended a workshop, two, three days down in Miami, where this was discussed in very, very great detail. And it's a shame you weren't able to attend, because I think you'd have a much better feeling for just how extraordinary this science is. It has some of the greatest integrity and attention to detail that I've ever seen, and certainly represents an extraordinary example of how this agency can once again begin to apply science to solving, you know, real world problems. And it's a great reflection of the current leadership of the agency and we're very grateful for that.

On the international front, I just want to reiterate Nelson's comment that in order for us to export this to the 95 or 6 percent of effort that's out there, we're going to have to first define for them that there is indeed a problem, that there is mortality from longline interactions.

And we skipped over that in the United States because we have the Endangered Species Act and there's a presumption of guilt that until proved otherwise you're stuck with. They don't have that, or anything close to it. And so for us to be able, you know, as a negotiator -- I'm not suggesting I would be one to do that, but anyone who would have to negotiate any kind of international obligations or even voluntary agreements is first going to have to cross the bridge of defining the problem.

And so post-release mortality science is in my opinion anticipate central to being able to even move to the point of discussion of okay, what are the solutions to that problem. And if you use this type of gear and this type of hook and this size hook and this type of bait and -- you know, daylight and all that, all the different pieces of the toolbox Nelson mentioned, you're not even going to get to that discussion until you first define that there is indeed a problem that they should feel bad about at least, and maybe obligate themselves to a solution. Again, I reiterate that as I did down in Miami.

MODERATOR CHRISTOPHER ROGERS: Jack Devnew.

JACK DEVNEW: Yeah, thanks, Chris. Without going on, you know, any further, I certainly support statements made around the table as to the positiveness of this effort here, and echo Glenn and Nelson's statements, too.

I do have one quick comment on the offset hook, and I don't know if it's worth looking at, but I make this in all seriousness. My understanding is all the hooks are offset in the same direction. My understanding also is there's a great preponderance of the -- and I confused the species here, but one of the turtle species, the hooking is in the flipper. And it's mostly hooked in the same flipper.

And it may very well be that turtles are either right-flipper or left-flipper in a predominant manner, much as human beings are mostly right-handed versus left-handed, and it might be worthwhile having one group of hooks

offset in the other direction. So, you might take that into consideration.

Just one final comment, that kind of goes to Glenn's last point, and that is while I'm extremely impressed with this program, and in particular the disentanglement and survivability once you get one of these animals hooked, I don't mean to rain on everybody's parade on the stunning results with respect to the reduction in interactions, but there is an alternate explanation. The alternate explanation for these stunning results is that the baseline data adopted as gospel by the judge and put forward -- you know, is severely flawed, which was the industry's position to begin with, that the data that resulted in the jeopardy finding was badly flawed from the get-go. So, that is an alternate explanation in my mind, although I think at this point it's probably a moot point.

MODERATOR CHRISTOPHER ROGERS: Okay. Do you want to speak to that point? Sure.

TYSON KADE: I was just going to clarify that this study -- it wasn't -- how do I explain this? It didn't really account for the baseline of the turtle populations. The way this was run was the control set and the experimental set were fished at the same time, so the population levels of the turtles in the ocean aren't really a factor. It's more -- it's specifically isolating the impacts of the gear on the turtles. So, we're feeling that these reductions that we saw were because of these gear modifications.

MODERATOR CHRISTOPHER ROGERS: Okay. We'll take one more comment before we move on. Rick Weber.

RICK WEBER: The study itself, just trying to understand it, were the multiple hooks, multiple baits, used at the same time or was it one set was the control set and then -- was it one gear type and one bait type per set, or were the different things all placed into the water at the same time, so you could compare them in the same water at the same time?

Because I'm excited about circle hooks myself, and I like the direction that all of these stats are going, but I find it -- if we look at the same hook type, I find it miraculous that loggerheads dislike mackerel by 74 percent, leatherbacks dislike mackerel by 66 percent, and by changing to mackerel we increase swordfish catch by 64 percent.

If it is only in the bait, let's give up the hooks and just discuss the bait. I'm encouraged with where we're going. Something isn't ringing true for me, and I just would like to understand it better.

TYSON KADE: The way the experiment was set up -- sorry I didn't put up a slide, I didn't anticipate getting a question on that. I'll just run through sort of how we set up the sets. One type was -- the first half of the set was using squid and J-hooks. The second half of the set was using squid in the straight circle hooks. Another treatment type was the first half of the set squid and J, the second half squid and offset circle. The third was mackerel and J hook. And then the second half of that set was mackerel in the offset circle hook. And then the fourth type was one half of the set was squid and then the other half was mackerel.

And I think he did it that way because when looking at bait types he didn't want to alternate squid and then mackerel by hook, because there might be a chance that, you know, the skin of the mackerel being shiny, it might reflect in the water more, you know, bringing turtles closer to that. He felt it would be -- I don't know, cleaner to look at it just one half and then the other half.

RICK WEBER: As I say, guys, I would hope that these numbers are true. It just -- it wasn't -- they're so extreme. I would have expected up a couple of percent or down a couple of percent when we looked at bait type. And I -- just from a biologic standpoint, I'm intrigued that the difference in feed is alone -- or -- well, I guess I answered it, in that the control was in the water at the same time, these must be closer to accurate than I was expecting.

NELSON BEIDEMAN: A lot has to do with the size animals that are being interacted with. And you know, two and an eighth width on the hook, you know, is relative to what one of those animals will take down, in tanks, what they'll attempt to swallow.

MODERATOR CHRISTOPHER ROGERS: Okay. Thank you, Tyson. What we'd like to do now, we have one half hour before lunch, is -- one more comment.

JOHN DUNNIGAN: Just one of the things that we hope we're going to be able to do in the near future is not only to export this research to other parts of the world, but be able to export this research to other parts of our own fisheries in other coasts. There's a lot of progress that was made here and we'd like to find out how well it works in the Pacific, as well.

MODERATOR CHRISTOPHER ROGERS: Thanks, Jack. What we'd like to do very quickly is present the comments received on the incidental catch of bluefin by longliners proposed rule that we recently had out for comment -- we had four public hearings, as well as briefly present the comments received on the North Carolina petition for rulemaking. And that's a segue into bluefin tuna, which we'll take up then immediately after lunch.

Obviously we had discussed this morning time/area closures and gear methods and fishing -- or gear and fishing methods as a means of bycatch reduction. Certainly we are sensitive to the effect that regulations have in contributing to the dead discard problem. We've had comments throughout several years on managing the incidental catch of bluefin tuna by longliners that the regulations themselves were contributing to excessive dead discards.

At last year's panel meeting, we presented an approach, an analytical approach that the agency was undertaking to look at the problem, and discern whether there could be any changes to the regulations that might alleviate some of the dead discard problem for the longline fleet.

So, we won't belabor the methodology. That was again presented at the public hearings. I saw several of you at the public hearings. But just wanted to briefly review the objectives of that rulemaking, the preferred alternative that was proposed and put out for public comment, and Brad will briefly summarize the comments received on that rulemaking. Thank you, Brad.

ROM WHITAKER: Are we going to get to the permitting -- HMS permitting -- are we going to cover that before lunch?

MODERATOR CHRISTOPHER ROGERS: Not before lunch, but it is my hope that we get to it today.

ROM WHITAKER: Okay.

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BLUEFIN TUNA TARGET CATCH REQUIREMENTS  
FOR LONGLINE VESSELS

BRAD MCHALE: Thank you, Chris. Brown right now is actually proceeding around the table. I believe he's handing out a copy of the summary of comments on the North Carolina petition. So, if people had an opportunity to give that a read during the lunch break so when we reconvene afterwards we can jump right into it. That I think would be in the best interest of time.

Like Chris had mentioned, I'm just going to give a very brief rundown of the proposed rule for the target catch limits for the pelagic longline fleet to retain incidentally caught bluefin tuna. Again, we're not going to belabor the analytical process. I'm just going to show the goals or the intent of altering this target catch requirement. I'll list out the preferred alternative and then I'll do -- have a brief summary of the comments received and then we can take things from there.

I think as we all know, kind of the intent of altering these target catch requirements, based on ICCAT recommendations, are to minimize dead discards. We also are underneath a mandate to minimize the negative impacts on the target fishery species and the participants in those fisheries. We're always trying to dance a fine line in between allowing the incidental retention of these bluefin tuna and preventing a directed fishery on them, as well. And whatever rules that we need to put into place need to be enforced effectively.

We had also received a number of comments from you all at last year's AP meeting. So, again, we won't belabor that.

And I'll skip through the analyses. That was all done in the -- I can discuss this with anyone after the fact, but again in the interest of time I'll keep it very brief.

The preferred alternative that the agency had come up with was that one coastwide target catch requirement and getting away from a percentage of the target catch that's on board the vessel to equate out the bluefin tuna and have a straight pounds limit. As you can see here, 2,000 pounds for your first incidentally caught bluefin tuna to be retained, and a second tier of 6,000 pounds for your second bluefin tuna to be retained. And again, this would be coastwide.

We also proposed to maintain the north/south line, although adjusting it a little further south to 31 degrees. We received comment back that maintaining this line would prevent the harvest of the incidental target catch in one area or another to provide equity in both geographical areas.

One additional piece that the agency put forth in the proposed rule was to provide us with the authority for in-season adjustment. Now, that's going to be in-season adjustment on the number of bluefin tuna that can be retained by vessels; and as it was proposed, a range of zero to three bluefin tuna, but also have the ability to adjust those target catch requirements within 25 percent of that baseline trip. And we received some positive comment back on that, as well.

The justification for the preferred alternatives reflect back to those goals I had mentioned earlier. And a brief summary of the comments received on this proposed rule -- and keep in mind this is some of the main themes that we heard consistently throughout the meetings and by no means is this a summary of all the comments we received. So, if somebody provided comment and I didn't list it here, I apologize and we can discuss that in a little while.

But one of the main themes that we heard was having a third tier to accommodate those trips that may be out at sea for longer durations of time and may interact with a few more bluefin tuna and have larger amounts of target catch on board. For instance, you know, currently right now a vessel with a 6,000 pound target catch could make multiple trips in a month's time frame and come in with multiple bluefin tuna underneath that two-fish limit, where a vessel that's out there for 30 plus days would still be capped at that two-fish limit.

Again, one thing that we heard at all the public hearings is that the quota distribution that's distributed between the north and the south should be re-examined. Currently in the proposed rule, with the shift of the line to 31 degrees, the quota is split up and 70 percent of that being allocated to the south, 30 percent to the north.

Again, there was unanimous support for the north/south line location adjustment to move that to a line where there's minimal longline activity, so there's no conflict in the way these vessels are operating or landing their fish.

And the last comment that we received consistently was that in conjunction with that in-season authority the 30-day notification time wasn't realistic. It was too long to actually be reactive to what's taking place in the fishery and to get something in place in real time.

And so that's the gist of this. I know it was very brief, and again I'll be available during the lunch break if anybody wants to go into anything in more detail. But I know a number of you attended the public hearings or have already provided us comment, and I thank you on that.

Also in the back of the room I'll have the slide presentation in its entirety, the Environmental Assessment associated with this rule, and we also do have a comment summary of all the comments received during this proposed rule. So, at this point I'd like just to turn it over for --

**MODERATOR CHRISTOPHER ROGERS:** We can probably take about five minutes of questions. Mau.

**MAUMUS CLAVERIE:** Are we turning the whole fishery into an incidental fishery?

**BRAD MCHALE:** Well, currently, Mau, right now the retention of bluefin tuna on pelagic longline vessels is incidental. There is no directed fishery. So, again this is strictly for the pelagic longline vessels.

MAUMUS CLAVERIE: Well, isn't there a directed bluefin tuna fishery?

BRAD MCHALE: There is with hand gear and there is with purse seine gear, but again for bluefin tuna in the pelagic longline fishery it is incidental.

MAUMUS CLAVERIE: Okay.

BRAD MCHALE: There is no allowed target.

MAUMUS CLAVERIE: I thought that was incidental is only in the Gulf where they spawn. That's not --

BRAD MCHALE: It actually is coastwide.

MAUMUS CLAVERIE: All right. Would this interfere with the real objective of catching any bluefin tuna in the west which is for scientific tracking? Or was that considered?

MODERATOR CHRISTOPHER ROGERS: Not sure what you mean by interfering with. This is adjusting the regulations regarding what is allowed to be retained and landed. It wouldn't necessarily affect interaction rates and if the bluefin tuna is brought to the boat live, it can be tagged and released.

MAUMUS CLAVERIE: Well, I mean, I don't know if you all considered it, but if the objective of catching the tons that are allowed to be caught in the east, if it was originally for scientific tracking, I suppose that looking at some -- you know, if you change regulations, you then change -- you put a bias in what the data means, which can interfere with the scientific tracking of the status of the stocks. And will making changes like this put that bias in that would upset the science? Was that considered?

MODERATOR CHRISTOPHER ROGERS: Okay. I understand your question much better now. The intent was and has been throughout the management period since the scientific monitoring quota was first initiated back in '81 was that we would maintain an allowance for longliners to catch bluefin -- or to land bluefin taken incidental to swordfish and yellowfin operations, whether it was in the Gulf of Mexico or not.

And the main thrust of all the regulatory adjustments throughout the time frame, over the last 15 years, has been to allow limited landings while avoiding an incentive to target. So, to the extent that we're true to that management objective and have been consistently, this shouldn't affect fishing behavior significantly by adjusting these target catch requirements.

What the analytical approach was that we did present at last year's meeting was we tried to scale it so that we reduced dead discards while allowed landings only within the authorized quota for that category. So, it's a balancing objective that we conclude would not affect fishing behavior in such a way that it would upset any longline index of abundance of bluefin tuna that had been developed and used in a stock assessment in years past.

GLENN DELANEY: Comment, Mau. I know it's been a while maybe since you've been over there, but the scientific monitoring quota really ceased to exist in 1998. And we started rebuilding, so --. Maybe update a little bit.

MAUMUS CLAVERIE (No microphone): (Inaudible.)

MODERATOR CHRISTOPHER ROGERS: Wayne Lee and then Shana.

WAYNE LEE: Thank you, Chris. Just very quickly. I think you answered Mau. What this rule will do will take dead discards and convert them to allow some of these boats to land one or two fish. So, you're not changing anything as far as mortality goes. It's just that you're being able to land the fish rather than throw it over the rail.

And I just wanted to tell you, Chris, and all your people that worked on it, we really appreciate you all coming out with rulemaking on this issue. It's a serious issue for some of our boats in our region, and I think you all came up with some very good alternatives. So, thank you.

MODERATOR CHRISTOPHER ROGERS: Shana, then Jim Donofrio.

SHANA BEEMER: Thank you. We submitted comments and basically they were to the effect that it's alarming that -- I know -- I think it was 78 percent of the longline catch was estimated to be in the previously defined southern region and now it's only 70 percent, although the southern region is smaller now under this proposed rule. But to allocate 70 percent of the incidental catch to fish that could all be caught in the Gulf of Mexico -- you know, the only known, accepted spawning ground of these fish that -- you know, have the lowest -- their lowest biomass on record, I mean, I think that's very alarming. And you know, I know most of the fish -- well, all the fish caught in the Gulf of Mexico are incidentally caught, and we just really urge to get that number down to -- you know, as close to zero as possible. And to really get observers out on those boats. And I know there haven't been in years past, and so we would just really again stress the importance of that. Thanks.

MODERATOR CHRISTOPHER ROGERS: Tim and then Jim Donofrio, Rich Ruais and Bob Pride. Then we're going to have to move on.

TIM HOBBS: Yeah, thanks. I just had a couple of questions. Do we know what the observer coverage is of boats that are in the -- longline vessels in the Gulf of Mexico? Is it broken down by any specific areas?

MODERATOR CHRISTOPHER ROGERS: I don't have those numbers with me, but we can get them for you. Obviously we do a random assignment based on the home port of the vessel and the effort expended in the prior year, we do a random draw, so to speak, with a stratified random design. So, we can get the numbers of observers actually deployed on vessels in the Gulf of Mexico for past years for now.

TIM HOBBS: Okay, yeah. That would be great. I'd like to see that. My concerns are just similar to what Shana said. I think it's important that we balance the ability to land -- you know, fish that are already dead, you know, with the desire to -- you know, stay away from anything that might increase mortality, especially with these fish that are in the Gulf of Mexico. That's primarily where our concern is, in the Gulf of Mexico. And again, you know, the fishing mortality on that stock is quite high, the biomass is quite low, and -- you know, we'd like to see fish that are already dead be landed, but we're just wary about doing anything that might -- you know, increase mortality.

MODERATOR CHRISTOPHER ROGERS: Jim Donofrio.

JAMES DONOFRIO: Chris, thanks. I think we've been on record in the past when this program with the amount of fish on board a longline vessel -- the percentage of bluefin up to three, we've been supportive of that because -- you know, it's wasteful for them to be just throwing these fish back. And it prevents a directed fishery. So, I think all those measures are in place to prevent that.

What I want to urge, though, is -- you know, more investigation onto -- you know, where these bluefin are entering our waters. And I know this anecdotally from fishing many years with Ray and his people up in the Cape. It's around the first week in June the fish arrive and enter into the Canyon areas. Around the same time every year. It's like clockwork.

Now, a time and area closure in that area -- and I know some of the deck hands on longline boats said they had a lot of bluefin on their sets. That could be avoided by having a short time/area closure when the fish are there, because they don't stay there in that area, they move into the Gulf of Maine into their feeding grounds. So, you may want to look at other possibilities to avoid that kind of -- you know, incidental catch and only close it down shortly. And it doesn't hurt for the long term on both sides.

MODERATOR CHRISTOPHER ROGERS: Okay. Rich Ruais.

RICHARD RUAIS: Thank you, Chris. I just wanted to repeat a couple of the comments that I made at the New Bedford public hearing and that is that East Coast Tuna fully supports the preferred alternative to change it, and we appreciate that it's finally here and long overdue.

I would say that it seems as though from the analysis that Brad presented at the New Bedford hearing that the agency

however was shooting a little bit low. And it wasn't clear that -- you know, what you're planning on doing is trying to get them closer to full quota achievement, but testing the waters with the new limit, because your own analysis suggested you were only getting up to -- I forget what the number was, 80 percent of the quota or 70 some odd percent of the quota. And you do have some comments that suggest that particularly on the longer trips you might want to have even a more flexible bag limit.

And just as in the past we've opposed the arbitrary cap in the general category for the number of the fish, we've always maintained the agency ought to retain for itself the maximum flexibility, not put a cap on the total number of fish, and adjust it according to what the conditions require to make sure that all of the user categories have a reasonable opportunity to catch their quota. So, I'd suggest you look seriously at the comment that says have even a higher limit in the Atlantic.

I also find myself in the unusual situation of agreeing with Shana and Tim on the Gulf. And I did raise that at the New Bedford hearing, as well. And I think there was some support there from some of the longliners, that it does seem to be odd that -- and I think I know why it's there, because the history was there was substantial catches in the Gulf of Mexico by a longline fleet at one point in time, but with an increasing quota of swordfish in the Atlantic -- and I assume that the bulk of the U.S. quota is caught in the Atlantic and not in the Gulf of Mexico, it would seem to me that you'd want to -- you'd try to do whatever you can, flip-flop that -- you know, so that the bulk of the incidental catch quota is coming from the Atlantic, not on the spawning ground, although I recognize there are those who think that there isn't an issue there of taking fish on the spawning ground.

And one way of doing that that I thought of that was simple was instead of putting the line somewhere in the Atlantic, put the line somewhere at the entrance to the Gulf of Mexico.

MODERATOR CHRISTOPHER ROGERS: Nelson Beideman.

NELSON BEIDEMAN: I'll try to be very brief. For one thing, the third fish level, that's not a change from status quo. Those boats already have under the two percent the ability to land a third or even a fourth fish at times.

GAIL JOHNSON (No microphone): According to the weight.

NELSON BEIDEMAN: Yeah, according to the weight.

UNIDENTIFIED: Nelson, speak up.

NELSON BEIDEMAN: Could you hear that? All right. As far as the new data, when this was put together, you did not have the new data since the extensive closures, since many vessels in the south have gone out of business. And sticking my neck out a little bit, there are many within our fishery that would agree with what -- you know, Shana and Mr. Hobbs have raised.

We want to thank you. I'm only going to reiterate one of our comments, and that's that we monitor this very closely and that we allow the AA the flexibility to act. We think the 25 percent is too restrictive. We would suggest up to 50 percent for in-season flexibility. And if necessary, we would also suggest species specific -- if there turns out to be any kind of a directed fishery that build up that you'd have the ability to put in species specific designations. And we thank you guys, you know.

UNIDENTIFIED: (Inaudible.)

NELSON BEIDEMAN: Eight? You're not counting right. Maybe eight for you. It's been 20 some for us.

MODERATOR CHRISTOPHER ROGERS: Bob Pride.

ROBERT PRIDE: Thanks, Chris. Back to the point that Mau was making about are we going to land more fish. Actually, you know, this fishery had a fairly high discard rate because of the landing limits and they weren't achieving the harvest of the incidental quota. So, this was a rule to make sure that they harvested that quota, and it makes a lot of

sense.

The second thing I'd like to say is that the Gulf of Mexico protection, I echo the comments of three or four people around the table. We didn't really consider that very carefully in this rulemaking process and we probably should rethink that. I for one missed it completely.

I support the higher bag limits on longer trips. I think it will help us keep from encouraging too much hygrading, and I think that that's probably a good idea for -- I don't know what the trip limit in terms of the weight or the time should be, but I think the industry can work with the agency and figure out what the right thing to do is there. And I'd like to see us -- to have more flexibility in-season, I like the idea that Nelson put forward about the 50 percent in-season adjustment.

And the third thing I'd like to say is I think we should specifically have a prohibition on hygrading if it doesn't exist elsewhere in the plan.

MODERATOR CHRISTOPHER ROGERS: Last comment, Jim Donofrio.

JAMES DONOFRIO: I just have a question for you on this paper that Mark handed out. On the page here it said should allocate 25 metric tons from ICCAT to fisheries where fish are from. I don't understand that sentence. Can you explain that to me?

BRAD MCHALE: Yeah, I believe that handout or at least that comment was made more in referral to the ICCAT quota allocation that came out of this year's 2002 meeting -- or last year's meeting. And that portion or that set-aside should be within the management boundary area of the 45 degrees west.

JAMES DONOFRIO: Oh, okay, all right. Now I understand what you're talking about.

MODERATOR CHRISTOPHER ROGERS: That's the 25 tons in the western bluefin recommendation for longline interactions in the vicinity of the management area.

JAMES DONOFRIO: Okay, yeah, because it wasn't clear -- you know, where fish were from.

MODERATOR CHRISTOPHER ROGERS: Okay.

GLENN DELANEY: Chris, I just want to thank Doctor Hogarth. Eight years ago he did change the (inaudible) -- to the southeast and the southwest and come back to Washington, and I know you guys did the work, but I'm sure he rode your butt to get it done, and I appreciate that.

MODERATOR CHRISTOPHER ROGERS: I think it was more like a beating. All right. What we'd like to do in the few minutes before we break for lunch is again provide a summary of comments received. We did get a petition for rulemaking for North Carolina with respect to management of the general category. We'll just quickly review the petition for rulemaking and the comments received and let you mull it over during lunch and then come back and take that up along several bluefin tuna issues that we need to discuss this afternoon. Jim.

JAMES DONOFRIO: Are you going to allow us to just have a couple of questions on the yellowfin? We didn't get quite finished with that. And what time do you want to do that?

MODERATOR CHRISTOPHER ROGERS: Is it a brief question?

JAMES DONOFRIO: Very brief.

MODERATOR CHRISTOPHER ROGERS: Why don't we ask that brief question right now.

JAMES DONOFRIO: Okay. Because I want to see if we can get some kind of consensus on this. Got a call from some of the party/charter boat people last night in my room, and what they have a problem with -- it's an enforcement problem. They're not allowed to fillet their HMS species on board, and they're willing to cooperate with NMFS fully

by keeping the racks and also the fins for identification, because apparently there's a problem with the fins. Some of the agents couldn't tell bluefin from yellowfin.

And I'll tell you the reason why they need to do this. These boats -- some of them are out 20, 24 hours. They come in with all good intents of cooperating with the law and everything. There's sometimes as much as four to five agents -- and these are state agents that are deputized federal -- waiting for them at the dock.

Now, these customers are hot to trot to get home, have the deck hands fillet the fish, and get in their cars and go home. So, the inspection takes sometimes three to four hours. Then they've got to fillet the fish. So, it's really presenting a problem for them. They're willing to cooperate with the agency any way you can, and I think Frank and I think Joe McBride will support this, also, you know, from all the associations. I don't know what -- maybe Bob Zales can weigh in on that, too, but I think it would be very helpful for them in order to expedite their customers, fully cooperate under the law.

MODERATOR CHRISTOPHER ROGERS: Okay. For those who may not be familiar with the issue, the regulations do require that for Atlantic tunas they can be headed and gutted, but at least the pectoral fin and the tail must remain attached so that we can make an assessment of compliance with the minimum size.

If there's any state regulations that you're aware of -- I believe I had a conversation with Ray Bogan at one point. Was there a state regulation in New Jersey regarding processing at sea? If we could get any state regulations that deal with this issue, we can have an ongoing dialogue with our enforcement agents and see whether we can adapt the federal regulations accordingly.

So, something we can consider. I don't know that we have much time to discuss it here. We've really got to get on with a bluefin discussion, and we don't want to delay lunch any more than we have to.

So, again, if there are any state regulations on the books that you can provide to us with respect to processing at sea, and we see how they work in the respective states and whether or not we can adapt the federal regulations accordingly.

NELSON BEIDEMAN: I just want to say it sounds reasonable and practical.

MODERATOR CHRISTOPHER ROGERS: Bob Zales, real short.

ROBERT ZALES, II: Yeah, just to back up Jim. In the Gulf, they would really like to see that to be able to -- and there should be some way to keep the carcass -- a fillet doesn't have a fin on it. I mean, I don't fillet with fins, so you'd have all that so you'd match up everything up and there should be a way to calculate the size and the size limit.

MODERATOR CHRISTOPHER ROGERS: What Brad will do here is summarize the petition for rulemaking received, and we had put this out for -- was it a 30 or 45 day comment period? It was a length of time, and we received a number of comments on it. I believe the entire packet of comments received has been circulated.

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### PETITION FOR RULEMAKING

BRAD MCHALE: Yeah, actually, a packet of all the comments received during the comment period has been distributed and the letter constituting the actual petition you'll find right on top of those comments. What was also sent around, in addition to the slides themselves, was a summary of the comments received, broken down and -- you know, those comments more geared in favor of the petition, those not in favor of the petition, and then we kind of just grouped some of the issues that had come out of those comments received. And those are grouped I believe on the later pages of that summary.

So, on October 16th of last year, North Carolina Division of Marine Fisheries submitted a petition to the agency requesting that the agency undertake rulemaking to establish a December 1st through January 31st general category time period subquota, and that 23 percent of the general category quota should be allocated to that time period. The

agency went out on November 18th publishing receipt of that, and that's when the comment period had started off.

North Carolina Department of Marine Fisheries had stated in their petition -- you'll be able to read this, as well -- that their intent of submitting it to the agency was a perceived inequity in the current bluefin tuna management scheme, and that they were requesting fair and equitable treatment of all general category participants and to provide fishing opportunities for all general category permit holders, regardless of geographic location.

And they also had stated that if the agency granted their petition as stated could provide economic benefits to all general category permit holders.

The background, for a number of you that have been on this panel in previous years, this issue has been discussed here, as well as in public hearing forums on bluefin tuna specifications and other rulemakings, as well. And so that's where we are today.

Just a brief data point here -- and again, I'll be proceeding through this relatively quickly, as I summarized the general category landings in metric tons over time, since the implementation of the fishery management plan, just to kind of give you an overall idea. This is broken out in weekly segments, combined over those years. And again, I can provide this data if it's a little difficult to read up on the screen. But again, a summary or shall I say an average over the last four years -- three years.

Also another piece of information here is a breakdown of the average landings by state. This is the actual state the fish had been landed in, again in metric tons. And one thing you want to keep in mind that this chart here is a log chart, so you'll see a significant difference between where the state of Massachusetts tally comes up and say that state of Maine. There's an order of magnitude difference there. Just keep that in mind.

One issue that had also come up in relation to this petition was some issues with the harpoon category, and I believe it was brought up here earlier. I believe Rich made the point that he wanted to discuss potential closure dates of the harpoon category. So, I figured I'd throw this slide in here just again as another data point where we can see how harpoon category landings have come in by state over the same time frame as those general category landings.

So, the agency is faced with a number of different options, you know, with your insight requested, where we could actually reject the petition as it is submitted and maintain the status quo.

We could address the petition to the extent possible in the 2003 bluefin tuna quota specifications, you know, dealing more with the short-term time frame. Or we could address the petition -- more of a regulatory and FMP amendment, which would be a longer time frame associated with before something's put into place.

And you know, if that's an option then there's a number of different ways we could go there, whether you look at overall bluefin tuna allocation percentages, whether you look in general category allocation percentages, or you look at the New York Bight set-aside and potential removing of the southern boundary and some sort of quota reallocation there.

And then we're also looking for your insight and your inputs on options that we may not have addressed, at least at this point.

A couple things to keep in mind as we discuss these options is to keep in mind that we maintain consistent with the Magnuson Stevens National Standards, that we actually meet the objectives of the FMP, and that we keep in mind timing and some of the timing that's associated with some of these options that the agency's put forth and the options that you'll be providing to us here today, that we keep in mind that this isn't necessarily a quick overnight fix.

So, I think at this point we would just like to open up the floor and get your comments and insight in regards to the petition.

MODERATOR CHRISTOPHER ROGERS: Why don't we take the break for lunch, so you can mull over the summary of comments. This is probably the most pertinent document is -- where it summarizes. If you want more

detail, you can go into the actual comments received, and then we'll take it up along with several other bluefin tuna issues after lunch. Rich Ruais, you have a lunch recommendation for us? Good restaurant?

RICHARD RUAIS: No, I have a -- yeah, sushi, right. No, I have a procedural question. I'm anxious, as well, to talk about the North Carolina petition, but I do hope we follow the agenda when we come back and go through the issues in the order that we've been planning for the last two days.

MODERATOR CHRISTOPHER ROGERS: Okay. Well, what we can do -- or at least I'll suggest is that the first round we'll go through individuals with other issues that they want to identify and propose, that will be the first -- so, basically flesh out all the bluefin tuna issues, and then we'll take comment on them.

Have a great lunch. Be back here within an hour. We've got a lot to do.

[LUNCH: 12:05 P.M. to 1:08 P.M.]

### CERTIFICATE

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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