

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **HMS COMMITTEE**

**Sawgrass Marriott  
Ponte Vedra Beach, FL**

**June 12, 2017**

## **SUMMARY MINUTES**

### **Committee Members**

Anna Beckwith, Chair  
Ben Hartig

Mark Brown  
Charlie Phillips

### **Council Members**

Dr. Michelle Duval  
Zack Bowen  
Chris Conklin  
Tim Griner  
Dr. Wilson Laney

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### **Observers/Participants**

Dr. Jack McGovern  
Monica Smit-Brunello  
Dale Diaz  
Dr. Marcel Reichert  
Joe Shiver

Dr. Bonnie Ponwith  
Erika Burgess  
Rick DeVictor  
Dewey Hemilright  
Walter Hoppe

Other Observers/Participants attached

The HMS Committee of the South Atlantic Fishery Management Council convened at the Sawgrass Marriott, Ponte Vedra Beach, Florida, Monday afternoon, June 12, 2017, and was called to order by Chairman Anna Beckwith.

MS. BECKWITH: The membership of this committee includes Mark Brown, Ben Hartig, and Charlie Phillips, and so if you guys can make sure that you are aware of your jobs. First of all, I would like to know if there is any amendments to the agenda. Seeing none, that agenda is approved. Are there any revisions necessary to the December 2016 minutes? Seeing none, those minutes are approved. I am going to pass the mic over to John to introduce our guests and then to discuss our first agenda item.

MR. HADLEY: Thank you. Before we get started here, I want to introduce two gentlemen at the table that just came up. One is Joe Shiver, and he is the Commercial Fishing Vessel Examiner located in Jacksonville, Florida, for the U.S. Coast Guard. Also, we have Walter Hoppe, who is the Commercial Fishing Vessel Program Coordinator for the U.S. Coast Guard 7<sup>th</sup> District. I just wanted to introduce them. They've been very helpful, and we'll get into some of the details in the next subject, but they were very helpful in comparing the HMS general category permit database with the U.S. Coast Guard's database, and so certainly a big thank-you to them, and they're here as a resource, if you have any Coast Guard or commercial fishing vessel safety-related questions.

With that, I will hop into the presentation. I put together a few brief slides just going over the white paper that was written regarding HMS general category permitted vessels meeting commercial fishing vessel safety exam requirements. The paper is Attachment 1a in your briefing book, and the slides are Attachment 1b.

As a little bit of background, this originated from a request from the Southeastern Fisheries Association to obtain information on the number of vessels possessing a commercial fishing HMS general category permit, but not certified as compliant by the U.S. Coast Guard for the safety requirements of a commercial fishing vessel. In general, there was concern over inequity occurring for vessels that are in compliance. This was discussed at the December 2016 meeting, and the council directed staff to provide further information on the issue. The issue has also recently been discussed by the Mid-Atlantic Council and the HMS Advisory Panel.

Just a little bit more background, a general overview. There are four general category permits that allow sale of highly migratory species. One is the Atlantic tunas, and there are three sub-categories of this permit, the general, the harpoon, and the purse seine. There is the swordfish general commercial permit, a combination swordfish/tunas, and the Atlantic HMS charter/headboat permit. This permit, we'll get into a little bit more detail on it, but it's a dual-purpose permit that authorizes both recreational, for-hire, and commercial fishing for HMS species. All four of these permits are open access, with the exception of the purse seine Atlantic tunas permit.

To get into a little bit more detail on the vessel safety exam requirement, effective October 15, 2015, federal law requires all commercial fishing vessels operating outside of three miles to obtain a U.S. Coast Guard commercial fishing vessel dockside safety exam at least once every five years. To meet the mandatory five-year dockside exam requirement, a commercial fishing vessel must have successfully completed an exam on or after January 1, 2013.

The safety requirements vary by vessel size, region fished, and distance from shore where fishing takes place, and, in addition to a specific vessel designation as a commercial fishing vessel, a vessel that is commercial fishing is defined as a vessel that commercially engages in the catching, taking, or harvesting of fish, which either in whole or in part is intended to enter commerce through sale, barter, or trade.

Looking into the analysis that was done, Mr. Hoppe performed a comparison of HMS permitted vessel holders in the 7<sup>th</sup> District, and so this was from South Carolina to Florida, and then we used also a previous analysis completed by the U.S. Coast Guard 5<sup>th</sup> District to incorporate North Carolina vessels, and this analysis was provided in your briefing book under Attachment 1c.

In general, we compared the HMS commercial general category permitted vessels with a home port in the South Atlantic region with the U.S. Coast Guard Marine Information Safety and Law Enforcement Database, and so this database stores information on marine accidents, pollution incidents, search and rescue cases, law enforcement activities, and vessel inspections or examinations.

Vessel types included in the summary tables provided in the white paper, the categories included were commercial fishing vessels, uninspected passenger vessels, recreational vessels, inspected vessels, and other. At times, vessels holding an HMS general category permit were not listed in the U.S. Coast Guard database, and this likely occurred due to an error in how the vessel ID was entered or that the vessel had never interacted with the U.S. Coast Guard.

There were multiple tables in the white paper, but this was kind of the -- This breaks down the findings by the permit type, the HMS permit type, but this was the kind of summary table, at the very end, that takes all of the HMS general category permitted vessels and breaks them down by vessel type, and so you can see that on the far left there, and then whether or not they had received a commercial fishing vessel safety exam, and you can see, at the very top here, those are the commercial fishing vessels. Those are the ones that were registered as commercial fishing vessels. A large portion of those had not received it, and then, down the line, you can see, overall, there were some that had satisfied the exam requirement, but several that had not as well.

Down here towards the end, the recreational vessels, almost none of them had received that, and then I will also mention that the inspected vessels -- The reason that this was not required is that, to become a U.S. Coast Guard inspected vessel, these safety requirements are above and beyond that of a commercial fishing vessel. They exceed those requirements, and that's why it would not be required.

A bit of discussion on this. Overall, it was clear that many HMS general category permitted vessels were not in the database as receiving a commercial fishing vessel safety exam at the time the analysis was performed. This suggests that there may be a relatively high level of non-compliance with the safety exam requirement. There was a big of a gray area though in determining the exact level of non-compliance, and one of the large areas, still kind of the confounding factor, was the dual purpose of the HMS charter/headboat permit that makes determining non-compliance difficult, in some cases.

Essentially, if a for-hire vessel simply wants to take passengers out and they have no intention of -- They may not ever sell any HMS species, but this still have this permit, which does allow

commercial sale, and so there is a little bit of a gray area there, and about 60 percent of the HMS general category permit holders in the South Atlantic held this charter/headboat permit, and so that's a pretty good portion of the overall population there.

This has come to the attention of the Mid-Atlantic Council as well, and some outside groups have weighed in on this, and so both the Mid-Atlantic Council and the National Association of Charter Boat Operators have recently suggested splitting the sale and no-sale components of the HMS charter/headboat permit into two separate permits to address this gray area on the commercial fishing vessel safety requirements.

The Mid-Atlantic recommendation had a party/charter no-sale permit, and so this would purely be recreational use. Then, also, a party/charter sale permit, and so this would be a mixed recreational and commercial use permit, and those that had this permit would be required to have the commercial fishing vessel safety exam. Additionally, they suggested that the requirement of either an HMS logbook or VTR reporting for HMS charter/headboat and general category permit holders.

The National Association of Charter Boat Operators suggested a similar split of the charter/headboat permit into a recreational and commercial permit, the recreational being purely recreational and the commercial permit being mixed commercial and recreational use. Again, thereby clarifying the commercial fishing vessel safety requirements and also clarifying it just for enforcement purposes. I think will mention that both of these recommendations were included in your briefing book under I believe it was 1d and 1e.

Some general actions that have been taken to improve compliance, the U.S. Coast and NOAA Fisheries recently provided a statement and a news release reminding HMS commercial permit holders of the exam requirements. The U.S. Coast Guard has notified commercial fishing vessel safety examiners of the findings of non-compliance, and they will continue to follow up in the field with HMS-permitted vessels fishing commercially. It is also believed that compliance will improve, through targeted outreach and education of the exam requirement coupled with on-the-water enforcement. With that, I will be happy to answer any questions.

MS. BECKWITH: Are there any questions on the presentation? Wow. Good job.

MR. HARTIG: Under your discussion slide, it says 63 percent of HMS general category permit holders in the South Atlantic held a charter/headboat permit, and they would not be required to get the commercial fishing vessel inspection, because their inspection requirements are more stringent than the commercial fishing stuff?

MR. HADLEY: Not for the -- That's for the inspected vessels. Those would be the ones that wouldn't be -- I will look for confirmation from the Coast Guard representatives.

MR. HOPPE: The headboats are typically either a UPV, uninspected passenger vessel, which takes people out to fish, or a T-boat, a vessel inspected under Sub-Chapter T. The commercial fishing vessel safety regulations are for uninspected vessels, and, in Part 28 of the regulations, it specifically exempts vessels that are inspected under another part of Chapter 46, and so a vessel that is inspected holds a Certificate of Inspection from the Coast Guard. That level, for their safety equipment, exceeds the requirements for a commercial fishing vessel that is uninspected, and so they wouldn't have to undergo another exam.

MR. BROWN: I have got a T-boat, and Hooper does mine, and he said to said hello to you, too. Whenever I do my inspections and it's time for that renewal for the commercial side, since I've got those permits, I just do it at the same time, and there's only just a slight difference, with the flares and stuff, but it usually is pretty smooth, just doing them both at the same time.

DR. DUVAL: Thanks for the presentation, John. Just in reading the white paper, one of the things that sort of stood out to me, and I'm assuming that this is the reason that both the Mid-Atlantic Council and NACO recommended splitting this into two is that the exception that can occur for an uninspected passenger vessel that's taking folks out sportfishing is, when the party returns to the dock, and if the passengers do not want to keep their catch, they can sell their catch without having to have the exam or fisheries endorsement, provided that the vessel operator or crew has the correct commercial permit and sale of the species is allowed.

This is allowable, because the intent of the business was taking passengers fishing, and they were not intending to harvest fish to sell and the sale of the fish is incidental to their businesses, and so that kind of seems to be the crux of the whole thing, is that your intent may be to go out taking passengers fishing, but, if you're left with fish on your boat afterwards, that you're then allowed to sell those fish, even though you don't have that commercial fishing vessel inspection.

MS. BECKWITH: That's correct, and I don't know if Dewey wanted to touch upon the Mid-Atlantic's discussion.

MR. HEMILRIGHT: Thank you, Anna. I think it's a more than that. Of course, how this kind of started out is that, at the Mid, at our HMS Committee, we had some discussion on how to level the playing field, and leveling of the playing field is you have HMS, who is issuing permits that allow you to sell, and, if you sell the fish, you're considered commercial fishing, and so you have to have safety examinations, and some of this looking at it is, if you're in the Mid-Atlantic, and you have a general category permit, and you also have a charter permit that allows you to charter fish and general category bluefin fishing, if you have a party, you can go out fishing, and, the first fish of your day, of your choosing, decides if you are charter fishing or decides if you're general category fishing.

There is two ways from my looking at it. It's quite obvious here that there's a number of vessels that don't meet the requirements that are out there that have permits that are issued by HMS that allows you to engage in commercial commerce, and, under that, you are supposed to have a Coast Guard inspection.

Furthermore, with the Coast Guard inspection of the different vessels and size and where you operate, it could be costly. It could be \$5,000 for your life raft and your EPIRB and your survival suits and drill instructor and different things. Every year, it's around a thousand dollars, and so, basically, for the Mid-Atlantic, it was basically leveling the playing field.

To use a little instance of myself as a commercial fisherman, from my use of this ocean and what I have to account, I have to fill out all these logbook reports, and, if I don't fill out my logbooks and reports, I don't get my permit renewed. When we look at this here, it is clearly -- Clearly there is problems here, and not just a small bit, but one of the clearer things is, if you have HMS issuing permits that allow you to enter into commerce or sell -- Some of our recommendations to them

would be to split the permits. Either you are or you're not, and, if you are, there is a litany of stuff that you need to follow to be that, but that's the two major things that I see.

Also, it's the issuing of the permits. HMS shouldn't be issuing permits to allow you to sell if you don't have to meet the requirements, and we brought this up at the HMS AP meeting, and it was probably -- They had a little exercise where you go up there and put dots on the board, and this, by far, I believe, got the most dots, about splitting the permits.

Nobody wants to know that, all of a sudden, you've got to spend \$5,000 to go get all this commercial safety equipment, but that's the price you pay if that's what you want to be, and so the best thing would be to probably split the two permits and get everybody up to compliance, just like that commercial man does, and, not only that, it would probably help the councils to decide, well, who is the commercial and who is this one, and so all you've got to do is look.

However that could be cleaned up, and, with HMS, it's probably going to take a little bit of time, because it takes them a little bit longer than usual to do things, but that's kind of the crux of it. It's pretty plain and simple, and the Coast Guard, both in the 5<sup>th</sup> District and also down here, have done extensive work on going and looking at their database, by producing these numbers and showing just what they have, and so the next steps would be up to the councils, and maybe this council could send a letter to HMS requesting and complementing the same thing that the Mid-Atlantic has asked for and the same thing that the National Charter Boat Association -- Also complementing them, and so that's kind of the twofold thing, but it is leveling the playing field, because, right now, it's a big disparity about what's going on, and also the reporting part of it.

MR. BELL: Just putting my Law Enforcement Committee hat on here, I can tell, you from an enforceability standpoint, what Dewey was describing, the sort of which are you, that's one of the issues with this whole thing of sale off of what would otherwise be recreational boats or recreational sale. It just creates a confusing environment for law enforcement to work in, whether it's Coast Guard or NOAA OLE or our guys operating in JEAs.

Anything we can do to clean it up and make it much more understandable of who they're dealing with on the water and what the purpose of that trip is, and then, like Dewey said, there is the aspect of just an even playing field. If you're a commercial guy, and that's what you have to do to sell your catch, it doesn't seem very fair that somebody that doesn't necessarily operate that way all the time could come in and basically enter your market or enter your world and not have those same requirements.

From an enforceability standpoint, the clearer we can make things, and I know this is HMS we're talking about, but this has certainly come up in other fisheries, particularly, most recently, related to cobia, and I know it's created some confusion in our area in Charleston, the Charleston sector, and then dealing with District 7 about these guys that are now targeting cobia out there on just private boats, but they're commercially-licensed, and so what are they?

They're commercial boats, but they're normally just a recreational boat, but they're -- I've worked with Matt a good bit in trying to figure out who is who, but there's a great bunch of them, probably, that aren't worrying about this at all, and so, again, from an enforceability standpoint, if we can clear some of this up, it really makes life easier for them on the water.

MR. CONKLIN: It seems like we could write a recommendation letter or something to HMS to make it where you have to have proof of the inspection or have an updated list, so they could cross-reference on a real-time basis before they issue the permit. That would be the first step in the right direction, and then, the sale part of it, I would leave that up to somebody else, but proving that you passed the inspection and have taken the steps to become compliant on the safety side of it is a pretty good idea.

MR. HAYMANS: I am not on the rather small committee, but I guess -- Maybe, Dewey, this is for you, and though I may agree with the splitting, if I look at a commercial permit for a sportfishing boat carrying charter/for-hire, it has shades of the argument we hear out of the Gulf over vessels taking charter/for-hire passengers and then selling fish and whatnot back to them, and was there any discussion amongst the Mid-Atlantic Council on sort of that aspect of it sounds like a sea lords issue?

MR. HEMILRIGHT: We really didn't focus on the Gulf aspect. We focused in on HMS, and here is a better discussion, or a little scenario. Under the general category permit bluefin tuna fishing, or charter fishing, you have two permits. You can carry a charter out fishing that day and leave the dock, and your first fish is a giant bluefin. You can catch that fish and advertise him that we'll catch you that fish, and then we'll give you up to 20 percent of the money from the sale of that fish, which is legal, which was astounding to me, once I read the regulations.

I don't know -- I am not trying to get in the weeds on little things and stuff like that, but maybe if we start with something that is -- I was going to say commonsense, but we can't do that, but something that's simple. Which one are you? Clearly, if you are going to be no sale, you're not worried about having to go spend \$5,000 for all of this safety equipment, but, if you think you're going to sell, that covers you, and so splitting the two permits would be number one, and then maybe second past that is -- When you go to renew your permits -- Of you don't have a permit, that is one thing, if you're out there fishing, and that's rogue fishing.

HMS is the one that issues that permit, and they have the option of not issuing that permit if you don't have a safety decal, which you're trying to get a thing to sell, and so you have an avenue of an entity that's issuing permits that maybe need to be better partners before they issue that permit, because one of the criteria of issuing the sale permit is you have to have a safety vessel inspection.

Now, do I think tomorrow that 8,000 or 10,000 are going to go out and get their inspection? No, but there is some way we have got to start to leveling this playing field, and it's not to say -- These are the big loopholes, and let's fix that first. The little loopholes, they will probably still go on, and you can worry about that later, if that becomes a problem, but, right now -- For instance, in the general category bluefin fishery, there was numerous vessels this year in North Carolina that didn't have no equipment, their safety equipment, and so they're out there selling their fish, and kind of the way that some of the constituents that I represent looked at it is, well, he's out there catching fish and he's illegal. If he wouldn't have been out there, I could have caught more fish, because you don't have the safety equipment.

It goes back to who is issuing the permits, and the only way that you get to go fishing is to have permits, and so, if HMS could tighten up their situation about issuing permits, to have two of them, one of them no-sale and the second one be sell, and, if you want to sell, provide me your Coast Guard fishing vessel and safety decal number and nothing else. We're not going to look at -- Just

supply the number. That way, it gives the Coast Guard an opportunity to look in the database and say, wait a second, here is Number 1234, and there is no safety decal for 1234, and how did they come up with that, and so it's been eye-opening, both for the Mid-Atlantic Council, and I also believe the Coast Guard, and I also believe for HMS.

This is me tending to me a little passive in the situation, but I think that's the way to handle it, or to look at it, because they're the ones issuing the permit, and the one that is issuing the permits is the one that has control over whether you go fishing or not, and I don't think it's too much of a demand to be put in there of just a little simple thing. If you're selling these fish or applying for this permit, please provide me your safety decal number.

MS. BECKWITH: Just a little history. This particular permit was created in 1997, and I believe it became effective in 1998, and so things have changed since then, but HMS's perspective, we gathered, was that they had felt that the permit had worked the way it was and that those utilizing the permit were complying on the regulations, but, because there is this new issue with the inspections, now it's become apparent that vessels like my personal vessel, we're not getting the inspections, because we don't sell.

There is that loophole that Michelle mentioned about the intent to sell, and so, if I was properly permitted commercially in the State of North Carolina, even if I didn't have the inspection, because my intent was not to sell when I left the dock, I could conceivably sell, and so there is that loophole, and we are trying to -- I think the intent is to find a way of cleaning that up.

During the HMS Advisory Panel meeting that we had recently, the discussion did center around a clean fix would be separating the permits out. I think, for us, our next step would be deciding if this council would be interested in supporting that way forward, for HMS to split these permits out to one that would allow for-hire sales and one that would not, and then the Mid-Atlantic also had some discussion about reporting in their recommendations, that, as move forward with our for-hire reporting amendment, we may not need to support, and so we may want to decide how much we would like to put in a letter to HMS. I guess my first question would be is this council interested in supporting the idea of separating out these permits to a strictly recreational charter and then one that might allow sale?

MR. PHILLIPS: Madam Chair, I am on your skinny committee, and it makes sense to decide who is in the game and who is not. As far as the sticker, I don't know that I would request the sticker before you get the permit. If you get the permit, you can't sell the fish until you get the sticker, and let the Coast Guard deal with that and just keep it as simple and as high and clean as we could. We have been dealing with recreational catch interfering or competing with commercial interests for a long, long time, and this looks like a fairly reasonable and simple fix.

MR. BOWEN: I am not on your itty-bitty committee either, but, Charlie, I like your phrase of deciding who is in the game and who is not. That is probably going to come up later this week, and I like that thought. I am also of the opinion that we need to have some level of consistency in other species.

We, as a council, have decided for no sale of species from the for-hire-caught vessels or trips, and so I'm of the opinion that we don't need to confuse that. Yes, we may need to split these permits up, but going down that road of selling for-hire caught fish is not what I want to see, and I am



totally against that, but I do like the idea of figuring out who the players are and who is in the game and identifying the effort. Boy, I like that.

MR. HEMILRIGHT: Back to Charlie's point about -- I don't feel like it's the Coast Guard's responsibility to decide about the permit, if you have had your Coast Guard inspection, as far as selling the fish. I mean, you shouldn't be getting a charter/for-hire to sell permit if you don't have the proper Coast Guard safety inspection, and so, therefore, what Charlie is saying is don't worry about that.

Let the Coast Guard figure that out. Well, the Coast Guard is not there stopping every vessel to see if they met the requirement. It should be the issuing of that permit, to help out, in partnership with the Coast Guard, to see if they have that. We're issuing you a permit, but yet the Coast Guard can't stop 1,500 vessels, or 1,000 vessels, at the same time, to see if they've got the fish onboard and what their intent is.

If you have that permit, if you're going to have that permit, there needs to be something there, if it's a second permit that says, hey, you know what, I've got my safety inspection, and here is my number, and so that's -- You're assigned to get that permit, and, as part of getting that permit, you have to have your Coast Guard safety vessel inspection, and so it shouldn't be left off for your permit renewal application every year, because, not only that, but you also have -- It might come up in the future, that, if you take observers, you've got to have a commercial vessel safety inspection to take them observers.

What happens is, on a commercial fishing vessel, if your safety decal is out of compliance or out of date, you don't go fishing, and so this is stuff that's coming back, as we go forward in the future, of leveling the playing field of the haves and have-nots, or the wants and have-nots. Therefore, that should be included in permit renewal.

Maybe you're given a grace period of a year, to say, hey, because it seems like, a lot of times, when we put these things in place, there is a grace period of a year or eighteen months, especially for the recreational. I think it's called like helping them with compliance, instead of that, and so, I mean, I think that is crucial, of having that in there, of issuing that permit, that you have to have that commercial safety decal, or a number where you've been inspected, because that's part of having that permit.

MR. PHILLIPS: I think you misunderstood or misinterpreted my thought process. My thought process is you can apply for your permit and sell the fish, and, at the same time, you may be working on getting that \$5,000 together so that you can put that life raft onboard. You're working toward that. Not everybody has that in their pocket, but you can't sell that fish until get it, or you've got these permits and we split them up, and maybe your vessel safety expires, and so you can't sell fish again until you get it renewed.

I am not saying that they shouldn't have it, but I just don't want to tie that to the permit, and you can, but I just don't want to tie it to the permit, and I would rather just -- If it expires, like you said, you can't go snapper fishing, or you can't go land that fish and sell it, and it's more semantics than just not having to have it.

MS. BECKWITH: The cost of the inspection is really based on the size of the boat. There is a website that folks can visit, and you can put in all of your information and the requirements for individual vessels to pass that inspection is pretty broad. A twenty-four-foot boat fishing primarily nearshore on day trips, the requirements are not as stringent, of course, and so I hear that sort of \$5,000 price point, and that's not necessarily the case, and maybe you guys can help us clarify that.

MR. HOPPE: Just to clarify, an uninspected vessel that gets a commercial fishing vessel safety exam, the exam itself is no cost. The Coast Guard comes out and does that for you for free. What they're associating the cost with is having the required equipment, but that equipment is required by law, in the regulations, whether you have the exam or not, when the exams were voluntary or if you're within three miles. When you say the Coast Guard or someone is costing you money to get an exam, there is no cost for the exam. The cost is just to be in compliance with the law, but you need to be in compliance, whether you have the decal or not.

When you say inspection, an inspected vessel does pay, on annual basis, every time they renew their COI. There is a user fee. Actually, I think you pay it once for the five years, but there is a fee associated with the Coast Guard coming out and doing the inspection for them, and so that's cutting hairs, but I just wanted to clarify that.

MR. BELL: I was just kind of following up on what Dewey, I think, was trying to set up. In the permit issuance system, where, if you're on a vessel, if it's a vessel that needs this inspection, that that's one of the check-boxes that they would look at before they issued you that permit, and so, if you don't do that, and there are vessels out there that are issued the permit, and they're out there fishing, but they don't have the inspection and they should, then they're subject to -- I am looking at the summary settlement schedule for NMFS, and so this could be Coast Guard or NMFS or our guys doing JEA, and failure to show proof of passing U.S. Coast Guard commercial fishing vessel safety examination, or the alternate NMFS safety equipment exam, that's a \$500 ticket or a \$1,000 ticket.

You're kind of setting them up, maybe, to get popped if you don't kind of make them -- If you don't check that box. That's what Dewey was saying, is you start out, and, before they hand you the permit, they check the box and then you're good. Otherwise, you could find yourself spending a little money dealing with that, and so it's kind of setting them up. It's a little bit of a liability there, and they say, well, NMFS gave me the permit, and so I'm good to go. Well, if you're not, and you get caught without it, you could get in trouble.

MR. BROWN: We keep talking about the life raft and the cost of the life raft, but there's also the cost of the survival suits too, and there's this break at 32 degrees North, between the cold water, supposedly, the cold water and the colder water, and, when you get north of there, you do have to invest in that too, and that's pretty costly, depending on how many people you've got onboard. Then, commercial-wise, you've got to have a better set of flares and everything. There is some different costs associated with that type of permit.

MS. BECKWITH: Right. I think I am hearing some agreement that we would be in support of HMS splitting these permits out to accommodate these concerns. Is there some consensus for that? Okay. The second piece would be -- We don't have to put in any comments or recommendations for any reporting requirements, but certainly the other two letters that we have in the briefing book

have some suggestions for that. Specifically, the Mid-Atlantic recommended HMS to require logbook or vessel trip reports for HMS charter/headboats and general category permits, so there was a more uniform two-ticket system for tracking HMS sales. Again, we don't have to extend our comments to reporting, but, if there is any desire to do that, then this would be the time to make that suggestion.

MR. GRINER: Maybe I am a little confused on this, but does -- In order for one of these charter/headboat guys, or for-hire guys, to sell a tuna, do they not have to have a state-issued commercial fishing license? If they don't, then how would a dealer ever purchase it in the first place?

MS. BECKWITH: Those are state-by-state requirements. Of course, for North Carolina, we require them to have that, but I believe that different states have different requirements. HMS does require reporting of many of these species, and not in the two-ticket form that the Mid-Atlantic is suggesting, but there is a reporting requirement that HMS has in place for commercial sale, and so this isn't quite our house, and so I'm sort of sensitive to what we present to them, but I am offering the opportunity.

MR. GRINER: I just wanted to understand that, just because you have an open-access HMS permit on a for-hire vessel, it does not give you the right to go sell that fish.

MS. BECKWITH: Not in North Carolina, correct. Okay. Again, am I seeing any desire for us to specifically put in comments for reporting, or would we like to base our comments solely on the splitting of permits?

MR. PHILLIPS: Madam Chair, I think I would just keep it relatively simple and split the permits. I think that will give them plenty of direction, and they're going to get plenty of comment on the other stuff as it is.

MS. BECKWITH: Yes, and they did get plenty of comments at the last HMS AP, and they're definitely talking through different reporting aspects.

MR. HARTIG: I agree with Charlie.

MS. BECKWITH: Okay. Sounds good. May I get a motion requesting staff to prepare a comment letter to HMS supporting the splitting of these permits?

MR. HARTIG: **I will make that motion, Madam Chairman.**

MS. BECKWITH: I will assume that Charlie is willing to second that motion. **The motion reads: Direct staff to write a letter to HMS stating comments in support of splitting HMS charter/headboat permits into recreational only and a permit that allows sale.** That was made by Ben and seconded by Charlie. **Is there any opposition to this motion? Seeing none, that motion passes.**

Is there any other questions or thoughts on this particular issue? Okay. I am going to give John a second to catch up, and the next topic is a discussion on shark feeding in the South Atlantic, and I believe that John is going to give us a bit of background on that.

MR. HADLEY: Thank you. I will briefly introduce the subject and turn it over to the committee, but this topic arose from a letter from the Southeastern Fisheries Association stating concerns regarding dive operations occurring in the South Atlantic and feeding sharks during these dive tours, and they occur in federal waters. There was concern that this may cause serious injury to commercial divers, other sport divers, and other people that are in the water in general. I will mention that this letter was Attachment 2a in your briefing book.

As a little bit of background, there was some legislation, federal legislation, that would have banned shark feeding in federal waters, Draft Bill S. 3099, and this legislation did not move forward. This draft legislation was included as Attachment 2b, and so, as of now, there is no active federal legislation to ban shark feeding in federal waters, and that is my very brief overview. With that, I will turn it back over.

MS. BECKWITH: Thanks. Jessica, could you offer some thoughts on this issue, since it seems to be happening primarily in Florida waters?

MS. MCCAWLEY: Florida has already prohibited shark feeding, and, by shark feeding, we don't mean chumming. We mean the introduction of food by hand by a diver that is actually introducing it to the shark.

It's actually something that we've been hoping would be amended in Magnuson, to not allow shark feeding in federal waters off of Florida. There are already a number of other areas where the Magnuson Act calls out specific places, like Hawaii, where they don't allow shark feeding, and so this is something that we've been following.

As noted in the letter from Bob Jones, as well as in the bill from the last Congress, it was attached to an item relative to Biscayne National Park. Ultimately, this bill died, in the last congressional session, and I'm not sure if the shark feeding prohibition would be coming back this year or not. I am not necessarily certain that there is something for the committee to do at this time, since there is no bill on the table, but maybe there will be, but there isn't right now. If you have more questions about it, I can certainly try to provide some answers about the problems or the concerns or whatever it is.

MS. BECKWITH: Okay. Is there any questions on this topic? I am not sure where we as a committee or council can impact this topic.

DR. DUVAL: I think the question that was posed by Bob Jones in his letter was can the South Atlantic Council prohibit shark feeding in federal waters, and I think the clear answer to that is no. I mean, one, we don't manage those species, and so it would really be incumbent upon the agency to do that, or, as Jessica mentioned, if there was some modification of Magnuson to prohibit shark feeding.

That's really, I think, the answer to the question, and I think there was another question with regard to data showing how many oceanic sharks are killed by sport divers in the South Atlantic, and I don't know if that type of data exists. Perhaps the State of Florida has information on that, but I don't know, personally.

MS. MCCAWLEY: I am not sure about that data either, but I had tried to explain to Bob Jones in the past, and so our legal office worked with NOAA legal, and it was determined that this is something that has to be modified in Magnuson. That's what the folks from HMS told us as well, and I think that Bob believed that there was a way that the South Atlantic could take some sort of action relative to that, although that's not been what our attorneys or NOAA attorneys have indicated.

MS. BECKWITH: Great. Thank you for that clarification.

MR. BREWER: Something that we -- I hesitate to bring this up, but I will, and it's something that I have witnessed, but there is a growing trend, certainly in south Florida, that people are cobia fishing, and, in particular, spearfishing for cobia, who are taking dead fish, and they hang it over the side of the boat, filleted essentially, halfway filleted, in order to attract mostly bull sharks. They then get in the water and shoot cobia right next to that. Now, that may just be Darwin at work, but, to me, that's a really dangerous and stupid thing to do.

MR. BELL: I would just say, having been a professional diver for over forty years, in one capacity or another, some of this stuff will just take care of itself, and I don't think we need to worry about our time, and it's outside of kind of our purview anyway, but it will take care of itself, and that's just nuts, some of that stuff. Think about it. You don't go hand-feed black bears, and you don't hand-feed alligators and other things, and so it will resolve.

MS. BECKWITH: Well said. Okay. Is there any other business that anyone would like to discuss? Seeing none, I adjourn this committee. Thank you.

(Whereupon, the meeting adjourned on June 12, 2017.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

Transcribed By:  
Amanda Thomas  
July 21, 2017

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