

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

FULL COUNCIL SESSION

**Charleston Marriott Hotel
Charleston, SC**

September 15, 18-19, 2008

DRAFT SUMMARY MINUTES

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Anthony Iarocci
Lt. Brian Sullivan
John Wallace
Bill Sharp

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The Full Council of the South Atlantic Fishery Management Council convened at the Charleston Marriott Hotel, Charleston, South Carolina, Monday afternoon, September 15, 2008, and was called to order at 1:05 o'clock p.m. by Chairman George Geiger.

Mr. Geiger: If I may please, I would like to call to order the South Atlantic Fishery Management Council meeting. Everybody welcome to Charleston, South Carolina. We're convening the council as a committee of the whole for one piece of business here this afternoon, but we've got two issues. The first one is, Mike, do you want an opportunity to talk to people about the briefing book?

Mr. Collins: Just quickly, if you're not using the briefing book correctly, it will take you a lot longer to access documents and so I'm just going to go over real quickly how to open things. My first recommendation is to take the CD and download it onto your desktop. After you do that, everything will open much more quickly and then once you do that, or if you use the CD and just keep it off of that, if you click the "Open Me First" and I named it so hopefully it got your attention and that brings up an index.

That index is linked to all the documents that are buried in all those folders. Now, I know some of you in the past have been using the folders and it's really difficult to try to access the documents, because they're not easily named in the folders, but they are in the index itself. If you click on the "Open Me First", it brings you to an index and you click the document that you need.

You can open multiple documents off of the index. You can open one and then you minimize it and then you hit the index again and you can open another one and you'll have a list of tabs, either at the top of your screen or at the bottom of your screen, and you can just go back and forth between documents that way.

Then for everybody's -- To make it easier for everyone, when you're briefing a document and you want to mention a specific page, if you tell them if you're using the actual PDF frame number or the page of the document. Since all these documents have been PDF'd, it's much easier if you tell them what frame number you're on when you're referring to a particular page. I have a handout if anybody didn't follow this and I'll be over there with John in a second and welcome to Charleston.

Mr. Geiger: Thank you, Mike. Any questions?

Ms. Smit-Brunello: I have a question for Mike. Mike, if I was to use the internet website, your internet, and the briefing book is on it, is that kept up to date as well?

Mr. Collins: Yes.

Mr. Geiger: For voice recognition purposes, can we start a voice recognition introduction starting with Gregg, please.

Mr. Waugh: Gregg Waugh, council staff.

Ms. Quigley: Kate Quigley, council staff.

Dr. Chevront: Brian Chevront, council member.

Mr. Boyles: Robert Boyles, council member.

Mr. Cupka: David Cupka, council member.

Mr. Swatzel: Tom Swatzel, council member.

Ms. Merritt: Rita Merritt, council member.

Ms. Shipman: Susan Shipman, council member, Georgia.

Mr. Wallace: John Wallace, council member, Georgia.

Mr. Mahood: Bob Mahood, council staff.

Mr. Geiger: George Geiger, council member, Florida.

Mr. Harris: Duane Harris, council member, Georgia.

Mr. Currin: Mac Currin, council member, North Carolina.

Dr. Crabtree: Roy Crabtree, council member, National Marine Fisheries Service.

Ms. Smit-Brunello: Monica Smit-Brunello, NOAA General Counsel.

Lt. Sullivan: Brian Sullivan, U.S. Coast Guard.

Dr. Laney: Wilson Laney, U.S. Fish and Wildlife Service.

Mr. Robson: Mark Robson, Florida, council member.

Mr. Sharp: Bill Sharp, alternate Florida council member.

Mr. Geiger: Just for the record, Tony Iarocci is not absent. He is present, but he's caucusing with the golden crab fishermen down in the AP room. The next order of business, before we get on with our committee meeting, David, come to the front, please. We need to conduct swearing-in ceremonies for recently reappointed council members, so that they have the opportunity to vote on upcoming issues.

Mr. Geiger: Again, we're meeting here for this one brief committee meeting. It's council as a whole so we can carry the results of that forward into our Amendment 17 deliberations. If I could, I would like to turn it over to Kate. I guess you're going to go through the tables and, Brian, you're going to be the committee chair on this, correct?

Ms. Quigley: The Allocation Committee met in July of 2008 in North Charleston, South Carolina and the committee generated three tables for the council. These are contained in the briefing book and they've been updated and sent to you via an email sent on Friday and they're also in the back of the room, on the back table, and they are labeled "Preliminary Allocations ABC 0808.pdf". Each of these tables contains different options for allocating among different fishing sectors and a range of allocation methodology alternatives that were crafted by the Allocation Committee in July of 2008.

Table A contains allocation options for the commercial, headboat, and MRFSS sectors, where MRFSS refers to private recreational and charter operations only. Table B contains allocation options for commercial, for-hire, and private recreational sectors, where the for-hire refers to headboat and charter operations, and Table C contains allocation options for commercial, private, charter, and headboat sectors.

All three tables contain a list of the species the council needs to make allocation decisions for as part of Amendment 17. What I'm going to do is go through a presentation that reviews these sectors and range of alternatives identified by the Allocation Committee and recommended to the Snapper Grouper Committee. I will also provide a detailed review of the allocation equation Alternative 4 that was discussed during the July Allocation Committee meeting. An explanation of that is contained in the Allocation Committee summary report.

Mr. Robson: Kate, I just want to make sure I've got the right -- The tables as they were in the second briefing book CD have been changed?

Ms. Quigley: That is correct. They have been revised. The headboat sector was changed from kilograms to pounds. That was one change that was made and the second change that was made was all species incorporate all of Monroe County and so that's the difference between the second briefing book and the tables that were emailed to you on Friday and we have hard copies coming around right now. Again, just to review the terminology, the MRFSS specifies charter and private and the for-hire refers to charter and headboat.

What I'll do right now is go through the PowerPoint presentation, which basically walks you through the tables and what's contained in each of the tables. I'll wait until everybody has a hard copy first.

Mr. Geiger: Kate, if we're going to look at these tables, I guess -- Like on Table A, you would just add the headboat and MRFSS together, which would give you your recreational sector, correct?

Ms. Quigley: That is correct. You can use Table A or Table B, but let's take a look at Table A. The sectors are commercial, headboat, and MRFSS. You can add headboat and MRFSS together to get a recreational sector allocation. It looks like just about everybody has got a hard copy of those tables and so now I'll go through what is contained in each of those three tables.

First, as you can see up on the PowerPoint, the council needs to choose a preferred sector alternative or set of sector alternatives and approve of a range of alternatives for allocating

between sectors. In each of the tables, there are different sectors, going from the top to the bottom, and across the top are different alternatives. The council needs to choose a preferred sector alternative or set of alternatives and approve of a range of alternatives for allocating between sectors. As far as sectors, again, Table A has commercial, headboat, and MRFSS. Table B has commercial, for-hire, and private. Table C has commercial, private, charter, and headboat.

As far as the alternatives go, Alternative 1 is status quo. Alternative 2 shows average landings from 1986 to 2007 for each of the different sectors, under each of the species in Amendment 17. Alternative 3 shows the average landings 2005 to 2007, three years, for each of the species in Amendment 17. Alternative 4 shows equal weight to Alternative 2 and Alternative 3. I'll go over this more in detail. It's basically 50 percent weighted for average 1986 to 2007, plus 50 percent based on average 2005 to 2007. It's a weighting of Alternative 2 and Alternative 3. Then we have Alternative 5, where it splits allocation equally among sectors.

I'm just going to go over Alternative 4, because it's the more complicated of the five. Alternative 4 is 50 percent, or 0.5, times the average landings 1986 to 2007, plus 50 percent, or 0.5, times the average 2005 to 2007.

One example is vermilion snapper. If you take a look at vermilion snapper commercial landings, Table B -- If you take a look at Table B, vermilion snapper, I plugged some numbers in there. 50 percent times 403,146 -- We're looking at Alternative 2, Table B, vermilion snapper, Alternative 2. It's 50 percent times 403,146, plus 50 percent, times 389,316 is equal to Alternative 4, 396,231, or 63 percent. You can do this with landings or with the percentages. First, are there any questions about how Alternative 4 is calculated?

Mr. Geiger: Kate, could you possibly go back or maybe we can have Robert explain this formula and how we got to this particular point, for the benefit of those who may not understand how we even got to this particular point? I hope that explanation will include the missing F factor.

Mr. Boyles: When the Allocation Committee met back in July, we had a discussion and the comments that we had heard, many of us have heard, were all about how do you do an allocation fairly and equitably? In other words, how do you meet the standard of Magnuson and those things that Magnuson requires, at the same time without relying exclusively on landings data as the means by which we allocate the fishery in the future?

What the Allocation Committee discussed what was if you -- In essence, what it is if what if you look and give equal weight, for the purposes of discussion, to a long time series of landings data and some desired future condition of the fishery? In other words, you give 50 percent of the weight of allocating a resource to a long time series of landings data and rather than project forward, which none of us are soothsayers, and I dare say if we were soothsayers that we wouldn't be doing what we're doing today, have as a proxy measure for the future of the fishery maybe a shorter time series of more recent time series of landings to reflect changes, contemporary changes, in the fishery.

In the case that we discussed, I believe it was the last three years, to be as a proxy for kind of where the fishery is headed and so in discussing how to allocate these resources, we take a long view, looking back over our shoulder, and we say this sector of the fishery, over the last twenty years, has caught 100,000 pounds, on average over the last twenty years, but in the last three years, they've only caught 40,000 pounds, let's say.

If you plug that into the model or the algorithm, I think is how we described it, the long time series suggests, okay, 100,000 pounds yearly average for the last twenty years and that gets half of the weight of the allocation and then the last three years as a proxy for the future, in other words to reflect those changes in the fishery that have happened in the last several years, gets another equal weight. It's really hard to talk, by the way, without a blackboard, without a whiteboard. I can explain this mathematically a lot easier.

In this case, let's say the last three years the fishery has landed 40,000 pounds, due to whatever, regulatory changes or what have you, changes in demographics and economics, and so you add those two together. 50 percent of 100,000 pounds is, of course, 50,000 pounds and 50 percent of 40,000 pounds is, of course, 20,000. You add the 50,000 with the 20,000 and the allocation for the future would be a 70,000 pound-allocation. Are you all with me? Okay.

Dr. Chevront: There's also -- I wanted to point out that our Allocation Committee meeting on Thursday one of the things that we have on our agenda is to discuss how we want to measure this what we refer to as the "F factor", the future, because potentially we may have something other than landings history to go on and I think our discussion on Thursday is largely going to revolve around that.

We're using landings now simply because that's a tool that we have that's readily available, but there was no intention that this is the way it was always going to be. We could come up with something else, potentially, later on.

Mr. Boyles: I was going to say that when we threw this out that I really expected to have a lot more discussion about the equal weight, the 50 percent for the long time series and the 50 percent for the more recent time series. I think certainly there is a lot to be discussed, in that there's a lot to be debated around there, but if you really look at it -- I guess where I come down at this is recognizing this is going to be very difficult decisions -- We will be faced with very, very difficult decisions in terms of allocation of the future and recognizing the disparate interests of our constituents, I looked at it as really probably about the only way I knew how to do something that does not come across as -- There's some method to the madness, I suppose, in this way.

It doesn't come across as arbitrary and it doesn't come across as capricious. I believe that we could defend it and I look at Monica and, of course, legal counsel to tell us whether those are standards that we think we can defend that, but I guess at the July meeting -- My sense of things is absent landings catch history, I just don't know what we've got to hang our hat on and this at least recognizes more contemporary changes in the fishery and contemporary changes due to regulations, economics, market conditions, what have you.

Dr. Chevront: I just want to make one comment. I think right now, Robert, I think the reason why we're using landings is because that's all we know that we have to hang our hat on. We would like to have the discussion to find out if there is potentially something else. We're just leaving that very open at this time, to find out what we can come up with.

Mr. Geiger: Robert, I think that explains it very, very well, but just to work on this F factor a little bit more, because it's part of this equation. This equation doesn't stand alone, because when it was presented and when we voted on it, we voted on it I think with the F factor attached to it. That is the other part of it, but the big problem that you wrestle with in doing all this stuff is the illusion -- I put on my economist hat now and it's in the shape of a cone. You create winners and losers.

We're not necessarily trying to create winners. Unfortunately, with the condition the fisheries are in, I think you're going to have what you might term as losers as you move down the line, because we're not going to be able to continue doing what we've been doing in the past. That can be interpreted as some sectors losing, but hopefully everybody is going to share in the pain associated with those losses.

When I was originally -- Robert picked up on it. I think we were trying to displace the concept that there were going to be winners and we were going to take from one sector and give to another sector to allow the perception that this sector was going to gain fish at the expense of a sector that loses fish and that's where we came up with the conservation idea of taking whatever fish we may reallocate from one sector and instead of just arbitrarily giving it to another, putting it in a conservation bank to help the fishery recover that much faster, so that the fishery could be reapportioned at a future time.

Then Robert came up with this idea to move us forward with the 50/50 concept with this F factor, which is the future, as Brian talked about, and what we want that fishery to look like in the future, which is what we're going to talk about Thursday. What we're trying to do here this afternoon is basically get approval from the council that this concept of using 50/50, long term 50 percent and short-term catch history with this F factor at some point in the future, as a concept that we buy into as a council to move us along and that can be used in our deliberations in Amendment 17.

Ms. Quigley: I just want to clarify that what the Allocation Committee has put together here are interim allocations for Amendment 17 and for the Comprehensive ACL Amendment.

Mr. Geiger: I guess part of the thing that is really troublesome to me personally is when you look at the small numbers, the small values, in terms of pounds that are associated with each of these allocatable sectors and how you're going to manage some of them in such small increments and whether or not you can even manage them in terms of such small increments, as we move forward. Therein lies another part of the discussion, how do we manage these? We're looking at some pretty small fisheries here, I think.

Dr. Chevront: I think that kind of goes to whatever the species committee is, as opposed to the Allocation Committee. If we can just come up with the numbers, then it's up to that committee

to decide then what should be done with that sector's allocation.

Ms. Smit-Brunello: After the last council meeting or during the last council meeting, you'll recall there was a discussion among various sectors and did you all have to -- Were you charged under the Magnuson Act to allocate to three various sectors, commercial, recreational and charter?

When I went back and talked with a lot of people in NOAA General Counsel and reread the section of the Magnuson Act, I think what it's really saying, obviously, is that you have to consider harvest restrictions and recovery benefits fairly and equitably among all those three sectors, but it doesn't mean -- It doesn't carry forward then that you have to specifically allocate to each sector. That's just for your thinking about as you move along in this.

You'll definitely have to discuss benefits and restrictions on each sector, but it doesn't mean that you have to slice one sector even thinner to create, for example, a charter sector or a for-hire or anything like that. If you choose to do so, fine, but you're not required to do so. I know there were some questions about that at the last council meeting.

Mr. Robson: I was just going to make the comment that, again, we're talking -- Sort of the question about the low numbers for certain species, but what we're dealing with here is a standard formula, really, that would be applied to any species. I think we all have to go into it understanding that. I guess we're going to discuss how to apply a future factor to the equation later and I guess I'm trying to figure out where that would -- I presume that would just be something we would modify for Alternative 4, that we change the formula, essentially?

Dr. Chevront: I think that's a potential. These are interim allocations, but also, this formula only works for those species where we actually have an ABC that gives us pounds. Obviously you can't divide up nothing among sectors, because we don't have an ABC to start with. We can't use this formula. We do have a species, like warsaw grouper and speckled hind, where we don't have any pounds to divide up.

I think the plan right now is that we're proposing to go ahead and use this formula and put it before the council, to say is this our preferred alternative, which is basically Alternative 4, to go ahead for those species in Amendment 17 and in the Comprehensive Allocation Amendment to determine whether we want to use this mathematical formula as our preferred alternative. We need to continue discussing this, to find out if that's the direction that we want to go in.

Mr. Robson: To that point then, I'm trying to understand where we're at with -- Are we talking here -- We're looking at choosing a range of alternatives for allocating and are those alternatives going to be in Amendment 17 or are they part of a separate -- We're not talking about a separate allocation plan that's going to have its own set of alternatives. We're talking about incorporating some method of allocating for reef fish in Amendment 17?

Ms. Quigley: That's correct. This is for Amendment 17 and the Comprehensive ACL Amendment and just a clarification on what Brian had said. You are looking to approve a range of alternatives and so you don't have to say that Alternative 4 is the preferred alternative. At this

point in time, it's just approving of a range of alternatives. There's five alternatives outlined in these tables and, of course, you can add to that or take some of those away.

Dr. Crabtree: The way this is laid out, where do we make the decision as to how many sectors we're going to have? We have traditionally just allocated recreational and commercial and so where is that decision? It seems to me that would be a set of alternatives and analysis we would have to look at.

Ms. Quigley: Right now, the council is being asked to choose a preferred number of sectors that you would like analyzed for Amendment 17 and then approve of the range of alternatives and so right now.

Dr. Crabtree: The problem with that is we need the analysis before we can choose a preferred. I don't know that we have any basis right now to really base that on.

Mr. Waugh: Roy is correct. When we first put this material together, we were trying to get a decision on a preferred alternative. The number of alternatives you have at each decision that has to be made, the possible combinations increase exponentially. What we're going to suggest is rather than trying to call it a preferred, that you definitely agree on the range of alternatives and we will qualitatively analyze those alternatives for each decision, but then we need to have some guidance from you all on bundling alternatives.

This is getting ahead of ourselves a little bit, because this is something that's going to come up under Snapper Grouper, in that we're going to be able to do qualitative analyses down to the point where you come up with your recommendations on an annual catch target, the ACT.

After that, we can apply our quantitative models, but there could be twenty, thirty, forty possible combinations to get to that point and we can't analyze all of those. What we would hope to get is some guidance from you all here, from the full council, in terms of the alternative you would like to see bundled and the allocation alternative and the number of sectors. We have a table worked up that shows the impact of some of these decisions and it uses Alternative 4 for the allocation alternative, because that balances the years and it has two alternatives for the number of sectors.

One alternative looks at three sectors, as the Allocation Committee has talked about. The other looks at more traditionally what we've done, is recreational and commercial. We do have some numbers that we can look at if you all want to look at that now or while you're making this decision, but we at least need to have some guidance from you all as a full council in terms of what bundling of alternatives you want, in terms of number of sectors, and then which allocation alternative would we use in that bundling process.

Mr. Boyles: Certainly Roy is right in terms of the analysis. I think the committee was interested in answering the policy question of how do you tackle the question of allocation in a way that just doesn't simply look at landings history and that becomes a de facto allocation? From my perspective, Alternative 4 works whether you're allocating among two sectors or 400 sectors. The idea is here's a long catch history and let's look at what I would call the traditional fishery

and then look at the fishery in the last several years, to account for more contemporary recent changes in the fishery.

That's as far as we got and so Roy is right that we have to do the analysis, but I think -- From my perspective, I was really interested to see what the council thought about this in the first place and then talk about do we need to weigh them equally or not. All of these are the kinds of things, in my mind, that I still need to get some guidance and feedback on.

Mr. Harris: First of all, to Robert's comment, I think that taking the long range look and the short range look and equalizing them at 50 percent apiece is a good way to do it. We could go 60/40 or we could come up with some other scenario, but I don't really see -- I don't see any reason to do anything other than 50/50 and now I have a question. The 1986 start date to 2007, where did the 1986 come from? We certainly have longer catch histories than 1986 and did we make that decision already at some time in the past?

Ms. Quigley: 1986 was when the council began keeping track of species, NMFS began keeping track of species, grouper species.

Mr. Geiger: In terms of Roy's question and Gregg's response, if we had the traditional methodology, with commercial and recreational, and then we had a commercial, recreational, and for-hire sector, wouldn't that cover the bounds? If you take this to extremes, you could include diving and environmental and just all kinds of things.

Dr. Chevront: George, I think what it means is -- It certainly makes an impact on Alternative 5, when you look at the different number of sectors, because that was to allocate equally among whatever number of sectors we chose. My feeling, from just talking to folks, is that's probably the least favored alternative.

What I think -- Mathematically, it doesn't matter how many sectors you have. All the different recreational sectors come out of the recreational overall and all the different commercial sectors come out of the commercial sector, but I think it does make a difference on the impact when you have to look at the social and economic aspects of it. For example, if you're talking about vermilion snapper and you just have a recreational sector, how is the headboat going to be affected if it doesn't have a separate sector, when it's lumped together with hook and line, private hook and line? I think those are the kinds of things that need to be analyzed separately, by choosing the number of sectors. Am I not correct on that?

Mr. Geiger: I agree with you, but that's what I'm saying. If you had a commercial, recreational, and for-hire sector, you've got that covered, the scenario you just described covered. This could be bounded, in my simple terms, reasonably with a commercial and a recreational sector, which is the traditional methodology, and then expanding it one increment by including now, in addition to recreational and commercial, a for-hire sector. We already have the landings tabulated and --

Dr. Chevront: It sounds to me, George, like you're starting to heads towards a motion or something here.

Mr. Geiger: You want me to make a motion? **I'll go ahead and make a motion that for purposes of allocations that the council consider two different alternatives, one commercial and recreational and a second alternative commercial, recreational, and the for-hire sector.**

Dr. Chevront: Do we have a second for that motion? Second by Mr. Iarocci. Do we have some discussion?

Mr. Currin: Roy, I understand your point perfectly about the analysis being needed before we make decisions. Before I came in, probably mistakenly, I thought that what this meeting this afternoon of the full council was going to do was establish a policy or guideline for the council on how we were going to -- The number of sectors to which we were going to allocate.

We've got some analysis that shows, by dividing those up, what it does at least to the proportion of the catches and the like and, again, I'm not arguing that needs to be done today, but if we don't, then that policy would be set, de facto, ultimately by the council, but it will be brought to the council by the Snapper Grouper Committee, specifically through Amendment 17.

If whatever number of sectors we end up with in 17 then, when the council approves that, will that then become the de facto policy that guides sector allocations for the council or will we have to go back through this and analyze all these things, various sector allocations and numbers of sectors, for every amendment which we then address afterwards?

Ms. Smit-Brunello: If I understand your question correctly, it just depends on how you want to do it. If you want to keep -- Really, the word "alternatives" keeps getting thrown up there or preferred alternatives, but really, this is your preferred approach for Amendment 17. You're completely within your authority to throw it out the window in another amendment down the road, because you found that it doesn't work or for some reason you want to do something different.

You're not locked in. You're locked in for the specific amendment that you use it for, but other than that, unless it's the council's policy that they do not want to change it -- I would think that you may want to review it periodically and you may want to change it. To the extent that it's set in stone, no, I don't think it is, in terms of permanency forever and ever. Did that answer your question?

Mr. Currin: In response, Monica, to some extent it does. I had no intention of trying to -- Of course, the council and the next council can approach things as differently or as close to the previous council as they so desire. I guess I'm just trying to get a basic decision done at some point by the council or have a decision made such that this same discussion doesn't have to occur with every amendment.

Granted, if we want to address it, if the discussion needs to occur, as it has occurred regarding whether these sectors get split from two to three or not, then that's the council's prerogative and that can be done at any time. We've had some impetus and some desire by some members, at least, of the for-hire community to seek a separate allocation. Personally, I see a lot of problems with that and nobody has convinced me yet that that's a real smart thing to do, personally.

At some point -- Again, we can do that in 17 and come back and try to do it differently in another amendment or not, but it seems to me that that's kind of an overall council policy or approach that until something comes up that we think it's not working and we need to do it differently, that's just understood that's how we're going to approach things. I'm looking for when that decision point is made.

In the past, it's always been just that's the way we do it. It's the way it's always been done and we've had two sectors and now there's some desire by some to look at and analyze, I presume, the relative impacts of dividing two sectors into three or four or whatever anybody wants to do.

Ms. Smit-Brunello: It does make a difference, I agree, that your record will be set and whatever your allocation -- Whatever determinations you come up with will drive the management measures and the amount of harvest that each group, however many there may be in terms of sectors, will be allowed to have. When you're looking down the road and you look, perhaps, at landings at that time, it will have been skewed in definitely a certain direction, based on these decisions.

You could look -- Roy was mentioning this and I think that maybe some other councils have done it, although I'm not entirely sure, but some sort of generic allocation amendment and how you would handle all your fisheries. That might be too unwieldy, I'm not sure. It would just depend on how you wanted to do it. I don't know that I answered your question very well, but nothing is set in stone in terms of future council decisions.

Mr. Waugh: Just to clarify again in terms of these alternatives. You're not picking a preferred alternative. We will analyze all the alternatives that are laid out here, but for purposes of bundling and direction to the Snapper Grouper Committee, these will be, if this motion passes, the two sector allocation alternatives that we would carry forward.

Mr. Robson: I had a question with the process here and we've addressed it now with this sector issue. I guess my next question was, and this is more just a thought in the discussion of all this, is when you look at Alternative 4, it's certainly simpler and more straightforward to just take 50 percent of your historic landings and 50 percent of the more recent landings, but that, on a species-by-species basis, may not take into account differences in trend.

For example, if you have a species where there's been a significant shift in recent years, indicating a stronger trend one way or the other, that might need to be weighted more heavily than a species where there hasn't been that much of a shift, compared to the historical landings. Does that make any sense? That gets into the F factor, where if you see a very significant trend occurring in the recent years, that might need to be weighted, to account for the strength of that trend continuing into the future. It kind of argues against just arbitrarily saying you're going to go 50/50.

Dr. Chevront: I agree with you on that, Mark. I think that all the factors of this formula at some point could be manipulated, with given reason. I think that Duane's comments earlier about starting at 50/50 -- Unless you have a reason to do otherwise, I think you really should start it at 50/50, but maybe, like you're talking about, you may have good reason for a particular

species to go something other than 50/50 and that would need to be discussed by the committee.

Mr. Robson: I think those were some points that I was making in the last meeting, about the role of this council and the responsibility of this council to take a look at the things that can't be nailed down to a formula. That's where those kinds of things could be taken into account, what is the strength of the trends and what are we projecting in terms of additional regulations that we know are coming that are going to affect those allocation trends, those kinds of things.

Dr. Chevront: I think we can handle that and we're flexible enough.

Mr. Wallace: A question on the motion. This is strictly for analysis purposes only, I'm assuming, right?

Mr. Waugh: This will be surfaced again in the Snapper Grouper Committee and this will give us two bookends, if you will, in terms of analyzing the range of impacts. Certainly when this comes back to the Snapper Grouper Committee and council at the December meeting -- The intent right now is for you to approve it for public hearing at the December meeting. You'll have all the alternatives analyzed and then you would be approving a preferred alternative. At least that's the intent right now.

Mr. Wallace: When we're doing these analyses, we're separating out the for-hire completely separate from the recreational or are we including it in the recreational, which is where by Magnuson it's supposed to be?

Ms. Quigley: Under A, recreational would include private recreational and for-hire, which includes charter and headboat. Under B, then it would be split out into commercial, private recreational, and for-hire, which includes charter and headboat. Yes, under A, recreational includes for-hire and private.

Mr. Wallace: Under B, it would be a separate category and it would not be taken out of the recreational allocation to begin with?

Ms. Quigley: Yes, it would. The for-hire would be taken out of the larger recreational under A.

Mr. Wallace: Commercial would be left completely separate?

Ms. Quigley: Correct. Commercial would be the same between A and B and you can see that in the tables as well.

Mr. Wallace: I just wanted to clarify that.

Dr. Crabtree: Doesn't that though depend on which alternative you choose as preferred ultimately? If you were to choose Alternative 5, which is split equally among the sectors, then it would be taken out of other people's pockets, so to speak, I think. Isn't that correct?

Ms. Quigley: That's correct. For Alternative 5, that is correct.

Mr. Robson: I just wanted to ask the question about the -- In laying out these five alternatives, if we just leave them the way they are and we don't talk at all or even mention anything in a motion or somewhere about an additional variable, future variable, will be able to come back and plug that in somewhere? Do we need to have some kind of a reference to that estimation of future allocation needs?

Dr. Chevront: The way I'm seeing it right now is that what we've got is the 50/50 split between past and -- From 1986 to 2007 and 2005 to 2007 and that's what we have. That's what our alternative is. I think the discussion that we're looking at for Thursday is the one which we will then carry on about the future and all that. If we later want to come in and modify it, I don't see why we couldn't do that, but right now, I think we have to go with what's in front of us.

Mr. Geiger: You said a 50/50 split and you don't mean --

Dr. Chevront: I mean 50/50 percent and not 50/50 everything.

Mr. Geiger: 50 percent of the landings in those representative years.

Dr. Chevront: Correct. I'm sorry if I misspoke and caused some panic.

Mr. Geiger: Basically, in regard to Monica's discussion earlier, that's basically what we were trying to do, Monica, when we started this. At least that was my intention, was to have some form of a generic policy that the council could use as we move forward in each species and have the ground rules outlined as to how we would approach allocations in each species. By talking through all the different parameters and alternatives that are available, we would have them exposed and be able to apply them species-by-species as we move forward. That was the intent of the original generic amendment that we had in place.

Dr. Crabtree: Somehow we've moved beyond that kind of generic policy kind of thing to dealing with Amendment 17 and I guess a little bit of my concern is the complexities of dealing with allocations. I share some of Gregg's concerns about complicating things and we're on a fairly tight timeline with Amendment 17.

If you look at the table, we have allocations for most of the species we have to deal with in Amendment 17 and it is a little odd to me that we're going to take final action this week on Amendment 16, which specifies the allocation for gag and vermilion, and we're already working on changing that.

I know we said interim allocation, but I guess I have some questions about whether Amendment 17 -- If we're really going to be able to get this done in the course of Amendment 17. That's a decision I suppose you'll just have to make, but when I look at some of the species here that we don't have allocations on, warsaw and speckled hind, at least based on our last SSC meeting, there's nothing to allocate there and so there's certainly no urgency to that.

I don't think there's enough snowy grouper to really be particularly concerned about that one at this time and based on my review of the projections for red snapper so far, I'm not sure there's

anything really to allocate there. That does leave you black grouper and red grouper, which we would somehow have to deal with it, but I guess that's my worry with it, is whether we're going to be able to get all of this done in the timeframe we're looking at on Amendment 17.

Then we're still going to have this overriding issue that Mac brought up about how are we going to apply this across the board to other things. I'm not sure what to do with it right now, but that's just a few observations that I'll throw out.

Mr. Boyles: Roy, those are good points. I think from where I sit that I guess I do look at this as a policy statement on the very, very thorny issue of how we allocate fishery resources, particularly at a time when we've got declining stocks and we've got to make very, very difficult decisions. I know I've missed more than I should have, but my interest in all of this was to use landings data, the data that is available to us, and find a way to manage for the future of these fisheries without simply looking solely at history.

If nothing else, making a policy statement about that, that this is how we want to proceed down the road of allocation. In the case of the snapper grouper species, certainly it would be the purview of the Snapper Grouper Committee to make recommendations to the council. Roy is right that a lot of these species there's not really a lot to -- We really don't need to be having the discussion about a lot of these species.

From a policy perspective and a way to move forward, my perspective was let's look at a way -- Let's answer the critics who say don't simply manage your fishery by looking backward and find a way to look forward and allocate those species and those resources once we recover and I've probably missed more turns than I needed to, Mr. Chairman, but I think the question of among how many sectors to allocate is a central question and I go back to the statement that I made at the Allocation Committee meeting in July.

I don't know, absent landings data, how we would survive a challenge on any other basis, how we make those allocations decisions. The algorithm that was presented to you all in Alternative 4 was an effort to attempt to move us forward, to get us off the dime.

Mr. Geiger: Does the motion that is currently on the table satisfy our staff requirement to move forward?

Ms. Quigley: I have one question. I just want some clarification. Right now, I have written to analyze two different sector allocation alternatives for Amendment 17 and so I want clarification of are you referring to analysis for Amendment 17 or analysis for Amendment 17 and the Comprehensive ACL Amendment?

Mr. Geiger: It was for both, the Comprehensive Amendment and for Amendment 17.

Dr. Chevront: Is the seconder okay with that? He nodded his head yes.

Mr. Geiger: Does this answer your questions? Does this, as a follow-on to that, confound or make more complicated or impossible our task in Amendment 17?

Mr. Waugh: No, because it does not make it overly complex. These are certainly decisions that have to be made and if you give us some guidance that we can bundle these alternatives, then it will work. This certainly bundles the alternatives in terms of the numbers of sectors. We would also hope to get some guidance, after we finish this, on the method of allocating, but this makes it doable for us, working with the other decisions that need to be made.

Ms. Merritt: My first question has been answered, but now I've got an additional one, but it's not under range of alternatives for allocating between sectors. It has to do more with the sector alternatives. Don't we always have as Alternative 1 the status quo and since we have it under the allocation between the sectors, shouldn't we also have it up there under the sector allocations, as just being the status quo, as Alternative 1?

Ms. Quigley: Yes, I can go ahead and add that in, no action. It doesn't need to be part of the motion, but that's always analyzed.

Mr. Robson: A question for this particular motion and setting different breakup of sectors. We're doing this -- We're setting up the sector alternative and we would use those to analyze different options in Amendment 17 and also in the Comprehensive ACL Amendment. Each of those is going to be establishing catch limits and accountability measures and management measures to meet the required harvest levels.

That means that if we determine that we're going to split up the sectors that we have the capability to impose accountability measures and specific management measures for the charter or the headboat or both, separate from the private vessel fishery. I presume we do have that capability, but I'm just not sure, in thinking about it, what kinds of management measures would be put in place to address the specific for-hire sector, apart from what we do normally for the private fishing sector.

Dr. Chevront: I think that's an issue that has to come up by the individual species committees. Obviously they have to be able to come up with some kind of accountability measures to be able to allocate to a given sector. That kind of makes sense that that's going to have to happen. Right now, I think what we're talking about is more in generalities, in terms of what we're going to be willing to consider.

Unless somebody else has something else that they would like to say at this point, I would like to go ahead and call the question. **All those in favor of the motion raise your hand; those opposed, none opposed. The motion carries.**

Mr. Boyles: If you all will refer to the Allocation Committee Report in your briefing document, there were five alternatives offered. Alternative 1 is, of course no action. Alternative 2 is allocate based on the longest catch range and Alternative 3 is the shorter term range and Alternative 4 was the formula. Now we have to get the question of -- I would like to make a motion, Mr. Chairman, that -- Alternative 5, to split the allocation equally among the three sectors, I don't get a sense that that's a very viable option. **I would like to make a motion that we move that to the Considered but Rejected.**

Mr. Cupka: Second.

Dr. Chevront: Seconded by Mr. Cupka. Is there any discussion on the motion? **Is there any objection to the motion? Seeing none, the motion carries.** It's looking like now what we've got is we've got the four alternatives. Now, I would like to make a clarification on this. Was this just for Amendment 17 or for Amendment 17 and the Comprehensive ACL? We've already voted.

Mr. Geiger: If I may, if there's no objection, I think everything that the Allocation Committee does is for the current amendment and the ACL.

Dr. Chevront: I think everybody really kind of is working under that mindset. I just wanted to make sure that there was no confusion on anybody's part. That actually covers both Snapper Grouper Amendment 17 and the Comprehensive ACL.

Just to recap here what we've got, is we've got the two motions that we have passed. One was on the number of sectors and the second one was now we have four alternatives and Alternatives 2 and 3, you take 50 percent of each of those alternatives and that makes Alternative 4, so that you understand. Then each of those will be analyzed for the different sectors that we voted on. Correct? Okay. Now, I would like to ask Kate and Gregg if there's something else that they need from us to go forward at this point.

Mr. Waugh: In terms of bundling, yes. It would be nice to have some guidance on which of these alternatives to apply for bundling. Remember we've got a number of decisions. You've decided to look at three sectors and two sectors and so now, which formula should we apply, which of Alternatives 2, 3, or 4 should we apply, to each of those decisions that you already made? In one case, we would be applying whichever alternative to three sectors and then to two sectors.

Mr. Geiger: For clarification purposes, Kate, status quo would be the allocations that are currently identified on these sheets?

Ms. Quigley: Yes.

Mr. Robson: Or no allocation.

Ms. Quigley: Alternative 1, status quo, would be no further allocations. It implies no further allocations.

Dr. Chevront: I want to make sure that I understand what Gregg is asking us at this point. I'm not sure I truly understood what you said, Gregg.

Mr. Waugh: We've decided, in terms of these decisions that we have to make to get to our ACT, which is where we kick in with our quantitative model analysis, that we need to make several decisions. One of them is number of sectors and you just gave us two alternatives there. Next is how do we do the allocation? Do we weight each year? Do we use Alternative 4 to apply to

those two different numbers of sectors or do we apply Alternative 3?

What we have to do is take whatever you set as your annual catch limit and you have to apply the number of sectors to that and then determine how you're going to allocate across those sectors. What we need to know now is, for purposes of doing this bundling analysis, which of these now three alternatives, or four alternatives, do you want us to use?

Dr. Crabtree: Shouldn't this though be taken up in the Snapper Grouper Committee? Now aren't you getting into basically the structural layout of Amendment 17 and not so much a more generic allocation issue? Wouldn't it be better to do that in the context of Snapper Grouper, when we go through Amendment 17?

Mr. Waugh: This would apply to the Comprehensive ACL Amendment as well and I think what the Allocation Committee had was more a generic discussion of whether you just use the total time series, the latter time series, or equally weight both of them and apply that across the board.

Dr. Chevront: I think when you look at this mathematically, Gregg, that if you're going to do Number 4, you have to do Numbers 2 and 3 to get there, because those are the components. The sector apportionment is 50 percent times the Alternative 2 value, plus 50 percent times the Alternative 3 value. If we're going to consider seriously Alternative 4, you have to do the calculations for 2 and 3.

Mr. Waugh: Right and we've already done those calculations. These are in the table. The question comes down to then which one are you going to apply?

Mr. Currin: You do have to do the calculations, Brian, but you don't have to do all the analysis associated with those. That's a big difference. I don't want to -- In fact, I'm not ungrateful at all, as Chairman of the Snapper Grouper Committee, to all the work that the Allocation Committee has done. I think it's -- I attended the last meeting and I thought we made great strides.

To Roy's point, I guess, perhaps -- It seems to me at least that perhaps if we want to offer a motion to apply to the ACL Amendment, that would be appropriate at this time, but it may be more appropriate to let Snapper Grouper handle the alternatives for 17 here, without the necessary guidance of the council at this point. That makes sense to me.

Dr. Chevront: Basically, it sounds to me, Gregg, like you're asking us to choose a preferred alternative, correct?

Mr. Waugh: No, it's to pick one for us to apply to this bundling process. Now, you've given us -- You don't have to make this decision now. If you all want to let Snapper Grouper do it, that's fine, but the same decision is going to have to be made by Snapper Grouper. You've chosen two different sectors and then if you leave us with three or four alternatives, then that's eight possible combinations and this is only the second decision.

Each decision has more and more and so this decision tree and the numbers of alternatives

expands exponentially. The idea here was to use bundling to come up with a range for your ACTs, from a very conservative approach to a very liberal approach. The next decision is to pick a method of allocating. Again, that doesn't have to be done here. Snapper Grouper can do it.

Dr. Crabtree: It sounds to me like maybe what we ought to do is for Amendment 17, we'll defer to the Snapper Grouper Committee, but we need to figure out what we want to do for the Comprehensive ACL.

Mr. Geiger: **I would make a motion that we apply, for purposes of analysis, Alternative 1, the status quo, and Alternative 4, the combination of Alternative 2 and 3, where equal weight is given to each average of years as they apply, to the Comprehensive ACL.**

Dr. Chevront: Seconded by Mr. Boyles. Is there discussion?

Dr. Crabtree: I guess now it's not clear to me where we're going. You've got four alternatives here and they're all going to have to be analyzed and it's not clear to me what exactly we're bundling.

Mr. Geiger: What I understand we're bundling is we're bundling the alternatives here, plus the sector allocations that we've just voted on. By bundling --

Dr. Crabtree: Bundling them with what exactly?

Mr. Geiger: You would be taking the status quo and applying the status quo to both the recreational and commercial sector and then to the three sectors, the commercial, for-hire, and recreational sector. You would do the same thing using Alternative 4, to the same sector allocations. That gives you the upper bounds or it gives you two bounds, arguably a more restrictive bound in Alternative 4 and a more liberal bound in Alternative 1.

Dr. Crabtree: I don't see that any of these have anything to do with being more restrictive or more liberal. This is purely how you're divvying up the fish.

Mr. Geiger: That's true. I was using those terms in light of what Gregg had just alluded to in requesting an upper and a lower bound and suggesting that you could have the most conservative and the most liberal and it would then give you a range, so you can have and select, maybe from points in between, the upper and the lower bound. Did I understand that correctly?

Mr. Waugh: Yes and this is only a part of the number of decisions that need to be made in bundling these alternatives to come up with your ACT. Remember that for the modeling approach that we used on the commercial side with Jim Waters model that we need our ACT alternatives. That's where the quantitative modeling would start.

The other decision that the Snapper Grouper Committee will be making is where do you set your ACL? That will give you the poundage. Then how do you step that down for your ACT? Are you going to step it down some percentage or are you going to leave it equal to the ACL? Those

two decisions give you a pound of fish to apply to these two decisions that allocate that poundage to get to your sector ACTs.

We've handled -- With these motions, we've handled two parts of the five steps that need to be taken to get to sector-specific ACTs, to where you then do the complex economic modeling. This will be what the Snapper Grouper Committee gets into in looking at these bundling of these alternatives. Each set of alternatives for each decision, all the alternatives will be analyzed in a qualitative way, but we have to have some way of bundling these to come up with bookends, if you will, for a more conservative ACT set of alternatives and a more liberal.

These don't get into the conservative and liberal. Where that will come into is where you set your ACL with respect to the ABC and how far you step down each sector to track their landings.

Ms. Smit-Brunello: I'll offer another suggestion. You could call it an alternative, because I think you don't have enough alternatives before you. That was a joke. I think it's a little hard to understand this without having it applied in some way. I looked at the agenda and I note that the Allocation Committee comes back to the full council later in the week and perhaps what you would want to do is see how you would apply this in Amendment 17, and the permutations or the goods and bads or whatever, and then you could potentially take this up then on Thursday, when the Allocation Committee meets again, if that would help people better understand it, because you would actually be putting numbers and all those sorts of things. It's just a suggestion.

Mr. Geiger: This motion was made for the Comprehensive ACL.

Ms. Smit-Brunello: You can take that up again later in the week if you want to as well. It's on the agenda.

Dr. Crabtree: Having been through all of this, I'm going to vote against it, because it's not at all clear to me what it does, this motion. I'm not sure what we're doing right now and so I'm going to vote against it.

Dr. Chevront: Any more discussion?

Mr. Geiger: Monica says we can talk about it later in the week. What does it do to us if we don't come up with our -- We just wait until Snapper Grouper and Amendment 17 and proceed from there, Gregg? Have this same discussion then, I guess?

Dr. Chevront: I actually have a suggestion. We've got the motion on the table. We can vote on it, but we can bring the motion back up again later or discuss the issue and change our vote later, if we choose. If we're happy with it at the end of the week, we don't have to bring it up again, since we've already had the discussion now.

Mr. Boyles: **I would make a motion to table this motion before us at the moment.**

Mr. Geiger: A point of order. You need to have a specific time or date specific associated with

the tabling.

Mr. Boyles: When we convene the Allocation Committee.

Dr. Chevront: What we're asking is that the Allocation Committee discuss this on Thursday morning and then come back with a recommendation to full council at the end of the week? Now that's the motion that we have up, is to table the other motion, to be discussed by the Allocation Committee. Any discussion on that motion? **Any objection to the motion? The motion carries and so we'll take this up again later.**

I believe this concludes the business that we needed to take care of at this point with the Allocation Committee. I'm going to turn the meeting back over to Chairman Geiger and I guess he's going to take us into recess or something here.

Mr. Geiger: Thank you, Brian. Like Roy says, I'm not sure where we are right now either, but what we're going to do is we're going to recess full council until Thursday, at which time we'll reconvene full council. We will now move into our committee sessions.

The Full Council of the South Atlantic Fishery Management Council reconvened at the Charleston Marriott Hotel, Charleston, South Carolina, Thursday afternoon, September 18, 2008, and was called to order at 1:55 o'clock p.m. by Chairman George Geiger.

Mr. Geiger: I call to order the Full Council that was in recess since Monday. We will start off the agenda. Are there any corrections or additions to the agenda? Seeing none, the agenda is approved. The minutes have been provided. Are there any corrections to the minutes; any additions to the minutes? Any objection to the minutes? Seeing none, the minutes are approved.

The next order of business of the election of the new chairman. We will open the floor for nominations. Ms. Shipman.

Ms. Shipman: I would like to nominate my colleague and fellow council member from Georgia, Duane Harris, for the council chairmanship. We hear a lot of rhetoric during this political season about experience, and Duane has plenty of experience. He has been apprenticing under Chairman Geiger for the last couple of years as our vice-chairman. I think they have been phenomenal team, and I think Duane will carry forward George's good work. I would encourage our election of Duane Harris as our chairman.

Mr. Iarocci: I'd like to second that.

Mr. Currin: I would move that the nominations be closed.

Mr. Geiger: Thank you. Okay, show of hands for Duane. Congratulations!

Mr. Harris: Thank you very much. I look forward to serving as the chairman of this august body and working with all of our friends in NOAA Fisheries and the fishing community and the environmental community. It has been a tough last two years, and George has done a

phenomenal job leading this council through those last two years. Unfortunately, I think it is even going to be a tougher next two years, so I'm going to need an awful lot of help.

I am to be calling on each and every one of you to assist as we move this council and the fisheries of the South Atlantic forward – hopefully forward and not backward. In any event, our challenges are there, and I look forward to having you all work with me to accept those challenges. At this time the floor is now open for nominations for vice-chairman. Robert.

Mr. Boyles: Thank you, Mr. Chairman. I'd like to nominate David Cupka for vice-chair.

Mr. Harris: David Cupka has been nominated for vice-chair. Is there a second? Susan Shipman and Tony Iarocci second the nomination of David Cupka as vice-chair. Susan.

Ms. Shipman: I would move the nominations cease and we accept David as the vice-chairman by acclamation.

Mr. Harris: Is there any objection to that motion? Without objection, David, congratulations. I look forward to working with you.

Mr. Cupka: Thank you, Duane. If I may, I appreciate that; it means a lot to me, and I'll do all I can to work with the council members and help Duane out.

Mr. Harris: The next item on the agenda is the Shrimp Committee Report, David Cupka.

Mr. Cupka: Thank you, Mr. Chairman. We do have a public comment period scheduled for 2:00 o'clock. I need to find out from Kim if anyone has signed up to comment on Shrimp Amendment 7. Myra indicates that no one has so we will close the public comment period and get right into the committee report.

The Shrimp Committee met on September 16th in Charleston. The committee received the following presentations. We had an overview of Action 5 in Shrimp Amendment 7 by Myra Brouwer of the council staff. The committee received a brief presentation summarizing the information and analyses conducted on Action 5 to Shrimp Amendment 7, which requires verification of VMS in the Rock Shrimp Fishery. This action was added to the amendment at the June 2008 council meeting.

We also had an overview of the public comments we received on Shrimp Amendment 7, again by Myra on the council staff. We received a summary of the comments submitted during the comment period for Shrimp Amendment 7, as well as several recommendations from the Deepwater Shrimp Advisory Panel.

The committee approved a couple of motions. Motion 1 is to make Alternative 1 for Action 5 our preferred alternative, and on behalf of the committee I would so move. Is there any discussion on the motion? Any objection to the motion? Seeing none, that motion is approved.

Our second motion was the committee recommends to the council approval of Amendment 7 consistent with the change in Action 5 to the Shrimp FMP for submission to the Secretary of Commerce. Let's change that from "Amendment 5" to "Action 5". On behalf of the committee I would so move. Is there any discussion on the motion as amended? Is there any objection? Seeing none, that motion is approved.

The committee also briefly discussed or commented on the following item from the Deepwater Shrimp AP. They recommended to the council that we consider removing the limited access entry system for the Rock Shrimp Fishery. The AP recommended that this be addressed in Amendment 8 to the Shrimp FMP. If we ever get around to doing something like that, we will have come full circle since we instituted a limited entry program at the request of the industry and now it seems they want to consider doing away with it, but we will consider that in the future. That, Mr. Chairman, concludes my report of the Shrimp Committee.

Mr. Harris: Thank you, David. Bob, is there anything else we need to do with respect to submitting it to the Secretary? Do we need a roll call vote? Roy.

Dr. Crabtree: We need to vote on that and then we need to have a motion to deem the rule necessary and appropriate, but first we need to vote on this motion.

Mr. Cupka: Yes, that was not in the report; I failed to mention that. We got the codified text of the rule for Amendment 7 right before the committee meeting, and we sent it out to the committee members asking to review that, and we would take it up for approval at the full council. We do need to that; you're correct, and a roll call vote. I don't guess it matters in which order we do them in or does it?

Ms. Smit-Brunello: You should do a roll call on the amendment first.

Mr. Mahood: Monica, you can't do it as one action to approve the submission and deem the rule necessary and –

Ms. Smit-Brunello: I think you can.

Mr. Mahood: Yes, I would think so. The motion needs to be made like that.

Mr. Harris: Is there a motion to deem the rule necessary and appropriate and submit Shrimp Amendment 7 to the Secretary of Commerce for approval? David makes the motion; second by Brian. Bob, will you call the roll. Dave.

Mr. Cupka: If I may, I wonder if we shouldn't ask for discussion to see if anyone did have any problems after reviewing the codified text in the rule before we take the vote.

Mr. Harris: Is there discussion on the motion? Monica.

Ms. Smit-Brunello: I was going to take this up right after you voted, but I'll do it now. The amendment has been changed slightly by the council at the meeting, and the proposed

regulations will need to be changed to reflect those changes. I would ask that you allow editorial license to make those changes and then perhaps you would want to appoint or designate the council chair to look at those changes and make sure that they comport with everything that the council has done at this meeting. Then he could, in effect, redeem those to be accurate.

Mr. Harris: Do you make that part of your motion, David?

Mr. Cupka: Yes, Mr. Chairman, I thought I stated that, but I guess I neglected to mention that.

Mr. Harris: Is that okay with the seconder, Brian? Okay, any discussion on the motion? Okay, seeing none, Bob, will you call the roll? We've got to get the motion up there first.

Ms. Smit-Brunello: Well, the changes might not be minor because the council took action to change some of the actions in the alternatives. Let me read that; "allow editorial license to staff to make changes to the proposed rule in accordance with the amendment", and I think that's fine. I would assume you're also giving the staff editorial license to make changes to the amendment as well to reflect what the council did. That looks fine.

Mr. Harris: David, when it is up there, would you read the motion into the record.

Mr. Cupka: The motion is to deem the proposed rule appropriate and necessary and approve Shrimp Amendment 7 for submittal to the Secretary of Commerce; allow editorial license to staff to make changes to the proposed rule/amendment in accordance with the amendment and have the council chairman deem them necessary and appropriate.

Mr. Harris: Is there discussion on the motion as it was just read? Seeing none, Bob, will you call the roll?

Mr. Mahood: Mr. Geiger.

Mr. Geiger: Yes.

Mr. Mahood: Mr. Boyles.

Mr. Boyles: Yes.

Mr. Mahood: Dr. Crabtree.

Dr. Crabtree: Yes.

Mr. Mahood: Mr. Cupka.

Mr. Cupka: Yes.

Mr. Mahood: Mr. Currin.

Mr. Currin: Yes.

Mr. Mahood: Dr. Cheuvront.

Dr. Cheuvront: Yes.

Mr. Mahood: Mr. Iarocci.

Mr. Iarocci: Yes.

Mr. Mahood: Ms. Merritt.

Ms. Merritt: Yes.

Mr. Mahood: Mr. Sharp.

Mr. Sharp: Yes.

Mr. Mahood: Ms. Shipman.

Ms. Shipman: Yes.

Mr. Mahood: Mr. Swatzel.

Mr. Swatzel: Yes.

Mr. Mahood: Mr. Wallace.

Mr. Wallace: Yes.

Mr. Mahood: Chairman Harris.

Mr. Harris: Yes.

Mr. Mahood: It passes unanimously.

Mr. Harris: Thank you, Bob. David, is there any other business to come before your committee?

Mr. Cupka: No, Mr. Chairman, that concludes the committee report and actions.

Mr. Harris: Thank you very much. The next item on the agenda is the Spiny Lobster Committee Report. Tony, are you ready?

Mr. Iarocci: Yes, Mr. Chairman, thank you. The Spiny Lobster Committee met on Tuesday. Gregg Waugh reviewed the public comments and actions on the Import Amendment by the Gulf and Caribbean Fisheries Management Council. Bill Sharp reviewed the status of the potential

actions of the state of Florida. There were recommendations from a workgroup that were provided to staff, and they will be discussed at a future commission meeting.

The committee discussed Amendment 9 and noted that the Gulf Council will be discussing timing and items for inclusion in their October 2008 meeting. The committee approved the following motions:

Motion 1: Approve the Spiny Lobster Amendment 8 with the two preferred alternatives for Secretarial review. On behalf of the committee, I so move. Any discussion? Any objection? Motion approved.

Motion 2: Approve the proposed rule as necessary and appropriate. On behalf of the committee, I so move. Any discussion? Any objection? David.

Mr. Cupka: Not an objection, Mr. Chairman, but are we supposed to have a public comment period before we take final action?

Mr. Harris: Yes, our agenda requires a public comment period beginning at 2:30 on this final amendment. Is there anybody in the audience who is here to speak on the Spiny Lobster Amendment? Nobody signed up; okay.

Mr. Iarocci: Mr. Chairman, beforehand I did get a chance to talk to the people here that deal with the Spiny Lobster Fishery, and they're all in favor and in support of it. We've dealt with this for quite a while so I think everybody is up to speed and does support these motions and the actions of the council.

Mr. Mahood: Monica, can we assume that nobody is going to show up in the next seven minutes or should we wait for our schedule to assure nobody shows up?

Ms. Smit-Brunello: Let's wait just in case someone shows up.

Mr. Harris: Yes, Brian, and then we'll take a seven-minute break.

Dr. Chevront: Well, I was going to suggest we just go ahead with another quick committee in between here and just start knocking them out. I'll be glad to do allocation right now.

Mr. Harris: I'm happy for you to do allocation right if it is not going to take very long.

Dr. Chevront: I forgot we've got a tabled motion.

Mr. Harris: Okay, well, let's go ahead and George is ready with his SOPPS Report, so we'll hold the Spiny Lobster Committee in recess until 2:30.

Mr. Geiger: Thank you, Mr. Chairman. The SOPPS Committee met the afternoon of September 15, 2008, in Charleston, South Carolina. The minutes from the 2008 committee meeting were approved. Bob Mahood informed the committee that the proposed rule addressing the regional

Council SOPPS has not yet been finalized, and consequently there was no action for the council to take during the June meeting.

Bob informed the committee that he understood that the SOPPS Proposed Rule may be available prior to the council's December 2008 meeting. However, as a result of the White House Directive that no new proposed rules can be published in the Federal Register after June 1, 2008, this may not concur.

Mr. Harris: Okay, thank you, George, and if you will do the SEDAR Report now.

Mr. Geiger: Thank you, Mr. Chairman. The SEDAR Committee met September 18, 2008, in Charleston, South Carolina. The committee discussed the following items: SEDAR 16 King Mackerel Review Workshop: The committee was briefed on the recently concluded SEDAR 16 Review Workshop and the general process through which chairs and reviewers are selected. Potential negative perceptions arose during the SEDAR 16 review regarding the relationship between the analytical team and the chair, a former Southeast Fishery Science Center employee.

Those who attended the workshop agreed that the review was thorough and that the chair acted appropriately and within the outlined duties of the position. However, the committee agreed that negative perceptions can undermine an otherwise strong and robust process and that care should be taken in selecting future chairs.

The committee took this opportunity to discuss SEDAR participation in general. Chairman Geiger strongly encouraged all council members to participate in a workshop and observe the process firsthand. Increased industry and constituent participation is also needed. Discussions with scientists and constituent representatives indicate that all parties benefit from interaction during SEDAR workshops, and the collaboration that occurs improves the quality of SEDAR stock assessments. No motions were made and that concludes my report, Mr. Chairman.

Mr. Harris: Thank you, George. Are there any other short reports that are ready for presentation now? Rita, can you do LAPPs now? Go ahead, Rita, the LAPP Report.

Ms. Merritt: The LAP Program Committee met on September 18th in Charleston, South Carolina. The committee held a closed session to recommend individuals to the Golden Tilefish LAPP Workgroup. We heard a presentation from council staff on the Wreckfish ITQ. The presentation included information about landings, participation, X-vessel price, shareholder and coupon exchanges, distribution of share holdings and administrative costs.

We heard an overview from Monica Smit-Brunello on monitoring requirements for LAP Programs by NMFS. We heard a presentation from Gregg Swanson on the results of a survey administered to the Snapper Grouper LAP Workgroup. We discussed the timeline of Golden Tilefish LAP Workgroup meetings.

The committee made the following motion: We recommend that the following individuals be named to the Golden Tilefish LAP Workgroup: Matt Ruby, Steve Shelley, Bob Preston, Joe Klosterman, Chris Connell, Willie Gonzalez, Donald Sawyer, Chad Lee. On behalf of

the committee, I so move. Is there any discussion? Is there any opposition? Seeing none, the motion carries.

The committee provided the following guidance to staff: To invite John Whitehead, Sherry Larkin and Scott Crosson to observe and participate in the LAP Workgroup discussions at their own expense; notify the Mid-Atlantic Council and the Mid-Atlantic fishermen interested in serving on the Golden Tilefish LAP Workgroup of the status of the LAP Workgroup and invite their participation; suggestions from the LAPP Committee regarding Golden Tilefish Workgroup meetings were to meet when fiscally possible; one meeting this fall and arrange meetings when convenient for fishermen when possible and perhaps hold a meeting at the December council meeting. Thank you, Mr. Chairman that concludes our LAP Program Committee Report.

Mr. Harris: Thank you, Rita. Roy. I'm going to turn it back over to Tony to delay this for a minute – can you do a quick report? Okay, Roy.

Dr. Crabtree: Just a few things, you have the memo with the status of quotas. I believe it was e-mailed out to you. There is only one thing I want to point out and that's the golden tilefish quota because I think some of you may have seen some e-mails expressing some deeply felt convictions that we closed the fishery prematurely, but when the landings were all totaled up in the end, 101.8 percent was caught, so we came about as close as you can.

The red drum transfer of management authority final rule has been cleared through the regional office and gone to headquarters, and I expect publication in the Federal Register very soon. Amendment 14 was approved by the Secretary on September 3rd. The final rule package is under review in the regional office and will likely be transmitted to headquarters in early October.

Amendment 15B was submitted after the last council meeting. The notice of availability and proposed rule package is currently under General Counsel Review in the regional office and will likely be transmitted to headquarters in October. That concludes my report, Mr. Chairman.

Mr. Harris: Thank you, Dr. Crabtree. Okay, we're going to now reconvene the Spiny Lobster Committee. Tony.

Mr. Iarocci: Thank you, Mr. Chairman. At this time are there any members of the public here to give comment on the Spiny Lobster Generic Import Amendment? Kim, are there any cards? Seeing none, Mr. Chairman, I close this public comment.

Mr. Harris: Thank you, Tony, and that completes your committee report?

Mr. Iarocci: I have just a little added information and we have to do the roll call vote. Would you like me to finish the report and then have Bob do the roll call vote?

Mr. Harris: Yes, sir, that would be great.

Mr. Iarocci: Okay. In addition, the committee provided the following direction to staff; to contact the Gulf of Mexico Fisheries Management Council and request Amendment 9 include

examination of the alternative, which we have been talking about for a while, to delegate authority of management to the state of Florida for the Lobster Fishery and also include talking about the tailing permit; the federal 50 short rule; the fishery north of Florida, which we have had interest over the years; and updating the council and the state of Florida process of annual catch limits and accountability measures. Thank you, Mr. Chairman, that concludes my report.

Mr. Harris: Thank you, Tony. Now we will take a roll call vote on the **motion to submit the Spiny Lobster Generic Import Amendment to the Secretary and deem the rules necessary and appropriate.** Bob.

Mr. Mahood: Mr. Geiger.

Mr. Geiger: Yes.

Mr. Mahood: Mr. Boyles.

Mr. Boyles: Yes.

Mr. Mahood: Dr. Crabtree.

Dr. Crabtree: Yes.

Mr. Mahood: Mr. Cupka.

Mr. Cupka: Yes.

Mr. Mahood: Mr. Currin.

Mr. Currin: Yes.

Mr. Mahood: Dr. Chevront.

Dr. Chevront: Yes.

Mr. Mahood: Mr. Iarocci.

Mr. Iarocci: Yes.

Mr. Mahood: Ms. Merritt.

Ms. Merritt: Yes.

Mr. Mahood: Mr. Sharp.

Mr. Sharp: Yes.

Mr. Mahood: Ms. Shipman.

Ms. Shipman: Yes.

Mr. Mahood: Mr. Swatzel.

Mr. Swatzel: Yes.

Mr. Mahood: Mr. Wallace.

Mr. Wallace: Yes.

Mr. Mahood: Chairman Harris.

Mr. Harris: Yes.

Mr. Mahood: The motion passes unanimously.

Mr. Harris: Thank you, Bob. The next item on the agenda is the Snapper Grouper – yes, Monica.

Ms. Smit-Brunello: I would ask in this case, too, and it's probably a bit more unlikely that the proposed rule would need to be changed at all, but when it is reviewed again, there is always a possibility it might need to be changed, so I would ask that you would appoint the council chair – give him the redeeming capabilities, I guess, for that proposed rule if any changes need to be made.

What we're really talking about on all of these, when we're talking about the proposed rule, it's the codified text. There are different parts to the proposed rule. There is the preamble which is all that stuff up front that explains everything that's going to happen, but what we're really talking about for the council to deem as necessary or appropriate is the actual regulation, the codified text.

Mr. Harris: The chair will entertain a motion. Susan.

Ms. Shipman: I move that the council allow editorial license to staff to make changes to the proposed rule/amendment in accordance with the amendment and have the council chairman deem them necessary and appropriate.

Mr. Geiger: Second.

Mr. Harris: Discussion on the motion? Is there objection to the motion? The motion passes without objection. Thank you, Monica. The next item on the agenda is the Snapper Grouper Committee Report. We have public comment scheduled at 3:00 o'clock. Are there any other committee reports that we can do between now and 3:00? Dave Cupka.

Mr. Cupka: Thank you, Mr. Chairman. I can give the Joint Executive/Finance Committee Meeting Report, if you'd like. The Executive and Finance Committees met in joint session the afternoon of September 15th in Charleston. The minutes from the March 4, 2008, Joint Executive/Finance Committee were approved. The committee received presentations on the following agenda items:

Number 1: Calendar Year 2008 Activity Schedule – Bob provided the updated activities schedule and associated cost of the meeting held to date for the committee. Item 2, Calendar Year 2008 Council Budget – Bob referred the council to Attachments 2A and 2B. He reminded everyone how we had to develop our initial budget for FY 2008 prior to knowing exactly what our funding level would be and what has transpired subsequent to establishing that budget. We did not receive the level of funding anticipated and have had to watch our expenditures very closely. He indicated that we will make it through the year with a very small surplus.

Based on what we have expended to date, known obligations for the rest of the year and actual amount of funding the council received this year, we should end the year with a positive balance of approximately \$12,000. Item 3, Department of Commerce FY 2009 Budget – Indications are that congress will not pass a Department of Commerce Budget prior to October 1, 2008. If that happens, congress will have to approve a continuing resolution to fund the Department of Commerce, NMFS and the councils.

It is doubtful that the FY 2009 budget will be approved before the change of administrations and the continuing resolution may carry forward into next year. Fourth, establishment of a Data Collection Improvement Committee – Chairman Geiger led the discussion of this item and provided the council with his perspective of what a Data Collection Improvement Committee would do and how it would benefit the council process.

He pointed out that a major theme we hear at public meetings is the need to improve the information our decisions are based upon. There was discussion of our SEDAR data needs' recommendations that are compiled annually. It was noted this committee would go beyond just listing data needs and deal with how to use modern technology to improve data collection in terms of timeliness and quality.

The Joint Executive/Finance Committee decided not to take any action at this time, but to consider the establishment of Data Collection Improvement Committee in the future. It was also decided to have staff arrange for a presentation to the council on modern technology that is available for improved data collection that may be used in various fisheries. That, Mr. Chairman, concludes the report of the Executive/Finance Committees.

Mr. Harris: Thank you, David. Are there any questions of David? Brian, did you have a report that you could give?

Dr. Chevront: Yes, Mr. Chairman, I think we probably could get through the Allocation Committee Report certainly by 3:00 o'clock. The Allocation Committee met on September 18, 2008, in Charleston, South Carolina. The committee discussed the allocation equation presented at the last Allocation Committee meeting whereby catch history and some sort of trend in

landings are given equal weight in sector allocation.

A motion made by the council and tabled for discussion by the Allocation Committee was discussed. The committee made the following motions:

For the purposes of Snapper Grouper Amendment 17 and the Comprehensive ACL Amendment and future amendments, that we were going to use the following equation: allocation by sectors would equal 0.05 times catch history; the quantity plus 0.5 times the current trend, whereby catch history is from 1986 onward and current trend was going to be for 2005 to 2007 for Snapper Grouper Amendment 17 and the Comprehensive ACL Amendment, and then three years rolling forward for future amendments. On behalf of that committee, I so move. Is there any discussion? Mr. Boyles.

Mr. Boyles: Thank you, Mr. Chairman. Recall from Monday we do have the tabled motion.

Dr. Chevront: It's not this one. Anymore discussion? Any opposition to the motion? Seeing none, the motion carries.

The second motion that the committee discussed was the motion that had been tabled at full council last Monday. I'll read that motion: **For the purposes of analysis done for the Comprehensive ACL Amendment, we were recommending analyzed allocation Alternatives 1 and 4 with sector alternatives as specified: (A), commercial and recreational; and (B), commercial, private recreational and for hire.**

That motion was approved by the committee and on behalf of the committee, I so move now. Is there any discussion? Mac.

Mr. Currin: Brian, I'm not sure exactly where to broach this subject because there was some concern about motion one, I believe, from our discussions on Monday. Maybe I'm unclear on it, but I think it would essentially be a direction from the council species committees to use and analyze both a two-sector allocation and a three-sector allocation; the two sector being commercial and recreational; the three sector splitting out the for hire from the recreational forming that third sector.

If you recall, and most of you were there during our Snapper Grouper Committee deliberations, we decided to recommend to the council that for the purposes at least of Amendment 17 we were going to use two sectors. I guess my concern arises as to whether there is some kind of conflict in there, and I just want to make sure everybody is clear and on board and that we don't vote to do one thing and then have to undo it. It's a question as much as anything just for clarification.

Ms. Shipman: This occurred to me when we were listening to the dolphin discussion and the fact that we do allow the dolphin for sale by the charter sector, and that might be a case when we get into the ACL, if we're dealing with the dolphin plan, that's one we would want to have an ACL for that sector. So, it's almost going to vary I think depending on the fishery. I know we're trying to whittle down the amount of work for staff, but I do think it is going to be variable depending on what plan we're amending through the ACL.

Dr. Chevront: Susan, I believe that what we had discussed – well, I’m pretty certain what we had discussed was that these were recommendations to the individual species committees. This is the recommendation coming from the Allocation Committee, but we were not seeing this as a mandate. This is what the Allocation Committee was suggesting that each of the species committees consider and then decide for themselves how they were going to handle this. Mac.

Mr. Currin: And if that’s everybody’s understanding, I’m fine with that. I just want to make sure that we didn’t put ourselves in a box that we were going to have a hard time getting out if we so desired. But if that’s everyone’s understanding, I’m fine with that.

Dr. Chevront: I think with this discussion it’s pretty clear and it’s on the record that was our intention with this motion. Susan.

Ms. Shipman: And that’s fine; I’m trying to figure out the mechanics of the ACL Amendment, how all of the species committees are going to feed into that, but that’s another discussion, probably, for another day.

Dr. Chevront: Is there anymore discussion on this motion? Is there any objection to the motion? Seeing none, the motion carries. In addition, the committee provided the following guidance to staff. We would like to have the staff create examples of how the allocation equation identified might work under various future scenarios, as well as we had a past scenario in there as well. Kate had volunteered that she would be able to do that and have that ready for us at our next Allocation Committee meeting. Mr. Chairman, that ends the Allocation Committee Report.

Mr. Harris: Thank you, Brian. Let’s take a 15-minute break, and come back in and we will entertain public comment on the Snapper Grouper Proposed Amendment.

Mr. Harris: We will come back to order and turn it over to our Snapper Grouper Committee Chairman Mac Currin.

Mr. Currin: Thank you, Duane. Before I give the report from the Snapper Grouper Committee, we have two public comment periods scheduled. The first involves Amendment 16, which the council is scheduled to approve to send to the Secretary today. We’ve had another series of public comment periods over the last few months, a month or so, and this is the last of that series. Our first speaker is Mark Marhefka.

PUBLIC HEARING SNAPPER GROUPE AMENDMENT 16

Mr. Marhefka: Good afternoon, Mr. Chairman. First of all, I’d just like to go and say that you guys are charged with a huge on your plate, and I wish I was around the table to give you a little bit more of hand. Anyway, on Amendment 16 here, on the gag grouper, I wanted to say that we’d like to go and continue to do a May 1 opening, a 45-fish trip limit, which roughly comes out to about a thousand pounds per trip.

I would like to also be able to go and leave March and April as the spawning season. I mean, we

could go into depth here, but I've got more to say about it. The other thing is that I'm not seeing any social impact studies going on with any of these amendments in any depth. It frustrates me not to see anybody out there from the council who is able to go and start talking to the fishermen, recreational and commercial, and see why things are the way they are.

Any of these decisions on Amendment 16 here, I would like to go and see that we look at a hundred percent dealer electronic logbook reporting. The reason behind that is we need to be able to go and follow this as fishermen and as dealers so we know, like when we're talking split seasons and whatnot, which I'm really not in favor for.

The other question here, really briefly, is just about the social impact, what is the council's decision. At one point are they going to go and hire somebody to go and – because there has been a lot going on that hasn't been quantified yet. That's really important that the council needs to go and understand what is going on out here – the world is changing and we've got a lot going on – and seeing how these impacts are going to go and affect the fishermen. That's all I have to comment on at this time.

Mr. Kelly: Mr. Chairman and members of the council, my name is Bill Kelly, and I'm a fishing guide in Islamorada, Florida. I'm here representing the Islamorada Charterboat Association and the South Atlantic Charterboat Association, and both groups are two of the biggest professional organizations in the for-hire fishing industry.

I'm here because we desperately need your help. In fact, out of the roughly 400 men and women that I represent, about 300 of us are expected to still be in business next year. That's because a statistical survey by the National Association of Charterboat Operators estimates that 25 to 35 percent of the 1,200 charterboat operators in the state of Florida will be out of business between June of 2008 and June of 2009.

Why? Well, because of little things that you may not be aware of. Like the presentation you got yesterday on fishing trips and the effects on the cost of fuel; it was 2006 compared to 2007 fuel was priced at \$3.50 a gallon and no discernible trends were noted. I checked my calendar, and, yup, it's September 2008 and a world away from 2006 and 2007; and talk about discernible trends, do you know that up until two months ago marine diesel in South Florida was \$5.07 a gallon in most areas? As of yesterday it's \$4.52 a gallon in the Upper Keys.

Are you aware that charter captains are negotiating daily charter rates based on the cost of fuel and where the customers want to go, reef fishing or offshore, and in some cases they must adjust those prices up to \$400, depending on the type of equipment they're operating and the size of their engines? Do you know that the mortgage crisis has had a significant effect across our nation and the hardest hit of all the states is Florida?

Do you know the charter businesses in South Florida and Monroe County are down by 55 percent, down 40 percent in Savannah, and Council Representative Tom Swatzel reported a 19 percent decline in business in Murrell's Inlet just yesterday? Recreational fishing efforts are down correspondingly. The Islamorada Charterboat Association has a history of working closely with the South Atlantic Council on fisheries' management issues.

We have painted a picture of the Florida Keys Fishery as being uniquely different and justifiably so with our waters encompassing the only living reef in North America. The council bought into it, even helping us create a special management area for snapper and grouper for that area of Monroe County east and west of the Miami-Dade County Line – I'm sorry, south and west of the Miami-Dade County Line.

Now pressed by federal fisheries' managers, the council is poised to close fishing for all shallow water groupers throughout its jurisdiction, including Monroe County, an area responsible for, at most, 1 percent of the total gag grouper catch in the entire South Atlantic. Why? Because a gag grouper may be lurking in the same areas as those other species, literally a 1 in 100 long shot in the Keys.

Your distinguished colleagues, Mr. Mark Robson of the Florida Fish and Wildlife Commission and Mr. Tony Iarocci, called upon all of you on Wednesday to great weight to the Monroe County option, a very viable one, offering a one-year moratorium on gag grouper for all user groups.

It proposed a further reduction in grouper bag limits to two-fish aggregate, only one of which could be a black. In exchange you were asked to keep other shallow water species open only in Monroe County. They were both rebuffed by the committee; rebuffed even though a SEDAR assessment of blacks will take a place in 2009, providing answers in ample time for the council to take remedial action if necessary to comply with Magnuson-Stevens; a SEDAR assessment so desperately needed because that data on blacks is ten years old or older.

They were rebuffed at a time when the Gulf Council is increasing the bag limit on red grouper in our area to two fish per person per day, not decreasing it, and that's literally on the other side of the overseas highway; rebuffed as snapper grouper fishermen gear up and implement the use of venting tools and dehooking devices to minimize post release mortality; rebuffed when fishing effort in Monroe County has declined by as much as 55 percent for the for-hire sector and recreational anglers due to the soured economy and now even further due to the extraordinary weather events of the last six weeks.

Mr. Currin: Bill, I'll have to ask you to try to wrap it up as soon as you can.

Mr. Kelly: I will, sir. On Wednesday we heard testimony about the dour condition of shallow water groupers, vermilion snapper and red snapper. An interim rule was developed and authorized for each of the three species, but much to our surprise the council postponed implementation of the interim rules on vermilion and red snapper almost as fast as they were written.

They were postponed despite the fact that red snapper is in such deplorable condition it is estimated that it will take 45 years to rebuild the stock. The interim rule with regard to snapper and the Monroe County Rule were kept in effect. Several committee members felt the Monroe Rule would smack of favoritism to that one small particular area; yet as they took their respective turns making it clear that a more regional approach to fisheries' management measures will be

slow to cross state lines.

In summation and in a spirit and fairness, I would like to ask the full council to amend the interim rule on the proposed grouper closure to exempt Monroe County, Florida, subject to the terms of the Monroe County Rule until such time as both the EIS has been completed, fully reviewed and voted on by the council under the context of Amendment 17. Thank you for the time.

Mr. Fex: My name is Kenneth Fex, owner and captain of the fishing vessel Raw Bar. I've been to these meetings several times. I see different ideas and everything. The Miami-Dade County Line, if we're all going to give in for spawning closures, we need to all give in. It's four months. We're all going to take the blunt of it. Florida is known – I grew up in Florida. They used to catch mullet during the spawning times. Now there are no mullet, so I really can't believe that catching fish during their spawning cycle is good idea for rebuilding a stock since we had a problem.

I disagree with making any line like that where either side gets whatever. As for the NMFS Survey on the recreational side, I see that a lot of organizations and stuff like that are involved in this. You're going to start calling people that are a part of these organizations, and they're going to be telling you lies. They're going to say, "Well, no, I haven't fished this year. We haven't filled our allocations."

It would be just like you calling me and asking me, well, have you caught any fish this year; and if I knew it was going to go against my allocations, I would tell you, no, I haven't. I would take that into consideration because everybody reads sportfishing magazines and stuff like that, so you're going to be calling people and they're going to be telling you false information.

As for the grouper allocations going from 2001 to 2003, I think that's not a good history. You're just picking months that make it better for the recreational side. If you're going to shut down a grouper industry, commercial fishermen totally, you're never going to get your correct recreational count, so you're going to shut down a commercial industry where people are trying to make a living selling fish to the whole nation itself.

Also, when you reduce your bag limit sales, you're going to reduce the effort that the recreational people are putting forth. In my area they're putting forth a lot of effort before this law goes in effect, and they put more and more towards the quotas that we're going to end up meeting. I disagree on that and I wish you would go for more of a score up on that one.

As for the trip limits, I agree with that. A thousand pounds of gag, I don't know any vessel in my area that even comes close to catching a thousand pounds of gag. I wish you would actually lower it some because that is that grouper that is going shut down our industry. We're not going to be able to catch a fish because somebody went out there and targeted gags for the next couple of months. I would actually reduce that actually trip limit of the gags.

That will make us diversify our catch, catch more red grouper, catch more vermilion, whatever, but I agree on the trip limits. You need to limit these fishermen from them targeting one certain

species. I thank you for your time. You guys need any help at your SEDAR meetings I'll be more than welcome to go to some of them. I heard you guys talk something about that. But I've got a point to make also – not being able to get your accurate information on the recreational imposing on the commercial for the sale, I have in front of me, I have a state ticket, and in front of me is my federal log ticket which tells what I caught. These both equal to what I have caught and what I have sent in.

If you subtract all these federal permitted logbooks from your commercial count, you will get your recreational count on each fish. I made a point to one of the council members earlier and he said, "Well, your numbers aren't correct." Well, they have got to be a lot more correct than the recreational NMFS statistics that you guys bring out. I thank you for your time, by all means.

Mr. Currin: Ken, hold one second, Dr. Crabtree has a question for you.

Dr. Crabtree: Ken, where are you from?

Mr. Fex: Southport.

Mr. Conklin: Good afternoon. My name is Phil Conklin. I'm a wholesale/retail seafood dealer in Murrell's Inlet, South Carolina. I'm on the Grouper Snapper AP. I was on the LAPP Workgroup. My main interest in being up here right now is to try and reiterate instead of a thousand pound trip limit we do 45 head; and then in that 45 head have black grouper, firebacks and gags as an aggregate. That way we will be policing our fishery and we will be able to fish year round or the eight months that it is going to be open, the way it sounds like. I think that is the best indication we could give everybody, especially a fish council, that we're trying to police ourselves.

Mr. Currin: Phil, a question for you, several of us are up here wondering what is a fireback; is it another –

Mr. Conklin: Yellowmouth grouper.

Mr. Currin: Yellowmouth, okay. Thank you very much.

Mr. Geiger: Phil, you went over that very, very quickly. Do it one more time and take your time; we've got time.

Mr. Conklin: In the 45 head, we'll use an aggregate bag limit of black grouper, yellowmouth and gags in the 45. Don't just put 45 head of gags there.

Mr. Geiger: So the total trip limit would be 45 –

Mr. Conklin: 45 head of fish of gag groupers, firebacks and blacks.

Mr. Geiger: So are you entertaining still having a four-month closure, the four-month spawning season closure?

Mr. Conklin: I would go with the two month and leave it open in January and February for the commercial boats that can fish that weather. I know it is not going to happen, but that would be my recommendation.

Mr. Hagan: My name is Dave Hagan. I'm totally against a 45-fish whatever. We can live with a thousand pound trip limit, but if you're going to limit us to a thousand pounds of grouper, you ought to leave at least January open. February, March and April, we could live with it if we went with a thousand pound trip limit. I'd also like to see the trip limit on amberjack raised to 1,500 pounds.

Mr. Currin: I just remind you that we're not considering issues dealing with amberjack in 16.

Mr. Hagan: I understand that, but if you want to cut us down one place, you've got to cut us some slack on the other. When you close grouper down, if you close them down for the four months, you're just going to ratchet up the pressure on the other fish; I can guarantee you. I have already started it. I have got the equipment. I'm going to do it.

My pet peeve is that you're going to close all grouper, and I have seen no scientific evidence whatsoever that scamp are overfished or overharvested. As we're divers, I can sight harvest scamp, legal fish, with no bycatch, no incidental catch, no nothing. Why don't you allow me and all the other divers to harvest a perfectly legal fish by legal means with no bycatch? There is no anything in that about that.

You know, they say right now they're not going to close red snapper and they're not going to close B-liners, but if it does come to pass and then you close grouper, too, there are going to a lot of boats in my area, headboats and charterboats, that are going to have to move in order to keep their payments up. They're going to have to move south to catch yellowtails down in the Keys, and that's just going to ratchet the pressure up more on them down there.

They're going to be more boats down there trying to fight for what few people that has got enough money to fish recreationally like that, and then that's going to put more people out of business. When you shut down the grouper for four months, that's going to put a hurt on some of the fish houses. There are going to be some people up here talking about that.

I am definitely against the recreational sale of anything in the snapper grouper complex. I thought that was a deal where you all were going to mandate that if you sold fish from the snapper grouper complex is you're going to have to have a South Atlantic unlimited permit; is that correct?

Mr. Currin: That amendment has been moved to the Secretary and is waiting approval, I believe.

Mr. Hagan: Yes, well, that's good. That's one thing you did good. You all do a lot of things good, but I don't want you to break your arm patting yourself on the back.

Mr. Currin: One minute.

Mr. Hagan: Well, since I've got a lot more than one permit, I can talk pretty much as long as I want because I've got 21 minutes. Anyway, the whole thing is you can pass all the laws you want but if you don't have any law enforcement, which you do not have, there is no law enforcement, you're wasting your time.

All these laws are good, but you've got to have some teeth in law enforcement and you've got to have some teeth in the penalties when you break these laws. If it is just a 200 or 300 dollar fine, they're going to say, well, that is just the cost of doing business. You need to put some teeth or some you need to get some more law enforcement out there. I'm done and if you've got any questions; and if not, I'll leave this chair.

Ms. Libby Fetherston: Good afternoon. My name is Libby Fetherston and I'm here representing the Ocean Conservancy. I just wanted to start by saying that the staff work on both Amendment 16 and 17 has just been exceptional, and I wanted to thank everyone for their hard work. These documents and these issues are difficult to grasp, but it makes it a little easier with all the work that goes into them.

I just wanted to compliment the commitment of this council to upholding the Magnuson-Stevens Act and to sustainable fisheries in the South Atlantic was very obvious by yesterday's marathon snapper grouper session. But the first step to fulfilling Magnuson and its ending overfishing happens today with Amendment 16, and so Ocean Conservancy is here again to strongly support the submission of this amendment with the preferred alternatives that end overfishing immediately to the Secretary of Commerce.

There are ten species undergoing overfishing in the snapper grouper complex, and it is critical that this council and NMFS finalize the gag and vermilion management measures that end overfishing and achieve optimum yield here today. Despite being past the legal deadline for completion, this process has yielded us a document that fulfills the purpose and need that ends overfishing and achieves optimum yield.

We strongly recommend moving forward not only with Amendment 16 but with Amendment 17 as well. These are really hard decisions and no one is taking them lightly, but sustainable fishing must be the goal and ending overfishing is the only way to get there. We support the preferred alternatives in this document, two of which I would like to highlight or two items I would like to highlight briefly.

We strongly support the federal for-hire licensing language that is in the codified text of the proposed rule. This will ensure that overfishing is truly ended and that rebuilding can begin of the species that need it. We also support moving the Monroe County Option to the considered but rejected section, and we look forward to a robust discussion in Amendment 17 of this option.

I don't think the timeline is right at the moment for Monroe County, that decision of how to enforce that with the state of Florida, but it is a very attractive option to be able to allow these guys to fish according to the species that are there. I just don't know that 16 is the right place for it, so we support moving that discussion to a later time period. Thank you all for your hard work

on this amendment, and we look forward to seeing this move through the federal process.

Dr. Crabtree: Libby, you referred to the federal licensing; what exactly were you referring to, what part of the document?

Ms. Fetherston: Gregg showed me in the codified text of the proposed rule the federal for hire –

Dr. Crabtree: Where fished language?

Ms. Fetherston: Yes.

Dr. Crabtree: Okay, so what Libby is referring to is in the proposed rule the bag limit changes and closed seasons apply to federally permitted vessels regardless of where they're fishing, which means a federally permitted charterboat would have to abide by these even if it were fishing in state waters. I was going to point that out to the council to make sure everyone is aware, but Libby brought it up. That is the language in the rule and you'll need to confirm that is your intent when we deem the rule. Thanks, Libby.

Mr. Griffiths: Andy Griffiths, Key West, Florida. I just want to loan my support with Captain Bill Kelly. Anyone that he is not speaking for in Monroe County, I am speaking for everybody else, so we've got everyone covered. I brought to you today just a visual. Sometimes visuals can speak louder than words, and I'm going to try to get it all in three minutes. I drove 14 hours for this three minutes, so I get some kind of award for the furthest travel, I think.

Basically, these are 15-year at-a-glance calendars that demonstrate half of my career in this business. I got my license when I was 18, and I've had it for 31 years, so I'm pretty proud of that career in the charterboat fishery. I've been very active in the fishery and with the regulatory agencies. I was on the very first Marine Sanctuary Council. I served on the Tortugas 2000 Council, creating large areas of no-fishing zones off the Florida Keys.

I helped with the bag limits, size limits. I've always been a constructive member of the fishing community. That will end after this meeting if you vote to move on this interim rule for Monroe County. I want to show you these 15-year calendars because it shows a very nice growth in business and boats up until the hurricanes of '04 and '05. I have the total number of trips at the end of each calendar.

After '04 and '05 things got pretty tough, so I took on a couple of partners, and I sold one boat to my brother, so I maintain three boats. But let's take a look at '05 through '09. I just want to show you that I write them all down. Okay, every trip is documented. If it's a three-day two night excursion, every one is documented, so there is 304 trips there, 912 days on the water for '05.

In '06 I dropped to 271. Again it is all documented. I have envelopes for the deposits for each trip. That was after the hurricane so I felt pretty good about just that small drop. In '07, '07 was tough. I'm down to 154, but we're still eking out living even with the price of fuel. That's 2007, so fewer trips and less profit per trip.

This year – and remember I know what the year is going to bring because I won't book anymore trips, maybe in December, but this is pretty much it for '08. In September I'm down 100 percent, 100 percent. In October I'm down 80 percent. December, there are no trips yet, so I'm down a hundred. Here is the '09 booking. The point of the visual is I'm not catching any fish if I don't go out, and that is not what is being taken into consideration here.

If we don't go out, we're not catching any fish. We need to wait on this latest assessment and we need to move this interim rule forward as it is with Monroe County where we catch 1 percent of the gag grouper, so we can take this up on Amendment 17. One of the things I did want to speak to, though, in a broader sense is leadership. You know, sometimes we get so far into the weeds and the data and the information, it clouds your perspective. It's kind of like being on the ground in a forest fire, and your house is on fire, and your immediate reaction is to pick up a hose.

But you need to get off the ground and get a higher perspective like a helicopter. From the helicopter you might be able to see that committing resources to the house that is doomed is the wrong action and that you can more strategically fight the fire because you have a better perspective in the helicopter.

What I'm asking you to do is be leaders and do not be so clouded with the reams of data that is mostly bad, but you have by law a mandate to vote a certain way, which quite frankly undermines the whole process. It says you have a vote, but at the same time it says you have to vote a certain way.

I would ask you to be leaders and take that right to heart and vote what you think is right even when your process is flawed. You have a vote. Use that vote to do the right thing. Be a leader; we need leaders. Our children need leaders. I want you to think about that as responsible policy makers as you deliberate. Thank you for your time.

Ms. Hogan: My name is Becky Hogan and I am with the Mayport Princess fishing vessel from Jacksonville/Mayport, Florida. I was at the August meeting at the beautiful Hyatt Regency like we're at the beautiful Marriott. For the record I am at the La Quinta tonight for \$67 a night, and I don't mean that to be funny, but I was told at the August meeting one of the reasons that we don't have fish counters on the partyboats – the Mayport Princess is a partyboat, just in case you guys want to know that – it is because there is no money, there is no budget in the budget.

Another thing I was told at the August meeting is my data that I've been giving the people that come and sample and take my collection sheets that go to Ken Brandon up in South Carolina, that data hasn't been looked at and hasn't been used for the last couple of years. We're just not there yet. I want to ask two questions to you, if you guys read my letter that I wrote to Ander Crenshaw?

I was told by Gregg Waugh the only person that could really make any changes at this time point would be somebody that is in congress, my House of Representatives. I have contacted both of my senators. Did you all read my letter because I don't want to read it again if you have already read it.

Mr. Currin: I received it in the mail.

Ms. Hogan: Okay, so you understand where I'm coming from there. Another thing I want to be very clear is I am the person that wrote the letter regarding Dan Tyson, the person that has been surveying my fish for ten years, that showed up drunk for ten years. It scares me to think that his data and the phone surveys' data and all the other data that you – a lot of the data that you have used to make any of these assessments is actually being used.

Gregg Waugh said at the meeting Jacksonville we have to go with what we have, that's what we have to use. Whether it's good or bad, we are going to use it. You know, I read the 1996 reauthorized Magnuson-Stevens Act. I also read all the details about when Bush signed it in January of '07, and nowhere – and I say this in my letter. I'm just kind of pointing this out for people that haven't read it – nowhere does it say in that letter that they want – people like myself and Captain George have been doing this for 38 years, making our living in Mayport, Florida, to go deep sea fishing – I don't see one piece of paper that has shown me that you cannot even consider the economic impacts.

I mean, you haven't used any of our data. I pointed this out and I'm just here again to speak of anything that we've caught over the past couple of years to make any of your decisions on B-liners and snapper, which I have pointed out before. It shows that the increases in the number of those fish over the past couple of years have been phenomenal. I am talking B-liners; the snapper, I'll comment on that later.

I am actually for – and nothing against the commercial people, but I am actually for the grouper management that you have, the January through April closure. I think that based on everything that we have seen for the past 10 or 20 years that we have been fishing, that the grouper thing, you know, the four months; if you do that, then, you know, you might get me to consider the – well, I'm talking the B-liners. You're looking at an eight-month closure on that,

I know that we're waiting on the stock assessment, so it is hard to make a comment on that because we don't know what is going to be happening with that. But there is just one other thing that I want ask about is – and this is actually the reason I came here today is the way everything was explained to me in Jacksonville back in August was I'm still being considered as a recreational versus – you know, like if you close B-liners and you give an allocation to the commercial people, I think you ought to consider the headboats and the for-hire sector.

There is nothing – and I'll go on record as saying nothing that I do in my 12-hour workday that I personally consider recreational, and you need to think about that when it comes time to Amendment 17 when you start doling out the allocations, the annual catch limits, because right now you've got me lumped in as – if you close B-liners, you want me lumped in there with the closure, and I don't think that's right.

I get up and I go to work everyday. I've put over \$4.5 million in the economy in the past ten years, \$4.5 million, that's not recreational. You know, you've got to give the for-hire sector some consideration when you think about your closures.

Mr. Freeman: My name is Barry Freeman. I'm a native Floridian and have held a hundred ton captain's license since 1984. I've made my living in the marine industry one way or another my whole life. My wife and I presently operate Seafarer Fishing out of Ponce Inlet, Florida. Our two partyboats, the Sea Spirit and Sea Spirit II, and our charterboat, Island Spirit, employ nine people, most of which have families depending on these boats.

Many of our crew members have never done anything but work for us on these boats. The thought of us having to close is frankly scaring the hell out of all of us. 2008 has proven to be one of the toughest years yet for our industry, as you have already heard from several other people. With fuel prices going through the roof as well as insurance and a steady decline in the customer base, we are struggling, at best, to make a living.

On a happier note, for the bright spot of the year, was the great fishing March through June; more big red snapper, more vermilion and more legal grouper than we've seen in the past ten years. So, excuse me if I believe your data is seriously flawed. If what you're proposing is passed, we will certainly be bankrupt and our crew and employees will be unemployed. The months that you are proposing to close are the busiest for the year and equate to about 70 percent of our yearly income.

Just stop and think for a moment the economic impact this will have not only on the fishermen but on the marinas, the boatyards, the fish markets, the tackle suppliers, bait companies, hotels, restaurants, and let's not forget the tax revenues that will be lost, just to mention a few. The numbers do not lie. The years '04, '05, '06 and '07 just from our two headboats have generated an average of \$550,000 gross income, as well as an average of \$26,000 per year in sales tax revenue.

We are a small company and that may not seem like much money, but when you figure the totals of all the boats that will be affected up and down the east coast, you're talking about a lot of money going away. This does not include sales tax paid on fuel, tackle, general repairs and other goods and services that are needed for our daily operation. By the way, if you do in fact pass all this and put us all out of business, we won't need the licensing and permits that we are presently required to purchase. Federal, state and local government will be greatly affected as well.

Sometimes I wonder when our government is going to quit giving our economy away to foreign markets. The trickle-down effects of this will be huge, to say the least. We are all for conservation. After all, this is how we make our living. I seriously doubt that when the Magnuson-Stevens Act was put into place that this is what they had in mind.

I've said it before and I'll say it again, the restrictions that are presently in place are working, give it more time and actually get out from behind your desk and go offshore on some of the great boats that are up and down the east coast and learn firsthand what is going on on our reefs rather than looking at data that everyone who fishes on a daily basis know is seriously flawed.

There are several factors that are already in effect reducing the catch without doing a thing; the economy, for one, high fuel prices and the overall decline in tourism and recreational boating, and as you know the lists goes on. In closing, I hope that maybe I've given you all something to

think about. We are not fishing because of the huge profits that are being made.

We really do love what we do and so do our 6,000-plus customers a year. If you would have told me a few years ago that my U.S. government was going to cause myself and my family to lose everything that I've worked my whole life for, I would have told you you were nuts. Today I am not sure. Thank you for your consideration.

Mr. Strate: My name is Captain George Strate with the Mayport Princess. I've been a licensed captain for 38 years out of the same metropolis of Mayport. I'd like to go on record as saying that I used to have a lot of confidence in the council. We have helped out in any way we can. We've adjusted our catches to our people with the two snapper and the ten B-liners. We have worked our butt off. We're always for conservation. There isn't one person in this room that does the business that we do that isn't for conservation.

I'd like you people to really consider and thinking about the vermilion snapper. There are more than there ever was. Everybody has said it for a hundred times. Every one of the meetings that I have been to, everybody has said your information is wrong, and it is. I think you guys need to get out, like Barry said, and come and see what is going on.

You need to get hold of some of these fishing clubs, the Jacksonville Offshore Sportsfishing Club, the Fernandina Fishing Club, the Nassau County Fishing Club, get some of them to give you some information about the fish that they're catching because these guys go out and they fish and do their catches.

Those random phone calls are a joke. I mean, it's not even close to being what you need. The catch records from the partyboats, that's very good; and the catch records from the striking boats, that's very good information because that's hands-on. The one guy that was doing the collecting did not do his job. There is another little girl that's coming around now. She has been around a couple of times and she seems to know what she is doing.

It was nice to have somebody else come up and do something, at least do something. I asked them the last time, they said they had 7,000 earbones collected. I wanted to know where the earbones came from. They couldn't tell me. I guarantee there weren't any earbones collected in the state of Florida or Georgia because I stay in contact with all these people. They must have come out of South Carolina and North Carolina.

These fish have a tail; they move up and down coast; they're all over the place. I don't see how you can justify that without at least checking Florida, too. I know you guys have got a lot on your place. I know you're working hard and it's confusing. I know by pushing all this on at one time and you've got to do something, but think about the impact you're going to have on a bunch of lives for all the people that are on the boats up and down the coast.

You're putting a lot of us out of business if it goes through with all this, tackle stores, bait companies, hotels. It is amazing, there is a huge economical impact what is happening here. I just wish that you guys would really consider and think what is going on because every meeting that I've been to, everybody has told you the same thing, that there is more fish now than there

has been in the past two years.

Our rules are working; the size limits are working; the bag limits are working; give us a little more time and it's going to keep working. It has just been amazing. A friend of mine was on our boat yesterday, and it was pretty funny. He wanted me to take all the heads from the snapper that we caught yesterday. We caught 51 legal snapper yesterday. The other partyboat, the King Neptune, Scott Reynolds sitting right back here, he had 40.

We were going to bring 91 heads up here and dump them on the floor and show them to you. That's what they wanted us to do, but that is kind of childish, so we just come up to tell you we were going to do that. We did have that many fish. It slowed down for a little bit for a couple of weeks there. We had a thermal clime in. The thermal clime slows the fish down. It is Mother Nature's way of taking care of her own.

Fuel economics is killing everybody, but that's conservation for the fish, too. Like the other man said, if not out there, we're not catching anything, and it is going to be that way. We're running behind trips from last year. This has been a really tough year. All the other partyboats that you talk about up and down the county have run behind trips from last year.

We just hope you consider this; think about it; make the right choice; and try and keep us in business because we have worked all our life. If any of you people would like to come and go with me one day, I have a free trip for you. Anytime you want to go, come and see what the operation is, but you've got to be with me there at 4:30 in the morning and when we get finished at 6:30 at night. Thank you very much; I appreciate it.

Mr. Iarocci: George, it's good to see you again and thank you. This whole council appreciates the time and effort that you've taken to give us testimony and come to these meetings. George, Barry earlier in his testimony – I didn't get a chance to ask you this, Barry, but maybe George can fill us in on it when you had been seeing more, and we're hearing people seeing more and more and bigger fish, but I'm curious, George, in seeing these fish, is it just by a certain year class, one size of big fish, or are you seeing a lot of small fish, big fish, all different sizes, or just big fish?

Mr. Strate: It's all different sized fish. Yesterday we turned loose over a hundred snapper that were undersized. We had snapper from 20-1/2 inches – 20 inches is legal. I try to make it 20-1/2 because of shrinkage in the box. I just play the game. We had them all the way up to 15 pounds, and it has been that way for almost a year and a half now. A year ago we weren't catching as many legal snapper, but I was throwing back 300 a day.

If you don't believe me, I can show you the records and stuff. I mean, you know me, Tony, I'm not blowing smoke. We were killing them. A lot of the things have changed around; the size limits. I think the fish grow faster than you think they do. We vent our fish in the same place everytime. My crew is taught to vent the fish in the right-hand pectoral. We vent them in the same place.

We've found them with our own hooks in their mouth that have just about rusted out which

about a year later that were legal fish that we vented and threw back that weren't legal. But, you know, I think the fish grow faster than you think they do.

Mr. Iarocci: That was my next question, George. I wanted to know if you do see with the new venting tools and the different devices, with the release mortality; are you seeing less of what you're seeing in the release mortality on your fish, and that you just stated that you are.

Mr. Strate: Oh, yes, sir. Well, we've been venting fish for 20 years. It's a v-like-shaped thing and it vents them very well. It takes two seconds; they don't get hurt; the scales fold back over; they heal back up; and they shoot off to the bottom. If you're catching them in 150-250 feet of water, they're going to have trouble, but where we're fishing from 60 to 100 feet of water, they do very well.

We might have maybe one or two out of 150 or 200 that die, but some of them are gut hooked, that there is just no way that you can revive them. You cut the hook off, you vent them, and you try to let them go, and most of them make it. Every once in a while there will be one or two that don't. The Jap Hooks don't do that much.

There are a lot fish that get gut-hooked with Jap Hooks, too. I don't care who says the Jap Hook will not gut hook a fish. That's a pile of hockey. I do it everyday; I do it everyday. And like I said, if any of you guys would like to come and go one day, get out and smell the fresh air and watch the porpoise jump and watch what we do, just sit up and watch the people; if you see the smiles on their faces and the joy from just being able to get out and catch a couple of fish

Two snapper for one person to go out fishing is \$80 a day. That's \$40 apiece of fish. They don't squawk about it because they're having fun doing it. If they catch their ten B-liners, it is down to \$6.75 a fish, so they're having fun. If it goes like where we can't keep anything, nobody is going to go. They're not going to go and it's going to put us right out of business. Thank you very much; I really appreciate it.

Mr. Davis: I'm Sonny Davis from the Captain Stacy Fishery Center, Atlantic Beach, North Carolina. I've been in this business over 50 years, which I guess that makes me the big dummy of the fleet. Me and my family; this is our livelihood. This is what we do for a living and what we've been doing, both commercially and partyboat and charterboat, the works. That's our living.

I have probably 15 people that work for me, and that's what they depend on is the snapper grouper. Now, speaking of the vermilion snapper or the B-liner, everybody I've heard talk has always had the same thing to say, that the B-liner fishing has increased over the past few years. Take, for instance, my boat was out last Saturday night after laying up for a week preparing for a hurricane that we didn't get, thank the Lord.

We went out Saturday night on an overnight trip. I think the captain had to make two stops to limit out on his B-liner snappers. Then he had to move and find a different area to fish because he was limited out on the B-liners. But, we wasn't limited out on the passengers. We usually on our overnight trips have anywhere from 40 to 45 passengers. This past Saturday night we had 20.

I don't know if that was because of the hurricane threat before or the people just don't have the money to go fishing. I have noticed after the hurricane came through our passengers have dropped off considerably. The people that we take mostly are the working-class people that are really struggling today to try to make it with this economy the way it is. You all know that as well as we do, that it is tough going now.

The price of gasoline, diesel fuel, and everything is affecting our business. If it affects our business and cuts back on our passengers, it has got to cut back on the fishing. Say, for instance, if we take 50 passengers out – where we have been taking 50, it's probably dropped down to 30. And you take 30 passengers on a boat or 50, you might have a third of them that has never been fishing before and don't know how to use a hook and line or a rod and reel.

Now, they're using a two-hook rig, two little hooks like this, and you can't sit down and tell me that this is going to wipe out the fishing industry – the vermilion and the grouper industry on the east coast, as many miles, the square miles that we have of fishing.

Like I said, the bag limit we have on the day we can live with. The ten vermilion per person and the grouper plus the other stuff mixed in makes it worthwhile for these people to come down, if they can afford it, which a lot of them can't do anymore – if they can afford to come down, they want to be able to take some fish home to eat, to feed their families, to help compensate for the trip that they made to the coast.

I think that the economy not only this year, I believe next year is going to be even worse than it was this summer. Now, this summer we had a pretty decent year but not as good as the year before. It just keeps dropping off, so that drops off on the amount of fish that's being caught, so I think that should take care of what you all are trying to do. In other words, I think the oil and gas has done a lot of the work for you that you're supposed to be doing, is limit the fishing, and it's done it without a doubt.

In fact, yesterday I came across the Atlantic Beach Bridge. I leave Morehead to go over to my business in Atlantic Beach, which is over the Intercoastal Waterway. I have got a habit of looking up and down, north and south, seeing what the traffic is doing, the boat traffic. The boat traffic is fishermen, right? Yesterday I went three trips over the bridge. I saw one boat. I think that was the one, he was on a sandbar. It was like an 18-foot skiff.

That's the only boat I seen in the Intercoastal Waterway the whole day. Now that ought to tell you something. You can go to all the marinas from Cape Hatteras to Florida and look at all the boats tied to the dock. In fact, Labor Day Weekend we got three 85-footers tied up in Morehead and Atlantic Beach. Two of those was laid to the dock Friday because there were no passengers to go fishing. I could talk for an hour but I've got to go. Thank you.

Mr. Dick: Good afternoon. My name is Shawn Dick. I'm president and CEO of Aquatic Release Conservation. I'm also founder and executive director of Angler Conservation Education. I want to thank the council for allowing us the opportunity to voice our public comments on this most important Amendment 16 FMP.

Under a reduced bycatch of snapper grouper species, we support and recommend Alternative 3 Preferred, the use of venting and dehooking tools by both the commercial and recreational snapper grouper fisheries. Tony Iarocci, a respected council member, brought up a really good point yesterday. The new mitigation technologies, including venting and dehooking tools, the ethical fishing practices and subsequent post release survival rates should be considered and calculated into the bycatch mortality estimates within the recreational, for-hire, and commercial sectors.

We have observed the recent, widespread use of mitigation technologies and significant change in fishing practices within the commercial, recreation, charter/headboat for-hire sectors. Many of the proposed mitigation technologies were co-developed by the same industry, careful handling and release technologies. In the 2001-2003 NED Experimental Design, up to 75 to 95 percent reduction of hook-wounding mortality was observed for sea turtles when all hooks and line were removed.

This research initiative was peer reviewed and published by the Canadian Science Journal. In the 1991-1993 Striped Bass Hook-Retention Study by NMFS, DNR Maryland, Cooperative Offices Lab, conducted by Keith Lockwood and Eric May, up to a 90 to 95 percent reduction of hook-wounding mortality was observed in the striped bass fishery. Because of this study, DNR Maryland recommended that all deeply placed hooks be removed.

They determined that there was a high degree of latent mortality associated with leaving deeper imbedded hooks in fish. In addition, there have been numerous field trials performed with reef fish, sea turtle and other protected resources, striped bass, billfish, summer flounder, shark, trout and many other species. We have submitted to the agency and council video documentation of these various field trials.

This documentation, coupled with the numerous successful initiatives, should represent the best available science on these mitigation technologies and subsequent reduction of bycatch mortality. We support dehooking when appropriate and with appropriate tools. Lip-hooked fish may require either needle-nosed pliers or an appropriate dehooking device. Deeper hooked, especially in a J-style hook fishery, will necessitate an appropriate dehooker that captures the line, has rounded edges and can protect the point of the hood from re-engagement when removed.

For boated species release, handling and time out of the water is critical. For non-boated species appropriate length extended-reach handles are necessary. And venting; we support venting when appropriate and with the appropriate tools. Venting is most effective from 65 foot to 140-foot depth. Tools must have a hollow shark. Ice picks and knives will not work.

There is good venting data available from the Australian Barometric Stress Studies, the American Fishery Society, Ottawa Meeting Barometric Stress Studies, Moat Marine Lab Venting Studies and the Florida Sea Grant Venting Studies. Chairman Geiger, at the sidebar of the public hearings, made an excellent point; one that we have also recognized as important. Congress needs to fund unfunded mandates for research and data collection, education and

outreach and enforcement.

In addition, industry leaders, commercial and recreational, should outreach their constituent base through seminars, newsletters and special events. Media, we agree with Dr. Crabtree and the committee that we need a positive PR campaign to promote successes and to get the word out. There is a coalition of industry leaders and stakeholders that is continuing to be developed, including but not limited to the Recreational Fishing Alliance, FRA; Bluewater Fishermen's Association; IGFA; the Billfish Foundation; the Tuna Association; CCA; American Sportfishing Association; Fish America Foundation; Guy Harvey Ocean Institute; various charter/headboat associations; tournament directors; numerous fishing clubs and various NGOs. Time area closures represent a harsher and less preferred management alternative.

Mr. Currin: Mr. Dick, I'm going to have to ask you to please wrap up.

Mr. Dick: Sure, I'll be glad to. In conclusion, our U.S. recreational and commercial industries are some of the most conservation-minded anglers and fishermen in the world. They have sacrificed catch, recreational opportunities and economic rewards to lead the way in sustainable conservation-oriented fishing. They have co-developed mitigation technologies and practices that have proven to be effective in significantly reducing bycatch mortality.

They are continuing to organize and work within the system and develop solutions to the problem. They should be rewarded and not penalized for their conservation efforts. We will continue to support our U.S. recreational and commercial fisheries in an effort to maintain a viable, sustainable, environmentally safe, friendly fishing through transference of mitigation technologies and fishing practices, education and outreach initiatives and cooperative fishery partnerships. Thank you. I will answer any questions if you have any.

Mr. Anderson: My name is Tony Anderson. I'm owner of Bass, Incorporated, and have been in the commercial business since 1975. I'm like that girl over there was earlier; there isn't a lot of things funny about this situation. It took us years to be able to budget our money to where the closure of the grouper, it actually comes when we're responsible to pay income tax, corporate tax, personal tax.

It took years to get to where you could budget it out during breakdowns and stuff like that to where you were financially able to accomplish that. Now, if we get shut down from January to May the 1st, we're going to have to start all over with learning how to do that. The thing I haven't heard a lot of people say anything about is with me I've raised a family and been self-sufficient.

Now I have grandchildren and basically if I'm going to be shut down from January 1 to May 1, it's going to take Christmas from my family because it will be hard to go out and spend money and funds on Christmas. You know, you usually try to take the last couple weeks of the year off because, you know, to be with your family. It's a time everybody I'm sure can agree me. You know, you want to be with your family; and being on the ocean all your life, it's something I kind of cherished.

The last couple or three weeks of the year I always would take off and take my children, you know, to do the things, shopping and see Santa Claus. Now it is my grandchildren. Well, basically, you are going to be taking that from us. I am not saying you all, but what you all have to do or what you all are proposing to do, it is not really you all doing it, you all are just doing your jobs.

I wish there was a better way to do it because, like I say, you know, if you take the last two or three weeks of the year off – and then me personally, I've been grouper fishing all my life. If I can't go grouper fishing from January 1 to May 1, then, you know, traditional holidays will be a thing of the past. Thanks.

Ms. Clow: Good afternoon. My name is Christy Clow, and I am coming to you today as an education and outreach instructor with Angler Conservation Education. ACE's focus is to educate various fisheries' participants on proper, safe handling and release protocols to reduce bycatch mortality of targeted and non-targeted species, as well as protected resources. My comments today on Amendment 16 will focus on my area of experience.

In order to obtain the highest level of post release survival, possible 55 to 95 percent, it is critical to use the proper NMFS-approved and minimal designed standards, dehookers, and venting tools. It is also important to properly instruct fisheries' participants on their proper and safe use with workshops and protocols. Not all dehooking devices provide the same hook-removal purpose or function; an example, deeper-ingested hook removal and external lip-hook removal.

The preferred hook-removal process is when you do not have to touch or remove the species from the water when dehooking. This prevents removal or damage at the slime barrier that decreases lactic acid buildup and stress, thus increasing survivability. Larger or more dangerous spiny or poisonous fish should not be removed from the water when dehooking.

If the species must be removed from the water for hook removal and venting, care should be given not to touch the species and remove any of the slime barriers, which could cause infection and increase bycatch mortality. In order not to touch the released species during the hook-removal process, the dehooking device held in one hand should be able to effectively engage, capture and secure the leader held in the other hand.

Then follow that leader down to where the hook is imbedded, safely disengage the hook and allow for removal of the hook and dehooking device without re-engagement. Many of the dehooking devices currently available to fisheries' participants have been field trialed, observed and documented to work properly and safely in the snapper grouper fisheries.

From ACE's experience and observations, pliers and some dehooking devices do not meet the minimal designed specifications and functions though it be necessary to remove either an ingested circle hook or a deeper ingested J-style hook. The use of pliers and some dehooking tools requires the fisherman and angler to hold the fish in one hand while removing the hook. That is touching the fish and possibly removing or damaging the protected slime coating.

Although some of these dehookers and pliers have been a useful tool for removing some types of

hooks that are externally rib hooked, they do not perform the function of safe ingested hook removal in most cases; nor do they meet minimal design standards and should not be classified as required dehookers. Proper and safe venting can significantly increase post release survival by releasing gases that are built up by fish being caught and brought up from deeper depths, 60 feet or more.

The proper and safe venting of these gases can allow the released fish to return to its natural barometric environment and to a safe depth in a timely manner that can significantly decrease predation and resulting mortalities. There has been a noted increase in the types and styles of venting tools that are now and soon will be on the market.

ACE recommends that the required tools meet NMFS minimal design standard and be approved so as to make sure that the venting tool and techniques is not harmful or dangerous to the fish or the angler. Ice picks and knives are not acceptable and they should not, in any way, be used to vent a fish. Venting techniques and protocols that have been developed by Florida Sea Grant and Moat Marine Lab should be implemented and followed for a safe venting procedure and maximize survival rates. I would like to thank you for allowing me to comment today on Amendment 16 to address the problem of bycatch mortality.

Mr. Leary: My name is Allen Leary. I represent the Thunder Star fishing boat here in Charleston, South Carolina. It is a headboat that has been operating since the late seventies. As far as just speaking on Amendment 16 here, I think I've spoke before in Orlando about it. If Amendment 16 goes through as it is written right now, it will be devastating to the industry, especially the headboat industry.

I'm sure everybody knows; I don't need to reiterate the fact that the majority of the fish that we do catch are vermilion snapper and it is because of the fact that a lot of the fishermen that go fishing on the headboats are novice fishermen. Vermilion snapper is a very easy fish to catch. The fishermen that we take fishing are happy with catching smaller amounts of fish. They're not commercial fishermen, they don't live off these fish, they enjoy these fish and take them home.

There might be some people that kind of act like commercial fishermen, but you are going to deal with those guys as soon as you take away the sale of fish in the for-hire sector. Speaking on recreational fishermen that go fishing on the headboats, I believe that over history – you know, everytime that we come to these meetings and everytime we have an amendment to pass, there has got to be something that has got to be done for the commercial side and there has got to be something that is done for the recreational side.

In history all you have ever done for the recreational side is take the bag limits down. We really haven't had much for season closures until this now. But as the bag limits and the size limits have gone up and the bag limits have gone down, you know, everytime that happens that directly affects us.

Now, as far as the commercial guys go, you know, you have done stuff to the industry before, but until we went to the red porgies there wasn't anything really affected the commercial industry as far as – I mean, the commercial fishermen themselves that are actually engaged in

fishing.

What you did was you took away licenses from people that weren't actually using them and gave them a 225-pound trip limit license, and then we went down on bag limits and up on size limits again. What I don't understand is everytime we come and do this, you know, we have been directly affected by this everytime. Everytime we come to do this, why do we need to always say, well, we've got to do equal parts here and equal parts here, because we haven't done equal parts in the past.

It is time to kind of get off of the headboat fishermen because this is going to put out us out of business. You have a lot of commercial fishermen here that are here trying to save their livelihoods, and they wouldn't be here trying to save their livelihoods if there weren't any fish to be caught out there anymore. If there were not any fish to be caught out there anymore, they would be up here going please try and fix the reason why there is not any fish for us to catch; or, they wouldn't even be here at all. If they were living in a small town, they would be working out of Wal-Mart; a bigger town, they might be banging nails somewhere else.

So there is still a fishery for these guys to be in and there is still a fishery for recreational and headboat fishermen to be in. What we're trying to do now is we're trying to safe us from going out of business. If you do a thousand pound trip limit on the commercial side on grouper, they're going to stay in business and everything is going to be fine.

Headboats, as you all know, we'll be out of business if Amendment 16 goes through the way that it is written right now. I have one more question. Do you all know how many headboats there are in South Carolina, anybody?

Mr. Currin: I do not, but perhaps Tom –

Mr. Leary: Tom Swatzel, do you know how many headboats are there in South Carolina?

Mr. Swatzel: I think I was adding them up today. There is maybe five.

Mr. Leary: I don't understand how five – I mean, I will give it ten – ten headboats can do 60,000 trips a year. I don't understand the data that you all in your little handout here. If you all are thinking that we're doing 60,000 trips per year, of course, the catch-per-unit effort would be down. I mean, if there are 300 headboats, in the state of South Carolina everybody has to do 200 trips a year in order to come up with your data here. Has anybody addressed that yet or am I behind the ball on that? I don't understand why you all are saying we're doing 60,000 trips.

Mr. Currin: Well, part of that equation, Mr. Leary, is that those are angler trips. They're not boat trips; they're angler trips. I haven't marked out the numbers to see how many days you guys would have to be fishing.

Mr. Leary: It says number of trips; it says headboats, number of trips. Do you know the handout I'm talking about? It's Page 4 in your –

Mr. Currin: I'd have to ask the staff to verify it, but I was under the impression that was angler trips.

Mr. Leary: Okay, it's anglers? Okay, well, that explains it a little bit more. Okay, thank you.

Mr. Heiden: I'm Captain Eric Heiden; also a retired doctor, and I'm running for the school board in Georgetown County, which is probably a worse location that you all have so you should feel good about that. I've been on the saltwater for over 50 years running charterboats. I am presently senior advisor for two large sportfishing and commercial operations, Downeast Guide Service of North Carolina and Frenzied Sportfishing, which is a charterboat service in Georgetown, Georgetown Landing, and we have a 42-foot commercial boat called the Defiance.

What I'm hearing here is statements that really don't make sense. I really wasn't going to talk. Several of you here have known me for 20 years of appearing before this astute body. I did want to commend the council because 14 years ago I asked you folks to increase size limits for certain species, and you did last year, but you did it and that took a lot of courage and a lot of guts.

The other thing that I'm hearing is a shortage of fish and that's why we're doing all of these things, the MPAs, grouper, snapper, vermilion. I founded the Bluewater Fishing Club in the late sixties as a charter member, and I'm here today representing 140 strong. We fish every week, saltwater fishermen, some of which are commercial. The disparaging statements that don't make sense to me are very simple.

Where you guys have a job to do – and it's nice for this body of fishing people, a lot of which make a living on the water, have had a chance to vent and to tell you what they think. But when it really comes down to it, different from in the past, I don't think your minds are made up. I think there is a new look on the board, and I think that the judgment and wisdom that you will apply to whatever is really up to you.

I did want to comment that I've fished the Continental Shelf with Dave Tilly out of Morehead. Our entire club, on one trip, went out on an overnight trip, there weren't but six red snapper on that entire boat with really commercial, professional fishermen, 80 of us. There might have been ten grouper. Yes, my team won everything. We had three-fourths of the red snapper and grouper. There just weren't any, and I don't know any better captain around than Dave Tilly.

Having said that, running the boats out of Georgetown, the Defiance went on a two-night three-day trip three weeks ago. They had very few grouper and very few red snapper. A little over three boxes for that amount of time is pretty poor. I want to remind you that 14-15 years ago I requested and asked that the four states should be divided up into individual areas. It seems as if there are a lot of red snapper and vermilion snapper, et cetera, in the Florida area. These guys aren't lying to you.

They're not in South Carolina; they just aren't. I fish every day every week. I am not so sure that we shouldn't have different laws for each section. I don't know how you guys are going to put your minds to doing what is right, but I am leaving you with this thought, and this is the most important that all of you should listen to closely.

There is one person on this board, on this council, that our entire club supports and whatever decision you all come to, if he has his say we will support him, and that is Tom Swatzel. He has more intelligence, compassion and understanding for everybody in this room. So not only you people on the council but you people in the audience ought to listen and follow what Captain Tom Swatzel and his experience is trying to tell us. Thank you.

Mr. Giordano-Silliman: My name is Joshua Giordano-Silliman. I am 29 years old and I am actually a small business owner and recreational fisherman. I'm here today to comment on Amendment 16. With the gag interim allocations, I do not support the preferred interim allocations.

I support interim allocations that would represent 30 percent commercial, 20 percent for hire and 50 percent recreational. It is from my experience of fishing and working in a tackle shop that I believe that recreational sector could only attain 30 percent of such allocation. The remaining allocation not harvested would not be reallocated to either the for-hire or commercial sector in any year. Unharvested remaining allocations would be left to help rebuild the stocks.

I would support a recreational closure once the for-hire sector allocation has been harvested. The commercial sector would operate independent of the other two sectors. Spawning season closures – I do not support a spawning season closure. Closing a fishery during spawning season lowers the pressure placed on that population. It doesn't stop overfishing. I believe any effect to increase the population is minimal because it is a cyclical, annual closure.

It also creates derby-style fishing for the recreational sector and potentially large periods of pressure of fishing during the year; in effect, furthermore, compounding bycatch, discard mortality rates. An extended closure of several years would technically end overfishing and would allow quite possibly one protected year class of fish to reach sexual maturity and only the effects of natural pressure and human population would be exerted.

I support an extended closure for up to the first year of the average age of the first year of sexual maturity in gag grouper. Essentially the timeline would be to the point of sexual maturity for one year class plus one year of procreation. I support my alternative as a measurement for the short-term, intermediate, and long-term social and economic goals and sustainability of this country and fishery.

Furthermore, the timeframe of the spawning closure in essence for me would violate the tenth standard of the Magnuson-Stevens Act. It takes a lot of time for us to leave out of the Carolinas to go offshore to fish. We are traveling anywhere from 20 to 30 miles, and in the winter months we do not have the threat of afternoon pop-up thunderstorms, and this is a safety concern of mine. I made that in June and I am making it again now.

Also, from a personal experience perspective, you don't really catch a lot of gags in January, February, March in South Carolina unless they're not sexually mature or undersized because about the end of December they all start going down to Florida to spawn and about mid-April you start catching them again off the coast here. I believe if you're going to have a spawning closure season, it should actually represent a large patch off the Florida coast.

Establish a directed commercial quota, I support such action. I also do believe that the quota should change as social and environmental conditions change. Reducing the five-grouper aggregate recreational to three – I support such. I do not support the change from two to one on the gags or black groupers. I would still want potential for my future children to have that and friends' current children that are alive today that I take fishing to have that.

Furthermore, I don't believe that the exclusion of captain and crew from bag limits should apply as Amendment 15 has closed the bag limit sales of recreational fish. If the man is farming the land, he ought to be able to take some as well. On the interim allocations of vermilion snapper, they're essentially the same; 50 percent to the recreational, 30 percent to the commercial, 20 percent for the for-hire, and the commercial industry works independent of the recreational and for-hire.

Of the directed commercial quota, I support this action, and it should change as social and environmental changes occur. Dividing vermilion snapper into seasons, I support this action as well. Adjustments to the recreational bag limits and size limits, I do not support the action for a closed season. I support the action to reduce the bag limit from ten to five, and the reduction to five is because it is a simplification of the regulation.

On venting and dehooking, I support such action. I would amend it to require two dehooking devices at all times while fishing. The first dehooker would be required for the release of deeply hooked fish, and the other dehooker would be required for lip-hooked fish; for example, needle-nosed pliers. I support that as well.

Mr. Currin: I will have to ask you to try to wrap real quickly.

Mr. Giordano-Silliman: Yes, sir, I'm almost done. Allow the regional manager to make adjustments for vermilion, I do not support this. It is the principle of power and public input. I do not support the cutting of the public input process or the access to scientific information. Furthermore, my view of this measure has nothing to do with Dr. Crabtree's performance or anything of a personal nature. I would feel the same way if any other member of this council or staff was in that position.

The last thing I would like to comment on is south of the Monroe-Dade County Line. I do not support this action. It is economically biased and unfair to other members of the South Atlantic Fishery. This exemption would create an area for people to fish where proposed seasonal closures would occur. I couldn't go out of my home port, but I could travel to Florida and catch of the snapper grouper complex.

If members of North Carolina, South Carolina and other parts of Florida can't fish, then the Conch Republic does not need to be fishing as well. It wouldn't be fair. I think it's only fair that all displaced fishermen and fisherwomen would need to stand in the unemployment line all at the same time as well. Thank you.

Mr. Geiger: Mr. Silliman, thank you for your comments and coming here and testifying today.

Could you give me a little rationale on how you came up with your allocation of 50 percent recreational, 30 percent commercial and 20 percent for the for-hire sector?

Mr. Giordano-Silliman: When you talk about equity and being fair, the for-hire sector is a commercial entity. The commercial sector is commercial and recreation is recreation. The people who make money, be it for-hire or commercial, should get half of the pie. The other half of the half of the pie goes to recreation. It is my personal experience, from working in a tackle shop and just fishing and the people that I know, that if you gave 50 percent of your gag allocation or any allocation to the recreational sector, they are not going to attain it.

They're just not so you're going to leave 20 percent back in the water. You're not going to reallocate that to anybody else; you're going to leave it there. You're going to help build stocks by just how you allocate. That's my point of view and that's very much my opinion. I've worked in the tackle industry here locally. I've met all kinds of people from what we would like to say are amateurs to somebody like myself that might be called a professional amateur to someone who might be considered to be a professional. I mean, not everyone is equal in their fishing.

Mr. Iarocci: Thank you, Josh, for taking your time again to come here. You had mentioned something earlier on, and I missed it you went so fast, something about you recommended a closure until fish – could you expand that?

Mr. Giordano-Silliman: A seasonal closure is an annual cyclical closure. All you're doing is you're saving the system. You're not making the system bigger. If you actually sat there and said enough is enough, we're all going to sit down and we're going to give it some time, we're going to work on the science, we're taking a break, the ocean is recovering and actually give time for – let's just take an example.

Since vermilion starts to start spawning soon, we'll say vermilion or gags. Gags that were spawned and produced in 2008, let's just say that in four years they reach sexual maturity. In four years they would be able to spawn themselves. Well, after you take the four years and then you add one more, because you gave them a year to spawn themselves, you've protected a year class of fish. You've actually increased the base for which your stock will reproduce off of.

It would take a lot for this country to do that. I'm a conservationist and I'm also a capitalist. I really feel and understand what these people are saying behind me as far as their livelihoods and industry, but there is no reason why we cannot work together as members of the community and as this country, to actually work towards this common goal of a long-term sustainability. That's the economic viability. The long-term fishery here is the economic viability of the future.

Mr. Olsen: My name is Harold Olsen, commercial fisherman forever. I was banking on my commercial fishing because it's still, you know, back-breaking hard work. I was trying to leave it open to maybe do the charterboat/headboat stuff later on when I get a little older. Guess what? You're working on them faster than me now, because I've done it already, and, like I said, there is no option now for me other than to leave the country to fish and do it either way, because you're going to leave it open.

When you start doing the closures, I've already seen it in the other fisheries, swordfish and shark, you start closing the season, the imports take over. I know several countries right now that are dying for you to cut off the vermilion snapper. They're doing trapping, they're doing it dragging, not the same way as we do it here. They're illegal here. They'd love – especially the vermilion, they'd love for you to cut it off so they can take that market over.

Once they get deep-rooted in it, the commercial guys will never see a good price for their fish, the domestic price. Especially with the shark, the whole thing has been ruined. I'm mainly a shark fisherman right now, and it has been regulated all the way down to where there is no market for meat or for the work. I don't want to go into sharks.

But when it comes to the guy that was just talking, you know, he is in there saying his little deal about recreational fishing, but let's stop him from selling any hooks and close him down to the same thing like vermilion, the same thing, go down to four hooks per day –

Mr. Currin: Mr. Olsen, hold one second, this is an opportunity for you to comment on Amendment 16 to the council; and if you can kind of focus those comments to us about 16 rather than about the other members of the audience, I'd appreciate it.

Mr. Olsen: Well, I mean, I heard the Ocean Conservancy say nothing about what we're going to eat. They want to save all the fish, but what are we going to eat? They never say anything. Do you ever get anything about what we're going to eat after we stop all the fishing, you know, what people want to eat? Is it just tilapia; is that what you all want?

I don't get to see the whole council but once every year, I guess. I see one person maybe at the other meetings. I do go to most of the meetings. Like I said, I just feel that any closures of the fish like the gag grouper and all that, that leaves it open for the imports. I mean, it does, you make it another month more for them to get the fish in here, and the price will stay the same. The domestic price will always be following other countries on their price.

It all strives around the price now for commercial fishing. It strives around the price. If we can't do it and keep the boat up all year – like I said, I was kind of banking on doing charter fishing and stuff like that later on. I hope that you all realize that this commercial fishing is hard work. It's not easy work; it's hard, back-breaking work.

Like I said, I've been doing it 30 years and it's time for me to do something different, and you all are changing faster than any of the rules – you know, the rules are changing faster than what I can change to. I'm a marionette puppet now. That's it.

Mr. McKeon: I wasn't going to speak and that's why I didn't fill out a card. Sean McKeon, North Carolina Fisheries Association. We have been representing the commercial fishermen in North Carolina since 1952. There have so many good comments about Amendment 16 and about the things that are wrong with it.

I think it is another amendment that is becoming a collection of amendments that are poster children for everything that is wrong with the system of managing our fisheries by the federal

government. I'm going to use the word euphemistically, but the luxury of having the commercial and the recreational industry at each others throats and the recreationals and the commercials at the throats of this council, that luxury is over.

The environmental groups are going to see to it that none of us exist if we don't get our act together and fix the system that is inherently broken. We have a law that has forced us into litigation with some folks I'd rather not be in litigation with. It's a waste of resources, it's a waste of time, but it has to be done because the law says X and this council must therefore do Y.

Amendment 16 is a perfect example of it. If it was not for some last-ditch efforts by some congressmen and senators in North Carolina and if it wasn't for – when Bill Hogarth was still there, some of the vermilion stuff would not have even been addressed. It would have gone through – the science would have gone through because why? We have a court decision based on a completely flawed law that says science doesn't have to be the best available – I'm sorry, the best possible, only the best available.

And the only way this is going to change is if folks in this room understand that we are going sink or swim together, all of us. We need to understand that until we go to congress together, until we go there and tell them that this reauthorization that just occurred has made the situation worse, not better. It has made it horrifically worse.

And two quick examples: The Mid-Atlantic got together and did just that and got a petition to every council to sign on to the concept of flexibility with respect to rebuilding schedules, arbitrary and capricious rebuilding schedules. They got together and circulated to every council, and I believe every council in America signed on to that concept. What we're doing now is amendment by amendment by amendment. We're destroying the commercial fishing industry in this county.

And right after that, the environmental crowd will see to it that the recreational industry is destroyed. And what are you all going to manage in the National Marine Fisheries Service and the Southeastern Region? You're not going to manage anything because there is going to be nothing left. We own 200 miles off of the coast of every state in this nation, with a few exceptions, and we're importing 86 percent of the seafood consumed by the American public.

These are public trust resources, and we have a broken system based on a broken law; and for the councils to continue to – and please understand this. I do know that you're doing what you have to do. I have spoken to many of you and I know most of you are very well intended, but I consider that until and unless the councils themselves, the folks who are being put in a position to mismanage and to destroy huge sectors of not just an industry but the communities in which those industries are supposed to thrive, until you all make the effort to go before congress, to your elected officials, and to make it known to them that you're operating in a system that is broken, nothing is going to change.

Robert, you mentioned something a little bit tongue in cheek about Amendment 36 or something, which is off in the future somewhere. We're going to be having the same discussions we're having right now about Amendment 36, Amendment 96, Amendment 296 unless this system is

challenged by the very folks who are being asked to put in place measures that are destroying lives and creating adversarial positions amongst people who should be working together to preserve these public trust resources for the good of this nation and not the good of the few elite people who want to see fish swim with no hooks near them. Thank you.

Mr. Currin: Next we'll receive public comment on Proposed Snapper Grouper Interim Rule. I'm not sure whether everyone in the audience understands exactly where we with that right now. The Snapper Grouper Committee passed a motion yesterday to remove vermilion snapper and red snapper from consideration in that interim rule.

That has not been passed by the council yet, but consideration of that will occur after the public comment period, but that is the recommendation from the Snapper Grouper Committee to the council. The committee would ask the staff to bring back some additional analysis regarding red snapper for consideration at the December meeting. Tom.

Mr. Swatzel: Just a question; would it be helpful to mention what the interim rule does now include?

Mr. Currin: Basically, the grouper measures to end overfishing were left in that amendment, but just to give you the specifics.

Ms. Shipman: Right, prohibit harvest or possession of gag, black grouper and red grouper during January through April – so that is gag, black grouper, and red grouper – establish a 352,940 pound gutted weight quota for gag during January through June. When the quota for gag is met, no harvest or possession will be allowed for gag, black grouper, and red grouper. That's the commercial measures.

The recreational measures are to prohibit harvest or possession of gag, black grouper, and red grouper during January through April, 2009; reduce the bag limit from two gag or black grouper combined to one gag or black grouper combined within the existing five-grouper aggregate bag limit; reduce the bag limit for red grouper to a maximum of three fish within the existing five-grouper aggregate bag limit. I think that's it.

Mr. Currin: Management measures for red snapper will be under consideration as we develop Amendment 17. Everybody clear on that? All right, we'll go back through the list again for those who indicated they would like to speak on the interim rule.

PUBLIC HEARING INTERIM RULE

Ms. Fetherston: Good afternoon again. Libby Fetherston here representing the Ocean Conservancy. I'd like to express our support for the interim rule. Based on what Mr. Carmichael tells me about the vermilion snapper assessment workshop, we support removing vermilion snapper from the interim measures.

Based on the discussion that we're going to have some more analysis on red snapper measures and have a more robust discussion about this in December, we also support the emergency action

on snapper being delayed, although we would like to note that we do find overfishing at 12 times the sustainable rate constitutes an emergency. We look forward to being a part of that discussion in December. I just wanted to, again, thank Rick for a very well laid-out document in Amendment 17 and the council for a very lengthy and difficult discussion yesterday. Thank you. Mr. Griffiths: I don't catch vermilion snapper in Monroe County, and they're getting another year. I showed you my calendars. I'm 100 percent down in September; 80 percent down in October. We are just hanging on. January is typically not a good month for us because people don't have money after Christmas.

Our economic starts the 1st of February, so we make our year February, March, April, May and June. Then July drops off; and then when schools start, it drops off dramatically. At the very time I'm able to put these captains back to work and what may be survivable year, we will be shut down at that exact moment in time when we think we're going to be able to bounce back. I cannot support these guys for another four months and then open for business May 1.

We cannot survive that in '09. If we get the same consideration as the vermilions that we don't catch and the gag is 1 percent of our fishery, and we're being asked to give up our livelihoods and give up a career because we might catch this 1 percent fish that we don't catch in Monroe County, so I'm trying to wrap my brain around the logic in that, that we are shut down but yet we don't catch these fish that are in need of being saved. Again, you all can make a vote and you're told how to vote with the reauthorization of the Act, but yet you have a vote, and I'm just asking for a little leadership.

Mr. Reynolds: Captain Scott Reynolds, charterboat King Neptune, Mayport, Florida. We've been in business since 1984. I've been with that same company since 1984. Just to give a quick recap there, Captain George and I both have been telling you about how many snapper we've had in this area. I've been told by one other council member and I've heard testimony from other people that, you know, they're saying that there is a lack of these fish on the outer extremes, you know, from north and south or whatever.

I don't know what to say about that or why that is. To the best of my knowledge, there are no fences in between us and them and anywhere. We are literally covered up with snapper everywhere we go, which we are very blessed. But just to give you quick rundown, you know, basically what happened is if there should have been an emergency closure on snapper at any time, it should have been in the late eighties and early nineties when there were none.

In '92 you imposed a 20-inch rule – I believe it was '92 – and two per person. Between Captain George and I, you're sitting here looking at two people that have over 60 years of experience of party fishing in there together. Actually, it's more like around 65, but whatever, it is just two guys that have been there. We've seen a lot of change in that ocean over these years. I personally have been, like I said, with this boat for 24 years.

In 1998 we started seeing a lot of red snapper showing, and at the time they were actually in a pretty good mixed bag of different sizes, which was pretty impressive. Then in the year 2000 and 2001 we were actually catching fish in the 12- to 17-pound range and doing very well on them. You know, we caught fish, we saw changes, we saw cycles. Sometimes the fish were

there and sometimes there weren't as many.

Then in the summer of 2008, after a lot of bad weather, we got a strong influx of snapper that showed up that were just – we had the reports on our catch records where we were literally discarding 300 a day, trying to avoid them, we could not. There were just that many fish in that area. Once again I say why they have not expanded out, I guess they just have everything they need right there. It's the only thing I can say.

I don't know why they're not there. Like I said, nothing is holding them there. And like I said, here we are now we're catching more red snapper than I've ever seen in 27 years of experience. For some reason the possibility of even a one per person bag limit was totally thrown out the door, and I have absolutely no clue why.

I don't understand how we went from this stock of snapper that we've got today from zero back in the eighties and early nineties under the current sizes and regulations that you have to this date, over sixteen years of this, and we have this many fish, how could not reducing by 50 percent not salvage this fishing. I don't understand it. You know, I'm a little disappointed because I've been to Orlando, Jacksonville and here and I have not been given the opportunity to ask this question of why one per person is not on – you know, why it's not an option for the recreational.

Mr. Currin: Well, it is not supposed a question-and-answer –

Mr. Reynolds: I understand; I have heard that for three meetings now.

Mr. Currin: I think I can answer your question for you. The analysis indicates that with any allowable harvest at all we will still be overfishing. In fact, the discards solely from the recreational fishery are expected to be higher than the assessment indicates the allowable harvest of fish is. Does that answer your question?

Mr. Reynolds: It answers the question, but I don't believe it flat out. I don't see where the mortality rate is anywhere near this high that you guys are claiming. It couldn't be. These fish would not have survived. We sat and caught all these fish back in 2008 that were undersized, between 17 and 18 inches, and the next fall we're catching fish that are 21-22 inches. This is a very short timeframe.

One reason why we strongly believe that these fish are growing are growing a lot faster than you think they are because if these are not the same fish where did they come from and where did the small fish go? We were dealing with people from all the way down to Cape Canaveral and all the way up into Georgia, and they're telling the exact same thing, the exact same class fish.

Like I said, where did those small fish go and where did these big fish come from? It doesn't add up. And I said once before that I do not see where a reduction – the whole thing with this mortality is not going to change by closing down these fish. These people are still going to catch them. A red snapper is the most aggressive fish out there; and when they are present in numbers, you will catch them on anything that resembles bait.

The whole mortality thing is not going to change. The only thing that is going to change that is proper education on venting, which I believe any fish is possible to vent inside of 150 foot of water, provided that his eyeballs are still in his eye sockets. Okay, I think any fish can be vented out. Once again, I have mentioned it in three different places now, this whole mortality, I don't buy it.

We have offered our services for tagging, and we have still not been contacted. This whole thing, this is number one – you know, this is our target species, for one thing, but it is our trophy fish. If you take that away from us, we have absolutely nothing. I don't know; hopefully, at the next meeting I'll be able to ask questions sooner or later. I don't know when, but hopefully the next time.

Ms. Hogan: My name is Becky Hogan; I'm with the Mayport Princess fishing vessel out of Mayport. We're a partyboat, for anybody that wasn't here earlier, but I know all of you were. Things have changed since I got the paperwork to come up here. That's why I asked you about the interim rule because I wasn't even sure now what it covered. A lot of people asked me – a lot of my customers in the past couple of weeks, because we have been fishing a lot, they have all asked me same thing, "Did you write something to take to the council; what do you have in writing?"

You know what: I wrote my letters and you've already received them. I'm like, no, I am going to go up to the desk and I'm going to listen to what everybody says. I'll tell you the one thing that I have been listening to in this room that made me want to literally right down and cry or walk out of the room; when the gentleman from the Carolinas asked you all how many headboats are there? And you all went (indicating).

I mean, everybody just looked at him. I'm like how could you not know how many headboats are in the Carolinas and Georgia and the state of Florida when you're telling us how much negative impact we have on these fish? Not one person; every person, I watched you, were like this (indicating). You didn't know.

I'm not trying to be disrespectful to any of you. I don't know how many headboats are in Georgia, the Carolinas, and I don't really care because I fish in Florida, and I pay my money in Florida, and I pay my permits in Florida, and I pay my taxes in Florida, and that's where I work. I can't go out and be concerned about everything, everywhere. But, you know, I don't understand how – once again, I'm going back to whatever we're talking about, snapper, B-liners, grouper, it doesn't make any difference.

I've been begging for my life since this – you guys were notified last June that you had a year to start implementing these measures and get something right. It was June 12th of last year for one of the amendments. It's still not done and I'm glad that it's not done. I'm glad you guys are still talking about it. I'm glad the snapper was taken off the interim rule. I'm glad that you're thinking about looking at the biomass for the B-liners.

I mean, it is a scrap, it is a crumb to throw to us, and I'm really happy that you all are taking the

time to do that and not just saying, “Well, we’ve got that year and we’ve got to get back to the National Marine Fisheries Service because we’re the council and they have got to report back to NOAA, because NOAA is making us do this.”

I mean, at least you’re looking at those things, but I think you need to – I still don’t think you’re looking at the economic impact. If you don’t even know how many partyboats there are, I cannot believe that, and you’re sitting here going we don’t know. Has anybody looked at my letters, the data from all the other partyboats? Nobody had an idea about that; how could that possibly be?

I mean, you’re obviously not concerned about the economics if you don’t even know how many of us there are, and you’re the council. I mean, this is not what I intended to come up here and say. I was going to tell you more about my great data that I have to offer and how you can come on my boat anytime and look at the B-liners, and maybe I can give you more data and stuff regarding the vermilion snapper, and I’d like to put more input on the red snapper since I have until – you know, we’ve got Amendment 17 coming up. I’m still begging for a scrap because I’m not really what I would consider a recreational fishing.

That’s like calling a hotel a place of recreation. Well, hotels are commercial businesses. They pay all the taxes that a manufacturer would pay. Okay, just because people come there and stay and sleep in their rooms does not make them a recreational business. They are a commercial business just like I’m a commercial business. I pay taxes in Duval County, I have to have permits to fish.

I’m asking you when you do come out with your – I don’t mean to talk about snapper because that’s not on the interim rule anymore, but when you come out with your catch limits please give us some consideration. I don’t think you want us to be out of business, not you personally. I don’t know about the tree huggers; I really don’t. I don’t know even why they would want us out of business because I take a lot of their families fishing, six to eight thousand people a year.

But, you know, at least familiarize yourself. When you guys are making your recommendations to the National Marine Fisheries, don’t you want to tell them how many of us there are and how many people that’s going to impact; and at this council meeting if you don’t even know that? I don’t understand that, I really don’t; that scares me.

I was getting all juiced up and excited about the fact that red snapper and vermilions were being looked at again. Now I’m scared to death because you don’t even know who we are and how many are in our numbers. How do you know what our impact is going to be?

Mr. Currin: Just for everyone’s information regarding getting questions answered, the staff of the council is available to address technical questions. You can call them at any time, see them at meetings. I’m sure they’re happy to provide answers to virtually any question you have, as many as they can help you with. In addition, I’d just like to let you know that Dr. Crabtree agreed to start having Town Hall Meetings, I guess is an adequate description, sometime during the council meeting week to meet with fishermen and be available for discussions and questions as well. There are opportunities for you to do that.

Mr. Freeman: You pretty much heard my statement before, and I pretty much stand by that, but I want to look in your eyes and I want you to look in my eyes. And at the same time, you know, my employees, their kids – I mean, I don't think you all understand what is your hands right now. You are judge and jury on what happens with the future of our industry.

I'm a relatively young guy as far as what is going on in this industry. You're getting ready to put families that have been in this business 50-60 years out of business. That's wrong. Like I said before, I never thought that my United States Government was going to come to that. Today I don't know. I mean, this is just absolutely unbelievable that I sit in here and hear this.

Just like Becky said, you don't even know how many of us there are. Do you know how many there are in Ponce Inlet; can anybody tell me? I'll take that as a no, and you're deciding my future. Come on, people, what is going on here? I mean, I don't even know what to say. This is unbelievable.

Dr. Crabtree: Look we issue you your permits; and all of the charterboats/headboats, if you're fishing in federal waters, you have a federal permit and we know how many of you there are. We know where you're home-ported.

Mr. Freeman: Well, how many are there?

Dr. Crabtree: What you're asking is do we all have it committed to memory, and, no, I don't think we do. It's probably in the document and we can find it, but I can find out the numbers on any of these things very quickly through our staff. But, you know, what you're asking has every council member here committed to memory how many charterboats there are here, here or headboats there, no, they –

Mr. Freeman: You're talking three figures here; this is our livelihood you're dealing with, sir. You're getting ready to chop my head off and you don't have it committed to memory. You've got three things remember; how many commercial people are fishing, how many headboats are fishing, how many charterboats are fishing. Give me a break!

Mr. Strate: Captain George Strate, Mayport Princess out of Mayport, Florida. I was listening here a few minutes ago and was listening about they're all worried about the mortality rate of the fish that are being killed while we're fishing. I think that the mortality rate they told me – I asked one of the guys a long ago, I said, "How did you find out that the fish died"?

He says, "Well, we caught a snapper and we put it in a cage and dropped it back down to the bottom and it died." Well, don't you think the traumatic experience of the fish being in cage going back to the bottom, where it can't go back to its home, where it can't go back to its ledge, where it can't get back to its buddies, and it's sitting in a cage; no wonder it died. It probably had a stupid heart attack. I would if I was stuck like that and so would one of you.

I think that hasn't been enough information; there hasn't been enough research on survival of fish that are caught and vented. Like I said before, please come with me, I'll show you how we

do it. A lot of our fish – sure, fish are going to die, a couple of them are definitely going to die, there is no doubt about it, but the majority of them live.

There has been more snapper now than there has ever been. The fishing is the best I've seen it in 30 years. It used to be during June, July and August you never caught a snapper. You didn't catch those until the spring and in the fall. Now we're catching them year-round in record numbers. Like Scott said, I don't know why they didn't go all the way to the Carolinas. I really believe if they've got notes where they did the earbone studies, it was out of the Carolinas.

They didn't do it in Florida. There is a ton of fish in Florida right now. They do move up and down the coast. We were very lucky several years ago, those hurricanes that came by blew a large amount of fish in. I think it took some of the fish from up north and moved them down. Maybe another hurricane will move them back up north; I don't know.

Fish have a tail and they swim. There are no fences. There are places out there that fish live that people haven't even found yet. That's what keeps you fishing. It's fun to look. I really believe that you need to check your data more, get more information, and don't go flying off the hook. You guys have a lot to do and I really respect what you're doing. A lot of you guys have been on the council for a long time, and I know you're working hard at it.

People get mad and they yell and scream and holler – I mean, this is our livelihood. This is what we've done all our life and we don't want to get thrown out in the street. We back you a hundred percent, all the rules and stuff we have complied with. We teach conservation. You have to believe that 90 percent of us that are in this business want conservation. We want the fish to survive because that's our livelihood. That's what we go back to catch again.

It's like a farmer raising crops. He doesn't want to not fertilize the grounds, the crops don't come back. We don't want to not fertilize the ocean to make sure we've got more fish. I think the fish grow faster than you think they do. They spawn more than you think they do. You can't take a fish and say a section of the ocean has this many fish in it. Fish have a tail and they swim. I sure hope you guys really think about this.

Like I said, please come down and go with us one time, we'll show what it's like. It's a little bit different. I'm sorry they don't have the fish in the Carolinas, but then again they don't have any snapper down in the Keys either, and the grouper down there is a lot different than it is up here. It's like different areas have different fish. The continental shelf comes in and out, in and out, in and out all the way down. Everything is different; it all changes. You need to take that into consideration. Thank you very much.

Mr. Davis: All I wanted to say is when you make your recommendations, that you consider the economic impact that it's going to put on all the fishermen all up and down the coast and their families; not only them, it's the people that go fishing on these boats. You can look at the situation as it is in the country today; and I think that the economic impact that everybody is having, trying to work, most of them is out of work, trying to supply their family with groceries, keep their house payments going, it's cut back considerably on their fishing.

That is what your objective is, to cut back on fishing, I think that is being done, and I think it's going to be done more so next year. I think that's one of the first things you need to consider when you pass these new rules. Thank you.

Mr. Leary: Again, I'm Allen Leary; I represent the Thunder Star Fishing, which is the headboat company here in Charleston, South Carolina. Speaking on the interim rule, I do not support the interim rule. Even though the vermilion snapper has been pulled out of it, I just can't support a rule which is backed by data that I know to be flawed. The only thing that I can ask of the council is to continually try and question your scientists.

I know that many of you are scientists yourself, but continuously try to question your scientists and figure out why you have the majority in the room sitting up here saying that the data is flawed, knowing the data is flawed. You have flawed data at a meeting where you're presenting this to us and wondering why you're doing this and continuing with this and putting a lot of people out of business. We're not just speaking for people that are going out of business. We're speaking for the majority of the United States, people that enjoy recreation.

I think that you guys, as well, know you have two ends of the spectrum. You have the Nature Conservancy over there which does support you ending overfishing as quickly as possible, but they would support you ending fishing, period, as quickly as possible because that would, of course, end overfishing, and the fish would be protected and everybody in that group would be happy.

On the other end of the spectrum, you have the fishermen, which to his beliefs the fish are our right to eat as part of the food chain. They believe that they should be able to catch and keep any fish they have. They feel that is their right. You guys will tell us it's our privilege but the majority of the people, they want the happy medium. They want fish to be here for their children, but then they also want to be able to catch fish and enjoy fish.

That's what we are in the pursuit of. You know, we're not all sitting over here trying to tell you one end of the spectrum and then you've got environmentalists trying to explain the other end of the spectrum. The majority of the people here want to have a livelihood and want to have fisheries for their children, but they do not want to go out business.

That's what I'm asking of you guys today, to take a look at this interim rule and to question is underfunding our scientists and underfunding the people that collect this data, do you all feel good at night to continue on this road that you are on. The majority of the people stand up here and they say your data is flawed, your data is flawed, just like I'm saying right here.

Well, Dr. Crabtree, he is going to have some Town Hall Sessions like you said earlier, but what about workshops where actual fishermen can see their data that you use and how it's processed and be involved with that process. You know, that would answer questions about the data being flawed because they would know where the data is coming from.

They would know where the sheets that you all using and how you are computing your catch-per-unit effort and may be able to offer some scientists – I know it's the toughest thing to tell a

scientist that he is wrong. He doesn't want to admit he's wrong. He's got data to support his conclusions and he is right, you know. But, you know, they can get valuable information from the fishermen, and everybody can sit around and everybody can be a part of how the data is collected and then maybe fishermen's questions could be answered.

Mr. Currin: Mr. Leary, if you'll hold tight just a second, I think Dr. Crabtree may be able to comment. We had a discussion about this earlier today, in fact, on how fishermen feed into our SEDAR process, which I am sure Dr. Crabtree will mention.

Dr. Crabtree: Yes, a couple of things. The way this assessment was put together is essentially what you just asked us to do. We had a data workshop. It was open to the public, and there were fishermen there, there were AP members there. Anyone who wanted to come could have come. A large group of scientists sit down. They go through all of the data they have. Someone said earlier that they know the data is bad but they still have to use it. That's just not true.

The scientists go through it and if they think the data is bad, they don't use it. They do sit down and work with the fishermen. The problem with a lot of these is the fishermen don't -- I mean, you don't catch their attention until that has been completed and word gets out that, oh, there is a problem, but all of these assessments are put together in public workshops that involve a lot of different people.

Then they go through a final review workshop where we bring in international experts from all over the world who are anonymous. We can't pick them or anything, and they have nothing to do with the Fisheries Service or this council. They come in and they review everything that is done. So this has all been looked at very carefully.

Most of what I'm hearing folks tell us about what they're seeing on the water is pretty much what the assessments say is going on. What the science says is pretty close to what you're telling you're seeing. There are just a lot of other problems with red snapper and that they live to be so old and things like that. I mean, these things are put together in that fashion. We have tough laws now and there are a lot of difficult decisions facing us, but you all have an obligation to watch these websites and keep talking to us so that when we put these assessments together, you can be there when they're put together.

The other thing Mac referred to was the Town Hall Meetings, and this is something I've been doing at the Gulf Council for a while, but I guess we're going to start at South Atlantic Council meetings the evening before we have public testimony at the end of the council meeting. We will have a round table session where we can actually sit and answer questions and try to listen to what you have to say and actually talk about these things instead of just giving you three minutes, and that's it. But I just wanted to point out that they are put together in a very public format, and the scientists do listen to fishermen.

Ms. Hogan: When was the last time you did it? You know, you can talk to Kim Iverson, I get all the e-mails, I read all of it. When was the last workshop?

Dr. Crabtree: The vermilion workshop, I guess, would have been the last one.

Dr. Chevront: I was there; it was the last week of August in Beaufort, North Carolina.

Ms. Hogan: I didn't ever get an invitation or notice. I mean, how would I get that – how would I become aware of it is what I'm asking?

Dr. Crabtree: I would suggest you talk to Kim Iverson.

Ms. Hogan: I would be at these things if I knew about them.

Dr. Crabtree: All right, just so you're aware, there will be a review workshop. As I said, we bring in experts to review the assessment, and that will be for vermilion snapper, and when is that one going to be.

Mr. Waugh: October 20th through 24th in Savannah.

Dr. Crabtree: Okay, October 20th through the 24th in Savannah, Georgia.

Mr. Leary: I just wanted to say one thing just in reply to what you said. I think more of what I was speaking of was actual – you know, I remember the workshops. We're more speaking of not you all listening what we say the data is. We're more part of being a part of the data recording review process is what I'm talking about. I'm talking about looking at their sheets and physically going through the entire SEDAR process, which is what you all are basing your things on.

Then also getting a better understanding for what your thresholds are – which you explained pretty well to us when you do your meetings, but that's more of what I was talking about. That way I feel like that people can really – if you come to a meeting and do a workshop and you tell us this is what the data is and this is what we're making our alternatives on, we're still questioning the data, we're still questioning.

We want to see physically what everybody is reporting here. We want to see the sheets that these people are writing because a majority of these people are back here going and I caught more fish this year than last year; it's in my reports. Who is not catching the fish? We want to know. Who are the people not catching the fish because all of our reports show that we're increasing in the amount of fish that we see.

Dr. Crabtree: And I don't think we have time to continue. I'd be happy to talk to you when we finish for this day on it.

Dr. Chevront: I'll be brief here. Some of the things that you're talking about, I've been through many of these SEDAR processes. The kinds of things you're talking about are the things that are discussed at the data workshops. I have been to the SEDAR meetings when there have not been commercial fishermen and when there have been commercial fishermen there or anybody who is looking at the data, but it's typically a commercial fisherman who shows up, if there are any.

As a council member I cannot be a part of that process because then that would make it biased

for me to be using the data as well as helping to decide what is going to be used. But what happens is that a lot of the scientists want the fishermen there because it helps to groundtruth the data. If we don't have fishermen there, they're making decisions and they're having to go based on what they're seeing on paper.

They don't have a way of being able to ask a fisherman is this what you're seeing on the water? But when the fishermen are there, they do ask that and that does get taken into account. I have seen that happen many times. We just don't get a lot of participation until we're at the end of the process and everybody is complaining about the problems, and there are problems. I admit that.

The other thing that you all need to realize is that under the new Magnuson Act, the way it is set up, we don't pass judgment on the data. That happens through the Science and Statistical Committee. We have to take the numbers that they give us and then we have to do management based on that. So when you're talking about the data you're using, we don't pass judgment on that data anymore. That's taken away from the council on that and has been since the reauthorization of the Magnuson Act. I just wanted to pass that on to you. So what I would suggest is even coming and talking to the SSC.

Mr. Leary: Okay, just for the record, I think that probably the advertising of when these things are happening is a little bit lower than the advertisement for maybe these public meetings here, because I think probably this group right here would sit there and say, "I don't when you are doing these public input meetings" – not the ones that you have, not the little workshops that you came around with, but the public input SEDAR meetings.

Mr. Currin: Yes, if I may, for all of you, they may not be as easy to find as some things, but they're published on the website, all of the meetings and the schedules for these things. I would just mention one more thing that you may be interested in. Starting, I believe, last year, Gregg, wasn't it that the council went to a new format where we're holding scoping meetings for all the actions that are going to be considered in the next 12 to 18 months.

Sometime in the winter, around February – and we do it from Florida up through North Carolina. The way those things are formatted is we've got staff members who are very knowledgeable about the SEDAR process, the data issues, people who are very knowledgeable about the habitat, about the whole council operation, the amendment process, the NEPA process, and those people are there to answer questions for you, structured so that you can come in, have a personal conversation with some of the staff.

There are always some council members there as well, and then a council member or two will be there to receive any sort of formal comments that you would like to make after you've had an opportunity to get the questions answered by the staff. Make sure you're aware of those when they're going to be in your area, and you might choose to participate there. It's an excellent place for you to get some of your questions answered, especially concerning actions that the council is considering.

Mr. Giordano-Silliman: My Joshua Giordano-Silliman. I'm commenting on the interim rule. In June of 2008 I went down to Orlando to the council meeting there, and I brought some comments on the interim rule. I think all of you will remember those. Interesting enough, we

were talking about red snapper then. Then I come back in September, and we're talking about red snapper, vermilion, gag, black and red grouper.

Then red snapper and vermilion disappear out of the interim rule, and that kind of leaves gag, black and red grouper; right? Okay, here is the thing. The data is not flawed. The majority of it is missing because SEDAR 19 doesn't begin until June of 2009 and doesn't end until January of 2010. It doesn't go to the SSC until 2010. I don't see how we have this interim rule hanging around unless it is just for gag grouper.

This overall process has slowed down, but I think that has been for the benefit of our fishery. Just take your time and work at your job really well; that's really what I want you all to do. I wouldn't worry about lawsuits from other entities. If they're going to get legal, I'll get legal with it. I'll take them to court over civil rights violations, quite possibly. But, I'd just slow down and take the time. I really don't see where the interim rule is besides gag grouper. Thank you.

Mr. Dick: My name is Shawn Dick, Aquatic Release Conservation. As far as the interim rule, we support not including red and vermilion snapper in the interim rule mainly due to lack of adequate data and until the new stock assessment is complete. We do support and recommending including mitigation technologies in the interim rule as a precautionary measure and to immediately start to decrease bycatch mortality.

I have been sitting here for three days. The Magnuson-Stevens Act time constraints mandate that the council must get an FMP developed within one year of determination of overfishing. I certainly can understand the difficulties of this mandate. This time constraint can hinder the council's ability to collect the appropriate data in time which then can delay the implementation of the FMP.

This can obviously frustrate the industry and the public. I understand the frustration of the industry. I have been there in 1988 with the Secretarial Shark Plan. I've tried to become involved in the process and find solutions rather than problems. We all understand that the MRFSS data is critically flawed.

There was a review of the recreational fisheries survey methods, and I'd like to just read a small quote: "Since the MRFSS was established, the management goals and objectives for this recreational fishing sector has changed and become increasingly complex. The MRFSS Program has not had the resources to keep up with these changes nor has it been able to take advantage of the recent advantage of the statistical sampling theory.

"In response to concerns about the coverage and quality of the MRFSS data, NMFS asked the National Academy to review the current Marine Recreational Fishery Surveys and to make recommendations for improvements and possible alternative approaches. The report finds that current survey methods are inadequate to provide the quality and timeliness of data necessary to manage recreational fisheries.

"The report concludes that the establishment of a comprehensive universal sampling frame with

national coverage most likely in the form of a national register of saltwater anglers would be the most efficient way to improve the quality and quantity of data used to assess recreational fisheries.”

This may be one possible solution. Here, again, I understand everybody’s frustration. I have been there, but I still feel like we need to work within the process. You know, I don’t like pointing the finger and making blame, but, you know, more or less just trying to find an approach that will work.

I didn’t get time the last time, but I wanted to thank the South Atlantic Fishery Management Council and their staff for their hospitality, including the public in the management process and allowing us to participate in possible solutions. I have learned a great deal more from being included in the process, and I’ll work a little bit harder to better understand the difficulties associated with the reauthorization of the Act mandates and requirements as far as the council and the agency is concerned. Thank you very much.

Mr. Currin: Last chance; is there anyone else who has not had an opportunity to speak on the interim rule that would like to? All right, thank you very much for your time and travel to be here and share your thoughts with us on Amendment 16 as well as this interim rule. We will close the public comment period.

Mr. Harris: Okay, let’s take a ten-minute break.

Mr. Harris: Okay, if everybody will take your seats, we’ll reconvene the Snapper Grouper Committee Meeting. Mac.

Mr. Currin: Thank you, Mr. Chairman. The Snapper Grouper Committee met for a couple of days this week and received a report from Kim Iverson on the Oculina efforts there, specifically regarding outreach. Recently added Law Enforcement Section of the Council Website was presented to the committee for their review.

The second agenda item was regarding the ACL Proposed Rule that has been issued by NOAA Fisheries. Gregg Waugh and John Carmichael and Dr. Rick Methot provided input to the committee. Gregg gave us an overview of the staff’s proposed comments on that proposed revision to the Guidelines for National Standard 1.

Dr. Rick Methot, who was one of the primary authors of those proposed revisions provided comments and insight to the issues raised during the committee discussion. The committee provided comments on each of the staff’s proposed comments and a revised version of the council’s comment letter will be provided at the full council session for council approval. It was projected to be sent before the September 22nd deadline.

John Carmichael led a discussion of the ABC proposed rule with a presentation. I think we were specifically talking about an ABC control rule, and he reported that the SSC would like some guidance from the council of an acceptable level of risk of overfishing. We had a pretty good discussion of that. The council provided guidance in terms of acceptable risk in the form of a

range, and the information will be provided to the SSC for their deliberations at their December meeting.

We then went into Amendment 16. Gregg and Jack McGovern provided a summary of the public comments that had been received on Amendment 16. Kate Quigley gave us some results from the most recent evaluation of fuel prices and fishing effort. The committee reviewed the actions in Amendment 16 to end overfishing of gag and vermilion snapper. We discussed all the actions, went through each of the actions and alternatives, but we did not change any of the preferred alternatives.

The committee provided directions to staff in terms of various changes that need to be made to the text of the document. The committee discussed the vermilion snapper stock assessment. An assessment workshop was held and a review workshop will be held in October, as we noted with the folks from the public here tonight. Amendment 16 outlines the specific modifications to the vermilion snapper management measures to be taken by the Regional Administrator if the assessment results allow the implementation of less restrictive management measures. The committee voted to approve the amendment for submission to the Secretary of Commerce.

We then held a discussion of the interim rule, which was for red snapper, gag, red grouper, black grouper. Gregg provided an overview of the red snapper management and the recent stock assessment. Andi Stevens reported on recent changes to the red snapper assessment, including some new updated projections that were sent to the council from the Science Center. Jack McGovern reviewed the actions in the interim rule that was brought to us by NOAA Fisheries at our request from the last meeting.

The committee voted to move forward with an interim rule for gag, red grouper and black grouper, and the committee decided to re-evaluate an interim rule for red snapper at the December council meeting. Vermilion snapper was removed from consideration in the interim rule for now pending the final results of the updated stock assessment, which is currently underway.

We then got into Amendment 17. Rick walked us through that. Amendment 17 will specify ACLs or annual catch limits, annual catch targets or ACTs, and accountability measures or AMs – new acronyms for everybody to add to their vocabulary – for ten snapper grouper species that are undergoing overfishing. The amendment includes other actions, including specification of allocations for some species.

Rick provided the staff's recommendation on specifying these items and the committee went through the decision document/options paper and provided helpful guidance, we hope, to the staff. This is outlined your report. The guidance that was offered, I won't go through all of that in specifics.

The committee approved a number of motions, as is typical for the Snapper Grouper Committee. Regarding the ACL proposed rule, on behalf of the committee I move that we direct the SSC, the Southeast Fisheries Science Center and staff to evaluate 25 percent, with a range of 10 to 50 percent, as a probability of overfishing when they're setting ABCs

with respect to overfishing. Is there discussion of the motion? Yes, John.

Mr. Wallace: A little clarification on this. When they're doing this 25 percent evaluation, is that 12 on either side of the stock threshold or is that 25 on either side? Is that your error of probability?

Mr. Currin: It's the risk of probability of overfishing. It's a level of risk. That 25, as an example, is the level of risk that the council would be willing to take that values that we select would result in overfishing, so it's a fairly low probability of allowing overfishing to occur.

Mr. Wallace: This is a 25 percent risk factor –

Mr. Currin: Yes, and somebody jump in if I'm not explaining it correctly.

Mr. Wallace: -- below the threshold?

Mr. Currin: Yes.

Dr. Crabtree: What you're really getting is if we did everything and kept the catches below or at where we say they're supposed to be, what is the risk that we're going to be overfishing anyway, because things are actually worse off than we thought, essentially.

Mr. Currin: Any further discussion? **Any objection to the motion? Seeing none, that motion is approved.** Regarding Amendment 16, there was a **motion to move a new alternative regarding Monroe County to Appendix A with an intent to further examine fully that alternative within Amendment 17.** On behalf of the committee, I so move. Any discussion of that motion. Any objection to that motion? **Seeing none, that motion is approved.**

Another motion I would submit on behalf of the committee would be to recommend approval of the – I think I'll hold that one until I get down to the bottom here. **Another motion regarding the interim rule to remove vermilion snapper and red snapper from the interim rule; on behalf of the committee, I so move. Any discussion of that motion? Any objection to that motion? Seeing none, that motion is approved.**

Regarding Amendment 17, on behalf of the committee, I **move that in Snapper Grouper Amendment 17 for species that we do not have an allocation for and that we need to allocate, that we allocate to two sectors, recreational and commercial. Is there discussion of that motion? Objection? Seeing none, that motion is approved.**

Now to 16, I'll go through all the measures that we discussed, just to check those off on Amendment 16. There were no changes to the gag MSY, maintain the preferred there; no change to the gag TAC, maintain the committee's previously preferred alternative there; no change to the gag allocation alternative. There were several motions that were offered that did not pass, and those are outlined in your summary for the committee.

There was a motion to move a new alternative for Monroe County to Appendix A, with the intent

to fully examine that. I that's one we previously did; is it not? There was no change to the gag directed commercial quota preferred alternative; no change to the gag recreational bag limit; no change to vermilion, regional administrator's ability to adjust management measures as a result of the new stock assessment; no change to vermilion MSY, preferred NOY alternatives; no change to the vermilion TAC alternative; no change to the vermilion allocation alternative; no change to the vermilion directed commercial quota; no change to the vermilion commercial quota split into seasons; and no change to the vermilion recreational measures; no change to the bycatch preferred alternative, as well.

On behalf of the committee, I move that we approve Amendment 16 to be sent to the Secretary for formal review; and as a part of that, I believe we've got some language, Rick, so that I can do this one time to include the proposed rules as well, with the appropriate caveats for the staff.

Okay, the motion I'll offer is to recommend Amendment 16 for council approval to be sent to the Secretary for formal review; deem the proposed rule appropriate and necessary; allow editorial license to the staff to make changes to the proposed rule/amendment in accordance with the amendment; and have our council chairman accept the responsibility to deem them necessary and appropriate. Discussion. Roy.

Mr. Crabtree: One issue that several of the fishermen brought up in testimony that I think we ought to at least talk about a little bit was the issue of a thousand pound trip limit or 45 head. I understand they said they didn't want the seasonal closures, but the alternatives in the amendment now combined that with taking off the four-month closure.

What I heard in the testimony is even with the four-month closure, they don't like it, but if they have to have it they would still like to have a trip limit. I think we had three commercial fishermen testify to that. I just wonder if there is interest in the council.

Mr. Geiger: I guess I didn't hear them say that they supported the four-month closure in addition to the trip limit. As a matter a fact, I asked one – I think it was Phil Conklin – if his proposal for the 45 head – I think he was talking in terms of 45 head, if I'm correct – with a two-month closure. I didn't hear any of the commercial guys speak in favor of a four-month closure plus the trip limit.

Dr. Crabtree: Well, I know they don't want the four-month closure, but I think they understand that is likely. What I heard is even so, they still would like a trip limit. Now I may have heard it wrong, but that's what I thought I heard.

Mr. Currin: No, I think you heard it right, Roy, but in addition to that we heard from some fishermen who were not in favor of the thousand pounds. They thought that was too much.

Dr. Crabtree: Right, I just thought some discussion since we did hear about that.

Mr. Currin: Right, thank you for bringing that up. Tony.

Mr. Iarocci: Just for the record, it was – and Mark was the first one to come up – and it was 45

fish or a thousand pounds, March-April spawning closure, not the four month.

Mr. Geiger: It's not to that point, but I just feel compelled to once again speak about the SEDAR process and the scientists. There was one comment made that it was tough to change a scientist's mind. You know, my experience with the SEDAR process is that it is open and transparent; and if anything, these scientists go beyond what I consider to be humanly possible in effort to develop data that useable in terms of a stock assessment in providing the council with a tool used to manage the stock.

With my cynical hat on, it would be easy to say that the easiest thing in human nature is to take the path of least resistance. A scientist, I mean, if it were possible – and I don't believe it is possible because there were 74 sets of eyes – Julie Neer, correct me if I'm wrong – who were involved in the red snapper stock assessment. And to get a conspiracy of 74 people from the recreational and commercial scientific community in an effort to steer that in a direction that draws victory or criticism to oneself just goes against human nature.

I think in most regards the scientists who work on these stock assessments, because of the conditions under which they work and the data they have to work with in an effort to try and produce that data, are the unsung heroes of this entire process. I think they deserve a lot of respect from us in regard to what they do in terms of providing us our data.

The 74 eyes who looked at that red snapper stock assessment did not include our SSC; so after those 74 people worked on it, to include the independent experts, it goes to our SSC and is again peer reviewed. Just so the public knows and until you get involved in this process and you see the work that goes in, they just take a set of data and run it through a model and say that's it. They'll run thousands of sensitivity runs in an effort to make sure what they're doing makes sense and the model is producing a useable output.

It is a very, very complicated process. I think, again, the scientists who work under that very, very difficult scenario and put in a tremendous amount of hours, above and beyond what they're being paid for on a 40-hour week to produce a stock assessment, are in fact the unsung heroes of this process.

Dr. Crabtree: I have a couple of issues I wanted to bring up with respect to the rule, if I could. One thing that we spoke about very briefly I think when Libby gave her testimony, but I want to make sure that everyone understands this is in the language in the rule and it your intent. I'm reading from the rule. This is just an example. This is with respect to the seasonal closure of the recreational and commercial fisheries for gag and associated species.

It says, "In addition, for a person on board a vessel for which a valid federal commercial or charter vessel/headboat permit for South Atlantic Snapper Grouper has been issued, the provisions of this closure apply in the South Atlantic regardless of where such fish are harvested." There is similar language with respect to the bag limits. What this means is a federally permitted charter vessel will have to comply with the seasonal closure and the bag limit even if fishing in state waters. We need to confirm that is your intent.

Ms. Shipman: I think we had considerable discussion of it either in June or March or possibly both, but because of the situation, particularly in Florida and the proximity of those species to our in-state waters as well as in federal waters, that is my understanding, and that's, I think, what we intended.

Mr. Currin: And that's my understanding as well; if anyone remembers that differently, please say so.

Dr. Crabtree: Well, then, I agree and I think it's essential, and so, Mac, I would if Rick could – I think we need to add a sentence to the amendment itself that is the council's intent. Then one last issue that I see with the rule – and Jack or someone can correct me – we had the discussion with respect to the venting tools, to put language in there that said “if necessary”, I think, and I don't see that in the rule. Is that not in there or did I miss it or can you advise us?

Mr. Currin: And the motion clearly states that if – yes, we did talk about it, Roy, you're right, and the motion clearly allows staff the discretion to add.

Dr. McGovern: I just sent around to Mike to distribute to the council a couple of edits I made on the proposed rule, and one of the edits was to have “if needed, to use the dehooking tool”. That's a red line strike-out in the document.

Dr. Crabtree: All right, and those are the only two things that I picked up on.

Mr. Currin: Back to the first issue that Dr. Crabtree raised regarding the thousand pound trip limit, there were a couple of options that have been in that document since our last meeting, at least, that considered thousand pound trip limits. I don't recall whether we had a whole lot of discussions specifically about that. I do recall that I brought them up for consideration by the committee, and at least as of earlier in the week there was not much desire to consider including those. Is there any further discussion on consideration of a thousand pound trip limit from anybody on the council?

Mr. Geiger: Mac, for clarification, that's a thousand trip limit with only a two-month season closure.

Mr. Currin: That's right. Is there a second to the motion? Seconded by Susan. Any discussion? All right, Bob.

Mr. Mahood: Mr. Geiger.

Mr. Geiger: Yes.

Mr. Mahood: Mr. Boyles.

Mr. Boyles: Yes.

Mr. Mahood: Dr. Crabtree.

Dr. Crabtree: Yes.

Mr. Mahood: Mr. Cupka.

Mr. Cupka: Yes.

Mr. Mahood: Mr. Currin:

Mr. Currin: Yes.

Mr. Mahood: Dr. Chevront.

Dr. Chevront: Yes.

Mr. Mahood: Mr. Iarocci.

Mr. Iarocci: No.

Mr. Mahood: Ms. Merritt.

Ms. Merritt: No.

Mr. Mahood: Mr. Sharp.

Mr. Sharp: No.

Mr. Mahood: Ms. Shipman.

Ms. Shipman: Yes.

Mr. Mahood: Mr. Swatzel.

Mr. Swatzel: No.

Mr. Mahood: Mr. Wallace.

Mr. Wallace: No.

Mr. Mahood: Chairman Harris:

Mr. Harris: Yes.

Mr. Mahood: Mr. Chairman, the motion carries by a vote of 8 to 5.

Mr. Currin: Thank you, Bob. Mr. Chairman, I believe unless Rick or Gregg suggests that there is something else that I cover in this, it will end my report. I would note that on the last page of

the summary that you received there are a number of directions to staff basically regarding Amendment 17 that I will not go through in any detail unless there are questions.

Mr. Harris: Are we not doing the interim rule?

Mr. Currin: Did I forget the interim rule? Yes, I did.

Mr. Mahood: You haven't done it yet.

Mr. Currin: My report is not ended yet, then. All right, I would accept a motion regarding the amended interim rule as was discussed by the committee to move that forward. Susan.

Ms. Shipman: I would move that we submit the interim rule to NOAA Fisheries for approval.

Mr. Currin: Is there a second? Seconded by Mr. Geiger. Discussion. Tom.

Mr. Swatzel: Okay, I just want to make clear that this interim rule is containing the gag grouper, black grouper and red grouper regulations. The problem I have with it is, again going to what we discussed at the last council meeting, is just going again outside the regular fishery amendment process.

We certainly heard from an awful lot of fishermen, particularly in Florida, about the economic impacts that this particular interim rule would have on them at really precisely the wrong time. We've got Amendment 16, which was for approved for approval by the Secretary, moving forward. I really would just urge you to reconsider the need to pursue the interim rule concerning these grouper.

Mr. Currin: Other discussion? Tony.

Mr. Iarocci: I think everybody knows where I stand on this interim rule and the state of Florida. You've heard the testimony. Bill Kelly has been here for a couple of days and at a lot of meetings. Andy has driven all the way up from Key West. We all know gag is in trouble. That's a granted. We have to do something for gag; sixteen is going to go through.

The timing with this interim rule will devastate the South Florida Fishery with those guys starting with January. Amendment 17, I think we can deal with a lot of things. Like I said, I know what our job is and it is hard when you have to balance with the science, the timing and especially with gag. I mean, fishermen have come, George, and we know there are things wrong with gag in certain places and you have to deal with that. This is really hitting South Florida on the head with a sledge hammer, and it is going to really hurt a lot of people, and I hate to see it, and I can't support this motion.

Ms. Smit-Brunello: I think it might be helpful to – are we able, Rick, to list what the interim rule contains?

Mr. DeVictor: It's on the board now.

Mr. Sharp: To follow up on Tony, our commission appreciates the attention that the council has given our concerns towards both Amendment 16 and this interim rule. We will be voting against this interim rule as well.

Mr. Currin: Other comments? Roy.

Dr. Crabtree: Bill, I am going to ask you a question. The commission today, it is my understanding that they did, though, adopt compatible grouper regulations in the Gulf of Mexico; is that accurate?

Mr. Sharp: That is accurate.

Dr. Crabtree: So my hope is it will work things out with some compatible regulations. I feel better about our prospects. That's a good decision by the commission, Bill. Thank you.

Mr. Currin: Susan, would you like to read into the record what is contained in the interim rule?

Ms. Shipman: The motion is submit the interim rule to NOAA Fisheries for approval with the following measures: Prohibit recreational and commercial harvest or possession of gag, black grouper and red grouper during January through April 2009; establish a 352,940 pound gutted weight quota for gag during January through June; when quota for gag is met, no harvest or possession will be allowed for gag, black grouper and red grouper; reduce the bag limit from two gag or black grouper combined to one gag or black grouper combined within the existing five-grouper aggregate bag limit; reduce the bag limit for red grouper to a maximum of three fish within the existing five-grouper aggregate bag limit.

Dr. Crabtree: Well, the rule would be in place January through June; and if the quota wasn't caught, either we would extend it or the permanent regulations would be in place. A couple of clarifications, the 352,940 pound gutted weight, could we add "commercial quota", just to be clear.

Ms. Shipman: I will accept that as a friendly amendment.

Dr. Crabtree: Then coming to the "regardless of where fished" language that we discussed a moment ago with respect to Amendment 16, presumably your intent is that would also apply in the interim rule?

Ms. Shipman: Yes, and we probably need that specifically.

Ms. Smit-Brunello: Rick, that would go at the end of the second paragraph. The draft interim rule that you had in front of said, "For a person on board a vessel for which a valid federal commercial or charter vessel/headboat permit for South Atlantic Snapper Grouper has been issued, the provisions of this closure apply in the South Atlantic regardless of where such fish were harvested; i.e., in state or federal waters".

Dr. Crabtree: Could we just say that the provisions of the interim rule with respect to federally

permitted – federally permitted vessels would apply regardless of where fished and just make it a general statement?

Ms. Smit-Brunello: Yes, that's fine, as long as it is on the record.

Dr. Crabtree: It would apply to all the measures.

Ms. Smit-Brunello: Apply regardless of where the fish are harvested or however you want to do that.

Dr. Crabtree: I think that covers it, and that means it applies for the commercial and the charterboat?

Ms. Smit-Brunello: Right, in state or federal waters.

Ms. Shipman: The rule says, "i.e., in state or federal waters". The final measure would be the provision of the interim rule with respect to federally permitted vessels for South Atlantic Snapper Grouper apply regardless of where the fish are harvested; i.e., in state or federal waters".

The motion is submit the interim rule to NOAA Fisheries for approval with the following measures: Prohibit recreational and commercial harvest or possession of gag, black grouper and red grouper during January through April 2009; establish a 352,940 pound gutted weight commercial quota for gag during January through June; when quota for gag is met, no harvest or possession will be allowed for gag, black grouper and red grouper; reduce the bag limit from two gag or black grouper combined to one gag or black grouper combined within the existing five-grouper aggregate bag limit; reduce the bag limit for red grouper to a maximum of three fish within the existing five-grouper aggregate bag limit. The provisions of the interim rule with respect to federally permitted vessels for South Atlantic Snapper Grouper apply regardless of where the fish are harvested; i.e., in state or federal waters.

Mr. Currin: Thank you, Susan, and I believe we had a second; did we not. Robert – if we did not, we do now. Discussion on the motion? Rita.

Ms. Merritt: I would like to ask a question. What is the possibility or even the probability that all of the states might match this regulation? The reason I ask that is because we've got this loophole that we've created in a way that would mean that all you need to do is get on a non-federally permitted boat to harvest. Does anybody have a comment regarding that?

Dr. Crabtree: Well, you would only be able to fish in state waters, and I suspect that the probability of you catching any of these groupers in state waters of Georgia and South Carolina is virtually – and that would meet the legal size limit is very low. I suspect that's the case in North Carolina as well. Florida, we will do our best to work with the commission and see if we can't achieve compatible regulations, but there is no assurance as to how that will go.

Mr. Sharp: I just want to add, Rita, that we will be taking these rules before the commission for their consideration of state consistency in December.

Dr. Crabtree: It is encouraging that the commission today decided to move forward with compatible grouper rules with the Gulf Council, so that's an encouraging signal.

Mr. Currin: Further discussion? I see none. Bob, is this going to a roll call as well, then?

Mr. Mahood: Yes. Mr. Boyles.

Mr. Boyles: Yes.

Mr. Mahood: Mr. Cupka.

Mr. Cupka: Yes.

Mr. Mahood: Dr. Chevront.

Dr. Chevront: Yes.

Mr. Mahood: Mr. Iarocci.

Mr. Iarocci: No.

Mr. Mahood: Ms. Merritt.

Ms. Merritt: Respectfully, no.

Mr. Mahood: Mr. Sharp.

Mr. Sharp: No.

Mr. Mahood: Ms. Shipman.

Ms. Shipman: Yes.

Mr. Mahood: Mr. Swatzel.

Mr. Swatzel: No.

Mr. Mahood: Mr. Wallace.

Mr. Wallace: No.

Mr. Mahood: Mr. Geiger.

Mr. Geiger: Yes.

Mr. Mahood: Chairman Harris.

Mr. Harris: Yes.

Mr. Mahood: Chairman Currin.

Mr. Currin: Yes.

Mr. Mahood: Dr. Crabtree.

Dr. Crabtree: Yes.

Mr. Mahood: The motion carries by a vote of eight to five.

Mr. Currin: Now, Mr. Chairman, again, unless Rick or Gregg tell me that I've left something else out – and, again, I apologize for the disorder in my report. I'll strive to do better in the future – that will end my report to the council.

Mr. Harris: Thank you, Mac. You don't have to apologize for anything. This was a tough one and a tough issue for the council deal with, and I just appreciate the work you've done in the committee to get us to the point that we are at and hopefully the fisheries will improve as a result of this. Is there any other business to come before the council today? Rita.

Ms. Merritt: Yes, Mr. Chairman, I would just like to give verbal notice to the executive director of an intent to file a minority report regarding the interim rule and Amendment 16 and we will follow that up in writing. Thank you.

Mr. Harris: Thank you, Rita. Any other business to come before the council this afternoon? Seeing none, we will stand in recess until 8:00 a.m. tomorrow morning.

The Full Council of the South Atlantic Fishery Management Council reconvened at the Charleston Marriott Hotel, Charleston, South Carolina, Friday morning, September 19, 2008, and was called to order at 8:00 o'clock a.m. by Chairman Duane Harris.

Mr. Harris: I'm going to call the meeting of the South Atlantic Fishery Management Council back into session. We're going to begin with a closed session to have a legal briefing by Monica.

Mr. Harris: Okay, we can go back on the record. Roy had asked for some time, as I said before went into closed session for a legal briefing, to discuss guidance to our SSC regarding ACLs, so at this time I'm going to turn the floor over to Roy for that discussion.

Dr. Crabtree: We had a lot of discussion about establishing an acceptable risk of overfishing. My concern relates around how we look at that. What concerns me is sometimes we seem to be talking about that the risk of overfishing is all taken into account at the ABC level, but when you read the guidance we're supposed to prevent overfishing and achieve OY using a system of

limits and targets, and it is supposed incorporate into it scientific and management uncertainty. There are recommendations in the rule about where you should take in those kinds of things, but the overall thrust of the guidance is a system of targets and limits that ought to prevent overfishing. If you think about what we've done, historically we have managed to the limit. We have set things to try and get just to the overfishing limit and said "good enough".

Now in Amendment 16 yesterday we went beyond that, and we managed down to the target. My question for John, John, if you evaluate the probability of overfishing just focusing on the ABC and you then set an ACL that is equal to that ABC, and let's just hypothetically say that is set up with the 30 percent probability that we sort of talked about, but if you come in and set an annual catch target that is below that by, say, 25-30 percent or so, and then if you're pretty good on average of hitting your target, the actual probability of overfishing achieved by that system would in fact be much lower than 30 percent, wouldn't it?

Mr. Carmichael: Yes, I think that's exactly right, and that is why it is so critical to consider is there a reason to come down from the ABC on the ACL, and then what do you consider is the real implementation uncertainty when you go setting that ACT, especially if you view that in light of the type of ABC recommendation that you've been given.

Dr. Crabtree: And there are a lot of things that play into that spread between the ACT and the ACL, and part of it is going to be your willingness to endure the pain and suffering that is going to happen when you trigger these accountability mechanisms and notify fishermen that they went over last year and we're going to shorten your seasons back.

But you could set up a system that set a relatively risky ACL, but then reduce way down on the ACT because you don't want to hit and have AMs come in, and that overall system might have a relatively low probability. So when you evaluate the probability and if you want to get to a 30 percent, you could, for example, set an ABC that has a 40 percent probability, but then you reduce down to the ACT; and if you think you can do a pretty good job of averaging that ACT, the overall probability would be less.

So, what I want to do in this discussion is make sure when we go to the SSC with this and they start talking about those probabilities, is that they look at this as a system, a limit and a target, and not just focus on one component of it. They can give us advice about their opinion of how well we will be able to stay near targets and all kinds of things on it. I just don't want to see it all focused just on that ABC component because I think it's more complicated than that. That's really the gist of what I wanted to say.

Dr. Chevront: John, I want to check something with you, too, just to make sure I'm thinking correctly statistically on this. If you were to set your ABC at 30 percent in the first year and you didn't overfish, say, in that first year, the probability actually of going over in the second year would actually be lower than that because you've actually had the benefits of rebuilding from that first year. So the longer you go from the point that rebuilding level is set without going over, it will actually probably lower your probability of going over in any subsequent year. Would you agree with that?

Mr. Carmichael: Yes, I think I would agree with that in general terms. If you're coming in well under your target and you're getting more separation, if you're be farther away from the rebuilding level or your overfishing level, then, yes, you're building up some stock out there; and as long as you're keeping the regulations the same, you should be sort of decreasing that cumulative probability, because there is also the risk that over time, as the uncertainty grows, that cumulative probability tends to grow.

So if you're doing better than you expected, then I think you're tending to offset that natural bias over time and bring yourself back in the other direction, which then it all becomes sort of a theoretical world as to where you're actually heading. Thinking about these, too, remember the SSC is really starting with the overfishing limit, the MFMT.

That is picked at a certain point, so there is assessment uncertainty that goes into picking that number in the first place, which is where we talk about them picking the median for that value. You know, there also remains a possibility that there is a much higher fishing level associated with that particular level of exploitation.

What they're trying to do in the ABC is then say, well, should we be more conservative when we set the actual amount that you should go out and try to catch, the ABC, and what we say is acceptable and accounts for that uncertainty in a better way. That's where the SSC could really benefit from some guidance from the council is saying, you know, just how much of that uncertainty should we address, because we all know if they were told you set an ABC that ensures no overfishing, the harvest is zero.

That's the only way you ensure there's absolutely no overfishing because these assessments are going to have a broad tail, so there is always some possibility. That was their first discussions on the matter. They're somewhere between that and 50 percent; and if you give them some help as to just sort of how they should interpret it, it will greatly help them get you something that perhaps works better in the comprehensive system than what you feel what they've given you for 17 does.

Mr. Geiger: And, Brian, I think I understand your comment. In the early years that is true, but as the stocks recover there is going to be more and more fish, and your chances then of encountering more and more fish from the fisherman's opportunity to encounter more fish may jeopardize staying within those limits. As the stocks recover there is going to be more and more fish; and as more and more fish occur the word is going to get out. You're going to have increasing effort and that can have a snowball effect as well on the practical side.

Mr. Carmichael: That just gets where accountability measures come in, and that's where the council is needing to adapt its regulatory structure to the changes in the population. I mean, that's one of the tenets of fisheries management is that it is very difficult to bring, say, recreational bag and size limits down when there are few fish because people say what is the point if you have a bag limit at ten and people are catching two, it is not going to have a big impact.

But then as the fishing starts to get better and they suddenly start catching a few more and you

have to ratchet down the regulations to the fishermen, it is counter-intuitive. The fishing is getting better and now you're bringing me down, and that is exactly the thing that you're going to have to face. I would expect in your example what would happen is the accountability measures would kick in if you started exceeding those targets.

So if you then responded and perhaps increased your regulatory structure so that you still stayed on your target, then those fish the next year continue to survive; and as Brian says, you're building up a bigger pool of fish. It is going to get increasingly difficult to develop regulations to hold people at that low level.

Dr. Crabtree: The other part – and I think is kind of getting at what Brian is talking about – you know, John, you've got a population and you can say, okay, it is at the MSY level, so here is the tail; so if we fish here, here are the probabilities and here is the chance that if we allowed overfishing, what is the chance we would become overfished in the future, which is another thing I think they need to talk about, and Rick Methot brought that up.

But, remember, if we managed to targets the biomass isn't on average going to be at MSY. The biomass is going to be a larger biomass that corresponds with OY. So if the biomass is up there, then I think that changes the probability tails and things, and it certainly changes the probability of the stock becoming overfished because the likelihood then is that even if short-term overfishing occurs the biomass probably wouldn't go down enough to result in an overfished condition.

I think when they evaluate these probabilities, we ought to do it from the perspective of the stock being at the OY level and not at the MSY level, and that may change how some of these things shake out. It would certainly change the forward-looking risk of what are chances we become overfished because of that buffer we have.

Mr. Harris: The thing that I'm fearful of right now is exactly what the fishermen are seeing out there, an abundance of really nice-sized red snapper off of Georgia and Northeast Florida. What they're telling us is exactly what is happening, and we just have the result of a couple of I think really good year classes, and there was low fishing pressure for a while because those fish weren't there.

Now the fishing pressure has ratcheted up; and if we had these ACLs in place right now and these accountability measures, they would have already kicked in with this abundant year classes of red snapper. Wilson.

Dr. Laney: Question for Roy or John, either one – so in this system, Roy, where is it best to build in any uncertainty related to environmental factors that are beyond our control, such as a year class failure for some reason; do you try and build that into the ABC or somewhere else in the system?

Dr. Crabtree: Well, the way the guidelines are laid out, that would be more closely tied to implementation kinds of uncertainties, I think, and it would be built into the ACT. But my argument has been that it doesn't really matter where you build these things in as long as the overall system is going to get you where you need to be.

While the guidelines make recommendations about where to build certain things in, I don't they're hard and fast. I think if you have good reasons for you can do that, but, generally speaking, the ABC reduction is strictly based on the uncertainty of the assessment and all other types of things, whether it be setting aside because of ecosystem functions or because of implementation uncertainty and that kind of thing, would be into the other end of it.

But, when you start talking about recruitment fluctuations, that gets pretty blurred to me, and that may well play into the scientific uncertainty, too. I think that plays into the whole – I think there is a lot of gray as to where you want to build what in, but in the end, if the overall system gets you where you need to be and it prevents overfishing, that's the goal. I think any system that can do that would be acceptable.

Mr. Harris: Well, this has been a good discussion, but we haven't come up with any guidance to the SSC. Roy.

Dr. Crabtree: Do you want a motion?

Mr. Harris: Yes.

Dr. Crabtree: I would like to make a motion that staff describe to the SSC our desire that they look at the ACLs as a system of a target and a limit; and that when evaluating the various probabilities of overfishing and how they relate, that they do that by looking at this as a system and not as just one number.

Mr. Harris: Okay, you've heard the motion; is there a second to the motion?

Dr. Chevront: Second.

Mr. Harris: Discussion on the motion. Is there any objection to the motion? Then that motion carries without objection. After we finish this we're going to have a presentation by Jackie Wilson on the Consolidated Atlantic Highly Migratory Species FMP.

Mr. Mahood: Is that what you said, Roy?

Mr. Currin: There was a caveat at the end.

Dr. Crabtree: Staff ask the SSC to look at ACLs as a system of targets and limits; and when evaluating ACLs relative to the risk of overfishing, to look at this with regard to the system as a whole. I think that captures it.

Mr. Carmichael: Question; the SSC is recommending the overfishing level in the ABC and the council is setting the ACLs, so should we get that in there since it's guidance to the SSC; or, maybe you want to say look at –

Dr. Crabtree: I don't think they need that in the motion. That's clear from the guidance that I

think everybody understands they give us an ABC and then the council is going to set these other things.

Mr. Carmichael: I think the gist is to say to consider the entire ACL, ACT, AM, this whole new MSRA package of regulations to prevent overfishing.

Dr. Crabtree: Yes, if you give us an ABC that has some risk of overfishing level to it, but we set a target this much below it and we're pretty close to it, then the risk of the whole system is actually less. So when we're evaluating the overall risk of overfishing, we've got to look at the whole package and not just one number. That's the gist of it.

Mr. Harris: The motion we just passed is that staff ask the SSC to look at ACLs as a system of targets and limits; and when evaluating ACLs relative to the risk of overfishing, to look at this as a system as a whole. That's good enough.

Mr. Carmichael: The one thing the SSC may do when they look at something like this, when we tell them to consider the overall package, they'll say, "Okay, well, where is the council going to set ACLs and how are they going to set ACT?" I will point out in the analysis that was done for gag, that's kind of been the cornerstone of how we got to the risk levels we're at at this point, is that accounted uncertainty in management as well as the assessment.

It was very integrated, and they had a range of what they considered the CV on the implementation on the management side. I think they looked at like 10 percent, 20 percent and 30 percent. I think on the run that they did that was cited for setting the ABC recommendations for gag, they assumed the management implementation side of things would be like 10 percent.

90 percent of the time you would catch what it is you set out to catch or you would catch at least 90 to 110 percent of what you targeted, along those lines. So that was one of the things that they realized was an uncertainty in terms of how the council was going to respond, so I can somewhat see them saying, "If we look at the system, we need to have all the blanks filled in."

Dr. Crabtree: Okay, so my advice would be number one is status quo is what we have been doing. We've had a limit; would that be MFMT; and a target; was that the FOY level. That is where we have been; what is that going to do for us? Then you've got Amendment 17 that has various alternatives for different step-downs and things and different control rules, so I think they have a wide range of alternatives, and maybe what they do is – and you've got the bundles you're going to look at, give us some advice on what would the lenient bundle do and then what would the restricted bundle do.

But, they're going to have a whole range of different ways of coming at it, so I think you start with status quo, which is that table we looked at and what we've already got on the books, and then we look at different ways to skin the cat and try to get some evaluation of those and do the best you can with it.

Mr. Harris: Okay, we'll think about it and talk about it again, I'm sure, and there will be some consternation, I'm sure, by the SSC. There usually is, but let's just do the best we can, and we

may have to have Roy come in and sit down and explain this the way he sees it to the SSC at the next meeting. That might be helpful at the beginning of the meeting. Okay, Jackie, the floor is yours. You have two handouts on the Consolidated Highly Migratory Species FMP.

Ms. Wilson: There are some extra copies of the presentation on the back table if members of the public would like a copy, as well as the documents that we just handed out to the council. I'm Jackie Wilson; I'm here from the Highly Migratory Species Management Division in Silver Spring. I want to thank the council for allowing time for us to give this presentation.

I'm going to be talking about Amendment 3 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan. Because that is a mouthful, I will be calling it the Consolidated HMS FMP. I'm also going to briefly talk about Amendment 4, so we have two amendments right now, Amendment 3 that is focusing on small coastal sharks, which will be the bulk of this presentation; and I'm also going to give a quick overview on Amendment 4, which is focusing on some Caribbean issues.

Both of these amendments are in the scoping stages of the amendment process. The main objective is to gather your ideas, your feedback on the issues and options that I'm going to be presenting on shark management measures for the upcoming amendment on small coastal sharks. Again, I will be looking for your feedback on the Amendment 4. What was handed out is the issues and options document for Amendment 4, and there is also a two-page summary there to get a little more feedback.

In this presentation I'm going to be giving you the current status of small coastal sharks, or you will see the abbreviation of "SCS". I'm going to be going over a summary of the current regulations and the comments received on that amendment through the scoping process so far. Then I'm going to be going through some potential options and issues for this upcoming amendment.

Then I will end with an overview of Amendment 4. Again, this amendment is going to be specific to the Caribbean Region that we want to give you a brief overview on what will be included. At the end I will show you where you can send the comments for both of these amendments. Again, they're both in the scoping stage. We haven't proposed anything. These are just considerations at this point. The comment period for both of these amendments ends on October 31st.

Mr. Wallace: Do you want questions as we go or after the presentation?

Ms. Wilson: I'd prefer if we could hold the questions to the end unless there is a clarification if you're confused on a certain point. I'll briefly go over the results from the latest stock assessment on small coastal sharks. This was done according to the SEDAR process and was completed in 2007.

There are four species that make up the small coastal shark complex. There is Atlantic sharpnose, blacknose, bonnethead and finetooth, and each of the individual species was also assessed during this assessment. Three of the species came back as not being overfished with no

overfishing occurring. That's the Atlantic sharpnose, bonnethead and finetooth.

But there were caveats in the assessment outcome. For instance, for Atlantic sharpnose the assessment suggested that there be a threshold for fishing mortality to prevent overfishing in the future. For finetooth they cautioned that management should be cautious due to the sparsity of data. However, the problem, as you can see, is blacknose sharks have been determined to be overfished with overfishing occurring.

If fishing mortality was at zero; that is, if there was no fishing mortality for blacknose sharks, it is estimated that rebuilding could occur in 11 years. However, the assessment also gave a TAC or total allowable catch of 19,200 blacknose sharks per year; and if this constant TAC was kept, it is estimated that rebuilding could occur by 2027, so about 18 to 19 years for rebuilding.

This is giving you an overview of the mortality by the different fishing sectors; that is, the recreational and the commercial fishing sectors. Just as a couple of points I want to draw your attention to – what I'm showing you are the average number of blacknose sharks taken in each one of those different fisheries. This is an average from 1999 to 2005, but it's the average number annually that are taken. Below I'm giving you the breakdown percentage-wise of mortality for the different fisheries.

One thing I want to bring your attention to is the average weight of the blacknose sharks in the commercial and the recreational fisheries. These are small sharks that are being taken in these fisheries, and in fact they're juvenile and neonate sharks, so the bulk of the mortality is occurring on these sharks before they can actually sexually mature.

Especially in the recreational fishery, the average weight is 1.5 pounds. That corresponds to a blacknose shark that is a little less than two feet in length. This is just around the neonate/juvenile stage. The current federal minimum size for sharks is 54 inches or 4.5 feet, so the majority or if not all of the blacknose sharks in the recreational fishery are below that federal minimum size.

That can be from sharks being taken in state waters that have a smaller minimum size or fishermen not being aware of what the current regulations are. The other point that I wanted to bring your attention to is the bulk of mortality is occurring in the Gulf of Mexico Shrimp Trawl Fishery as bycatch of blacknose sharks. That's about 45 percent of the mortality.

We also have mortality occurring in our directed shark fishery, which consists of longlines, nets, and then we have discards that are occurring in the bottom longline fishery as well as the South Atlantic Shark Trawl Fishery.

Dr. Crabtree: Jackie, that mortality, though, is based on the average across 1999 to 2005?

Ms. Wilson: Yes, that's the percentage that I was showing you there; it says the average annual take. Okay, based on the latest small coastal shark stock assessment, new management measures are needed to rebuild blacknose sharks and to stop overfishing. Our expected timeframe is to have final management measures in place by January of 2010. The objectives, as I've already

mentioned, are to rebuild blacknose sharks and to end overfishing, prevent it in other species as necessary.

However, as I mentioned, three of the other species within the complex are not overfished with no overfishing occurring, so we still want to provide a sustainable fishery for these other species in the complex. And as always, we want to improve compliance and monitoring in the Atlantic Shark Fisheries.

I'm going to briefly go over what the current small coastal shark management measures are in the commercial fishery. In the next slide we'll go over the recreational fisheries. As many of you know, there have been a lot of changes due to Amendment 2 to Consolidated HMS FMP, so this reflects the most current changes that have taken place in the fishery.

The small coastal sharks are managed right now within a complex, and that complex has an annual quota of 454 metric tons per year. The quota is spread out over one region and one season, and that quota is adjusted annually based on over- and underharvest, depending on the stock status. Currently directed permit holders have no trip limits for small coastal sharks, but incidental permit holders are limited to six small coastals and pelagic combined.

We also have landing conditions where all sharks must be offloaded with all their fins naturally attached. Commercial fishermen are allowed to remove the heads and gut the sharks at sea, but all the fins must be naturally attached through offloading. We have authorized gears which consist of gill net, longline, handline and bandit gears. We also have limited access permits in the shark fishery that are comprised of directed and incidental permits. There are also upgrading restrictions.

We have vessel reporting in the form of logbooks and we also have observer requirements. There are also shark dealer permits and the shark dealers have to report on a bi-weekly basis. They also have to take a carcass ID identification workshop in order to renew their permit. The owners and operators of longlining and gill net vessels have to attend a handling and release workshop for protected resources.

Now I'm going to briefly go over what the current recreational management measures are. There are authorized gears. There is rod and reel and handline. As of Amendment 2, we also have an authorized species list for recreational anglers. This consists of non-ridgeback, large coastal sharks, plus tigers. Recreational fishermen can also land small coastal sharks and legal species of pelagic sharks.

They also have landing requirements in that the sharks must be offloaded with all their fins naturally attached. Recreational fishermen are not allowed to remove the heads of sharks while at sea. There is a minimum size, as I mentioned before, of 54 inches, except for Atlantic sharpnose and bonnethead sharks. There are retention limits, which are one large coastal shark per vessel per trip, with the exception of there is allowed one Atlantic sharpnose and one bonnethead per person per trip.

We also have additional management measures in the form of a 60 metric ton whole weight

quota that is a set-aside specifically for the collection of sharks for public display and research. Fishermen and scientists can apply to the Highly Migratory Species Management Division for an exempted fishing permit if they are going to collect sharks specifically for public display or for scientific research. Any sharks taken under this program come out of this set-aside, which is separate from the commercial quotas.

The next thing I'm going to do is briefly go over the comments we've received so far based on our Notice of Intent that was published on May 7, 2008. Then I'm going to go through some of the issues and options that NMFS has currently identified based on these public comments that we have received. Again, these are the public comments that we've gotten basically since we started the scoping process.

These range from the public telling us that blacknose sharks are not overfished. Blacknose sharks could be vulnerable to overfishing in certain areas. For instance, they're known to congregate in South Carolina waters during certain times of the year. The small coastal catch in the past may have been insulated due to misidentifying large coastal as small coastal sharks in an effort to preserve the large coastal shark quota.

We've also heard that NMFS should work toward species-specific management and/or regional management for small coastal sharks. As I have mentioned, the small coastal sharks are currently managed within a complex. NMFS should consider gear restrictions to limit dead discards of sharks. We have also heard that NMFS should institute an individual transfer quota system for sharks.

We have heard from gill net fishermen that prohibiting blacknose sharks will put gill net fishermen out of business, especially off the east coast of Florida where there is a couple of fishermen that primarily rely on blacknose and finetooth sharks. Based on these comments, I'm going to show you the issues and options we have identified so far. The next couple of slides are going to be organized in the same fashion.

I will have the issue across the top, and then I'll be listing the number of options that we're currently considering. Again, these are not proposed at this time. They will be broken down by the different fisheries, for commercial or recreational. In the first one, as I have mentioned, our main objective is to rebuild blacknose sharks.

Some of the options that we are now considering for the commercial fisheries is to remove blacknose sharks from the commercial small coastal shark quota, and we would establish a separate blacknose shark quota separate from that complex. We are also considering establishing bycatch caps in the different fisheries.

In addition, we would work with the Gulf of Mexico and the South Atlantic Fishery Management Councils to reduce blacknose shark bycatch in shrimp trawl fisheries as needed. We also could potentially consider establishing the individual fishing quota system, an IFQ or an ITQ system in this fishery.

Some of the other considerations consist of looking at primary closures, particularly in areas

where there is high bycatch to help reduce the bycatch of blacknose sharks. We may also consider revising trip limits for incidental commercial fishermen. As I mentioned before, some of the source of mortality is in the bottom longline discards, and this could be due to that 16 small coastal shark and pelagic trip limit that is currently in place for incidental permit holders. The gill net fishermen have asked for us to consider a gill net endorsement. This would basically cap the gill net effort at its current number of vessels that are out there so we don't have redistribution of effort into this fishery in the future. We also may consider some commercial gear modifications. It could be a circle hook requirement in the Atlantic Bottom Longline Shark Fisheries. Currently there is not a circle hook requirement in this fishery.

We may consider limiting the length of a longline or the gill net or potentially increasing mesh size. They would all be things to potentially reduce blacknose discards. But, most importantly, if you have other ideas regarding the issues and options that we should be considering to rebuild blacknose sharks, I would love to hear it at the end of the presentation.

The next thing I want to touch on is rebuilding blacknose sharks but specifically within the recreational fisheries. As I mentioned before, the majority, if not all the blacknose sharks that have been caught in the recreational fishery, are below that minimum size. In fact, blacknose sharks rarely reach the minimum size of 4.5 feet. One of the things we could work on is to increase our outreach to recreational anglers on what the current regulations are as well as on species identification.

We may also consider revising the bag limit. For instance, we could increase the bag limit of Atlantic sharpnose to a higher number per person per trip, but in conjunction with that we may consider prohibiting the retention of blacknose in the recreational fishery. We also considered creating seasons in our closed areas for the recreational fishery. Again, this could be in areas of pupping to protect those smaller individuals or pupping females.

We may also consider requiring reporting of recreational-landed shark species. Right now recreational-landed sharks are not required to be reported to the National Marine Fisheries Service unless the fisherman is intercepted through MRFSS. We may consider a call-in system like we currently have for swordfish or a catch-card system or logbooks or even potentially observers in the future. Finally, if you have other ideas, please let me know.

The next issue I want to touch on are additional species' considerations. As many of you know, the amendment process is a long one. There is a lot of stuff that goes into it, so we want to try to be as efficient as possible. Some of the other things that we may consider would be to potentially add smooth dogfish to the management unit. Smooth dogfish are not currently managed in any federal fishery management plan.

However, the Atlantic States Commission has just passed an Interstate Shark Plan, and they do have smooth dogfish measures in that plan, so we may consider complementing what they have put in place. We have also been asked to add the ragged-tooth shark to the prohibited list. This is not caught very often in U.S. or HMS Fisheries, and so it may meet the criteria that we have for listing this on the prohibited species list.

We may consider adding deepwater sharks to a management unit. Right now they are currently only in a research-only unit, so they're not actively in a management unit. In addition, we may consider additional management measures for common thresher sharks. We have been told by anglers in the northeast that there are a lot of large pregnant threshers that are caught during the summer tournaments off the northeast, so there may be additional management measures that we may want to consider for this species.

In addition, we may consider additional management measures for pelagic sharks. There are a number of pelagic shark assessments that are going on this summer or have been going on this summer and this fall; and so depending on the outcome of those assessments, we may consider additional management measures. If you have other ideas or other additional species that we should consider in the FMP, please let me know.

We're also looking at ways to increase compliance with HMS regulations, be it through our vessel monitoring system and our vessel reporting systems. Some of the things that we are considering is establishing electronic vessel reporting. We don't have this in place for the HMS fisheries. Some of the other fisheries in the northeast, for instance, do electronic vessel reporting through their VMS units, so this would be a larger-scale thing we'd have to consider because it would also require a changing of VMS units in our fisheries in order to implement this, but, again, it is just a consideration at this time.

We also consider increasing VMS transmission frequencies. Enforcement has asked us to consider this. There are some shark fisheries that currently fish on a very fast basis. Basically shark fishermen that have VMS are required to transmit once every hour, but some of those shark fishing, such as break gill nets, happen so quickly that VMS doesn't get a very good – or enforcement doesn't get a very good picture from that current VMS transmission on what is going on, so they've asked to consider increasing transmission to every 15 minutes or every 30 minutes to get a better picture.

We have also been asked to consider hail-in and hail-out requirements for fishermen where fishermen would basically let enforcement know they leave port or they're coming into port, and also potentially fishermen could declare the fishing gear that they're going to use when they go out on a given trip to help with enforcement of closed areas for particular types. Now, for any other ideas regarding VMS and vessel reporting, we'd love to hear that as well.

One of the other issues we are considering is improving the agency's ability to monitor and implement appropriate quotas. As many of you know, this has been a particular challenge in the shark fisheries in recent years, so we're constantly looking at ways to make this a better system. One of the things we're considering is establishing regions for small coastal sharks. Currently we are now managing small coastals on one overall region.

Before Amendment 2 there were three regions that we managed small coastal sharks. Depending on how the fishery goes this year, we may decide that we want to go back to regional management for these species. We may also consider establishing electronic dealer reporting. We use the dealer forms in order to monitor the shark quotas. These currently come in on a biweekly basis. They do not have to be electronic, although some of them are sent via e-mail. If

we had electronic reporting, we may be able to get that information on a more timely basis.

In addition, we may consider modifying the dealer reporting times. As I mentioned, right now it's a biweekly basis, but if it was on a weekly or even perhaps a 24-hour, like what we do for bluefin tuna, we may have a more real-time way in order to monitor the different shark quotas. One of the other things, too, we're considering on modifying is currently the regulations require that all shark products be offloaded to a dealer, but there is an exception if that shark product is going to someone who is only responsible for the transport of the shark product.

For instance, a truck that comes up to a dock and they offload the shark to that truck, if that truck is just transporting the sharks, they do not have to have a dealer permit. However, what we found is that sometimes the sharks get loaded on the truck, they're packed in ice, they're put in vats, and by the time they get to the dealer they're not taken out and then identified to species as is currently required under the federal regulations.

We may consider changing it so that all shark has to be offloaded to a specific dealer, and that dealer then has to report to a species level on the entire catch or the entire load. Okay, any other ideas regarding improving the agency's ability to monitor and implement the quotas, it would be great to hear from you. These are the main issues that we have currently outlined. If there are other issues that come to mine regarding small coastal sharks, we'd love to get that feedback from you as well.

We've had four scoping meetings. We had one in Texas, two in Florida, and we have one in Gloucester in October. We're also going to all the fishery management councils and the two commissions in order to give the scoping presentation. This is our tentative timeline right now for this amendment. We have scoping going on right now. We expect a pre-draft that will be disseminated to you all in December or January of 2009.

We expect a Draft Environmental Impact Statement and Proposed Rule in the summer of 2009 with a 60-day comment period, at least; and, again, we will go for whole 'nother round of public hearings. The Final EIS is anticipated for November of 2009 with a Final Rule of December and the action becoming effective in January of 2010.

This is where you can send comments on Amendment 3. Again, the comment period is open until October 31st. You can send them by mail, e-mail, fax or feel free to give them to me at the end of the presentation. This information is in the handouts for the presentation as well.

The next thing I want to touch on very briefly is the Amendment 4 that we're also working on. Again, it is at the scoping stage. This is the Caribbean-specific amendment. NMFS believes that the interest in HMS resources has been increasing in the U.S. Caribbean. This is mainly due to depletion of resources that are going on in that area. However, NMFS recognizes that many of the regulations that we currently have in place for the Continental U.S. do not necessarily fit well with how those fisheries are prosecuted in the U.S. Caribbean.

NMFS is developing an amendment to address issues that are unique to the Caribbean Region, particularly for improving permitting and data collection, as well as enforcing regulations in that

area. Many of these changes are needed to ensure that the United States is in agreement or in compliance with many of the international multi-lateral treaties that we have relating specifically to HMS, as well as we need ways to make sure that fishermen are following the federal regulations in the Caribbean Region.

Some of the reasons why the current regulations aren't necessarily fitting well with the Caribbean Region is that the commercial fisheries operate differently down there. They don't have large-scale commercial fisheries. The commercial fisheries are usually small artesanal fisheries that occur mainly in territorial waters. Many of the fishermen sell their catch directly to restaurants and to individuals, and they're not selling them to federally permitted dealers.

In addition, due to the expense of the limited access permits, many of the Caribbean fishermen are not able to enter HMS commercial fisheries. They simply cannot afford a shark or swordfish limited access permit. However, as we've found, the fishermen do not have these federal permits, and we're not getting data from them. They are not reporting their catch to NMFS and NMFS is not receiving data on the catch amount or catch composition that is coming from the Caribbean Region.

In addition, there has been interest in fish aggregation devices or FADs in the Caribbean Region, especially around the U.S. Virgin Islands, and in fact this has been encouraged in the U.S. Virgin Islands. They use this to effectively target pelagics. However, the effect of FADs on pelagic sharks is not well understood, and NMFS particularly would like to gather more information on the effort and the catch associated with these devices.

These are the five main issues that we're currently looking to get more feedback on. These are provided in more detail in that issues and options document that was passed out. I know this is very brief and doesn't give you much information, but those documents should give you all the information you need. The main things we're concentrating on right now are vessel permitting, dealer permitting, commercial reporting, recreational reporting and authorized gear.

Again, the comment period for this amendment ends on October 31st, as well as you have any comments that you'd like to share with me now, that would be great. This is the information on where you can send comments. Again, it is in your presentation. The tentative timeline for this is scoping is also going on right now.

The pre-draft is expected in the spring of 2009. The Draft Environmental Impact Statement and Proposed Rule are expected in the summer of 2009, again with at least a 60-day comment period. Then we'll go out for additional hearings. The Final EIS would be the winter of 2010 and the Final Rule in the spring of 2010. With that, I have concluded my presentation and would be happy to take comments and/or questions.

Mr. Harris: Thank you, Jackie. Are there questions or comments for Jackie? John.

Mr. Wallace: Jackie, you're giving these numbers for the bycatch for both the South Atlantic and the Gulf of Mexico, and these are numbers basically at five-pound dressed weight, which I'm assuming is approximately eight or nine pounds whole weight fish. You say these numbers are from '99 to 2005. With the implementation of TEDs, I don't know how these fish are getting

through the bars. I mean, are these observed takes; were there observers on the boats or are these just numbers that – where are these numbers coming from?

Ms. Wilson: The numbers are coming from – there is the Shrimp Observer Program. There is about 1 percent observer coverage in the Shrimp Trawl Fishery. It is also coming from the SEAMAP Trawl Survey Data. In fact, actually the sharks are going through the TEDs, and I actually have footage from the Pascagoula Lab where they show small sharks going right through the TEDs, and these are the neonate sharks. They are less than two feet in length, and they are making it through those TED bars. The observers have observed the blacknose sharks in the cod end of the trawls, so they are making it through those TEDs and into the net of the shrimp trawl.

Mr. Currin: I am just curious. It occurred, while you were going through the presentation, are the HMS species subject to the ACL requirements from Magnuson-Stevens reauthorization?

Ms. Wilson: Yes, they are. That's something we would be considering in these amendments as well is establishing ACLs.

Dr. Crabtree: I have talked to Jackie a little bit about this, but one thing that I know we're going to have to take a look at is shrimp effort has fallen off dramatically over the last few years. I suspect that if you look at the average level of effort from 1999 to 2005, it was substantially higher than the level of effort that we've been seeing in the last couple of years. I would expect those numbers are considerably lower right now than that baseline.

Whether they have fallen off enough to get you within your targets, I don't know, but that's something, Jackie, that the shrimp industry has repeatedly brought up to me. We went through this pretty carefully with red snapper in the Gulf of Mexico. That's something we're going to need to take a look at because that is going to continue to come from the industry.

Mr. Boyles: Jackie, just a heads-up, the state of South Carolina will probably be presenting some information to you regarding a more liberal retention limit on sharpnose. We're putting that together now and we will be submitting that formally.

Mr. Harris: Other questions or comments? Seeing none, Jackie, thank you very much for being here, and we appreciate your presentation. The item on the agenda is a presentation on forage fish. Ken Stump could not be here so Sera Harold is going to give us that presentation.

Ms. Harold: I'm going to talk about forage fish in a little bit of a larger perspective. There have been a lot mandates and requests of fishery managers to consider ecosystem-based fishery management, but there has been not a lot of discussion about what that means and how you do that specifically.

The South Atlantic Council has, I think, gone forward very willingly with the habitat part of ecosystem-based fisheries management with the HAPCs and the protected areas, and the part that is left is the biological part of that, the trophic interactions and the forage fish. We have some information for you and a few recommendations about how the council can approach the forage

fish and ecosystem-based management issues.

What is a forage fish? Part of the problem with defining it is that marine food webs are obviously more complicated than terrestrial food webs. The same fish is prey for almost everything at the beginning of its life and becomes a predator later in life. Primarily we're talking about fish that remain forage for their entire life cycles.

Forage fish are generally fast growing; they're prolific; they school often; and their population numbers are highly environmentally dependent, so those population numbers fluctuate greatly. There are a lot more of these species in the northeast and on the west coast, but some of that is due to overexploitation. The east coast of the United States used to be host to much larger numbers of these fish.

In fact, when John Cabot made his first trip to the new world, there were whole weeks where he couldn't move his boats because of the schools of menhaden traveling up and down the east coast. I'm sorry, this presentation is slightly different from what is in your briefing book, but I have provided the revised one if anybody needs it. Oftentimes what ends up happening with the forage fish that are in that position that convert the plankton, specifically the phytoplankton, into useable energy for the other fish, often it is only one species that dominates.

That's the case for pollock in Alaska and it is the case for menhaden on the east coast. This is landings in 2005, and 70 percent of all of the fish by weight – the finfish that we catch in the United States are forage fish, but less than 30 percent of the value we get from finfish come from those forage fish, so we're taking a huge amount of biomass out of the ocean that doesn't get us the value.

The value is in the large predatory finfish, the ones that we like to eat, the ones that we target, but we are taking our food out in huge numbers and not getting the economic bang for the buck. We use MSY-based strategy to manage fish. Obviously, it is density dependent; MSY is based on density dependent for the stock, and that doesn't really work with the forage fish. If it is more environmentally dependent, if the recruitment is largely based on environmental conditions, then that recruitment is not density dependent, and MSY is not the best way to try to manage those fisheries.

As an example I'm going to use menhaden because that is our primary fish on the east coast of the United States and in the South Atlantic. Currently the Atlantic States Marine Fisheries Commission is managing menhaden at less than 10 percent of its unfished biomass. In a single-species context this is all perfectly within the bounds of how this stock should be managed, but you can sort of – down to 10 percent of its biomass is a huge reduction for a fish as important as forage as menhaden is.

I think sometimes in the numbers in the stock assessment it is very difficult to get at what that number is. Of course, there is no way to know what the unfished biomass is, but the estimates in the stock assessment put what the target is at less than 10 percent of unfished biomass. That's a pretty aggressive harvest strategy for a forage fish. The Antarctic Krill is managed to 25 percent of its unfished biomass.

Again, the South Atlantic specifically no longer has an interest in the reduction fishery of menhaden. Now there is a large interest in the bait fishery for menhaden, for blue crab, specifically, but there is a large interest all along the South Atlantic for the bait fishery. The reduction fishery has now moved solely to Virginia. There are no longer any menhaden reduction plant operations in the South Atlantic.

There are no fishermen for the reduction fishery in the South Atlantic, although there are signs that the fishery is expanding. The stock is, quote-unquote, healthy by the standards of the Atlantic States Marine Fisheries Commission. The demand for the products that come out of that reduction fishery is expanding. The aquaculture boom is causing a huge demand for fish meal, the Omega-3 vitamins; there is a huge demand for that.

There used to be a reduction plant as far south as North Florida, and obviously now we don't have the populations to support anything like a reduction fishery in North Florida. These are just some of the predator fish that rely heavily on menhaden. A young weakfish, 90 percent of its diet is made up of menhaden; 35 percent of the king mackerel's diet. Bluefish and striped bass, primarily inshore species, rely primarily on menhaden for food. Sharks, bluefish, tuna, swordfish all rely heavily on menhaden.

As I said, using a single-species model, menhaden are not overfished. They're not undergoing overfishing. The Atlantic States Marine Fisheries Commission has attempted to use a multi-species model for menhaden and has not successfully come up with a model that they feel works. I think that there is broad agreement that a single-species model is not really appropriate for these species, so it becomes a policy decision about what to do about forage fish in general.

Now you're asking me, "Sera, why do I care because we manage the EEZ and not inshore fisheries?" In recent years these are the landings data for the EEZ for menhaden, so there is a trend of there is now catch of menhaden in the EEZ. And, again, as the fishery starts to expand and also as the regulations tighten and the reduction fishery gets pushed and pulled, they need new fishing grounds. The EEZ, it appears, is becoming one of those fishing grounds.

North Carolina and Virginia are currently the only two states that have not effectively banned the reduction fishery of menhaden, so, again, there are limited areas for those kinds of fisheries. The EEZ is currently unregulated for these species. There are two pieces of national legislation in the works from Representative Saxton and Representative Gilchrest. Both of these are in committee, and both of them would ban the reduction fishery for menhaden in coastal waters and in the EEZ all along the east coast. We are not sure what will happen with these bills, but they're both out there.

I have sort of three different things that I think can work, and the first one would be to address the reduction fishery for menhaden in the South Atlantic EEZ. Because menhaden are the primary forage fish for the South Atlantic and for the east coast, this would ensure that the bait fish for the prized economically important finfish is protected. One of the reasons that it does become important is the menhaden winter and spawn off the coast of North Carolina.

It is a coast-wide species but in the winter they all aggregate off the coast of North Carolina in the EEZ and in state waters. That's where they overwinter and it is where they spawn so some extra protection in that area I think is warranted. Another one would be – and I think that this is pretty timely with the recommendation from the agency that non-directed fisheries be called ecosystem component species. You're going to designate a lot of your FMP species as ecosystem component species.

What that really is saying is that those are part of the ecosystem, they're forage, and there is an opportunity there I think to disallow new fisheries on those species that are designated as ecosystem components. There are also a lot of forage fish fisheries in the Mid-Atlantic that do occur in the South Atlantic, butterflyfish, squid, Atlantic herring, and those should also be protected from commercial take.

The third one is to use EFH. In the Act it does say that loss of prey may be an adverse effect on EFH, and it says in the FMP prey species should be designated for every fish in the fishery, and so it allows the designation of the forage for each of those species as part of EFH, and any harmful effect on those fish has an adverse effect on EFH. I think that there are really compelling arguments for river herring and shad for a lot of these target species that need the forage fish.

This is our forage fish website in case you have some internet time. We have some flash movies that are pretty fun. That's it. I'm happy to entertain any comments or questions if you have them.

Mr. Harris: Thank you, Sera. Are there questions or comments? Well, thank you very much; we appreciate you being here. Let's take a ten-minute break.

Mr. Harris: We'll come back to order and resume the council session and our committee reports. George, are you ready with Dolphin Wahoo?

Mr. Geiger: I am ready to proceed. The Dolphin Wahoo Committee met on September 18, 2008, in Charleston, South Carolina. Gregg Waugh presented an overview of the Dolphin Wahoo FMP and a review of recreational and commercial catch data. Don Hammond gave a presentation on the changes in recreational harvest of dolphin. The committee did not approve any motions. The committee provided the following direction. We requested that all aspects of the FMP be examined in the ACL Amendment. That concludes my report, Mr. Chairman.

Mr. Harris: Thank you, George. Are there any questions? Okay, we'll have the Advisory Selection Committee Report now, Dave Cupka.

Mr. Cupka: The Advisory Panel Committee met in closed session on September 15th. We reviewed applications for open seats on the Habitat and Environmental Protection Advisory Panel. The committee approved the following motions:

Motion 1 is to create a media seat on the Habitat Advisory Panel and to advertise an opening, and on behalf of the committee I would so move. Is there any discussion on the

motion? Any objection? Seeing none, then that motion is approved. Motion Number 2 was to appoint Mark Carter to the Habitat Advisory Panel, and on behalf of the committee I would so move. Is there any discussion on the motion? Any objection? Seeing none, then that motion is approved.

Number 3 was to appoint John Williams to the Habitat Advisory Panel, and on behalf of the committee I would so move. Is there any discussion on the motion? Any objection? Seeing none, then that motion is approved. Motion 4 was to appoint Mike Street to an at-large scientist seat on the Habitat Advisory Panel, and on behalf of the committee I would so move. Is there any discussion on the motion? Any objection? Seeing none, that motion is approved.

Motion 5 is to appoint Joanna Walczak to an at-large scientist seat on the Habitat AP, and on behalf of the committee I would so move. Is there any discussion on the motion? Any objection? Seeing none, then that motion is approved.

Next the committee reviewed the structure of the Snapper Grouper Advisory Panel and general procedures regarding advisory panels. The committee provided a list of recommendations for council consideration. Let me just say we had quite a discussion on the advisory panel, both on the makeup and how they should function and carry out their responsibilities. I think we had some good discussion.

These recommendations came out of that discussion. The first one is to have the APs meet prior to the council meeting week and try and get them together before the council meets in enough time that we have time to consider their recommendations and enough time for them to consider putting their recommendations together for us. The first would be to have the APs meet prior to the council meeting week.

The second recommendation involves the AP chair and providing the advisory panel report to the committee or the council, if it is necessary; include majority and minority opinions in the report from the advisory panel. The committee chair should attend AP meetings that are held aside from the regular council meetings. Next is to provide an orientation for new AP members, stressing the mandates of the Reauthorized Magnuson-Stevens Act and explanation of the AP duties.

Another one was to advertise general open seats on the Snapper Grouper AP and not advertise state or sector-specific vacancies, but just general openings. Next, explore options for choosing general open seats for other APs and have the NMFS Regional Administrator hold a Town Hall type of meeting with constituents as part of the council meeting week. This is similar to what is done in the Gulf of Mexico Fishery Management Council.

Earlier this week Kim sent you some information that she got from the Gulf Council on how they notice those meetings and how they've worked, so I hope you all have had a chance to look those over. The committee emphasized the need to have documents and reports written in a format that members of the general public, including advisory panel members, can more readily understand.

Those are just a list of recommendations. We didn't make any motions in regard to them, but unless anyone has any problems with those, we can instruct staff to implement those as necessary.

Mr. Geiger: I don't have any problems with those recommendations. I think they're very good recommendations. The one thing that it does bring to mind, though, it expands somewhat the species chair responsibilities in that you now have to attend an AP meeting prior to a council meeting or in between. And some schedules – we may have some conflicts and I think this heightens the importance that the species committee vice-chair people and the fact that they need to be closely in tune with the chairmen and the vice-chairmen of those committees so that if there is a conflict in the ability of the committee chair to attend those AP meetings, the vice-chair could step in.

I was probably as negligent as anybody in making sure that we had vice-chairmen for each of our committees, but I think this new recommendation heightens the need to make sure that we have in fact vice-chairmen and they are working closely with the chair.

Mr. Cupka: Thank you, George, I think that is an excellent point. I think it is important for the committee chair or vice-chair to attend AP meetings. I know that I've done that several times in the last couple of years and it has been extremely helpful. I also realize there are times when the AP likes to meet by themselves, and we can certainly accommodate as part of this recommendation as well.

Mr. Currin: I think these are great suggestions. I think that we should probably be not cautious but aware and strive, through efforts of the staff and the committee chairs when they attend these AP meetings, to ensure that we get vocalization of the dissenting AP members on every issue so that we don't just end up with votes and people aren't explaining why they're voting against something.

I mean, it could be as simple as "I don't like it", and that is fine. If we're going to take seriously these minority reports on some issues at least, they may be difficult to sort out or determine unless we go to some real efforts to make sure that we get those opinions.

Mr. Cupka: Any other comments? Okay, just a couple more items of business – the committee acknowledged the appointment of Eric Robillard with Georgia DNR's Coastal Resource Division to the Marine Protected Area AP. That is a state appointment and we don't need to take any action on that.

The following open seats on advisory panels will be advertised by Kim and we will try to take action on these, I guess, at our December meeting. We have one media seat which we just created on the Habitat AP; five open general seats on the Snapper Grouper AP. We have one Georgia recreational seat on the King and Spanish Mackerel AP and two open seats on the Deepwater Shrimp AP. Kim will be re-advertising those. We have gotten some applications in on some of these already, but I guess we need to re-advertise all of them and then they will be on our agenda at our December meeting. That, Mr. Chairman, concludes of the AP Selection Committee.

Mr. Harris: Thank you, David. Next I will call on myself to give a report on the Joint Meeting of the Ecosystem-Based Management and the Habitat and Environmental Protection Committees. We approved the minutes at the beginning of our meeting the other day and Dave Cupka had some corrections to those minutes, and I want to ask him to make those corrections at this time.

Mr. Cupka: I did want to get on the report that on Page 58 of 73 pages, the Ecosystem Meeting Minutes – this is from the June meeting – again, it's Page 58, Lines 17 and 29, the speaker is identified as Ms. Shipman, and I am sure, after having discussed it with Ms. Shipman and Ms. Smit-Brunello, that it should have been Monica making those statements and not Susan. Just for the record, I would like to bring that to your attention.

Mr. Harris: Any objection to that correction to the minutes of the Ecosystem-Based Management Committee? Seeing none, the minutes are approved with that correction without objection

Okay, the Ecosystem-Based Management and the Habitat and Environmental Protection Committees met jointly on September 16, 2008, in Charleston, South Carolina. Roger presented recommendations developed at the joint meeting of the Golden Crab Advisory Panel and Deepwater Shrimp Advisory Panel held on September 15, 2008, in Charleston. The AP recommendations are attached, and I will go over those in a minute.

Dr. Wilson Laney presented information on the proposed Titan America Cement Manufacturing Project in the town of Castle, North Carolina. The committee approved a motion for staff, in cooperation with Dr. Wilson Laney, to develop a draft comment letter for the council to review. The letter is being passed out right now. I will go through the rest of the committee report and then you can look at that letter and we'll take action on that at the end.

The committee approved the following motions: **The council continue with an Ecosystem-Based Amendment and refine it to focus on deepwater coral and EFH requirements for other FMPs. Further, that the council reaffirm our commitment to ecosystem-based management and retract language from the Comprehensive Ecosystem-Based Amendment regarding the definitive process for the South Atlantic Fishery Management Council's ecosystem-based amendment approach. That motion was approved by the committee and on behalf of the committee I so move. Any discussion? Is there any objection to the motion? Seeing none, that motion is approved.**

In addition, the committee provided the following direction to staff. One, staff is directed to work with Hal, the Law Enforcement AP and the Golden Crab AP to fix any VMS language with respect to the council's intent to prohibit placement of traps outside of the allowable area. The National Marine Fisheries Service Law Enforcement will meet with golden crab fishermen informally. The LE AP will meet with the council in December. Results will be discussed by the council in December.

Two, examine alternative ways, including but limited to VMS, to get the necessary data and law

enforcement capability; clarify what data, why and how it is to be used, et cetera. Three, change the title of the Comprehensive Amendment to the Comprehensive Ecosystem-Based Amendment. Four, add amendments to all FMPs to the Comprehensive Ecosystem-Based Amendment in order to put a graphical representation of previously described EFH in place to meet the requirements of the EFH Final Rule.

Five, table discussion about one amendment per year and remove any discussion about moving to one document per year from the Comprehensive Ecosystem-Based Amendment; keep discussion about the ecosystem-based management in the plan. The FEP and the Comprehensive Amendment will be revised and approved for public hearings at the December meeting with the intent that both documents be approved for formal review at the March 2009 meeting.

Seven, the letter on the project to North Carolina that the designation of the preferred alternative is premature; we've heard of the existing EFH and HAPCs; bring the letter to the full council for review and approval. Any comments on this letter? Any objection to sending the letter? Mac.

Mr. Currin: No objection at all, Duane, just an offer for consideration a few wordsmithing things, which I will give to the staff.

Mr. Harris: Without objection, then that letter is approved to be sent. Recommendations from the Golden Crab Advisory Panel – the first one is additional area in the Northern Zone should be added to the C-HAPC, the allowable fishing zone for golden crabbers as soon as continuing research indicates are appropriate.

The second recommendation; the council, in collaboration with participants in the Golden Crab Fishery, should explore management mechanisms for protecting the fishery from excess expansion. Number 3; emphasize the willingness and readiness of the golden crab fishermen to participate in cooperative research with scientists and the council. Numerous mutual benefits are expected.

Number 4; make Alternative 3 a preferred alternative along with Alternative 2 for the allowable golden crab fishing area. Number 5; the council and the golden crab participants must quickly address serious concerns about the impact of VMS on the fishery. The concerns center on the fact that in normal conduct of the fishery, the boat is often well east or west of the gear. To avoid violations, the practical effect is a loss of a true half-mile of critical fishing area on both sides of the C-HAPC.

The recommendations from the Deepwater Shrimp Advisory Panel on the Comprehensive Ecosystem-Based Amendment – Recommendation Number 1; move the western boundary of the C-HAPC to the east instead of establishing a shrimp access area. That was approved by the AP. Recommendation Number 2; ensure that there is a mechanism whereby a vessel in distress will not be in violation when drifting into the C-HAPC. That was approved by the AP.

Motion Number 1; there was a recommendation to the council to adopt Alternative 1, no action on establishing Deepwater C-HAPCs. That motion was withdrawn. That concludes my report. Roy, you've already done your status report. You do have an experimental fishing application to

go over?

Dr. Crabtree: No, I don't believe we do. We acknowledged Joe Kimmel's years the other day, and the reason for that is that we traditionally had a joint South Atlantic/Caribbean Branch in our Sustainable Fisheries Division; but with all the demands on the councils, we decided to separate that into a separate South Atlantic Branch and a separate Caribbean Branch. Joe is going to be heading up the Caribbean and Jack McGovern was selected last week to head up the South Atlantic Branch.

Mr. Geiger: Which is a promotion.

Mr. Harris: Congratulations, Jack; thank you, Roy. Tom, do you have your report from the Southeast Fishery Science Center? Okay, Tom Jamir is coming forward to give his report.

Dr. Jamir: This is an update of the activities in the Southeast Fishery Science Center and most specifically the updates on the recreational fishery landings. The Southeast Regional Headboat Survey told me that the headboat logbook reporting compliance has shown a marked increase after the certified reminder letters were sent out.

The survey coordinator visited also the Northeast Florida headboat captains and owners to talk with them and convinced them of the value of those programs, and he is getting more and more acquainted with the industry and getting results as well. The headboat survey representative, basically Ken Brennan, will participate in the catchability workshop in Atlanta this coming November.

Now with respect to the aging, especially the otoliths, for vermilion snapper, king and Spanish mackerel, all of the aging studies were already completed and provided to the SEDAR 16 and 17 data workshop. The Beaufort Lab is now processing the red grouper samples. To date we have about 5,300 samples, and this is in preparation for the SEDAR 19, scheduled to begin in May of 2009.

They also conducted a preliminary workshop with the South Carolina DNR on the red grouper aging to make sure that the procedures and the results of the procedures were consistent with each other, and so far it has been so. They also started processing snowy grouper and tilefish samples for the update assessments scheduled in 2010. As of this time, no gag samples are being sampled.

With respect to the recreational fishery landings update, initially there were seven species listed in the past updates, from snowy grouper, golden tilefish, vermilion, black sea bass, greater amberjack, dolphin and red porgy. We received a request for additional species to be included in these update assessments. Basically, we've got grouper, king mackerel, Spanish mackerel, wahoo, mutton snapper, yellowtail snapper and red snapper.

Our Statistics and Data Quality Group looked at a lot of these landings and incorporated some of the changes that were suggested by MRFSS and SEDAR. Basically, in terms of the MRFSS charterboat estimates they had some changes or some revisions in the methods of estimation so

they incorporated those. Listed here are some of the estimates that were changed. SEDAR 16 and the data workshop for SEDAR 15 also had some recommendations for conversion factors, you know, to calibrate MRFSS charterboat and effort estimation data, so they incorporated that also.

They also looked at the weight estimates and did quality control and quality assessment on those, as well as the – they also looked at the percentage of the catch with missing data. Basically, for all of the 14 species that were requested for updates, they looked at those. Of the 14 species in the list, they found out that snowy grouper has very patchy small samples and some samples are missing, depending on the sector, as indicated in this table where you have lots of data that are simply not there.

If you look at the past graphs of those, you have these erratic graphs of the landings as well as very low sample sizes for snowy grouper. The same thing is true with tilefish. Here it is even worse, you have lots of missing data as well as very low samples. This graph that we have seen in the past, it's very low samples. You have some spikes all together.

So, the QA&QC Group decided that these two species will be dropped in the updates because it is hard for them to really determine whether the data are really telling what we should be hearing or looking at given the small samples. Of the 14 that you requested, the snowy grouper and golden tilefish will not be included in the updates.

Mr. Geiger: The problem, Tom, I'm having with that is – and I understand the difficulty with past samplings; however, we're supposedly getting a new system which is supposed to have or we would hope would have improved sampling capabilities. We have seen in just recent trends in the past that snowy grouper have become a more important factor in the recreational sector.

I'm not sure I have as big a problem with dropping tilefish out of the “do” as dropping out snowy grouper based on the fact that as we move into this new system we may have a better ability to sample landings in the recreational sector and capture those landings and not have this spiky stuff we had in the past. But if we drop it out, then it is lost.

I guess as a follow-on question to think about, when I looked at the list of species, you had yellowtail and mutton snapper. And, of course, both those said Keys excluded, which has always been a problem. Somehow we have got to fix the exclusion of the Keys, and one way of doing it possibly – contributing to that might be fact that you're including mutton snapper and yellowtail, but I noticed black grouper was not on the list.

Dr. Jamir: Those pieces are not being dropped in the analysis as well as in the statistics. It is just that for the updates the Quality Control Group doesn't see – it may actually give you some misleading graphs when you see those time series when in fact there are lots of – well, either there are loss of data in the time series or the sample size is just too small in the last ten years of that time series. But, you know, as the collection process and landings statistics improve, then we will have better and better results from here on. But, you know, it is not being eliminated. It's just for this time series.

Mr. Waugh: Tom, I think the interest that we have is tracking the ten species that we're working

on in Amendment 17, because beginning January 1, 2010, we will have a recreational quota that we need to track. What we will want is at each council meeting an update on where the recreational harvest is with respect those recreational quotas, because we're going to have accountability measures. I think it is not just putting together the report, but what plans the Center has for starting to track those recreational quotas starting January 1, 2010, for the ten species, and then January 1, 2011, for all the remaining species that we will specify in our Comprehensive ACL Amendment.

Dr. Jamir: I can have our statistics group incorporate that in the next update with the caveat that the ten previous years should be taken with a grain salt. I have no problem with that.

Dr. Crabtree: It is just as we talk about it, we need to remember for snowy grouper, golden tilefish; and I guess some of them, speckled hind and warsaw may be zero so we don't have to worry about it, but without dramatic changes in the recreational survey program our ability to track recreational quotas for those species is going to be extremely limits. I don't think that is going to change in the short term, maybe in the long term. But these rare, infrequent events are just very difficult to get good estimates of, and I suspect that is not going to change very soon.

Mr. Currin: Roy, considering that, has the Science Center given any thought to what a minimum sample size or encounter rate in that MRFSS Survey for various species might serve as a threshold for considering whether those data are adequate? I mean, that is reflected in the PSE, so maybe you can look at some threshold of PSE. But, you know, if we could just be able to determine more or less quantitatively how we can separate those species that are adequately samples from those that aren't, that might be helpful; I don't know.

Dr. Crabtree: Well, I guess that we could take the catch estimate and apply the CV to it and come up with, you know, here is the 95 percent confidence interval for the catch estimate and see how wide that is, but I don't if that's been done for any of these species. Tom, do you know?

Dr. Jamir: We are actually doing that, and this is one of the reasons why they revisited some of these things that you were requesting. This is most especially true given that our new full-time director, Dr. Ponwith, her interest is primarily on data and statistical samples that makes that data a reliable set of information.

She basically instructed the Science Data Collection Group to really look at what is the minimum sample size that we need for assessments as well as for monitoring catch as well as look what are the risks if we have these sparse or rare samples that we get and how does that impact the management decisions that are being implement based on those data. We are very much concerned about sample sizes at this point.

Mr. Currin: Yes, and I think, Tom, that it probably answers my question, then, those species that you guys don't feel comfortable including in the updates are probably a good indication that the estimates are questionable.

Dr. Crabtree: And I know this won't be popular with some people, but one thing to think about is doing a single ACL for some of these species rather than sector-specifics because we just don't

have the ability, from a data perspective, to monitor the recreational sector on some of these species. I don't know that we gain anything by setting a quota or a limit that we really don't have any ability – you know, without rethinking the whole system of trying to monitor it, and so you might better of to set a single ACL and just try to avoid going over that and do the best you can and try not to let one sector or the other get out of hand.

Dr. Jamir: All right, what I did was to play around with some of this information in graphical form. You know, looking at tables is kind of boring, so I thought I would play around with this. One of the graphs that I made is a summary of all the landings over the last ten years or close to ten years. What was stated by the presenter yesterday, dolphin is one of the major landings of the recreational fishery, followed by the king mackerel, and the rest have minor contributions. Nevertheless, they are important contributions.

I looked at the pie chart distribution of this, and it shows clearly that dolphin comprised about 60 percent of the landings, and primarily about 85 percent of the landings are from the pelagic species, and the rest are from the grouper and snapper species as well. This is just the table that supports that. Now here is the useful graph that I showed, which are time series updates of all the species with additional information in terms of the quotas that were implemented.

For the recreational black sea bass you basically have this graph with an update showing a decline in the last year of survey. To make it a little bit more interesting, I looked at basically the starting point of these time series, looked at the share of the different sectors in the fishery and how it might have changed through time by looking at a pie chart of how these sectors are distributed in terms of landings.

So initially we have the private boat sector comprising a large percentage of the landings followed by the headboat and the charterboat. You would notice here that pretty much the driving sector here is the private boat sector. The rest are almost flat throughout those time series. These are just the data that basically supported that.

Now for the dolphin there were a number of fluctuations in the percentage here of the different sectors. Primarily I think over the last three years there is a leveling off in the charterboat landings, but there seems to be a minor increase in the private boat sector. So starting with way back ten years ago, you have charterboat comprising a large percentage of the landings with the private boat following suit, but there were some fluctuations in between, and somehow in the 2000-2001 time series there is a change in the percentage of landings by the private sector compared to the charterboat, but pretty much thereafter it's almost close to each other in terms of total landings. This is just a table that supports it.

Now for the gag grouper the primary driver here is the private boat sector, which comprised about 80 percent of the landings. The rest are almost flat in terms of recreational landings. Here is another way to look at that. The private boat sector is comprised initially and I think almost all throughout around 50 percent of the landings with the charterboat and headboat comprising around one-fourth of the landings.

For the greater amberjack all throughout the time series there is a general decline, a little bit of a

decline in all of the sectors. It is dominated primarily initially ten years ago by the charterboat at about 75 percent, three-fourths of the landings, but it is almost up par with both the private and the charterboat sectors. The headboat is still at the low end.

Mr. Geiger: Do these numbers reflect landings in the Keys as well?

Dr. Jamir: I think this one doesn't include – but this one only includes the Keys.

Mr. Geiger: Does include; okay, thank you.

Dr. Jamir: King mackerel, the primary driver here would be our private boat sector, although initially it is almost – if you look at the initial years, it's almost half and half private boat and charterboat contributions to the landings, but throughout the years thereafter the charterboat sector basically leveled off up around a million pounds, and the recreational private boat sector jumped up around – averaged around 3 million pounds throughout that ten-year period.

Here is the graph for the mutton snapper, and here it is very obvious that the rest of the sectors were flat except for the private/headboat which primarily affects the whole total landings, and there is a general upward trend in the total private boat landings throughout this ten-year time series. Here is the initial – and I think it is almost average distribution of the landings in terms of snappers. We have the private boat comprising around 60 percent; headboat, 20; charterboat, about 12 percent of the landings for the mutton snapper.

The red porgy statistics, almost all the sectors are equally represented in terms of landings, but the headboat has increased their share over the last three years, and there seems to be an upward trend in this sector in terms of recreational landings. Here is the initial share of the landing statistics for this sector for the red porgy. Initially you have a high headboat contribution in 1998 compared to the rest, and then it is sort of like an almost equal distribution of landings over the next seven or eight years, and then the headboat also again increased their relative share of the landings over the last three years.

Here is for the red snapper. Aside from the bump upwards in the private/headboat share in the 2000 to 2002 time series, the rest of the landings' contributions by the different sectors are almost flat thereafter.

Here is for the Spanish mackerel. Here it is primarily driven by the private boat sector in terms of landings or sharing the landings, and the rest are almost flat all throughout this ten-time series. The private boat comprised around 65 percent of the total landings, followed by the catcher boat and shore-based landings for this sector.

For the vermilion snapper, almost a similar trend. It is primarily the headboat that drives the process and contributes a large percentage share of the landings all throughout the time series. There is an upward trend in the landings of the headboats over the last three years. Here are the shares, about close to 70 percent headboat share in the landings, followed by the charterboat and the private boat comprising the rest.

Wahoo recreational, generally flat over the first eight years of the time series, and then there is a spike in the last year, the 2007 fishing year, and basically the charterboat having the greater share at the start of the time series, and you end up with the private/headboat dominating the catch landings in recent years.

Last is yellowtail snapper. It is hard to make anything on this series. Except for the private boat, there is not much fluctuation in the relative landings of the other sectors. The private boat has fluctuated a lot, having ups and downs, ups in the 2000 year time series, went down thereafter, and it seems like it is having a rebound and a continuing increasing trend from 2003 to the latest landing statistics that we have.

That is the update for the total landings. In terms of the stock assessment program, as I mentioned, Bonnie has been appointed as the full-time science director. One of the initiatives that we have been working on I think will spill over to the South Atlantic and Gulf of Mexico Councils is what we have started in the Caribbean.

Dr. Joe Kimmel approached the Science Center about a month ago if we can have a joint Southeast Regional Office and Southeast Fishery Science Center meeting to discuss, in this case, the Caribbean Fishery Management Issues, especially with respect to the ACL and AM measures. In terms of data, the Caribbean Council perhaps is problematic in this regard because either they don't have a good time series for the species that we want to manage or that the time series that we have is incomplete, have lots of holes or the data collection process itself is suspect.

What we did was we held a joint meeting with the Science Center staff and the Regional Office, with the Regional Office basically presenting a lot of the Caribbean Fishery Management Council concerns and issues that they want tackled over the next three to five years. Just by sitting down together – you know, a four-hour separation between the Science Center in Miami and the Regional Office in St. Pete creates a lot of gaps and misinformation as well as miscommunication between the staff of the two different institutions.

With that meeting we basically ironed out a lot of those problems and difficulties and we came up with sort of innovative solutions that might work under this sparse data situation. One of the things that we're looking at, at this point, is to see what we will learn in that process might be applicable to the other councils, especially the South Atlantic and in this case the Gulf of Mexico.

It seems to be a promising approach so we are proceeding with that sort of experiment with the Caribbean in the hope of basically improving some of the other things that we're working on in the other councils.

With respect to the damage that was done by the last hurricane on the Southeast Fishery Science Facility, the last update that I got from our director is that all personnel are accounted for. There was one missing last Monday, but I think they were able to get hold of the person later on. There was minimal structural damage to the facility in Galveston. There was some damage in the sea turtle facility, but at the initial estimate of the damage estimated it seems that it had minimal impact on the science center itself, the Galveston Lab of the Science Center.

So, hopefully, everything is fine, but we're still doing an assessment because there is only a limited amount of people that are allowed to come back to Galveston within this week. So, things are still pouring in in terms of update information. That concludes my report.

Mr. Harris: Thanks, Tom; are there questions for Tom? Rita.

Ms. Merritt: I was just wondering if we ever got a copy for our briefing book. When it first came out, it said "no information available", and I didn't see it come later in the additional material.

Dr. Jamir: I sent it probably two days ago or yesterday, and one of the reasons is because I'm trying to get the latest updates from our science director. She was supposed to give an update, but I think she got sidetracked on more pressing matters. As of last night, I didn't get any response at all from Bonnie. We will try to give you more advanced copies of the report in the next meeting.

Mr. Currin: Tom, I think you mentioned that regarding the red grouper assessment upcoming that currently you had 5,300, roughly, otoliths read. What is the total number that you project will be read before that assessment?

Dr. Jamir: I have no information on that. I can get back to you later on.

Mr. Harris: Other questions of Tom? Tom, again, we very much appreciate the Southeast Fisheries Science Center's cooperation and involvement in this process. It is the best it has ever been in my opinion, and congratulations to Bonnie in her permanent position. Please extend those congratulations on behalf of the council to Bonnie when you return. Okay we will move into agency reports right now and start with the coast guard.

Lt. Brian Sullivan: Thank you, Mr. Chairman, and congratulations on your selection to be chairman. First of all, Otha and Hal wanted me to let you guys know that they have submitted their reports on the Oculina Bank; and if you have any questions, George, when you read it, just give me a call and we can discuss anything that needs to be discussed. It looks like effort is really down in the area.

Our sightings have shown that and Hal and FWC's have shown that, so that is a positive thing, but if you have anymore issues you'd like to discuss. Also, I would like to let you know we're planning a lot more overflights of the area and Gray's Reef, for that matter, over the next fiscal year, so that should help out a lot with that.

A couple of things, also, I'd like to pass. I want to discuss something that Myra, in one of her presentations in the Shrimp Committee – she had mentioned that the Coast Guard 7th District is defining certain shrimping boats as high risk and that it might monetarily make their costs go up. But basically all the coast guard is doing is targeting them for safety issues that they should already be taking care of. It is not that we're asking them to do anything extra or more money involved. It is just that we're going to be targeting them to make sure they have all their safety requirements and equipment that they are required to have. I just wanted to make sure that was

clear. I was asked a couple of questions on the outside about that, so I just wanted to make that clear. If anybody has any questions about that, let me know.

The last thing I wanted to pass is if you could pass to your constituents and everybody around in your areas to make sure during the hurricane season that they do watch the weather a little bit. We had a couple of boats during Hurricane Ike that caught up in the hurricane and luckily we were able to get out there and get them before any big issues came up. I just wanted to pass that, and that's all I really have.

Mr. Harris: Questions of Brian? Fish and Wildlife Service, Wilson.

Dr. Laney: I'll be sending my written report out. In the interest of brevity I'll just address one item on it, which is the Cooperative Winter Tagging Cruise. We still have no vessel for January 2009 as of yet. I have talked to three different research vessels along the east coast; those being the RV Dan Moore, which is Cape Fear Community College; the RV Cape Hatteras at Duke University; and the RV Hugh Sharp, which is at the University of Delaware.

All three are interested in doing the work, and I have cost information from all three of them. I've provided that to NOAA Headquarters and will be working with NOAA Headquarters and ASMFC to try and secure the necessary funding to charter one of those vessels. We may have to put an RFP out. That decision hasn't been made yet. That's kind of where we are on that.

If anybody has got any extra funding they want to kick in, please contact me and let me know. I have some funding but it would only pay for three or four days of vessel time, depending on the vessel that we wind up chartering for that work. I think most of you are familiar with what the cruise does. It tags striped bass, spiny dogfish, red drum, horseshoe crabs and Atlantic sturgeon. Last year was our most productive year ever for Atlantic sturgeon and we're hoping to have another good year this year if we can get out there. That's kind of where things are. If you have specific things of interest that involve the Fish and Wildlife Service, I'll be happy to try and answer your questions. Thank you.

Mr. Harris: Thank you, Wilson. Are there questions for Wilson? Wilson, again, I appreciate you bringing this Titan Project to our attention. The state of Florida, Bill.

Mr. Sharp: Just a few brief notes; as we mentioned yesterday, our commission met yesterday and they considered several rule amendments for state waters and the Gulf of Mexico that would bring would us into consistency with the anticipated regulations that are going into effect early next year in federal waters; the most important of which is to bring us into consistency with the federal interim regulation that establishes the two-fish bag limit for gag within the current five-fish aggregate and will also prohibit the harvest of gag from February 1st through March 31st.

We also considered a draft rule that will increase in the red grouper bag limit in the Gulf from one to two fish in anticipation of a permanent federal rule which is anticipated to go into place late in 2009. They also considered a draft rule to increase the recreational minimum size limit of greater amberjack from 20 to 30 inches and also to increase the recreational and commercial gray triggerfish minimum size from 12 to 14 inches. The commission will be hearing those at the final

public hearing in December. Thank you; questions?

Mr. Harris: Thank you, Bill. Are there questions for Bill? The state of North Carolina, Brian.

Dr. Chevront: I have a couple of things here. Let's see, oyster and clam, kingfish, interjurisdictional and red drum FMPs are in various stages of development and completion. Our commission received a stock status update at the June meeting; and for the 39 species that we would track, we noticed no changes in stock status over the last year.

Our coastal recreational fishing license, as you know, we started in January 1, 2007, our sales are a little lower than we had thought they were going to be overall. I don't know whether that is due to the economy of what, but I do know that in recent months' sales seem to be picking up in the rate of sale compared to last year at this time.

We are in our first round of making grants with the receipts from those licenses. That is a process that is going to take us several months, but that is what we're doing. We're going to be spending those license receipts on improving recreational fishing experiences for all North Carolinians.

We also have a Waterfront Access Marine Initiative Fund. A year ago July our General Assembly gave the Division of Marine Fisheries \$20 million to help improve waterfront access for recreational and commercial fishing interests. We are in the process of buying and developing 13 waterfront properties in the North Carolina, all up and down the coast.

This is a difficult thing for us because we're not used doing property management, but we're feeling our way and proceeding along pretty well. We're getting some very nice choice properties that are going to be helpful for access for boat launching, for offloading of commercial catches, as well as a few things that are going to work to the advantage of the division as well.

It is a lot of hard work, but I think in the long run, when we get done with it, we're going to be very pleased. We did not receive any additional money this year. I think it was primarily because we hadn't spent all the money from the last year, but there is still hope that we will get more money to continue these kinds of projects. That concludes my report.

Mr. Currin: Just one thing to add, but our Waterfront Access Program I think has been very successful, and I would just like to note that the \$20 million that the legislature gave to the Division of Marine Fisheries was parlayed and partnered into effectively close to \$80 million worth of property, so it wasn't strictly the division spending \$20 million. They were able to kind of merger that with some other funds and other groups to essentially quadruple it. It was a great effort by our division.

Mr. Harris: Question or comments to Brian? The state of South Carolina, Robert.

Mr. Boyles: A couple of things; I will start kind of on the law end and maybe work myself up. The woe and want I'd like to report to you is that the Marine Division is down in our budget 6.4 percent over this time last year. It includes a 3.4 percent reduction in our budget for this fiscal year, plus a 3 percent mid-year cut that came in fiscal month one, so revenues are not doing very

well in the state of South Carolina.

Adding to our want and woe, I think most of you are aware that Pat Harris left our employ and went to East Carolina for a position. Pat felt the pull of his wife actually. His wife had received a position at East Carolina. We certainly hate to see Pat go. Pat has served ably as our representative on the Scientific and Statistical Committee for a number of years, and we will certainly miss at DNR.

However, all of that being said, a couple of things of note; our recreation shrimp baiting season opened last week. As of last Friday we had sold approximately 6,600 permits. This is down by about a thousand over the same time last year. Our channel netting season, the only limited access fishery in the state of South Carolina, we are about to open to 49 permit holders. That is a very restricted fishery in Georgetown County, South Carolina.

A couple of other things that we're working on; our board is meeting as we speak and considering staff's recommendation in terms of our legislative package to be submitted to the General Assembly. Three elements that we are recommending they approved as part of our package; one of which is a rehash or another try to develop a limited entry fishery for our commercial blue crab fishery.

A second element of the legislative package would bring us into compliance with the new Atlantic States Marine Fisheries Commission's Coastal Sharks Fishery Management Plan to specifically reduce the possession and retention limit on Atlantic sharpnose, which is currently in state law, two fish down, to comport with the new Interjurisdictional Plan, with a retention of one sharpnose.

And then, finally, as you all know, we've had a recreational saltwater fishing license since 1992. That program has seen minimal changes, but with the new recommendations coming out from the federal government to improve the Marine Recreational Fishing Information Program, we will be moving and asking the General Assembly to make some modest changes to the license program in order that our licensees would qualify to be exempt from the federal recreational register requirement.

Specifically, what we're doing is going to ask the General Assembly to eliminate our shore-based license exemption and make a couple of other changes. Most notably is to require a saltwater fishing license to take shrimp without bait and blue crabs. That concludes my report, Mr. Chairman.

Mr. Harris: Thank you, Robert. Questions for Robert? Susan had to leave early. She had to go back last night. She did arrive home safely. I will just say that the state of Georgia is being required – Susan is being required to come up with 6, 8 and 10 percent proposed budget cuts to her budget. It was looking for a while like it was going to be 6 percent; now it is looking like it is likely to be 8 percent. The state of Georgia has been somewhat insulated from some of these cuts that other states have been affected by in the past, but this year they're taking it as well. That's all I have to say about the state of Georgia.

Anything else with respect to liaison reports? We'll move into other business. With respect to committee assignments, I appreciate everybody getting back to Bob your request for committee assignments. I will be getting together with Dave Cupka and Bob this next week finalizing those committee assignments. I reiterate what George said about vice-chairs. If you don't select a vice-chair within a couple of weeks of getting your chairmanships, you might just have one assigned to you. I had hoped to get that finalized this week, so very soon we will get that done.

Something happened yesterday afternoon when we recessed for the day that disturbed me a great deal. There was something said to someone from our audience that was totally uncalled for, very disrespectful. I am going to tell you I will not tolerate disrespect for the council, for the staff, for anyone in the audience by anyone else. I am talking to Monica, Bob and Roy about what we can do with respect to that issue, but we're not going to have that.

You saw some of it exhibited in the public comments yesterday; we're not going to have that either. I understand that people are upset, and I respect the fact that they're upset, but you can still be respectful and share how upset you are about what is getting ready to happen to you if that does, in fact, happen you. We treat each other with respect around this table; we treat our staff with respect; and we treat the public that attends these meetings with respect, and I expect no less from them. You will be hearing more on that in the future.

With respect to the comments on the ACL Proposed Rule, I believe Gregg sent those around to everybody via e-mail. Bob, what action do we need to take on this? Do we need to approve this letter as it is drafted to be sent? We discussed all these issues in the meeting.

Mr. Mahood: Right, we need approval to send it as specific as possible. If anybody had any changes they would like to incorporate or any wordsmithing they feel like needs to be done, please let us know now. The deadline is Monday so we need to get it out. We would like to get out today.

Mr. Harris: Any comments? Is there any objection to sending this proposed comment? As I said, you already heard all the discussion about it at the committee meeting. Seeing none, I will assume that is approved. Bob.

Mr. Mahood: I had a report that was passed that Chris Reiling from the Southeast Regional Office prepared for the council. Chairman Geiger had requested – as you recall, when the issue of allowing longliners back in the closed area under an exempted fisheries permit, we went through quite a process. We objected to it.

It was killed and then it was resurrected outside of our domain and a limited number of vessels have been allowed in that area under an exempted fisheries permit. Chris had agreed to provide us a quarterly update on what was transpiring down there. This is what he has sent. He would have liked to have been here this week, but he had previous commitments.

He said he will be glad to come to the December meeting and give a more detailed account of what is transpiring. But from this, as you can see – it is pretty clear cut – the conditions were a maximum number of three boats with only two fishing at any one time; 289 sets; 145 in the

closed area. It lists the type of hooks, and they would have 100 percent observer coverage. That was kind of the conditions.

The second page tells you the results to date. They have had nine trips completed with two vessels from February through July; 40 sets. The highest swordfish CPUE was on the Charleston Bump. They caught no bluefin tuna. In the closed area they caught and kept 173 swordfish, released 57 alive, and I assume 65 were dead discards. They encountered one white marlin and one blue marlin and four sailfish. Three of the sailfish were dead discards.

Then they compared that outside of the open area where they're allowed to fish, anyway, and that was what they compared the closed area harvest to, and it lists what they took in the open area in the EEZ. It looks like they took more marlin than sailfish in the open area, and there were a number of dead discards in the longline fishery.

Correct me, Roy, I think part of this was to test the circle hooks, to try to look at technology that would minimize the dead discards. I'm not sure whether or not they were using the J-hooks in the open area. They may have been; that may have been their control. Chris will get into more details when we have him here in December.

It looks like they encountered three turtles, one loggerhead in the open area and two leatherbacks in the closed area. All were released alive with no trailing gear. After I got this, I e-mailed Chris and there is a sheet that lists the areas that were worked. After I got this from Chris, I had a question about the dolphin and the wahoo, so I e-mailed him and basically in the closed area they caught 18 dolphin and no wahoo. That is the closed area off the east coast of Florida. In the closed area off the Charleston Bump they caught four dolphin and no wahoo. In the open area they caught 30 dolphin and 1 wahoo. That is his preliminary report to the council on this.

Mr. Geiger: And maybe if we can give Chris a heads-up, one of the questions I have is that back when we were considering this, I recall being told that HMS had the ability to shut this fishery down within 24 hours if limits that were established in the scientific research plan were exceeded.

I don't recall ever seeing or having us provided with the limits or with the bounds on which consideration for terminating that program would occur. Perhaps he could research that and tell us whether there are in fact bounds and limits or if there are not; and if there are, what those bounds and limits are, and if the fact that they can close it down within 24 hours exists and on what basis they would do that.

Mr. Mahood: I will do that. I suspect there were some fairly definitive limits on turtle encounters and probably turtle mortality. I do believe he did say there would be some also on the billfish. I really can't interpret what is here because I'm not sure of the details, but it looks like in the open area, using the J-hooks, they were taking a lot more marlin than they are in the closed area using the circle hooks. Now whether I'm interpreting that right or not, I don't know. Is that correct, do you think, Joe? Joe is shaking his head in the affirmative.

Ms. Merritt: Just a comment to George's question; as I recall the statement was made by Bill

Hogarth about you could shut it down within 24 hours. And when the question came up as to, well, what parameters are you going to use regarding making that decision; and it all boiled down to the response we got was their discretion.

Mr. Geiger: The response who got?

Ms. Merritt: The audience in the HMS meeting when we asked the question.

Mr. Geiger: Okay, that's in your meeting. In the meeting at Fort Lauderdale there were some specific things that were said other than that. Bill Hogarth had in fact said at that meeting there would be the ability to shut the fishery down within 24 hours, but they would come in with some scientific bounds or some boundaries listed within the scientific portion of that program which would kick those considerations into place.

Mr. Harris: Other comments or questions for Bob on that report? Bob, what else do you have for us, meeting schedules?

(Whereupon, the upcoming meeting schedules were discussed.)

Mr. Harris: Any other business to come before the council? Seeing none, we stand adjourned.

(Whereupon, the meeting was adjourned at 10:40 o'clock a.m., September 19, 2008.)

Certified By: _____ Date: _____

Transcribed By: Graham Transcriptions, Inc.
September 30, 2008

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

FULL COUNCIL SESSION

**Charleston Marriott Hotel
Charleston, SC**

September 15 & 18-19, 2008

TABLE OF MOTIONS

PAGE 14: Motion that for purposes of allocations that the council consider two different alternatives, one commercial and recreational and a second alternative commercial, recreational, and the for-hire sector. The motion carried on page 19.

PAGE 19: Motion to move Alternative 5 to the Considered but Rejected Section. The motion carried on page 20.

PAGE 22: Motion to apply, for purposes of analysis, Alternative 1, the status quo, and Alternative 4, the combination of Alternative 2 and 3, where equal weight is given to each average of years as they apply, to the Comprehensive ACL. The motion was tabled on page 24.

PAGE 25: Motion to make Alternative 1 for Action 5 the preferred alternative. The motion carried on Page 25.

PAGE 26: Motion that the committee recommends to the council approval of Amendment 7 consistent with the change in Action 5 to the Shrimp FMP for submission to the Secretary of Commerce. The motion carried on page 26.

PAGE 27: Motion to deem the rule necessary and appropriate and submit Shrimp Amendment 7 to the Secretary of Commerce for approval. Motion reworded on Page 24: Motion is to deem the proposed rule appropriate and necessary and approve Shrimp Amendment 7 for submittal to the Secretary of Commerce; allow editorial license to staff to make changes to the proposed rule/amendment in accordance with the amendment and have the council chairman deem them necessary and appropriate. The motion carried on Page 28.

PAGE 29: Approve the Spiny Lobster Amendment 8 with the two preferred alternatives for Secretarial review. The motion carried on Page 29.

PAGE 30: Recommend that the following individuals be named to the Golden Tilefish LAP Workgroup: Matt Ruby, Steve Shelley, Bob Preston, Joe Klosterman, Chris Connell, Willie

Gonzalez, Donald Sawyer, Chad Lee. The motion carried on Page 31.

PAGE 32: Motion to submit the Spiny Lobster Generic Import Amendment to the Secretary and deem the rules necessary and appropriate. The motion carried on Page 33.

PAGE 33: Move that the council allow editorial license to staff to make changes to the proposed rule/amendment in accordance with the amendment and have the council chairman deem them necessary and appropriate. The motion carried on Page 33.

PAGE 35: For the purposes of Snapper Grouper Amendment 17 and the Comprehensive ACL Amendment and future amendments, that we were going to use the following equation: allocation by sectors would equal 0.05 times catch history; the quantity plus 0.5 times the current trend, whereby catch history is from 1986 onward and current trend was going to be for 2005 to 2007 for Snapper Grouper Amendment 17 and the Comprehensive ACL Amendment, and then three years rolling forward for future amendments. The motion carried on Page 35.

PAGE 35: For the purposes of analysis done for the Comprehensive ACL Amendment, we were recommending analyzed allocation Alternatives 1 and 4 with sector alternatives as specified: (A), commercial and recreational; and (B), commercial, private recreational and for hire. The motion carried on Page 36.

PAGE 75: Motion to direct the SSC, the Southeast Fisheries Science Center and staff to evaluate 25 percent, with a range of 10 to 50 percent, as a probability of overfishing when they're setting ABCs with respect to overfishing. The motion carried on Page 76.

PAGE 76: Move a new alternative regarding Monroe County to Appendix A with an intent to further examine fully that alternative within Amendment 17. The motion carried on Page 76.

PAGE 76: Motion regarding the interim rule to remove vermilion snapper and red snapper from the interim rule. The motion carried on Page 76.

PAGE 76: Move that in Snapper Grouper Amendment 17 for species that we do not have an allocation for and that we need to allocate, that we allocate to two sectors, recreational and commercial. The motion carried on Page 76.

PAGE 77: Motion to recommend Amendment 16 for council approval to be sent to the Secretary for formal review; deem the proposed rule appropriate and necessary; allow editorial license to the staff to make changes to the proposed rule/amendment in accordance with the amendment; and have the council chairman accept the responsibility to deem them necessary and appropriate. The motion carried on Page 80.

PAGE 81: Motion to submit the interim rule to NOAA Fisheries for approval.

ABOVE MOTION REWORDED ON PAGE 83: Motion is submit the interim rule to NOAA Fisheries for approval with the following measures: Prohibit recreational and commercial harvest or possession of gag, black grouper and red grouper during January through April 2009; establish a 352,940 pound gutted weight commercial quota for gag during January through June;

when quota for gag is met, no harvest or possession will be allowed for gag, black grouper and red grouper; reduce the bag limit from two gag or black grouper combined to one gag or black grouper combined within the existing five-grouper aggregate bag limit; reduce the bag limit for red grouper to a maximum of three fish within the existing five-grouper aggregate bag limit. The provisions of the interim rule with respect to federally permitted vessels for South Atlantic Snapper Grouper apply regardless of where the fish are harvested; i.e., in state or federal waters. The motion carried on Page 85.

PAGE 89: Motion that staff describe to the SSC our desire that they look at the ACLs as a system of a target and a limit; and that when evaluating the various probabilities of overfishing and how they relate, that they do that by looking at this as a system and not as just one number. The motion carried on Page 89.

PAGE 102: Motion to create a media seat on the Habitat Advisory Panel and to advertise an opening. The motion carried on Page 102.

PAGE 102: Motion to appoint Mark Carter to the Habitat Advisory Panel. The motion carried on Page 102.

PAGE 103: Motion to appoint John Williams to the Habitat Advisory Panel. The motion carried on Page 103.

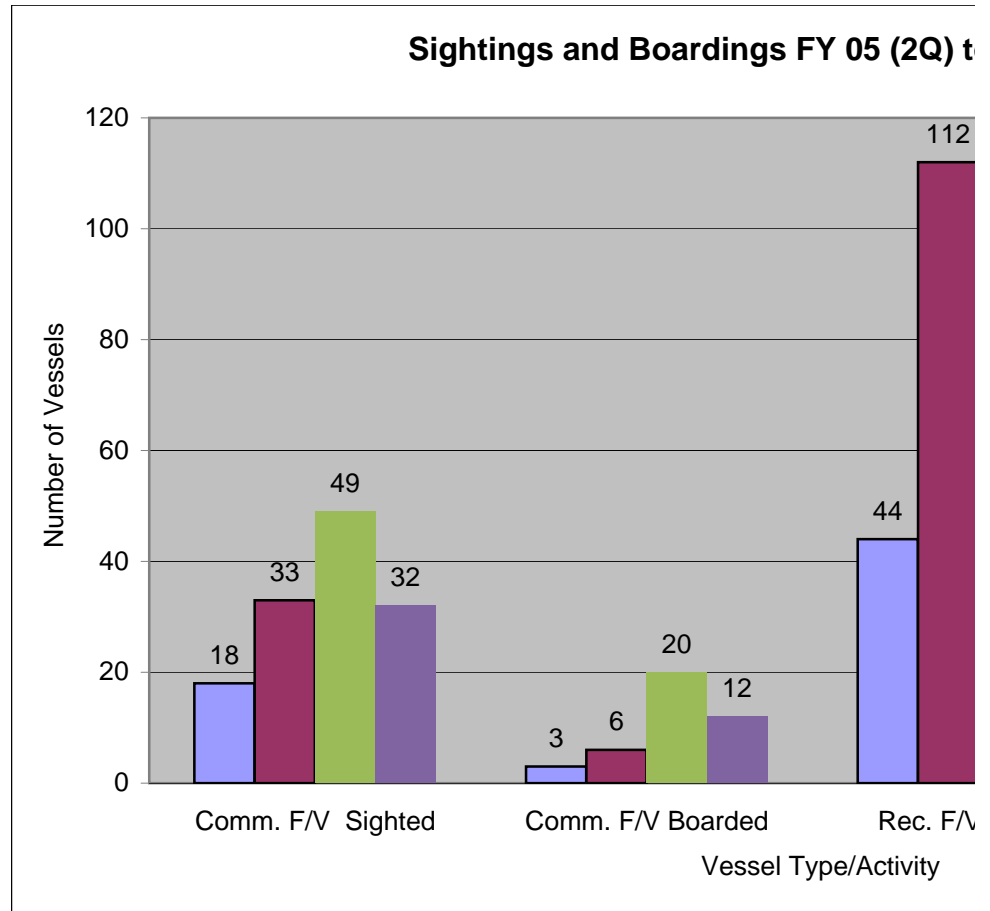
PAGE 103: Motion to appoint Mike Street to an at-large scientist seat on the Habitat Advisory Panel. The motion carried on Page 103.

PAGE 103: Motion to appoint Joanna Walczak to an at-large scientist seat on the Habitat AP. The motion carried on Page 103.

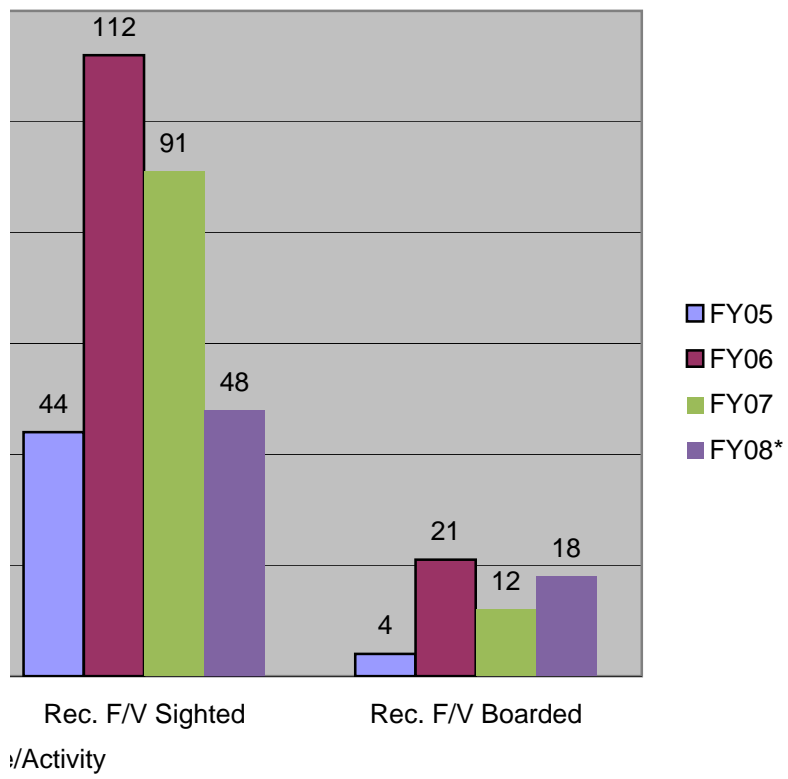
PAGE 105: Motion that the council continue with an Ecosystem-Based Amendment and refine it to focus on deepwater coral and EFH requirements for other FMPs. Further, that the council reaffirm our commitment to ecosystem-based management and retract language from the Comprehensive Ecosystem-Based Amendment regarding the definitive process for the South Atlantic Fishery Management Council's ecosystem-based amendment approach. The motion carried on Page 105.

	FY05	FY06	FY07	FY08*
Comm. F/V Sighted	18	33	49	32
Comm. F/V Boarded	3	6	20	12
Rec. F/V Sighted	44	112	91	48
Rec. F/V Boarded	4	21	12	18

*To 3rd Qtr



05 (2Q) to FY 08 (3Q)



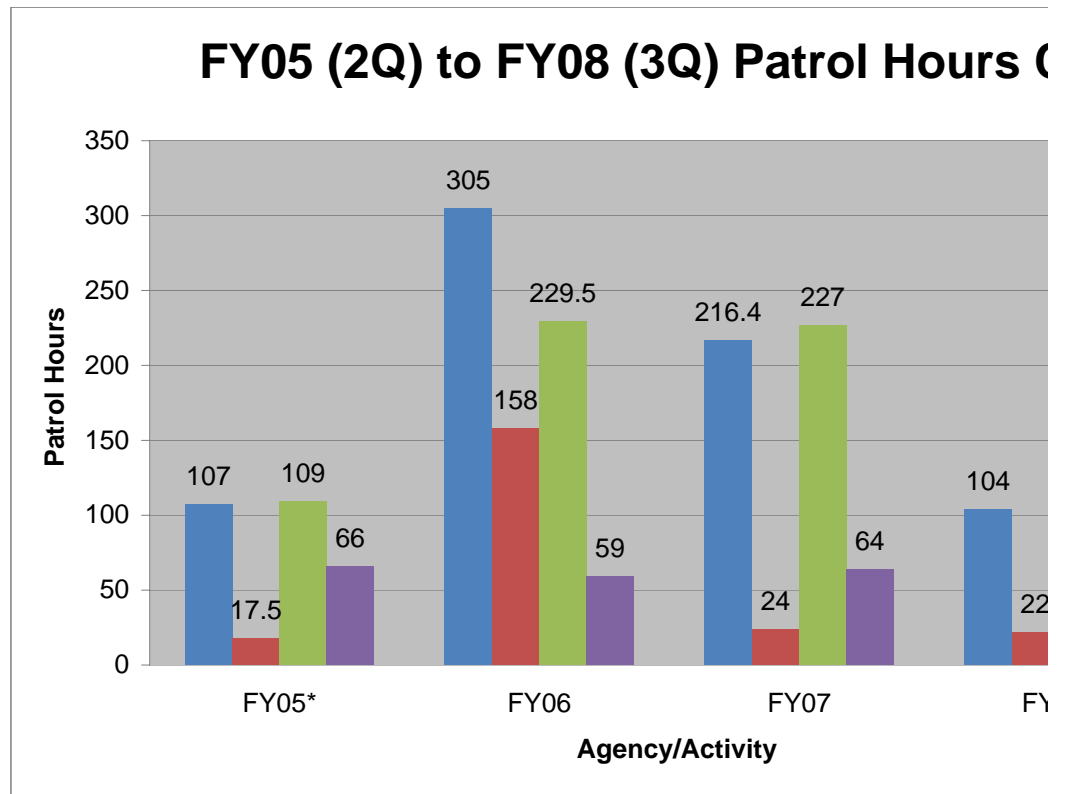
FY05-08 Patrol Hours Comparison

	FY05*	FY06	FY07	FY08*
Primary USCG	107	305	216.4	104
Secondary USCG	17.5	158	24	22
Primary FWCC	109	229.5	227	137
Secondary FWCC	66	59	64	38.5

*From 2nd Qtr FY05 to 3rd Qtr FY08

Secondary hours for the USCG indicates hours an asset (aircraft, cutter, boat) was in the Oculina B

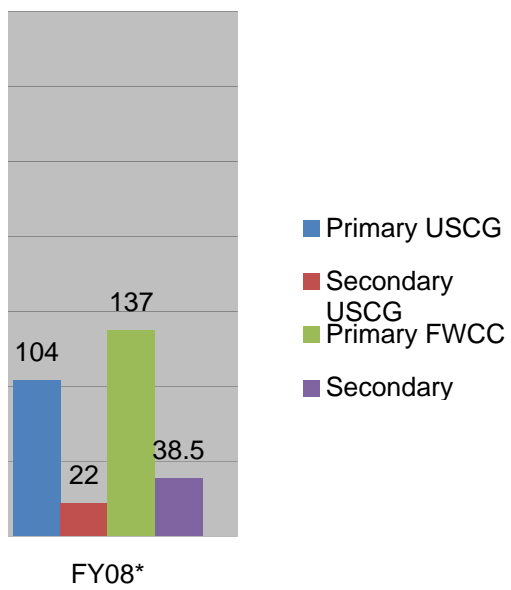
Secondary hours for the FL FWCC indicate hours an asset (aircraft, patrol vessel, boat) was transiti



bank but on a non-fisheries mission.

ing to the Oculina Bank.

Hours Comparison



and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application.

In conformance with the Uniform Administrative Requirements for Grants and Cooperative Agreements (15 CFR 14.36), any data collected in projects supported by NCCOS/CSCOR should be delivered to a National Data Center (NDC), such as the National Oceanographic Data Center (NODC), in a format to be determined by the institution, the NDC, and the Program Officer. Information on NOAA NDCs can be found at <http://www.nesdis.noaa.gov/datainfo.html>. It is the responsibility of the institution for the delivery of these data; the DOC will not provide additional support for delivery beyond the award. Additionally, all biological cultures established, molecular probes developed, genetic sequences identified, mathematical models constructed, or other resulting information products established through support provided by NCCOS/CSCOR are encouraged to be made available to the general research community at no or modest handling charge (to be determined by the institution, Program Officer, and DOC).

Reporting

All performance (i.e. technical progress) reports shall be submitted electronically through the Grants Online system unless the recipient does not have internet access. In that case, performance reports are to be submitted to the NOAA program manager. All financial reports shall be submitted in the same manner.

Agency Contacts

Technical Information: Libby Jewett, Program Manager, 301-713-3338/ext 121, Internet: libby.jewett@noaa.gov.

Business Management Information: Laurie Golden, NCCOS/CSCOR Grants Administrator, 301-713-3338/ext 151, Internet: laurie.golden@noaa.gov.

Other Information

Administrative Procedure Act

Notice and comment are not required under the Administrative Procedure Act, (5 U.S.C. 553), or any other law, for notices relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because notice and comment is not required, a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, (5 U.S.C. 601 et seq).

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a currently valid Office of Management and Budget (OMB) Control Number. This notification involves collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, and SF-LLL has been approved by the OMB under control numbers 0348-0043, 0348-0044, 0348-0040 and 0348-0046, respectively.

Dated: September 2, 2008.

John Potts,

Chief Financial Officer, National Oceanic and Atmospheric Administration, National Ocean Service.

[FR Doc. E8-20926 Filed 9-8-08; 8:45 am]

BILLING CODE 3510-JS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Register Notice Calling for Nominations to Marine Protected Areas Federal Advisory Committee

AGENCY: Marine Protected Areas (MPA), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC)

ACTION: Notice requesting nominations for the Marine Protected Areas Federal Advisory Committee.

SUMMARY: The Department of Commerce is seeking nominations for membership on the Marine Protected Areas Federal Advisory Committee (Advisory Committee). The Advisory Committee was established to advise the Secretary of Commerce and the Secretary of the Interior in implementing Section 4 of Executive Order 13158, specifically on strategies and priorities for developing the national system of marine protected areas (MPAs) and on practical approaches to further enhance and expand protection of new and existing MPAs.

Nominations are sought for highly qualified non-Federal scientists, resource managers, and people representing other interests or organizations involved with or affected by marine conservation including in the Great Lakes. Fifteen members of the Committee have terms that expire

October 31, 2009, and nominations are sought to fill these vacancies.

Individuals seeking membership on the Advisory Committee should possess demonstrable expertise in a related field or represent a stakeholder interest affected by MPAs. Nominees also will be evaluated based on the following factors: Marine policy experience, leadership and organization skills, region of country represented, and diversity characteristics. The membership reflects the Department's commitment to attaining balance and diversity. The full text of the Advisory Committee Charter and its current membership can be viewed at the Agency's Web page at <http://mpa.gov>.

DATES: Nominations must be postmarked on or before November 30, 2008.

ADDRESS: Nominations should be sent to: Lauren Wenzel, National Marine Protected Areas Center, NOAA, 1305 East-West Highway, Station 9143, Silver Spring, MD 20910. E-mail: Lauren.Wenzel@noaa.gov. E-mail nominations are acceptable.

FOR FURTHER INFORMATION CONTACT:

Lauren Wenzel, National Marine Protected Areas Center, 1305 East-West Highway, Building 4, Station 9143, 301-713 3100 ext. 136, Lauren.wenzel@noaa.gov.

SUPPLEMENTARY INFORMATION:

In Executive Order 13158, the Department of Commerce and the Department of the Interior were directed to seek the expert advice and recommendations of non-federal scientists, resource managers, and other interested people and organizations through a Marine Protected Areas Federal Advisory Committee. The Advisory Committee was established in June 2003 and includes 30 members.

The Committee meets at least once annually. Committee members serve for one, four year nonrenewable term. Members of the Committee will not be compensated, but may, upon request, be allowed travel and per diem expenses.

Each nomination submission should include the proposed member's name and organizational affiliation, a cover letter describing the nominee's qualifications and interest in serving on the Advisory Committee, curriculum vitae or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each submission: The nominee's name, address, phone number, fax number, and e-mail address if available.

Dated: September 3, 2008.
David M. Kennedy,
Director, Office of Ocean and Coastal Resource Management.
 [FR Doc. E8-20790 Filed 9-8-08; 8:45 am]
BILLING CODE 3510-08-M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038-0051, Part 39 Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.
ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on Part 39 Derivatives Clearing Organizations.

DATES: Comments must be submitted on or before November 10, 2008.
ADDRESSES: Comments may be mailed to Lois Gregory, Division of Clearing & Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Lois Gregory, (202) 418-5569; FAX: (202) 418-5536; e-mail: lgregory@cftc.gov.

SUPPLEMENTARY INFORMATION: Title: Registration under the Commodity Exchange Act (OMB Control No. 3038-0051). This is a request for extension of a currently approved information collection.

Abstract: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Part 39 Derivatives Clearing Organizations, OMB control number 3038-0051—Extension.

The information collected pursuant to this rule is used to evaluate compliance with criteria pursuant to which entities apply for and obtain registration as a derivatives clearing organization. The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Total annual responses	Hours per responses	Total hours
Part 39	10	10	200	2000

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: September 3, 2008.
David Stawick,
Secretary of the Commission.
 [FR Doc. E8-20871 Filed 9-8-08; 8:45 am]
BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038-0015, Copies of Crop and Market Information Reports

AGENCY: Commodity Futures Trading Commission.
ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on crop and market information.

DATES: Comments must be submitted on or before November 10, 2008.

ADDRESSES: Comments may be mailed to Gary Martinaitis, Division of Market Oversight, U.S. Commodity Futures

Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Gary Martinaitis, (202) 418-5209; FAX: (202) 418-5527; e-mail: gmartinaitis@cftc.gov.

SUPPLEMENTARY INFORMATION: Title: Registration under the Commodity Exchange Act (OMB Control No. 3038-0015). This is a request for extension of a currently approved information collection.

Abstract: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or

ORAL ARGUMENT HAS NOT BEEN SCHEDULED

In The
United States Court of Appeals
For The District of Columbia Circuit

**NORTH CAROLINA FISHERIES ASSOCIATION, INC.; JEFF ODEN;
JOSEPH ANDREW HIGH; AVON SEAFOOD,**

Plaintiffs - Appellants,

v.

**CARLOS GUTIERREZ, HONORABLE,
in his official capacity as Secretary of Commerce,**

Defendant - Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PAGE PROOF REPLY BRIEF OF APPELLANTS

**David E. Frulla
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KELLEY DRYE & WARREN, LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
(202) 342-8400**

Counsel for Appellants

Dated: September 12, 2008

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* Authorities upon which we chiefly rely are marked with asterisks.

I. INTRODUCTION

Appellee, the Secretary of Commerce (“Secretary”), offers no defense to the substantive legal arguments advanced by Appellants North Carolina Fisheries Association, Andrew Joseph High, Jeff Oden, and Avon Seafood (collectively “Appellants” or “NCFA”). Rather, Appellee argues merely that NCFA’s claims are moot, while also insinuating that NCFA is now raising issues that were not before the court below. In both these contentions, the Secretary is wrong, and as a result, this Court should vacate the district court’s order on remedy and provide Appellants an effective remedy for Appellee’s continuing statutory violation.

II. ARGUMENT

A. SUMMARY OF ARGUMENT

In its Memorandum Opinion and Order of August 17, 2007, the district court found, after the Secretary conceded, that the Secretary violated the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”) by failing to develop “rebuilding plans” for snowy grouper and black sea bass. The district court then asked the parties to brief the issue of an appropriate remedy for this violation. *NCFA v. Gutierrez*, Civ. No. 07-1815 Memorandum Op. at 57-59 (Aug. 17, 2007) (JA __) (District Court Docket No. 34) (hereafter “Mem. Op.”); Order (Aug. 17, 2007) (JA __) (District Court Docket No. 33). The parties ultimately each presented a proposed remedy, and the lower court adopted Appellee’s formulation

in its entirety. In so doing, the lower court made a legal determination regarding what elements comprise a legally-compliant rebuilding plan. Appellants have appealed this decision of the lower court. Thus, the question as to what constitutes a lawful rebuilding plan under the MSA was—and is—squarely at issue.

NCFA did not, as the Secretary suggests, propose that the court below mandate that the Secretary adopt any specific measures.¹ *See* Appellant’s Br. at 15. Rather, as Appellants have argued here, NCFA’s remedy submission outlined the requirements of MSA section 304(e), 16 U.S.C. § 1854(e), with respect to the required elements of a lawful rebuilding plan, and requested that the court below order, in addition to those elements proposed by the Secretary, that the rebuilding plan include some means and measures to meet the MSA mandate that a rebuilding plan “allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery.” *Id.* § 1854(e)(4)(B). NCFA also discussed changes to the MSA that the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, Pub. L. No. 109-479, 102 Stat. 3575-3665 (Jan. 12, 2007) (“Reauthorization Act”) effected to strengthen the

¹ The measures NCFA discussed were illustrative of practicable measures of the type that could help meet the statutory requirements. *See, e.g.*, NCFA’s Remedy Br. at 10-11 (JA __) (Sept. 17, 2006) (District Court Docket No. 36). They were included as examples because they represent measures that had been discussed by the South Atlantic Fishery Management Council during the development of Amendment 13C (at suit below). NCFA did not, however, request that the district court order Defendant-Appellee to implement any of the specific measures.

economic and social protections afforded commercial fishermen and their communities. *See* NCFA’s Remedy Br. at 5-7 (JA ___).

Certainly, the district court “did not and could not predetermine what those plans would have to look like,” Appellee’s Br. at 17, if the issue were one of establishing specific management measures. The lower court, however, had ample authority to specify the *elements* that must be addressed in a rebuilding plan, which is exactly what it did when it adopted the Secretary’s proposed remedy. NCFA’s contention is simply that the court below in its remedial order erred by omitting a key element of a legally compliant rebuilding plan, and thus failed to accord Appellants the full measure of relief to which they are entitled.

This case is not mooted by the mere fact that the Secretary ostensibly adhered to the terms of a flawed remedial order. The issue in this case is whether the court below erred as a matter of law (or, in the alternative, abused its discretion), by ordering an incomplete and unsatisfactory remedy, given the legal defect found and the plain terms of the MSA with respect to the constituent elements of a lawful rebuilding plan. Accordingly, the question in this case is not, as Appellee would have it, “Did the Secretary faithfully implement the relief ordered?” Rather, the question is, “Did the Court order full and lawful relief?”

Appellants’ injury stems from the Secretary’s initial failure to promulgate a rebuilding plan for the two species at issue. Mem. Op. at 63 (JA ___). NCFA

continues to be injured because the court below failed to order an adequate remedy for the violation it found, and also because the court below failed to explain accurately the Secretary's legal duty. This injury is independent from Appellee's promulgation of an incomplete rebuilding plan in response to the district court's remedy order.

This Court has the authority to relieve Appellants' injury in this case by remanding it with instructions to the district court to order the Secretary to develop and implement this one missing (fairness and equity) element of legally-compliant rebuilding plans for snowy grouper and black sea bass.

B. NCFAs CASE IS NOT MOOT

“The burden of establishing mootness rests on the party that raises the issue. It is a ‘heavy’ burden.” *Motor & Equipment Mfrs. Ass'n v. Nichols*, 142 F.3d 449, 458-59 (D.C. Cir. 1998) (quoting *County of Los Angeles v. Davis*, 440 U.S. 625 631 (1979)) (first citation omitted). “An issue becomes moot if intervening events leave the parties without ‘a legally cognizable interest’ in our resolution of those issues.” *Kennecott Utah Copper Corp. v. U.S. Dep't of Interior*, 88 F.3d 1191, 1207 (D.C. Cir. 1996) (quoting *Powell v. McCormack*, 395 U.S. 486, 469 (1969)).

In this matter, the Secretary asserts that because Appellee's designee, the National Marine Fisheries Service (“NMFS”), “has ... issued the missing [rebuilding] plans,” that “action corrected the legal violation and mooted this

case.” Appellee’s Br. at 18. To support this claim of mootness, the Secretary “has the burden of proving that, because ‘interim relief or events have completely and irrevocably eradicated the effects of the alleged violation,’” Appellants lack a legally cognizable interest in present action. *Kennecott Utah*, 88 F.3d at 1207.

The Secretary has not carried this “heavy burden.” A finding for Appellants in this case will rectify the district court’s error of law in prescribing the scope of the remedy, erase infirm legal precedent, and provide relief to Appellants in the form of a rulemaking² to finalize implementing a fully lawful rebuilding plan that, among other required elements, “allocate[s] both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery.” 16 U.S.C. § 1854(e)(4)(B). Currently, by contrast, the rebuilding plan Appellee promulgated only contains the elements he asserted, and the court below erroneously agreed, were all that were required under law.

Specifically, the Secretary argued in his remedy submission below that “rebuilding plans typically include ‘four key elements’: ‘(1) An estimate of the average spawning biomass (“ B_{MSY} ”); (2) a rebuilding time period; (3) a rebuilding MSY trajectory; and (4) a transition from rebuilding to more optimal management.’” Secretary’s Remedy Proposal at 4-5 (Sept. 19, 2006) (District

² At this stage, such a rulemaking would presumably be in addition to the one Appellants have undertaken to comply with the lower court’s incomplete remedial order.

Court Docket No. 35) (JA __) (quoting NMFS’s “Technical Guidance On the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act” at 4 (hereafter “Technical Guidance”)). The Secretary disclaimed any responsibility to include measures to allocate fairly the benefits and burdens of rebuilding as part of the plan, and the court below did not require any. *See* Secretary’s Remedy Proposal at 9-10 (JA __); Remedy Order at 5 (JA __) (Oct. 2, 2007) (District Court Docket No. 37) (adopting the Secretary’s remedy proposal) (hereafter “Remedy Order”). A live controversy exists that this Court can and should settle.

Furthermore, Appellants agree with Appellee that equity should determine the scope of the remedy. *See* Appellee’s Br. at 17 (citing *United States v. District of Columbia*, 897 F.2d 1152, 1157 (D.C. Cir. 1990) (the “scope of an equitable remedy is determined by violation”). In terms of equitable considerations, it is appropriate to note that Appellee has raised a suggestion of mootness with respect to NCFA’s claims for the first time in his opposition brief, rather than through a motion to dismiss this appeal. This decision forced the small business Appellants³ to fully brief the appeal on its merits, and absorb the costs associated therewith,

³ *See* Mem. Op. at 23-24 (JA __) (affirming that Plaintiffs in the case below are “small entities” within the meaning of the Regulatory Flexibility Act, 5 U.S.C. §§ 601-612).

rather than being able to address this narrow and potentially dispositive issue in opposition to a motion to dismiss.

Furthermore, in the government's view of the case, the only course available to Appellants to address this unlawful remedy order would have been a full-on challenge to the new rulemaking undertaken in response to the remedy order. In essence, Appellee suggests that NCFA should have filed and prosecuted another original lawsuit in district court – potentially before the same judge whose order is before this Court on review – absorbing additional tens, if not hundreds of thousands of dollars in costs and fees, rather than asking this Court to adjudge the legality and adequacy of the remedial order. By logical extension, in that new case, Appellants, as plaintiffs, would be forced to argue that, even though Appellee did what Judge Bates ordered him to do in that court's remedial order (at least in terms of the elements of a rebuilding plan), the Secretary violated the law in following that order.

As a prudential matter, this Court should not abet the Secretary's tactics. If the Secretary was going to take this position, he should have raised the suggestion of mootness earlier. If this Court had agreed that NCFA's remedy lay in challenging the rulemaking resulting from that order, which it should not, then Appellants' course would have been clear. Rather, the Secretary potentially "ran

out the clock” on NCFA’s ability to challenge Amendment 15A⁴ – the rule promulgated to meet the district court’s order, *see* Appellee’s Br. at 14 – and now asserts that NCFA is completely without recourse.

The record shows, moreover, that Appellee has tried to set up a “heads, I win; tails you lose” situation for these Appellants. Even if NCFA had challenged new Amendment 15A in addition to (or in lieu of) prosecuting this appeal, the Secretary established the rulemaking record in a way that would allow him to claim such a challenge is preempted by the very appeal that he now suggests is moot. Also, if NCFA had abandoned this appeal and chose solely to challenge the circumscribed rebuilding plan implemented by Amendment 15A for failure to include all legally required elements, the Secretary would have asserted the remedial order as a defense. The Secretary’s planned gambit is clear in his response to NCFA’s claim on this point in the preamble to the Federal Register notice announcing Amendment 15A. NMFS stated: “Amendment 15A is intended to ... satisfy a United States district court ruling that found a plan to rebuild snowy grouper and black sea bass should have been included in Amendment 13C to the

⁴ Under the MSA, parties have only thirty days after “[r]egulations [are] promulgated by the Secretary under this Act” to file a petition for review of those regulations. 16 U.S.C. § 1855(f)(1). As the notice of availability and approval of Amendment 15A were promulgated on March 20, 2008, the thirty day window of opportunity has passed. *But see infra* at 9-10.

[fishery management plan] because the two species were overfished.” 73 Fed. Reg. 14942, 14942 (Mar. 20, 2008).

The Secretary’s approach is simply untenable for the small businesses bringing this appeal.⁵ The expense of maintaining two parallel judicial actions would effectively foreclose the possibility of NCFA being able to pursue any relief whatsoever. Moreover, Appellee’s approach would invite exceedingly complex litigation as the government would, as suggested above, undoubtedly whipsaw Appellants between the district court and this Court.⁶

Appellants appear to have posited this false choice for an additional jurisdictional reason, as well: it is not at all clear that NCFA could challenge Amendment 15A. Unlike the other amendments challenged by the North Carolina Fisheries Association, cited in Appellee’s Brief at 19-20, Amendment 15A was

⁵ This Circuit has recognized the needs and constraints of small businesses. *Cf. U.S. Telecom Ass’n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005) (enjoining rule as against small entities after agency failed to follow applicable procedures).

⁶ Running these plaintiffs from pillar to post is not, unfortunately, an uncommon litigation approach by Appellee. In the case below, for instance, the Secretary insisted in briefs and at oral argument that he had no duty to develop a rebuilding plan in conjunction with an amendment to end overfishing, only to reverse course when Judge Bates requested supplemental briefs on the issue of deference under *Chevron, U.S.A., Inc. v. Natural Res. Defense Council, Inc.*, 467 U.S. 837 (1984).

accompanied by no implementing regulations.⁷ *See* 73 Fed. Reg. at 14942 (“Amendment 15A establishes the rebuilding plans but does not contain measures with direct regulatory effect”). Thus, it is entirely unclear that, were such a second suit to have been brought, it would have withstood a motion to dismiss on the grounds that it was neither a challenge to “[r]egulations implemented by the Secretary” nor “actions taken by the Secretary under regulations which implement a fishery management plan.”⁸ 16 U.S.C. § 1855(f)(1), (2) (emphasis added).

No matter how the issue is sliced, the facts, equities, and practicality of the situation suggest that this Court should decide this appeal on the merits.

⁷ In fact, the Federal Register filing is styled as a “notice of agency action” rather than a final rule. 73 Fed. Reg. at 14942.

⁸ *Cf. Cape Cod Commercial Hook Fishermen’s Ass’n v. Daley*, 30 F. Supp. 2d 111, 114 (D. Mass. 1998) (finding no jurisdiction under 16 U.S.C. § 1855(f) to decide a challenge to notice of issuance of an “experimental fishing permit” because “it is not an action that has been ‘approved’ by the Secretary and put into effect ‘by regulation’”) (citing 16 U.S.C. § 1855(d), relating to the Secretary’s regulatory authority); *see also Tutein v. Daley*, 43 F. Supp. 2d 113, 122 (D. Mass. 1999) (holding that a challenge to the advisory guidelines issued pursuant to 16 U.S.C. § 1851(b) was not proper under MSA section 1855(f) because they were not “regulations”).

C. THE SECRETARY'S AUTHORITIES DO NOT SUPPORT A FINDING OF MOOTNESS IN THIS MATTER

The legal authorities relied upon by the Secretary to bolster his argument that this case is moot are entirely unavailing, as they deal with essentially procedural violations. *In re International Union, United Mine Workers*, 231 F.3d 51 (D.C. Cir. 2000), involved an action to compel the Mine Safety and Health Administration to undertake a rulemaking. *Id.* at 52. This Court found that upon issuance of two notices of proposed rulemaking addressing all the concerns raised by the union, the claim of unreasonable delay in promulgating the rules became moot. *Id.* at 53-54. In contrast, the case at bar relates to the adequacy of the remedy ordered by the court below as a substantive matter. The issue of whether that remedy met all of the elements required by law is still very much in controversy.

Similarly, in *Save Our Cumberland Mountains, Inc. v. Clark*, 725 F.2d 1422 (D.C. Cir. 1984), this Court found that a challenge to withdrawal of a rule without the opportunity for comment was mooted by subsequent promulgation of a new rule that provided for notice and comment. *Id.* at 1431. The plaintiffs' ability to comment on the new rule covering the same subject matter provided them with "the opportunity to participate meaningfully in the rulemaking process," which they claimed had been previously denied. *Id.* at 1432. Promulgation of the new rule was found to have "completely and irrevocably eradicated the effects of the

alleged violation.” *Id.* at 1431-32 (quoting *County of Los Angeles v. Davis*, 440 U.S. 625, 631 (1979)). By contrast, in this matter, Amendment 15A did not contain any conservation and management measures to insure fairness and equity⁹; nor, more pertinently, did the district court order the Secretary to promulgate any.

Finally, *Gulf of Maine Fisherman’s Alliance v. Daley*, 292 F.3d 84 (1st Cir. 2002), is in the same mold as the first two cases cited by Appellee. In that matter, regulations that were subject to judicial challenge on procedural grounds had been superseded by other regulations covering the same subject matter which did not share the procedural infirmities identified in the suit. *Id.* at 88. This matter, by contrast, presents a live dispute over the adequacy of the remedy the lower court ordered, and the scope of a legally adequate rebuilding program. This issue is not

⁹ As noted *supra* at 9-10, the “notice of agency action” announcing Appellee’s approval of Amendment 15A clearly states that the Amendment contained no regulatory measures. *See* 73 Fed. Reg. at 14942. This rulemaking was strictly confined to the subjects NMFS had outlined in its Remedy Proposal and adopted by the lower court as a remedial order. *See id.* (stating that “Amendment 15A updates management reference points” for the stocks in question, and includes other technical elements such as rebuilding strategies and schedules). The Secretary alleges that resort to the administrative record is necessary to judge whether that amendment is “arbitrary and capricious, or otherwise contrary to the Magnuson-Stevens Act.” Appellee’s Br. at 20. While that is not the question in this appeal, this Court is fully capable of finding that Amendment 15A followed the narrow mandate of the lower court’s order by simple reference to the Federal Register notice. *Cf. American Bankers Ass’n v. National Credit Union Admin*, 271 F.3d 262, 266-67 (D.C. Cir. 2001) (challenges to consistency of regulations with statutes can be decided without reference to the administrative record) (citing cases).

mooted by Appellee’s promulgation of Amendment 15A, in response to and in a manner consistent with an infirm district court order.

D. THE COURT BELOW DID DETERMINE THE “METES AND BOUNDS” OF THE REBUILDING REQUIREMENT IN HIS UNLAWFUL ORDER

The context and course of proceedings below are relevant to the issues on appeal. Judge Bates found a violation of the MSA in the Secretary’s failure to develop rebuilding plans for snowy grouper and black sea bass, a determination to which Appellee belatedly acceded. Mem. Op. at 50-51 (JA __). Then, to provide the parties an “opportunity for input,” the court “order[ed] the parties to confer and ... to submit either a joint proposal or separate proposals advocating a particular remedy and explaining why that remedy is appropriate.” *Id.* at 64 (JA __).

After engaging in ultimately fruitless discussions with the Secretary’s designees, NCFA prepared a detailed and reasoned brief carefully explaining the MSA’s requirements and changes to the law that would guide the development of the rebuilding plan prepared to rectify the legal error. To correct the legal shortcomings, NCFA recommended that the court order, in addition to the technical elements of a rebuilding plan, NMFS to consider and adopt management measures to effectuate a fair and equitable allocation of the benefits and burdens of

the rebuilding plan among the sectors of the fishery, in accordance with the rebuilding requirements of the MSA.¹⁰

For his part, the Secretary offered a technical proposal setting forth certain clear and unambiguous elements, based on reference to his designees' "Technical Guidance," that he argued would constitute complete rebuilding plans for the two species, including a timeline for rebuilding, management "reference points" or guideposts to measure progress, and a strategy for rebuilding the stocks. His proposal made no provision, however, for measures designed to fulfill the purposes of MSA section 304(e)(4)(B). Judge Bates considered both proposals, and adopted the Secretary's proposal in its entirety, save for an alteration to the timing of the final amendment.

Specifically, the lower court held:

Defendant's proposal is directly responsive to the Court's instruction "timely to remedy the absence of a rebuilding plan." Moreover, the proposed rebuilding plan is consistent with NMFS's general rebuilding plan criteria as defined in the agency's own "Technical Guidance" specifications. Additionally, the putative rebuilding plan calls for the maximum allowable time to rebuild the stocks in question, which minimizes -- to the extent

¹⁰ NCFA's proposal, also contained two ancillary requirements: that NMFS hold at least one "scoping hearing" to allow the public to recommend management alternatives to be considered and a reversion of the snowy grouper and black sea bass trip limits pending development. This latter provision was designed to provide some temporary relief, while meeting the district court's stated desire to impose relief that would be both "meaningful" and "hold the agency's feet to the fire" so it would act expeditiously. *See* Mem. Op. at 64-65 (JA __) (quoting Prelim. Tr. at 59); *see also* NCFA's Remedy Br. at 15 (JA __).

possible -- the adverse impact on plaintiffs and the rest of the regulated community. In sum, defendant's proposal addresses the chief legal infirmity that this Court identified in its Memorandum Opinion, and it does so promptly and in a manner that is consistent with the agency's own guidelines for developing an adequate rebuilding plan.

Remedy Order at 2-3 (JA __) (citations omitted). This was a substantive adoption of the Secretary's proposal that was made even more explicit in the district court's order: "**ORDERED** that the Court adopts Defendant's *Remedy Proposal*"¹¹ *Id.* at 5 (emphasis added).

In contrast, the Secretary mistakenly argues here that "[t]he district court only directed NMFS to prepare rebuilding plans; it did not and could not predetermine what those plans would have to look like to survive judicial scrutiny." Appellee's Br. at 17 (citing Remedy Order at 2 (JA __)). Save for the concluding clause opining on "judicial scrutiny," however, this is exactly what the lower court did. It substantively adopted, as the "metes and bounds" of a lawful rebuilding plan, those elements precisely specified in the Secretary's remedy proposal.

¹¹ The Secretary's characterization of the remedial order is rather misleading at times. He implies that the court entered the Secretary's "concise" order "that Defendant shall implement rebuilding plans for snowy grouper and black sea bass by [date certain]" Appellee's Br. at 12-13. Appellee is more forthcoming in the next paragraph, where he correctly notes that the district court "adopted NMFS's *proposed remedy*." *Id.* at 13 (emphasis added).

That partial and, Appellants maintain, legally inadequate remedy is exactly the one implemented by the Secretary in reliance on the lower court's order. *See supra* n.9 (describing the elements of Amendment 15A). In brief, the court below accepted the Secretary's recommendations as detailed in his proposal, while denying NCFA's request that the court further order the Secretary also to include management measures required by MSA section 304(e) to "allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery." 16 U.S.C. § 1854(e)(4)(B); *see also* NCFA's Opening Br. at 25-27.

Nor, finally, are Appellants asking for a judicial order that is anymore prescriptive than the remedy order the district court imposed. Judge Bates's remedy order did not presume to suggest how long the rebuilding period should be for each species, nor did it determine the appropriate stock level needed to be achieved in order to consider the fishery to be rebuilt. But the court below *did* order the Secretary to make those determinations. Conversely, NCFA did not ask the court below to order implementation of a state quota allocation system or ban the sale of recreationally caught fish (that is, measures that could potentially ensure fair and equitable distribution of rebuilding burdens). Instead, NCFA asked the court to order NMFS to consider and implement measures that would address any allocative disparities among the sectors arising from the rebuilding plan. The

district court erroneously chose not to enter such an order, even though it was fully empowered to do so.

The lower court's remedy order constitutes only a partial remedy for the violation found because it does not ensure Appellee's implementation of the letter of the law. The development of "management reference points," rebuilding timelines, or technical rebuilding strategies in Amendment 15A (as announced in 73 Fed. Reg. at 14942) are important requirements of MSA section 304(e)(4)(A).¹² They do not, however, address likely inequities between the commercial, recreational, and charterboat sectors of the fishery arising from implementation of

¹² Which reads:

For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) . . . for such fishery shall

(A) specify a time period for ending overfishing and rebuilding the fishery that shall –

(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

16 U.S.C. § 1854(e)(4)(A).

the rebuilding plan. The MSA requires that all these elements be included as part of a rebuilding plan.¹³ Having failed to give effect to these unambiguous terms of the law, the court committed legal error and abused its discretion.

Finally, the lower court’s ostensible finding that “the putative rebuilding plan calls for the maximum allowable time to rebuild the stocks in question, which minimizes – to the extent possible – the adverse impact on plaintiffs and the rest of the regulated community,” Remedy Order at 2-3 (JA ___), appears both inappropriate and irrelevant to the concerns of the MSA provisions requiring fairness and equity in rebuilding plans. *Supra* n. 13. First of all, there was nothing more than the word of the Secretary that the rebuilding timeline in then-proposed Amendment 15 would end up being the “maximum allowable,” *see* Remedy Order at 2-3 (JA ___); *see also* Appellee’s Br. at 11, which is a thin reed on which the lower court based its legal determination. More to the point here, is the fact that even assuming this to be true, an extended rebuilding period does not fulfill the necessary allocative task the Secretary is required to undertake through a

¹³ In addition to MSA section 304(e)(4)(B), section 303(a), which details all the “essential elements” of a lawful fishery management plan, *see* Mem. Op. at 58 (JA ___) (citing *Oceana, Inc. v. Evans*, Civ. A. No. 04-0811, 2005 U.S. Dist. LEXIS 3959, at *143 (D.D.C. March 9, 2005)), also mandates that “to the extent that *rebuilding plans* or other conservation and management measures which reduce the overall harvest in a fishery are necessary, *allocate*, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery *benefits fairly and equitably among the commercial, recreational, and charter fishing sectors* in the fishery” 16 U.S.C. § 1853(a)(14) (emphasis added).

rebuilding plan. While a putatively longer rebuilding timeframe is potentially ameliorative, as it theoretically could allow for higher annual landings than might be allowed if NMFS was trying to rebuild faster, that timeframe affects all relevant sectors – commercial, recreational, and charterboat – equally. Thus, it does not “allocate” the rebuilding restrictions and benefits “among sectors of the fishery” as Sections 1854(e)(4)(B) and 1853(a)(14) require. Without the conscious allocation the law requires, inequities could, and most likely will, persist.

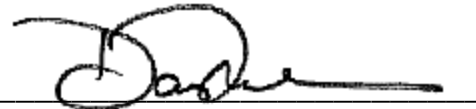
In a nutshell, as NCFA detailed at length in its opening brief, the law is clear: in instances where a fishery is declared overfished, the Secretary has a nondiscretionary duty to develop a rebuilding plan that contains all MSA-required elements. *See* NCFA’s Br. at 25-29. As the Secretary has conceded, he failed to develop rebuilding plans for snowy grouper and black sea bass. Appellee Br. at 10. Because he failed to develop such a plan, the Secretary could not have crafted any management measures to allocate the benefits and burdens of such a rebuilding program fairly and equitably, as required by 16 U.S.C. § 1854(e)(4)(B). Moreover, the lower court’s order did not require that this provision be addressed, nor did the Secretary choose to address it *sua sponte* in his rulemaking on remand. Thus, even under the abuse of discretion standard, the court below abused its discretion by rectifying the legal wrong it identified by ordering a remedy that is less extensive than what the law absolutely requires. This constitutes reversible error.

III. CONCLUSION

For the reasons stated above, the current action is not moot. Further, as explained above and in much greater detail in NCFA's opening brief, Appellants are entitled to judgment in this case. NCFA, therefore, respectfully requests that this Court vacate the lower court's order with instructions to ensure the Secretary to develops a legally-sufficient rebuilding plan for snowy grouper and black sea bass.

Dated: September 12, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Frulla", is written over a horizontal line.

David E. Frulla
Shaun M. Gehan
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CERTIFICATE OF COMPLIANCE

This Page Proof Reply Brief of Appellants has been prepared using:

Microsoft Word;

Times New Roman;

14 Point type Space.

EXCLUSIVE of the Table of Contents, Table of Authorities, the Certificate of Filing and Service and this Certificate of Compliance, this Brief contains 4,841 words.

I understand that a material misrepresentation can result in the Court's striking the brief and imposing sanctions. If the Court so directs, I will provide an electronic version of the Brief and/or a copy of the word or line printout.

A handwritten signature in black ink, appearing to read "David E. Frulla", written over a horizontal line.

David E. Frulla

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on September 12, 2008, I filed with the Clerk's Office of the United States Court of Appeals for the District of Columbia Circuit, via hand-delivery, the required copies of the foregoing Page Proof Reply Brief of Appellants, and further certify that I served via United States Mail, postage pre-paid, the required copies of the same to the following:

Sambhav Nott Sankar
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Counsel for Appellee

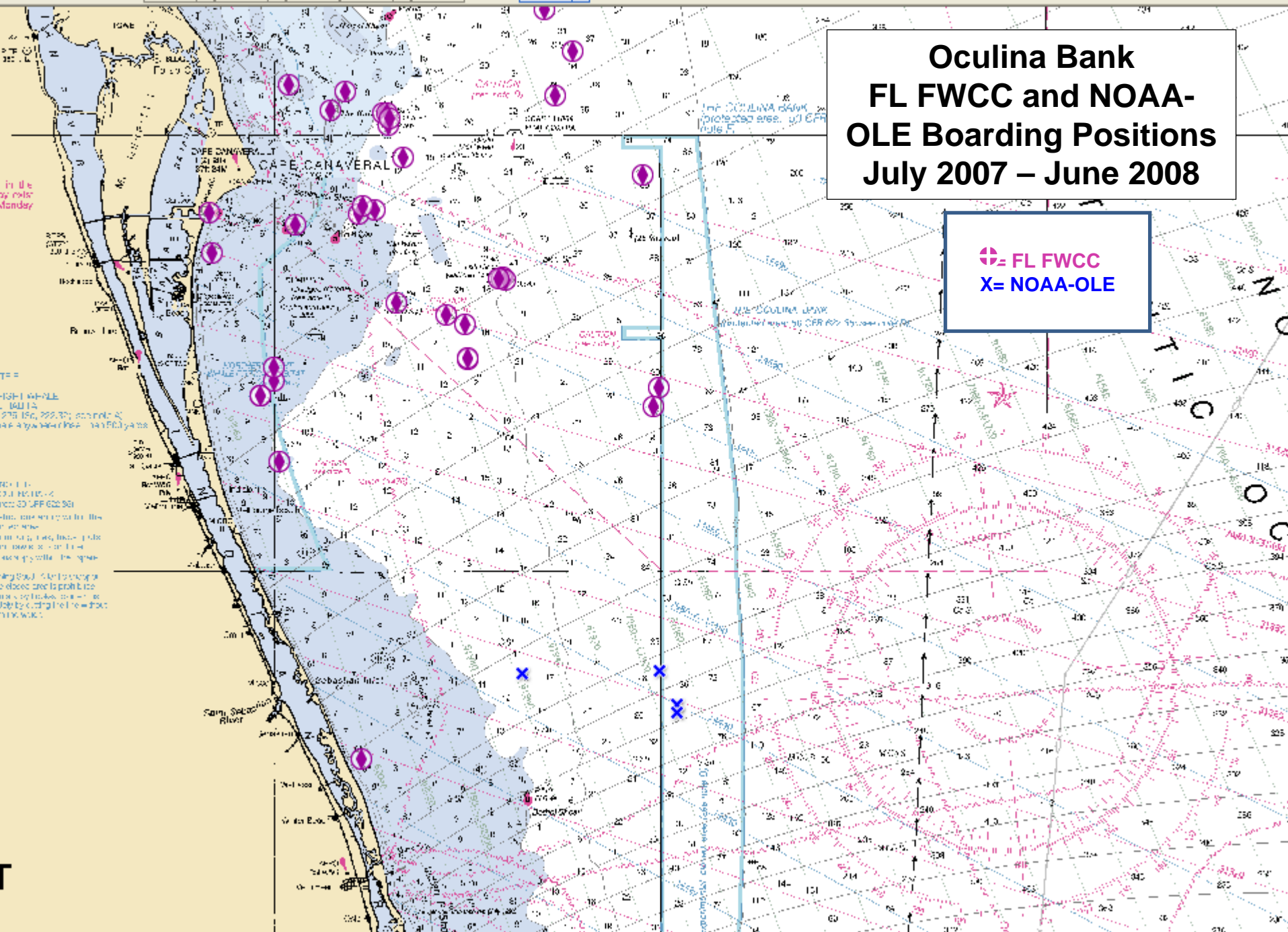
The necessary filing and service upon counsel were performed in accordance with the instructions given me by counsel in this case.

The LEX Group
1750 K Street, N.W.
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Washington, D.C. 20006
(202) 955-0001



Oculina Bank FL FWCC and NOAA-OLE Boarding Positions July 2007 – June 2008

 = FL FWCC
 = NOAA-OLE





PLL Closed Area Research

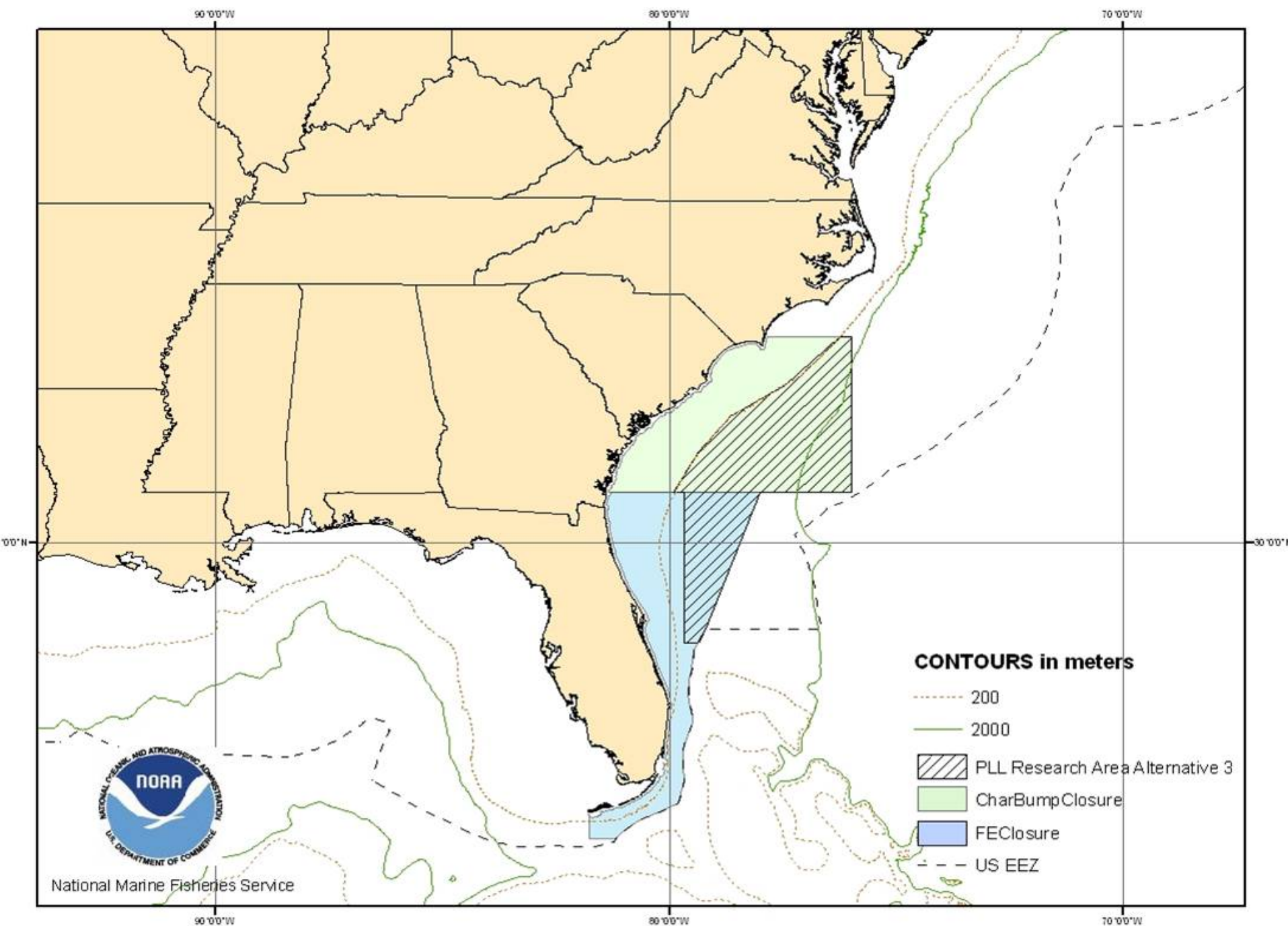
Notice of Availability of Final EA published on Jan 3, 2008 (73 FR 450)

Goals of research:

- 1) Collect baseline data in closed areas under current fishery conditions; 2) Evaluate existing bycatch reduction measures, and 3) Collect data to examine the effectiveness of existing area closures to meet current conservation and harvesting goals

Conditions:

- Max of 3 boats (only 2 fishing at one time), 289 sets (145 in closed areas) w/500 18/0 non-offset circle hooks, 100% observer coverage





PLL Closed Area Research: Results thru July 2008

- 9 trips completed (2 vessels) from February – July 2008
- 40 sets with 18/0 non-offset circle hooks
- Highest SWO CPUE in Charleston Bump
- No bluefin tuna
- Closed Area:
 - SWO: 173 kept, 57 released alive, 65 dd
 - 1 white marlin, 1 blue marlin, & 4 sailfish (3 sailfish dd)
- Open Area:
 - SWO: 112 kept, 12 released alive, 20 dd
 - 7 white marlin (3 dd), 17 sailfish (5 dd), 16 blue marlin (3 dd), & 6 white marlin/roundscale spearfish (1 dd)
- 3 turtles: 1 loggerhead in open area, 2 leatherback in closed areas, all released alive with no trailing gear

Southeast Regional Office
 263 13th Avenue South
 St. Petersburg, Florida 33701-5505
 (727) 824-5305; FAX (727) 824-5308
<http://sero.nmfs.noaa.gov>

F/SER2:CB

MEMORANDUM FOR: Robert Mahood, Executive Director
 South Atlantic Fishery Management Council

FROM: Roy E. Crabtree, Ph.D.
 Regional Administrator

SUBJECT: Preliminary 2007-2008 Commercial Landings

The Southeast Fisheries Science Center has provided the following **preliminary landings estimates** for species in the South Atlantic Fishery Management Council's area of jurisdiction subject to quota management through August 31, 2008.

Species	Fishing Year	Current Landings (lb)	Quota (lb)	Quota (%)
Atlantic Group king mackerel	03/01/08 - 02/28/09	717,119 ^a	3,710,000	19.30
Atlantic Group Spanish mackerel	03/01/08 - 02/28/09	444,260 ^a	3,870,000	12.30 ^b
Gulf king mackerel - Eastern Zone-East Coast subzone	11/01/08 - 03/31/09	0 ^c	1,040,625	0 ^c
Snowy grouper	01/01/08 - 12/31/08	35,033	84,000	41.70
Golden tilefish	01/01/08 - 12/31/08	301,129 ^d	295,000	101.80
Greater amberjack	05/01/08 - 04/30/09	202,956	1,169,931	17.34
Black sea bass	06/01/08 - 05/31/09	26,697	309,000	8.63
Vermilion snapper	01/01/08 - 12/31/08	506,277	1,100,000	46.02
Red porgy	01/01/08 - 12/31/08	58,144	127,000	45.78
Wreckfish	04/16/07 - 04/15/08	^e	2,000,000	^e
Dolphin	01/01/08 - 12/31/08	598,604	1,500,000 ^f	39.91
Octocoral	01/01/07 - 12/31/07	43,694 ^g	50,000	87.39

- Atlantic king and Spanish mackerel data includes preliminary landings through August 14, 2008.
- Atlantic Spanish mackerel Quota (%) is based on the adjusted quota of 3,620,000.
- Gulf king mackerel – East Coast subzone closed on February 21, 2008. Reported landings for 11/01/07 – 03/31/08 were 1,028,925 lbs and 98.90% of the quota was met.
- Golden tilefish closed on August 17, 2008.
- Confidential landings
- The Dolphin Wahoo Fishery Management Plan established a 1.5 million pound cap for the dolphin commercial fishery. Data includes preliminary landings during January 1, 2008, through August 31, 2008.
- Octocoral landings are reported twice a year with final landings reported by May of the next year; therefore, these are the total landings in federal waters for 2007.



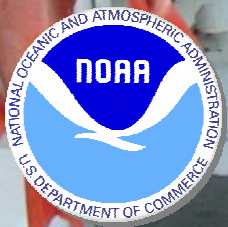
**National Marine Fisheries Service
Southeast Fisheries Science Center**

SAFMC UPDATE

September 19, 2008

**Charleston Marriott Hotel
Charleston, SC**

**Drs. Tom Jamir, Steve Turner, Ken Brennan,
Vivian Matter and Jennifer Potts**



Southeast Region Headboat Survey

- **Headboat logbook reporting compliance has shown a marked improvement since the certified reminder letter was sent out in March 2008. Port Agents have seen better reporting and cooperation by captains throughout the Atlantic and Gulf of Mexico.**
- **The Headboat Survey Coordinator visited the Northeast Florida headboat captains, owners and staff in July to address concerns about personnel and other headboat related issues.**
- **A Headboat Survey representative will participate in the Catchability Workshop in Atlanta in November.**

Status of Data Collection Program

- For vermilion snapper, king & Spanish mackerel, all aging studies were completed and provided to SEDAR 16 and 17 Data Workshop.
- SEFSC Beaufort Lab is now processing red grouper samples (n=5,300 to date) for SEDAR 19 that is scheduled to begin in May 2008.
- Preliminary age workshop with SCDNR on red grouper was conducted and both groups felt they are consistent in aging this species.
- Started processing snowy grouper and tilefish samples for the update assessments scheduled in 2010.
- Gag samples are not yet being processed at this time.

Recreational Fishery Landings Update:

➤ **Seven species listed in past updates:**

1. **Snowy Grouper**
2. **Golden Tilefish**
3. **Vermilion Snapper**
4. **Black Sea Bass**
5. **Greater Amberjack**
6. **Dolphin**
7. **Red Porgy**

➤ **Seven new species added in latest request:**

8. **Gag Grouper**
9. **King Mackerel**
10. **Spanish Mackerel**
11. **Wahoo**
12. **Mutton Snapper**
13. **Yellowtail Snapper**
14. **Red Snapper**

Recreational Fishery Landings Update:

- **MRFSS Charterboat Estimates:**
 - **New charterboat method estimates used for this data request.**
 - **For East Florida, the For-Hire survey or new cbt method was implemented in 2003. Prior to that the traditional or old cbt method numbers were used.**
 - **For the rest of the South Atlantic states, the For-Hire survey or new cbt method was implemented in 2005, wave 2. Prior to that the traditional or old cbt method numbers were recalibrated using calibration factors from Sminkey (prior to and including 2004).**
 - **For the mid and North Atlantic states, the traditional or old cbt method estimates were used. There are currently no calibration factors available for this region.**

- **SEDAR 16 and DW-15 Estimated conversion factors for calibrating MRFSS charterboat landings and effort estimates from the Southeastern U.S. (NC to FL-east coast) in 1981-2003.**

Recreational Fishery Landings Update:

➤ **Weight Estimates:**

- **Weight estimates shown are from the original surveys.**
- **In MRFSS there are instances where there is an estimate of catch in numbers but not weight due to missing weight information.**
- **In rarely caught species such as snowy grouper and tilefish, this could lead to weight estimates that are biased towards the low end (see below).**

➤ **Percent of Catch with Missing Weights:**

- **For the last several years, wahoo weight estimates were shown to be 2– 6% low.**
- **Red Porgy in 2000 and Gag Grouper in 1998 also show some high percents indicating bias towards low weight estimates.**
- **Snowy Grouper and Tilefish were deselected from final table due to high percent of catch with missing weights. The weight estimates for these species is not supported by SEFSC.**

Recreational Landings of Snowy Grouper from North Carolina through Florida (pounds)

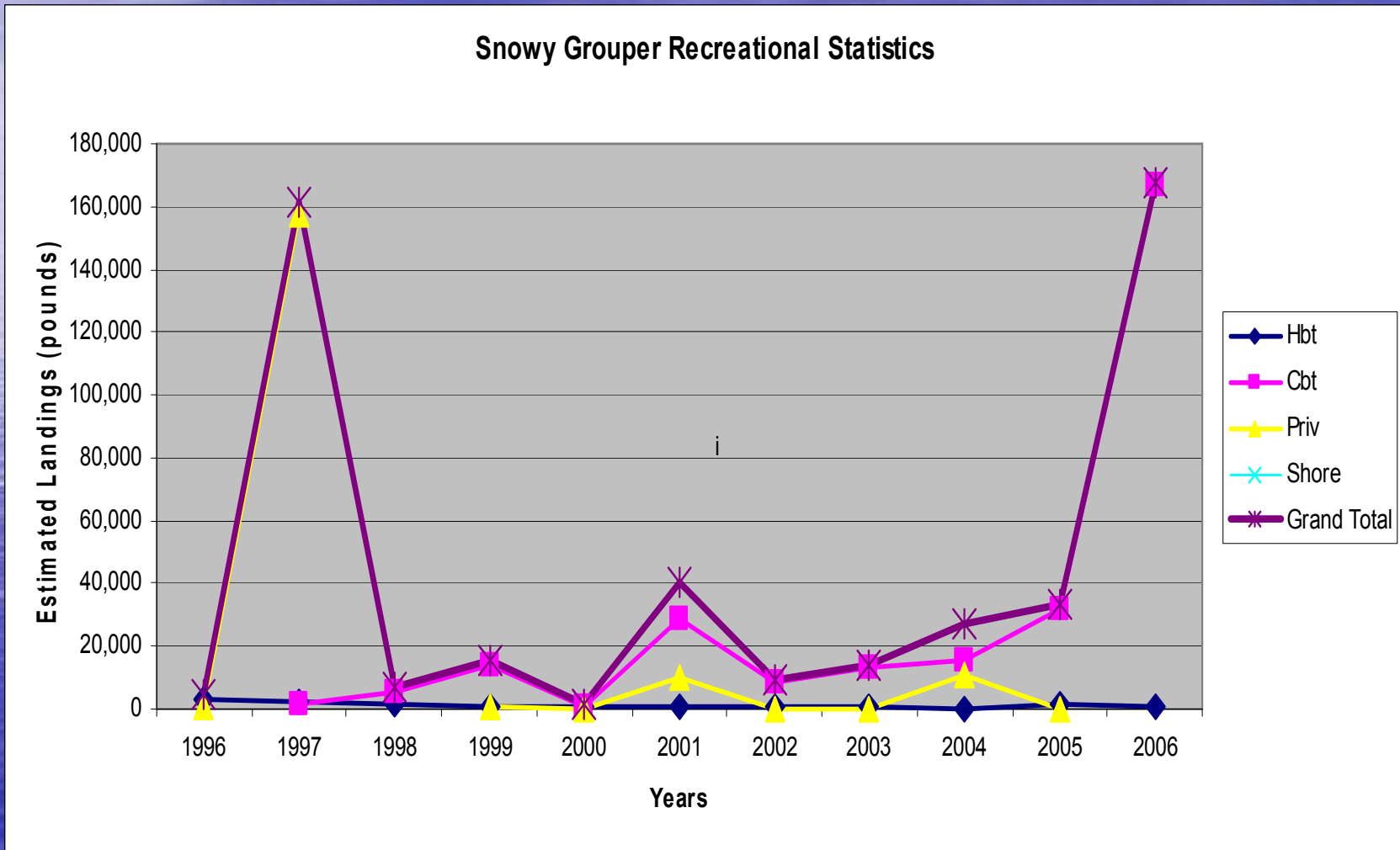
(Headboat Landings Exclude Florida Keys)

YEAR	HEADBOAT	CHARTERBOAT	PRIVATE BOAT	Commercial QUOTA	Recreational QUOTA	GRAND TOTAL
1996	3,422		1,005	344,508	None	4,427
1997	2,201	1,470	157,748	344,508	None	161,419
1998	1,275	5,814		344,508	None	7,089
1999	515	14,307	672	344,508	None	15,494
2000	513	964	0	344,508	None	1,477
2001	922	28,971	10,277	344,508	None	40,170
2002	535	8,511	0	344,508	None	9,046
2003	467	13,416	0	344,508	None	13,883
2004	325	15,670	10,857	344,508	None	26,851
2005	1,412	31,657	0	344,508	None	33,069
2006	641	166,901		151,000	None	167,542

2007 118,000 lbs gutted weight commercial quota

2008 84,000 lbs gutted weight commercial quota

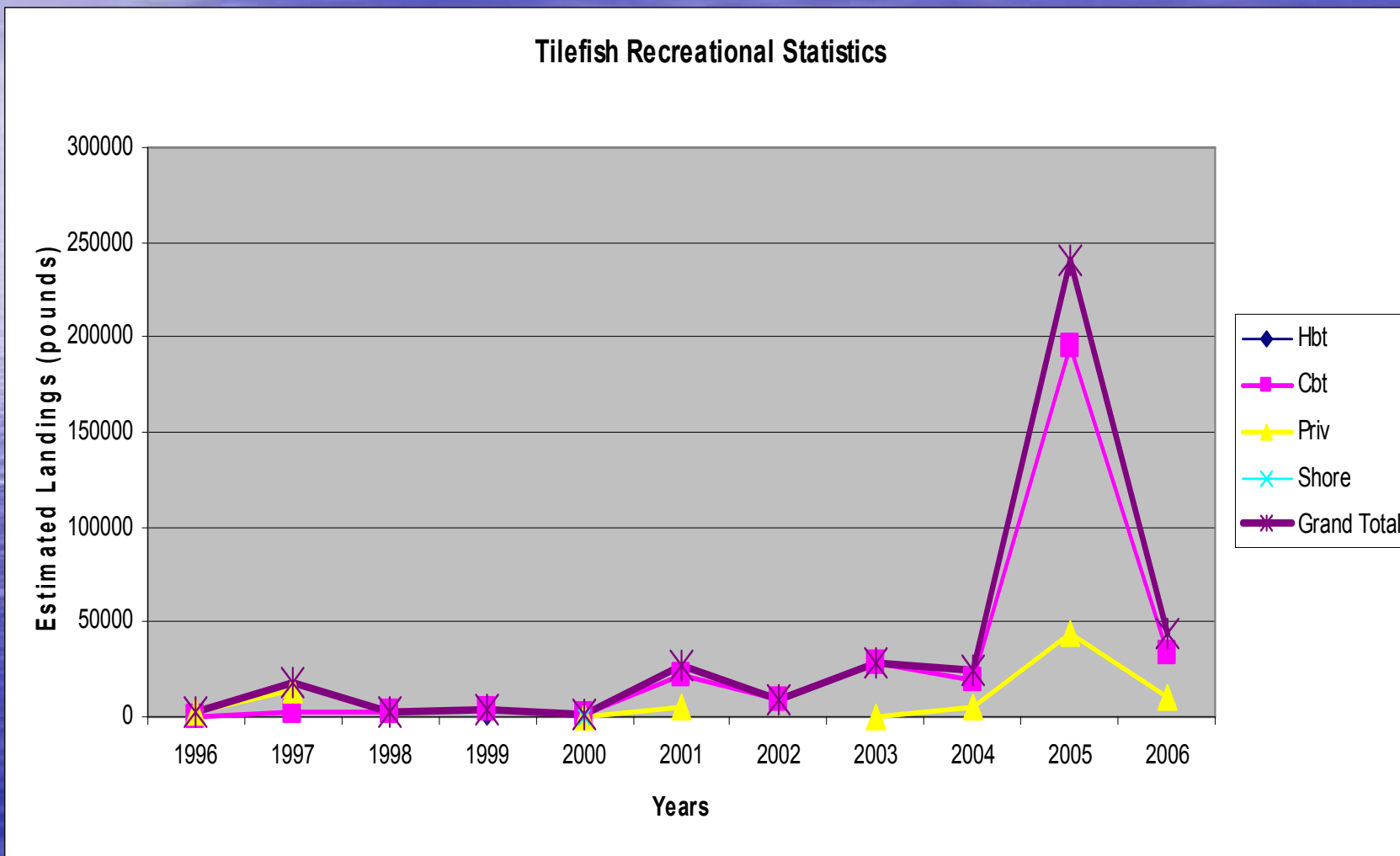
Snowy Grouper Recreational Statistics:



Recreational Landings of Tilefish from North Carolina through Florida (pounds) (Headboat Landings Exclude Florida Keys)

YEAR	HEADBOAT	CHARTERBOAT	PRIVATE BOAT	Commercial QUOTA	Recreational QOTA	GRAND TOTAL
1996		0	3,065	1,001,663	None	3,065
1997	968	1,976	14,726	1,001,663	None	17,670
1998		2,255		1,001,663	None	2,255
1999	3	4,409		1,001,663	None	4,413
2000		1,803	0	1,001,663	None	1,803
2001		21,529	5,271	1,001,663	None	26,800
2002		9,246		1,001,663	None	9,246
2003		28,029	0	1,001,663	None	28,029
2004		19,464	5,544	1,001,663	None	25,008
2005		195,807	44,433	1,001,663	None	240,240
2006		33,908	10,152	295,000	None	44,061

Tilefish Recreational Statistics:



Recreational Fishery Landings Update:

➤ **Two species dropped from list:**

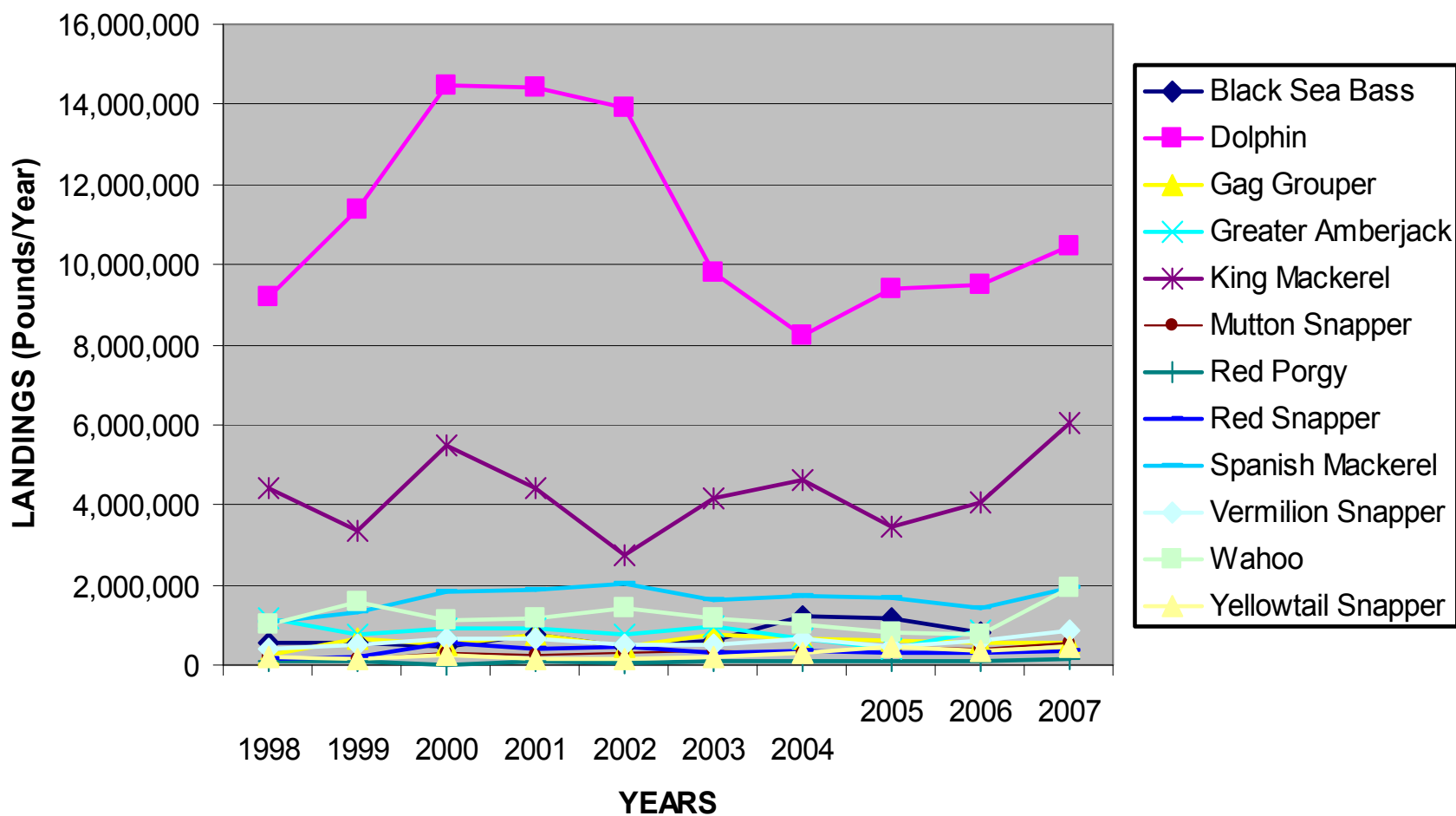
1. **Snowy Grouper**
2. **Golden Tilefish**

➤ **List of Species included in the list:**

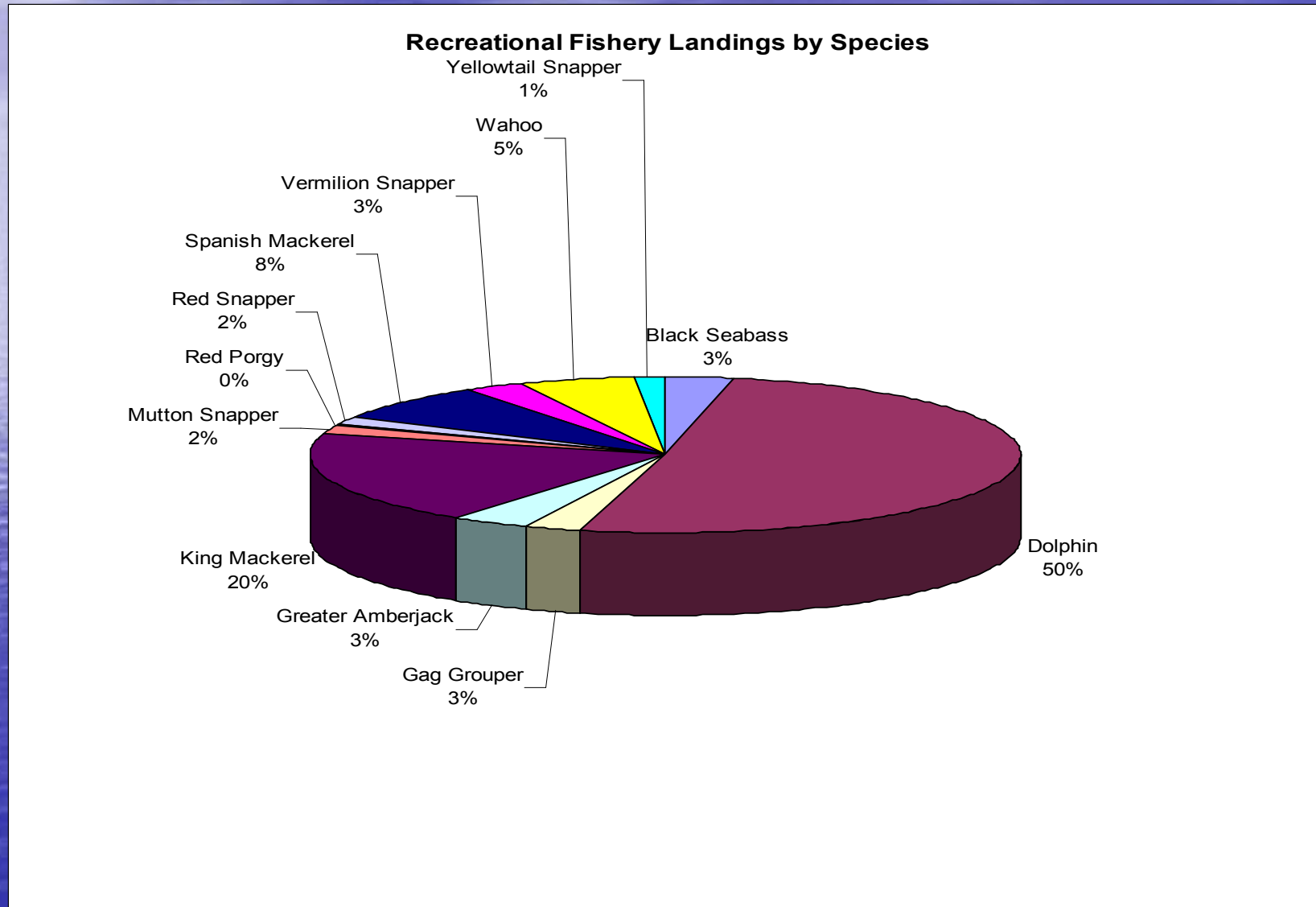
1. **Vermilion Snapper**
2. **Black Sea Bass**
3. **Greater Amberjack**
4. **Dolphin**
5. **Red Porgy**
6. **Gag Grouper**
7. **King Mackerel**
8. **Spanish Mackerel**
9. **Wahoo**
10. **Mutton Snapper**
11. **Yellowtail Snapper**
12. **Red Snapper**

South Atlantic Recreational Fishery Landings by Species (pounds)

TOTAL SOUTH ATLANTIC RECREATIONAL FISHERY LANDINGS X SPECIES



South Atlantic Recreational Fishery Landings Contribution by Species, 1998-2007 (lb)



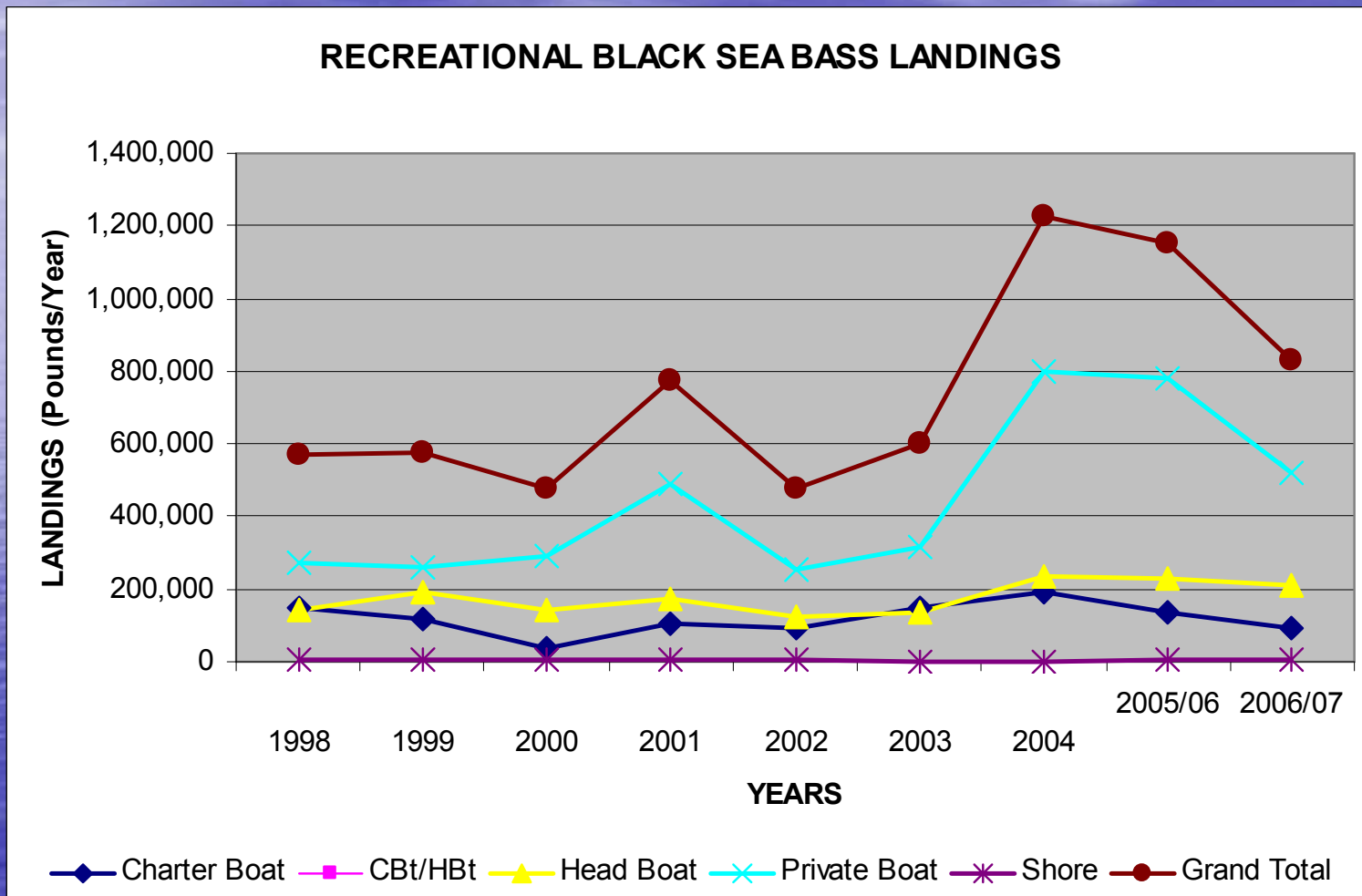
South Atlantic Recreational Fishery Landings by Species (pounds)

YEAR	Black Sea Bass	Dolphin	Gag Grouper	Greater Amberjack	King Mackerel	Mutton Snapper
1998	569,328	9,189,695	270,945	1,180,883	4,405,934	205,116
1999	575,530	11,363,710	663,912	765,477	3,358,997	146,527
2000	475,974	14,480,440	487,550	905,846	5,473,655	301,745
2001	772,276	14,420,214	760,372	909,075	4,404,439	262,203
2002	477,727	13,925,801	435,683	752,739	2,761,075	329,771
2003	603,195	9,786,766	769,583	976,920	4,165,962	337,483
2004	1,227,823	8,215,735	661,697	677,509	4,639,332	312,873
2005	1,150,446	9,411,630	597,972	415,741	3,440,278	441,281
2006	828,863	9,496,656	536,168	859,125	4,056,537	416,768
2007		10,451,099	580,745		6,035,722	572,621

South Atlantic Recreational Fishery Landings by Species (pounds)

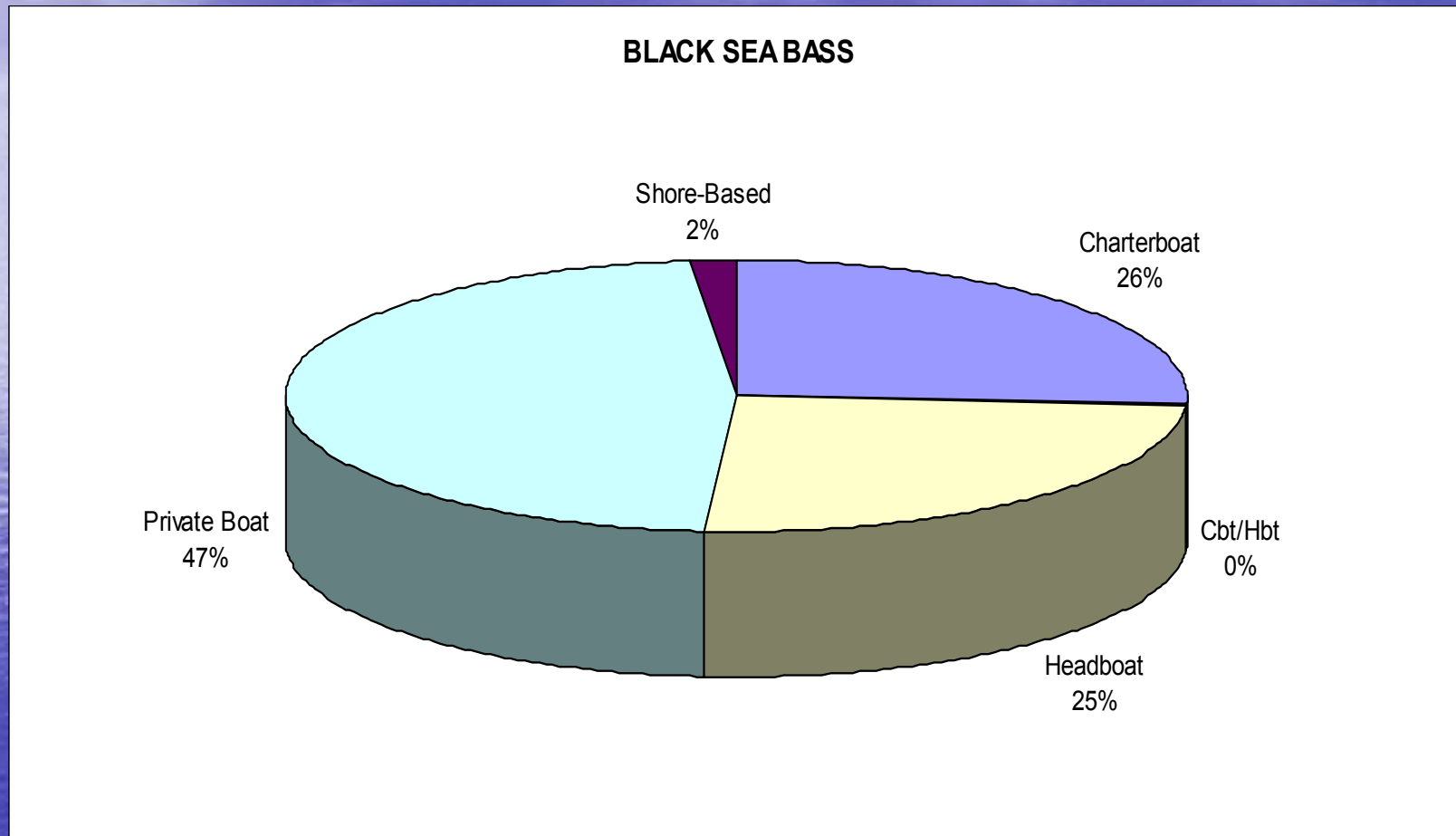
YEAR	Red Porgy	Red Snapper	Spanish Mackerel	Vermilion Snapper	Wahoo	Yellowtail Snapper
1998	85,057	168,404	1,070,938	412,159	1,010,831	225,769
1999	112,869	216,408	1,302,249	486,867	1,563,893	161,864
2000	20,937	533,904	1,848,286	679,330	1,128,106	257,232
2001	77,676	411,203	1,877,575	666,647	1,160,247	174,909
2002	75,091	453,695	2,035,740	516,426	1,405,601	165,026
2003	83,671	329,555	1,601,731	525,461	1,192,261	187,955
2004	121,539	378,793	1,750,770	672,239	1,026,534	327,533
2005	79,198	314,953	1,681,915	457,998	815,844	456,060
2006	96,913	280,797	1,404,959	616,273	753,750	373,364
2007	175,512	338,361	1,912,261	843,775	1,924,345	454,269

Black Sea Bass Recreational Statistics:



- June 1, 2006 – May 31, 2007 * Commercial 477,000 lbs gutted weight ** Recreational 633,000 lbs gutted weight
- June 1, 2007 – May 31, 2007 * Commercial 423,000 lbs gutted weight ** Recreational 560,000 lbs gutted weight
- June 1, 2008 – May 31, 2009 * Commercial 409,000 lbs gutted weight ** Recreational 409,000 lbs gutted weight

Black Sea Bass Recreational Statistics:

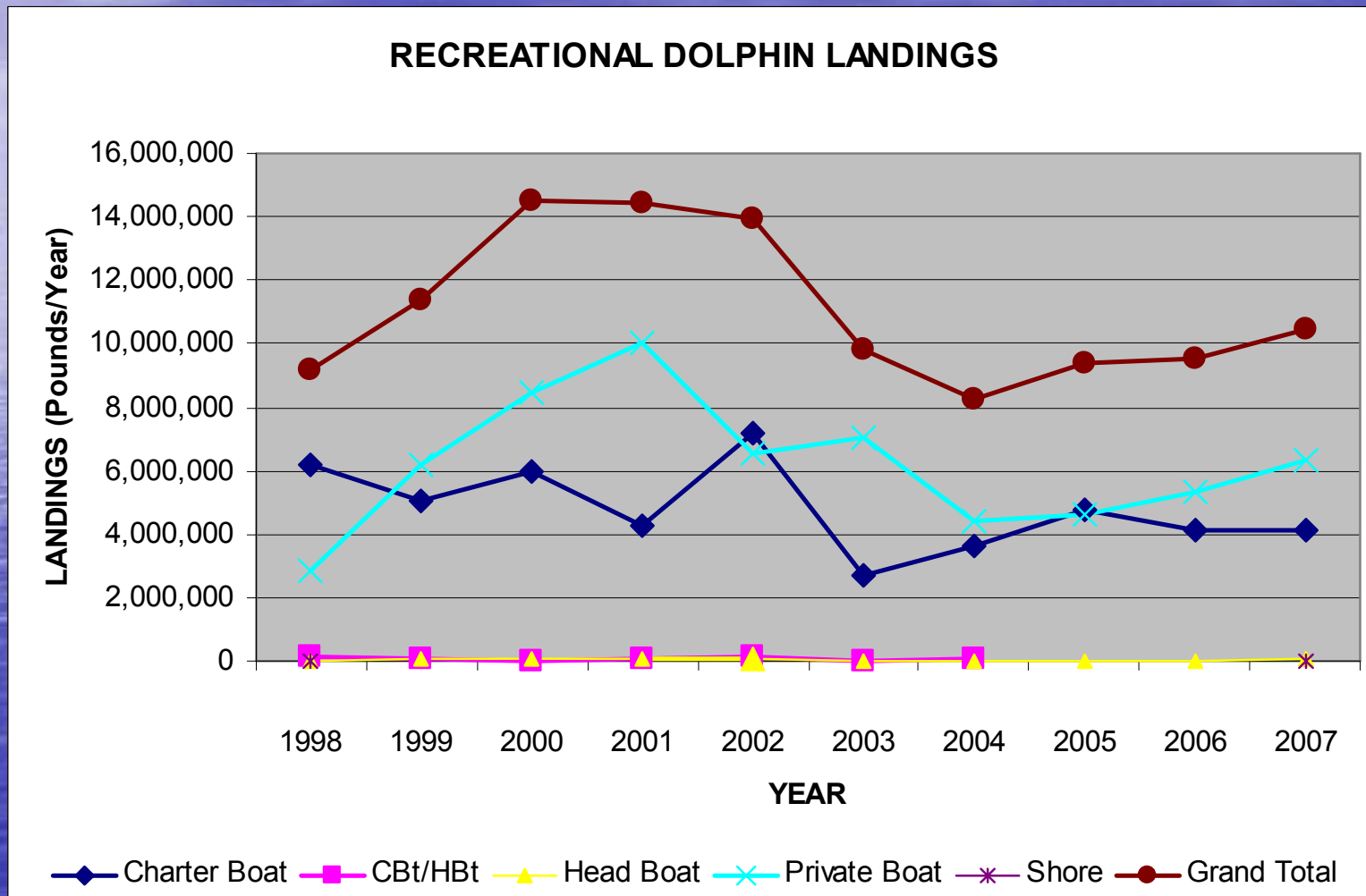


Recreational Landings of Black Sea Bass

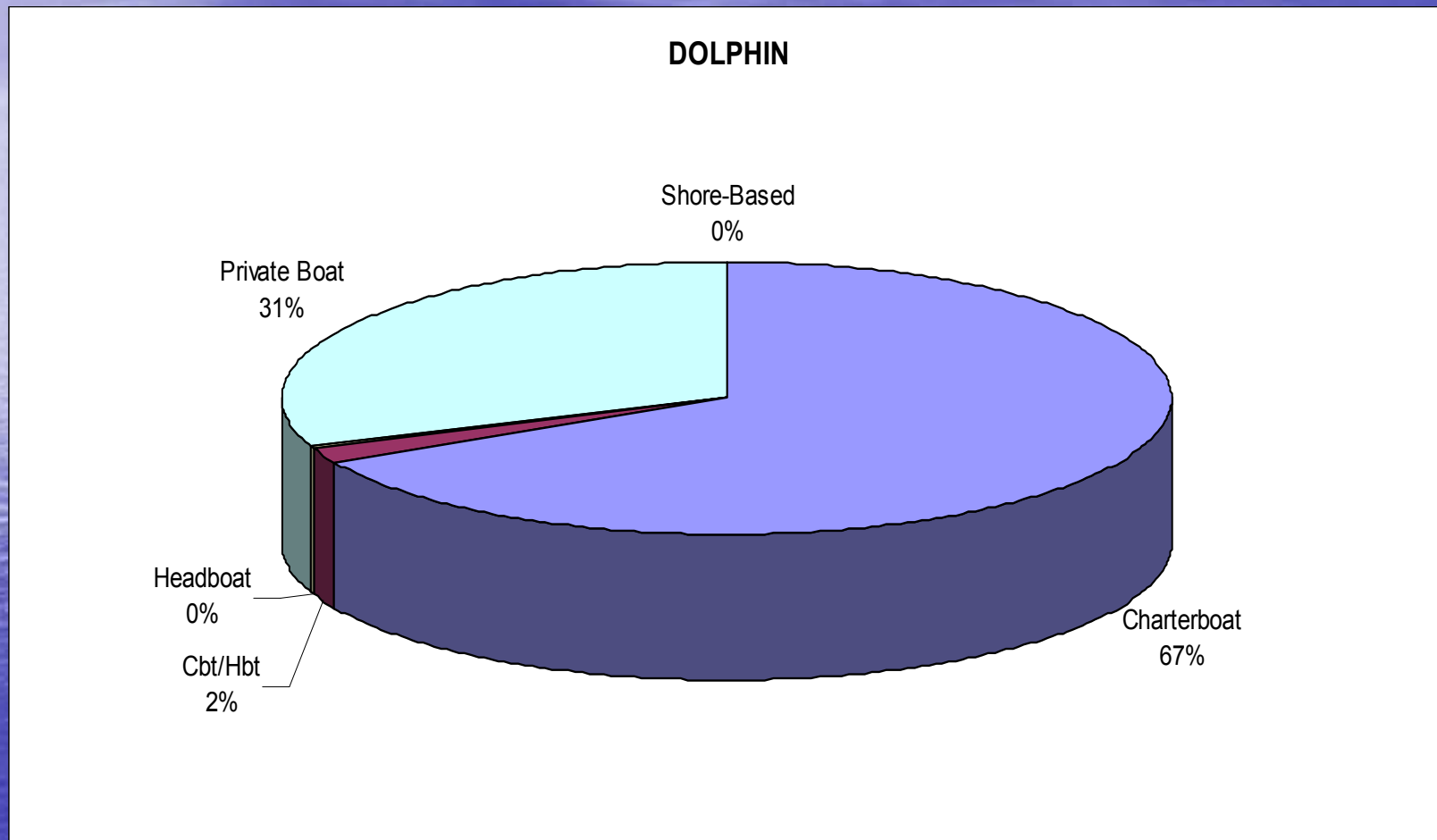
YEAR	Charteboat	Headboat	Private	Shore-Based	Grand Total
1998	148,276	142,503	269,518	9,031	569,328
1999	120,503	192,567	258,840	3,621	575,530
2000	35,748	144,588	289,645	5,993	475,974
2001	102,647	172,023	488,411	9,194	772,276
2002	94,993	123,274	254,771	4,689	477,727
2003	148,771	134,110	317,429	2,886	603,195
2004	189,118	237,584	798,302	2,819	1,227,823
2005/06	136,468	229,898	780,853	3,228	1,150,446
2006/07	94,283	208,303	522,667	3,610	828,863

- June 1, 2006 – May 31, 2007 * Commercial 477,000 lbs gutted weight ** Recreational 633,000 lbs gutted weight
- June 1, 2007 – May 31, 2007 * Commercial 423,000 lbs gutted weight ** Recreational 560,000 lbs gutted weight
- June 1, 2008 – May 31, 2009 * Commercial 409,000 lbs gutted weight ** Recreational 409,000 lbs gutted weight

Dolphin Recreational Statistics:



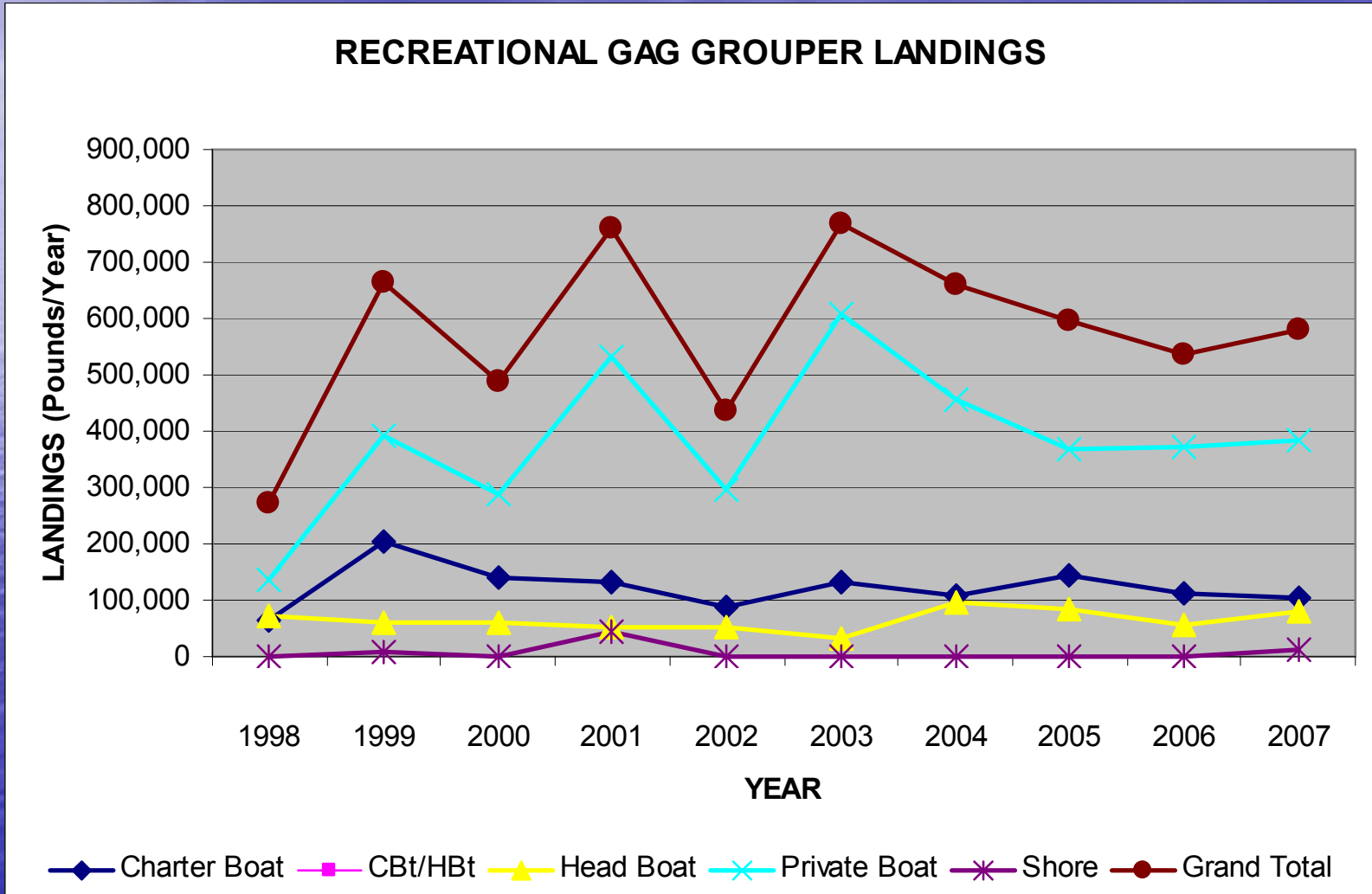
Dolphin Recreational Statistics:



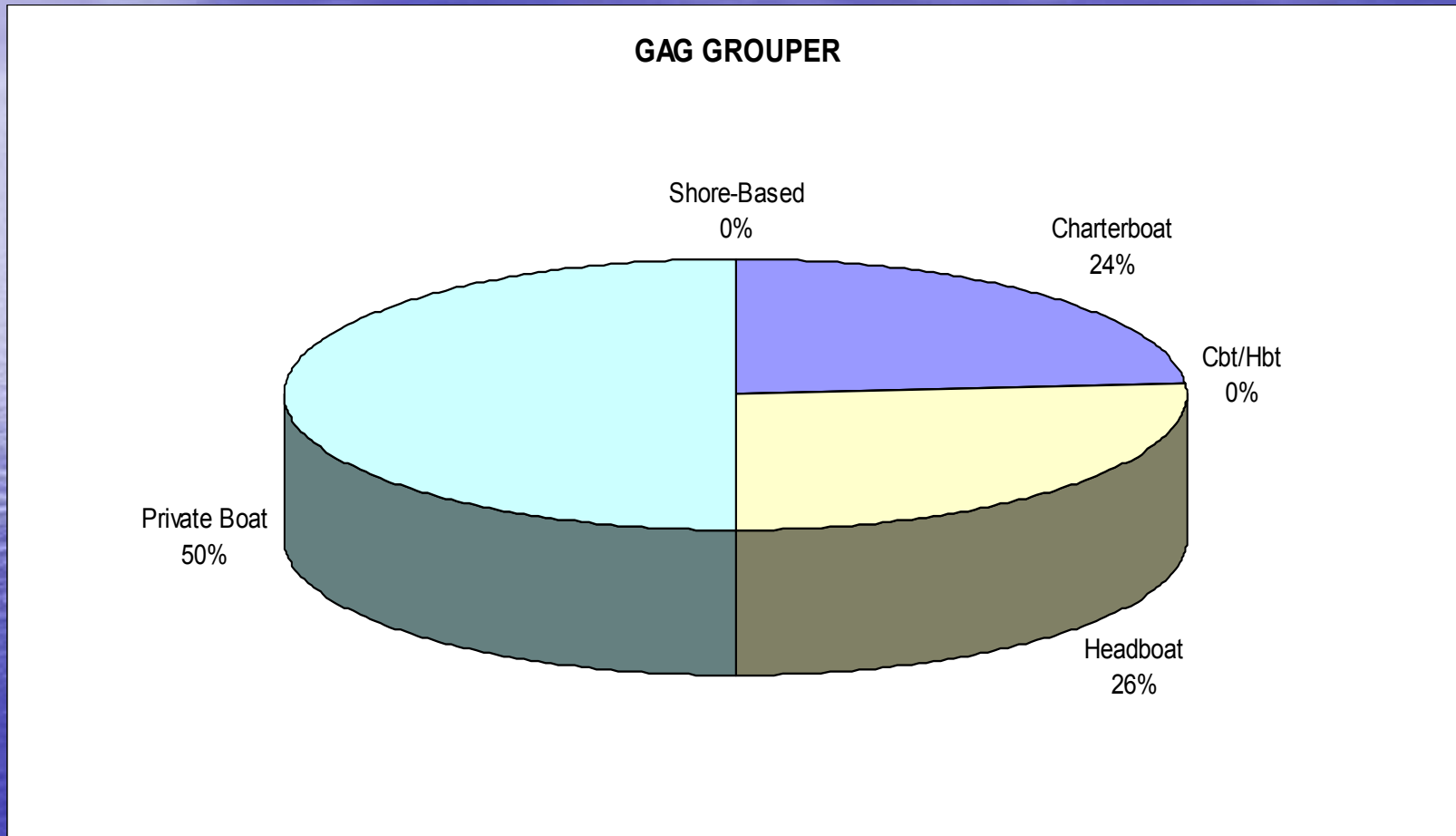
Recreational Landings of Dolphin

YEAR	Charterboat	CBt/HBt	Headboat	Private Boat	Grand Total
1998	6,172,090	151,144	21,315	2,845,147	9,189,695
1999	5,077,849	78,632	49,796	6,157,434	11,363,710
2000	5,947,388	413	69,888	8,462,750	14,480,440
2001	4,292,495	51,054	72,524	10,004,140	14,420,214
2002	7,174,881	144,161	39,236	6,567,523	13,925,801
2003	2,706,630	13,615	16,546	7,049,974	9,786,766
2004	3,661,684	84,517	26,966	4,442,568	8,215,735
2005	4,774,368		23,661	4,613,602	9,411,630
2006	4,137,505		25,903	5,333,248	9,496,656
2007	4,089,276		47,122	6,314,701	10,451,099

Gag Grouper Recreational Statistics:



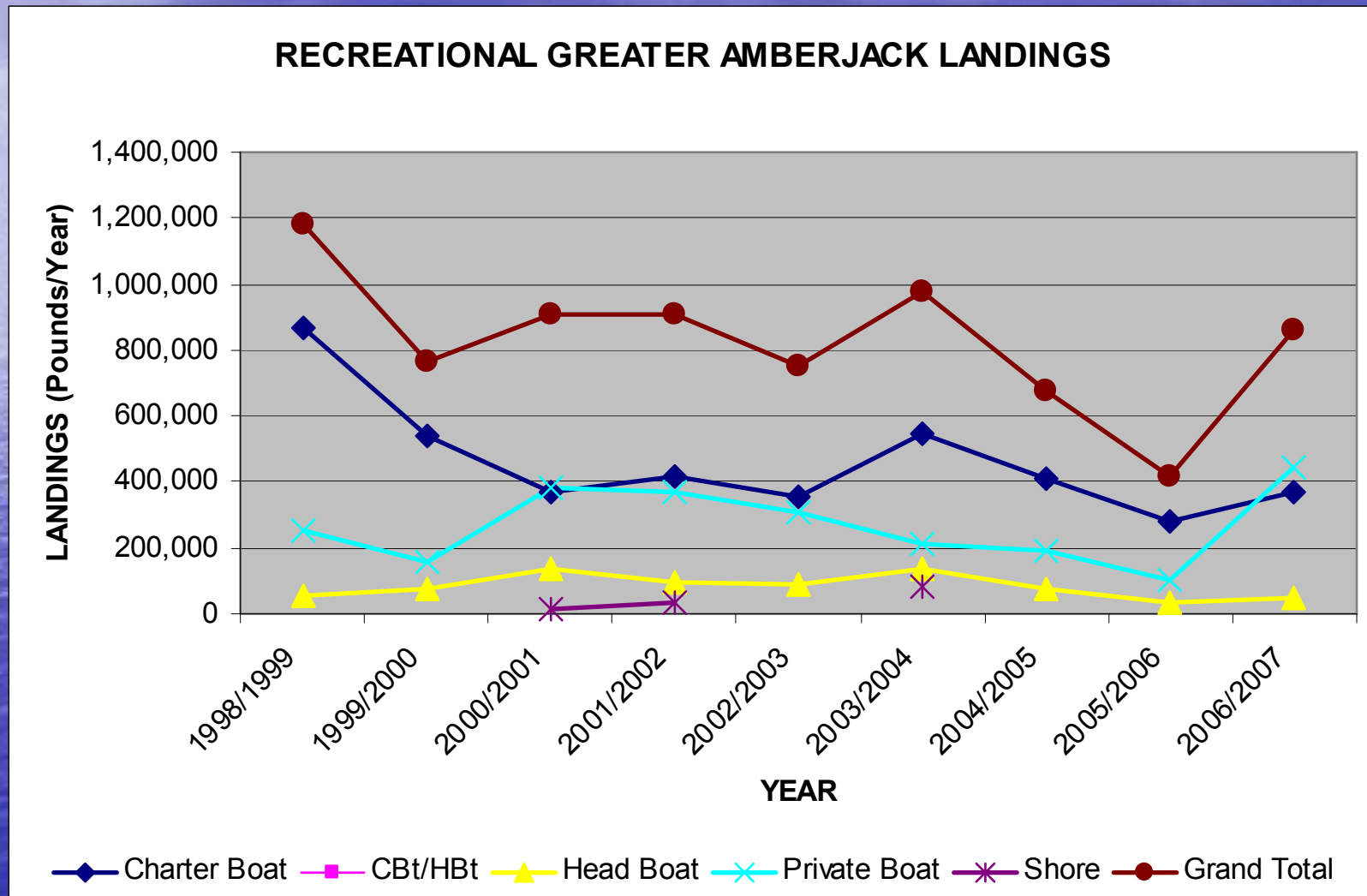
Gag Grouper Recreational Statistics:



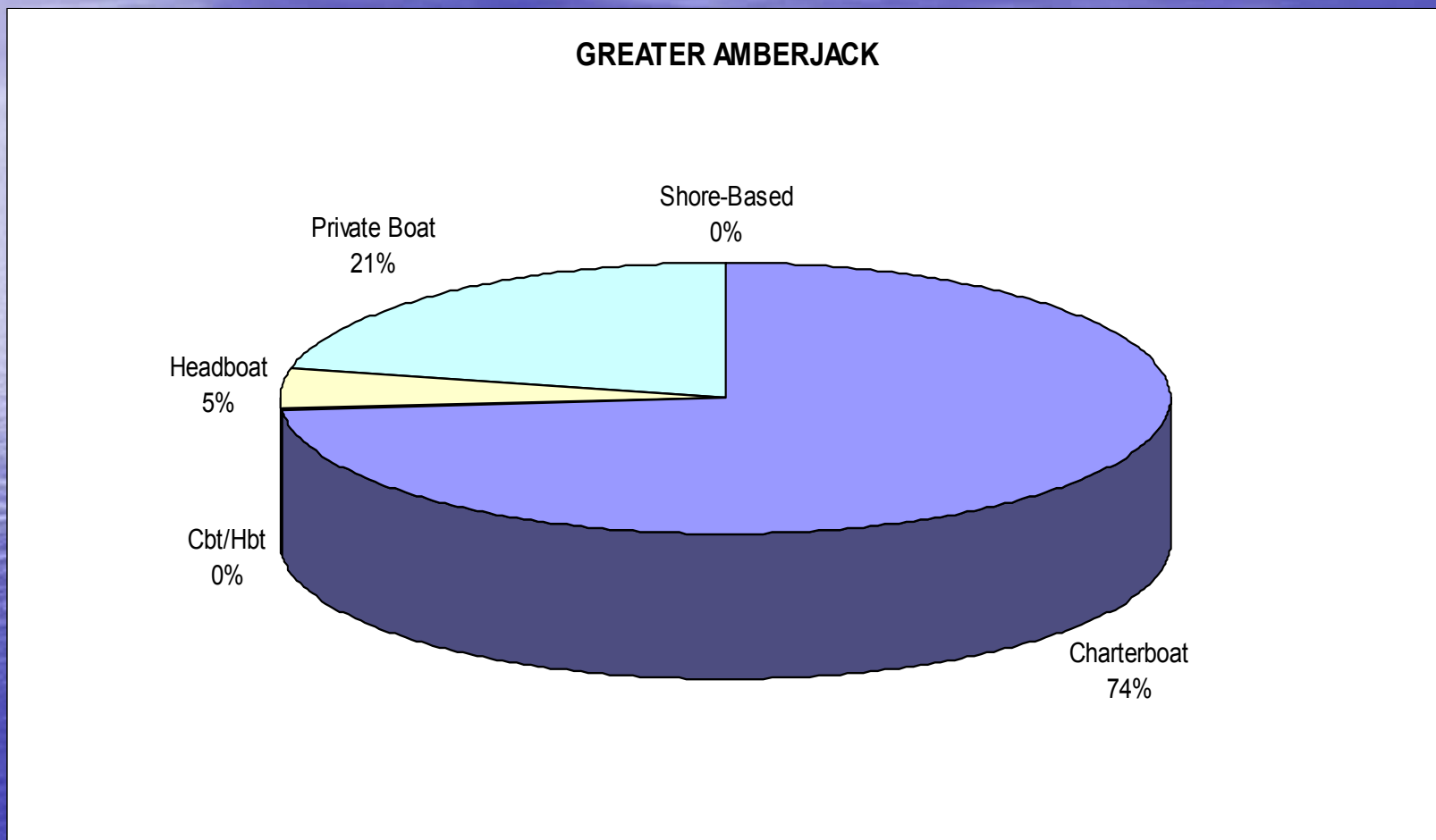
Recreational Landings of Gag Grouper

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998	64,323	70,876	135,746	0	270,945
1999	205,739	58,345	390,745	9,083	663,912
2000	138,624	60,908	288,017	0	487,550
2001	133,586	52,772	530,536	43,479	760,372
2002	87,142	50,558	297,984	0	435,683
2003	130,349	32,492	606,743	0	769,583
2004	109,850	97,323	454,524	0	661,697
2005	143,448	84,650	369,874	0	597,972
2006	110,863	54,914	370,391	0	536,168
2007	105,946	78,803	382,148	13,848	580,745

Greater Amberjack Recreational Statistics:



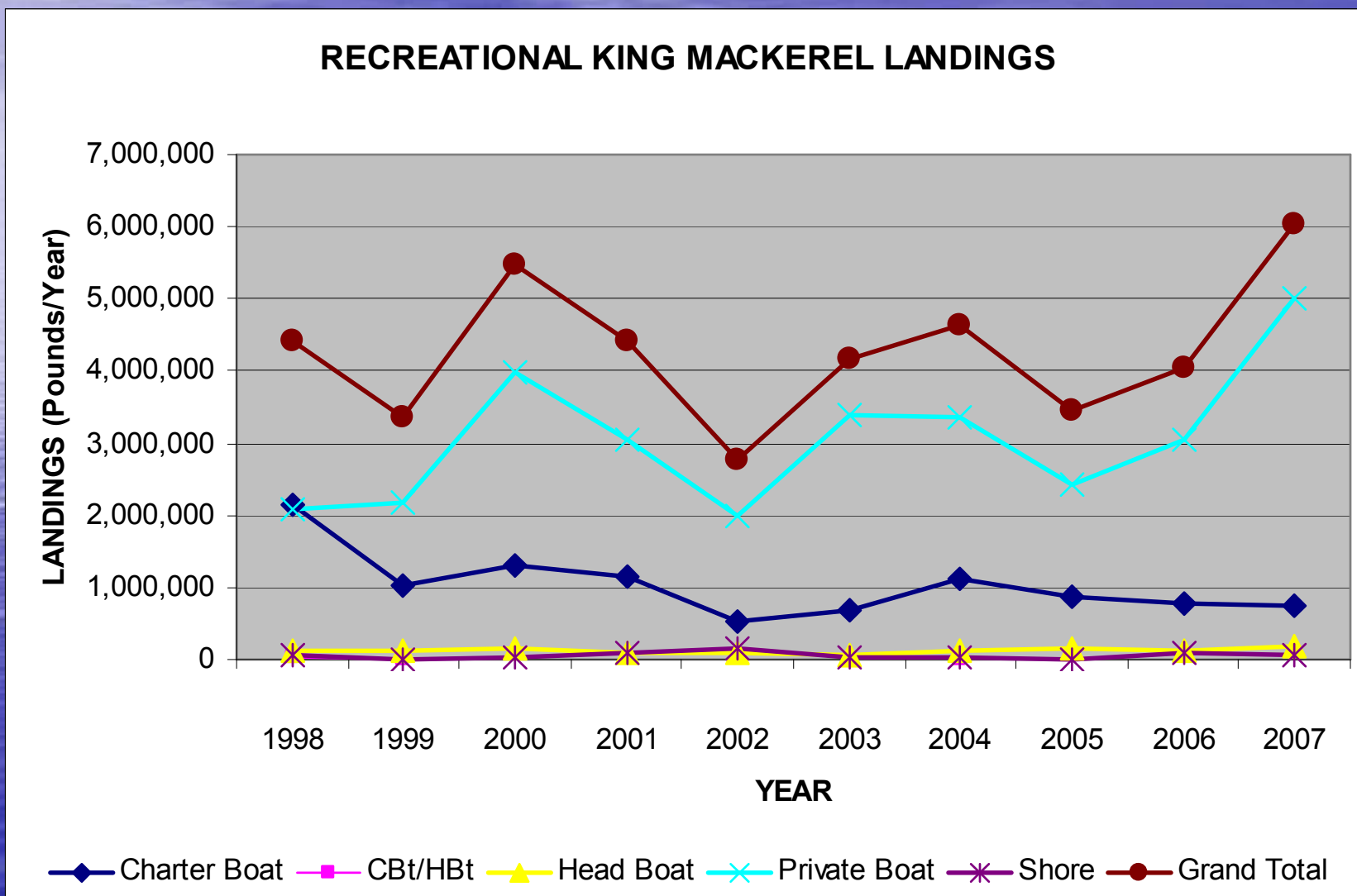
Greater Amberjack Recreational Statistics:



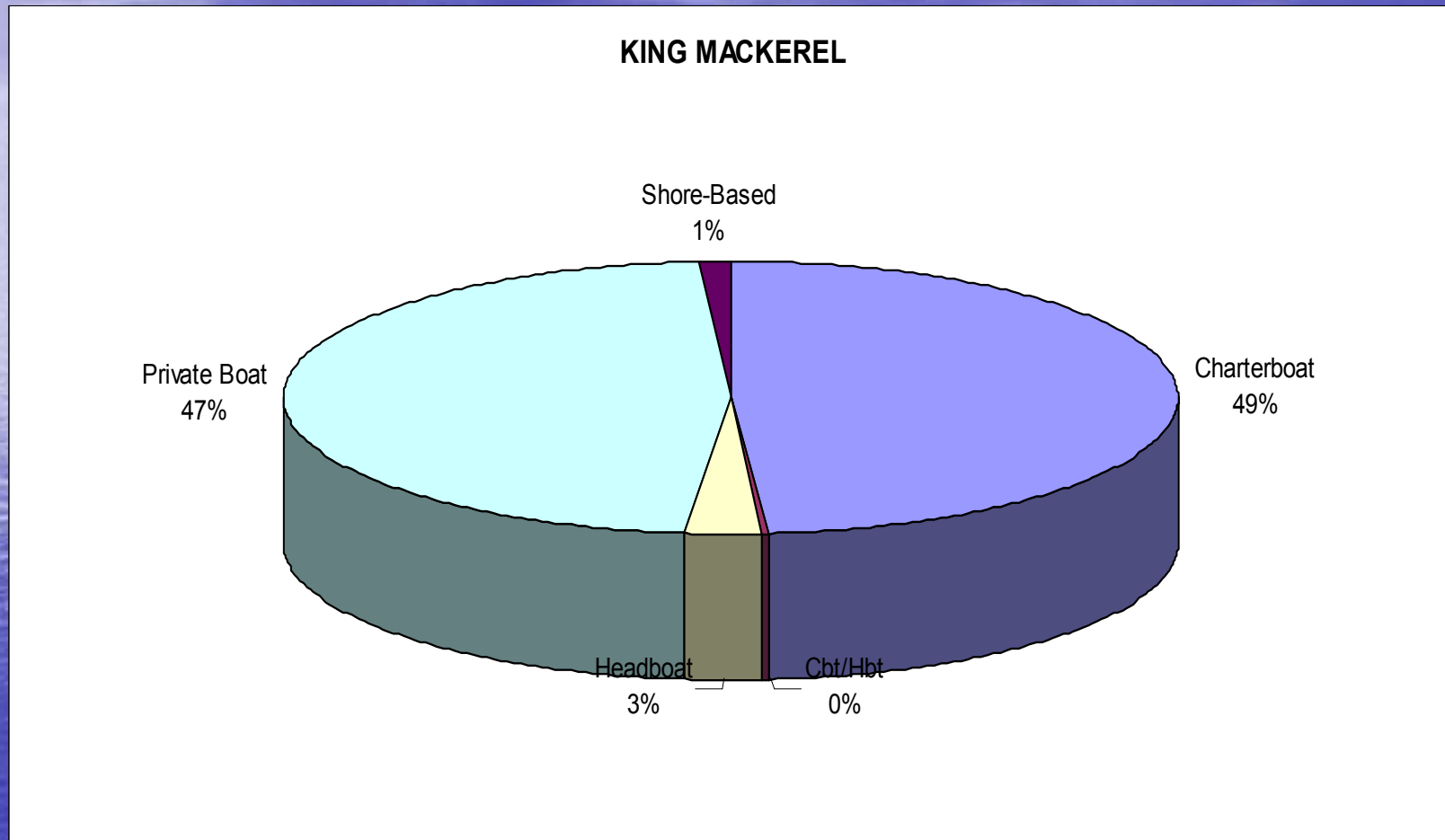
Recreational Landings of Greater Amberjack

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998/1999	870,483	56,527	253,873		1,180,883
1999/2000	538,386	72,172	154,919		765,477
2000/2001	371,094	134,104	385,262	15,387	905,846
2001/2002	413,673	92,629	366,847	35,927	909,075
2002/2003	356,023	86,612	310,104		752,739
2003/2004	549,524	135,563	209,160	82,672	976,920
2004/2005	407,868	76,091	193,550		677,509
2005/2006	281,615	33,739	100,387		415,741
2006/2007	367,929	48,404	442,792		859,125

King Mackerel Recreational Statistics:



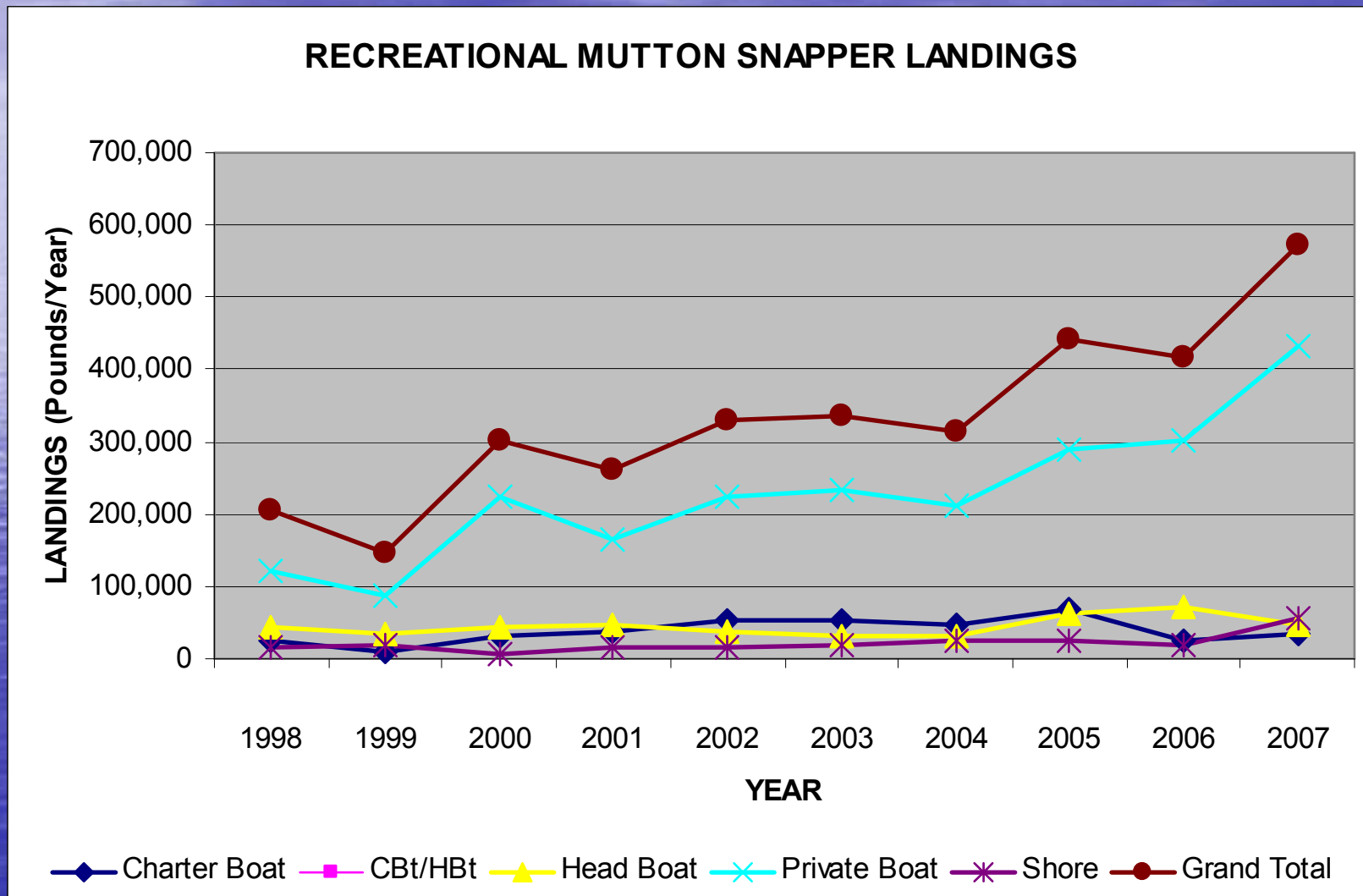
King Mackerel Recreational Statistics:



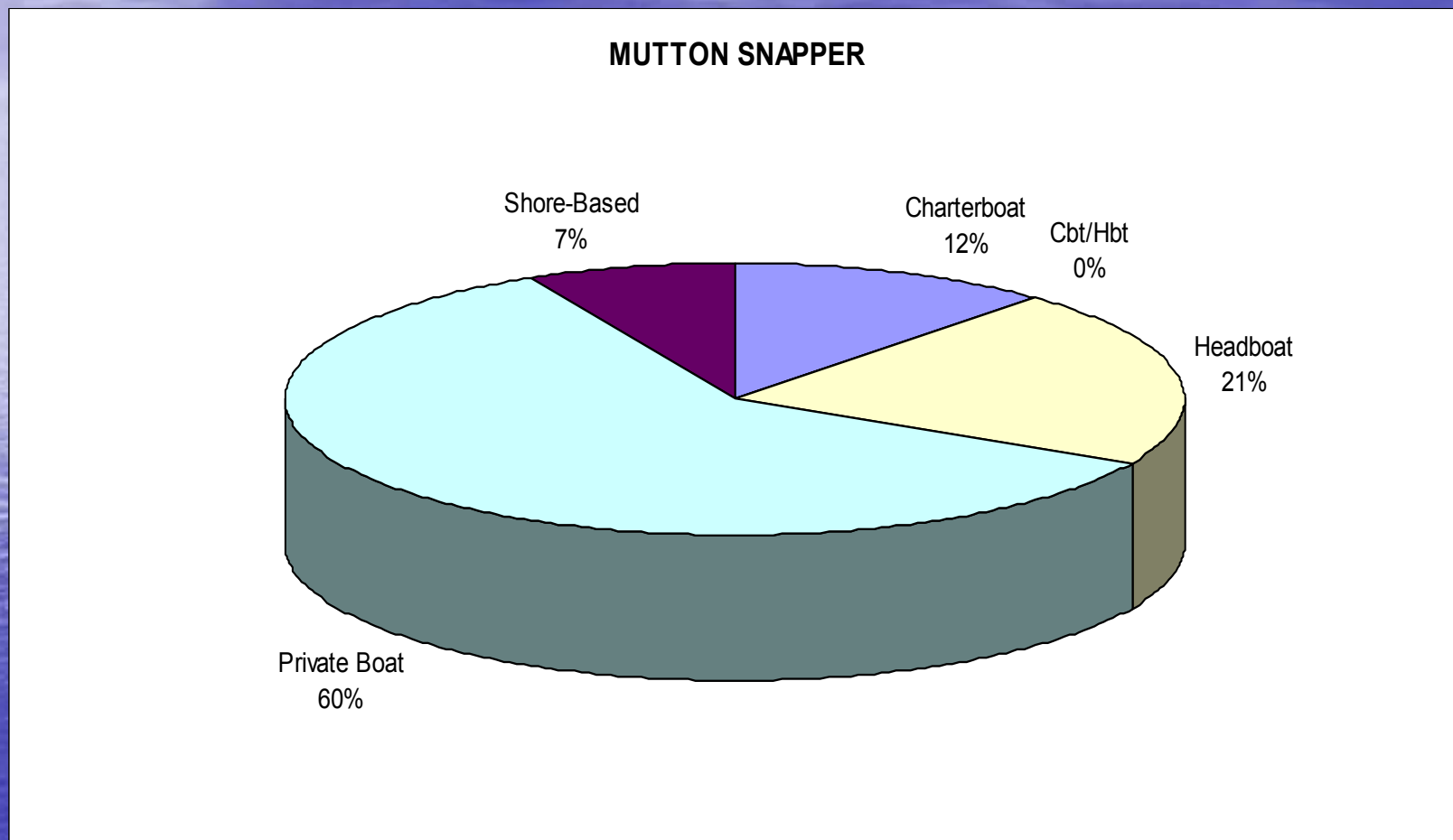
Recreational Landings of King Mackerel

YEAR	Charterboat	Cbt/Hbt	Headboat	Private Boat	Shore-Based	Grand Total
1998	2,142,363	16,054	121,795	2,073,287	52,435	4,405,934
1999	1,027,299	3,751	133,771	2,180,119	14,057	3,358,997
2000	1,321,630		149,796	3,984,041	18,187	5,473,655
2001	1,149,348		103,118	3,062,376	89,598	4,404,439
2002	518,957		93,290	2,000,759	148,070	2,761,075
2003	696,146		65,199	3,388,192	16,426	4,165,962
2004	1,128,628	217	120,200	3,363,879	26,409	4,639,332
2005	869,573		148,768	2,414,154	7,783	3,440,278
2006	773,958		132,494	3,056,802	93,282	4,056,537
2007	759,898		201,668	5,020,938	53,217	6,035,722

Mutton Snapper Recreational Statistics:



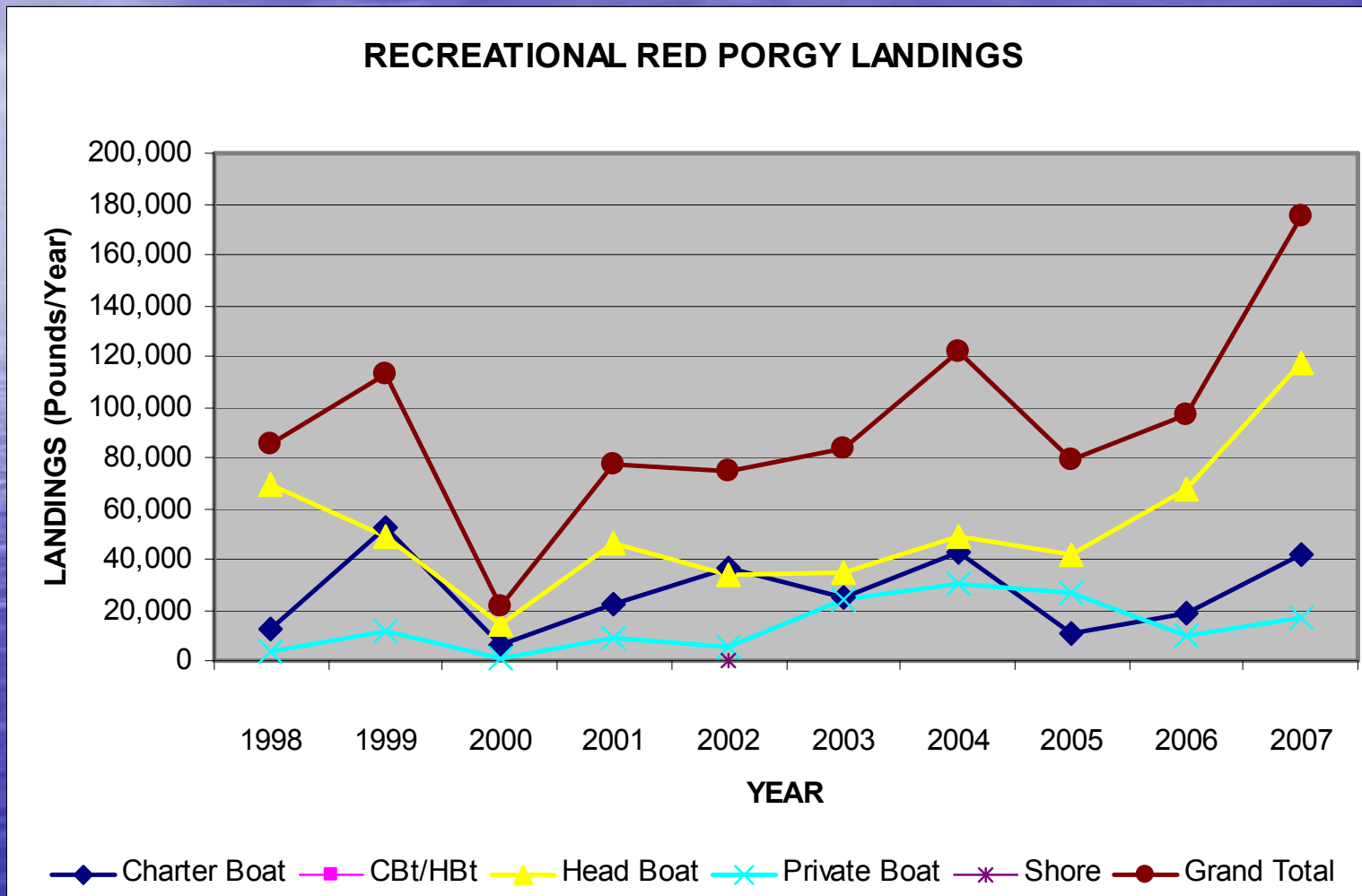
Mutton Snapper Recreational Statistics:



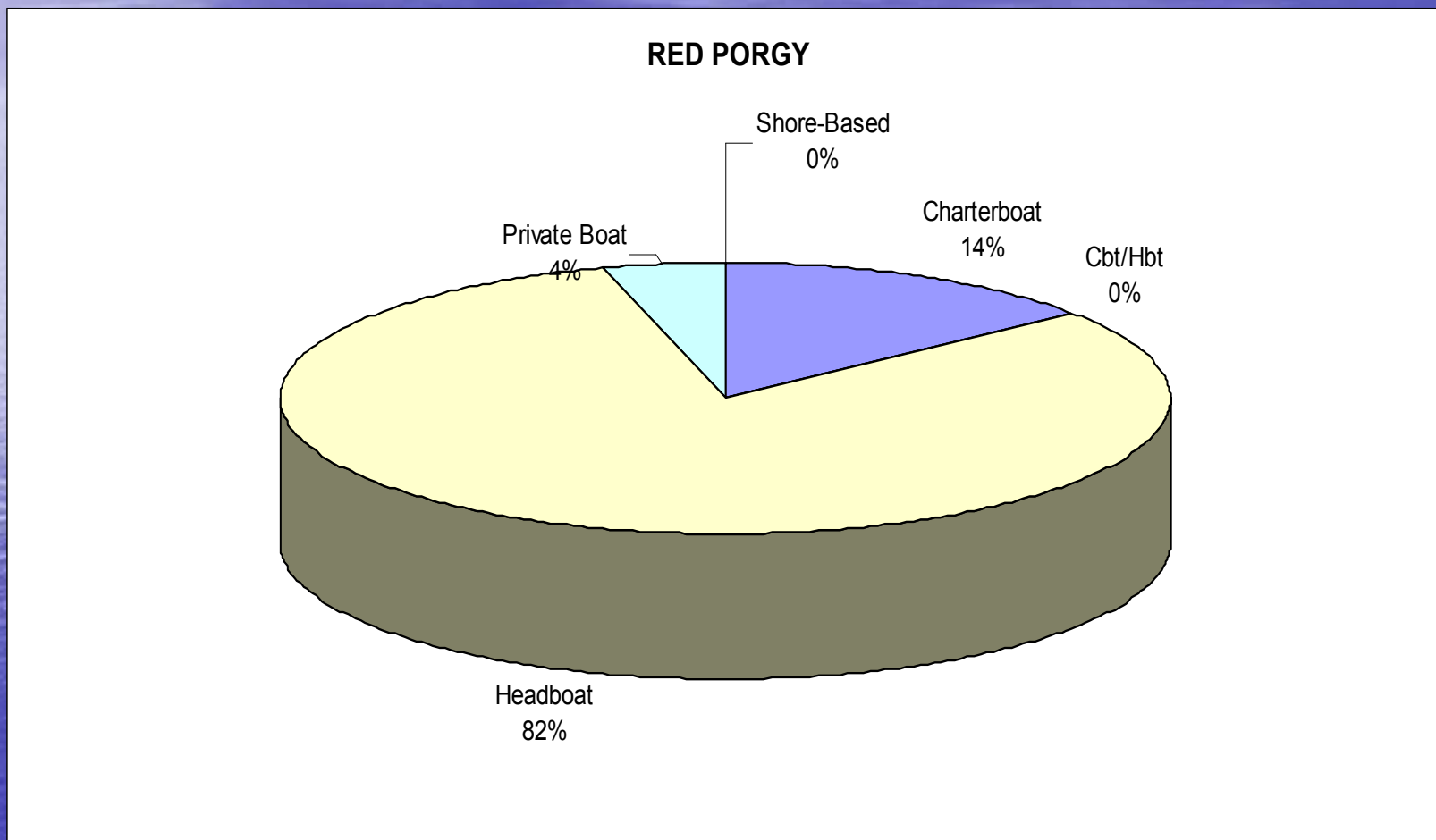
Recreational Landings of Mutton Snapper

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998	24,040	43,360	122,606	15,110	205,116
1999	7,842	33,376	87,774	17,536	146,527
2000	31,209	42,861	222,704	4,972	301,745
2001	36,123	46,284	164,652	15,144	262,203
2002	52,503	35,783	224,932	16,552	329,771
2003	52,590	32,489	232,668	19,737	337,483
2004	46,241	32,304	210,608	23,720	312,873
2005	68,249	61,506	288,069	23,457	441,281
2006	24,914	70,026	302,491	19,337	416,768
2007	35,435	46,974	433,563	56,649	572,621

Red Porgy Recreational Statistics:



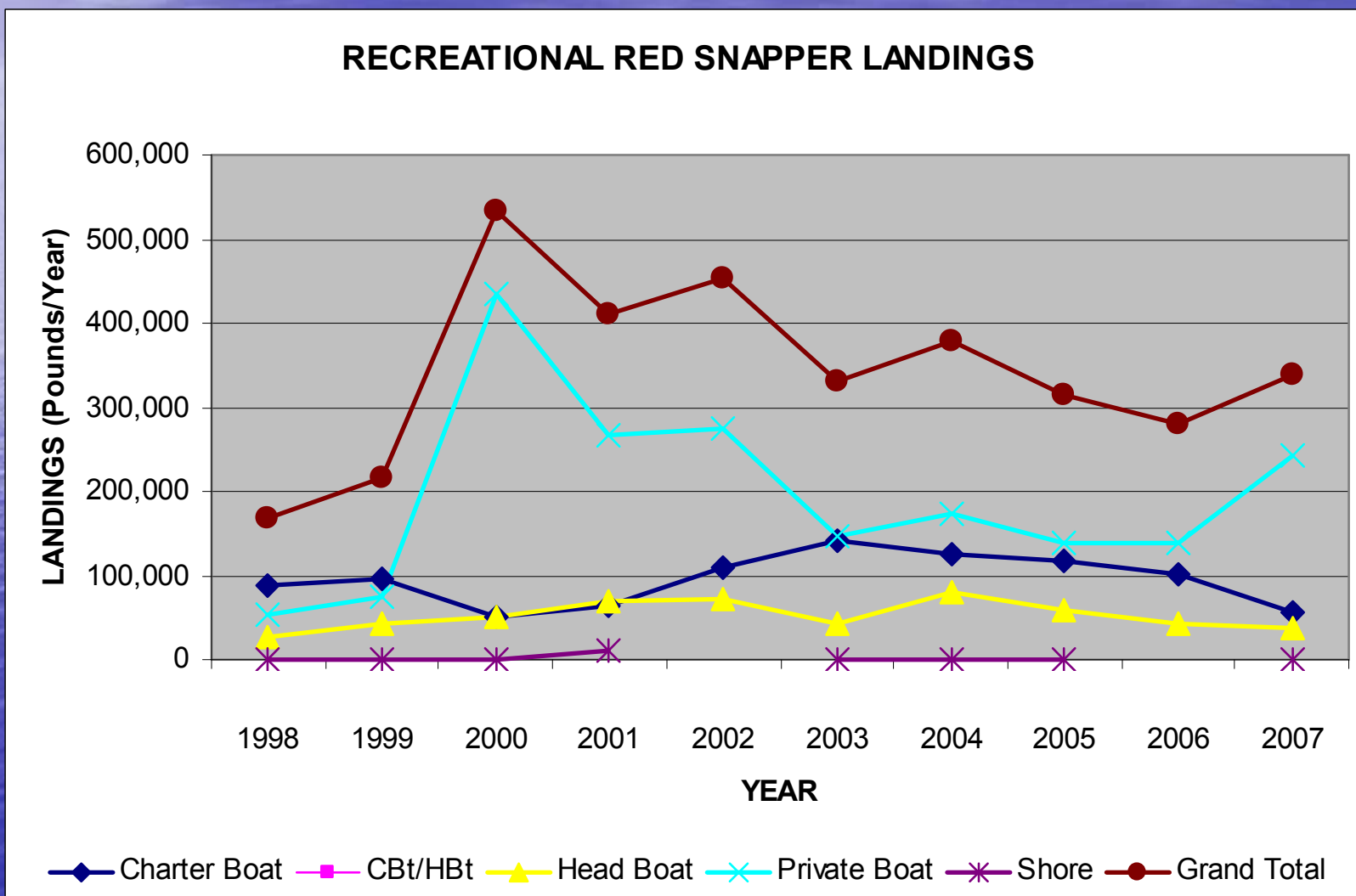
Red Porgy Recreational Statistics:



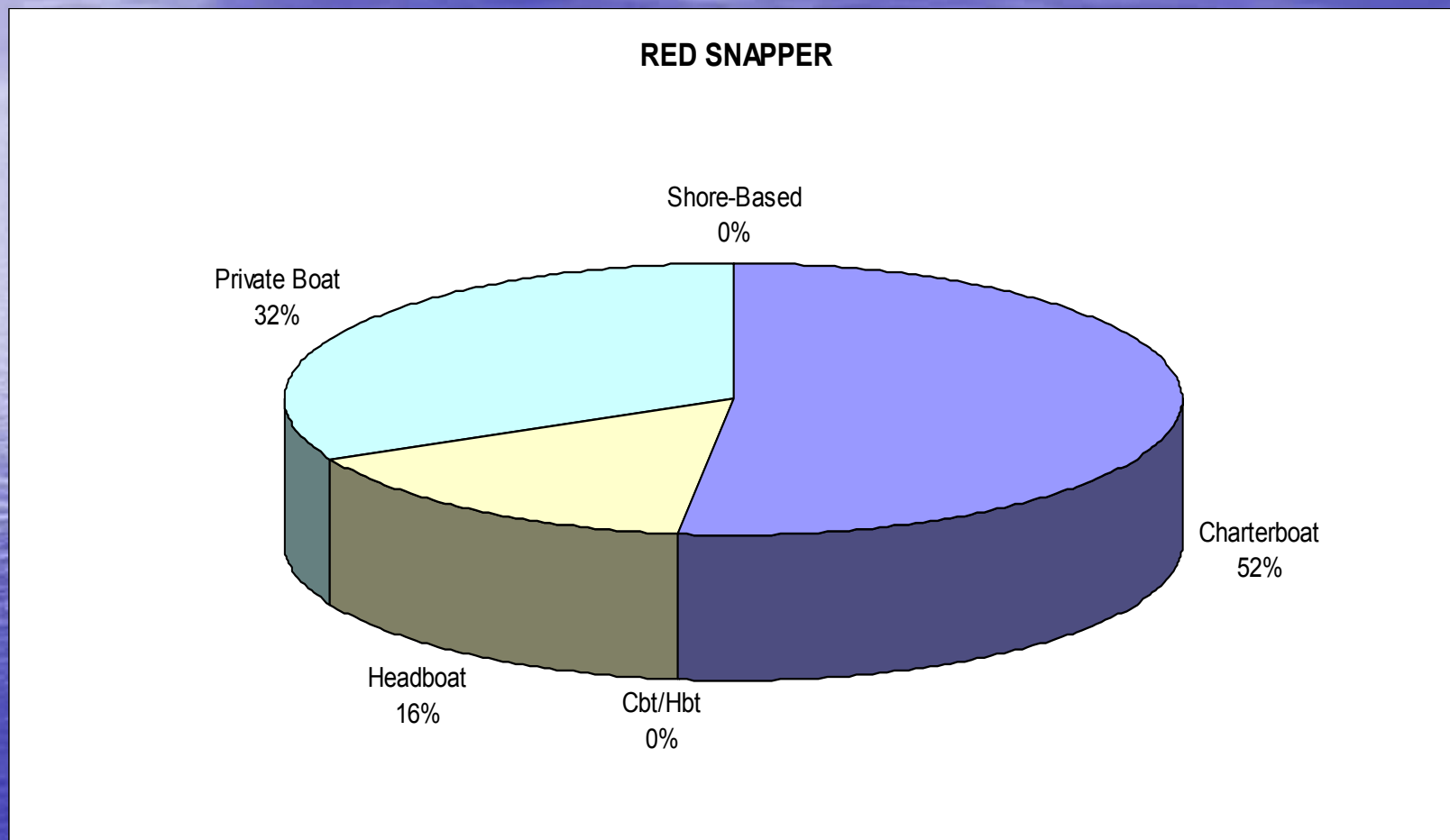
Recreational Landings of Red Porgy

YEAR	Charterboat	Headboat	Private Boat	Grand Total
1998	12,072	69,262	3,723	85,057
1999	52,513	48,656	11,700	112,869
2000	6,452	13,906	579	20,937
2001	22,340	46,308	9,028	77,676
2002	36,159	33,341	5,591	75,091
2003	25,081	34,742	23,848	83,671
2004	42,299	49,308	29,931	121,539
2005	10,387	42,143	26,668	79,198
2006	19,050	67,679	10,183	96,913
2007	41,785	117,254	16,473	175,512

Red Snapper Recreational Statistics:



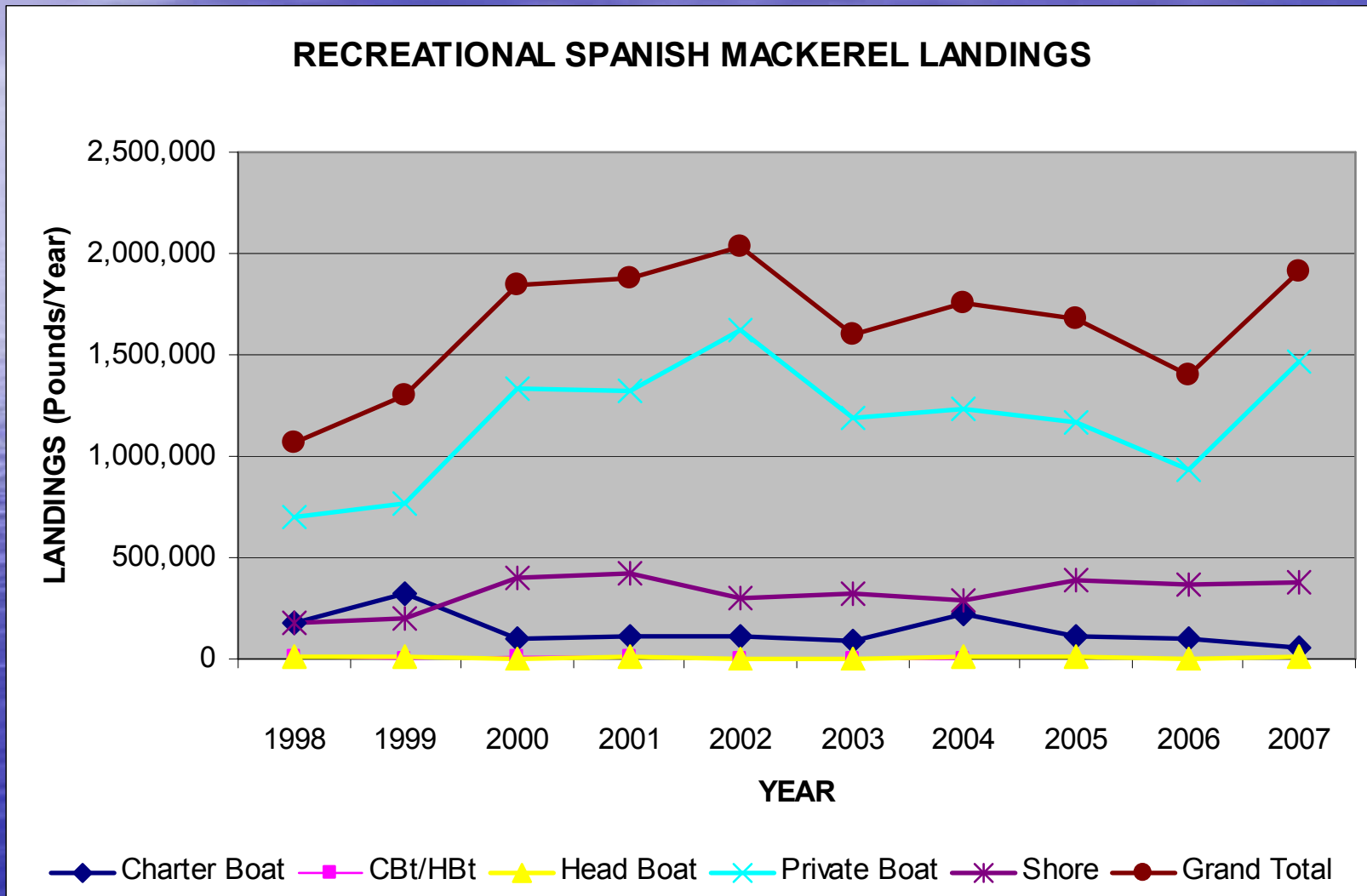
Red Snapper Recreational Statistics:



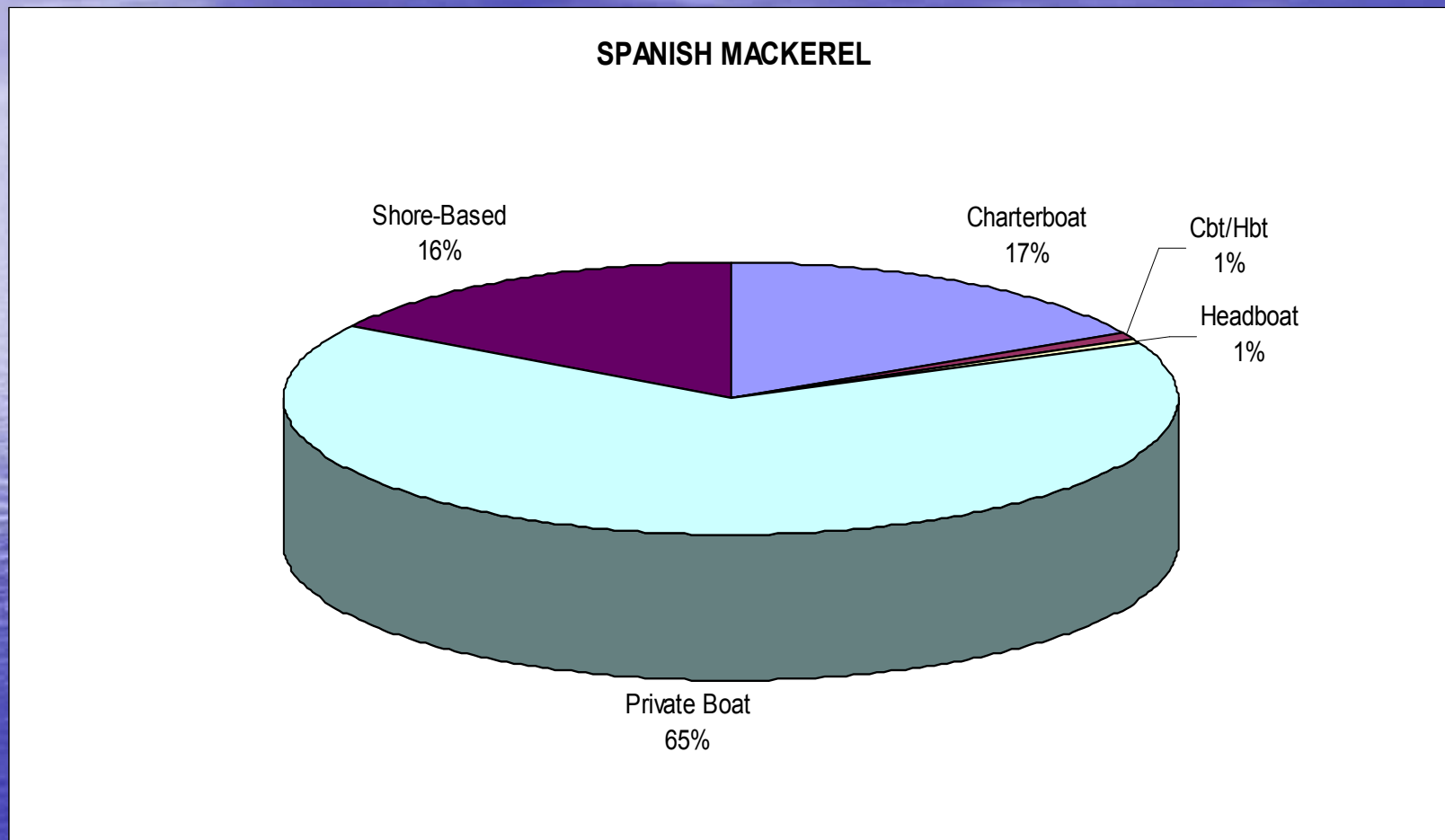
Recreational Landings of Red Snapper

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998	87,446	26,848	54,110	0	168,404
1999	97,079	43,558	75,771	0	216,408
2000	50,497	49,403	434,004	0	533,904
2001	65,238	68,384	267,071	10,510	411,203
2002	108,031	70,796	274,868		453,695
2003	141,010	41,353	147,192	0	329,555
2004	125,308	80,349	173,137	0	378,793
2005	116,716	58,695	139,542	0	314,953
2006	100,444	41,432	138,922		280,797
2007	57,150	37,460	243,751	0	338,361

Spanish Mackerel Recreational Statistics:



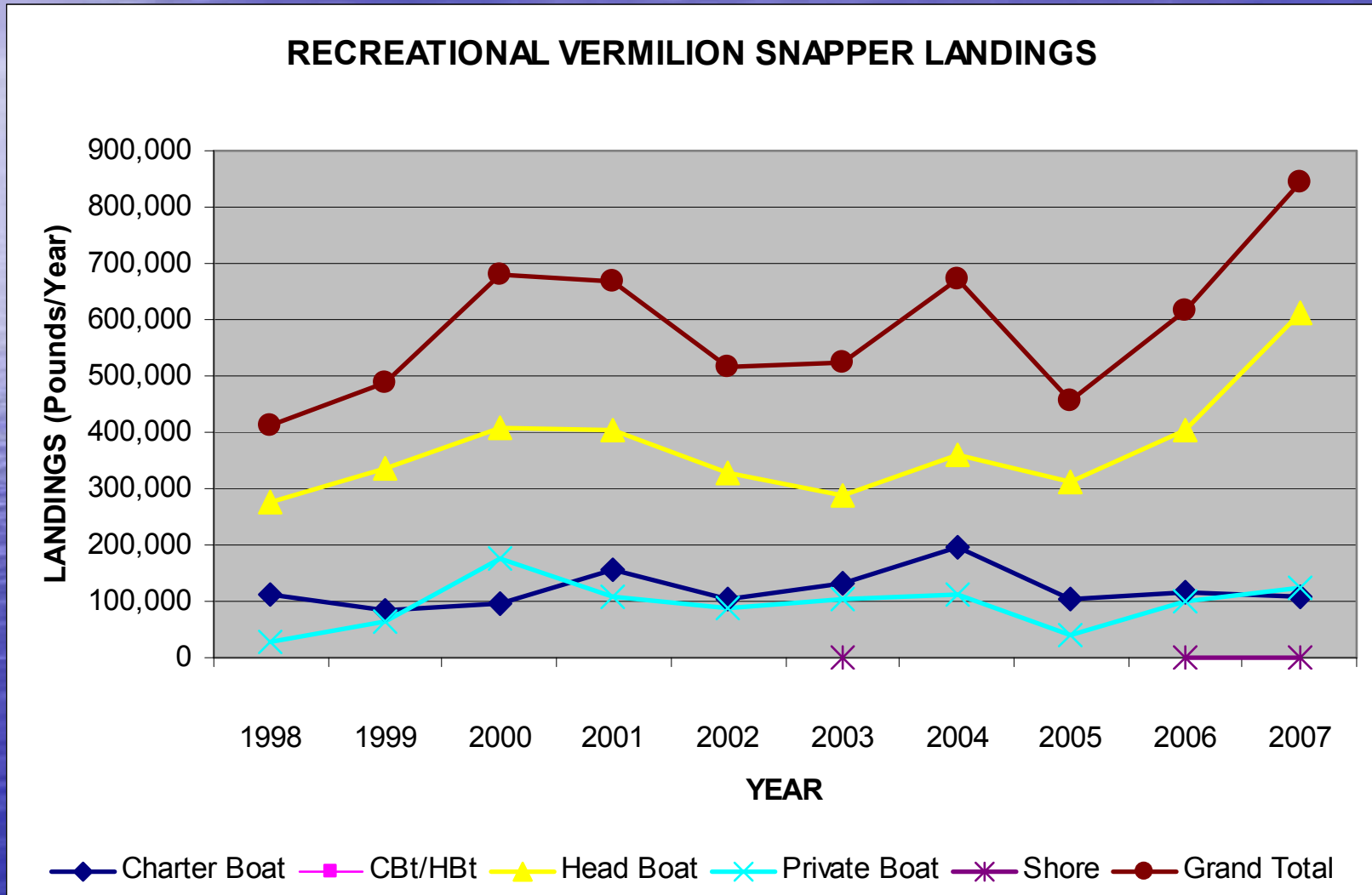
Spanish Mackerel Recreational Statistics:



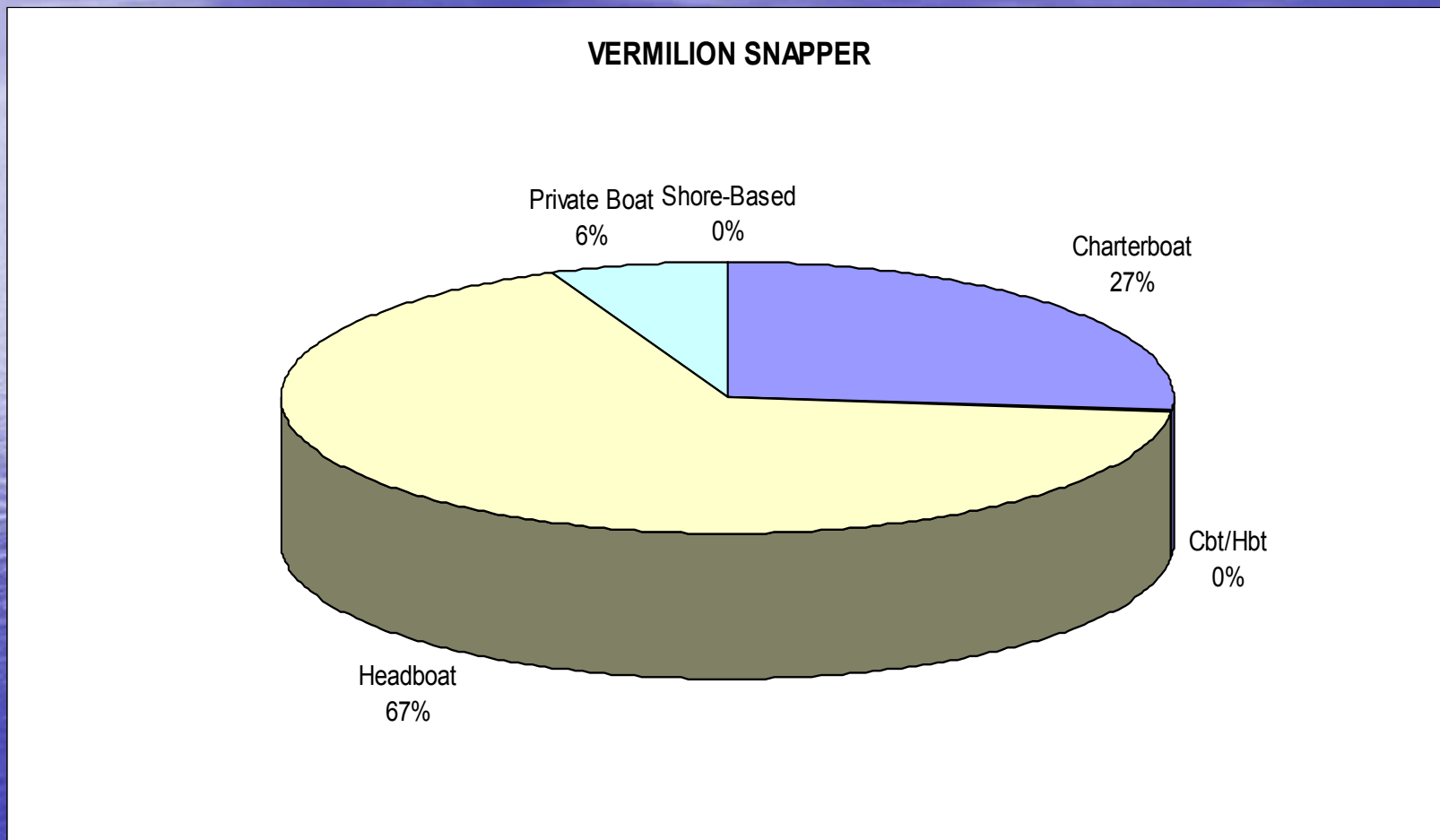
Recreational Landings of Spanish Mackerel

YEAR	Charterboat	Cbt/Hbt	Headboat	Private Boat	Shore-Based	Grand Total
1998	182,762	6,175	6,225	702,326	173,450	1,070,938
1999	327,640	508	9,345	766,385	198,371	1,302,249
2000	101,810	10,864	3,896	1,336,521	395,195	1,848,286
2001	108,042	12,740	10,723	1,318,867	427,203	1,877,575
2002	114,273	0	5,435	1,620,978	295,055	2,035,740
2003	90,529	2,710	2,828	1,186,880	318,783	1,601,731
2004	219,790	1,171	15,607	1,228,775	285,426	1,750,770
2005	112,548		11,500	1,171,347	386,521	1,681,915
2006	101,245		4,092	937,771	361,851	1,404,959
2007	51,098		6,556	1,472,002	382,605	1,912,261

Vermilion Snapper Recreational Statistics:



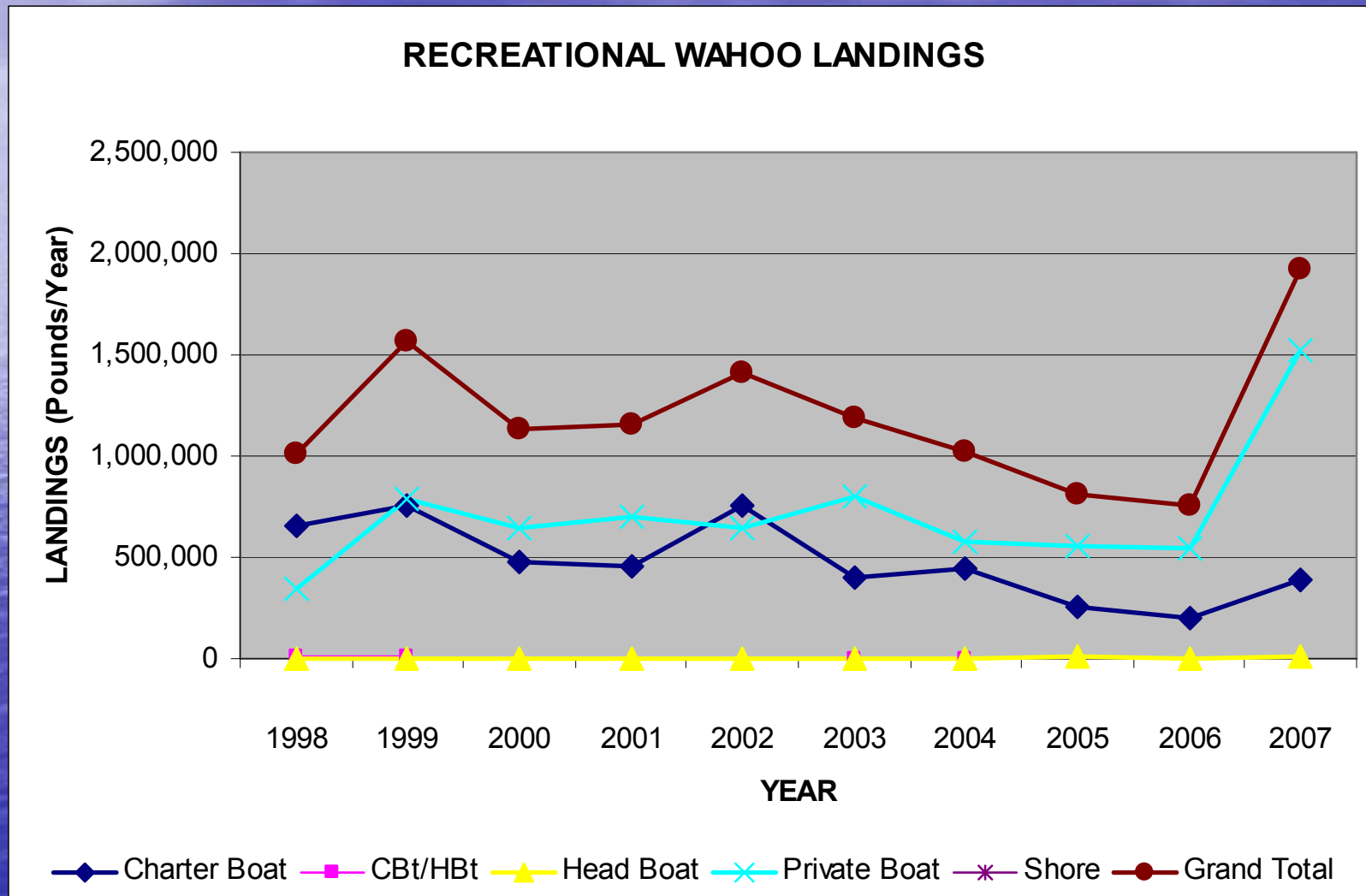
Vermilion Snapper Recreational Statistics:



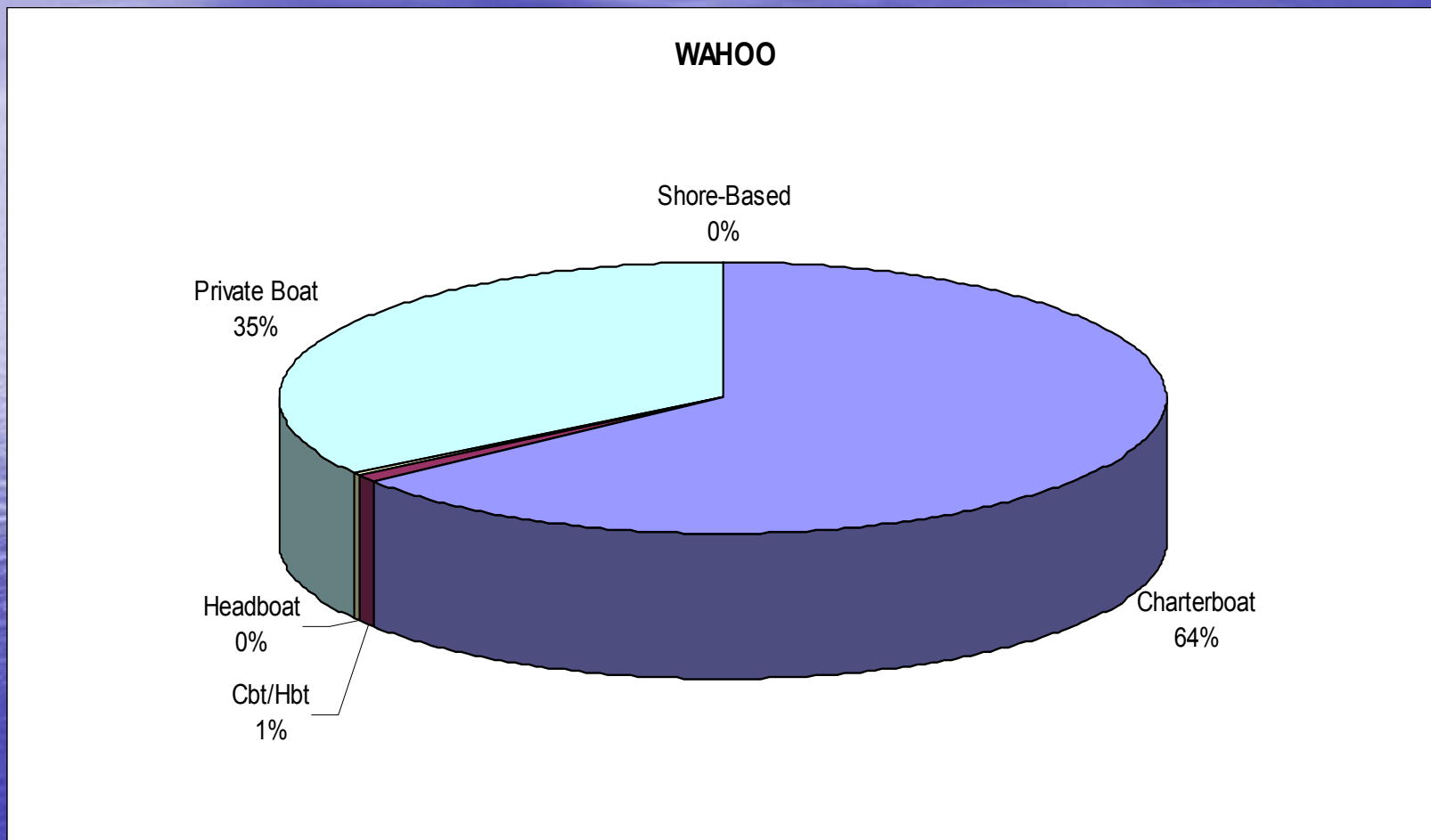
Recreational Landings of Vermilion Snapper

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998	110,382	275,492	26,285		412,159
1999	85,806	335,732	65,330		486,867
2000	96,543	406,785	176,001		679,330
2001	154,159	402,620	109,867		666,647
2002	103,351	326,447	86,628		516,426
2003	133,446	287,444	103,598	973	525,461
2004	197,148	361,562	113,529		672,239
2005	105,355	311,977	40,666		457,998
2006	115,251	402,351	98,671	0	616,273
2007	107,096	613,765	122,041	873	843,775

Wahoo Recreational Statistics:



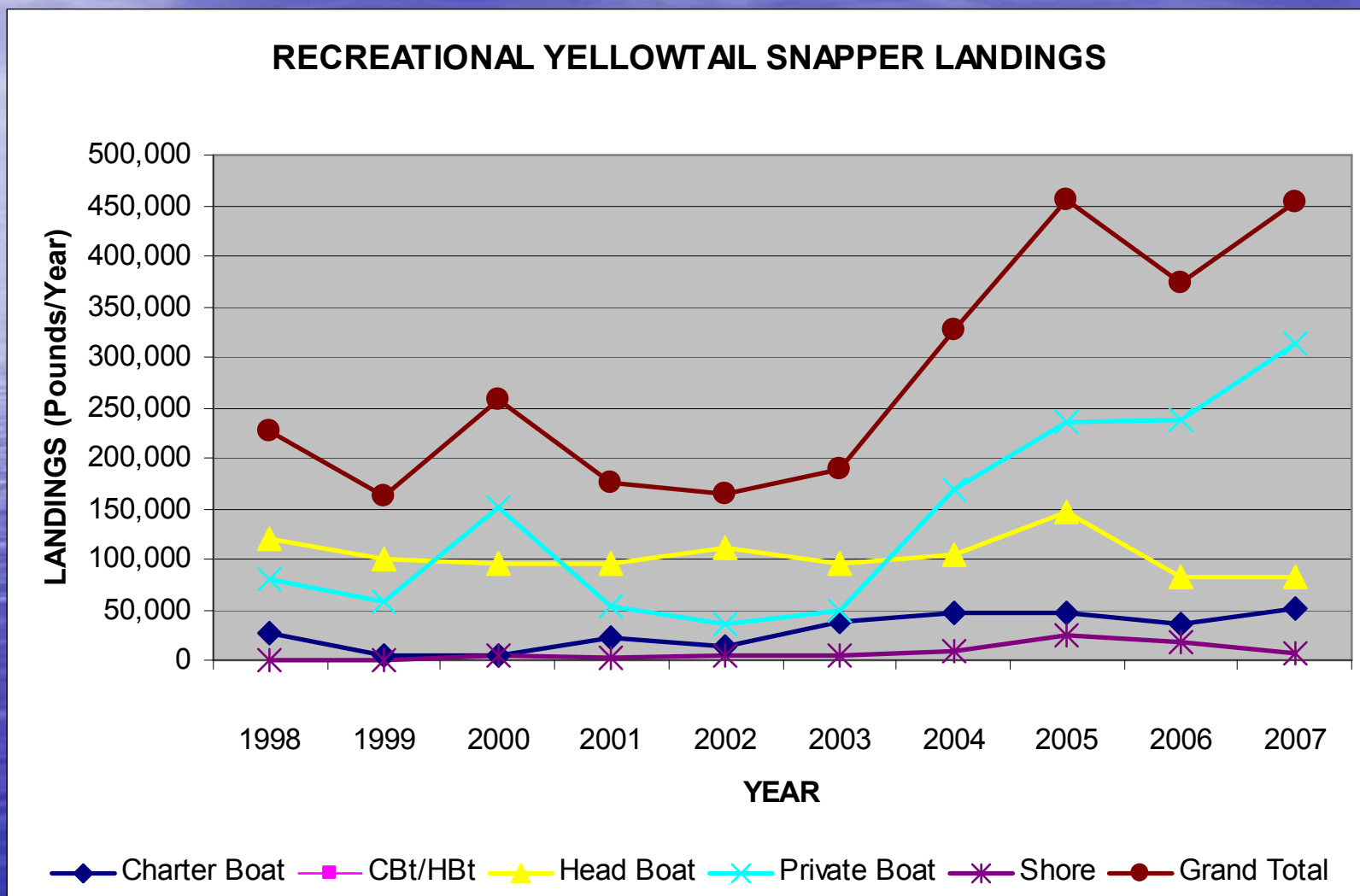
Wahoo Recreational Statistics:



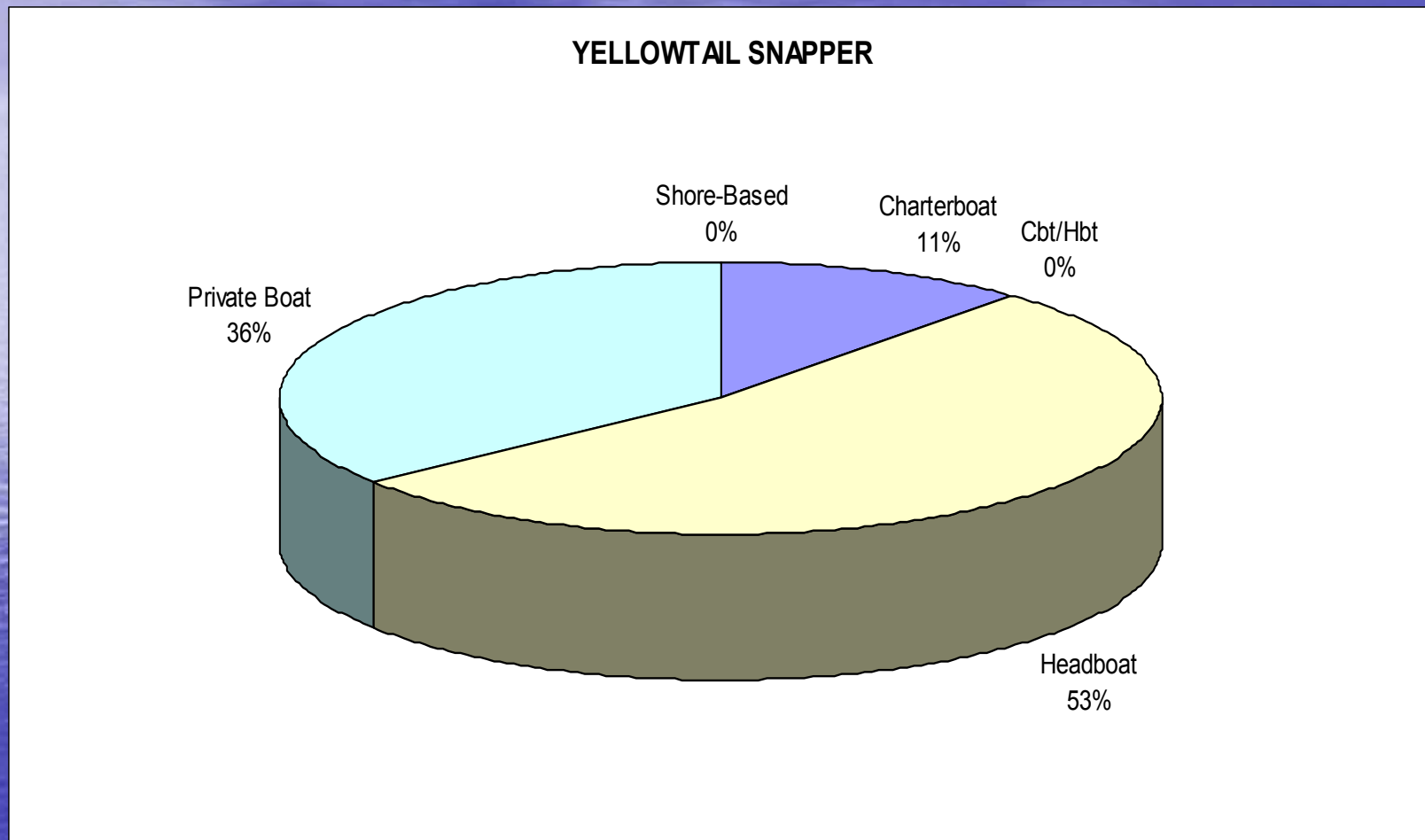
Recreational Landings of Wahoo

YEAR	Charterboat	Cbt/Hbt	Headboat	Private Boat	Grand Total
1998	651,202	8,121	2,549	348,959	1,010,831
1999	758,166	15,615	5,358	784,753	1,563,893
2000	482,750		5,467	639,889	1,128,106
2001	457,466		863	701,917	1,160,247
2002	756,379		4,881	644,342	1,405,601
2003	396,596	0	623	795,043	1,192,261
2004	440,090	0	5,216	581,229	1,026,534
2005	252,441		5,790	557,613	815,844
2006	204,435		3,001	546,314	753,750
2007	388,250		10,278	1,525,817	1,924,345

Yellowtail Snapper Recreational Statistics:



Yellowtail Snapper Recreational Statistics:



Recreational Landings of Yellowtail Snapper

YEAR	Charterboat	Headboat	Private Boat	Shore-Based	Grand Total
1998	25,672	119,808	80,289	0	225,769
1999	3,983	98,905	57,996	981	161,864
2000	5,409	94,696	151,857	5,270	257,232
2001	22,407	96,209	54,187	2,108	174,909
2002	13,978	110,374	36,652	4,022	165,026
2003	38,673	96,406	48,491	4,386	187,955
2004	47,436	103,518	168,310	8,269	327,533
2005	47,200	147,470	236,427	24,962	456,060
2006	35,949	83,329	236,859	17,227	373,364
2007	51,255	81,889	313,713	7,412	454,269

South Atlantic Fishery Management Council
2007- 2008 Council Membership

MONDAY
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FULL COUNCIL - ROLL CALL VOTE

Date: September 15-19, 2008 Meeting Location: Charleston, SC

Issue: GROUPER INTERIM RULE

	YES	NO	ABSTAIN
10 GEIGER	✓		
11 HARRIS	✓		
1 BOYLES	✓		
12 CRABTREE	✓		
2 CUPKA	✓		
13 10 CURRIN	✓		
3 CHEUVRONT	✓		
4 IAROCCI		✓	
5 MERRITT		✓	
6 ROBSON SHARP		✓	
7 SHIPMAN	✓		
8 SWATZEL		✓	
9 WALLACE		✓	

FULL COUNCIL - ROLL CALL VOTE

Date: September 15-19, 2008 **Meeting Location:** Charleston, SC

Issue: SNAPPER-GROUPER A# 16

	YES	NO	ABSTAIN
GEIGER	✓		
HARRIS	✓		
BOYLES	✓		
CRABTREE	✓		
CUPKA	✓		
CURRIN	✓		
CHEUVRONT	✓		
IAROCCI	✗	✓	
MERRITT	✗	✓	
ROBSON SHARP		✓	
SHIPMAN	✓		
SWATZEL		✓	
WALLACE		✓	

FULL COUNCIL - ROLL CALL VOTE

Date: September 15-19, 2008 Meeting Location: Charleston, SC

Issue: SPINY LOBSTER IMPORT AMENDMENT

	YES	NO	ABSTAIN
GEIGER	✓		
HARRIS	✓		
BOYLES	✓		
CRABTREE	✓		
CUPKA	✓		
CURRIN	✓		
CHEUVRONT	✓		
IAROCCI	✓		
MERRITT	✓		
ROBSON	✓		
SHIPMAN	✓		
SWATZEL	✓		
WALLACE	✓		

FULL COUNCIL - ROLL CALL VOTE

Date: September 15-19, 2008 Meeting Location: Charleston, SC

Issue: SHRIMP A#7 + RULE

	YES	NO	ABSTAIN
GEIGER	✓		
HARRIS	✓		
BOYLES	✓		
CRABTREE	✓		
CUPKA	✓		
CURRIN	✓		
CHEUVRONT	✓		
IAROCCI	✓		
MERRITT	✓		
ROBSON	✓		
SHIPMAN	✓		
SWATZEL	✓		
WALLACE	✓		

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

**Full Council Meeting – (Allocation Committee Report)
Charleston, SC
Monday, September 15, 2008**

<u>NAME & ORGANIZATION</u>	<u>AREA CODE & PHONE NUMBER</u>	<u>P.O. BOX/STREET CITY, STATE & ZIP</u>
LT CHARLIE GRIS, USCG	843 771-4706	1050 REGISTER ST, CHARLESTON
Eileen Dougherty, EDF	843-737-4466	Charleston, SC
Michelle Owen EDF	919-923-0774	Sarasota FL
John Allison Ocean	202-422-9049	Washington, DC 20036 1350 Connecticut Ave NW 5 TH Floor
Ernest Muhammad SC DNR	(843) 953-9364	217 Fort Johnson Rd. Charleston, SC 29422
Sera Drevenak, MFCN	910 762-4401	617 Surry St. Wilmington, NC 28402
Dan Whittle EDF	919 881-2914	—
Bill Kelly, ICBA	305-394-5333	129 TEQUESTA ST TAVERNIER FL 33070
BARBARA KELLY ICBA	305-852-8108	129 TEQUESTA ST. TAVERNIER, FL 33070

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

Full Council Meeting
Charleston, SC
Friday, September 19, 2008

NAME &
ORGANIZATION

AREA CODE &
PHONE NUMBER

P.O. BOX/STREET
CITY, STATE & ZIP

Sera Devenak 910-762-4401 617 Surry St., Wilmington, NC 28401

Michelle Owen EDF Sarasota FL

Harold Olson 6276 Hwy 17N Newnan GA

DAVE ALLISON Oceana 202-833-3900 1350 CONNECTICUT AVE NW 5TH Floor WA DC 20036

CHRISTY CLOW Aquatic Release Conservation 386 852 9137 PO Box 730248 Ormond Beach FL 32173

Shawn Dick Aquatic Release Conservation 386 295 8876 PO Box 730248 Ormond Bch, FL 32173

Eileen Dougherty EDF Charleston, SC

Kennedy Fee 910-620-5847 Oak Island, NC

Ruffel 772 460 2105 Fort Pierce FL 34982

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

Full Council Meeting
Charleston, SC
Friday, September 19, 2008

NAME &
ORGANIZATION

AREA CODE &
PHONE NUMBER

P.O. BOX/STREET
CITY, STATE & ZIP

Ben Landry, Omega Protein Inc.

(~~875~~²²⁵) 383-2326

251 Florida St Ste. 306, Baton Rouge, LA
70808

Robert Carvini

772-460-2105

5106 Palm Dr Ft. Pierce FL

Ron Lukens Omega Protein

(386) 454-7192

27716 NW 18th Ave High Springs, FL
32643

Megan Westmeyer SC Aquarium

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

Full Council Meeting
Charleston, SC
Thursday, September 18, 2008

NAME &
ORGANIZATION

AREA CODE &
PHONE NUMBER

P.O. BOX/STREET
CITY, STATE & ZIP

ANTHONY D ANDERSON PASS INC. 803 943-2821

206 E. Palaski Dr Hampton SC.

Phil Cochran

843-251-1437

Box 992 ²⁹⁵⁹⁶ MURRELLS ~~SD~~ SC 29924

Holly Binns, Pew Environment Group, 850-322-7845

2107 Mulberry Blvd, Tallahassee, FL 32301

Kenneth

Scott Reynolds

904-626-9666

4589 Mountaint R. Jax. FL. 32225

Christy Clow Angler Conservation Education 386-252-9137 PO Box 730248 Ormond Beach FL 32136-0248

Greg Swanson

(843) 270-1622

1367 Pheno St, Mt. Pleasant 29464

Jason Davis

(843) 412-1166

1367 Pheno St Mt Pleasant 29464

BARRY FREEMAN

386-566-8950

1841 FORDUGH CIR
PORT ORANGE FL. 32128

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10

PLEASE SIGN IN

So that we will have a record of your attendance at each meeting and so that your name may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

**Full Council Meeting
Charleston, SC
Thursday, September 18, 2008**

<u>NAME & ORGANIZATION</u>	<u>AREA CODE & PHONE NUMBER</u>	<u>P.O. BOX/STREET CITY, STATE & ZIP</u>
Libby Felberster	Ocean Conservancy - FL	
DAVE Allison	Ocean 202-833-3900	1350 Connecticut Ave NW 5th Floor Washington DC 20036
DAVID SPIKETT CAPT. SONNY DAVIS CAPT. STACY INC.	252-247-2304 1800-533-9417	208 Edmund Terrace Norfolk VA 23557 P.O. Box 3013 Atlantic Beach FL
Fred W. Kinard Jr.	843/723-1135	472 Huger St. Charleston S.C. 29403
Wallace Johns	SCDNR	217 Ft. Johnson Rd. Char, SC 29412
Amy W. Dicks	SCDNR 953-9365	217 Ft. Johnson Rd. Char SC 29412
Ernest Muhammad	SCDNR 953-9364	"
FRANK HELIES	Gulf S.A. Fishery Foundation 732 539 5872	1602 Northland Dr. Cayce, SC 29033

**South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10**

PLEASE SIGN IN

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Full Council Meeting
Charleston, SC
Thursday, September 18, 2008

NAME &
ORGANIZATION

AREA CODE &
PHONE NUMBER

P.O. BOX/STREET
CITY, STATE & ZIP

Karly Miller (USC student)	513.479.0514	1823 Greene St. Columbia, SC 29201
Matt Winter	843 937-5568	134 Columbus St. Charleston, SC 29401
CAPT. ERIC HEIDEN	843-230-7286	69 Pinckney St. Lr. Pawleys Island
Joshua Giordano-Silliman	843-817-6779	1170 N Palmetto Ave. S-C 29158
Erin O'Neal - NMFS	843-344-1866	726 Willowbank Rd Georgetown SC 29440
Becky Hogan		

South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405
843-571-4366 or Toll Free 866/SAFMC-10



PLL Closed Area Research

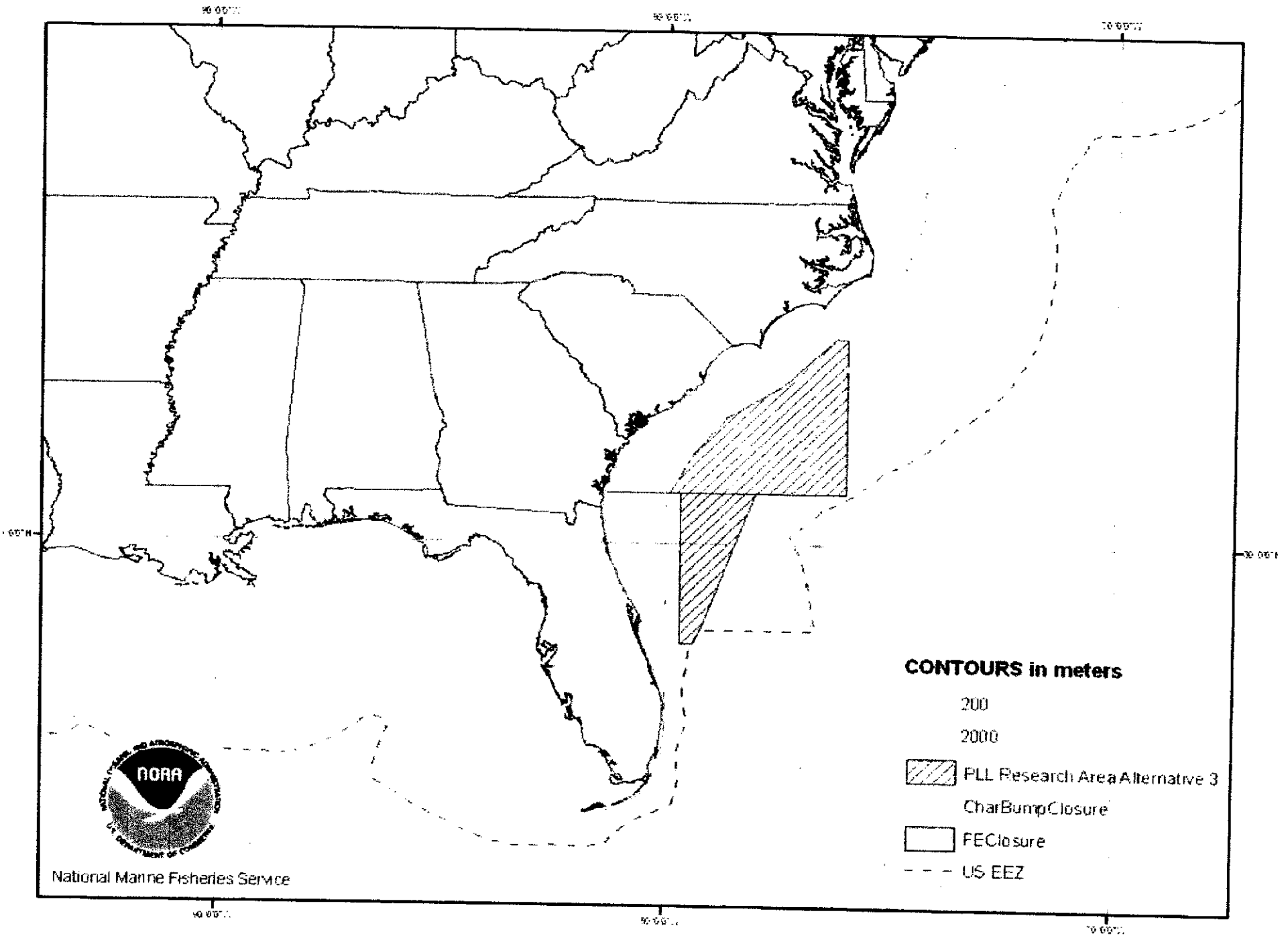
Notice of Availability of Final EA published on Jan 3, 2008 (73 FR 450)

Goals of research:

- 1) Collect baseline data in closed areas under current fishery conditions; 2) Evaluate existing bycatch reduction measures, and 3) Collect data to examine the effectiveness of existing area closures to meet current conservation and harvesting goals





Conditions:

- Max of 3 boats (only 2 fishing at one time), 289 sets (145 in closed areas) w/500 18/0 non-offset circle hooks, 100% observer coverage



CONTOURS in meters

- 200
- 2000

-  PLL Research Area Alternative 3
-  CharBump Closure
-  FEClosure
-  US EEZ



National Marine Fisheries Service



PLL Closed Area Research: Results thru July 2008

- 9 trips completed (2 vessels) from February – July 2008
- 40 sets with 18/0 non-offset circle hooks
- Highest SWO CPUE in Charleston Bump
- No bluefin tuna
- Closed Area:
 - SWO: 173 kept, 57 released alive, 65 dd
 - 1 white marlin, 1 blue marlin, & 4 sailfish (3 sailfish dd)
- Open Area:
 - SWO: 112 kept, 12 released alive, 20 dd
 - 7 white marlin (3 dd), 17 sailfish (5 dd), 16 blue marlin (3 dd), & 6 white marlin/roundscale spearfish (1 dd)
- 3 turtles: 1 loggerhead in open area, 2 leatherback in closed areas, all released alive with no trailing gear



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29409
TEL 843/571-4366 FAX 843/769-4520
Toll Free: 1-866-SAFMC-10
Email: safmc@safmc.net Web site: www.safmc.net

Duane Harris, Chairman
David M. Cupka, Vice-Chairman

Robert K. Mahood, Executive Director
Gregg T. Waugh, Deputy Executive Director

September 19, 2008

Mr. Henry Wicker
U. S. Army Corps of Engineers
Wilmington District Regulatory Field Office
P. O. Box 1890
Wilmington, North Carolina 28402-1890

Regarding: Action ID # SAW-2007-00073, Carolina Cement Company (Titan America), Castle Hayne Project, New Hanover County, North Carolina

Dear Mr. Wicker:

The South Atlantic Fishery Management Council (SAFMC) offers the following comments on the subject Public Notice (PN), dated June 6, 2008. These comments are based on a briefing of the proposed project provided by the USFWS Southeast Regional Office and the Council's approved Habitat Plan (SAFMC 1998a) and habitat policies. The applicant, Carolinas Cement Company (a subsidiary of Titan America), has applied for a Department of the Army (DA) permit to construct a cement manufacturing plant and operate a quarry for limestone and marl in an area east of the Town of Castle Hayne along the southern bank of the Northeast Cape Fear River.

The U.S. Army Corps of Engineers, Wilmington District (Corps) has determined that an Environmental Impact Statement (EIS) will be prepared for the project. The Council is very supportive of that determination and encourages the Corps to require objective analysis of all reasonable alternatives in addition to that preferred by the applicant.

The only alternative for the proposed quarry and cement plant mentioned in the Public Notice would be located east of Castle Hayne in New Hanover County, North Carolina. The proposed project would be located on an approximately 1,868-acre site on Ideal Cement Road approximately 2.6 miles east of Interstate 40 and north of Holly Shelter Road. The proposed site is bordered on the north by the Northeast Cape Fear River, a blackwater river which is a major, undammed tributary to the Cape Fear River. The eastern boundary is formed by Island Creek. The site alternative includes undeveloped forested wetlands, some of which are tidal, an existing aggregate quarry pit currently operated by Martin Marietta Materials, and an inactive cement manufacturing plant, formerly operated by Ideal Cement. The applicant proposes to eliminate, via mining, approximately 493 acres of wetlands, including 294 acres of tidal forested wetlands. The

Council believes that permitting the direct mining of forested wetlands would set a highly undesirable precedent and strongly encourages the applicant to consider less damaging alternatives.

Because of the juxtaposition of oceanic saline, mesohaline, and oligohaline conditions coupled with the highest diurnal tidal range of any North Carolina estuary, the Cape Fear River estuary, including the tidal portion of the Northeast Cape Fear River, has high fish species diversity, with in excess of 250 species documented from 88 families (Schwartz *et al.* 1982). More recent data are available in reports of the Lower Cape Fear River Program located at <<http://www.uncwil.edu/cmsr/aquaticceology/LCFRP/reports.htm>> and the reports by Hackney *et al.* (2008) regarding monitoring of potential increased tidal ranges in the Cape Fear River ecosystem due to Wilmington Harbor deepening, available at <<http://www.saw.usace.army.mil/wilmington-harbor/main.htm>>. The Council believes an ecosystem with so many distinct ecological features merits the highest level of conservation measures to ensure its future sustainability.

The Northeast Cape Fear River is designated as a primary nursery area (PNA) by the North Carolina Division of Marine Fisheries (NCDMF). A PNA is a designated area in an estuarine system where initial postlarval development of many important species takes place. These areas are usually located in the uppermost sections of a system where populations are predominantly early juveniles. The Council has designated primary nursery areas in North Carolina including the Northeast Cape Fear River and associated riverine wetlands as an Essential Fish Habitat-Habitat Area of Particular Concern (EFH-HAPC) (see the Council's Habitat Plan, SAFMC 1998a). The tidally influenced reaches of the Northeast Cape Fear River support estuarine dependent species such as gag grouper (*Mycteroperca microlepis*), Spanish mackerel (*Scomberomorus maculatus*), red drum (*Sciaenops ocellatus*), flounder (*Paralichthys* spp.), and various shrimp species (e.g., *Penaeus* spp.) as well as a number of anadromous species such as American and hickory shad (*Alosa sapidissima* and *A. mediocris*), Atlantic sturgeon (*Acipenser oxyrinchus*), blueback herring (*Alosa aestivalis*), striped bass (*Morone saxatilis*), and the federally-listed endangered shortnose sturgeon (*Acipenser brevirostrum*). Another species dependant on these systems that also serve as prey to managed species includes Menhaden (*Brevoortia tyrannus*).

The applicant and the Corps should undertake a thorough assessment of the threats to EFH that would result from the selection of the Castle Hayne alternative site. Furthermore, there should be a thorough evaluation of the cumulative impact of other existing and future proposed threats to EFH in coastal North Carolina. In this regard, the applicant and Corps may find it useful to review and reference Collins *et al.* (2000).

Thank you for the opportunity to provide comments on this project. Please direct questions or comments to Roger Pugliese (Roger.Pugliese@safmc.net) at the SAFMC office, (843) 571-4366.

Sincerely,



Duane Harris
Chairman

cc: (via electronic mail)
Council Members and Staff
Habitat Advisory Panel
Phil Steele and Joe Kimmel, NMFS SERO
Monica Smit-Brunello, NOAA GC
Bonnie Ponwith and Tom Jamir, NMFS SEFSC

References

- Collins, M. R., S.G. Rogers, T. I. J. Smith and M. L. Moser. 2000. Primary factors affecting sturgeon populations in the southeastern United States: fishing mortality and degradation of essential habitats. *Bulletin of Marine Science* 66(3):917-928.
- Hackney, C. T., M. Posey, L. A. Leonard, T. Alphin, G. B. Avery, Jr. and D. M. DuMond. 2008. Monitoring effect of a potential increased tidal range in the Cape Fear River ecosystem due to deepening Wilmington Harbor, North Carolina, Year 7: June 1, 2006-May 3, 2007. U.S. Army Corps of Engineers, Wilmington District, Wilmington, North Carolina. Contract No. DACW 54-02-0009. 465 pp.
- Schwartz, F. J., W. T. Hogarth and M. P. Weinstein. 1982. Marine and freshwater fishes of the Cape Fear River Estuary, North Carolina, and their distribution in relation to environmental factors. *Brimleyana* 7 : 17 -37.
- SAFMC (South Atlantic Fishery Management Council). 1998a. Habitat Plan for the South Atlantic Region. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407-4699
[<http://www.safmc.net/ecosystem/EcosystemManagement/HabitatProtection/SAFMCHabitatPlan/tabid/80/Default.aspx>]



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Shawn Dick

TELEPHONE NUMBER (& AREA CODE)

386 295 8876

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

PO Box 730248 Ormond Beach, FL 32173-0248

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Aquatic Release Conservation / Angler Conservation Education

DO YOU WISH TO MAKE A STATEMENT?

(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

W. Allen Mather KA

TELEPHONE NUMBER (& AREA CODE)

843-478-5078

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

1676 Culpepper Cir CHAS. SC 29407

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

CAPT. BILL KELLY

TELEPHONE NUMBER (& AREA CODE)

305-394-5333

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

129 TEQUESTA ST TAVERNIER FL 33070

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

ISLAMORADA CHARTER BOAT ASSN.

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Kenneth Fea

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

907 W Yacht Dr OAK Island NC

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

owner of Law Bar and speaking for Southport Commercial

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
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PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Phil Conklin

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

P.O. Box 972 Mirabels Falls SC 29576

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

C&C SEAFOOD - F/SEAS SEAFOOD

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

DAVID C. HABAN

TELEPHONE NUMBER (& AREA CODE)

904-262-2869

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

2323 Orange Picker Rd Jax FL 32223

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Libby fatherston

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

449 Central Ave Ste 200 St. Pete FL 33701

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Ocean Conservancy

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Andy Griffiths

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

40 Key Haven Rd Key West, FL 33040

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16



YES



NO

Snapper Grouper Interim Rule



YES



NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
 4055 FABER PLACE DRIVE, SUITE 201
 NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Scott Reynolds

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

4589 Monument Pt. Jay, FL 32225

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Charter Boat King Neptune

DO YOU WISH TO MAKE A STATEMENT?
 (PLEASE ATTACH A WRITTEN COPY
 IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Becky Hogan

TELEPHONE NUMBER (& AREA CODE)

9045145200

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

PO BOX 331092 Atl. Bch FL

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Mayport Princess Fishing Vessel

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

BARRY FREEMAN

TELEPHONE NUMBER (& AREA CODE)

386-566-8950

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

1841 FORBROUGH CIRCLE PORT ORANGE, FL 32128

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

SEA SPIRIT FISHING PONCE INLET, FL

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
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Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

CAPT GEORGE J. STRATE

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

P.O. Box 13364 Beach Blvd #904 SAs, FL 32224

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

MAY PRINCESS

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
4055 FABER PLACE DRIVE, SUITE 201
NORTH CHARLESTON, SOUTH CAROLINA 29405

PUBLIC COMMENT ATTENDANCE RECORD

Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE)

Charleston, SC

DATE OF MEETING

September 18, 2008

YOUR NAME (PLEASE PRINT)

Capt. Sonny Leslie Davis

TELEPHONE NUMBER (& AREA CODE)

1-800-533-9417

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

Po. Box 3013 Atlantic Beach N.C.

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Capt. Stacy Inc. - Capt. Stacy Fishing Center

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

Michael Ferrell

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

114 Myrtle Egan Exp - Esch SC 29918

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

Tony Anderson

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

206 E. Pulaski Dr.

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

B.A.S.S. Inc.

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

Christy Clow

TELEPHONE NUMBER (& AREA CODE)

386 852 9137

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

PO Box 730248 Ormond Bch, FL 32173-0248

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Angler Conservation Education

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

Allen Leary

TELEPHONE NUMBER (& AREA CODE)

843-224-5760

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

609 Leisure Lane; Mt. Pleasant, SC 29464

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

Thunderstar Fishing

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
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Snapper Grouper Amendment 16 / Interim Rule

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YOUR NAME (PLEASE PRINT)

CAPT. ERIC HEIDEN

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

69 PINEHURST LANE - Pawleys Island S.C. 29585

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

~~USA ANNA POSITANA~~ Florence Bluewater Fish Club

DO YOU WISH TO MAKE A STATEMENT?
 (PLEASE ATTACH A WRITTEN COPY
 IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO

Club



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September 18, 2008

YOUR NAME (PLEASE PRINT)

Harold Olsen

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

6276 HWY 17 N Anderson SC

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

F/V BONSAI

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

TELEPHONE NUMBER (& AREA CODE)

Joshua Giordano-Sullivan

813-817-6778

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

1170 N Shadow Dr Mt Pleasant, S.C. 29464

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

DO YOU WISH TO MAKE A STATEMENT?
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IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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September 18, 2008

YOUR NAME (PLEASE PRINT)

DAVID SPICKETT

TELEPHONE NUMBER (& AREA CODE)

252-247-2306

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

208 PANAMA TERRACE WAREHOUSING CITY N.C. 28557

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

CAPT STAVY III

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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Snapper Grouper Amendment 16 / Interim Rule

LOCATION OF MEETING (CITY & STATE) Charleston, SC	DATE OF MEETING September 18, 2008										
YOUR NAME (PLEASE PRINT) Jason Davis	TELEPHONE NUMBER (& AREA CODE) 843 412 1666										
MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE) 1367 Pherigo St Mt Pleasant 29464											
BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE) Thunderstar (Atlantic offshore)											
DO YOU WISH TO MAKE A STATEMENT? (PLEASE ATTACH A WRITTEN COPY IF AVAILABLE)	<table><tr><td>SG Amendment 16</td><td><input type="checkbox"/></td><td>YES</td><td><input checked="" type="checkbox"/></td><td>NO</td></tr><tr><td>Snapper Grouper Interim Rule</td><td><input type="checkbox"/></td><td>YES</td><td><input checked="" type="checkbox"/></td><td>NO</td></tr></table>	SG Amendment 16	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO	Snapper Grouper Interim Rule	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
SG Amendment 16	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO							
Snapper Grouper Interim Rule	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO							



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September 18, 2008

YOUR NAME (PLEASE PRINT)

Eileen Dougherty

TELEPHONE NUMBER (& AREA CODE)

843-737-4466

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

2162 Edisto Ave. Charleston, SC

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

FDF

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
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SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO



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YOUR NAME (PLEASE PRINT)

Erin O'Neal

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

726 Willowbank Rd. Georgetown, SC 29440

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

NOAA-NMFS

DO YOU WISH TO MAKE A STATEMENT?
 (PLEASE ATTACH A WRITTEN COPY
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SG Amendment 16

YES

unsure

NO

Snapper Grouper Interim Rule

YES

unsure

NO



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YOUR NAME (PLEASE PRINT)

SEAN MCKEON

TELEPHONE NUMBER (& AREA CODE)

MAILING ADDRESS (PLEASE INCLUDE STREET OR BOX NO., CITY, STATE, & ZIP CODE)

BUSINESS OR ORGANIZATION YOU REPRESENT (IF APPLICABLE)

NCFA

DO YOU WISH TO MAKE A STATEMENT?
(PLEASE ATTACH A WRITTEN COPY
IF AVAILABLE)

SG Amendment 16

YES

NO

Snapper Grouper Interim Rule

YES

NO