

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

HMS COMMITTEE

**DoubleTree by Hilton Atlantic Beach Oceanfront
Atlantic Beach, NC**

December 8, 2016

SUMMARY MINUTES

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Mark Brown, Vice Chair

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Charlie Phillips

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Additional Observers/Participants attached.

The HMS Committee of the South Atlantic Fishery Management Council convened at the DoubleTree by Hilton Atlantic Beach Oceanfront, Atlantic Beach, North Carolina, Thursday morning, December 8, 2016, and was called to order by Chairman Anna Beckwith.

MS. BECKWITH: I am going to call the Highly Migratory Species Committee to order. The first item on the agenda is for folks to use their inside voices. Thanks. The first real item on the agenda is Approval of the Agenda. If there are any changes -- I know we have a couple of items under Other Business that we will discuss, and so, if there are no additional changes, that is approved. Then we had our minutes from the last meeting, September of 2016, and is there any correction to those minutes? Seeing none, those minutes are approved.

Then I would like to introduce Steve Durkee and Guy Dubeck that have come from the Washington Office to give us a presentation on the new dusky shark measures under Amendment 5b, and so I'm going to turn it over to them to give us that presentation.

MR. DUBECK: Thank you. Hello, everyone. My name is Guy Dubeck, and I'm going to be giving the presentation for Amendment 5b, which is on dusky shark management measures. Here is kind of a quick outline of the presentation. First off is the management history, and so dusky sharks have been prohibited since 2000. In 2011, we did a benchmark SEDAR assessment, and it was determined that it was overfished with overfishing occurring.

Then Oceana filed a complaint with us about not doing any dusky shark management measures. The settlement agreement reached was that we would have a proposed rule for dusky shark measures out by October 14, which we did, and we have a tight timeline around for the final, and we're supposed to have a final submitted to the Federal Register by the end of March. Also, in the meantime, after that, in October, we had the update assessment on SEDAR 21, and it was determined that dusky sharks are still overfished and overfishing. Thus, we're proposing these management measures.

Here is kind of a quick graph of the updated SEDAR 21 assessment. Like I said, it's still overfished and overfishing, but, also, we want to point out in the graph where the majority of the modeling, which we circled, most of the modeling falls right on that line of whether overfishing is occurring. Based on that, we only need to reduce mortality by 35 percent to get to the rebuilding of dusky sharks by 2107.

Here is kind of a quick overview of the preferred alternatives. The left-hand side, I will go through the recreational measures first. Alternative A2 is to require HMS federally-permitted fishermen who fish for sharks to attain a shark endorsement, which would require an online quiz and other fishing regulation course, and also in addition to outreach materials. Alternative A6a is the use of circle hooks by all HMS permit holders fishing for sharks recreationally when using natural bait and using wire heavier than 200 pounds or greater or monofilament leaders.

Turning to the commercial preferred alternatives, on the right-hand side, Alternative B3 would be, for all the pelagic longline fishermen using gear, they must release sharks, if they're going to release sharks, by cutting the gangion or the leader less than three feet from the hook. Alternative B5 would be for all the fishermen that already take part of the Safe Handling and Release Workshops. We would be adding in an extra training course for shark identification and fishery regulatory training to all the fishermen. The vessel owners and operators already go to that class.

Alternative B6 would be increased dusky shark outreach and awareness and also to require HMS commercial fishermen to abide by the dusky shark fleet protocol, communication and relocation protocol, and that would be, if the dusky shark is interacted with or caught, then fishermen would get on the radio and tell other fishermen in the area. Then any other sequential sets by that fisherman would have to be one nautical mile away from the dusky sharks caught. Then Alternative B9 would be to require the use of circle hooks by directed shark fishermen using bottom longline.

Also, in Amendment 5b, we considered a range of other alternatives. I will go through a couple of the recreational alternatives that we considered. The first one was to just require recreational permit holders to obtain a shark identification placard and have that onboard when they're fishing for or retaining sharks. Another one that we considered was to prohibit the retention of all ridgeback sharks. Another one was to consider increasing the recreational size limit to eighty-nine inches and also another one considered was to make the recreational fishery catch and release only and prohibit all retention of sharks in the recreational fishery. Again, these were considered, but they're not preferred.

Here is a list of some of the commercial alternatives that were also considered. The first one was, for pelagic longline fishermen, they could set no more than 750 hooks and have no more than 800 assembled onboard. We also considered a range of different closed areas, hotspot closed areas, up and down the east coast, based on dusky shark interactions. Another one would be to implement an individual dusky shark bycatch quota for commercial pelagic longline and bottom longline fishermen. Again, these were considered, but not preferred at this time.

Another thing also, in Amendment 5b, was that we also tried to clarify ACLs and AMs for the nineteen prohibited shark species we have. We're going to set an ACL of zero, even though we know that there's going to be small amounts of bycatch that will be permissible, as long as the bycatch does not cause overfishing for these species. A lot of the prohibited species that are caught are caught as bycatch and illegally landed or discarded dead, and it's not causing an issue for most of the species. However, for dusky sharks, the small amount of bycatch is leading to overfishing, and so, thus, the management measures in Amendment 5b are the accountability measures for this.

Besides getting comments on the entire rulemaking, we had some specific requests for public comments. The first one was is the mortality reduction and rebuilding objectives based upon SEDAR 21 and are they appropriate? How about the ACL and AM approach for prohibited species, setting it at zero? Under Alternative A2, we're looking for everyone's input on how to effectively implement the shark endorsement. When should we have this implemented by and how do we go at trying to get all the fishermen that are targeting sharks? How do we reach out to them and make sure that they're doing everything properly to minimize the mortality of sharks, if they're not pertaining?

The other ones were the Alternatives A6a and A6b, where it talked about the circle hook approach. Will the circle hook approach ensure the measure applies to the shark fishery? Should there be different indicators for the recreational shark fishery be implemented? Should it be heavier leader or a different gear type or different circle hook indicators? We're up for taking public comment on that, and suggestions are greatly appreciated.

We have public comment open until December 22. We have one more webinar. We have a webinar scheduled for Monday, and then we also are presenting to two more councils and that's it. Like I said, public comment is due by the 22nd, and we will all greatly appreciate your comments here or later, but, also, I just want to point out that we have been receiving a lot of recreational comments for the recreational measures, mostly particularly about the endorsement and the use of circle hooks.

A lot of the fishermen feel that we shouldn't define shark fishing, or another one was just what's a good -- Our thought is not to impact other fisheries when we come out with this definition and defining what shark fishing is, and so we would appreciate any kind of comments or suggestions. Thank you.

MS. BECKWITH: Thank you. If we can scroll back up to the preferred recreational and preferred commercial alternatives. Before I open stuff up for questions, I wanted to take a minute and sort of have you guys kind of go through the recreational preferreds. What are some of the examples of how this would actually work when the rubber hits the road? We have read them, but to give sort of an understanding to the layman or the folks that haven't been following this as closely as others, and what does this actually mean for the recreational folks, if you can just go through it?

MR. DUBECK: This would be for the HMS permit holders fishing in federal waters. If you want to be able to target or retain any kind of sharks, you would have to get the shark endorsement. Again, that would be an online quiz. It would be something like a five or ten-minute thing. It would be short, kind of just identifying what sharks are, especially what dusky sharks look like. Thus, if you have an endorsement and you're fishing for sharks, you would have to use circle hooks, but, if you do have the endorsement and you're not fishing for sharks, you don't have to use circle hooks at this time.

MS. BECKWITH: Right, and one of the -- I know that you guys have gotten a lot of comments on that definition of when you are fishing for sharks with that natural bait, wire, or heavy leader, and that that is overlapped with quite a bit of other styles of fishing, including billfish fishing, wahoo, king mackerel, and swordfish. I think one of the clarifications that we're looking for on the record is, for folks that have the endorsement, when they are fishing for these other species and they are not targeting sharks, they would not be required to use circle hooks, but they would be required to release sharks not caught on circle hooks.

MR. DUBECK: Yes.

MS. BECKWITH: Okay. Then, for those individuals that choose to not take the endorsement, they would not be permitted to retain or possess any sharks. Any sharks would have to be released, regardless of if they were caught on a circle or a j-hook.

MR. DUBECK: Correct. Also, they couldn't target them or advertise that they're going to be targeting sharks.

MS. BECKWITH: Then how does that interplay with state folks that don't hold a federal permit?

MR. DUBECK: That's where we're going to be reaching out to the states and trying to coordinate with the states on how to reach these folks and trying to minimize mortality of dusky sharks and other prohibited species.

MS. BECKWITH: Great. My last question would be can you go through a couple of the suggestions that you guys have received from the HMS meeting that we had recently, some of the suggestions that the recreational community came through and suggested as different definitions for how this could work?

MR. DUBECK: Yes, sure. The intention was, if you're out fishing for sharks and you accidentally catch a dusky shark, why don't you use a circle hook? That way, when you release a dusky shark, you're going to reduce the post-release mortality. It's going to help decrease mortality on dusky sharks, and so our intention is to really direct the circle hook requirements directly to people that are targeting effort on sharks.

It's pretty hard to enforce it though, if you just ask the fishermen whether or not they're fishing for sharks, and so we defined it as you're fishing for sharks if you're using a heavy leader, whether it's heavy mono or a metal leader, and natural bait. That would be somebody shark fishing. What we heard at the AP was that that actually incorporates a lot of other fisheries as well, perhaps swordfish or wahoo or even billfish at times. They could use these heavy leaders and natural bait combination, and so, all of a sudden, the circle hook requirement would hit not just people fishing for sharks, but also people fishing for other species, and that's not our intention.

We heard a few examples at the AP about other ways to define shark fishing, perhaps just going steel leader and perhaps not including heavy mono, perhaps not including that natural bait/heavy leader combination, or perhaps simply just not defining shark fishing and just say, if you are directing effort on sharks, whether or not you intend to retain that shark, that you are, by definition, shark fishing and should be using a circle hook.

MS. BECKWITH: Thank you. Then let's open it up for discussion on the recreational measures. I had Chester, Ben, Doug, and Mel.

MR. BREWER: When I read the notice in the Federal Register, I was very concerned, because the definitions that are being used for shark fishing would apply to wahoo for sure. I mean, you can't catch a wahoo on mono, whatever the poundage is, because they've got teeth like razors. It seems to me, in reading through this, and I am just going to talk from my own personal experience and what I have seen around south Florida, there are not many people that are targeting sharks, per se.

If they catch a shark, it's an incidental catch, and most people that I know of are not going to bring a shark onboard either. I certainly am not, and so, for those people who do intend to retain a shark, it might be a very good idea to have this endorsement. In other words, if you want to retain a shark, you have to have the endorsement. You don't want to have somebody who is only going out sailfish fishing to have to go through the thing and have to get that endorsement.

Then, with regard to circle hooks, trying to define when you are, quote, shark fishing, whether you have the endorsement or not, is -- That's going to be really hard, because, as I said, at least in my area, people are not really targeting sharks. They're targeting other species. They may catch a

shark, but they don't really want to, and I know that there are -- Like, in the Northeast, things are maybe completely different. They have mako shark tournaments up there and that sort of thing, but -- I may get some blowback from this, but I think that a requirement that at any time that you're using natural, as opposed to artificial, but anytime that you're using a natural bait and targeting these larger species, you should be using a circle hook.

There are tournaments now already. They're mostly billfish tournaments, but, if you're using a natural bait, you are required to use a circle hook. My experience with circle hooks has been, at first, people don't really -- They're not sure about them. They think that their hookup ratio is going to go down, but, in fact, if you rig the bait properly, your hookup ratio goes up. You have fewer misses, and I'm a big believer in circle hooks. I know a lot of the people that I associate with are big believers in circle hooks and will only use circle hooks, and so I wouldn't be opposed, quite frankly, to saying, if you've got natural bait in federal waters, you've got use circle hooks. It just wouldn't offend me.

MS. BECKWITH: That would work for billfish, but it wouldn't work for -- Well, it wouldn't work for swordfish, for the deep-dropping for swordfish, that's happening now.

MR. BREWER: Just to follow-up, I don't know whether you're talking about sword fishing on a hook-and-line or whether you're talking about buoy fishing, but a circle hook, the hook hooks the fish. The hook sets the hook, as opposed to you having to set up. I know in the longline that they, at first, were very opposed to circle hooks. Now they love them, because what happens is that bait is sitting still in the water. There is nobody to set up on that fish. The fish hooks itself, through the circle hook, and it's more effective.

MR. HARTIG: From our council's perspective, I am looking at your minimum size limit for the recreational of eighty-nine inches, and that completely prohibits the small coastal group of sharks, which we have seen increase in popularity, especially because of the regulations that we've had to implement for other fisheries, and I mean that's a very abundant, at least the sharpnose, of all the species included, I guess finetooth and blacknose, and have you thought about having an exemption for some of those small coastals in that? It's a real popular food fish for people in our jurisdiction now.

MR. DUBECK: That's not a preferred alternative. Again, that was something that we considered. We originally considered that, way back when in the original Amendment 5, but, right now, that's not a preferred alternative. We are just focusing on these alternatives here. The other ones are considered, but we're not preferring them.

MR. HAYMANS: Guy, I heard you say "quiz", but I read "course", and I'm curious to whether it's a quiz that you have to pass, or is it simply an online course that you have to say that you've gone through?

MR. DUBECK: It's going to be something you have to go through. It's going to be more trying to identify and focus in on can people identify what a ridgeback shark looks like or identify what some of these shark species look like. Some of the dusky, sandbar, and silky are very similar at different sizes, but, again, it will also just try to reinforce that here's what the requirements are, because most people get these permits not realizing what they're -- They're just going out there and fishing, especially in the Northeast. You're going out maybe once a month and you're going

out fishing not knowing what all the regulations are of what you're catching. This is just going to be kind of just a quick, five or ten-minute quiz. It's not like if you fail that you won't get the endorsement, but it's just more educational purposes.

MR. HAYMANS: Okay. Then the second thing is, on the second requirement, is it a non-stainless, non-offset circle, the same as we've got for snapper grouper?

MR. DURKEE: As proposed, it's not defined, but we have heard that same question. We're basing a lot of our information on a study done in Maryland on circle hook post-release mortality for sharks, and that was using a non-offset circle hook. I would imagine, going into the future, that would be a good way to define it, using that study that we based it on, but that's defined in the proposed rule, no. Any comments you have on whether corrodible hooks that are non-offset would be helpful and would be interesting, for sure.

MR. HAYMANS: If non-stainless, non-offset is acceptable, if it works, which I know they do, I would suggest that you define it, only because, if we don't, then we wind up with multiple types of circle hooks, if people are fishing both, because, to Chester's comment, I would sort of argue - - Not argue, but I would just simply suggest that there are an awful lot of charter guides out there who sell shark fishing trips because there is nothing else for them to catch, and so I was actually just trying to get to the permit holder list to find that, and I can't quite find it. Maybe you can direct me there.

MR. DURKEE: I think we have it online. Probably the best place would be the SAFE Report. Are you curious about specifically the charter/headboat permit holders?

MR. HAYMANS: Yes, and I am always am curious as to how the states break out, particularly how many we've got.

MR. DURKEE: It would be easy for us to find the information for you on our website, through the SAFE Report, but it would take a few minutes to find it. We could talk offline.

MR. BELL: My questions were mostly answered, but I would recommend that you definitely define it. When you say circle hook, be very specific about what you mean, and I want to make sure that -- This is federal waters only, HMS permit in federal waters, and not state waters. The training is not required for people catching sharks in state waters.

MR. DUBECK: It would if you have the permit.

MR. BELL: Right, but, if you don't have a permit and you're just a state-water, state-licensed recreational fisherman catching sharks, you don't need this.

MS. BECKWITH: Something else to think about is, for fly fishermen, because we do have quite a few charter boats that will fly-fish for sharks, and that would actually be taken into consideration with the circle hook, because they would consider those things that make up that fly, unless it's completely artificial, natural bait. I was a little bit surprised at that too. A feather would count as natural bait, and so those that are fly-fishing for sharks, their flies would fall under the requirement of the circle hook.

MR. HAYMANS: I have to think through my initial reaction to that first.

DR. DUVAL: Can we define natural bait as being like dead meat or something? I am being slightly flippant, but not entirely.

MR. DURKEE: We use natural bait definitions in our regulations right now, and it simply says “natural bait”, and so it would be up to the enforcement officer how they wanted to define natural bait, and there have been instances on the water on things that we might not have intended, like a chunk of fish or something, that might be defined as a natural bait otherwise, and so the possibility of a feather being natural, I think that is something that we should probably bring some lawyers into before we get too far, but we’re not intending to define that.

MS. BECKWITH: As you can tell, this is one of my primary concerns with this verbiage, is for the fly fishermen and what that would mean, because I think that’s going to get into some sticky stuff, and I feel like someone is going to get seriously dinged before this comes out, and so any advice, because I’m sure that this council will be putting in some comments, and this is not an aspect of it that’s been discussed in any real detail, and so any advice or comments that our state partners have would be helpful in helping us craft our comments to this particular point. Anybody else on this one? Dewey.

MR. HEMILRIGHT: I would just remind everybody that this doesn’t affect state waters. The National Marine Fisheries Service doesn’t have enforcement over state waters, and so, even though these laws or preferred alternatives could be implemented, it has no effect on the state waters of having to do something, and so that’s something where some of us have asked, if you manage this shark throughout its range, it’s necessary to have some complementary things in state waters for protection of the shark, if that’s what it’s to be about.

There was a two-day meeting, two half days, of HMS meetings that we just had last week, and it might be good for you to get a summary of that, to read over what a lot of folks around the table, some of their thoughts and comments to help you in your consideration of these preferred alternatives. Thank you.

MS. BECKWITH: Dewey, I think that I was clarifying a little bit ago that, for our charter fleet in particular, if they’re holding that federal permit, they are required to abide by the most restrictive of the requirements, and so, even if they’re in state waters and only fishing in state waters, if they have that federal permit, they would be required to abide by the federal law, and so it could affect them. It certainly does affect state waters if you’re holding a federal permit. It does not affect state waters if you don’t have any of the federal permits.

MR. BELL: Yes, and that was clear.

MR. BROWN: This endorsement, have you had consideration for an administrative fee for the recreational side for the boats that are fishing for sharks, either directly or indirectly, for incidental effort too?

MR. DUBECK: Right now, the fee has stayed the same. HMS permits are twenty-dollars. If you’re getting a shark endorsement, there wouldn’t be any extra fee. It would just be an extra check-box and the quiz that would be involved with this, and so the fees would be the same.

MS. BECKWITH: Right, and I know that, from the discussion that I listened to during the HMS last week, there were some concerns that, because there wasn't an extra fee associated with the endorsement, that folks would just sort of check it off without necessarily fully understanding that that would then give you these extra requirements, and so I think you guys got some suggestions on how to make it clear, when you're clicking on that endorsement, that not only would you have to do the sort of extra educational component, but that you would be then required to abide by this extra subset of potential regulations when targeting sharks. Then, on the reverse side, if you don't get the endorsement, to make it fully apparent and very clear to folks that you are in no way permitted to possess or retain sharks of any species.

From that past meeting last week, some of the additional suggestions from the recreational side that were put forth was requiring the ID placard card and actually requiring circle hooks for shark tournaments. Those were a few additional suggestions, as well as maybe not including that leader requirement, because it would sort of confound some of the additional types of fishing.

If folks have some thoughts or comments around the table on any of those suggestions that we as a council would support, you don't necessarily have to tell me now, but certainly I suspect that we'll be preparing comments, and so those are some things to think about. For the commercial, I'm going to ask you guys to do the same thing. Just go in sort of layman's terms. When the rubber meets the road, what does it mean for the commercial guys?

MR. DUBECK: For the commercial, the first alternative would be to require fishermen that are not going to retain sharks, using pelagic longline, to cut the line less than three feet from the hook. The second one wouldn't be huge impacts for the commercial fishermen. They are required to the Safe Handling and Release Workshops every three years. This would just be adding some shark identification and some fishing regulations on releasing. How do you release sharks properly? It's an extra part to the training that they already attend.

The next alternative is we're talking about awareness and outreach, and it's trying to get people aware of where dusky sharks are, and fishermen already kind of communicate on some of the things -- The commercial fleet already communicates on some things, but it's just adding dusky sharks to this and also to move one nautical mile, when they interact with dusky sharks, away from the area. The last one is just require circle hooks in the bottom longline fishery.

MS. BECKWITH: Thanks, and I know some of the concerns that were brought up during last week's meeting were the safety concerns for that leader length. Dewey, did you want to add anything from the commercial side?

MR. HEMILRIGHT: Thank you. No, everything on here, we already do, except for B4, which probably most people that already direct bottom longline use the circle hook gear, and so, everything that's on here, we already do now. Also, by the use of circle hooks and pelagic longline, the industry reduced not only our turtle interaction, but it also cut our swordfish catch by 25 percent, and so the use of circle hooks for swordfish, and that was based on the three-year study in the Grand Banks that was done for the use of circle hooks, but we're already doing all of these or are mandated to have safe handling release and the protocol. We have to go to class to get our permits renewed.

A lot of times, with the dusky shark, but cutting it three feet from the hook, he turns his mouth a certain way and he bites the line in two. We're using 300-pound mono, and so, for us in the commercial industry, we're doing all of these already. It's the recreational side that has not been in tune to any types of preferred alternatives or regulations in the shark fishing, per se.

MS. BECKWITH: Okay. Thanks for that. Are there any other comments on this, because what I have sort of heard is that we would have to put some thought into the natural bait and circle hook requirements being connected to the flies and that we would prefer non-stainless, non-offset as the definition for a circle hook, and also that -- Is there anything else? Were those the two main ones, or did we have some additional ones? They're just sort of clarifying the language, so the recreational folks can understand the meaning of what it's going to mean to have that endorsement or not have that endorsement.

MR. HAYMANS: Chester, just for my and your reference, and thank you, Steve. I found it. There's 993 charter/headboat permits in the South Atlantic that have HMS, and there is 5,514 angling permits, recreational anglers that have a permit. I'm shocked by the number of people who actually went out and got it for recreational purposes, and so it does have quite a broad reach, at least in the South Atlantic.

MS. BECKWITH: Okay. I suspect that I need a motion from the committee to prepare some comments on this before the deadline. Would someone be willing to make that? I could work with Michelle to prepare the comments on behalf of the council. Ben, Mark, or Charlie, would one of you guys like to make a motion? **Can I get a motion to prepare comments for Amendment 5b for HMS?**

MR. HARTIG: **I will make that motion.**

MS. BECKWITH: Are there comments from Charlie or Mark? I am going to let the motion get on the board. **The motion is to send a letter to HMS stating our comments for Amendment 5b.** It's made by Ben, and it was seconded by Charlie. Is there any discussion? **Any opposition? Seeing none, the motion carries.** I will work with Michelle to prepare some comments on behalf of the council, and those will be available for review, I'm sure, by everyone.

Thank you, guys, so much. I really appreciate it. Then we have two additional items under Other Business. I believe that John was going to take us through one and Gregg was going to take us through the other.

MR. HADLEY: Yes, and I will go ahead and run through my issue. One is regarding the Bahamas. Give me just a second to get set up here. The one issue that I would like to bring up under Other Business is the council recently, and I believe it was last Friday, received a letter from the Southeast Fisheries Association asking that the HMS Advisory Committee request information regarding vessels in the HMS general category which are licensed to sell HMS species but may not be certified as compliant by the U.S. Coast Guard.

The association expressed concerns that the HMS species are being caught and sold by these uncertified vessels and requested that the council look into this more, and they also believe that there are many accounts of HMS species being sold, but not reported, by vessels fishing within the general category, and so I wanted to bring this up. There hasn't been much time to really research

it very much, but more so to bring it before the committee. Does the committee think that this is something that the council would like to pursue and do they want to direct staff to gather more information?

MR. HAYMANS: Just a question, I guess. Does every vessel who holds a federal permit have to be U.S. Coast Guard certified? The small boats, certainly not.

MR. HADLEY: It varies. I believe, and we have our Coast Guard representative that might be able to speak to that.

LIEUTENANT PRAY: The commercial fishing vessel safety exam is now required, as of October 15, 2015. I will pull up the actual Maritime Safety Bulletin, but there was like a grace period for which people needed to get certified.

MR. HAYMANS: But those are people and not vessels, right?

LIEUTENANT PRAY: It's the vessel.

MS. BECKWITH: Mark, to that point?

MR. BROWN: Yes, and I've got those on my boat. I'm an inspected vessel, but I've also got the commercial license too, and so it's a separate exam, actually. I usually try to coordinate it with my COI, with my Coast Guard inspection too, so that, that way, I get it all done at the same time, but it does have requirements that the commercial industry is being held more accountable to now, with having to have certain types of safety equipment onboard to be able to participate in any of the commercial fisheries.

MR. DILERNIA: To add to that, when I operate an inspected vessel, the vessel -- The inspection standard, the Coast Guard inspection standards, are very high. At the same time, if we're selling fish, we still need additional equipment, such as, in our area up north, immersion suits and canopy rafts, and so, if you're selling fish, you're a commercial vessel, and you have to meet the commercial inspection standards at this point.

MS. BECKWITH: Okay. Go ahead, Charlie.

MR. PHILLIPS: I just want to make sure that we're not talking about two different things. We're talking about the same marine safety sticker that you have to have if you're going to take an observer onboard in snapper grouper or have an observer onboard in the directed shark fishery, and so that's the sticker we're talking about?

LIEUTENANT PRAY: I believe we're talking about the same thing, yes. It's the safety decal that you would have on the side of your vessel, regardless of whether you had an observer or not onboard. All commercial fishing vessels are required to have that decal now.

DR. DUVAL: Just to let folks know that I received this letter and passed it on to -- I have received several letters, actually, about this topic and passed those on to staff, and so we committed to bringing it up here, recognizing that we had a pretty tight agenda and limited time to address this, and so I understand the concerns about having -- Perhaps not operating on the same playing field

when it comes to commercial vessels versus recreational vessels and having to comply with similar regulations, with regard to sale of fish, and so that's why we committed to bringing it up here, but also wanting to research it a little bit more with regards to sale of those fish, and perhaps we could bring this back at our next council meeting and get some input on recommendations that we could make to HMS, if there are concerns. Quite honestly, I know zip about this topic, and so I'm just not at all informed, and I would want to be informed before making any type of recommendation, and so that was just my suggestion.

LIEUTENANT PRAY: We actually have a commercial fishing vessel safety coordinator, and so they may be better to speak to this, and I would invite them to the next meeting, and we would be able to prepare additional comments on this matter.

MS. BECKWITH: Okay. Chester and then Ben.

MR. BREWER: With regard to the second question, I don't know how we ask staff to investigate and come back to us with information on illegal sales without having some sort of idea of what illegal -- Give us some instance in which this thing occurs, so we can see what happened and maybe -- It's really an HMS deal, and we're providing, quote, advice or whatever to HMS, but I don't see how staff can possibly do what we would be asking them to do without specific instances.

MS. BECKWITH: If we can sort of clarify what our actual questions are, I'm sure that we could work with folks at HMS to get their viewpoints on if this is an issue, if it's been considered. There is no need to sort of reinvent the wheel on this. We have a great partnership with folks at HMS, and I don't know that we're the right place for this, and so I think it might be worth getting our thoughts and questions and sort of desired clarifications written down and then allow us to forward those to folks at HMS as a first step. Then, as needed, we can sort of come back and reconsider.

MR. HEMILRIGHT: I haven't read the letter that was forwarded from the Southeast Fishery Science thing, but what it is here, what I believe the question is, is that, if you're an HMS-permitted vessel, recreational for-hire, and you're selling your catch, through the loopholes of HMS, you have to have a commercial sticker on your vessel, and it's my belief that there is thousands that don't do that, that don't have that, and so that's something that has, I guess, been brought up. What you would probably do is ask the Coast Guard to download or ask what is the register that you have here to look at, and have them look at it and see how many -- The intent is, if your intent is to sell that fish, then you have to have that.

You can go out there and have them permits and go catch whatever you're allowed under that bag limit or something like that. Just say, for instance, general category bluefin tuna fishing. You can go catch that tuna, and probably 95 percent, and that's just my estimation, or more of the people that are general category fishing are in the intent of selling that fish.

If you're in the for-hire industry or the recreational industry and somehow you possess that permit, you have to go through the same thing as a commercial fishing vessel, a life raft and EPIRB and survival suits and all those other things, which is probably \$4,000 to \$5,000 to \$6,000, and \$1,200 to \$1,500 annually a year, as a commercial fisherman does, and so that's probably the thing that needs to be asked of the Coast Guard. In my mind, it's probably in the thousands that don't meet that requirement, and so it would be illegal sales. That would be, I guess, the crux of what they're getting at, as far as the sale part.

MS. BECKWITH: Okay. Thanks for that, Dewey. Was there any other comments at this time on this issue? I guess our way forward is maybe put in a request to the Coast Guard and an additional, maybe, request for information from the HMS staff, just to see what they kind of come up with. Go ahead, Ben.

MR. HARTIG: Is there a way to separate, Dewey, out sales from the commercially-permitted vessels versus the open category?

MR. HEMILRIGHT: I think what it is, as far as -- Probably you can pull that out down the road, but I think the initial thing is the people with these permits, and their intent is to sell their fish, are you registered to have Coast-Guard-approved equipment on your vessel before you do that transaction? I think that subset, you will show, in my belief, probably about 90 or 95 percent don't meet that requirement. Therefore, that sale would be illegal. The best thing to do would be to get all of these folks to be certified and go through the same examination as a commercial fisherman that does it full time. They will be doing the same thing, have the same type of requirements on their vessels and all that, because their intent, with these different permits, would probably, more than likely, the intent would be to sell the fish.

As long as you don't sell the fish, you can produce those permits and have the same bag limits and whatever falls under that permit, but, once you intend to sell it or actually sell it, that becomes the illegal part, and so that would be -- I'm sure there is ways to subset that out, but, if everybody would go ahead and get certified, then that would be the easiest thing.

MR. HARTIG: Can we bring Casey to the table for a second?

LIEUTENANT COMMANDER BENNETT: I'm Lieutenant Commander Bennett, and I'm with the Coast Guard 5th District, and I'm a Mid-Atlantic representative. We did this in the Mid-Atlantic. I sent it to my commercial fishing vessel safety guru, and I think it was a list of 6,400 boats. Of those 6,400 boats, 94 percent of them had never either been touched by the Coast Guard or received an exam, and so that's only 6 percent out of 6,400 boats that have the decal or maybe even an expired decal. I just kind of threw that in there.

It is a very time-intensive process. It took my examiner about three months to go through the database, and sometimes, when they're signing up for the permit, they might have put the wrong documentation number down or the wrong state registration number down, and so that 94 percent isn't a hard-and-fast number, but the point is that it could have been messed up in terms of the transaction itself.

For the requirements, it's clear. We define things by the Coast Guard. It's either a commercial fishing vessel or it's a recreational vessel, when it comes to fisheries. If you have the intent to sell your catch, you need the decal. You need the decal greater than three miles offshore, and all the safety requirements that come with that. What I will do is I will provide Ms. Pray with a website that you guys can provide a -- Right now, it's kind of an education. Do people know that they need to have this decal? I doubt it, and so what I can do is provide her with a link to give to you guys of, okay, this is the type of vessel I am and this is where I operate. This is how many people I'm going to have onboard. It's a checklist of all the safety equipment that they're going to require.

Right now, it's just a first step, but the point of the regulation is it's the intent to sell. HMS doesn't require the decal when you get the permit. That's a loophole, but at the same time, the way that the regulation is written for the Coast Guard, for what the definition of a commercial fishing vessel is, is it's the intent to sell. If I go onboard a boat and say, do you intend to sell your catch, can the fisherman go, no, or can the guy go, no, I don't intend to sell my catch and I'm just using the permit? Yes, he can do that, and he is not going to get written up for not having the safety equipment.

There are ways around it. I am not purporting that or encouraging that, by any means, but there is loopholes in the way that the HMS permitting process is, and there's also that loophole in terms of what the definition of a commercial fishing vessel is, per the Coast Guard, and so that's kind of a background.

MS. BECKWITH: That's really helpful. Thank you.

MR. PHILLIPS: If all of these 6,000 people all of a sudden decided that we need our stickers, I am scared to ask you, but I'm going to ask you anyway. What is it going to do to you all? How long will it take?

LIEUTENANT COMMANDER BENNETT: It will take a while. I am going to be honest with you. We don't have the personnel to do it. I am not going to give you a finite answer on that, but all I can do is encourage people to do it, because, at the end of the day, we want people to be safe when they're out there and have the necessary equipment. I don't want to see a jet-ski, which we have in the Mid-Atlantic, go out and fish for HMS. I don't, but we have people doing that, and so that is the whole entire point, is just to encourage safety and make sure people have the necessary equipment when they go out and fish.

MR. BROWN: When this bluefin fishery took off up here, every Tom, Dick, and Harry was getting their HMS permit and shot up here to fish, and you had twenty-five-foot boats with outboards going out there and fishing for them commercially, and I guarantee you that there was a big portion of them that never had any kind of a certification on those boats.

LIEUTENANT COMMANDER BENNETT: You're correct. We try to get out there. When we hear word of there's a whole pack of boats going for HMS, wherever it might be, we try to get out there, and we did have a lot of operations, whether it be up in Cape Cod or even off of Hatteras, of terminating vessels because they did intend to sell their bluefin tuna when they reached the dock. They need that safety equipment.

MR. BROWN: Then, again, pulling up to them out in the ocean, and they've got one that's stretched the total length of the boat, and they say they're not going to sell it, you really don't have any recourse.

LIEUTENANT COMMANDER BENNETT: We do at the end of the day. We have ways of monitoring that and meeting them after the fact to hand them a ticket for lying to a federal officer, since that's a prohibited act as well.

MS. BECKWITH: Anyone else? Tony.

MR. DILERNIA: Just to be clear, because I've heard this up in the Mid-Atlantic, and while you're answering these questions, but an inspected vessel, a vessel with a T-boat inspection, still does not meet all of the requirements for a commercial fishing vessel, and is that correct?

LIEUTENANT COMMANDER BENNETT: Correct. However, if you have that certificate of inspection, and let's say, when you go so far offshore, you need a life raft or some kind of survival craft, get the survival craft. The certificate of inspection that you get on your vessel is a higher level, when you actually compare and contrast the safety gear for a commercial fishing vessel versus anything greater than a twelve-pack. The party/charter boats, they don't need the decal, because they have the certificate of inspection. If you have the COI, you're good. However, when it comes to a life raft, especially operating offshore, you're going to need that.

MR. BROWN: Also, those parachute flares, the fifty-mile-plus flares. I know that's always a question.

LIEUTENANT COMMANDER BENNETT: Correct.

MR. DILERNIA: You still also need the immersion suits though up north.

LIEUTENANT COMMANDER BENNETT: Yes.

MS. BECKWITH: Okay. Gregg.

MR. WAUGH: Thank you. We have an issue that is a little out of our normal operations, but there was an initiative that surfaced in the Bahamas, a proposal to have some discussions with China about an agriculture and fisheries initiative. Needless to say, this elicited a firestorm of discussion within the Bahamas and also within south Florida, and Jessica may want to offer some input from the Florida perspective.

This proposed to establish companies, joint companies, and it would have injected \$2.1 billion into the Bahamas over ten years. They wanted to lease some land for agriculture, and we're focusing on the fisheries side. They wanted to grant 100 participating companies a fishing license, consistent with Bahamian law, and this really elicited a lot of concern, both within the Bahamas and anybody visiting there, and a number of groups within the Bahamas have spoken out against this, like the Bahamas National Trust, and there's an online petition from an environmental group, reEarth, over there that, last time I checked, had over 4,000 signatures. There is a Bahamian Commercial Fisheries Alliance that has spoken out against it, and the University of the Bahamas has a climate initiative, and they've spoken out against it.

We were requested, by a number of our fishermen, to quote, unquote, do something, and we have to be respectful that this is a different country. They have their rights to manage their fisheries as they see fit, and so what I discussed with Michelle was writing a very diplomatic letter indicating our concerns.

While we were discussing this, as this issue got hotter within the Bahamas, the Prime Minister made assurances to the House of Assembly, which is their governing body there, that there's no way that this was before the government and it wouldn't come before the government. If it ever did come before the government, that it would not be approved. The tack we've taken in this letter,

and this was sent around to everybody this morning, is to thank the Prime Minister for his assurance that this is not before the government for consideration and that, if it was before the government, it would not be approved. Then just talking about the input that we have received and our concern for the species that we manage and pointing out that dolphin wahoo would be a point of concern, snapper grouper species, and spiny lobster. Then, touching on species that we don't directly manage, but would certainly affect our communities, like billfish, tunas, and sharks.

Then, recognizing that the Bahamas has a right to harvest fishery resources within Bahamian waters, we're not commenting on the harvest by Bahamians or recreational fishermen visiting the Bahamas. Our concern has to do with this large potential increase in the commercial exploitation that could directly affect our fishery resources, and so Monica has reviewed this letter and has said it's okay, and, Monica, feel free to comment some more. We felt this was an appropriate response, just to thank them for their actions thus far, indicate our concerns, and that's about all we can do.

MR. BREWER: Gregg, thank you for putting this together. As you know, I got bombarded with this stuff, even to the extent of being fooled when somebody on one of the internet pages sent me a photograph that showed a bunch of Chinese guys standing around a dead fish in the Bahamas, or a bunch of dead fish, I should say, which was taken in 2011. The message was that they're already there and they're actively fishing, which was when my hair caught on fire. It turned out not to be true, but I think that the tone of this letter is exactly right.

I think it should be in the form of a thank-you, and you've hit upon the fact that a lot of the species that are in the Bahamas are important to us, and, as they move through, they are managed first by them and then more so by us, and so I think the letter is very good, and I appreciate you putting it together.

MS. SMIT-BRUNELLO: I think the council has the authority to send the letter under the Magnuson Act, under Section 302(h)(8). The question is do you want to send it, or would it be more appropriate to send it to the State Department and ask them to send it over? When you're thinking about that, I guess I would ask you to think about if the letter would be beneficial and achieve the goals of the council, and so I think maybe we could have some discussion along those lines and then, like I said, you certainly have the option of sending it to the State Department and asking them to send it as well.

MS. MCCAWLEY: We were bombarded as well, as you can imagine, and also Senators Nelson and Rubio were bombarded, and they were involved as well, as well as some other members of our Florida congressional delegation. We also had reached out to the Department of State. We were working with Gregg, and also one of our former FWC commissioners was Ambassador to the Bahamas, and so we were working with him as well on this initiative.

We ultimately decided not to send a letter, although that was our original plan. I think it's fine for the council to continue to send a letter. Like Monica, I am wondering if it needs to go to the Department of State, and some of our concerns, in addition to the things I saw in the letter, were you might remember we received a presentation from the Department of State that the water boundary between the U.S. and the Bahamas is still not completely set, and there are some very valuable fisheries in some of the area that's in dispute. To me, that's one of the key pieces of another reason why this is important, and so that was kind of factoring into how we were handling

this as well, but it got a lot of attention very quickly, and I was happy to hear that, at least at this time, it looks like it's not going forward.

DR. LANEY: I am not on the committee, but Jessica addressed my question to Gregg, which is, from what she said, I presume that boundary issue is still ongoing and hasn't been resolved yet.

MR. WAUGH: That is correct, Wilson.

MR. BELL: I like the letter. I think it's good for us to go ahead and at least get on the record our interest and state a position, and that also gives feedback to our folks that we know that this was going on, or might go on, and we're paying attention and we hear you. Then we're supposed to actually have a -- I mean, there's a State Department billet, if you will, and I've never seen a State Department rep, but so, in terms of who it goes to, I will leave that to you all to figure out, I mean which way it should go actually, but I think we need to go ahead and follow through with it.

MR. WAUGH: Mel, when this issue first surfaced, I immediately emailed Roy and Monica and our State Department council member and alerted them that this was ongoing. I advised our State Department rep as to when this would come up, and maybe they would want to attend, or at least listen in. When I prepared the draft letter, I sent it to Roy, Monica, Michelle, and to our State Department rep for their review, and I haven't received any response from the State Department.

DR. CRABTREE: It seems like this issue has been resolved with the Bahamian government, and so that's one thing. Then there are these boundary negotiations going on, and I just worry a little bit that us sending a letter to the Bahamas somehow has some implications that we wouldn't know, and so I guess I would be a little more comfortable sending it to the State Department, but I will leave it to you.

MS. BECKWITH: Okay. That appears to be the consensus. Chester, go ahead.

MR. BREWER: I would disagree, just from the standpoint that there's been no feedback and no response and no nothing from the State Department at this point, and the State Department is in a huge, from what I understand, state of flux right now, and I am very afraid that, if we send a letter to the State Department, that it's just going to stay there.

DR. DUVAL: I definitely appreciate those concerns, given the transition, but I am also sensitive to the issues that Roy and Monica have brought up, and I guess I would be my preference, since it's my name on the letter, that we actually -- That I get to choose. It would be my recommendation that we try again to get a response from our State Department representative and go that route. I know that there's been a lot of public attention on this, and I am certainly sensitive to that public attention, but I am also sensitive to unintended consequences.

MS. MCCAWLEY: I think there's some Bahamian CC's on the letter, and so I think that they're going to get it anyway, even if it goes to the Department of the State and then it appears to get lost over there, and so we could change up the CC list a little bit and maybe add whoever in the Bahamian government was supposed to get it right now. I think it was the Minister of Fisheries or whoever, but we could add them to the CC list. That way, it's going to both places.

MR. WAUGH: Right now, on the CC list, it does have it going to the Minister of Foreign Affairs and the Minister of Agriculture and Fisheries. Just a clarification. It would still be directed to the Prime Minister, but then we would have a cover letter with this that would go to our State Department, asking them to forward this to the Prime Minister. Then would we go ahead and do the CC distribution or let them do the CC distribution?

DR. DUVAL: It seems like, if we're sending it to the Department of State, that we would need to let them do it. We're turning it over into their hands. I mean, I agree that it would be better to get this over sooner rather than later, but it's my name, and so --

MR. BREWER: You don't CC a letter to somebody before it's approved by the people that you're sending it to for approval.

MR. BELL: I think by just having the letter and getting it in somebody's hands at the State Department, we will have kind of followed through on our obligation to be paying attention for our folks, and there will be a record, even if it just sits in the State Department, but we will have kind of met our obligation, in that respect.

MR. DILERNIA: Going back to the days of the Governors International Fishing Agreements, that used to come -- The councils would comment to the State Department, but I believe the State Department had the official communication with a nation outside of the U.S., and so I'm just going back to the good-old days, when we had cooperative fishing agreements with outside nations, but the council spoke to the State Department and then the State Department went forward and spoke to the other nation. Thank you.

MS. BECKWITH: I appreciate all the input. I think we've got a path forward, and so is there any additional business to come before the committee? Do you guys need anything else from us? No? Okay. Great. I adjourn this committee. Thank you so much.

(Whereupon, the meeting adjourned on December 8, 2016.)

Certified By: _____ Date: _____

Transcribed By
Amanda Thomas
January 12, 2017

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Dec 8, 2016 p1

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Dec 8, 2016 pr

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