

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT SHRIMP ADVISORY PANEL & COMMITTEE

**Pawleys Island Resort
Pawleys Island, SC
October 27, 2004**

Summary Minutes

COMMITTEE MEMBERS

Bill Cole, Chairman
David Cupka
Henry Ansley

Dr. Roy Crabtree
Dr. Louis Daniel
John Wallace

SHRIMP ADVISORY PANEL

William Daniels
Kenny Lewis, Sr.
Marilyn Solorzano

Micah LaRoche
George Marra

COUNCIL MEMBERS

Mac Currin
George Geiger
Tony Iarocci
John O'Shea
Mark Robson

Dr. John Dean
Duane Harris
Rita Merritt
Lt. Cmd. Scott Rogers

STAFF MEMBERS

Bob Mahood
Dr. Vishwanie Maharaj
Dr. Kathi Kitner
Julie O'Dell
Bridgett Vergara

Gregg Waugh
Rick DeVictor
Kim Iverson
Deb Buscher

OBSERVERS/PARTICIPANTS

Ginny Fay
Dr. Joe Kimmel
Tracy Dunn
Myron Fisher
Dick Brame
Hal Robbison
Jack McGovern
Janie Thomas
Megan Westmeyer
Kenny Lewis
Laura Jodice
John Ward

Monica Smit-Brunello
Dr. John Merriner
Lt. Eric Johnson
Ron Smith
Ray Rhodes
Karen Raine
David Medici
Jennifer Lee
Amber VonHarten
Judd Boomhower
Brian Chevront

TABLE OF CONTENTS

Call to Order, Chairman David Cupka.....	3
Approval of Agenda.....	3
Approval of June 2004 Minutes.....	3
Election of Chair and Vice Chair.....	3
Approval of September 2002 Meeting Minutes.....	4
Overview of Materials and Time Line Date.....	4
Review of Public Comments on Amendment 6.....	5
Review of DSEIS Comments.....	14
AP Recommendations on Alternatives in Shrimp Amendment 6:	
Action 1.....	17
Action 2.....	18
Action 3.....	25
Action 4.....	39
Action 5.....	40
Action 6.....	45
Action 7.....	58
Input on Ecosystem-based Management.....	61
Shrimp Business Plan.....	62
Other Business.....	66
Adjournment.....	69

The joint meeting of the Shrimp Committee and Shrimp Advisory Panel of the South Atlantic Fishery Management Council convened in the Waverly Room of Pawleys Plantation, Pawleys Island, South Carolina, Wednesday, October 27, 2004, and was called to order at 8:30 o'clock a.m. by Chairman David Cupka.

Mr. Cupka: I'll go ahead and call the joint meeting of the shrimp committee and the shrimp advisory panel to order. If you turn to Tab 3 in the briefing book, you'll find an agenda for this meeting, and the first order of business is the approval of the agenda. I'd like to ask at this time if there are any additions or changes to the agenda. Seeing none, then the agenda is approved.

The next order of business is approval of the June 2004 shrimp committee meeting minutes. I'd entertain a motion on those. I have a motion by Dr. Daniel, a second by Mr. Cole. Any discussion on the motion? Any objection? Without objection, the minutes of the June 2004 shrimp committee meeting are approved.

The next order of business was to be the election of chair and vice chair for the shrimp advisory panel. As everyone knows, Jim Bahen, who was the chair, has retired and so Jim is no longer participating.

I sadly have to announce that the vice chair, Jimmy Leland, passed away about a month ago. That leaves us really with ten AP members that are eligible to participate, and we would need six for a quorum. I think we only have five here today, so I'm not sure we can elect a chair or vice chair for the AP in the absence of a quorum. I might ask our legal counsel for some input on that.

Ms. Smit-Brunello: I'll review your SOPPs, but I don't know that it addresses this issue. I believe you need a quorum to elect a chairman and vice chairman.

Mr. Cupka: Okay, that was the feeling of staff also. Unless anyone has any objections, we will wait until you meet next time to elect a chair and a vice chair. In the absence of that, I will continue to run the meeting, at least the portions of it that calls for the AP chair to do so. I don't think it's critical in any way, but that's kind of where we are in this situation.

Do any of the AP members have any comments in regard to that? I don't know anything else to do but move ahead, and hopefully next time you will have a quorum here. This is kind of unusual a situation.

All right, the next order of business would be approval of the September 2002 joint shrimp and shrimp BRD ad hoc advisory panel meeting minutes. Those are behind Attachment 2 in the briefing book.

This will call for an action for approval of those minutes by the members of the AP, so I would entertain a motion from the AP. All right, motion by Mr. Lewis, second by Mr. Daniels. Any objections. Without objection, the minutes stand approved. That brings us down to the overview of the materials for the minutes and a time line update, and I'm going to turn it over to Vishwanie to lead us through that part of it.

Dr. Maharaj: Thank you, sir. The briefing book material is contained in Tab 3 of the briefing book. I wanted to draw your attention to the pink sheets that contain an overview of the meeting today.

Also, it's really convenient for reviewing the actions in Amendment 6. They're all summarized and listed on the pink sheets. In addition, prior to the briefing book mailout, we had sent a copy of the public hearing draft of Shrimp Amendment 6.

If you don't have a copy with you, we do have extra copies at the table in the back of the room, so please pick one up or ask staff members to provide you with a copy of that. Also, we handed out three additional pieces of material this morning. One was a summary of all of the public comments we received on Amendment 6. This is a copy of all the slides that I am hoping to present this morning.

The next handout was some additional comments we received. It's Tab 3, Attachment 4. You should have that in front of you somewhere. We apologize for giving you these public comments so late, but they came in as part of our draft supplemental EIS comment period, which closed on September 20th.

Those are the materials we'll be working from today. All of the public comments that we mailed out with the briefing book mailing can be found in Attachments 3A, 3B, and 3C of your briefing book mail-out material.

Regarding the timing for Amendment 6 to the shrimp plan, at this meeting we will be taking your recommendations on measures in the amendment. Tomorrow the council will vote on approving the final action for Amendment 6.

Staff will revise the Amendment 6 document, bring it back to the council at the December meeting for their final blessing and approval to submit to the Secretary of Commerce. Amendment 6 to the shrimp plan will be submitted to the Secretary of Commerce in December of this year.

Regulations may go into effect in 2005 or 2006, depending on whether or not there are any issues with the document once it is submitted to the Secretary of Commerce. That is an update. That takes care of Agenda Item 5.

Mr. Cupka: Thank you, Vishwanie. Any questions for Vishwanie in regards to what we hope to cover today and where we're heading with this particular amendment? Seeing none, then we'll move ahead on our agenda into Item 6, which is a review of the public comments received on Amendment 6. These are behind the attachments as well as the handout that Vishwanie referred to earlier.

Dr. Maharaj: Basically, I'll just work from this instead of the PowerPoint presentation, if that's okay with everybody. On the first page of the handout, we have a list of the public hearing dates, the second slide at the bottom of Page 1.

As you can see, we had six public hearings. They were held in August 2004, and there was one in July in South Carolina. We had six public hearings and this slide indicates locations, dates, number of attendees. Some of them were better attended than others. The number in brackets represent the number of folks who spoke on the record as to the actions.

There were a lot of question-and-answer sessions at these public hearings. We encouraged attendees to send in written comments if they weren't able to comment on the record. We had two comment periods, and we received comments on the amendments until August 13th.

With respect to our NEPA requirements, we accepted comments until September 20th on the draft supplemental EIS to Amendment 6. We got about 23 written comments, and that includes all the written comments from organizations as well as individuals.

This slide summarizes the affiliation of the respondents to the public comments, both the written and at the public hearings. We usually transcribe all of the public hearing minutes, and that's included in the briefing book package.

We received about 22 comments from shrimpers, 4 from commercial fishing organizations, 1 from an environmental group recreational organization that was CCA, and 2 from government agencies and 2 from the general public.

The comments were summarized and organized according to whether or not they supported an action or alternative. If the respondent provided a reason for supporting that action, we listed it in the correct order.

If they objected to some of the alternatives, we listed that as well, counted that, and listed the reason for the objection to the alternatives. That information is folded into our documents. The council sees this information and it can influence its decisions.

Some other comments were mainly on clarification of items in the document, and we will certainly take care of that. Someone asked for a glossary of terms and Kerry O'Malley prepared an in- depth glossary that we will include with Amendment 6 documents.

In addition, some of the comments were referred to National Marine Fisheries Service for a response. We received that response and that will be discussed tomorrow. Since you've got all of the actual comments in front of you, I'm only going to pick out the ones that we would like you all to perhaps comment on.

In particular, if there are any new alternatives suggested, we would certainly encourage the advisory panel members to comment on those new alternatives. That helps us with our NEPA recordkeeping, as well as the council will be interested in those comments tomorrow when they deliberate on the final alternatives for this amendment.

The first action in the plan deals with the BRD testing protocol system and whether or not the council should transfer authority of the BRD protocol testing to the National Marine Fisheries Service.

The responses were mixed. As you can see, five people supported it, five did not. The main concern was whether or not fishermen would be able to provide input through the council process on the elements of the BRD protocol, which would cover testing conditions for certification of new BRDS.

The council does have a BRD AP, and any comments could be transferred through the BRD AP to the National Marine Fisheries Service or directly to the National Marine Fisheries Service. Any changes to the BRD protocol would require a proposed and final rule being published in the Federal Register.

Action 2 was the adjustment of criteria of new BRDs, and, again, we had mixed support for that. A lot of folks chose the no action alternative in our plans throughout all the measures, primarily because they were protesting new regulations in the shrimp fishery.

Some of the no action alternatives were not necessarily because we don't like this particular alternative, simply we don't want any new regulations. There was one alternative suggested by South Carolina DNR for consideration by the council, and that would be to consider a more specific criteria for the BRD criteria which would include 10 to 15 species and set size categories.

Basically, I think what they were suggesting is that the council develop a specific group of species that would be used for BRD testing and develop the size categories for those species. We provided this to the National Marine Fisheries Service for comment. The particular question we did have on this particular alternative suggested is do we have the data necessary to provide specific species that would apply to the entire range of South Atlantic fishery.

Again, the council's current preferred alternative for the BRD criteria is to move away from the species-specific criteria to a more general finfish criteria; so any new BRDs that are certified for use in the South Atlantic will have to demonstrate a 30 percent reduction in overall finfish. That's the current preferred alternative for this measure.

The third action is to establish a method to monitor and assess bycatch in the South Atlantic rock shrimp and penaeid shrimp fisheries. There was some support for the preferred alternative. There was a lot of no action responses, and I want to focus on those reasons. Again, most of the support for the no action alternative came from commercial fishermen.

They were concerned about additional paperwork from the logbook requirements, concerns about why do we need additional information since the state collects catch-and-effort data. There were lots of concerns about the cost of observers.

Some respondents assumed that they would have to pick up the cost of observers, both salary costs and insurance costs. Again, there was another concern about the down time from having observers on board, especially for small vessels.

There were some additional alternatives suggested for methods to monitor and assess bycatch. One particular group was very concerned about bycatch. It came from Oceana, and they indicated that observer coverage should include 20 to 50 percent of all trips.

The Atlantic Coastal Cooperative Statistical program sets the minimum level at 2 to 5 percent of all trips. The ACCSP program is our current preferred alternative for this fishery. There was also concern about setting caps on bycatch by this group.

There was also a recommendation to amend the alternatives to include real-time reporting of bycatch and the use of VMS in the penaeid shrimp fishery. VMS is only required in the rock shrimp fishery.

Those comments were referred to the National Marine Fisheries Service for additional comments. I think it would be really onerous to have real-time reporting of bycatch on the shrimp vessels. In addition, we had a measure in the plan; and that's Action 4 which addressed minimization of bycatch in the rock shrimp fishery to the extent practicable.

Several respondents supported Alternative 1. You can easily follow the wording from those alternatives from the overview in the documents. Alternative 1 is the support for requiring BRDs in the rock shrimp fishery, and that was supported by several respondents.

Some of the fishermen had some concerns about the bycatch data from -- there was a NMFS pilot study that included about 100 days of observer coverage in the rock shrimp fishery. Some

fishermen were concerned about the quality of that data because it was a poorer season for rock shrimp, and that year was 2002.

There were also some certain weather conditions that were unusual. There were concerns that the data in the document did not accurately reflect bycatch composition and quantities in this fishery.

There was some support for the seasonal closures. This came from, I believe it was EPA and Oceana. One was sort of a stipulation if the rock shrimp fishery is overfished or if the habitat is substantially damaged by shrimp trawls, then the council should consider the seasonal closure alternatives.

There was also another comment that the seasonal closure may benefit three species of turtles that regularly nest on Florida's east coast beaches. There was information in the document that indicates in the rock shrimp fishery areas have been closed to protect sensitive habitat.

Also, we did include information to the effect that there is VMS requirements in this fishery to ensure compliance of the closed area restrictions. There were a couple of other alternatives suggested for the rock shrimp fishery, that we consider a requirement for BRDs in combination with a seasonal closure.

As I mentioned before, there is data in the document to indicate that in earlier deliberations of the shrimp committee, when we were at the options paper stage, there were certain options in there to consider seasonal and area closures.

Those were eliminated from further consideration by the shrimp committee, primarily because they were prime area closures. They were area closures for the rock shrimp fishery in referring to the Oculina Bank and the Oculina satellite areas, and also that there is a VMS requirement. This rejected alternative is in the appendix of the document with a rationale of why the council had considered it earlier and they eliminated from further consideration.

Action 5 deals with the permit requirements in the penaeid shrimp fishery. The current preferred action is to consider the requirement for a penaeid shrimp permit in the South Atlantic shrimp fishery.

Currently the council has made an exception. The permit would not be required if the vessel is in transit. The actual language on the permit requirement is on Page 4 of the overview, if you want to take a look at that.

The reason I mention this is because Karen Raine has a number of comments on these exceptions to the requirement for the shrimp permit. There's some law enforcement issues. If it's all right with the chair, I would ask her to make her comments.

She wanted to specifically present her comments while the AP was present and have some sort of a discussion on the law enforcement issue that she is concerned about. Like I mentioned before, the current preferred alternative for the council is to require the permit for any shrimp trawler that's in possession of shrimp or fishing for shrimp in the EEZ.

There is an exception if the vessel is in transit or if their gear is not rigged for fishing, and that is detailed on Page 4 under Action 5. I'll turn this over to Karen Raine and she can explain her concerns to the AP.

Ms. Raine: Thank you. I'm just going to read a couple of comments that I have written out to go through this. General Counsel for Enforcement and Litigation, Southeast Region, and various council law enforcement advisory panels have supported consistency among Southeast Region regulations.

Inconsistencies tend to open loopholes in the administration of, compliance with and enforcement of regulations. I have not been able to find another example of permit requirements in the Southeast Region, including within the South Atlantic area, that excepted vessels that, one, is in transit; and, two, is not rigged for fishing.

Nor is there discussion within the draft document of this exception regarding its need, positive impacts, negative impacts or inconsistency with other regulations. If operator permits are eventually required for this fishery, will the same exception apply; and if for this fishery, why not for all others?

The exception has negative implications for enforcement. For example, if a trawler is not fishing or anchored when observed with shrimp in or from the South Atlantic EEZ, investigation will be needed to determine whether the vessel is simply in transit; and, if so, whether it was on a direct and continuous course through the South Atlantic EEZ.

Determining the answers to these questions may be difficult, time consuming and perhaps considered a waste of resources if either the answers cannot be determined or if it is determined that the trawler met the elements of the exception.

The same holds true if a vessel is not rigged for fishing. Note that to the extent this impacts enforcement efforts in North Carolina, there is not a formal cooperative enforcement agreement or a joint enforcement agreement in place with that state.

To the extent that trawlers that otherwise are required to have the permit are able to avoid this requirement to the exception, the permit requirement will fail to fulfill the benefits of a permit as noted throughout the draft document.

I would just note there are a number of places obviously throughout the document that note some benefit, but one thing I did want to point out is that there is a comment that indicates that shrimp vessels that are in violation of the TED requirement would be subject to permit sanctions.

Actually, for civil violations of the TED regulations, those are not subject to permit sanctions for cause. If someone fails to pay a penalty for a TED violation and it becomes overdue, then the permit may be sanctioned for non-payment. There is not an availability under the Endangered Species Act for civil violations for permit sanctions for cause for the violation itself. Thank you.

Mr. Cupka: Thank you, Karen. Do you want to just continue on through the rest of your presentation and then we'll open up for any comment or questions at that point.

Dr. Maharaj: Thank you. There were a lot of concerns about the need for a permit in this fishery, and a lot of the commercial fishermen were not supportive of a permit.

The main objection from some of the comments we received were on the control date and the permit. In combination with the control date, there was some concern that this could lead to limited entry in the fishery. Some fishermen were in favor of it and some were not.

Again, they were also concerned about additional paperwork, and certainly some folks felt that all of the necessary data on the shrimp fishery currently resides within the state trip ticket program.

Also, there was some concern that the federal permit will not capture information on the large number of small boats that fish essentially in state waters. Part of the reason for requiring the permit is to improve the data collection, better identify fishermen in the EEZ, and target those fishermen for bycatch studies.

Also, there is a need to collect additional economic information on vessels to satisfy our requirements with the Small Business Administration. There will be a shrimp survey that will be conducted next year, and that survey is contingent upon the data that is going to be collected through the permit application process for the shrimp fishery. Those two data collection programs will complement each other in order to satisfy our federal regulatory requirements.

Again, there were other alternatives suggested, and Karen Raine with the Office of Law Enforcement suggested we remove the exceptions to the requirement for the permit, so basically any trawler fishing for or possessing penaeid shrimp in the South Atlantic EEZ will be required to have a permit under this new alternative that was suggested.

There was another suggestion to go all the way and implement a limited access program, but only use historical data. I don't think that's viable. The council set a control date of December 10th, 2003, and this particular alternative that was suggested required that we use landing

qualifiers from 1971 to 1974 only, so that's not a viable alternative as far as the staff is concerned.

Actions 6 and 7 in the plan deal with the status determination criteria for penaeid shrimp stocks and rock shrimp stocks. Action 6 addresses the penaeid shrimp species. The council does not have a preferred alternative for Action 6.

Many of the respondents to these comments at the public hearings and with written comment did not really comment on the specific alternatives, but a lot of their comments were very general on the need for setting MSY, OY, overfished status and overfishing for these annual crops.

We do have to be in compliance with National Standard 1 of the Magnuson-Stevens Act, and it does not provide an exception for species that have less than a two-year life cycle. The only specific comment we received on this action was not supporting Alternative 3, because Alternative 3 for Action 6 utilizes fishery-independent data from the SEAMAP program.

There was some concern expressed by one of the scientists who responded that this data set may not be sufficient to generate accurate estimates of OY and MSY because of a lot of variability in the sampling protocol.

This comment was forwarded on to the National Marine Fisheries Service for their response. Since NMFS did develop a couple of these alternatives, they have the necessary expertise to do so. I'm sure we will be discussing the responses to that comment tomorrow when the council deliberates on the final choices. And, as I mentioned before, they do not have a preferred alternative Action 6.

Mr. Cupka: Vishwanie, I don't mean to interrupt you, but actually that's Alternative 2 under --

Dr. Maharaj: Oh, I'm sorry, that's my mistake, I really apologize. That should be Alternative 2 that deals with the SEAMAP data. Much of the support for the no action alternative was simply a protest on the need for these measures in the shrimp fishery.

Again, Action 7, there weren't any specifics except a number of respondents supported Alternative 1, the no action alternative. I think a lot of the fishermen did not realize that we do have some of these criteria currently in place for both fisheries.

There were some general comments on the stock status determination criteria. A number of those comments dealt with the fact that water quality and habitat damage is more of concern to the health of these stocks than fishing effort. And one particular comment indicated that, really, if we do have an environmental condition that results in low populations of these species, it's sort of unfair to classify them as overfished or indicate that there is overfishing. There was some sensitivity there with that classification.

There was another comment that shrimp stocks should be exempt from management based on stock status determination criteria. Also, there was concern it is unlikely that there would be any overfishing because of the attrition in the fishery.

And, again, there was one specifically on rock shrimp, that they do have a short lifespan and it will be practically impossible to deplete the fishery, and the limited access program also reduced effort.

There was one comment from the South Carolina DNR, and that's Number 10 on this list. It's on the screen at the moment. The South Carolina DNR scientist did indicate that spawning stock abundance for penaeid shrimp species would have to reach extremely low levels to result in poor recruitment.

Given the current economic climate, it is unlikely that fishing mortality alone would reduce spawning stock to such low levels that results in recruitment failure. Again, all of these responses will be summarized in the document. Bear in mind, though, regardless of which alternative is chosen for Action 6 or 7, if there is a determination of overfishing or overfished in any of these fisheries, the council intends there would be a shrimp review advisory panel that will be convened to review all the data resulting in these determinations.

That review panel would make recommendations to the council on whether or not management action is required; and if management action is required, the geographical extent of that action, as well as the duration.

There were a number of other alternatives suggested by the public. It's on the list. Staff determines that they are not really viable alternatives for this fishery, but because of all the NEPA requirements, we do have to address all alternatives and provide a response as to why they are not viable alternatives, and include that information in our documents.

There is a list here. I'm not going to go into the list in any detail because you've got copies of this document. If there are any comments that come up or you feel that some of these alternatives are viable or you would like to add anything to the further rationale or explanation of why these alternatives are not viable, please do so. We encourage that for the administrative record. That is the end of this presentation on the comments. I don't know if there are any questions.

Mr. Cupka: Thank you, Vishwanie. Any questions or points of clarification for Vishwanie in regard to the input we've received before we move ahead?

Mr. Daniels: I would like clarification on Number 2 on Alternate 5, you said from 1971 to 1974. Were we talking about the rock shrimp fishery here or all shrimp fisheries?

Dr. Maharaj: Page 9.

Mr. Daniels: The second, Number 2.

Dr. Maharaj: I see what you're referring to. This was a comment that was supplied to us by the public, and this is all the information we had on that alternative. The comment indicated that we should develop a limited access program based on historical data from 1971 to 1974.

Now, there was no rationale given for that, I believe. I don't think the alternative is viable because we do have a control date of December 10, 2003, so I don't think we can go that far back.

Because of our NEPA requirements, we have to consider all alternatives suggested by the public. We take all the public comments seriously; and if somebody suggests an alternative, we have to provide a response to that.

Mr. Cupka: This was a comment we received from the Union of Commercial Fishermen, and at least my reading of it was that it would apply to the shrimp fishery, not just rock shrimp fishery. But as staff has pointed out, it's not considered a viable alternative so we'll put it in the list considered but rejected. It is my understanding that it applied to the shrimp fishery and not just rock shrimp.

Ms. Solorzano: I was wondering why all this rock shrimp stuff is being placed under shrimp amendments when there is a rock shrimp AP, and a lot of the rock shrimp fishermen are not even aware that these rock shrimp regulations are being placed in, because it's put in the shrimp amendment, not rock shrimp.

Dr. Maharaj: We don't have a rock shrimp plan. It's all the shrimp plan. Amendment 1 to the shrimp plan dealt specifically with rock shrimp issues. We don't really have a separate plan for rock shrimp, and we can include rock shrimp and shrimp management actions in the same plan.

Ms. Solorzano: But shouldn't the Rock Shrimp AP have been brought in on these issues concerning the rock shrimp fishery such as overfishing, control dates, things of that nature? All we have here is shrimp AP. We don't have the Rock Shrimp AP, and this is a lot of things concerning the rock shrimp fishery?

Dr. Maharaj: Staff did communicate with the Rock Shrimp Advisory Panel through mailings. The options paper at various stages was mailed to the Rock Shrimp Advisory Panel. We did encourage written comment to be sent in to the council office.

The public hearing document was certainly mailed to the Rock Shrimp Advisory Panel requesting that they comment on these actions, emphasizing that they pay particular attention the

actions that address the rock shrimp fishery like status determination criteria for rock shrimp as well as the bycatch reduction measures.

Sometimes it's a budgetary issue to include all of the AP members at a formal meeting. I guess the decision was taken to only invite the Shrimp AP to this meeting, because we had one action really that would affect the rock shrimp fishery, and that's the requirement for BRDs. That's my answer. I don't know if Bob Mahood would like to add anything to that.

Ms. Solorzano: A lot of the rock shrimp fishermen do have a concern with these possible closures dates, seasonal closure, and that's a big issue in the rock shrimp fishery is a seasonal closure, a date of an opening and a closing. No one wants it and most of the rock shrimp fishermen were not even aware that this is being considered at this time.

Mr. Mahood: Yes, I'll let Vishwanie off. I think, Marilyn, probably you're correct. In retrospect, we probably should have had the Rock Shrimp Advisory Panel sit and meet here with us, although we had, like Vishwanie said, communicated with them.

I think maybe that was an oversight on our part, and it certainly would have been better to have them here to talk to us. But, we're going to let you represent them since you sit on both the Shrimp Advisory Panel and the Rock Shrimp Advisory Panel. You are somewhat outspoken on the issues.

Mr. Marra: I'd like to address the comments that were made concerning law enforcement exceptions. My attitude is there is no law that's perfect. It leaves law enforcement as the sole judge of whether the vessel has been in transit or not in transit. There have been documented incidences where there have been subjective decisions by law enforcement concerning fines, et cetera. I am in favor of exceptions to the rule.

Mr. Cupka: Okay, other comments or really questions or clarifications on the comments? Seeing none, then we'll move on to a review of the DSEIS comments received by National Marine Fisheries Service.

Ms. Fay: Are we talking about the memo that I sent with the answers?

Mr. Cupka: No, we're talking about the material behind Attachment 4. Yes, that's the memo. Vishwanie said that was mailed out and distributed.

Ms. Fay: The South Atlantic Council asked clarification on a number of points. We provided responses to the questions requested by the council. I don't know if there is further clarification that is needed at this point in time for the team to work on the document.

Dr. Maharaj: Ginny, this agenda item was supposed to give you guys an opportunity to raise any issues with the advisory panel out of that memo, so it's entirely up to you.

Ms. Fay: Unless the advisory panel has questions pertaining the comments that were received -- there was an Oceana letter, comments from South Carolina, and comments from the EPA. I'd welcome your questions.

Mr. Cupka: Any questions or clarifications concerning the comments that NOAA received on the DSEIS. I guess it was from a total of three organizations or individuals; EPA and I guess our agency sent some in and then Oceana, correct?

Ms. Fay: That's correct.

Mr. Cupka: I don't see any questions forthcoming on that, so I'm sure when we get in discussion on the alternatives some of that information will come out as we go through those. That does bring us down to the AP recommendations on alternatives in Shrimp Amendment 6, and that's really the crux of what our meeting is about here today.

What the council wants to get is your advice or comments regarding each of the actions being proposed in Shrimp Amendment 6. I think the way maybe to handle this is we'll just start with Action 1 and have Vishwanie maybe lead us through this and get your comments in regard to what you think about the various actions and alternatives being proposed.

Dr. Maharaj: Thank you. If you go to the pink sheets behind the agenda, there's a list of all the actions. They start on Page 2. Action 1 will amend the bycatch reduction device testing protocol system. The preferred alternative at this time is to withdraw the BRD testing protocol from the Shrimp FMP and shrimp framework and transfer that authority to NOAA Fisheries, so that the Regional Administrator can make the appropriate revisions.

We have some clarification on the wording for Actions 1 and 2 in the document. Looking at Monica, I don't know if this is the time to go into that, but perhaps I should turn that over to you?

Ms. Smit-Brunello: I think actually the Fisheries Service provided some alternative language that better describes what the council really wants to do. I think the focus is really on revising the language in the BRD framework to remove the aspects that require council action regarding the testing protocol.

It's not to remove the testing protocol entirely. If you have any questions on that, I'll try to answer them or the fishery service will, but it's not to remove the testing protocol. One aspect does involve the testing protocol, but it's also to remove the council's involvement in that with the testing protocol.

Mr. Lewis: When is the last time we met, two years-three years ago in Charleston?

Dr. Maharaj: Yes, it was 2002.

Mr. Lewis: Okay, we had the head statistician from National Marine Fisheries give a presentation. After it was through, he admitted that it was impossible for National Marine Fisheries to do what they're mandated to do the way the wording is in the BRD protocol.

The only way for this whole process to be right was to remove two words, "target species". If you take target species out, all the BRDs can be tested and be right. Now this is on record. So, we're going through all this for two more years and we're coming back to the same thing, and it's impossible to do. You all have already admitted it is impossible to do it.

Ms. Smit-Brunello: No, I think that part is going to be changed. It was just the wording made it look like that the BRD protocol was going to be taken out entirely. Those aspects I believe are going to be changed.

Mr. Lewis: The BRD target species are being taken out?

Ms. Smit-Brunello: Right. .

Dr. Crabtree: Yes, that's one of the other alternatives that's the preferred alternatives in here is to make the standard for BRD performance be total finfish bycatch rather than individual target species. That will make it statistically easier to certify BRDs because the sample sizes will be much higher because you don't have to look for a single target species.

Mr. Cupka: There was a lot of confusion and misunderstanding about what we were trying to do with some of these BRD testing protocol changes. Actually, the intent is to make it easier to certify BRDs and to remove the burden of proof from the industry essentially and to make it easier and to get some of these other BRDs into the system. That was the thrust of some of these changes. It wasn't to add more regulations or make it more difficult.

Dr. Crabtree: Yes, and we're also looking at a revision to the testing protocol that would alter the statistical basis in a way that's intended to make it easier to certify new BRDs. The problem has been that the statistical procedure, along with having target species, has made it too difficult to certify BRDs, and that was never the intent of this.

The intent was to get new and better BRDs into the fishery. All of the changes we're making are intended to make it easier to certify new BRDs and get them into the fishery. That's the direction all these changes are intended to go.

Mr. Cupka: Any other questions or comments regarding AP concerns about what is being proposed in Action 1?

Mr. Lewis: We were told the BRD testing protocol from the shrimp management plan and shrimp framework and transfer it to NOAA Fisheries authority was to make the appropriate revisions. In other words, we're going to give them the authority to take targeted species out of the language, is that what we're talking about?

Dr. Maharaj: There are two actions that are being confused. Action 1 is the BRD testing protocol, which does not affect the criteria. The criteria for determining whether a BRD can be certified for use in the fishery will still be under the council's control.

The BRD protocol contains the testing conditions, tow times and the statistical testing methodology for carrying out the BRD testing trials. Action 1 deals with those issues. The current preference of the council is to provide or transfer the authority to make those types of changes to the National Marine Fisheries Service, given the fact that they have the necessary scientific personnel who are better qualified to make those types of determinations.

As I mentioned earlier, we do have a BRD Ad Hoc Advisory Panel so that the council will still have some input into these decisions through that advisory panel, but through a less formal process.

Every time we need to make a change on tow times or the statistical testing methodology, we would have to go through a plan amendment if it remains within the council control. If we give the Regional Administrator control of those changes to the protocol manual, then NMFS would publish the proposed rule and a final rule, but the council can still be involved through a more informal process through the BRD Advisory Panel.

Mr. Lewis: How much involvement are you talking about? This is sort of like putting a fox in charge of the henhouse here. So far they've not got a good track record.

Dr. Maharaj: This is simply for the testing conditions. We would have to obtain recommendations from the NMFS Science Center on all of these parameters. The BRD protocol testing manual, the entire manual is within the appendix to your -- provided in the appendix to this document. Testing conditions, tow times, the statistical testing methodology on all of those types of parameters, if they're more scientific parameters, we're going to depend on the NMFS Science Center to provide recommendations on those parameters to us.

We'd have to go through this formal process of a plan amendment. We would have to go out to public hearings; whereas, the public can provide comment through the AP. The Shrimp AP can certainly comment at the proposed rule stage, the final rule stage.

In the document we laid out the council's intent in transferring this authority to the National Marine Fisheries Service. The Regional Administrator will keep the council informed of any changes that are necessary.

The Gulf of Mexico Fishery Management Council has already provided authority to the National Marine Fisheries Service to make changes to their BRD protocol. We have to be consistent with that testing protocol for the Gulf of Mexico shrimp fisheries because we do have fishermen who traverse both the South Atlantic and Gulf of Mexico, and we don't want to have BRDs certified under one set of testing conditions not being appropriate for use in the Gulf of Mexico. I don't know if there's any other comments.

Mr. Lewis: Well, the Protocol Committee would still have input in your decision, that's what I want to know?

Dr. Crabtree: We would bring any proposed rule to modify the protocol before the council and give them an opportunity to comment on it. I assume the council would ask their APs to look at it. It would go out for a public comment period. So, yes, we would look for input from everyone before we made a change.

Mr. Lewis: Okay, that's fine. Thank you.

Dr. Maharaj: Are we ready to move on to Action 2? Any other questions on Action 1? Okay, Action 2 is the action to adjust the criteria for the certification of new BRDs. The details of that are on Page 3 of the pink sheets.

The current preferred alternative for the council is to move to a 30 percent finfish reduction criteria. This will now be a general finfish criteria. Therefore, if any new BRDs should be certified, it would have to be statistically demonstrated that the device can reduce the total rate of finfish by at least 30 percent.

It has been demonstrated that the BRDs that have been certified for use in this fishery can meet that 30 percent reduction in finfish. Section 3 of the amendment document contains some of the research results on past trials for BRDs that have been certified for use in the South Atlantic fishery.

Information on those tests indicated that the BRDs were able to reduce finfish by 30 percent, the weight of finfish by 30 percent. In the past, the criteria was based on the ability of BRDs to reduce the numbers of weakfish and Spanish mackerel in bycatch. That's the no action alternative. The third alternative, which was suggested by the BRD AP, would be to remove Spanish mackerel as the target and retain the weakfish target.

Ms. Solorzano: Vishwanie, I have a question. The BRDs that we're using now have already passed this 30 percent, so basically we're not being asked to have to go buy new BRDs, put them in the nets and change everything out. Is that what you're saying now, the BRDs that we're using now have been tested to do a 30 percent overall?

Dr. Maharaj: Yes, the BRDs that have been certified for use meet that minimum 30 percent criteria. Any new BRDs that would be certified must meet that criteria. That's what this action says.

Ms. Solorzano: Why do we need new ones?

Dr. Maharaj: If there is a better device and it's more effective at reducing bycatch, it can be certified for use in this fishery.

Mr. Cupka: We do have evidence that there are some new BRDs out there that haven't been certified that could be under this new protocol, that in some ways work better than the existing ones.

It doesn't mean you would have to use the news one if you're satisfied with what you have as long as you use one that meets the criteria, whether it's an existing one or a new one that might be introduced or developed.

As long as it meets that criteria, you'd be free to use that. It's not really going to require you to change anything that you're currently doing if you don't want to do that. But, the problem we've had in the past is in trying to certify these, we depend on weakfish and Spanish mackerel reductions, and a lot of times it's hard to encounter these particular species, particularly weakfish at certain times of the year, in order to do the test.

What we're really aiming for is an overall reduction in the finfish bycatch as mandated under the Sustainable Fisheries Act, so this will allow us to certify some new BRDs that may even be more efficient.

Mr. Wallace: I think also by maybe certifying some BRDs that are more efficient on retaining shrimp also -- that's one of the thing with this program is we do have to meet finfish reduction requirements, but if we can put some BRDs into place that does a better job of retaining shrimp, that's more of what we're after.

Mr. Marra: In addressing one of the sub-alternatives in here, 22 percent, I think that the Magnuson-Stevens Act specifies the word "practicable." I think it's a hard word to even say, but let's use the dictionary that says it also means "feasible."

Going from a socio-economic standpoint, I'd like to address why not start at 10 percent? Since we're talking about all finfish, let's start with the advantage of catching shrimp, also protecting

the environment. Why are we at 30 percent? Who picked 30 percent? That's my question, David.

Dr. Maharaj: The Magnuson-Stevens Act does say that you have to reduce bycatch in fisheries to the maximum extent practicable, so there is a qualifier there. If you do have devices that are capable of reducing bycatch by 30 percent and you set your criteria at 10 percent, that's not exactly in compliance with the Magnuson-Stevens Act. I would defer to our attorneys to provide any additional clarification on that.

Ms. Smit-Brunello: She did a good job. I mean, I think she kind of hit the nail on the head, so to speak.

Mr. Cupka: We have something in place now that we think achieves the 30 percent. If we back up, it would not be very long before we would see legal action taken by some of the environmental organizations, and rightly so.

Mr. Marra: I understand that, David. I know the government is worried about being sued, and I'm also worried about the economic health of the shrimping community. I look at it like right now with a BRD that has been proven on multiple trawls, and I think we'll get into specific trawls, but we can get into the multiple trawl testing that has gone on that we lose up to 33 percent of our catch with a BRD, between a BRD and a TED. What I'm looking at is John brought that up that we've got to look at it from catching shrimp and not just addressing finfish. This is a Shrimp AP. Thank you.

Mr. Cupka: Thank you. Other comments?

Mr. Daniels: I'm new to this committee so a little of this is kind of Greek to me and I'm trying to take it all in. Are we working for turtle excluders and BRDs coming in effect, or are we working with the bycatch reduction of this percentage based on what we've already got now, without the turtle excluders or the BRD? Are we working with closed nets to get a 30 percent reduction or are we working with a turtle excluder and BRDs already in place to get the reduction?

Dr. Crabtree-: You're looking at a net with a TED and no BRD compared to a net with a TED and the BRD.

Mr. Daniels: So the TEDs will be in place and any reduction that has does not count; is that correct?

Dr. Crabtree: Not in the BRD certification protocol, no.

Mr. Daniels: And you're looking at this 30 to 50 percent reduction with the TED in place?

Dr. Crabtree: It's a 30 percent, and what we're trying to look at is how much reduction is coming from the BRD. There is bycatch reduction from the TED.

Mr. Daniels: That's my point.

Dr. Crabtree: But that's not what we're testing now; we're testing the BRDs.

Mr. Daniels: So your testing will be simply with the turtle excluder -- I mean, you will not test at all with a net without a turtle excluder in it?

Dr. Crabtree: No, because this protocol is not intended to evaluate how much bycatch TEDs reduce. The protocol is just to evaluate BRDs.

Mr. Daniels: Well, this is my point. Wouldn't this also give credit to the fishing community for having a bycatch reduction with the turtle excluder?

Dr. Daniels: If we come in and try to evaluate how much bycatch has been reduced relative to a naked net, then, yes, you would take into account bycatch reduction from the TED, but the protocol is designed just to test BRDs and what kind of bycatch reduction they alone achieve.

But you're right, if we wanted to look at how much has total bycatch been reduced in the fishery as a whole, in that case you would have to take into account TEDs, but that's two different questions, really.

Ms. Solórzano: So what you're saying is you want to get an additional 30 percent bycatch with just the BRDs alone, not including the bycatch from the TEDs.

Dr. Crabtree: Yes, and I believe the previous certifications of the fishery that have been done have shown that it does get --

Ms. Solorzano: An extra 30 percent?

Dr. Crabtree: Yes.

Mr. Marra: To address another comment in here about Spanish mackerel and weakfish, from my current understanding, neither species is either endangered or threatened. Why are we even addressing that? We are addressing finfish as a whole, right?

Okay. I would just like this to be revised that we just specify finfish and stop bringing in the pieces that may affect public opinion or opinions from the environmental group that there is some endangerment or threatened species out there. Thank you.

Mr. Cupka: Well, you're correct in that neither Spanish mackerel nor weakfish are currently overfished, but at the time BRDs were developed and our concern was more so I think for weakfish, they were overfished at the time, so this has helped in that regard and is another reason why we want to just drop weakfish and Spanish mackerel and just go with the finfish. But, you're right, neither one of those are considered overfished.

Mr. Marra: Just another general comment, David. It shows how the environment can recover in a very fast pace, I think about two or three years. Thank you.

Mr. Cupka: Other comments?

Mr. Wallace: I'd like a little clarification, I guess. In one of the alternatives that was presented before, I think someone in South Carolina you said presented it with the 10 to 15 species in the size category?

Since we are using a total weight category, would size matter in this case? I mean, from my experience in BRD testing, size does have a big play in the amount of fish that you catch. In other words, it's much easier to get rid of big fish than it is little fish. But since we're using total weight in this as our alternative, is size going to be a relevant number?

Dr. Maharaj: The criteria right now does not include the size category.

Dr. Daniel: That's one of the problems that we've had is when you try to reduce bycatch, a lot of times the smaller fish go to the back of the net; so when you do it by numbers, it's very difficult to reduce by number.

Back to the comments from the AP, what we're trying to do is make it easier to test these new devices. The ones that we're using now are grandfathered in; so if you're happy with the FFEs or whatever, those will continue to be used.

The idea was is let's come up with a new criteria, if it makes it easier for industry to go out and try to come up with some new devices. That's really the entire intent and purpose behind this change.

Mr. Daniels: Well, based on what Dave just said, mackerel and trout are not overfished. Okay, so why are we looking for a 30 percent reduction if we don't have an overfished problem within those species?

Dr. Daniel: If you will notice, on the pink sheets the preferred alternative is for total finfish. The Alternative 2 and 3 – well, Alternative 2 uses weakfish and Spanish mackerel. We're trying to get away from that.

We're getting away from that with this alternative. The problem that we were having, when we were testing the devices, is that the fishermen would go out with researchers on board or whatever, go out and make a bunch of tows, and they wouldn't catch any weakfish or Spanish mackerel, so it wouldn't count. It really confounded the fishermen's ability to go out and test the devices.

So, our hope, with this preferred alternative that we have right now, is to do away with the weakfish and Spanish mackerel. They won't even be mentioned in the protocol after we're finished.

Mr. Cupka: Well, to answer your question and go beyond that, actually what we're trying to do is we're trying to be responsive to the Sustainable Fisheries Act, which was passed in 1996.

It has a national standard that says we shall or we must reduce bycatch to the maximum extent practicable. And so even though those two species may not be overfished, there is still bycatch occurring in these fisheries that we're required under federal law to try and reduce, and that's why we're still looking at BRDs in the fishery.

Mr. Daniels: I understand that. I'm well aware of that, but based on the paper I think I received a couple weeks ago, there are 19 species I believe it stated that was now not being overfished due to regulations, mesh size, BRDs, TEDs. So it looks like we're getting a recovery but yet we're still -- I know we need to demand more but are we going to demand it to the point to where it's going to be a hardship to the commercial fishermen to survive these reductions that you're asking for?

Saying he can't reach that point, saying we can't reach this 30 percent reduction that you're asking for, it already says that since '93, we are building every stock: flounder, yellowtail, you know.

I'm using fish because I've sat on two other councils, but it appears to me that we're liable to be asking for something we can't produce. Yet according to the numbers that I've been looking at, everything seems to be coming on the rebound. Due to management, due to BRDs, and due to other closed areas and stuff, everything seems to be building back.

But yet I understand we need to still get more reductions, but if it comes to the point that you can't reach this deduction, say, in two years or three years, what happens then within this fishery?

Mr. Wallace: I don't think it's a matter of whether we've got to meet this reduction. We've got to set the point of reduction that is going to be acceptable to Magnuson-Stevens; am I correct there? I mean, there is no magic number at this point that says we've got to meet. According to Magnuson-Stevens, we've got to meet a number practicable; is that right?

Dr. Crabtree: Yes, that's right. What we're doing here is we're going to go through a testing protocol and determine how much bycatch reduction do the BRDs achieve. If the testing shows they achieve 30 percent, then they will be certified and you can use them.

You can continue to use the BRDs you're using now or you can choose to use these other BRDs. I would guess you would want to look at shrimp retention to make that decision. But we're not judging the BRDs based on does some stock recover from being in an overfished condition in this case.

Even if all these stocks are no longer overfished, we're going to continue probably to require BRDs in these fisheries to continue to get bycatch reduction, but there is no two-year milestone or goal that we're judging these.

We're just going to go out; we're going to test them. Either they meet the bycatch reduction standard statistically or they don't. If they do, then shrimpers can make up their own minds whether they want to use these BRDs or not.

What I hope happens is over the next few years that we can certify four or five new BRDs for use in the fishery, and then shrimpers can try to decide which ones they want to use, because I think in different circumstances different BRDs may work.

Sometimes they might work better in one place than they do in the other. We're trying to provide you more flexibility into these things, but there is not a two-year standard, at least right now, out there that we're trying to meet.

Mr. Daniels: I understand that but you're still not saying what would happen if we don't get this based on all the BRDs.

Dr. Crabtree: Well, based on the testing that has been done, the existing BRDs do meet this.

Mr. Daniels: Oh, okay, you answered my question. Thank you.

Dr. Crabtree: Now if we put observers and find out that we're not getting it, then we may have to come in and relook at that, but right now that's where it is.

Mr. Cupka: Yes, we're not raising the bar. You're already at the bar on these existing BRDs. .

Mr. Marra: This is a question for the legal counsel. Is 22 percent acceptable? One of the proposals in here under the preferred says "Sub-alternative A, 22 percent." Is 22 percent feasible according to your legal opinion?

Ms. Smit-Brunello: There is a National Standard. There's, what, ten of them in the Magnuson-Stevens Act. National Standard 9, I'm going to read it and then we can talk about it. It says: "Conservation and management measures shall, to the extent practicable: one, minimize bycatch; and, two, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch."

And then they have guidelines that the Fisheries Service has published as to how do we interpret that, what does that mean? And you asked a question before, what is practicable? And so they have a series of items to be considered in determining what is practicable.

So, it's not for me necessarily to say 22 percent or 30 percent. The council discusses and based on science discusses what they think an appropriate percentage is. And one of the ways they get to that is they go through these factors -- and I can list them for you right now if you'd like. And that's how they determine what is practicable according to the National Standards under the Magnuson-Stevens Act.

Mr. Marra: My response to you is what is practicable according to a fisherman? Okay, 8 percent of a million pounds on shrimp is a lot of poundage. We would like something built in that looks at the socio-economic value to us or loss of value to us due to the situation with the fishery right now.

Ms. Smit-Brunello: Is that a question for me?

Mr. Marra: No, just a comment.

Ms. Smit-Brunello: Okay. Well, one of the factors in determining what is practicable are changes in fishing practices and behavior of fishermen, changes in fishing processing, disposal and marketing costs.

There is a number of things the council is supposed to consider when they're determining what is practicable. You build in a good enough record, then a number of things can be considered practicable, if you look at all these factors, so it really depends on the rationale in the record.

Mr. Cupka: Thank you. Other questions or comments regarding Action 2? Seeing none then, do you want to move on?

Dr. Maharaj: Thank you. Action 3, which starts on Page 3 of the pink sheets, deals with the need to establish a method to monitor and assess bycatch in the shrimp fisheries in the South Atlantic.

That's both the rock shrimp and penaeid shrimp fisheries. Again, this is required by law. All of our plans have been amended to be in compliance with National Standard 9 of the Magnuson-

Stevens Act. The shrimp fisheries, the last time we assessed bycatch for this fishery was back in 1992 to 1996.

During that period, BRDs were not a requirement in this fishery. Since that time, the Magnuson-Stevens Act requires that we have a methodology in place that will assess bycatch and monitor bycatch in all fisheries.

We do have four alternatives for consideration. Bear in mind that because of NEPA, our no action alternative is always a viable alternative. The council's preferred alternative at this time is to adopt the ACCSP release, discard and protected species module as the preferred methodology.

There are two parts to this preferred alternative. The ACCSP program is considered the ultimate goal of the bycatch monitoring and assessment program, but because of potential funding issues, there is a provision in Alternative 1 to allow for interim programs to monitor and assess bycatch.

Whether it's the ACCSP or the interim program, I think the main difference may be the observer coverage levels in the two programs, but I'm sure Dr. Crabtree can clarify that. Both programs will require observer coverage. They will require permits to identify fishermen.

The interim program may require logbooks in the fishery in order to better collect data on catch-and-effort information, not bycatch but shrimp catch, and possibly more detailed information on effort in order to assess total bycatch.

The interim program will also utilize other types of information that exist through grant-funded projects, state cooperation, state/federal cooperative projects to estimate bycatch. The ACCSP program requires about a 2 to 5 percent coverage of all trips -- observer coverage, sorry, in 2 to 5 percent of all trips. That could come with a price tag of about \$720,000 to a million dollars -- well over a million dollars.

The second alternative is the no action alternative. Alternative 3 differs from Alternative 1 in that it will immediately implement the ACCSP and not consider any provision for an interim program as a result of funding limitations.

Alternative 4 will only require the use of the interim program as described. I know there were a lot of comments received on observers, the cost of observers. The intent in the document -- it is not stated on the pink sheets, but in the more detailed document Section 4, would be for the agency to pick up the costs of observers, salaries, wages, as well as insurance costs. And those are the four alternatives under Action 3. The council's preferred at this time is Alternative 1.

Mr. Cupka: Questions or comments regarding bycatch observer coverage? Yes, George.

Mr. Marra: I don't know if this is in there or not, but one of the criteria is that the trawling captain has the option to, let's say, disallow one of the drags because the net gets clogged. If you would do 30 drags, the net gets clogged by something, but they don't count that into the total count to come up with an unfeasible ratio. I hope that explains it well enough, but if you've got a clogged net, it kind of distorts the whole protocol. Thank you.

Mr. Cupka: Thank you, and Roy may want to speak to that, I'm sure. In the observer program that is currently in place, they have some requirement that they only collect data on "normal" tows or whatever, but you may want to address that.

Dr. Crabtree: I'm sure that the observer protocol would ask them to note that the net was clogged, so that we would know that was an abnormal tow. Just like in the BRD protocol, if one of the nets gets all clogged up and all, then that's not used in terms of the testing because it has a big effect on what's going on.

Ms. Solorzano: I have a question, well, something I want to get clear here. The shrimp industry is not to share any of the monetary costs of this program for observers or anything? It's not going to cost the fishermen anything; correct? To pay for observers or logbooks or anything, it's not going to be at our expense?

Dr. Crabtree: The way the plan is set up now, it's a NMFS-funded observers at this point. I don't see that there would be any cost by logbooks. Now in terms of electronic logbooks, I don't know, is that specifically addressed in the plan?

Dr. Maharaj: The electronic logbooks are not specifically addressed. It's a general statement on logbooks. But, the earlier discussions on the record, when electronic logbooks were included, was for the National Marine Fisheries Service to consider picking up the cost of any electronic logbooks required.

Dr. Crabtree: We're very cognizant of the economic problems facing the shrimp industry now, and I don't think anybody is eager to come in and put any additional cost burdens on you for these kinds of things at this time.

So, my feeling is that the observers, logbooks, all those things, costs will be borne by the agency, and it always has been for observers. I don't think we've ever, to my knowledge, in the Southeast required fishermen to pay for the cost of observers.

Mr. Lewis: In the scallop fishery it costs 800 bucks a day for an observer and the boat has to pay for it.

Dr. Crabtree: I was talking about the Southeast. Scallop fisheries are managed out of the Northeast/Mid-Atlantic, not the Southeast. Our observer programs that we've had down here,

we have footed the bill for the observers in the past. Now in other regions of the country, that's not the case. In Alaska, for example, those vessels pay the cost of the observers, but we haven't done that down here.

Mr. Lewis: Yes, that's what we're worried about. David, could we take Alternative 1 and go through it and sort of explain exactly what the module is -- maybe Louis could do it -- and all parts of it.

Mr. Cupka: Yes, Vishwanie has some information on that.

Dr. Maharaj: Gregg may want to even help me out here, if he chooses to. Alternative 1, the council has a preferred alternative to implement the Atlantic Coastal Cooperative and Statistical Program. That's a partnership program of state/federal agencies that got together and designed various data collection programs.

One of those data collection programs was a bycatch module, and the detailed program is contained in the appendix we sent to you. There are different parts of that program. One is a fisheries information system. That fisheries information system will collect information such as catch and effort that is currently being collected on the trip ticket.

Another part of that program is the observer coverage. And under the ACCSP there are specific elements of the observer coverage, what types of information observers would collect in order to estimate bycatch. Part of that would be to record any protected resource interactions as well as sampling protocols for collecting data on bycatch. That's the ultimate ACCSP program. It's very detailed and it's in the current appendix.

Now, as I mentioned earlier, there is an interim program because the ACCSP program requires 2 to 5 percent observer coverage of all trips. We did some calculations, the economists, and came up with a range to be anywhere from about a little under \$800,000, \$720,000 to close to \$2 million for the observer coverage in the shrimp fishery.

The National Marine Fisheries Service was somewhat concerned at this present time with funding. In 2004 they obtained about \$800,000 for observer coverage in the shrimp fishery, South Atlantic and Gulf.

They have asked for a provision within this action that the council will approve the ACCSP as the ultimate goal, but they have asked for a provision that in the interim, because of funding considerations, they can use a different methodology that may require less funding and possibly lower observer coverage, and use logbooks in the shrimp fishery as one method of collecting some of the auxiliary information they require, make use of other types of data collection, maybe some state funding efforts, state cooperative programs with the various states.

I don't have much detail on the interim program, so I can't answer all of your questions. I can't provide any more detail. This is the level of detail we were given for the plan on these interim programs. Jack McGovern is here. I don't know if he has anything he would like to add on the specifics of the interim program or Ginny Fay or Roy Crabtree.

The question dealt with the details of Alternative 1. I am only familiar with the ACCSP program, but I'm not familiar with the details on the interim program except for what was submitted and included in the document.

Mr. Lewis: Well, maybe a better question would be what's the difference between Number 1 and Number 3?

Dr. Maharaj: Number 1 would allow for the use of this interim program, which is not the ACCSP program, i.e., we would not have to go to the 2 to 5 percent coverage of all trips in the shrimp fishery; whereas, Alternative 3 would require that's what you start with. It would not allow for anything else to be implemented.

Mr. Cupka: The problem is that three cannot be funded at this time; and so if we adopted three, we wouldn't be collecting any bycatch information, where one says that's our alternate goal and in the meantime, if we can get bycatch information through these other procedures, that we will use that until we can get ACCSP fully funded.

Mr. Lewis: What are they doing now? Are they doing Number 2 now?

Mr. Cupka: Roy, do you want to address some of this?

Dr. Crabtree: Yes, there have been some observer trips that have been done. Some of it has been on BRD testing trips and those types of things. We had in the budget this year money from Congress for shrimp observer programs.

I think that the Science Center has committed close to \$200,000 of that for the South Atlantic, so there will be some level of observer trips and those type of things done on shrimp vessels. We need more, and we're trying to get the funding to do more of that and to get the ACCSP fully on line.

Then the observer trips are used to determine what is in the bycatch, what are you guys catching in terms of bycatch. Then the logbooks and these others things would be done to get better estimates of overall effort, how many nets are people pulling and what size nets, how much effort is there in the fishery.

We've had a number of projects. Some have been through the Gulf and South Atlantic Fisheries Foundation and those types of things, and there is some funding there. They're trying to figure

out how that is all going to be used, but the goal is to get some observers out on shrimp boats so we can see what is coming on board and what is being caught; and then to improve the effort estimates that we get because you've got to have both of those components, what's in the bycatch and then how much effort is there.

Mr. Lewis: Well, I don't understand about logbooks. In North Carolina we have trip tickets so I guess, Louis, were we the first ones to have them?

Dr. Daniel: Yes, we were, well before it was required? North Carolina has done a lot of this type of interim work and some of the stuff that we're talking about here, continuing to do through various grants like the Fishery Resource Grant Program. Information that's gathered from that program would be made available to help characterize the bycatch, which is what we're required to do. You know, what we're looking at here from our perspective, from North Carolina's perspective is observers which we've been assured would be paid for by National Marine Fisheries Service.

The legal ramifications of that, as far as insurance and all those kinds of things, would be taken care of because that's always a concern of the industry. Probably the biggest impact I guess for our guys right now would be the logbook requirement.

If the permits go in and you're required to buy a permit, then there will be a logbook provision. Now, there is this talk right now that it would be a percentage, that you would be chosen. It would be like 10 percent of the fleet, 20 percent of the fleet would be required to fill out logbooks for a year, and then another different group of people would fill out the logbook.

And one of the concerns that we have had all along -- and that we'll discuss more in detail tomorrow -- is what is going to be required in those logbooks to make absolute certain that we don't have you guys duplicating the effort from the trip ticket program. There is no need for you to have to double-report. And so one of the big issues that we're trying to get is some kind of effort information. That's the main thing for the logbooks.

And that would be like tow times, time-in, time-out type of information that you would fill out in the wheel house while you're fishing. That's what I see as being some of the logbook requirements.

So that's really from my perspective what you'll see new from this plan in this module is the chance of some unknown observer coming and asking to go out on your boat the next day or whenever you're going out and some logbook requirements.

Mr. Lewis: Well, we feel like a few modifications to the trip ticket should take care of that. In South Carolina they've got how many tows you make during a day and how long they were. I mean, that's just a simple modification without having to go into a completely different thing as

a logbook. I mean, it would serve the same purpose. The trip ticket with some modifications is in itself a logbook.

Dr. Daniel: I think one of the main issues, though, is the time or the length of the tow in terms of getting effort information. Because, right now the way we do it is that if you've got a 30-foot boat working Pamlico Sound with a 30-foot net, his trip counts the same as a 4-bound rig working offshore.

The trip is the same. And so when you're looking at catch-per-unit effort and you're looking at some of these characteristics of the fishery, it's very hard to differentiate between a large boat and a small boat, how many nets you're pulling, what size nets you're pulling, that type of information.

And so the idea is -- and I'm not saying it's good or bad, but the idea is that by having this logbook, you would be saying what size nets you're using, how many you're pulling and the individual tow times. If you pull for five hours, you write down five hours.

That way you can get some estimate of catch-per-unit of effort at more resolution than just the trip level. That's one of the main focuses. That way, once we've characterized the bycatch and we start getting a handle on what the bycatch is, then we can expand that bycatch for the entire fleet.

Mr. Lewis: Well, I understand that, but what I'm talking about is some modification to the trip ticket. In South Carolina they've got how many tows per day, what size your nets are. You know, I mean four tows, three hours a day or three hours, four tows, four 50-foot nets, that's all on the trip ticket itself.

I mean, it looks like to me it's easier to modify the trip ticket than it is to come up with a logbook. It's got the net sizes, it's got the days, three days or where you were. It's got the area. Down here they've got different areas.

At home you've got Pamlico Sound, the ocean and outside of three miles. Here they've got different areas. I mean, it looks like the trip ticket, with a little modification, would take the place of the logbook.

Mr. Cupka: Well, our trip ticket is going to help get the effort data, but we still need to know what the bycatch is to use that effort data to expand to see what the total bycatch is, and that's currently not being collected. I agree with you that a trip ticket will give you part of the answer, but it's not going to give you the whole thing.

Dr. Daniel: Mr. Lewis is making a good point. We've had a lot of discussion about this at the state level on this plan and making sure we don't duplicate trip ticket data. The one problem --

and I'll talk with Dee Lupton of our staff today about it again, but one of the issues that we've had come up with the trip ticket program is that the more information that you ask for on the trip ticket, from a rank-and-file standpoint the harder it is to collect that information.

So the more complicated you make the trip ticket, the more likely it is, according to the research we've done, it is to get the accurate information. So the more stuff you add on to the trip ticket, the harder it gets.

We've run into that with numbers of pots in the crab fishery, numbers of tows in the shrimp fishery, all those kinds of things. But your point is a good one, and I'll follow up on that and see what our state folks in the statistics department say about it.

Mr. Lewis: David, I understand what we're talking about so really and truly the bottom line is observers. That's the most accurate way to check these bycatch issues. I mean, is that what we're all screwing around the woodshed here to get to the front door?

Mr. Cupka: Well, yes, that is probably the best way to get the bycatch information that we need, not the effort information, but the bycatch is to put somebody on there and let them collect that data.

Mr. Lewis: Okay, well, Alternative 1 is the alternative with the bells and whistles for the scientific community; right?

Mr. Cupka: Alternative 1 is to eventually put observers on vessels to get the bycatch information. It's either that or have self-reporting, which as Louis has indicated, the more you ask for from the fishermen, the harder it is to get it because understandably you're out there trying to catch fish and not document bycatch. But we're required to get the bycatch information.

Mr. LaRoche: Yes, whatever you all do, I would hope that you could coordinate with the different states. We provide so much information now in South Carolina, I have one fellow on my dock, and it takes him a day and a half normally a week just to crank out the paperwork that is required by the feds and by the state.

There data that we give South Carolina is a lot, tow time, size of nets, length of boats. It's difficult to enter it, and they have numbers on a boat so you can't just put down Vessel Number 2. You have to put in the captain's name and his number and the boat name and number, our business name and number. It's very tortuous. But if you could coordinate that with the states, it certainly would speed things up for us.

Also, there is a question that has been brought up about liability, insurance, maybe, or riders for observers. Most of the boats in our fishery do not have any insurance coverage at all. Some of

them are non-insurable. A lot of the old wooden hulls have no insurance on them at all. I would like you to address that.

Mr. Cupka: Roy, do you know anything about the insurance arrangements?

Dr. Crabtree: Yes, it's been an issue nationwide. I believe there is legislation pending to address those sorts of issues, but there will have to be provisions made for liability insurance one way or another so that people are covered.

I mean, the bottom line, which is what you guys want, is there are going to be observers on shrimp boats, and they are going to be mandatory observers that you take out. We don't have any interest in having double reporting. If we can get the effort information we need from the state trip ticket systems, then we'll get it from that and we'll lighten the load on the logbooks.

I mean, we have absolutely no interest in having you report the same information twice. But historically, we have not been able to get the information we've needed to get decent estimates of shrimp effort from the trip ticket systems. Now the trip ticket systems, some of them are new and they're changing and maybe that situation will change.

But it's in your best interest for us to have accurate measures of shrimping effort. Particularly, everyone I talk to now says shrimping effort is way down; the boats are all tied at the dock. It's in your best interest for us to be able to document that what you're saying is happening is in fact happening.

We've been through all kinds of issues in the Gulf of Mexico with respect to shrimp effort. Bennie Galloway, who works very closely with the Gulf and South Atlantic Fisheries Management Foundation, and has worked on behalf of the shrimp industry, has complained for ages that the shrimp effort data we have is not adequate.

So what we're trying to do is put some things in place to improve the quality of the shrimp effort data that we have, and a lot of that has been at the request of the shrimp industry. So that's what we're trying to do here, but we can't ask you guys to report what is the species composition of your bycatch through logbooks.

There is really no other way for us to find out what is in the bycatch other than put people on shrimp boats and have them ride and sub-sample the catch to see what bycatch is there. And in order for us to get the effort estimates that we have, we've got to have shrimpers give us some sort of record of how much shrimping they're doing, what kind of configuration they're pulling, what size nets they're pulling, and those kinds of things. If we can get it through the trip ticket system, great, we'll get it through the trip ticket system. But, historically, we've had problems with our estimates of shrimp effort, and the industry has complained about it, everybody has.

We're trying, in the South Atlantic and the Gulf, to fix some of these kinds of things now, and we're trying to come up some money to get observers on these boats. You guys have gone through a lot and you've done a great job over here.

You'll pulling TEDs and we've increased the size of the TEDs. You've pulled BRDs for a long time. You need to get credit for all the things you've done to reduce bycatch in these fisheries. But its hard for us to do that when our estimates of effort and bycatch and all these things aren't very good. So we need to improve them, and I think it's in your best interest to have the best estimates of effort and bycatch that we can get.

Ms. Solorzano: I have a question, a few of them. These observers that are going to go onto the boats, they're not going to hinder our trips. Now, when we leave to go out for a 20-day trip and you put this person aboard our boat, who is going to determine if we have to take them, who takes them?

If the weather gets bad and they've given a small craft advisory, are they going to say, hey, the observer says it's unsafe for me to be here, take me in? We're catching shrimp, we don't intend to. Where are they going to sleep? You know, we don't do rotation of bunks or anything. We work at night. We go to sleep in the day in the rock shrimp fishery and sometimes in the penaeid shrimp fishery, also. Where are they going to be?

You know, where are we going to put these people? Insurance is a problem also. Shrimpers don't want the observers on the boats. They just don't want them there. I mean, I understand you guys' reasons, but we're trying to figure what are we going to do with them?

Are we forced to take them? Who is going to determine who takes them? Does 2 to 5 percent of trips, is it day trips or is it 20-day trips? Because, all these things are different. You know, this person's food or if this person says I'm sick, I need to go see a doctor -- well, we're out here, you know, we're making a long trip and nobody wants to stop to take the observer in to the doctor.

I know you all have answers to these questions because you've encountered this in other fisheries. My boats, in particular, do not go on day trips, so it's not a day-trip issue. It is going to be 10- to 20-day trips, maybe 30-day trips, just whenever. And we don't come back because there's a little breeze blowing, you know, So what do we do in these situations? By law are we forced to bring him in if he says he or she wants to come in?

Dr. Crabtree: The goal of the observer programs would be for you to go out and fish as if you would fish if there were no observer on board. We want to see what you would do. We don't want you to do anything different because there is an observer onboard.

I expect that the Science Center will determine what vessels to select and then there will be a random-stratified approach to that kind of thing. And if you're selected, yes, you'll have to take

the observer onboard. Now, you're going to have to give him somewhere to sleep. I think everybody recognizes that. We all understand these aren't day trips. They're multi-day trips. The observer is going to go out on the trip.

Now, in terms of someone getting injured or sick on board the boat, I don't know, how do you handle that with a crew member? Now, obviously, if there is a life-threatening or a serious injury or sickness on board the boat, yes, something is going to have to be done to deal with that.

But, again, I've had a lot of shrimpers talk to me about the bycatch estimates for turtles and all kinds of things, and I've had a lot of shrimpers who support having observers on these boats because they know it's the only way we're going to get accurate data on these kinds of things. And when shrimpers come to me and say, "Look, there's no turtles in this area" or whatever, a lot of times the information is not that good. We're trying to improve it so that we don't put regulations on the industry that aren't needed.

And so for us to manage these fisheries properly, we need good estimates of what is the bycatch and what is the effort, and that's what we're trying to get. Observers, I know they're going to be an inconvenience. There's no question about that, but we're not going to get this kind of information without having some inconvenience.

I think everybody want to be reasonable about this. The goal is when you go out on a trip, if you have an observer on board, you go out and fish the way you would have fished even if he wasn't there, and these guys will be as unobtrusive and get in your way as little as possible.

Dr. Daniel: One of the problems that we have is when we go out and try to characterize the bycatch issues, we get criticized because we're not shrimpers and we don't know what we're doing. So the observer information is important. We're mandated to collect this data. I mean, we've got to come up with some way to collect this information or else we're going to get hammered, and then have to come back in and do something else to deal with the problem.

I don't know how you deal with it and collect it in any kind of usable statistically valid way without putting in the programs that we've recommended here. There are a lot of concerns, a lot of questions.

I just dealt with trying to put together an observer program for our fly net fishery in North Carolina last year, dealing with the observers in that situation, and it was a problem. One question that I have for the AP, because someone mentioned old wooden boats and the condition of some of these vessels, from my experience, in order to take an observer, you have to have Coast Guard safety documentation.

I'm wondering how many of these vessels that are fishing in that area actually have those documentations, because I know a lot of our big vessels in North Carolina that were going to

participate in that program did not have that Coast Guard safety documentation and just refused to go to get it in some instances.

Mr. Daniels: Louis just hit on something I wanted to bring to the council's attention, which you may already know. I have to take observers on my boats in the North Atlantic fishery. And some of these shrimp boats that's going to have to meet this criteria to take these observers is going to be put out of business, bottom line, based on what he just said and what she just touched upon.

I don't have a problem with the observers. The biggest problem I have with the observer is the notification of when you're going to leave and when you're coming back within the fishery. We are on a quota fishery up there, which has nothing to do with the shrimp fishery, but it's going to all tie in somewhere down the line.

I think the council should think long and hard on just what the criteria is going to be because, like Louis just said, we have to have an up-to-date safety decal and the insurance is not -- right now we have to have insurance on the vessel, but it's not one of the things that we're required to do, as far as I know.

But we have to give a two-day notification in advance -- I mean, on five days, you can't give it on the weekend. I think for some of these smaller vessels, inshore vessels that are working on a shoestring, period, just simply are not going to be able to meet the standards that you're going to have to have in this fishery.

I think that's one of the things that -- it's already a fishery that's in trouble anyway with imports, high fuel prices, and low returns, but basically I don't have a problem. We have to take one five months, every trip, unless they exempt us from it, from the starting of October right on to March of next year.

And just a few of the boats were picked. It's not a random selection, like they say it is. In other words, I don't want this to sound like we've got better boats. That's not my point. The point is they take the boats that are the best equipped and well-maintained to put these observers on, which I don't blame them for that.

Now I don't blame them for that. I think Dr. Louis over there would confirm that thing. So, it is a problem for certain boats. It's a problem for me because my son has to -- I mean, he's right steady on the telephone calling National Marine Fisheries or the observer service of when he's leaving.

And when he fishes, he's in today with his 100 boxes and then he goes out for another species, and you've got to notify them two days in advance. I think the council should take this into

consideration when they're making these guidelines and what it's going to do to certain people that's already on the bottom line. Thank you.

Mr. Cupka: Thank you. Any other comments? We need to move on, if we can.

Mr. LaRoche: It would seem to me that – I know in South Carolina, our state has a boat and I know Georgia used to have one, if they still don't, but it seems like the data that would be easily obtainable from the shrimp trawlers that drag in the same area that we drag in would be more easily gotten that way, and also at their will.

You know, we've got data. We've got enough data coming out of South Carolina to fill this room a thousand times over, it would seem to me. I've taken observers way back when I used to run a boat in the '70s, and a lot of other boats in our areas have, too, you know, biologists that went out, turtle biologists, weakfish biologists.

We've taken people out and have opened our industries to them forever. It would seem to me that there ought to be a lot of information available from state-owned and operated boats. Is that not available to you all?

Mr. Cupka: Well, I can tell you the problem we've run into in the past -- and Louis alluded to this earlier -- we've gone out and tried to collect these types of data and the industry just doesn't accept any of it. They say they're a bunch of biologists; they aren't fishermen; they don't know how to fish; they don't fish in the right places; and the data doesn't mean anything.

And that's why I think it's important to work somehow with the industry to get that information, so that we are collecting it from the fishermen themselves who know how to fish and areas and these sorts of things. That's a problem that we've always run into in the past.

Ms. Solorzano: You don't have certain fishermen that would volunteer instead of forcing some people to take these observers on? There aren't some fishermen that just volunteer to do it? I mean, if there was some sort of incentive, I'm sure you could get folks to volunteer.

Mr. Cupka: There probably are some that would volunteer, but again they may not have the right size vessel or that sort of thing.

Dr. Crabtree: I mean, in the past it has been basically voluntary. Well, that's one of the biases of the data that we have because we're not sampling everybody. We're sampling just that group of people who volunteer, and they may not be representative of the overall fishery.

And, you know, back to the information we can get from the state and the state trip tickets, well, I hear all the time about the Alabama boats that come up and fish at least this far up off Georgia,

the big slabs and all that. Well, they go back and land in Alabama so we're not going to get any information --

Ms. Solorzano: Most of them don't land in Alabama.

Dr. Crabtree: Some do; some don't. But if they do, then they're going to go be filing in those trip tickets. But we need to have them covered by the observer coverage and all the rest of these things, and they're going to have to have permits when they come over here because, you know, what I hear from is they're the problem, they're getting the turtles, they're doing this. So we've got to make sure those boats are covered.

I'm sure some of them do come in and land different places, but I don't know that all of what they land is landed in the South Atlantic. Some of them with big freezer boats, where they freeze stuff, may go back around to the Gulf and all.

So we need to take into account and make sure that everyone is covered by this stuff and try to eliminate the biases. But the voluntary participation in observer programs has always been a problem, because you end up going back to the same select group of boats, and they may well not be representative of the fleet as a whole. You know, this is a big, diverse fleet with a lot of different boats.

Ms. Solorzano: Which you're going to end up using a lot of the same boats anyway because of the decal having to be on them. Like for instance, my boats have to have the safety decal because the insurance company requires us to have it. If something happens on the boat or we don't have the Coast Guard safety decal, then we could be denied coverage.

So Alabama boats and boats that are coming over, they're going to be forced to use observers also, it won't just be local boats on the East Coast that reside here? It will also be them implemented to use these observers, also?

Dr. Crabtree: It will be a sub-sample of all federally permitted vessels, so it will include boats coming over from Alabama. Now with regard to the safety sticker, I don't know how big a problem that's going to be. I think when we start working on this thing, we're going to have to evaluate how much of a problem is that.

I know in other fisheries, where we do have observer coverage now, it's a problem, and there are a lot of boats that just never carry observers. And, we're going to have to figure out how to deal with that problem. But until we get this going with the shrimp fleet, I don't have any good numbers right now as to what percentage of the shrimp boats that are going to be permitted and fish in the EEZ will have safety stickers or not have safety stickers.

I don't even have a good estimate of how many vessels are going to be permitted that will fish in the EEZ. When we went through this in the Gulf of Mexico, people were saying 5,000-4,000 boats. Well, we haven't even issued 3,000 yet, so it was less than what we thought. I think we're just going to have to go through the process, permit the vessels, and then we're going to have to see who has safety stickers, who doesn't, and then the scientists are going to have to decide how much of a problem is that in terms of our estimates. Then we'll deal with that when we've got the facts that we need to deal with it.

Ms. Solorzano: Yes, it's not going to be that many that have the decals. A lot don't because it's just so difficult to get the decals.

Mr. Cupka: All right, I think we all know there is a lot of problems and considerations here, and we aren't going to solve them today. We do need to move on and get some input from you on these other proposed actions so, Vishwanie, do you want to take us into Action 4.

Dr. Maharaj: Okay, Action 4 is listed on Page 4 of the pink sheets. That action would minimize bycatch in the rock shrimp fishery to the extent practicable. The preferred alternative at this time is for the requirement for BRDs to be used in the rock shrimp fishery in the South Atlantic. Previously BRDs were not required in this fishery when Amendment 2 was developed for the penaeid shrimp fishery.

There is a no action alternative, of course. Alternative 3 will implement a seasonal closure if there is any interest in moving in that direction. And under Alternative 3, there are three sub-alternatives for various seasons. If you all have copies of the documents, the details of these alternatives can be found on Page 163.

The council became concerned about bycatch in the rock shrimp fishery as a result of a pilot effort on the observer coverage that was carried out in 2002, which showed a higher level of bycatch than was previously believed in the rock shrimp fishery.

There was also some consideration that this bycatch study was conducted during a period of an atypical year for rock shrimp where landings were below a million pounds, which is quite unusual for this fishery. The current preferred alternative is to require BRDs in the rock shrimp fishery.

Ms. Solorzano: Pretty much all of the rock shrimp vessels already have BRDs in them. They're in the nets and we don't bother to take them out. We leave them there. Of course, TEDs are required, but the BRDs are there. I don't know of really anyone who is pulling any rock shrimp nets without BRDs so, you know, definitely one of these options is fine because there is, it's already being done.

Mr. Cupka: Any other comments citing the use of BRDs in the rock shrimp fishery? Well, seeing none then we'll move on to the --

Ms. Solorzano: Well, wait, I do have one more thing and that is the National Marine Fisheries -- you are not going to come in and make a new specific type of BRD for this industry? It will be the same one that we have been using that?

Mr. Cupka: That's correct.

Ms. Solorzano: I just wanted to make sure it isn't you've got to design and new one and do this whole protocol for rock shrimp. It will be the same BRD that we are using in the other penaeid shrimp fishery?

Mr. Cupka: That's correct. There may be a new one developed under the new protocol, but you've got a choice whether you want to use it or not, that's correct. All right, why don't we move into Action 5, which is the one we got the most input and comment on. This deals with the federal permit.

Dr. Maharaj: The preferred alternative for the requirement for a federal penaeid shrimp permit is detailed on Page 4. Currently the preferred alternative would require that any shrimp trawler fishing for penaeid shrimp in the EEZ would need to possess a penaeid shrimp permit. This permit must be on board the vessel

There are two exceptions to this requirement. If a trawler is in transit in the EEZ or the gear is not rigged for fishing, then the permit would not be required. There are no qualifying criteria for this permit. As far as the preferred alternative is concerned, any vessel who applies for the permit will be issued a federal penaeid shrimp permit.

The second action is a no action alternative. Alternative 3 is same as Alternative 1, except there is a restriction that the permit will only be issued to someone with the necessary state and federal permits to land and sell shrimp. Alternative 3 will do a better job of identifying shrimpers in the fishery.

I know Karen Raine initially had some comments on the law enforcement issues, loopholes associated with the exceptions to the permit requirements in Alternative 1. She expressed those concerns earlier.

Mr. Lewis: I've got a question about the vessel in transit with no try net. At home we've got boats that fish seven-eight-ten miles offshore that use shrimp try nets for a try net, exactly that. That's going to put a monkey wrench in this one statement. Can that be worked out? It wouldn't be a shrimp, net per se, let's say a fly net. It's a mid-water type trawl.

But to sample, when they mark it on the fathom meter, they mark the fish, they use a shrimp try net. So if they're transiting the EEZ with their fly net on, with a shrimp try net, that's going to be a problem according to what I read here. So maybe you could go to you can't possess but 200 pound of shrimp on a vessel like that or some other way around it. Louis, have you got any ideas on that?

Dr. Daniel: Yes, sir, that's an excellent point that I hadn't considered, and that will be something that I think we need to take into account. I mean, it will have to be the committee deliberation on that, but certainly some kind of a bycatch allowance for -- you know, you've got to have at least -- you know, sort of like our 50/50 rule south of Hatteras or something to allow those guys in that trawl fishery to use that try net.

We certainly don't want to discourage the use of those try nets because that is how the fishermen determine whether what they're setting on is something marketable, valuable, something they can use and not just set one of those big trawls through a school of fish, get them up to the surface and decide it's not something they want.

So, the use of those try nets in that fishery are critical, and so we need to find out a way to deal with that problem. I thank you for bringing that up because that was not discussed, I don't believe.

Mr. Cupka: Yes, that is a good point. We appreciate that and we do need to address that when the committee meets. You heard some of the concerns earlier from enforcement about the exceptions we have in there. One reason we put the exceptions in there was because of the comments we received early on from the fishermen who pointed out that sometimes, even though they may fish entirely in state waters, they may want to take the boat somewhere to pull it on the rail to get work done on it or something like that, and it didn't seem fair to require them to have a federal permit when they never fished in federal waters.

So these exceptions were put in there to try and deal with some of those sorts of issues that the fishermen themselves had brought up and were concerned about. John, did you have something you want?

Mr. Wallace: Louis answered it. I was just really questioning whether that was a permitted fishery in North Carolina, but he said some were and some weren't, so that was what I wanted to know.

Mr. Lewis: You go catch 100 boxes of flounder, per se, and you start home and you catch 1,000 boxes of croakers to go with it and whatever else you think you can sell that you were legally permitted to do, you know, so the viable word is commercial fishermen.

So the government seems to want everybody to be a specialist, you know, you're a shrimper; you're a crabber; you're a whatever, but you can't make it like that. So all this has got to be took in consideration when you think about this. As Paul Harvey says, we need to know the "rest of the story."

Mr. Cupka: All right, other comments?

Mr. LaRoche: Yes, just one. Little boats that do fish close to the beaches don't fish very much out in the EEZ, but almost have to go into it to get into the bar. They almost have to go offshore and come back in.

I was just curious, I know down in Georgia in some areas in there you have to go way offshore to get back in to a navigable channel to get back in there, and I don't know what affect that would have on those type of boats. It seems like it would impose a pretty -- it would be pretty rough on them. Does anybody have any comments on that?

Mr. Cupka: Well, the way the thing is written now, the only problem I had I'd say somehow for a vessel to do something like that, it almost looks like they'd have to de-rig or something in case they were stopped which -- you know, if they were going in for the day or something, I don't know how big a problem that would be. But if they're moving around, that could be a big problem.

Dr. Daniel: I know I agree with you, David. I mean, it's not like these -- the EEZ part of shrimping, that's a big area. You don't necessarily see the concentrations of shrimp in there as we do in the mouth of the harbor or up in primary nursery areas up in rivers, things like that. I mean, you're not going to just go out there and make a quick dip and try to get away with shrimping in the EEZ.

I think trying to come up with some exemptions, we've had a lot of discussion about that. I would hope we could come up with some alternative other than having to go through the process of having to de-rig. I mean, that's a dangerous -- I mean, if it's a nice, slick, calm day, that's not much of a problem, maybe. But if it's a rough day and you're trying to get in and you're having to go around the bar where it can be rough, and you're trying to de-rig, it can be a real safety problem I think.

Ms. Solorzano: Are there any reasons a person would be denied getting one of these shrimp permits if you wanted to go in and get one? Let's say you -- right now you have a control date of December 10th, 2003, what requirements are there to get a penaeid shrimp permit? I know we have limited entry in the rock shrimp fishery and are they working towards that by putting this permit in place?

Mr. Cupka: The way this would work right now is there are no criteria, you just have to apply for it and it would be granted. You would have to pay a permit fee, I guess, depending on whether or not you already had a federal permit. But as far as qualifying criteria or anything, there aren't any other than the fact you just have to ask for it.

Ms. Solorzano: This is the way it started out with the rock shrimp fishery. Then in order for people to get limited entry, they had to have had so many landings over a certain period of time in order to be eligible. So that's not something that they're working towards in this or you just don't know that at this time?

Mr. Cupka: There is nothing in this amendment that deals with limited entry. There was some talk earlier on, and in fact at one time we were looking at possibly looking at limited entry in this amendment, but that was taken out early on, and there is nothing in this to deal with that now.

Dr. Crabtree: I mean, the way it's set up now, as long as you have a boat, you can get a shrimp permit on it. And if you're in a situation where you believe you're going to be entering the EEZ with shrimp on board the boat and you don't want to have to de-rig, well, all you've got to do is get the permit, and that gets you around that.

If you have other federal permits already, it's going to only cost you \$20 more. So this transit issue, if it's a big inconvenience for you, you can get around that by getting your federal permit. Now, in terms of limited entry down the road, I mean, there is a control date and the council may at some point consider that.

I can tell you in the Gulf of Mexico where they are right now considering limited entry and they have a control date, what they're looking at is that you just had to have gotten your permit by the control date; and provided you were a permitted vessel by that date, then you're in the limited entry program.

And what they're looking at over there at this point doesn't require you to show landings. You just have to have been in. So that's how they're doing it, but that does not mean that's the way the South Atlantic Council will do it or that they'll do it at all down the road. But right now if you apply for one of these permits and you pay the permit fee, you'll be issued a shrimp permit.

Ms. Solorzano: Well, that's the way it started with the rock shrimp fishery, too, anybody could get one. If you just had a vessel; you went down and got it. And I was just kind of looking to see that, you know, in the future if a person has a boat and they have a permit and then you go and change it into a limited entry condition, no new boats would be allowed in the fishery if they hadn't had -- in other words, it would stop new boats from coming into the fishery if a limited entry were placed on this.

Right now you're not looking at one, but we weren't when we were doing the rock shrimp permits either when it started, and now it is limited entry. And there's a lot of the VMS problems and different things that are going on in the rock shrimp fishery. I was just wondering.

I just wanted to make sure that it wasn't going to be a case where you had to have so much landings or something of that nature over the years times like we had to do with the rock shrimp because that put a lot of people out.

Dr. Crabtree: I'm not going to tell you that it's not. That would be up to the council and what they decide to do in the future, but it will go through all the APs and the whole process and everyone will have a chance to comment on it. I can't predict to you what the future is going to bring.

Dr. Daniel: Roy touched on much -- I mean, I think it would be disingenuous to say that limited entry is not going to be discussed in the future. I mean, there are a lot of fishermen that have asked for limited entry, that want limited entry in the shrimp fishery. I'm not saying I support it or don't support it.

Some North Carolinian fishermen want it, some don't, violently opposed to it. But, as Roy said, if that issue does come up, we've got a control date, and that pretty much puts the public on notice that there is a chance that the fishery could go to limited entry. Now, if we continue at the current levels of effort, price problems that we've got, we hope we don't but maybe we won't need to think about it.

But if we start seeing prices go back up with these new campaigns that are going on, we start seeing effort increase, we start having endangered species problems with it, it's very likely that we're going to have to come in and look at some type of a limited entry system, and it will probably be set up very similar to the way we did rock shrimp.

Mr. LaRoche: I guess I would like for the fishing community to really know more about this and the ramifications. You know, they're so far pushed down right now economically that I've got four abandoned boats at my dock right now.

I would have had another one, but I made the Coast Guard push it up on the oyster bank when they were towing it in. I would like for them to know what the options are. It seems like to me to apply for one of these permits, that you're pulling the plug out and opening the door for mandatory observers on these boats and a lot of these people, some of them don't -- I mean, they just about sleep on the hatch cover, some of the small boats do.

They don't have facilities on there to accommodate observers and they couldn't provide them. And if this is sort of a soft area, I just ask you all to walk in that very softly. And if you do come

up with a date on it, control date in there, we've got some boats down there that will fish singlehandedly.

They don't have a place on there to carry two people, just some little small day boats, most of them from North Carolina. I would hate to see a date come in there and those guys missed it and not be able to participate in the fishery by not having a federal permit. So if that door could stay open for them after this stuff comes down, it would be good in my opinion.

Mr. Cupka: Other comments? Seeing none, then why don't we go ahead with Action 6.

Dr. Maharaj: Thank you. Action 6 is on Page 5 of the pink sheets. Action 6 addresses the establishment or revision of status determination criteria for the penaeid shrimp stocks, white shrimp, brown shrimp, pink shrimp, in the South Atlantic. The council has to be in compliance with National Standard 1 of the Magnuson-Stevens Act, as mentioned earlier. We do have to specify these overfishing and overfished levels for shrimp species.

Alternative 1 on Page 5 contains a table of what we have in place right now. The council established set parameters for MSY, OY in Amendment 2 of the shrimp plan and determined some of these overfishing and overfished levels at that time. The MSY/OY value is based on landings from 1957 to 1993 for all species and so the numbers are in that table.

White shrimp, the overfishing definition is established in a different way from more in-depth state sampling. It entails the possibility of an emergency closure in the winter fishery to ensure a fall fishery if the state biologists determine that the parent population of shrimp has been reduced by about 80 percent.

Brown and pink shrimp, these definitions are based on the MSY/OY values. Now for all of these alternatives, we do have three alternatives for consideration in Amendment 6 to establish parameters for the penaeid shrimp stocks.

For all of these alternatives, if the fishery is deemed to be overfished or there is overfishing, council will convene a shrimp review advisory panel. That panel will evaluate the data. And given the nature of shrimp being an annual crop, essentially, that's more affected by environmental parameters, it will determine where the management action is necessary. If management action is necessary, such as short-term type closures, they will determine the geographical extent of these closures and also the duration. And would imagine if that were to occur, there would be some sort of emergency action recommended.

Alternative 2 differs from Alternative 3 and Alternative 1 in that it does not utilize landings data to determine these overfished and overfishing criteria. It establishes these status determination criteria from fishery-independent data.

There is a trawl survey that is conducted every year, I believe, and its part of the SEAMAP program. There are some indices of abundance for the various species, as listed on Page 6, that would correspond to some of the overfishing and overfished levels that were outlined in Alternative 1.

Alternative 3 has a different specification for MSY/OY based on different formulae that were developed by the National Marine Fisheries Service scientists. The figures are presented at the bottom of Page 6. Those are the three alternatives for the status determination criteria for the penaeid shrimp stocks, and I don't know if Dr. Crabtree would like to add anything to this explanation.

Mr. Cupka: Well, let me just start off by saying that, first of all, the council does not have a preferred alternative for this action at this point. We may have one after the committee meets tomorrow as the committee of the whole. There is no preferred alternative.

We're also very cognizant of the fact that this is a species for which it doesn't make a lot of sense to have to develop these status determination criteria, but unfortunately the law does not exempt a species like this from the requirement, so we're having to develop and adopt these. We know there is a lot of problems inherent with it.

The other point, as Vishwanie mentioned, is the shrimp review panel. Whatever alternative is selected, if we get in a situation where it looks like there is a problem, it doesn't automatically mean that there will be some type of management action taken.

What it means is that this review panel will be convened to look at all the data to see if indeed they feel like there may be a problem in the fishery or whether it's an environmental problem and, it could be depending on what they decide management action may or may not be taken as a result of that. With those comments, I'll ask Roy, since he has worked with the Southeast Science Center, and they are the ones that came up with some of these required alternatives, if he wants to add anything to that before we open it up for discussion.

Dr. Crabtree: Thanks, David. Well, the only thing is if you look at the definitions that are on the books right now, they tend to have overfished definitions that would be triggered if the landings fall below some level for some period of time. So given the economics of the shrimp fishery right now, if effort fell off enough just because of the economics, the landings went down, it could trigger an overfished definition just because fishermen aren't fishing.

That doesn't make sense to me, and so what we've tried to do are come up with some definitions that are more tied to actual shrimp abundance and how many shrimp are in the water. The trigger on these things has more to do with what's going on with shrimp and separated some from just having something driven by economics.

Mr. Lewis: At the last meeting we had, didn't the scientific committee say that any scientist worth his salt wouldn't touch this because it was a one-year crop, or did I just misunderstand everything that was said that time?

Mr. Cupka: We know there are problems associated with the fact that it is essentially an annual crop, but, like I say, unfortunately, the law does not exempt us from the requirement of having to come up with these stock determination criteria. It's one of those things that doesn't make a lot of sense, but nevertheless under the law we're required to do it.

If we had our druthers, we probably would have preferred that they exempted something like shrimp, which is an annual crop, because it doesn't have the same meaning or connotation as a multi-year species. But, as I say, the bottom line is that whether we like it or not, we've got to come up with these numbers.

Mr. Lewis: Is Alternative 1 a viable action? Was that just put there to be polite?

Dr. Maharaj: Alternative 1 is a no action alternative. That doesn't mean because you choose no action that you won't have to abide by the overfishing and overfished levels. We had overfished and overfishing levels in place when Amendment 2 to the shrimp plan was implemented.

Dr. Daniel: I may have missed the very beginning of Roy's comments, but the last time we met on this we were given a very nice presentation from Steve Branstetter on some alternatives that looked at the SEAMAP survey, which I guess is Alternative 2.

What that did was instead of basing all this stuff on landings, as Roy indicated would be a problem, we were looking at these relative abundance indexes from these surveys that would have to fall below a level that we've never seen before for a couple of years, actually, to make certain that -- you know, I think we all recognize at the council level and particularly those of us in the states that deal with this issue on a regular basis how important this fishery is, and that we don't know enough about it to regulate it this way.

We've got the over wintering white shrimp thing set in place to where if we have a problem there, the South Atlantic states comes together. They may close the EEZ during to protect the over wintering roe shrimp for a couple of months and then they reopen it. It has very little impact.

But I guess I'm wondering -- I like not using the landings base stuff because of the Roy that described. But we did get a comment from -- I think it was from South Carolina that had a real concern about using the SEAMAP data for shrimp index. I'm wondering if there is anybody that could comment on those comments.

Mr. Lewis: I thought I read something about South Carolina DNR. They put something in one of these.

Mr. Cupka: I think some of our biologists did express concern over using the SEAMAP data. Again, I think it's based in part or large part on the fact that there is variability in the survey; and depending on where and when the survey is done, it may or may not give you an accurate picture of the shrimp stock that's out there.

There were some concerns about it from that standpoint. As Louis has pointed out, though, the numbers that we're looking at under that scenario were such that I don't think we've ever observed shrimp at that level, so I think the chances of having to take any action -- well, Number 1, you'd have to observe those conditions two years in a row, which is highly unlikely.

Then even if you did, that doesn't automatically mean that management actions would be taken and that there would be closures. All that would do would be to trigger a convening of the shrimp review panel that would look at all the data and decide whether it was something that could even be addressed.

I think the chances of having a closure under that particular alternative are fairly low. But, again, I'm sure this will be discussed a lot more at our committee meeting in the morning, but there was some concern over trying to use SEAMAP data just because of some of the variability problems.

The concern I had earlier on was that SEAMAP has been level funded for a number of years, and there is no guarantee that program is even going to continue to exist when this is put in place, so I have some concerns about using that survey, also. All these issues will be discussed when the committee meets.

Mr. Marra: I think we've got a serious problem or a flaw as we have the law on one side and we have science on another side; and then going back to the socio-economic piece, we've got another problem. It seems like maybe we should go back to the law and the interpretation again to the legal standpoint of what we have to do. Vishwanie said something I kind of liked, if you read between the lines, is it is an action taking no action. Is that true? I'm asking you.

Dr. Maharaj: No action for this particular Action 6, the no action alternative does require -- since we do have overfishing and overfished definitions in place, this will trigger the shrimp review advisory panel.

Mr. Cupka: In this case, the no action thing will not result in no action. It means we'll go back to what is currently in place, which is based on landings which is because of what is happening in the industry and probably not a very good way to try and determine if action needs to be taken.

Mr. Lewis: Do we have any other options? I mean, there are three alternatives here. You know, is there a fourth? I mean, that's what we're getting down to because we have a law problem.

Mr. Cupka: Well, what you want is a real no action alternative where there wouldn't be anything in place, and in this situation I don't think it's going to happen. If we took no action, in this case it would revert to what is already in place. Like I say, it doesn't make a lot of sense. And, again, I'll just reiterate what Louis said, I think all of us on the council are very cognizant of the problems that the industry are facing and what we're trying to do and the fact that this doesn't make a lot of sense.

I guess what we're trying to do is come up with a way that we minimize the impact by having to do a closure, and these are some of the alternatives we're looking at to do that. I would think that the changes of having to take any action like that would be pretty slim.

We don't want to do that because; Number 1, it doesn't make sense; Number 2, we're very cognizant of the socio-economic impacts that are implications of doing that. So, we're trying to give the industry as much benefit of the doubt, so to speak, as we can and not have to take any action like that because it doesn't make a lot of sense.

Mr. Marra: My final comment is then let's put down Alternative 4, and this is really a joke is Catch 22.

Ms. Solorzano: What I want to ask on that or comment about is this particular year here we have an extreme abundance of shrimp, not a lot of boats working it, because they can't economically afford to go out and work, and a lot of people are having difficulties selling their shrimp just simply because we have foreign imports coming in.

Next year comes around and you have even less boats working it, but let's say there aren't very many shrimp or as many shrimp as we had this year, you're going to see a huge difference in numbers. Are you going to come in then and say, okay, well, it was overfished last year or it's overfished this year so we have to close it down.

I know this is what you're saying you don't want to have to do that. Well, which one of these alternatives is the least damaging in the event that happens, because that's probably going to be a scenario in the next year or two?

Mr. Cupka: Well, I personally feel like any of these alternatives that are built on landings are going to be a problem just because of the economic conditions that are going on. That's one reason why we try to look at this fishery's independent method using SEAMAP, because we want to get away from landings, realizing that that was going to create problems.

Dr. Daniel: I was basically going to say that, David. I mean, Marilyn, the problems that you express also, though, assumes that we don't have any clue as to what is going on, and we haven't seen those numbers of vessels that are fishing this year compared to next year and that we're not able to take that into account.

We can. And if we can explain some of these things based on the dynamics of the fishery, then we can use that information to help us make our decision because of the uncertainty in this whole thing.

But I agree with David, and that was why I was so enamored with the proposal from NMFS to use that SEAMAP data in that that's totally fishery independent. And, again, in order to see something happen, it would have to be something resource related rather than some crazy thing that happens in the markets or the fishery.

Dr. Crabtree: What our goal has been here is to make sure that you don't get shut down because fishing is really good or you don't get shut down because fishermen are tied up at the dock. If we take no action, you could get shut down because fishermen are tied up to the dock.

Now, in terms of, for example, Alternative 2, we've defined overfishing as the fishing mortality rate that diminishes the stock below the maximum sustainable yield stock abundance for two consecutive years. What we've done is we've looked at the SEAMAP data and we've found what's the lowest abundance of shrimp we've ever had that produced a good crop the next year, and we defined that as that's the MSY biomass level.

You'd have to drive this stock below that for two consecutive years in a row before we would have an overfishing type of concern. Then you would have to have the stock drop below half of that for two consecutive years in a row before it was an overfishing sort of concern.

So the way Alternative 2 is set up, in order for it to trigger any sort of management action taking place, you would have to have the abundance of shrimp drop to very, very low levels. Now it could be it dropped because of environmental conditions as well, but, nonetheless, if we have very low abundance of shrimp out there, that is a cause of concern.

But the way it's set up, it would have to persist for two years in a row before we took action, too. So with rock shrimp, I know you all are having a real good abundance of rock shrimp out that, that wouldn't trigger anything. And if you have a real high abundance of rock shrimp again next year, it won't necessarily trigger anything.

It's only if we have evidence that the fishing mortality rates are driving the stock down and these things, at least for the penaeid, it would get triggered. And then with rock shrimp it's still tied to a fishing mortality rate concern, so if we had real high catches of rock shrimp for a couple of years, we'd take a look at that.

But if it was because there's just a real high abundance of rock shrimp and the fishing mortality rates aren't a problem, then that wouldn't necessarily be much of a concern. But you need to understand that at least for white shrimp now, it's based on having the abundance of shrimp in the state waters during the winter drop below some threshold level and that can lead to a closure.

But with brown and pink shrimp, if the catches drop down below a certain level that's in your document there, then that triggers an overfished condition and that could happen just because everybody is tied up at the dock and nobody is going fishing. That doesn't make sense and that's my concern with going with the status quo.

These things need to have some basis in how many shrimp are out there because that's what we're worried about, what happens if shrimp get driven down to a level that's lower than we've ever seen before.

Mr. Lewis: If these numbers that you're praising the way you want to do it prove to be wrong, what alternatives do we have?

Dr. Crabtree: If the numbers themselves, the data is all wrong?

Mr. Lewis: Yes, I mean there's --

Dr. Crabtree: Well, the only alternative we have there is to get better data.

Mr. Lewis: We don't have better data now because we don't know the effort, so wouldn't it be better to do nothing until we really find out what's going on?

Dr. Crabtree: These numbers aren't based on the effort estimates from the shrimp industry. These are based on the SEAMAP science catch rates.

Mr. Lewis: I understand that, but I'm talking about as -- look, if it's not broke, let's don't do nothing, okay. The numbers you want to use now that you say we're locked into is not correct because we don't know the effort, so why would you shut it down now knowing that you don't know the effort?

Suppose it happened next year by us doing nothing. Let's say we do nothing and next year your numbers say we're overfished, but you know your numbers are not right because you don't know the effort. See what I'm getting about?

Dr. Crabtree: Yes, but that's not the way it's set up. What's on the books now, if there is no action taken, you would have to have landings of brown or pink shrimp drop below 2.9 million

pounds, heads on, for brown, or 286,000 pounds, head on, for pink shrimp, and I think they have to fall below that for three consecutive years.

So if you had three years where your landings were below those numbers, then that would trigger an overfished determination. It doesn't have anything to do with the effort in the shrimp fishery. It's just based on your landings.

And what I'm saying to you is that doesn't make much sense to me, because if the effort was really low, there would be lots of shrimp out there because nobody is fishing for them. But the way it's set up now, that would be what happened. I'm trying to get away from that because I don't think that works, to something that's not dependent on just the effort in the shrimp fishery or the landings by going -- at least the alternatives we put in here would go to looking at the SEAMAP numbers which give you an independent estimate of how many shrimp are out there.

Mr. Lewis: Well, from our point of view, if it's not broke, why fix it. But every time that something looks real good out of the scientific committees, somehow it gets turned and used against us so we're very, very leery of doing anything about it because we've heard all this before. We're trying to decide over here which is the lesser of two evils here.

I mean, if it's not broke, why fix it. That's our dilemma or my personal dilemma. Maybe I'm a little dumber than the rest of them, but I've been heard words from the government before, "I'm from the government and I'm here to help you." I've learned better so that's what we're dealing with it.

Dr. Crabtree: Let's look at what's on the books now for rock shrimp. Rock shrimp are overfished when the annual landings exceed 6.829 million pounds. You may go over that this year. I mean, you say it's not broke, I'd say something that's going to trigger an overfished or an overfishing situation when you're having a really good year, in my mind that's broke, so that's kind of where I'm coming from on this.

Mr. Lewis: Well, I understand that, but we're sitting here right today talking about collecting the data on effort. Doesn't that affect these numbers that we've got there right now? Can't all this be taken in? In other words, use the same thing we've got now, just different numbers? See what I'm getting at?

When you really find out who is shrimping and who ain't shrimping, do it the same way? The 6.9 million pounds are based on numbers that the tooth fairy dropped, I guess, because you say you don't know how many people are shrimping. See what I'm talking about? So they're not correct. If I was shrimping and you tried to shut me down and I took you to court, I honestly believe I could win. National Marine Fisheries has never won a case in court that I know of. By using these right here, wouldn't that be the same thing?

Dr. Crabtree: Well, we actually win the vast majority of our cases in court, but that's neither here nor there.

Mr. Lewis: Well, I was in a courtroom and the only two people there were lawyers. The Department of Commerce or nobody was there. The judge asked where everybody was at and I didn't see anybody.

Dr. Crabtree: When we get better effort numbers in this fishery, we may be able to come in and change these to use catch-per-unit effort numbers that come right off the fishing boats, and that may be a way we can improve this down the road, but we've got to get the better effort numbers yet. What I'm trying to avoid is what is on the books now can trigger an overfished or an overfishing condition when you're having a really good year for rock shrimp.

Mr. Lewis: I understand what you're saying, but I'm trying to decide the lesser of two evils. I mean, you come up and you say this other is fine, but we seem to -- it don't be that way. It don't seem to end up that way. The devil is in the details. Now I'm trying to make a decision and I'm just asking questions.

Mr. Cupka: Well, two of these alternatives are based strictly on landings and it has nothing to do with effort. It does indirectly in that if the effort is there, the landings are going to be higher. But, again, as I say, probably the best thing would be Alternative 2 which is looking at the stock.

It tries to disassociate what is going on in the industry because it is so crazy right now in terms of how many people are fishing or not fishing. All Roy is trying to say is if we stay with what's on the books now, it's probably going to have a negative impact that we want to avoid, but not for a good reason.

It has nothing to do with the status of the shrimp stock. It has more to do with the economics of the fishery and how many people are out there fishing. So we're trying to avoid that situation, realizing what is going on in the industry right now.

Mr. Lewis: Okay, your recommendation is Alternative 2? Louis, what do you think?

Dr. Daniel: Well, I like Alternative 2 because it does disassociate from the landings. I think this just shows -- and the discussions that we're having here just illustrate the point of how difficult it is to deal with this annual crops and try to put these square pegs into these round holes that we're required to do through the current law.

There is work right now, Roy has been involved with it, on National Standard 1 to try to address some of these problems with annual crops like calico scallops and shrimp and rock shrimp and things like that.

The thing that gives me comfort about this, Kenny, is that the way we've had it set up, we recognize the uncertainty in all of this. We recognize the problems in the industry. We don't want to shut this fishery down unless we're absolutely, 100 percent certain that there is a real resource problem.

In order to determine that, it would not just be this thing falling below the level for two years in a row. What will happen is if we get these SEAMAP numbers in Alternative 2 and we fall below one of these three levels for one of the species two years in a row, we're going to call the advisory panel together to discuss what is going on in the industry.

We'll bring the scientists in. We'll bring you all in. We'll look at the landings. We'll look at the effort. We'll look at the problems. I guarantee you that if there is a real problem and we fall below these levels for two consecutive years, you all are going to want us to do something, too, because it's going to be bad.

And that's why we set it at the levels we set it at. I don't foresee that this is going to result in any management changes unless something really bad happens. So, we'd better hope that we don't go below these numbers because if we do, you guys are in deep trouble.

Mr. Lewis: Well, that's our concern, you know. It comes right back to the trust, you know. We've learned to ask questions. What do you think, David?

Mr. Cupka: Well, I agree, too. I think Alternative 2 is the best route to go at this time because, again, you're not looking at landings. You're not tying to everything to landings, which can be impacted by whether people are fishing or not.

What we want to look at is the stock that's out there, and this is one way of looking at that independent of what is going on in the fishery. And, as Louis said and I tried to say earlier, the last thing we want to do is shut this down. We're trying to do everything we can to ensure that that doesn't happen.

And I agree, I think if we were to go forward with Alternative 2, that the chances of us having to shut things down would be very slim unless there was a serious resource problem out there. I think you will agree that if there indeed there was a serious resource problem, you'd want us to try and address that. So, for me Alternative 2 would be the one I would favor.

Mr. Wallace: I think like what they were saying is Alternative 2, if it gets down to that level, economically you're not going to be able to fish anyway. The other side of that story is if it gets down to that level on the SEAMAP, all it's going to do is trigger a review.

Then we come in and say -- if we can logically prove that these numbers are false, then it all goes away. You know it just says, okay, you know, we've got the effort. You know, the boats

are fishing. There is enough boats fishing that we can prove that we are economically feasible, and we can discredit those numbers and then in that review we can prove that it's not overfished.

I think that's where Roy maybe misstated it a little bit or maybe I'm understanding it wrong the way he misstated it. It will not trigger overfishing or overfishing, it will trigger a review. Am I right, Roy?

Dr. Crabtree: Well, I think in the document, Vishwanie, for Alternatives 2 and 3 we have that, but if we took no action, is that language existing in the plan now?

Dr. Maharaj: Yes, it was for the penaeid shrimp stocks and not the rock shrimp stocks, but the penaeid shrimp stocks, Amendment 2 did indicate that the shrimp review panel will be convened.

Dr. Crabtree: Okay, but with rock shrimp, the way it is set up now, if we go over 6.829 million pounds, that would trigger overfishing and overfished level. It doesn't say what we're going to do about it, but it would trigger that, the way I'm reading it; is that correct?

Dr. Maharaj: That is correct but there are no remedial actions for rock shrimp. The council simply set these status determination criteria, but they did not set any remedial action.

Dr. Crabtree: And, John, that's really the one of these that gives me the most heartache because we may well go over that level of landings this year, and then here it triggers something and we have to go through some process that I just think is needless and really doesn't have a very sound basis in terms of what is going on anyway.

Mr. Wallace: I understand that in the rock shrimp. To me, I'm looking at more on our pink shrimp issue on the penaeid, because with it -- I know all of Georgia and probably everyone else's, nobody classifies pink shrimp as a shrimper. They all get thrown in the basket. Those pink shrimp estimates are all truly estimates.

That was the biggest fear on there on the pink shrimp in the South Atlantic, is that could trigger an overfishing and trigger this review. But with the Number 2 status, it would not trigger it because the scientific community has shown there is a specific number of pink shrimp out there.

Dr. Crabtree: Well, and also with Number 2, because you're using the SEAMAP data, the shrimp are going to be correctly identified in that, and so it takes the definition off of the landings which could be mis-categorized, so it's another advantage of this approach.

Mr. Wallace: And the only real problem I see with Number 2 is what David was alluding to, is how much longer is it going to be funded. In that case we have to come back at that time and come up with another action, I assume.

Dr. Crabtree: Yes, I mean, if it goes away and it doesn't exist, it's not going to trigger anything, that's for sure.

Mr. Ansley: One thing, though, is if it's to be used for this, it might strengthen the case to continue it and get funding for SEAMAP.

Mr. Marra: A question on Magnuson-Stevens is are we still dodging the issue of there's a problem with the law?

Ms. Smit-Brunello: It says under the Magnuson-Stevens Act, the required provisions of a fishery management plan, one of the requirements is that you assess and specify the present and probable future condition of and the maximum sustainable yield and optimum yield from the fishery, and include a summary of the information utilized in making such specifications, so that's a requirement of the Magnuson-Stevens Act.

Yes, Roy pointed out and I should read this one, too. Another requirement is that you specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery.

And in the case of a fishery, which the council or secretary has determined is approaching an overfished condition or is overfished, that contain conservation management measures to prevent overfishing or end overfishing and rebuild the fishery.

Mr. Wallace: The bottom line in this is that's the way the law is written and the only way we can do that is get our congressmen to change that law. And until we can get it changed, we've got to abide by these rules, and that's where these actions are taking place.

But you know what that's going to amount to is several years of asking our congressmen to get it changed, and they don't even revise the Magnuson-Stevens Act but very few times. I don't know how often, but it is very few times. But without congressional change in the Magnuson-Stevens, we have got to abide by these rules.

Mr. LaRoche: It would just seem like to me that this whole thing is invalidated. We're walking too close to the bank, you know. If only that the data you're going to be collected comes from federally permitted boats, those guys that stay inside of the line are not required to crank data in here, you're going to have no way of managing anything. You're not going to have anything to base anything at all on. The whole thing seems stupid.

Ms. Solorzano: A question on that.

Mr. Cupka: It goes to Mr. Lewis first.

Mr. Lewis: Go ahead and finish this train of thought. I've got another one.

Mr. Cupka: Okay, to that point.

Ms. Solorzano: Okay, these landings that you're going to measure this by will be from the federal-permitted boats that we're fixing to go into. State boats are not going to be required to use the federal permit; is this correct, anybody fishing inside their state waters? These landings are going to come from the federal EEZ permitted areas, correct?

Mr. Cupka: No, these are total landings.

Ms. Solorzano: They're total landings. Okay, so that's what I wanted to know. The boats that are going to be required to have the permit, which I know this goes way back to our last thing, that is not going to be boats that fish inside of state waters, right? It will only be boats that fish outside the state waters will be required to have that federal permit?

Mr. Cupka: Yes.

Ms. Solorzano: Okay, that's all. I was just making sure of that. Are their landings going to be included in the future to determine overfishing?

Mr. Cupka: All landings from inshore and offshore will be included to determine.

Mr. Lewis: Louis, I'd like to ask you a question. This is dealing with your SEAMAP numbers now. In 1992, if I'm correct, was the last year we had any measurable amount of spotted shrimp, we call them, pink shrimp in North Carolina. They were knee deep. There have not been any since then. Suppose they show up next year knee deep, what does this do to these SEAMAP numbers?

Dr. Daniel: Yes, it helps your cause because you're looking at it from a coast-wide perspective with SEAMAP. You're looking at it from essentially Cape Canaveral to Cape Hatteras. So just because they didn't show up in North Carolina one year, that doesn't throw the SEAMAP numbers off at all; because if they're off of South Carolina or Georgia or Florida, then that's going to bring that index up.

So if you actually have an unusual event where we had a high pink shrimp abundance, spotted shrimp abundance off of North Carolina, that's just going to raise that SEAMAP estimate well above that threshold level that you don't want to go below. So any time anything unusual likes that happens with increased abundance, SEAMAP should pick that up and that should help us.

Mr. Cupka: Any other comments or questions. Let's try and finish up. We're supposed to finished here at noon. We've got one more action and we've probably discussed part of this already, but this deals with status determination criteria for rock shrimp.

Dr. Maharaj: The status determination criteria for rock shrimp is addressed under Action 7 on Page 7 of the pink sheets. Alternative 1, the no action alternative, will not trigger the shrimp review advisory panel meeting if there is an overfishing or overfished determination.

There are two other alternatives based on landings information. The difference is that overfished rock shrimp would be deemed overfished if landings exceed 6.8 million pounds for one year under the no action alternative.

Alternative 2, if landings fell below 3 million pounds for two consecutive years, the stock will be classified as being overfished. Alternative 3 is if landings were above 6.8 million pounds for two consecutive years, then the stock would be determined to be overfished.

All three alternatives are based on landings data because there is no fishery-independent information available like for the penaeid shrimp species. As I said before, Alternative 1 will not trigger the shrimp review advisory panel meeting to assess the data available and recommend management actions.

Mr. Cupka: Questions or comments regarding Action 7? It is a little different from the other in that, as she pointed out, these are all based on landings and there is no other way to get at those.

Ms. Solorzano: The landings you have, though, are 1986 to 1994. There wasn't a whole lot of effort going on during that time in the way that there is now, so this year you're going to see more than 6.8 million pounds of rock shrimp harvested, and there are actually less boats working it.

You would see a lot more than that if they had processors to buy them. I mean, we're down to one major processor instead of the two that we had in '96 when we seen this abundance of shrimp. So, I mean, that in itself is keeping us from catching the shrimp. There's a massive amount of rock shrimp out there.

Next year we may not have that, so next year if we fall under the amount which two years ago there were no rock shrimp. We had that really cold spell and we had a very bad year. So the way I see it, there is no way not to have an overfishing problem by your data, even though it's not being overfished.

I mean, we're limited boats. Basically processors have pretty much took care of any overfishing because there is nobody to handle the amount of shrimp that we could get anyway. I don't

understand which one of these would be the best scenario, because we're going to end up, according to data, being overfished by what we produce this year, by this 6.8 million pounds.

Dr. Maharaj: The overfishing definitions, if landings were above a certain level, 6.8 million pounds for one year -- Marilyn, I'm not sure I understand your question.

Ms. Solorzano: No matter which one of these alternatives we choose, we're going to be overfishing according to this 6.8 million pound number. Your data is only from 1986 to 1994. You have no more updated landings that we could go on?

Like, let's say, for instance, if you went into '96 and you took the amount of data there and said, okay, if you catch more than this by a certain number, you've overfished it, and then you take your least productive year and say if you go under this by a certain point, you've overfished it. Would that be like Alternative 2? Because the number, this 6.8 million really isn't -- it isn't that much compared to what is being caught this year.

Mr. Cupka: Roy, these alternatives were a result, I guess, of the Science Center. Maybe you can provide some information.

Dr. Crabtree: Well, when we get to council, I'm going to suggest that we do change some of this. I think we ought to broaden this and use landings from 1986 to 2000. If we did that, the mean landings go up to 4.9 million pounds; and if you add two standard deviations, then it goes up to 14.7 million pounds. So you would have to exceed 14.7 million pounds for two years in a row before you had a problem. And then, Vishwanie, am I correct that for Alternatives 2 and 3, it would trigger a review?

Dr. Maharaj: Yes, that's correct.

Dr. Crabtree: Now, if the review looks at this and determines that the landings are high not because of any kind of problem but because the fishery is in great shape, that probably would be the end of it.

And that's Alternative 3 that I'm talking about. The overfished side of Alternative 3 would require that rock shrimp abundance be shown to be at very low levels for two years. I don't think we have a data collection program right now that would allow us to measure that, but with the permit we have in place and some of the things you've put in place, a couple years down the road or a few years down the road, we may be able to get some catch per unit effort series that would allow us to look at that kind of thing. But the way it's set up is we would have to drive rock shrimp levels down to very low levels for a couple years in a row before it would trigger anything. I think with some tweaks to it, Alternative 3 is a much better situation than the one we're in now, which is tied to the 6.8 million pounds.

Mr. Cupka: Other questions?

Ms. Solorzano: Yes, that's a low number. Okay.

Mr. Cupka: All right, that takes us to our action items.

Dr. Daniel: Yes, if I could real quickly, Mr. Chairman, I talked with Dee Lupton in our trip ticket program to address Mr. Lewis' and Mr. Daniels' questions, and what we have discovered is that there is a saturation point on the amount of information that can be collected in our trip ticket program.

What has happened is oftentimes fishermen relay the trip ticket information to a dealer, and many times that's post trip, to fill out that ticket, and some of the information that occur right at that time is lost. But even any time we change the trip ticket program, we have to do on-the-water groundtruthing.

It took us eight years to get the blue crab pots listed on there correctly to where we could get that information. What I'll discuss at the committee meeting tomorrow is perhaps a way that if a state were to be able to modify their trip ticket program to collect the information on the logbook, that perhaps we could come up with a way that those fishermen would not be required to use logbooks or something along those lines. If we can show that we're duplicative reporting then, we could deal with that issue. But I just wanted to let you know I checked on that and we'll continue to work on trying to make that as burdensomeless as we can.

Mr. Lewis: On the assumption that every little boat in North Carolina gets a permit, they're going to get a logbook. If they don't fish in the EEZ, are they going to have to fill out that logbook?

Dr. Daniel: No, we'll deal with that problem. I mean, we've dealt with that before and there is no fishing. You just submit no fishing reports. I know we're running late for time. I'll probably have a chance to talk to you about this between now and tomorrow.

Mr. Cupka: Okay, well, again, that gets us through our actions. I did want to allow time to make sure the AP had ample opportunity to provide comments not only to this committee but the other council members who are in attendance and will be meeting as a committee of the whole in the morning.

But having done that, I know there are some other people who may want to make comments. I see Janie Thomas standing there, so I'd like to allow her some time to make some comments at this time.

Ms. Thomas: Thank you, Mr. Chairman. Janie Thomas, executive director of Shrimp Producers Association. I'd like to make a couple of comments on just this last action on the rock shrimp. We feel like that this fishery is well managed now and should make no changes.

However, we think the industry suffered very large hits in the immediate past few years, and the morale right now is at an all-time low. Give us time to recover. Implement a program to assure that accurate data is available.

For example, on the Florida landings -- and I've just completed the appeals board hearings -- I do know that the data was absolutely skewed. Many landings that were under reported by wholesale dealers. I really can attest to that.

And on the penaeid shrimp, we don't think that there should be a federal permit. We do not support a federal permit. Yesterday I was in the habitat panel meeting in Charleston all day. And, one of the things that came out of our breakout session yesterday afternoon, especially in the state of Florida, you know, dilution is a solution to pollution.

And we think that the hurricanes, I do, that was the Lord's way of kind of diluting some of the developers, the pollution, and getting the saltwater intrusion fixed up. I know for an absolute fact that the shrimp is a barometer of what is fixing to happen. I take my shrimpers that are shrimping.

I know about what they're doing, and I also know that about 20 miles inland right where I live, I do know that the shrimp are growing real fast and we're fixing to have another abundant crop. Praise the Lord for that, too. I appreciate the opportunity to address this. I'd be glad to work with anybody I can. I've been happy to be on the habitat panel now since 1990, and I'm very passionate about it all. Thank you.

Mr. Cupka: We know that and we appreciate those comments. Thank you, Janie. Are there any other comments?

Mr. Wallace: Just a suggestion. After talking with John Wallace, for those of us that are computer literate, can we get these kind of reports on CD-Rom instead of paper? Guys like me that have heart problems, I'm having a terrible time carrying this around. Thank you.

Dr. Maharaj: Yes, we can do that for you.

Mr. Cupka: Any other comments or questions? All right, that takes us I guess down to advisory panel input on ecosystem-based management. Gregg is going to go over this for us very quickly.

Mr. Waugh: Thank you. I'll just mention that we are starting down this path. There is a lot of confusion and concern over what ecosystem-based management is. The approach that the

council is taking is the first animal we want to study is our fishermen as they move across the fishery.

We don't feel we have, as you all talked about here this morning already, good information on where they're fishing, what they're catching, what the bycatch is. That's one of our initial focuses.

The other is to expand our existing working relationship with other management agencies. Janie Thomas just talked about our Habitat AP. We're looking at that structure that involves a lot of other organizations and agencies, expanding that to include agencies that have control over water pollution runoff and things that we don't have direct authority over and working informally with them, so that they understand and in their decision process address issues that could negatively impact our fishery resources.

Then the third area we're looking at is to expand and refine models similar to our stock assessment models that look at multi-species, look at predator-prey interactions, but that's farther down the road.

We intend to give all of our advisory panels the opportunity to talk to us about ecosystem management when they meet, what your thoughts are. We will continually be getting material out to you all as we develop it, but we just wanted to take this opportunity to give you a chance to give us any initial thoughts you had. You'll have lots of other opportunities down the line. Thank you.

Mr. Cupka: Thank you, Gregg. Any comments or questions for Gregg? As he indicated, this is a process that we're embarking on, and it's not going to happen overnight. There will be plenty of opportunities for input, and we want to work with all our APs as we move ahead to put together a fisheries ecosystem plan, and so we'll be getting more information to you on that.

All right, our next agenda item then is the shrimp business plan. John, you were going to make some comments on the business plan for us.

Mr. Ward: I'm John Ward. I'm an economist for the National Marine Fisheries Service. I work out of the office of Constituent Services up in Silver Spring. For the last couple of years, we've been working on putting together this shrimp business options paper.

I've been invited down here today to talk a little bit about the process that we went through and to kind of bring you up to date on where we are and where we're headed. This report actually came about through a commitment by Bill Hogarth a couple of years ago at a meeting with industry down in New Orleans.

As a result of that meeting, we put together a series of public meetings to meet with industry, NGOs, Sea Grant, academics, interested members of the public, in order to put together a series of options that might benefit the shrimp harvesting industry during this time of particularly difficult financial conditions, falling prices and rising costs.

We assembled a group of experts, people who were very familiar with the shrimp industry in the Southeast, under contract. We worked with them to come up with a report to analyze the options that were identified as these meetings to the extent that it was practicable with existing models and data.

Some of the people involved were Wade Griffin out of Texas A&M, who has done a great deal of work in the Gulf of Mexico shrimp industry. We had Jim Kirkley from the Virginia Institute of Marine Science, who has worked on looking at impacts to communities and regions from the fishing industry.

Once this report was put together, we held a peer review of experts in fisheries economics and some of the SEA Grant extension people and asked them to come in and give it a thorough going over. Based on their comments, we revised that report to reflect what their concerns were.

Then we also asked the International Trade Administration and the International Trade Commission to go over the report and see if it would have an impact on any of their considerations for the anti-dumping petition that had been filed. They informed us that the information in the report wouldn't effect their results.

Once we went through all this, we started holding a series of public meetings throughout the southeast. We introduced the report to the industry and we asked for their comments. We are presently in the process of reviewing those comments and looking at revisions to the report. The report is and will remain a draft document.

We have talked about putting together an update in 2005 because conditions in the shrimp fishery have changed so dramatically in the last year and because we don't have data available yet to look at 2004.

Also, we put this report out on the Internet, and it can be found through the NMFS Website under the News Option. I've also brought some CDs with copies of the report on it. If anybody here is interested in taking one home, you can see me afterwards. I will be happy to give you one.

One of the options that we looked at in the report was a marketing program, and that's one of the activities of the Southern Shrimp Alliance has been trying to put together. The report tried to break these different options out in terms of the net benefits that they would generate for the

industry, but also in terms of the impact that these options would have on the community and the region.

The reason we did that is because net benefits is a way of looking at the value of a particular activity in terms of its ability to produce, for example, profits for a firm, a harvester, while impacts are designed to look at how the community deals with that option.

For example, generally, I guess you could say that as net benefits increase, community impacts are going to be reduced. This occurs because some of the expenditures that would have occurred that affect the community are turned into profits for the firm and they go into a different channel and go down a different path.

The marketing option was particularly interesting because it increased both the impacts on the community and it also increased the profitability of the industry, and it depended on how successful a dollar's worth of advertisement affected the price of shrimp.

We weren't able to come up with any sort of analysis in the short run that would tell us what that impact was, so Wade Griffin out of Texas A&M looked at 5, 10, 15, and 20 percent increases in shrimp price due to a marketing program, and he presented that in the report.

Now all these different options are laid out in the report. The intent is for people to go through them, to look at them, to provide us with comments; and if it's possible for us to proceed, work with us in order to get options that the industry feels are helpful and useful to them advanced through the system.

One of the reasons I'm here at the council meeting today is to talk a little bit about this and listen to people's comments, if they've had a chance to look at the plan. Are there any questions? I'll be happy to try to answer them.

Mr. Cupka: Questions for John?

Ms. Thomas: I sure am glad you're here today, oh, yes. I have a big question to ask you. You guys let the Southern Shrimp Alliance have I believe it was about \$3.6 million to market shrimp. I'm not here to create any kind of confusion or anything else, but you made a statement, a dollar's worth of advertising for the price of shrimp.

That little paper you've got right here, I don't have one handy, hold that up so he can see it or give it to him. I want to give him another one. I've been working for three years now. We're fixing to have the Super Bowl in Jacksonville, Florida. I've got one of the best marketing plans going.

I have approached the Southern Shrimp Alliance to donate some money towards sponsorship of a shrimp boat race and parade at Fernandina Beach, Florida, and they have turned me down from all angles. I just don't think that's right because the amount of advertising worldwide we're going to receive from this plan that I have going or we have going in Fernandina Beach, there is no way to calculate the benefit -- like a million dollars worth of advertising for per minute, you know.

So, anyway, I'm wondering how we can get some sponsorship out of that, and if you're acceptable to helping us do this. If I'm speaking out of turn, then get me corrected right now because it just very much so hurts me to think that here we are in the southern states and we're having vessels that represents all of the NFL teams.

There has never been a time in history when we could promote the American Shrimp Industry like we can with this program that I've got going forward. I thank you very much. If I'm out of turn, please correct me.

Mr. Ward: Well, I wouldn't say you're out of turn. This is a little bit outside my area of expertise, but the Office of Constituent Services that I work in is interested in outreach to the community and education, and I will certainly pass this on to Gordon Helms, who is our deputy office director, who is particularly interested in these kinds of activities.

He was one of the people that organized the seafood cook-off in New Orleans earlier this year. I'll bring this to his attention, and hopefully he'll be able to get in touch with you and discuss some options.

Ms. Thomas: Thank you so much.

Mr. Ward: If I could get your contact information after the meeting, if it isn't on here, I'd be happy to give this to him.

Ms. Thomas: It's right there at the corner in conjunction with the Fernandina Beach-Amelia Island Chamber of Commerce. Thank you.

Mr. Ward: So he can get you through this telephone number here?

Ms. Thomas: Yes, sir.

Mr. Ward: Okay, I'll pass that on to him.

Mr. Cupka: Other questions or comments for John? If not, we appreciate you being here. Thank you, John, and you will be available, I guess, if anyone wants CDs or has any questions, you'll be here for a while.

Mr. Ward: I'll be here the rest of the day, and I'm not leaving until tomorrow morning. And if people want to get in contact with me later, I can be reached through the Office of Constituent Services, and Roy Crabtree and Vishwanie Maharaj have contact information for me. I can give you a business card today. Thank you.

Mr. Cupka: All right, thanks again, John. That brings us down to other business. Is there any other business to come before the group?

Ms. Solorzano: I just have one small thing to mention, and it would probably go to the National Marine Fisheries Law Enforcement. I'm not sure exactly who I would be addressing on it, but it's about the vessel monitoring systems and some problems that the Rock Shrimp Industry is having with them.

People are being called to come into port saying there's problems with the VMS on board. When they get in, there is no problems found. When we call and are directed to bring the boats in, we've been told we cannot have an extra VMS on the boat for a backup system should one go out. So, therefore, you're basically at port until it can be repaired or another one can be found.

We asked National Marine Fisheries for a loaner. They don't have a loaner, and you cannot have a spare. So if there is a problem with your VMS, be it National Marine Fisheries end or your end, you're forced to port.

We'd like to find some way of solving this by either having loaners available that we could rent or being able to have an extra one that we can have to use on board so that we're not forced to port to sit and wait. I don't know who would answer that question or how that could be done.

Mr. Cupka: Tracy, I saw you coming to the table. Are you prepared to --

Mr. Dunn: Well, I will attempt it. There are some legitimate concerns she expresses; however, enforcement has very little leeway with that. Basically, the regs say you have to have an operating VMS under the conditions of any particular fishery.

What we try to do is we have two people in our program that monitor for interruptions of reporting. As soon as we detect that, we contact the owner and try to establish contact with the operator so we can try to correct it while they're at sea.

And usually, I was told, about 75 percent of our problems have to do with power fluctuations on the vessel itself. So we try to help the operator get over that hump and see if we can get the unit back on and reporting.

The units have no indicator as to whether they're on or off. And we look to make sure -- you know, help them to determine that it is on. Sometimes that doesn't work, so then we look at antenna blocks and see if somehow there is something that is obstructing the antenna to be able to report.

After that, you know, as long as we can still talk to the owner, if we can't correct it, yes, we have to tell them that they are now not in compliance and they have no choice but to return. We don't tell them they have to return.

We just tell them they're in compliance, but they must return because if they're boarded, they could be written up. Once back in port, we advise them they need to get a qualified marine electrician to look at the problem. Then we try to work with them when they're in.

As far as a loaner unit goes, on the surface it sounds like a good correction, but it would take as long to get a loaner unit established for any particular vessel because of the complexity of making that connection between the boat, satellite, land station and then back to us, that it's really just as fast to get the unit into the vendor to be corrected or to be analyzed and looked at. But that's really the only option enforcement has.

Ms. Solorzano: We have people that it's took, you know, a couple of weeks to get theirs because they have to send it to TRAN, which is in I believe Virginia, and they're just the dealer for it. It's built I believe in Denmark.

Mr. Dunn: They usually can correct it in Virginia. If not, then it has to go back to Denmark. We've worked on a couple cases where they were going to send it back and we just said let's replace the unit.

That's not necessarily our decision, but on behalf of the fishermen, we said that's not a viable option to leave them at the port for a month. We try to work with the vendor to provide the best solution for those circumstances.

Ms. Solorzano: And another question on that, the VMS is required for rock shrimp, to be used in the rock shrimp fishery. But it states on there, which was a flaw, I think, when we did the limited entry program, any vessel with a rock shrimp permit fishing anywhere in the South Atlantic EEZ must have this VMS on board.

So if you're fishing the rock shrimp industry and your VMS goes out, you can't go white shrimping. You have to sit there and wait for it to come back, because it says you would lose your permit if you went out and fished for any other -- you know, if you're fishing in that EEZ. So, you know, is there any way we could adopt some sort of measure to say, okay, well, you can go fish in the white shrimp industry, but you cannot have rock shrimp on board your vessel so that the boat is not forced to sit tied to the dock?

Mr. Dunn: Well, enforcement doesn't make that decision. We just enforce the laws that are made, but we are actually looking at going the opposite direction. We'd like to see it 24/7 so we can make sure those units are up and running all the time.

Some of our problem with the Gulf boats is they come back into the South Atlantic and then they all of a sudden want to establish service. They have been out of service for so long, that because of the system the way it is, backup files and whatnot, we have difficulty bringing them back up.

But if it was constantly reporting at a lower rate that we could monitor whether a unit had problems prior to having to have it actually -- you know, as far as the regulations went, having to have it on would I think help with a lot of those down times.

Mr. Cupka: Okay, thank you, Tracy.

Dr. Crabtree: Is there anything in the regs about having a backup unit? That was one of the things she brought up.

Mr. Dunn: We have a couple vessels that have taken upon themselves to carry two units, and that's an owner-operator decision. But there is nothing in there, as far as I know, that says you can't do it. It might interfere if the two are too close to each other, from what I understand, but, no, there is no difficult with that.

Mr. Cupka: Okay, other questions or comments?

Ms. Solorzano: When I asked about having a spare one on board, I was told no by National Marine Fisheries because it would interfere with the one that they have. Now, I have a company that I pay that monitors my -- I used them last year. I haven't subscribed back with them this year because we've been -- I just didn't do it this year yet.

But when I asked to have two units, one as a backup system, I was told no because it would interfere with -- I would be paying for two systems. I would be paying two monthly fees and it would interfere. They would be getting two different signals from the same vessel. They didn't recommend us doing it.

So, I said what happens when it goes out? They said, well, you'll have to go to port and get it repaired. And that's not as easy as -- you know, if you're sitting there in the middle of the season, it can get really frustrating.

Mr. Dunn: Well, I can't comment on that because I know we have one vessel that at least has two units on it. I know it was a little problematic, but my understanding was we got that worked out.

I would have to check on it to see if it's because it's two separate units, it's not the same one. It's not a tron and tron trying to send signals. I know that is problematic because you have the name -- you have two reports coming in from the same vessel. But I'll have to check on that for you.

Ms. Solorzano: I believe that was the Michael Anthony. He is the only one that has two, and he does not have two trans so maybe that was the system, the kind that we were using.

Mr. Cupka: Okay, any other business to come before the group? If not, then I'd entertain a motion to adjourn. Nobody wants to adjourn? We have a motion and a second. We are adjourned.

(Whereupon, the meeting was adjourned at 12:15 o'clock p.m., October 27, 2004.)

Tape of proceedings on file (2)

CERTIFIED BY _____ **DATE** _____

Transcribed by:
Graham Transcription Service, Inc.
November 2004

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

**JOINT SHRIMP ADVISORY PANEL &
COMMITTEE**

**Pawleys Island Resort, Pawleys Island, SC
OCTOBER 27, 2004**

SUMMARY MOTIONS

SHRIMP AP/COMMITTEE

NO MOTIONS DURING AP/COMMITTEE MEETING

NOTE: THE FOLLOWING MOTIONS WERE APPROVED AS A COMMITTEE OF
THE WHOLE DURING FULL COUNCIL SESSION: