

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

LAW ENFORCEMENT ADVISORY PANEL

**Crowne Plaza Hotel
North Charleston, SC**

February 7, 2013

SUMMARY MINUTES

Law Enforcement Advisory Panel

Capt. Jim Kelley, Vice-Chair

Capt. Doug Lewis

Capt. Rob Beaton

Mike Kennedy

Charlie Renda

Karen Raine

John Clark

Lt. Brandon Fisher

Rich Chessler

Council Members

Mel Bell

Council Staff:

Gregg Waugh

Dr. Kari MacLauchlin

Myra Brouwer

Julie O'Dell

Observers/Participants:

Pat O'Shaughnessy

Capt. Rama Shuster

Other Participants Attached

The Law Enforcement Advisory Panel of the South Atlantic Fishery Management Council convened in the Crowne Plaza Hotel, North Charleston, South Carolina, February 7, 2013, and was called to order at 9:00 o'clock a.m. by Vice-Chairman Jim Kelley.

MR. KELLEY: I'd like to welcome everybody to a meeting of the South Atlantic Fisheries Management Council Law Enforcement AP. My name is Jim Kelley. I represent the State of North Carolina DMF, Marine Patrol Section. What I would like to do this morning is go around the table and make the introductions, have everyone introduce themselves and state where they are from or who they are representing and then we will continue. We'll start with Doug.

MR. LEWIS: Doug Lewis, Georgia DNR.

MS. RAINE: Karen Raine, NOAA, Office of General Counsel Enforcement Section.

MR. KENNEDY: Michael Kennedy. I'm from the State of Florida. I'm a civilian on the panel.

MR. BEATON: Captain Rob Beaton, Florida Fish and Wildlife.

MR. SHUSTER: Captain Rama Shuster, Florida Fish and Wildlife.

MR. CHESLER: Rich Chesler, NOAA Office of Law Enforcement.

LT. FISHER: Lieutenant Brandon Fisher, U.S. Coast Guard, Southeast Regional Fisheries Training Center.

MR. RENDA: Charlie Renda, new LEAP member from North Carolina, representing commercial fishers.

MR. O'SHAUGHNESSY: Pat O'Shaughnessy from the Southeast Office of Law Enforcement, Southeast VMS Program Manager.

MR. WAUGH: Gregg Waugh, South Atlantic Council Staff.

MR. BELL: Mel Bell; I'm the Director of the Office of Fisheries Management for the South Carolina DNR, serving council member, and I am Chairman of the Law Enforcement Committee on the council.

MR. BROWN: Aaron Brown; I'm with the U.S. Fish and Wildlife Service, also law enforcement here out of Charleston, South Carolina.

MS. BROUWER: Myra Brouwer, council staff.

MR. KELLEY: Okay, jumping right into things, let's start with the agenda. Are there any additions or changes to the agenda? Seeing none; I guess they will stand approved. The second item on the agenda would be the minutes. Karen.

MS. RAINE: Just a couple of word corrections. On Page 31, at the top there is a statement that trawl gear must be connected. It should be disconnected. That makes a difference. Also,

though, maybe I'll point out here, too, that was regarding trawl gear in MPAs and what transit is, and that the trawl gear needs to be disconnected; but this morning when I was looking at – I think it is the cold weather closure; I'll get there in a moment.

That does talk I believe about nets being stowed and not disconnected. I guess I would just point out that there may be differences in even some of the South Atlantic regulations as far as the status of trawl gear. The South Atlantic shrimp cold weather closure talks about nets being stowed below deck, I believe. That is something that might want to be looked at from a consistency viewpoint. The other is just another small word change. On Page 56, the last paragraph, third sentence, first word; the word "suggested" should be substituted for the word "adjusted". That's all.

MR. KELLEY: Are there any other changes to the minutes? Seeing none; we will move on?

MS. BROUWER: Your overview that I have prepared for this meeting contains a good bit of detail on all the amendments that have recently been approved and those that are under development. I'm not going to spend a lot of time going over each of these. If you look at your overview material – and I'll pull that up here in a minute.

MR. WAUGH: There are more hard copies here if anybody needs one.

MS. BROUWER: I'll just mention them. Regulatory Amendment 13 was approved in December. I think it was December. This is the one that would adjust the ACLs based on the recreational estimates from the MRIP program, substituting what was the MRFSS. Snapper Grouper Regulatory Amendment 15; this is one that the council approved recently for submission in December. It has not yet been submitted.

This one is taking away the accountability measure for shallow water groupers, which currently when the gag commercial ACL is met, then all the shallow water groupers close. There is an action in this amendment that would take that away. There is also an action to adjust the yellowtail snapper ACL based on the results of the latest assessment.

You have in your overview the proposed changes for yellowtail, the adjustments, the new ACLs, and a little bit of the background of why that accountability measure was first put in place for gag and the shallow water groupers and why it is no longer necessary and the council is recommending taking it away.

Then there is Snapper Grouper Amendment 28. This one was submitted recently as well. This would establish a process by which NMFS would open up fishing for red snapper during the summer months like was done in the 2012 season. There is two consecutive weekends for the recreational sector; there is what they call a mini-season for the commercial sector, and it just sort of spells out how the ACL is going to be calculated.

As far as the timing of it all, I believe this would be scheduled to start in July. We are hoping that this is going to get approved in time for that to happen this summer. We'll see. Are there any questions so far? If you have questions on these, make sure you stop me. Then 18B is one that is currently – we're waiting for the final rule to publish.

This one is the one that would establish an endorsement program for the longline sector of the commercial golden tilefish fishery. It ended up being that using the eligibility criteria that the council decided on, there are going to be 23 endorsements. Most of them, of course, are going to be in Florida.

The amendment establishes an appeals process, too, and from what I understand there are a few folks that have reviewed their landings and are looking into appealing to make sure that they do or don't qualify for those endorsements. This amendment also splits up the commercial ACL between longline and hook and line gear, 75/25 percent. It takes away the step-down trip limit for golden tilefish commercial sector.

Currently that trip limit; it starts out 4,000 pounds and then once 75 percent of the ACL is met, it goes down to 300 pounds. That is getting ready to happen in the next couple of weeks, but this amendment would take that away and then establish a separate trip limit for the hook-and-line sector. Are there questions on that one?

MR. BEATON: Is there VMS required currently on the golden tilefish longliners?

MS. BROUWER: There is not.

MR. BEATON: Okay, because we have the other pelagic longliners are on VMS. I was just wondering if this other longline fishery would be a requirement for VMS.

MS. BROUWER: That is not something the council has considered. It was not considered in this amendment, but there is another one under development for the golden tilefish longline portion for the endorsement holders that I will get to here in a minute. That would be something that could be added to that amendment.

Certainly, the Law Enforcement AP could make a recommendation for the council to consider that, because that amendment is very early in its development. Okay, so moving on, there is a generic dealer amendment. This one was submitted back in October, I believe. It still has not been approved. This is one that would establish a universal dealer permit for South Atlantic and Gulf. We are still waiting on that to be put in place.

MR. WAUGH: Let me just give a brief update on where we are on that Dealer Amendment, because it will be addressed at our next meeting. In doing the Paperwork Reduction Act Analysis, NMFS and NOAA GC discovered that the analyses that were in the document in their opinion did not go into sufficient detail. In addition we had some incomplete information about what the states required. We have in the document that all the states are allowing or require electronic reporting.

All of the states allow electronic reporting, but South Carolina is still transitioning and right now they require paper reports also. For a short period of time, there will be some duplicative reporting in electronic and paper. In addition, there may be the requirement that some individuals, some small dealers that are not currently reporting electronically and don't have the capability – that is a computer – would have to go out and buy a computer.

Even though we mention this in the document, there is no analysis saying, well, if there are 200 of them and a computer costs 800 bucks, then here is your cost. In the opinion of NOAA GC we need to beef up the document. That is being done and the South Atlantic Council will look at it in March and the Gulf Council in April. This will result in some delay; hopefully not an extensive one. That is why you will see it back on the council's agenda.

MS. BROUWER: Okay, so moving on with the amendments that we are currently working on that are going to be developed throughout 2013, the first one, Snapper Grouper Regulatory Amendment 14; this one currently has, I believe, 11 or 12 actions. It covers multiple species. It looks at things like changing the fishing year for greater amberjack.

It looks at additional protection for mutton snapper during the spawning season. There are proposed changes to the size limit for hogfish. I believe there is an action that would change the bag limit for vermilion snapper. There is a whole bunch of different actions in this amendment. This one will come back to you when we meet again probably in the fall or late summer, and then we will go through it in more detail.

Snapper Grouper Regulatory Amendment 17; this one is one that hasn't actually begun development. We are still in the process of consulting with experts on MPAs. Earlier this week there was a meeting here, in fact, of the MPA Expert Workgroup, which is a group of folks that the council wanted to get together and give recommendations on designating areas for protecting specifically speckled hind and Warsaw grouper.

From what I understand, the Expert Workgroup made several recommendations. There is going to be a report that will be included in the first briefing book for the council. We are going to get a presentation of that report at the March meeting, and then we are going to ask the council to give us guidance on whether they want to pursue the MPAs; do they want to only look at reorienting the existing MPAs?

There are also alternatives or recommendations for new areas for designation. We will just have to see how the council wants to proceed. If the council does want to continue along the MPA road, then probably we would have public hearings for this later in the year, probably in August. This one again will be something to look for.

MR. BEATON: I think I can speak on behalf of the whole LEAP that whenever even these expert groups are looking at developing MPAs, they have access or have next to them that enforcement feasibility document we put forward to the council back in 2006, I believe. Even though those were specific to the first round of MPAs we had, the issues are relevant to all.

MS. BROUWER: Yes, absolutely, and thank you for that comment, Rob. That is something that you all have gone over many times I recall back in March when we met in Georgia and we were talking about the MPAs. That document is still alive and we'll make sure that the council refers to it during their discussion. Thank you for that.

MR. WAUGH: When we get to Amendment 30 VMS, and we talk about that again, that would be a good place for you all to indicate how important VMS is. You mentioned it for the longline golden tile sector, but also for MPAs. Just one point of further clarification on the timing on this, we will get guidance from the council on timing at the March meeting.

August would be the earliest possible time that there could be public hearings, but it would be extremely difficult for us to prepare for public hearings that quickly. I know there may be people listening so I don't want to overly alarm people, but we have already got scheduled for public hearings in August seven amendments. Adding on one non-controversial item like MPAs, I think our recommendation to the council is going to be if there is a tipping point, that certainly is it.

But they could in March determine that those MPAs are of such a high priority that they kick some other stuff out, so that August time period would be the soonest. We would hope they would take a little more time to develop the alternatives, because again it is so controversial. I think the number was somewhere around high 20s that the MPA group came up with. I think it will take the council a little time to sort through that rather extensive list.

MR. KENNEDY: Could I just address something to Gregg's point? You don't need to respond. That is a great point, and I think you had a meeting in Key Largo a couple of years ago, and there were several meetings going on at the same time. It was difficult to be in all the meetings. I hope you will pass it on to the council that people were interested in more than one meeting and were not able to get there. I think your point is well taken about one step at a time.

MS. BROUWER: Okay Snapper Grouper Regulatory Amendment 16 is the one that I mentioned a little while ago on golden tilefish. Currently there is what we call an Options Paper, which basically says, okay, Council, this is what we've heard from the fishermen, this is what you all have given us guidance; how do you want to proceed?

We are going to talk about this in March; and this is where if the Law Enforcement AP would like to recommend that the council consider further actions in this amendment, then we can certainly do that. The main issue here is because the eligibility requirements for the longline endorsements pretty much captured everybody, even the new entrants in the fishery, there is still concern about a derby in that fishery.

The fishermen themselves have been trying to stagger their fishing; also to not flood the market and to make sure their product moves along better, but that is not working so well for them. There are always some people that don't agree on their schedule of fishing. They have requested that the council look into perhaps doing like two weeks on, two weeks off fishing for the longline sector only. That is basically the only action that we have there so far.

We have requested that if the fishermen want the council to consider other options to lengthen the season and accomplish diminishing derby conditions, that they come forth and give us those recommendations. Certainly, if you guys can think of anything that would be appropriate for the council to consider, this would be a good time to bring it up.

Then we have assorted other amendments. Dolphin Wahoo Amendment 5; this is also very early in the development process. We took this out to scoping last week, in fact. This one will basically just make adjustments to the ACL for dolphin and wahoo based on the MRIP recreational estimates that I mentioned earlier.

Regulatory Amendment 13 took care of that for snapper grouper; this would take care of that for dolphin wahoo. There is also an action in there to modify the framework procedure so that ACL

adjustments can be made more quickly. This one was not at all controversial, because the ACL is going to go up.

Even though the new recreational estimates from MRIP do shift the allocation a little bit from commercial to recreational, there is really not an issue because everybody is going to get more fish. We didn't really have a whole lot of input from the public other than, okay, that is great. Then there is Coral Amendment 7. This is another one we are going to be working on this year.

This looks at establishing or actually expanding some of the already established deepwater coral areas of particular concern; two of them I believe in particular, one in North Carolina and the other one in Florida. I believe there is an action in there to look at transit through the Oculina Bank.

Then there are several joint amendments. The Coastal Migratory Pelagics FMP is a joint FMP with the Gulf of Mexico, so all the amendments have to be joint amendments. There are three of them that are going to be developed during the year. I'm just going to let you read through those. I'm not the staff person that is most familiar with mackerels. These are again very early in the development, and it is being done jointly with the Gulf. That is basically the update of what is going to be going on. Are there at this point any questions or any recommendations that the AP would like to make to the council?

MR. BEATON: Would now be the appropriate time to make the recommendation that the council consider the VMS for golden tilefish?

MS. BROUWER: Yes, absolutely, and would you like to make that in the form of a motion or a recommendation? Motions are preferable.

MR. BEATON: Then I make a motion that in any future considerations in the golden tilefish amendment, they consider the requirement of VMS for that longline fishery.

MR. KELLEY: Is there a second?

MR. KENNEDY: Second.

MR. KELLEY: Discussion.

MR. KENNEDY: It's an obvious issue; but if I read the papers, there are only 23 vessels involved; is that correct?

MS. BROUWER: That is correct.

LT. FISHER: I am wondering how many of them, though, since they are bottom longliners, right – I am wondering how many of them already would be carrying VMS because they already would be permitted for HMS, anyway?

MS. BROUWER: That is a good question; I don't know. We would have to look into that, but, yes, that is a good point.

MR. CHESLER: There should be some overlap also with some of those vessels having Gulf Reef Fish Permits. But the other point I would make specifically with golden tilefish is that one of the areas that they fish for golden tilefish is on the Hundred Fathom Curve to the east of the Oculina Bank. We have made cases along that area specifically for using bottom longline within the HAPC. That is just another extra added benefit of having that fishery with VMS is because of that potential impact on the Oculina.

MR. KELLEY: Are there any objections to the motion? **Seeing none; the motion carries.**

MR. BEATON: I have a question on the wahoo. In southeast Florida certain times of the year there is a huge group of folks that stay over in the Bahamas, and they are over there specifically for the wahoo. They catch a lot of wahoo. I am wondering if there is any data collected from that seasonal fishery. It is a recreational fishery, but it is big. There are thousands and thousands of dollars of just wahoo tackle that is sold throughout the southeast Florida big tackle stores. There are a lot of fish pulled out of the water. I didn't know if there is any way to capture that.

MS. BROUWER: Well, I guess that depends on whether the fish are in Bahamian waters or the EEZ. I mean, presumably if they are being landed in the U.S., then they would be intercepted by the MRIP samplers. But otherwise I would think that, no, that catch is not being monitored or tracked. Gregg, do you have anything to add to that?

MR. WAUGH: Are we talking recreational vessels?

MR. BEATON: Yes, recreational vessels that lay over in the Bahamas for a month or two and they are just hammering those wahoo. Likely they are in Bahamian waters, but we all know that fish don't know. There is no fence line out there, so are they Bahamian fish, are they South Atlantic fish?

MR. WAUGH: I would doubt they would be picked up in the MRFSS or MRIP reporting. I mean, the Bahamas have ratcheted down their possession limits, but again enforcement is an issue there as well. I wouldn't think we would pick that up and the issues of what are the stock boundaries; we would not count those fish towards our ACL on the recreational side.

MR. BEATON: I just didn't know if there was already one of your mathematical fudge factors was put in for that. The Bahamians are a vessel limit. I personally know folks that go out and get their Bahamian limit in the morning and go out back in the afternoon and get their Bahamian limit. It is not a per day or per person limit like most of ours.

MS. BROUWER: Another thing that I'll just mention, because it was brought up to us during our public hearings in Florida last week, is that there is indication that in Florida recreational fishermen are purchasing commercial permits and selling wahoo. That was something that was brought up to us and said; hey, the council may want to know about this. Do you guys have anything to add to that? Have you seen any evidence of that occurring?

MR. BEATON: I haven't seen the recreational bag limit sales in wahoo specifically. It has mostly been if they are caught in Florida waters. There was the amendment done to close that loophole several years ago for fish caught from the EEZ, but it can still be done in fish harvested from Florida waters. Wahoo are usually a little further offshore than the three miles. They have

been caught inside of three, but rarely would you have a state waters harvested wahoo. I don't see the recreational sales issue with wahoo being that big.

MS. BROUWER: Right; and I don't think that was the actual point. I guess recreational fishermen have found that it is easy and affordable for them to purchase commercial permits and then sell their bag limits under a commercial permit. This is how I understood things were happening. That would be a fine thing to do, I imagine. There is nothing to prevent them from doing that, but I guess I was told that this is happening quite frequently.

MR. BEATON: Are you talking federal permits?

MS. BROUWER: I believe so.

MR. BEATON: I don't see that being cost-effective for a recreational fisherman. I haven't heard of it, and I don't know if Rich or anybody else, any of the NOAA agents down the coast have heard of it, but those federal permits are expensive.

MS. BROUWER: All right, I thought I would bring it up since it was brought to our attention.

MR. CHESLER: I am not aware of that being an issue. It is not on our radar at least in the ports that we have that have a lot of recreational fisherman that will go that far offshore. I think because of the bag limit and really that is a good sportfish, it is a good eating fish, I don't see them selling what little that they catch in the first place. I think most people would consume it. It is not on our radar and we haven't received any specific complaints.

LT. FISHER: In addition, if someone is out there who normally recreational fishes and they have a commercial – they are operating and fishing under a commercial permit, then their vessel is a commercial fishing vessel for that period and they are required to carry all the safety gear that a commercial fishing vessel would, because that is what they are.

MS. BROUWER: Okay, any other questions before we move on to the various amendments that we have to go in to detail about? If not, I guess, Gregg, can we move on to Snapper Grouper Regulatory Amendment 18?

MR. WAUGH: Some of this has to do with adjusting ACLs. I am going to go past those pretty quickly and focus more on the items where you may have some input; but certainly if you want to comment on any of these others, please stop me and let me know. Action 1 is revising the annual catch limit and using the existing allocations that change a sector allocation and optimum yield for vermilion snapper. The council does not have a preferred alternative, because they haven't seen this material yet, but Alternative 2 would implement the results from the recent stock assessment. In all likelihood that is what they will go with.

Action 2 – and here you may want to comment – would modify the commercial trip limits for vermilion snapper. Right now there is a 1,500 pound trip limit in place. There is an Alternative 2 to reduce that to 1,000 pounds. Then Alternative 3 is to reduce the commercial trip limit to 1,000 pounds, but then also have the step-down that when 75 percent of the commercial ACL has been met or projected to be met, reduce the commercial trip limit to 500 pounds.

Now we used this step-down in the past, but we got away from it because the agency was having difficulty tracking the quota in sufficient time to know when to step it down. The quota monitoring system is much improved. Once we get this dealer amendment online where people are reporting electronically, everybody is reporting electronically, that will make it easier to do as well.

The council has no preferences. They will be discussing this. Of course, a concern with going down from 1,500 to 1,000 pounds is you affect the larger vessels that have to run farther, but that is not a law enforcement concern. I don't know if you want to comment on any of those alternatives.

MR. KENNEDY: My only thought is if you go with Alternative 3, we are back to the notice to the commercial fishermen. It may be a lot easier than getting it out to the recreational, but you are going to have to give these folks reasonable notice or you are going to have issues in the first few days of the implementation where people are claiming that they were ignorant or unaware of it. I don't know if they make multiple day trips or not; but if they are at sea and they don't get the information, I just see an issue with that. That would be my only concern.

MR. SHUSTER: I agree with that. That not only is a problem with the fishermen getting the information, but also throughout law enforcement as well with the step-down percentages. They are not clean for enforcement. I am not in favor of Number 3 there.

LT. FISHER: Yes, this is similar to what is being used in that CMP for some of the mackerel, right, where there is a step down? Although that is by the number of fish and not by gutted weight, but I just echo those same comments. Yes, our guys have a hard time keeping up with that.

MR. WAUGH: Okay, we will move on to Action 3. Action 3 would modify the commercial fishing seasons for vermilion. Right now the commercial fishing year is split into two seasons of equal duration. January through June half the commercial ACL is allocated to that time period; then July through December half is allocated there.

We are looking to consider some modifications January through May, but still allocate splitting it 50/50 January through May; then June through December. Some of this is to align with black sea bass fishing year. Alternative 2B would have the split be January through April and then May through December. I guess from a law enforcement perspective, I wouldn't think this would change from what we have going on now under the existing split. It just changes the amount that is allocated to each time period, but I don't know if you have any further input.

MR. BEATON: Yes, we view it as a year-long fishery that just happens to have potential for two closures a year. That is just a matter of the notification. If the first five month or six month they reach quota, we get a notice out and the fishery is closed until May or June 1, I don't see an issue.

LT. FISHER: I would agree with that, too; that is the same way we are approaching it.

MR. WAUGH: All right, then Action 4 would modify the recreational closed season. Right now there is this November through March closed season on the recreational side. That is from

Amendment 16 when we were trying to end overfishing for vermilion. Vermilions are no longer undergoing overfishing.

Now we have a recreational allocation and AC just like we do on the commercial side, so there is no need for having this closure. In addition, the recreational sector has not met their annual catch limit; they are significantly under. This just from the council's perspective represents an old management measure that was put in place that is not longer necessary and it is having a lot of economic impact on the industry. We would assume this would be a positive law enforcement impact, but your comments would be helpful.

MS. RAINE: I would applaud the council for removing a regulation that is no longer needed.

MR. CHESLER: Likewise, also it is important to note that this was the conflict between the commercial staying open and the recreational being closed. That was kind of hard to rectify with most people or justify, really. I think that would be a benefit, and also you noted the economic impact. We've made a substantial amount of vermilion snapper cases especially off of North Florida. I know that is also a bread and butter fish, so to speak, for the headboats. I would applaud the council for removing this restriction.

LT. FISHER: Yes, we would be very happy to see that closure go away.

MR. KENNEDY: As a recreational fisherman, I think that is a great move and would make it a lot easier on not only the headboats but the recreational guys so they can go out and spend some money and get it back in the public coffers.

MR. BEATON: Ditto all that. The posture of our commission is that anytime we have an opportunity to give fish back to the people, we take that opportunity. I definitely support this action.

MR. LEWIS: We also applaud that recommendation. I think we need to advertise it to let folks know that things do come back, because everybody thinks government takes and never gives back. We really need to make a special effort to put the word out that they are getting things back, and so many things do make a difference.

MR. WAUGH: Action 5, which is the final one, is to revise the annual catch limit, optimum yield, and annual catch target for red porgy. Red porgy are under a rebuilding program. The recent stock assessment update that was done shows that we are going to have a challenge meeting the rebuilding timeframe even if it prohibited all fishing.

We've gotten a projection of catches that do increase over time and the council is going to consider this recommendation that came out of the stock assessment. It would reduce the recreational and commercial ACLs a small amount, not significantly; going the commercial from about 198,000 pounds to 153,000; and on the recreational side, the ACT 160,000 pounds to 109,000 pounds. These haven't been met in recent years; but especially on the commercial side as more fisheries close, we expect to see effort shifting. Again, this will just revise the catch limits, and we are not changing any of the management associated with that. That is it for that amendment.

MS. RAINE: Under the enforcement section, there is still a paragraph regarding our old penalty schedule. I would suggest that language might want to be amended to reflect the current penalty policy, which can be found at our website.

MR. WAUGH: That's in Section 3, Karen, I think probably?

MS. RAINE: Yes, 3.5.1.3 on Page 34, as I have it, the bottom of Page 34.

MR. WAUGH: Because we've got about 18 amendments ongoing now, so we'll try and make sure we get the same verbiage in all of them.

MS. BROUWER: All right, I'm going to go through Amendment 27, like Gregg did for Regulatory 18, action by action. This is an amendment that the council is going to likely approve for submission to the secretary at the March meeting. This one was taken out to public hearings just last week.

It is Attachment 9 in your briefing materials. Action 1 is just going to extend the management for Nassau grouper into the Gulf of Mexico. This is something that is sort of a leftover thing that the council needed to do. The Gulf Council already took Nassau grouper out of their Gulf Reef Fish FMU.

There was a notice of action published in the Federal Register that indicated that the Gulf of Mexico Council was no longer the entity that was going to manage Nassau grouper in the Gulf, but the moratorium on harvest would still be in place until such time as the South Atlantic Council took over management.

This action basically is just completing that. It is just going to give our council jurisdiction over Nassau grouper in the Gulf, and it is going to include the Gulf portion of that stock into our management unit. I don't know that there is anything that is controversial about that. Do you have anything to say about that action?

Okay; Action 2, this is one that was recently added to this amendment. It would modify the crew-size restriction for dual permitted snapper grouper vessels. Currently that restriction is for there to be just three crew members on vessels that have a commercial and charter/headboat permit.

The alternatives are to either eliminate it completely or increase that restriction to allow for four crew members. The main reason behind this is mainly a safety thing, especially for folks that are out there spearfishing, diving; and having just three crew members on board prevents them from using the buddy system and adhering to the safety regulations. The Gulf of Mexico recently also took an action to do the same on their waters. Is there any law enforcement issues or concerns that you see with this?

MS. RAINE: Do you know which action the Gulf took?

MS. BROUWER: I knew you were going to ask me that. I can't remember; I think they took it away. I don't recall them increasing it to four.

MS. RAINE: As always I guess my comment would be consistency would be nice.

MR. LEWIS: I'm going to agree with Karen one time, I think, consistency on that one.

MR. SHUSTER: I just have a comment on that based on what we see in the Gulf. I completely agree as a recreational diver for making efforts to increase safety. However, what we see at the professional or commercial level diver, which I believe we are referring to here is these guys still dive alone.

We consistently see them as far as I would say up to a half a mile apart. The boat operator can tell us exactly where his diver is at and where he is going to come up. It is truly amazing. I would not dive that way, but that is currently what is in practice. I think if we do increase to four you are still going to have three individual divers out there diving alone. I just wanted to bring that point up.

MR. BEATON: As a recreational spear fisherman, I frequently review and read all the spear boards, the forums and everything like that. I don't think we are having a lot of commercial spearfishing dive maladies out there. Yes, there could be a safety perspective; but as Captain Shuster said if they have an opportunity to put somebody in Point A, B, and C, they will do it. There really isn't anybody diving in the commercial spearfishing sector.

MR. CHESLER: My experience has been that it is the same on the Atlantic side, at least in North Florida that generally the crews are two people max, and both are diving. Really, there is no safety observer or anything like that, and they are diving in separate areas. The idea is that they are trying to cover as much bottom as possible to harvest as much as possible in the shortest amount of time.

MS. BROUWER: Is there a particular alternative that you would recommend that the council consider as a preferred?

MR. LEWIS: Could you require it to be the buddy system if you increase it to four; that they dive as a pair?

MS. BROUWER: I don't believe the council could do that, but certainly I believe the Coast Guard Operations Manual does – no? Okay, Brandon is shaking his head no. I don't believe so.

MR. KELLEY: That would be again a great effort at safety, but no method of enforceability. It would be extremely difficult.

LT. FISHER: Yes, I wouldn't even want to get into how we are supposed to verify whether two divers are close enough to each other while underwater to be considered a proper buddy. That is outside what we are going to do.

MR. CHESLER: Probably the other thing to consider here is that – yes, I don't necessarily have an issue if they did increase it to four crew members, but probably the reality of it is it just allows them to meet their trip limit that much faster. That is probably the reality of it, is that they get an extra body on there to put in the water.

MR. BEATON: I'd like to clarify for my spearfishing counterparts that are going to read the minutes on this; they do the buddy system in extreme depths. There are some folks that will dive 180 to 240 feet. In that instance things get serious, so there usually is two people in one spot, but there is a very small group of people that do that and it is only occasionally. Most of the spearfishing is done in depths of 140 or less.

MS. BROUWER: All right, moving on to Action 3, this one again was added recently. The council asked to put this action in this amendment at their December meeting. It would modify the captain and crew retention restrictions on bag limit quantities of snapper grouper species. Basically, again here there is a regulation that is not consistent throughout.

There are only certain snapper grouper species that are not allowed to be retained by captain and crew. This restriction was put in place, as Gregg mentioned earlier, for vermilion snapper and gag grouper when the council was ending overfishing of those species. Having this restriction in place for captain and crew allowed for a very small reduction in harvest that at that time was still helpful in ending overfishing for those two species, but certainly it creates confusion.

Sometimes folks are not quite sure which species captain and crew can keep, which ones they cannot. The alternatives under this action would be to either allow captain and crew to retain any bag limit quantity of any snapper grouper species or disallow retention for all snapper grouper species. I believe in the Gulf of Mexico captain and crew is not allowed to retain any of the Gulf reef fish species. I guess that would be a consideration again for consistency sake. Are there any thoughts on that?

MR. KENNEDY: My sense is that consistency is a better option. I know the Gulf has already made that decision. I don't know what the economic impact would be or the personal impact would be, but it seems that consistency would be a better option for at least the law enforcement side.

MS. BROUWER: One of the comments that we received last week from folks that came to the public hearing was that their concern was that if the council went with Alternative 2, would be that would potentially increase backdoor sales of snapper grouper species, and that, of course, is not something that you can predict or control very well, but certainly it would open up that possibility as well.

LT. FISHER: Back to the way you initially presented it, you are correct from our perspective. Having different species have different possession allowances I guess for captain and crew is it was a real challenge for us to figure out how to get that squared away in the Job Aid. Our students get confused about it, our students being our boarding officer trainees coming through it. I'm sure it is confusing to the public as well. I would agree consistency one way or the other is better.

MR. SHUSTER: I would like to agree with that as well and also just point out some enforceability issues west of Key West and areas where you have around the Fort where these areas overlap. It is very difficult to enforce in those areas of the state. I would like to see consistency across the board there.

MS. BROUWER: I guess what I am hearing is that the LEAP would suggest that the council select Alternative 3 as their preferred. Okay, I am seeing heads nodding. Action 4 is an administrative action. It would simply modify the framework procedure that is currently in place. This is something that spells out the steps; I guess is a good way to put it, for how to make changes to management for snapper grouper species.

What the council would like to see done is to expedite the way that they can adjust ACLs and things like that. This came about this past fall when the update or the assessment for yellowtail snapper indicated that the commercial and recreational ACLs could be increased. The council went ahead and requested emergency action be taken to accomplish that.

It still took two and a half months for that to happen. What the council is proposing here is to make a language change or an addition to the framework, which is right here under Alternative 2, that would allow them to make a quick adjustment via just a notice in the Federal Register. Of course, this could be either really good or really bad depending on whether the ACLs are going up or going down.

Most of the folks that we spoke to during public hearings thought that this was a good idea. We have yet to receive further guidance from General Counsel as far as whether this is a doable thing. There had been some concern and we were told that General Counsel needed to look further into whether this change was appropriate. Hopefully in March we'll get that guidance from GC.

MR. KENNEDY: I'm not sure how this affects us.

MS. BROUWER: It doesn't.

MR. KENNEDY: Thank you; sometimes I'm a little obtuse and slow.

MS. BROUWER: But I guess like we talked about yesterday, if some of these regulatory changes are going to be happening more quickly, then it would affect law enforcement as far as communication and getting that information out to the fishermen and that sort of thing. That would be the only way that I could think of.

Then finally Action 5 would modify the placement of blue runner in the fishery management unit. This came about last fall when we were doing public hearings for something else, but folks came to us and said, "Well, you know, there is a lot of mackerel fishermen who are catching blue runner in their gillnets and they have been selling these species for the last 20 years or so." A lot of them were not aware that blue runner was included in the Snapper Grouper FMU. These folks were deriving a good bit of their income from the sale of the incidentally caught blue runner. The council was trying to come up with a change in the regulations that would allow those folks to continue to harvest blue runner legally. There are several alternatives. Alternative 2 would remove it completely from the Snapper Grouper FMU; therefore, that species would no longer be under federal management.

If that is the case, then another agency could potentially take over management. Florida representatives on the council have indicated that the state of Florida would be willing to do that.

Alternative 3 was crafted, like I said, to try to allow Spanish mackerel fishermen to retain blue runner.

It states that anybody with an unlimited or 225 snapper grouper permit or a Spanish mackerel permit could retain blue runner, and it would exempt blue runner from the gillnet prohibition, because gillnets are a prohibited gear in the Snapper Grouper FMP. The problem with this alternative is that gillnets are prohibited because of interactions with protected species.

If the council were to allow the use of gillnets for harvest of the snapper grouper species, then that would prompt the protected resources folks to have to reinitiate a Section 7 consultation under the Endangered Species Act. That is a serious consideration. Then Alternative 4 would retain blue runner in the FMP, but would exempt it from the permit requirements for purchase, harvest and sale.

But here again the prohibition on gillnets would still be in place and the Spanish mackerel folks would be out of luck. The council has not yet picked a preferred. Most of the folks that we talked to last week; their preference was for blue runner to just simply be removed from the FMU.

MR. SHUSTER: Can anybody provide any background, maybe on the numbers or the stock of the fishery as to how it ended up there in the first place?

MS. BROUWER: Well, it is kind of interesting. I've tried to dig around on some of the management background for blue runner. They were exempt from the bag limit that was put in place through Amendment 4, or something like that, because of their prevalence in the live bait industry. Tomtates and blue runners I believe were exempted from the bag limit.

It was initially placed in the FMU because it co-occurs with other snapper grouper species, and the council was trying to be inclusive, more of an ecosystem-type thing. There is really no – it is a jack, it is not a snapper or a grouper. That is why it was initially placed in the FMU. It was considered for removal from the FMU when the council was doing their Comprehensive ACL amendment back in 2011.

At that time the threshold that they decided on for a species to qualify for removal was if 95 percent or greater of landings were in state waters. Well, at that time we only looked at landings between 2005 and 2011. During that time series, I believe blue runner was only 75 percent of landings were in state waters, and so the council did not remove it.

It also did not meet the qualifying criteria to be designated as an ecosystem component species, which is the other category that Magnuson created. It was retained in the FMU; but I guess if we go back and look at a longer time series of landings, which we have done and those numbers are in the document, most of the landings are in state waters. In fact, the majority of the recreational landings come from the shore mode in Florida. It looks like there is now more justification and there is more evidence that the council could just go ahead and remove it, because it is not really a species that needs federal management.

MR. BEATON: I was going to further add to that. It is a nearshore fishery, and the harvest and the gears used won't conflict with other jacks, won't conflict with any snapper grouper species. I'm in favor of supporting Alternative 2.

MR. KENNEDY: I guess I agree with that. It is kind of a Mom and Pop Bait Fish Operation, too, and it is caught locally. I have a question and that is I believe was there not like a three-week closure at the end of last year for blue runner? I didn't understand that, because I was unaware of the circumstances. Can you help us with that?

MS. BROUWER: Yes, Mike, you are correct, there was a closure because the ACL was reached. I believe it was a commercial closure. Once the ACL is reached, the accountability measure is to have that in-season closure. Removing it from the management unit would take away those ACLs unless Florida decided to put something in place.

The other thing, as far as the bait fish fishery goes, that was a concern that was expressed by certain council members when we were discussing this back in December, because it does seem to be quite a profitable business for a lot of folks in Florida. It is hard to keep track of that harvest and to monitor it and make it count towards the ACL. There is really no way that can be done very efficiently, and that was the other concern.

MR. KENNEDY: As a followup, that fish, although it is not a primary bait fish for that fishery, that December timeframe brings a lot of economic impact to our community, because you have big billfish tournaments and these things go for a hefty sum. I want to make sure we allow that economic impact to continue if we can.

MR. SHUSTER: I agree with Alternative 2, then, to remove it completely from the Snapper Grouper FMP.

LT. FISHER: How is blue runner managed by the state of Florida?

MS. BROUWER: I believe you need to have an SPL, and that is it. As far as folks who are selling it directly to billfish fishermen, I think they are supposed to have a retail license in order to do that. I don't know how Florida keeps track of that, but I believe those are the – and, Rob and Rama, correct me if I'm wrong.

MR. BEATON: They are considering some rule change with the licensing for these from vessel – currently if the bait fish is harvested from the vessel and sold from the vessel, there is only a requirement for a retail license, but trip tickets are still required, but the sale of those fish does not count towards your annual sale requirement to get your license reinstated. It is not a qualifier.

Because of tracking issues, there is some consideration being proposed that they also have a wholesale license; so you would be a fisherman, then you would be a wholesaler, then you put your retail hat on. However, in this economic time a wholesale license is basically another tax. We're kind of on hold with that right now; but currently SPL, retail if it is sold and harvested from the same boat.

MS. BROUWER: That does it for Amendment 27. If you have anything else you would like to add or recommend to the council, now would be the time. If not we can move on and I'll let Jim take over.

MR. KELLEY: Let's take about a ten-minute break since we're an hour in and we will reconvene in ten minutes.

MR. KELLEY: An issue has come up with mackerel so we are going to back up to that and Kari will be addressing that.

DR. MacLAUCHLIN: My name is Kari MacLauchlin, I am council staff and I am lead on mackerel. We have a few things coming down the pike here. Myra had asked if I would put together something. You have a few attachments, which are kind of these summary documents. We are having a joint committee meeting in March.

The Gulf Committee is coming over to work out some differences that the councils have for these documents. They may completely change over the next couple weeks, but what you have right now is what we are working with now. There are a couple things that you may want to comment on. These are expected to final approval by the councils in August and September, I think.

Both councils will have to give final approval on these for submission. I think this is the only time that you will be able to comment on it if they are giving final approval I September. You may get another chance to look at this; but if you have anything that you would like us to address or you would like to point out, that would be great.

Amendment 19 has five actions. The first one is prohibiting bag limit sales of king mackerel and Spanish mackerel. Right now the councils have two different preferred alternatives. The Gulf council wants to prohibit all bag limit sales. Even if the vessel has a commercial permit, if it is caught on a charter trip on a for-hire trip, they can't sell it.

You not only have to have the commercial permit; you also have to catch it on a commercial trip as well. That is the Gulf's preferred. The South Atlantic's preferred is no action. In general, there seems to be support on the South Atlantic Council to prohibit bag limit sales of king mackerel and Spanish mackerel to be consistent, because we also have the same rules for dolphin wahoo and snapper grouper, no bag limit sales.

However, they have the no action alternative selected right now, because they want to try to figure out a way to have a provision for tournament sales of king mackerel. Right now I think they just want to wait and see if there is a way that they can work up some kind of way to monitor tournament sales. In North Carolina they have kind of has a permit system there for their tournament sales, and they definitely want to keep those allowable.

There are some people from Florida that also want to keep the tournament sales in. We'll see what happens, if the committees of the joint committee meeting can come up with some compromise to do that.

MS. RAINE: Is the council considering perhaps a distinct permit for tournaments under which sales could happen?

DR. MacLAUCHLIN: The last time the council talked about this was in September. There was actually an action that created the provision for tournament sales. We had all these details that they would have to discuss about creating a federal tournament permit like the highly migratory species, they have one; and then North Carolina has one.

I brought in all this information about all the requirements, reporting requirements, any kind of sales requirements that they had for both of those. I think what they decided to do was remove that action, the one that would set up a provision for tournament sales into a later amendment so they could work out the details.

The problem is that prohibiting bag limit sales across the board will also prohibit tournament sales, which is why they right now have selected no action. Unless they work out that tournament sale, setting up a permit system, allowing the state to set up a permit system or something like that; if they prohibit bag limit sales, they will prohibit tournament sales until something is done.

MS. RAINE: Are you anticipating that the South Atlantic and the Gulf will work out whatever differences they might appear to have right now so that whatever decision is made, whether to allow sales or prohibit sales, the decision will be southeast wide?

DR. MacLAUCHLIN: Well, they have to because it is a joint amendment. Honestly, they surprise me every time. I have no idea what they are going to do, but that is why we're having this joint committee meeting now, so they can either make a decision to not address this at all right now until the tournament sales can come up or have all bag limit sales, including tournament sales, prohibited on the Gulf side but not on the South Atlantic side. Honestly, I have no idea how this will work. Maybe Mel knows; he's on the council.

MR. LEWIS: Two questions on that; would North Carolina and Florida be the only states allowed to have tournament sales? Next question; what would constitute a tournament?

DR. MacLAUCHLIN: Well, in South Carolina I believe there are no bag limit sales, including tournament sales, so that is a state. There are some states that do not allow that, anyway, so this would not apply to them. If they wanted to set up some kind of permit system – well, the states would have to set up a permit system – like basically punt it to the states to make that decision, then any state that wanted to allow it could allow it. North Carolina; they already have their permit system set up for tournaments. Florida would have to set it up if they wanted to continue to allow that. What was the second part; I'm sorry?

MR. LEWIS: The second part; what would constitute a tournament, because me and my buddy in a boat decide we were going to have a tournament amongst ourselves that day and then sell them?

DR. MacLAUCHLIN: Something that has come up is how do you define that for somebody to be eligible to apply for a permit? It was when and if the council comes back to this and wants to

set up some kind of permit requirement, they will have to define all of those things. We have some examples of the HMS permits and the North Carolina permit that we can use.

MS. RAINE: Of utmost importance to me I think and my office is that whatever the regulation is that it is consistent between the Gulf and the South Atlantic. Mackerel is complicated enough already. That consistency is important.

MR. SHUSTER: Something that pertains to the same thing is quality control, which we're tasked with enforcing. It is very difficult in this scenario to recognize when that fish on a recreational boat is going to be sold. We have strict guidelines on how the fish is to be handled, iced, et cetera, until the point of sale.

When we board a recreational boat, it could simply have one block of ice on the other end of a coffin box and we have no violation, because at that point we cannot determine if the fish will be sold at the end of the day or not. That is a concern there with the enforceability of those measures, which is a pretty significant in the food safety side of it.

I agree with Karen completely that we have to have the South Atlantic and Gulf on the same page there, whichever direction we go. I would also like to point out that in this charter situation particularly in South Florida, you are going to have most likely two fish on the boat per person. Now, at the end of the day, the majority of those customers are going to get back on an airplane where they are not going to tote 100 pound of kingfish with them back on the airplane. We already have harvested a fish. Now we are to the point of what do we allow the captain to do with that fish? These measures I don't believe are decreasing in numbers. We are now addressing a sale issue.

MR. BELL: I can't say what the council will do. I can just tell you we have had a lot of discussion over this topic. From my perspective in South Carolina, the way it works is you are either commercial or you're recreational. Of course, if you are dually permitted you can do both things, but you either do one or you do the other.

In terms of recreational bag sales, no, it is either if you are properly licensed or permitted commercially, you are a commercial fisherman. The tournament piece is kind of a complicated thing. We tried working something out a couple of years ago looking at – and maybe we don't have as many king tournaments as Florida in particular or North Carolina, but we have some pretty good ones.

We basically came to the conclusion that we were just going to do away with tournament sales. It became problematic from our own state law standpoint in terms of what our state laws said. It was just problematic from a standpoint of accounting for the fish, dealing with the – another thing for us, our king fishery is not a huge fishery commercially, so you have the potential to influence market conditions and prices and things.

We had maybe 28 guys that commercially fished kings or something. It is basically snapper grouper guys that have the additional permit and are doing it as an additional fishery. When you start bringing in large amounts of king mackerel onto the market, it can mess around with the price and things. A lot of times people wouldn't even want the fish. I can't tell you what we'll do. I know how I feel about it.

I'm pretty comfortable with it is either commercial or its recreational. Now the point you made, Rama, about the sale, yes, that happens. You've got these fish at the end of the day. It seems like a waste, and that is one of the arguments we hear is we have all these fish and we don't want to waste them, because that is not good.

But then there are also issues related to they are going into commerce, they are going into the food chain here, and did they meet all the requirements, worrying about things like histamine toxicity and things? I can't tell you how this will work out. I know there is a desire by at least a couple of the states to try to keep the tournament piece going. I understand the consistency thing, too, so I know we'll pay attention to that. Your comments on this particular topic I think are crucial in terms of input, because there are a lot of law enforcement related issues.

MR. RENDA: In North Carolina, when we have the tournaments, first they have to qualify. The funds can only be dispersed to nonprofit charitable organizations. That is the key. They just hate to see so many fish being wasted. I mean, if they are brought in, rather than place them in a dumpster, certainly no one benefits from that and that is part of the reason for the sale.

MR. BEATON: I forwarded a document to Myra that Florida has been operating under since 2003 based on a legal opinion. You can have that to review and Jessica is certainly aware of it. That is what we've been going by, and it seems to be working, and it really hasn't been a big issue as long as they're following that guidance that is set forth in that legal opinion.

DR. MacLAUCHLIN: Okay, not all of these will require so much discussion. There are just a few that I think it will be beneficial to the council to get some input. The next one is sale of cobia – right now there is no commercial permit requirement to sell cobia – and then also the possession limit for recreational or commercial is two fish per person per day.

In general, you don't have someone that goes out on a trip commercially to catch two cobia. In general, they are caught along with other fish that the vessel is targeting on that trip. This one is do you want some kind of permit requirement to sell cobia commercially. We have the no action. This is the Gulf preferred alternative, just to let this continue.

This would allow bag limit sales to continue for this. Cobia caught on a for-hire trip could still be sold. Then we have an alternative to create a whole new federal commercial permit specifically for cobia. Alternative 3 would just allow cobia to be sold by any vessel that has the Spanish mackerel or king mackerel.

Just to remind you with the permits, the kind mackerel is a limited entry, so it is capped. There is no more available, you have to buy one from somebody else who is exiting the fishery. The Spanish mackerel permit is open access, so anybody can buy that permit every year. Then the South Atlantic preferred alternative is to allow anyone to sell cobia from a commercial trip as long as they have any of the commercial finfish permits.

That would be king mackerel, Spanish mackerel, the Gulf reef fish, the South Atlantic snapper grouper or South Atlantic dolphin wahoo. Under this, Alternative 2, 3, and 4 would prohibit the bag limit sales of cobia. It would have to be caught specifically on a commercial trip. We have language in here it has to be harvested under a commercial quota, so technically not on a for-hire trip, and there is a permit requirement.

Alternative 1, the no action, would allow this to continue. The South Atlantic, when they talked about this, I think they wanted some kind of permit requirement that would have the least impact. In general, anyone who is harvesting cobia commercially will already have one of these federal finfish permits probably. Then the Spanish mackerel and the South Atlantic dolphin wahoo are both open access.

Someone, if they wanted to do that, could get one of those permits without having to find somebody to transfer one from. We will see at the joint committee meeting what they want to do about this. Unless they want to create South Atlantic and Gulf permit, a South Atlantic permit or something like that, separate permit requirements for the regions, they will have to come to some kind of compromise and agreement on an alternative.

MR. LEWIS: I'll say stay with the one. Why do something just for the sake of doing it if it is not needed? Then we're in compliance with the Gulf, too.

MS. RAINE: Yes, I would say generally our office has supported no sale of recreationally caught fish. That support would still stand. However, again consistency between the Gulf and South Atlantic is really important. Especially when you get to South Florida and the Keys area, it can become very difficult to enforce the law and for people to understand what the law is.

DR. MacLAUCHLIN: Action 3 is Consideration of Eliminating Latent Permits for King Mackerel. This is a limited entry program; and there is concern that if all of the permits that people are holding but not actively harvesting king mackerel, that the stock maybe could not handle all the effort that was out there, if everybody that had a permit kicked in, because we do have a decent amount of people who just have the permit as part of their permit portfolio;

In North Carolina where they will get these king mackerel permits and they will hang onto them just in case they need that if there is a problem with another fishery that they work in, but they may not harvest for several years or they will harvest at a really low level. The councils wanted to look at eliminating these inactive permits.

There definitely are some that people have had for ten years and they haven't reported one pound sold of king mackerel. In this document I just have the estimated numbers of permits that would be basically revoked or eliminated, and the number that people could hang onto. We hear these permit holders that are keeping it just so they can keep the opportunity, saying, "Well, I paid money for this. They are expensive because they are limited entry. I have it here just in case I need it, because my primary fishery isn't working out one year or for a few years."

We have a couple alternatives with lots of different qualifying periods and qualifying poundage. We'll present those to the committee. We have one alternative that uses the control date. The IPT, which is the NMFS people and the council people that work on these amendments together, are going to suggest they remove Alternative 3, because actually all of these subalternatives here kind of capture that range of dates around that control date.

Alternative 4 wouldn't eliminate the permit if it was deemed inactive or latent. It would just basically create another classification for that permit in which you couldn't transfer it anymore. If someone decided to exit the fishery, they wouldn't be able to transfer it; it would just go away.

Then at our last meeting, we do have one option in there that would consider using that poundage of any reported landings of federal species. Basically that would be to kind of identify people who are professionally fishing commercially, but they are just holding onto that king mackerel permit to keep the opportunity. I don't know if you have any comments about this. I guess primarily it is an administrative action.

MR. RENDA: The permits that are going to be considered inactive; are they going to have a list so people who would like to get into the fishery would have an opportunity to contact these people and see if they can purchase the permit from them?

DR. MacLAUCHLIN: Well, all permit holders, you can access that information and it is updated pretty regularly on the Southeast Regional Office Website. Showing if somebody was going to qualify or not would probably have some confidentiality concerns because of the poundage and the years so you would know how much they caught if they were not qualifying.

I would think that you wouldn't really want to buy a permit that was going to be latent, even right before because it wouldn't have that permit history attached to it and then it would still get eliminated. These are some concerns with it. The permit, in order for you to keep it, these qualifying periods, 2000 to 2010, so you had to have been fishing it. You couldn't just start fishing it now and qualify. It would probably not be that smart to buy a king mackerel permit right now if it didn't have a permit history.

Action 4 is Federal Regulatory Compliance. For vessels that have the federal commercial, king, king mackerel or Spanish mackerel, or we have an alternative in there just in case they create a federal cobia permit – if the vessel has one of these commercial permits and the CMP charter permit, then you would have to fish under the federal regulations if they are more restrictive than state waters. The South Atlantic does not have a preferred alternative right now and the Gulf has selected a preferred of no action.

MS. RAINE: There are a number of regulations that currently have the provision that those with permits need to abide by the federal requirements in state waters, which my office has supported, and so we would likewise support that in this action as well. To do so would make it consistent with other regulations currently in effect.

MR. RENDA: The Spanish mackerel had a control date that went back many, many, many years; have they updated that? Getting into the fishery now, that control date went back like to the nineties. Any catch history that you would get now, if you get into the Spanish mackerel, would they still hold that old control date so it wouldn't actually – you wouldn't have any benefit if they decide to make it limited entry. Thank you.

DR. MacLAUCHLIN: Well, right now we are not considering changing Spanish mackerel, which is open access. Gregg, was there a control date for something for Spanish?

MR. RENDA: It goes back when king and Spanish were combined, but that control date went back many years ago. I just wanted to know if it was updated. If you get into it now, would your catch history count if they decide to make it limited entry?

MR. WAUGH: I'm not sure that particular control date is still in effect or if it has been updated, because it goes back. Our council has demonstrated repeatedly that they are not going to go back and use old control dates. In every case we've come up against, they select the current meeting date. Based on their prior actions, it is highly unlikely that they would go back and use old dates. We also get advised from NOAA GC that if you go back very far, they encourage not using what is called a stale or old control date.

MR. RENDA: Would they set a new control date?

MR. WAUGH: The council could. Again, all a control date does is to draw a line in time that the council could use. In general, their track record is not going back and using them, being much more liberal and using what is going on now. They could go back, but they don't have to.

MR. RENDA: A fisherman deciding to get into the Spanish mackerel fishery; is this more or less like a roll of the dice that all of a sudden they're going to put your feet to the fire and say back in 1994 you didn't have any control date; fishermen wanting to get into like a new fishery and then they say we can, but now we've decided that back in 1994 this vessel didn't have any catch history so you are no longer available for limited entry.

MR. WAUGH: Again for Spanish mackerel we would have to go back and check and see what control date is in place, but the likelihood of them going back and using a control date from 1994 is pretty close to nil. But certainly anybody considering entering any commercial fishery right now should do so with a great deal of caution, lots of research and definitely expect lots more regulations in the very near future, including regulations that would limit participation.

The advice I give fishermen is if I was considering purchasing a permit, I would make sure I got the catch history associated with that permit and that was written into any purchase agreement. I would consult an attorney and do as much as you can to ensure that you are purchasing rights to that catch history, that you are purchasing the right for NMFS/NOAA to provide you with that vessel's catch history.

There is a lot of information out there on what has happened in previous cases with people buying a permit, buying a permit with what they thought they had catch history and then not being able to access the vessel's catch history. Just like any other business venture, someone contemplating entering a commercial fishing venture needs to do a lot of research and let the buyer beware.

DR. MacLAUHLIN: Moving on, Action 5 is Consideration of Modifying or Eliminating the Income Requirements for King Mackerel and Spanish Mackerel Permits. Right now there is a requirement that 25 percent of the applicant's income; so if you are applying for a Spanish mackerel permit for that year or you are renewing your king mackerel permit, 25 percent of your income to have come from fishing or \$10,000 from commercial or charterboat fishing. The Gulf Council had eliminated their income requirements for their reef fish permit because of the BP Oil Spill.

In that year not everybody could claim that they weren't fishing, because a lot of that area was closed or had oil, so they wanted to just get rid of that. Also, the way that you checked this is so

when you apply for your permit or your renewal, you submit an affidavit. There are no tax forms or anything submitted and nobody really checks it.

Of course, submitting your affidavit, I guess you could get in trouble if someone checked it, or however. The councils have talked about the usefulness of these income requirements. They were put into place to keep the permits in the hands of people who were fishing them in some way or at least fishing; they were commercial fishermen.

We have no action; and then Alternative 2 would establish similar income requirements for our cobia permit if they created that. The Gulf preferred alternative is to eliminate all the income requirements. Then there is an alternative in there that would allow modifications to the income requirement if there is some kind of event like the BP Oil Spill. This would basically keep the income requirements in place, but allow the Regional Administrator a way to suspend the income requirements if necessary, if there is an event that would have impacted their ability to fish.

MR. RENDA: When they consider income, are they talking about earned income or gross income? An example, I'm retired and I have a pension and I'm on social security, but I still fish and I still earn money. If you take my gross income, 25 percent of my gross income is a considerable amount; but if it is the money that I actually went out and earned from that year, it will be considerably less. Us dinosaurs are concerned with that because it is a big difference.

DR. MacLAUCHLIN: It is earned income. Moving on to Amendment 20, this one has six actions in it right now. The first three deal with the Gulf migratory group, some changes in their subzone and modifications to those allocations. This one; the South Atlantic Council, it seems like they are just going to track the Gulf actions on this, because it is their zone; although it does affect the Florida Keys and then also that Florida East Coast Subzone, which is between Volusia/Flagler County Line and Miami-Dade/Munroe County Line; kind of in the middle, because they are shifting boundaries with the king mackerel.

Not all of this has been decided as far as how much of the allocation of that ACL for the Gulf group eastern zone – I'm trying to keep all these straight – eastern zone, how much they would change the allocations based on how much. But basically they are considering changing some of these subzones.

There is an Alternative 2 that would eliminate the northern and southern subzone and basically just put it all together and put the quotas together that are for those. These won't actually affect the Florida East Coast Subzone. There is another Alternative 3, which will move their northern subzone and southern subzone boundary in the Gulf.

These are the maps that show how it looks when the boundary shifts. Then there is another option that would create kind of the central subzone in there, so then they would have three subzones on that side and they would allocate the quotas among those. I think the South Atlantic may just stay out of this one – and then an option in there that would just change the quotas for those and not the actual boundaries. They are also looking at changing the hook-and-line trip limits for the different zones and subzones. I'm not super familiar with these so I can't do them off the top of my head, but they are in the document.

MS. RAINE: I would just suggest as an earlier commenter on a different action that the simplest direct line is easier for everyone. For example, Alternative 1, Option B and C would seem to be a little more complicated than just like Alternative 2 with one set number with no reduction.

DR. MacLAUCHLIN: Definitely, and we also hope at this joint committee meeting to get them to pare down some of these alternatives that they are not that interested in. Sometimes when they are developing these, they will throw out everything they can think of that they may want to think about and then get back and simplify it. If that is the intention of this action to simplify it, then take out anything that doesn't simplify it.

MR. BEATON: Our commissioners recently took action because there were kingfish fishermen in Collier County that came down into the southern subzone, but couldn't transit through because technically they were in possession of a fish in closed season. I can get more detail or Jessica can provide it.

DR. MacLAUCHLIN: There is actually an action in here for that.

MR. BEATON: Okay, I hate to see any of these proposed alternatives conflict with that, because we've already addressed it and I'd hate to go backwards.

DR. MacLAUCHLIN: It's actually Action 4; it is tracking the Florida transit provision. Action 3; this is changing the fishing season for the eastern and western subzone. Right now it is July 1 through June 30. This would just change the opening date to September 1, October 1, and November 1.

Next we have the transit provision. This was pretty much to track Florida's change and so we have the same language here in Alternative 4. Alternative 4 is the same language that Florida has used, and it is specific to allowing the fishermen to transit through Collier County when the southern subzone is closed.

We also have a couple recommendations for the committees to consider about establishing these transit provisions across any closed area, when you are fishing in an open area and transiting to a closed area. Some of them are more specific to South Florida where the issue is. I'm not really sure if these will be added.

Our Florida folks, Martha Bademan, when I spoke with her, and also one of our mackerel fisherman didn't express a lot of support for adding the alternative to allow transit across any closed area. I'm not really sure if they are going to want to do that. It was specifically for the Collier County and South Florida; the Florida Keys guys and Collier County, so we'll see.

MR. CHESLER: I know that this is also an issue between the Atlantic group since they have the 3,500 pound trip limit and going specifically into New Smyrna Beach or Ponce Inlet, because they will be under the 75/50 fish rule. That is something I know in the past that at least one dealer there has repeatedly brought this up. That could be an unintended consequence if you open it up to one group, that it wouldn't be consistent. That is one area that I know that is an issue.

MR. SHUSTER: I understand just within the last few weeks the king mackerel fleet has had a hard time getting back into Everglade City due to shoaling and running aground on the river, and it was needed for them to go up to Fort Myers. I think you may already be aware of that instance, but in cases like this we're actually only talking about three vessels. When our numbers are that low; enforceability is pretty easy through various methods.

DR. MacLAUCHLIN: Okay, Action 5 is establishing a state quota for king mackerel and Spanish mackerel for North Carolina. We have lots of options for the council to consider; taking a part of the Atlantic group king mackerel and Atlantic group Spanish mackerel commercial quota, and specifically it will be North Carolina's quota.

What it will apply to is landings in North Carolina, not closing the waters off the state. Basically if North Carolina had 20 percent of the commercial ACL for Atlantic group king mackerel, if that is what they decided, however much the poundage was from the ACL, when landings in North Carolina hit that poundage, North Carolina would no longer allow purchase of king mackerel in the state.

I guess technically you could fish in North Carolina waters and then land in another state and then vice-versa. If the general quota for South Carolina, Georgia and Florida was – for the rest of the states, I'm sorry, because this does go up to some of the Mid-Atlantic states, was 80 percent, then once landings within those states hit 80 percent, everything else would be shut down; but if North Carolina was still open, then you could still land in North Carolina.

This is something that worked with the North Carolina folks and something that they are very interested in doing. We have specifically said, okay, it is landings; it is not what you catch in North Carolina EEZ. It is the landings and then North Carolina will monitor and then shut down the purchase of these when the quota is caught, if they get their own.

Okay the last one is primarily administrative. It is to modify the framework procedure. Mackerel Amendment 18 set up all the ACLs and AMs and everything – there were some changes in the framework procedure to allow the councils to use our framework so it is kind of faster, a little bit different than a plan amendment like this one.

You put the language in so that the councils could change the ACLs. Well, a couple things got left out during those changes and then some things accidentally changed. What the councils want to do is modify the language in the framework procedure so that they can change accountability measures through a framework instead of the whole plan amendment; and then also basically to put back in the responsibility for the councils to set regulations for their migratory groups of species in their area.

Specifically this is for South Atlantic. The South Atlantic can set the regulations for that Florida East Coast Subzone that during part of the year is actually the Gulf group king mackerel; but because it is on the South Atlantic side, the South Atlantic will be able to set any kind of bag limits or trip limits or something. Right now that was in place and then through just the changes in Amendment 18 we realized that got removed. This will put it back in.

Okay, we have framework actions. We have four actions in this. This is the South Atlantic framework action, and we've had lots of talk about what to call it, because is it a regulatory

amendment, framework? We have decided to call it the South Atlantic CMP Framework Action 2013, but probably we'll just call it the framework.

We have four actions in here and we have changed the language in these a little bit; modify the Atlantic group king mackerel size limits; an exemption from Spanish mackerel minimum size limit for pound nets in North Carolina, which is one that I would like if you guys have some input on.

Then also allow the addition of a portion of a third net in the Atlantic group Spanish mackerel gillnet fishery; and then a change in the king mackerel commercial trip limit for the Florida East Coast Subzone. This is on the same track as the other two amendments. The joint committees will be there, but it is primary South Atlantic.

Because of the framework procedure in place right now, the Gulf will have to approve all of these, but they are mostly South Atlantic actions, and then expected to have final approval in September. The first is changing the king mackerel minimum size limit, and this is to allow them to keep fish that are just a little bit under the minimum size limit and minimize waste.

We have a couple alternatives. Right now the commercial and recreational minimum size limit is 24 inches fork length. Then we have 23 inches, 22, and then a specific one that would reduce the 23 but only from Georgia/Florida line to the Miami/Dade/Munroe County Line.

MS. RAINE: It's always better for everyone, fishermen and enforcers alike, if the size limit is the same for everyone.

MR. BEATON: No, to four.

DR. MacLAUHLIN: Okay, the next action is where they are considering creating an exemption from Spanish minimum size limit for pound nets. North Carolina has brought this up a few times in which in the late summer, August and September in Pamlico Sound I believe, the pound netters are catching Spanish mackerel that are a little under the size limit, around 11 inches. They want an exemption just for pound net in August and September.

We have put in a few alternatives and we actually, I think, are going to add some options under here where under Alternative 2, that one is specific to North Carolina waters pound nets, August and September; and then a couple options where it would be just no minimum size limit during those months for that gear type in North Carolina, or 11.

We'll see what they say and maybe if they add another. Then we have Alternative 3 that would create an exemption for any Spanish mackerel under this minimum size limit for the entire region, so basically any Spanish that you caught. I think we have definitely kind of changed these alternatives and added some suggestions, but these were the ones that the council suggested.

Okay, we have the North Carolina, a very specific one, and then we have one that considers allowing everybody during those months to keep everything that they catch. We also have one that would create the exemption for pound nets. Pound nets are actually only allowed above

Cape Lookout, I believe, as a gear type. Actually in the rest of the South Atlantic states you can't use pound nets.

There is a small pound net fishery also in Virginia and they have a 12-inch minimum size limit also. I've been in touch with them and they are aware of it, but I haven't really gotten from Virginia if this will be a problem for them. We may have some more alternatives and take some of these out. This actually only applies to North Carolina or Cape Lookout and north.

MR. RENDA: Yes, that is going to be gear specific, because that is not in the EEZ, right; that is statewide also, right? I know that we have a couple of boats that are drift netting in the Sounds. There is possibly a portion of that may include all gear; did I understand that correctly?

DR. MacLAUHLIN: Since I sent this out to Myra, we have actually I think changed some of the language in that suggestion. There may be an alternative in there that would just wipe the minimum size limit in August and September for the whole region with any gear, which the council can also remove the alternative if they don't want it.

Actually in March will be the first time that they see the language that we put together with the direction that they gave me about what they want in the alternative. They may tweak it, they may remove stuff. I can't really see them being supportive of removing the minimum size limit for everybody and every gear type in August and September, because that may wreak havoc on the Spanish mackerel stock. However, it came up as kind of like why do the pound netters in North Carolina get this exemption; will there be concerns about why can't we have an exemption and keep our small fish as well? That is why it is in there.

AP MEMBER: Enforcement-wise, anytime that you create something like this; it makes it extremely hard to enforce the size limits. You get a lot of complaints from different points where these fish are encountered, be they Spanish mackerel or gray trout or whatever is different. You have to respond to these complaints, so it is really hard to enforce size limits for enforcement at that point.

LT. FISHER: Yes, especially with Alternative 2, you are looking at having an exception for a minimum size along three variables; time, space and gear. It is just very, very difficult and already nearly impossible to comprehend for our boarding officers that fishery overall, which is the way mackerel is set up now. It is very difficult.

DR. MacLAUHLIN: Okay, this one some of you may remember. I have a better understanding of this one. But just to make sure everybody is on the same page, this has come up and looking back in older amendments, this has been a topic of conversation and was actually in Amendment 8, which was in the nineties, this actual action and the council decided to not allow it.

Once we really started digging into this, because it is kind of confusing, basically there is a trip limit for Spanish mackerel and they are allowed two gillnets. This is specifically for the gillnet sector of Spanish mackerel. They are allowed two gillnets on board and they have a certain length they have to be, and then they have to be different mesh sizes. If a vessel is out and they pull one of their nets; and it is over their commercial trip limit, instead of throwing the fish back

and they probably would die, they find another vessel and physically cut the net and give part of the net to another vessel.

This is something that is happening and you guys probably know it is technically illegal, because there are a couple of components to this. First of all, there is a prohibition on transfer at sea of any fish under at trip limit. They are violating that. Then also even if you have 2.5 gillnets on board, you have more than two gillnets on board.

We are trying to think of some language and we'll probably get some input from Otha and also from NOAA GC about if the council is really considering allowing this, how to create an exemption basically from that prohibition on transfer at sea and then the prohibition on more than two nets on board. We are going to talk about this again.

In some of the older amendments, the minutes that I went back through, the council when they talked about this before in the mid-nineties, they decided not to create any kind of exemption for this, because they felt like it would be a loophole for larger boats to exceed the trip limit. A large boat would catch over their trip limits and transfer to runner boats who would take it to shore.

However, if you pull your net and you are over your trip limit in that one set, if you can't transfer it, then you are just discarding it. One of the FMP objectives for mackerel is to minimize waste and bycatch. In this way it would contribute to that objective. I don't know how you all feel about this.

MS. RAINE: I would hope to see some discussion by the council as to whether a prohibition on more than two nets is really necessary. If they are going to go along with a portion of a third net, what does portion mean? I mean that could almost be an entire third net, it seems to me. How much do we really want to get into defining what a portion is?

It could become complicated, I would think. I would hope to see some of that discussion on the record. If they go in a certain way – I know when we have cases that are going to hearing we often go back and try to say why this provision was important and what the council was thinking or trying to do. That would be very helpful.

MR. LEWIS: If you are transferring the fish from one vessel to another vessel like a run boat, then I can understand it. But if you are transferring the gear, let's say I'm hauling back and I have a lot of fish and now another boat comes alongside and he hauls back that gear, taking that gear on his boat; would that really be transferring fish at sea? I don't see it that way. Is the council going to take that into consideration?

DR. MacLAUHLIN: Maybe you would know more about it, Gregg, about how this actually works. I mean they are gillnets, and so what I have in my head – this may be awful to say on the record – is that they pull the gillnet up, "Aw, too many fish I know I'm over. Hey, vessel, over there, buddy, are you at your trip limit?" "No." "Come over here."

And then cut the net and the fish are all stuck in there, right, and they just move that. That's why it is not the fish; it is the entire net and they cut it, which is why – and maybe Ben said a portion of a third net so that if for enforcement, if you got on board and somebody had three full nets that were not – I mean you are destroying your gear; not that you can't fix your net, but you are going

to have to put time and maybe money back into fixing that, so I would think that you would do it when you really need to.

Then I think that he wanted a portion, because then if for enforcement, if this was allowed, you would know, you would have two full gillnets and then you would have pieces of a gillnet, lots of loopholes, probably really difficult to make it really clear and enforce. But is that right, Gregg, is that why they are doing this?

MR. WAUGH: Yes, you have basically got it. I think what it is, is a boat that has two nets on board already and then they take a portion of another net. Then they end up with two nets and a portion of a third net. Of course, the rationale is that it is hard to know how much you are going to get when you set a net and they are already in the net and they are dead, so how do you deal with that situation? We certainly recognize it has issues for law enforcement. Sort of turning it around with that as a problem, what suggestions do you all have for solving that?

MR. BEATON: Would the runner boat, the, hey, you come over here and get this net have to have a permit?

DR. MacLAUCHLIN: From what I understand, it is another vessel that is fishing for Spanish mackerel with gillnets as well, and they haven't hit their trip limit, and you do this. Before when they were talking about it and they didn't want to do it, it was like an operation that was set up to intentionally have a big boat go and then distribute some of that trip limit on other boats and go back out and basically have no trip limit, because they are putting it on smaller boats.

That is like an intentional thing that they didn't want. My understanding is that when this happens and it is not on purpose; that you are not wasting the fish, that you have some kind of way to transfer it to somebody else. Will there definitely be people that take advantage of this? Yes, but my understanding is that is happening now.

MR. BEATON: Instead of considering this net, part of a net, another boat; would the council consider some type of call-in if you know there is going to be an overage? You are only allowed X number of call-ins for a percentage or a poundage per trip per season, then you would be able to say, okay, this guy has called in six times in the last 14 days.

Then we know what he's up to, hey, enforcement, this guy is out there, and he is blatantly taking advantage of the system. I think that is more enforceable than this pieces, part, net, transfer issue than anything else. If it is ongoing, you at least want some type of accountability. I mean that would be an avenue to explore.

AP MEMBER: Would he be able to set his two nets while he is fishing the other man's third net?

MR. BEATON: Currently as I'm reading it, you can't fish more than two. You can't fish somebody else's gear, because you would be fishing three or more.

DR. MacLAUCHLIN: My understanding is that they in general only used one gillnet at a time. They are allowed to have two on board, because there are two different mesh sizes and it depends on where you are and what you're fishing what mesh size you use. If there is a transfer

of a portion of a third net, that net will not be a complete net so you wouldn't fish it, anyway. Is that what you were saying?

MR. SHUSTER: I think you could address a lot of this with your net-marking requirements and also if you have two vessels involved in this transfer, as, of course, you would, if there was a requirement that the two vessels transit together. If it is clearly stated that you are not allowed to be in possession of an unfished or dry net with another person's markings on it, it would be very clear that a wet or used net, that would be the only time that you would be allowed to be in possession of someone else's net.

If they had to transit together, it would clearly have the other vessel with a piece of its net missing, and then the second vessel with his two nets plus half. I see where they are going with this suggestion. I think it has a lot of things to work out, but I think it is doable.

LT. FISHER: If there is a trip limit already in place, what is the logic behind restricting them to only two gillnets? I mean looking at this, my preferred alternative that I would recommend is just to eliminate this whole regulatory restriction on gillnets so you don't have to worry about it and let people exercise good judgment in making sure they don't bust their trip limits.

DR. MacLAUCHLIN: I think that is an amazing point and I am going to bring it up. Also, some of the fish houses have trip limits that are actually lower than the regulation trip limits. They are limited in a lot of ways, and I think that is a good point.

LT. FISHER: Is there something I am missing here as to why they're restricted to two nets?

DR. MacLAUCHLIN: We have tried to figure out where the mesh size came from and where the two nets came from. Going back, the council wanted to designate allowable gear; and when they did that for the Spanish mackerel gillnet and they set length and two and different mesh sizes, the rationale in the document was that it follows what they are doing now. They just want to designate allowable gear without changing too much. That is all the rationale, so I don't really know.

LT. FISHER: And if the end outcome is what we are regulating is their trip limit, then just to make the burden easier on all of us and give some judgment back to the fishermen, I would suggest adding a third alternative that removes any restrictions on the number of gillnets being carried. At least it is something for the council to consider and discuss.

MR. LEWIS: If you limit the trip limits, you have also eliminated your runner boats, haven't you? I mean if they're only allowed so many pounds per trip, you have limited your runner boats. You have actually fixed everything with one fix.

MR. SHUSTER: I agree with the comments there; but even if we go down to one net, you can't tell it when to quit fishing. You are still going to have problems busting a limit whether you have one net or ten nets. If he has a trip limit, he potentially still faces the possibility of needing to cut that one net. There still has to be some mechanism so we don't end up with wasted product and nets floating around the ocean.

MR. LEWIS: But wouldn't most of the fishermen know? Are there minimum size limits to the net as far as length and maximum size? They should be able – in making a minimum and maximum size limit, if you stay the way it is and you catch somebody else with another net that is not meeting the minimum size limits, then he is in possession of illegal gear.

MR. WAUGH: I was trying to remember the origins of this. This could go back 20, 25 years as to why this was in place. I think the suggestions – we would need to go beyond just this Action 3, because I think it is worth exploring both the call-in feature and eliminating the restrictions on the net and just relying on the trip limit.

But if you do that, then you are going to have to allow them to cut their nets and transfer it to another vessel, but still that other vessel would be limited by the trip limit as well. It seems to me if maybe by just backing out a little bit and broadening the consideration of this, we may be able to simplify the regulations and get rid of some others to where it is operating they have a trip limit and we don't need to worry about. The mesh size will still be an issue, but maybe not the number of nets. It is something to consider, both that and the call-in when they know they are going to exceed the trip limit.

LT. FISHER: Is it possible then that what happened here is that the two-net restriction predates the trip limits as far as going into the regulations and is at this point sort of redundant or vestigial, I guess?

DR. MacLAUCHLIN: I feel like they've had commercial trip limits in place for a while, but they used to change them every year through the frameworks. When they set the quota, they would change trip limits. But this one, they stopped doing that around maybe 2000 or something. I'll have to go dig back in there again.

MR. CHESLER: Basically the guidance I've gotten is that we'd support Alternative 1 at this point without looking at these other options that we've been discussing. I can think back to the cases that we've made regarding; -- it is usually a vessel is fishing two nets at the same time or possesses more than two nets.

Those are pretty difficult cases to make in the first place unless somebody is right there on scene. I agree there is definitely an issue there that there are dead discards essentially, because once a fish is gilled, that is it. That has to be addressed so perhaps the call-in or some other options would be better explored.

DR. MacLAUCHLIN: I think that if the trip is over, if you are the vessel that is giving a net or one taking a net and the trip is over for both of you and there is accountability and ways to track that, then that will minimize people taking advantage of any kind of exemption.

MR. KENNEDY: There are an awful lot of potentials for abuse; example, what is a portion of a net, what if I have nets at different size, I fish two, I pass off a part of those to someone else? It doesn't say if my trip limit has been exceeded. I fish four nets; I have another guy come out, he takes two, or he takes a part of two. He cuts 5 percent off of one. I mean it does need to be revisited from the get-go. I agree if it is a trip limit, it's a trip limit. Maybe the gear thing has become immaterial. I like the call-in option, too, so that there is some protection.

MR. LEWIS: You run into a problem when you set gear length and more or less quotas on catch limit. I think you have to have one or the other. You turn around and say – I know right now the requirement is 800 yards, and the mackerel net usually runs about 16 feet deep. Now, the capability, once you say I can set 800 yards of net, but I can only take 3,500 pounds of fish; and the other way you turn around and say I can only take 3,500 pounds of fish so maybe I can't set 800 yards of net, or maybe I can set 1,000 yards of net. I don't think you can run the two side by side and actually find something that would actually work totally. I think you do one or the other; either restrict the amount of net you have on board or restrict the catch for the day.

DR. MacLAUHLIN: This one has obviously been tricky to get and to explain. Okay, so the last action in this is changing the king mackerel commercial trip limit in the East Coast Florida Subzone. This will only apply to the area of Volusia/Flagler County through Miami-Dade/Munroe County Line between November 1 and March 31 when that area is fishing on the Gulf group king mackerel.

The rest of the year, April 1 through October 31, it is Atlantic group and they just have right now under the no action April 1 through October 31, it is a 75 fish trip limit, commercial trip limit. What the council is considering is that they have kind of this interesting step-up in the trip limit. From November 1 to January 31 it is 50 fish; and then beginning February 1 continuing through March 31, so the last two months of that time when they are fishing on Gulf group, if more than 75 percent of the quota, and it kind of this adjusted quota has been met – sorry, that is Spanish.

If 75 percent has been caught, then they keep that 50 fish trip limit; but if less than 75 percent has been caught, they bump it up to 75. The reason they do that is if by February 1 they haven't caught 75 percent of the quota as a fleet, then they want to allow the boats that are fishing to catch more and try to fill that quota.

The changes in the trip limit affects the dealers specifically, where they have a lot of fish coming in after February 1, and so they want to consider just one flat trip limit for that whole season. Right now we have 50 fish between November 1 and March 31; and then April 1 to October 31 it will be 75 fish there.

Then we also are going to throw out another alternative that is 75, in which case it would be 75 all year every month. I don't know; is the step-up challenging for you guys? Would you prefer just a flat one that never changes or at least just changes in the different seasons?

MR. BEATON: The kingfish is confusing already. We saw in those previous slides all the shifting zones. Anytime there is an opportunity to take one element of that confusion out is a plus. If there could be a year-long consistent bag limit, that makes things easier; whether it be 50, split the difference, 60 or 75, as long as it is yearlong that makes life easier.

LT. FISHER: I absolutely echo that. It doesn't matter what the number is to us; but if it is consistent throughout the year, that makes it easier for us and for fishermen, I would think.

MR. CHESLER: Something else to consider here is that the fish houses exert a tremendous amount of control on this fishery where they will actually tell their fishermen take these days off, don't fish, purposely to extend the season. It might be an opportunity for the council to reach out to the dealers in that zone – there are only a handful of them – to kind of get their input on

whether that would affect them or not because it might not affect them. If they are just going to stay at that 50 fish limit, they might entertain that to help extend the season. That is just something that I would maybe reach out to them to address.

MR. KENNEDY: That is a good point. The concern I had was the economic impact. It sounds like, well, what happens in a leap year on Tuesday; do we enforce it this day or not? It is too confusing. It should be flat, and it should be with consultation to the folks that have the direct economic impact.

MR. LEWIS: Georgia concurs with that. Whatever the fish number is, just keep it the same year round.

DR. MacLAUCHLIN: It was February 1, a few days ago, so actually they had not hit 75 percent and the trip limit went up to 75 fish just a few days ago. My co-lead down at the Regional Office said every year when this happens, which has happened the past few years, gets phone calls from the dealers.

The dealers are the ones that want this and they call and they say please keep it 50. We have that input coming in and it is good that they have been involved. Thank you for your input; it was helpful.

MR. KELLEY: Let's stand adjourned for 30 minutes.

MR. WAUGH: All right, I think we were going to circle back to Snapper Grouper Amendment 30, VMS, and we talked about this some yesterday and gave a brief overview. In some of your discussion on other topics earlier this morning, one of the things I wrote down was particularly for the golden tilefish longline sector, it would be very beneficial to have them on VMS.

We are open for your comments here. We distributed that copy by hand that had some of the additional items that the planning team has suggested. But again the council's preferred alternative right now is only if funding for VMS equipment reimbursement is available, we'll require it on all commercial snapper grouper fishing vessels with either the unlimited or the trip limited permit.

The purchase, installation and maintenance must conform to the protocols established by NMFS. Purchase will reimburse up to \$3,100 per unit. Installation, maintenance including replacement of the unit and all communication costs paid by or arranged by the permit holder. Approved units must be installed by a qualified marine technician, and then some time period to activate. Are there any additional comments? Again, the council is scheduled to approve this for public hearings at the March meeting. Assuming they do that, we will hold some hearings in the April-May time period, and then final action in June.

MR. RENDA: I have a couple of ideas here that I'd like to run through the law enforcement group here. Commercial fishing vessel operator's permits that are required on certain fisheries; if we can introduce this into the snapper grouper fishery and also with the golden tilefish, this would be very beneficial.

Right now the way I understand it is that the vessels are permitted, but the captains are pretty much at free will to do whatever they want. It is very difficult for a vessel owner to keep real close tabs on his captain when he may enter closed spaces. If we recommend that they have this commercial fishing – let's just call it a permit, because it is a lengthy little thing – where these VMS are kind of expensive and it is a real hot item with my snapper grouper fishermen.

If someone starts to – let's say does violation and he's caught doing a violation. The captain of the vessel would also be cited along with going against the vessel permit itself. There would be ways that not only we can know that the vessel is committing violations, but we also can have the captain on record with his permit.

If this becomes a constant occurrence, then we can require that the vessel have a VMS, and that this captain cannot be on a vessel that doesn't have a VMS. I know it is kind of difficult, but the thing here is that for a few rotten apples that are violating the closure areas, you are subjecting the entire group to really have an expensive piece of equipment.

I feel for expense-wise, when you do actual economic analysis of how much it is going to cost for the whole industry to do this, you could, as I say, incorporate the golden tilefish, the longliners – and we do have drones that are really, really good for pinpointing and photographing.

If someone can actually figure out an economic basis here as to which one – you know, observers are going to be extremely expensive. If we can really start to figure out whom the violators are and really keep close tabs on the vessel and the operator, I think this would be a great improvement.

Now another thing for law enforcement, which really applies to the Coast Guard than anything, in 2015 the vessels are going to be required to have a life raft on board. Right now they can use a life float. That is going to be a big expense, plus every year they have to be certified. It is quite expensive.

The snapper grouper fishermen – this is a regulation coming down from the Coast Guard. This is going to go in effect in 2015. I just got that confirmed. Right now with this economic situation – they have got to get the rafts, there is no doubt about that, but if we can help the fisherman with this VMS, I think this may be a better way to go with law enforcement enforcing the bad guys. Let's catch the bad guys and get them out of business. Thank you.

MR. WAUGH: One question there, Charlie, in terms of your comments about the golden tile longline vessels; are part of your comments to go ahead and require it on those vessels, but then in the rest of them perhaps do something different; or are you saying for all snapper grouper vessels?

MR. RENDA: It seemed that they were really concerned about the longline vessels in the closed areas, but I wouldn't be opposed to both the hook and line and the longliners. If they are going to be fishing in restricted areas, it would be nice to have close tabs on them, and let's do something with the violators; and not only the vessels being in violation, but let's do something with the operators, the captains.

MR. WAUGH: We require that operator's permit – I think the only fishery is dolphin wahoo. We did that back in like 2003. The intent was to do that across all our fisheries. Honestly, I can't remember why we didn't follow up on that.

MR. RENDA: Many years ago I was lobster fishing up north and I was required to have one. This goes back into the late eighties, and I kept it current ever since. Just a little point I would like to bring out, if you get it from the northeast region, it was free. When they required it for the dolphin wahoo, which I had a permit, it was \$50.

I had a discussion with someone and I said it does say National Marine Fisheries. I think when it is being permitted in such an area, we should keep it national. This way you can't go from one region to another region and have violations in one and say I'll just go down to this other region and get one for \$50 and I can start fishing again.

MR. BEATON: I would like to, if I can, talk a little bit about how VMS supports enforcement and helps us catch the bad guys, and Captain Shuster can certainly chime in because he has been doing it for many years. First of all, I'll start off and say it is a big ocean out there. Even flying a drone, doing grid patterns, you are going to be wasting a lot of time before you find a target.

Drones aren't the answer; they are a tool. VMS isn't a sole answer, but a lot of our intelligence and information about potential suspects – and I'll give you a case we made recently; information about a boat, a longline boat in the Gulf using snapper grouper chunks as bait. We received this information, we monitored the dock, found that the boat was leaving.

The boat operator – we worked with Pat and, okay, he's out; looking at his speed and his location, he is setting longline. The boat operator ran out another 45 miles, stopped. Used the satellite phone, "Okay, where do you show him now?" Okay, he's moved X number of miles before. He was able to show – based on the information we gathered from the dock and informants and everything, we knew the boat left.

We were able through the use of VMS to track the boat, run up on him fast while he was retrieving line. I forget the number of hooks that were baited with snapper grouper, plus several bags of chunked-out snapper grouper in the ice hold. VMS is a great tool to focus enforcement efforts based upon information we are gathering.

We are just not going to go out and check Joe Shmoe. It is not cost-efficient for us to run out there and just run around all over the ocean trying to find a boat to see whether he is doing good or bad. We base everything on information, use technology to focus our efforts. That is just one example of how VMS is an asset to catch the bad guys.

LT FISHER: To build on Rob's point there; as he said, VMS isn't the only answer. It is one of many tools that are available for us from an enforcement standpoint. But where they are particularly affective is in the use of spatially managed areas that are established far out to sea, which is different than the way you would zone an area on land, where you can stand there on a street corner and see who is coming in and who is building what, and what is going on there.

As you said, out in the ocean it is big and it is mostly empty out there. I just came back the day before yesterday from a two-week fisheries patrol and got to see for myself again, because it has

been a little while, just how big it is and how difficult it is to do targeting and find folks out there. If the council, as they seem to be doing, is looking at more and more spatially managed areas as their management measures, which there already are several of them in the snapper grouper fishery, and they are looking at extending them and having more of them added, then VMS is a tool that they should be looking seriously at if they expect a strong enforcement and compliance to be maintained by us out there. If they are looking for us to do it on scene with the assets we have, we don't have those assets available. I think everybody knows that.

MR. KELLEY: Not that North Carolina would be able to look at any of this information if they did have it, but we had a case two years ago where we had information about a boat coming in that was going to have over the limit of snapper grouper. Because we didn't have access to this, we had stationed men on each side of the fish house guarding both inlets for three days and three nights just waiting on this boat to come when this information would have been able to give us two hours ahead notice and we would have been there without wasting all those assets.

MR. CHESLER: I can think of a lot of circumstances specific to the snapper grouper fishery that VMS would be beneficial towards enforcement. I might have mentioned before I think perhaps yesterday. Since there are seasonal and quota closures involved with the snapper grouper fishery, that we've made cases with vessels pre-fishing, so to speak, either fishing before the opening, with the idea obviously if they are the first one in the fish house they are going to get the best price.

The other issue we've had people fishing after a closure. We've run specific details because we don't know where these vessels are. We have a general idea where they fish off of Florida. They fish predominantly off the Ledge. It is usually, depending on where you are at, 60 or 55 miles. That being said, with a patrol vessel it is not as simple as just running the Ledge because of the distances required.

One specific instance, we were fortunate enough to have an aircraft up. Had the aircraft not located the vessel, we would have never made that case. We had a radar casualty on the patrol vessel so we were essentially blind. Aircraft was able to find the vessel. We went right to it, and literally watched the crew of the vessel haul up closed season vermilion snapper. That is one example.

The other issue that is hard to address is the 50 fathom bottom longline closure. That is another example where periodically we get reports of gear being found within that 50 fathoms. That would be another example where if we had VMS and if we saw activity in that area, we can send out a patrol asset to investigate. Those are two situations that I can think of.

Then the obvious one, which we all recognize is the MPAs, if there are going to be additional MPAs, we have made cases in the past – not a lot of cases but we have made cases in the past where vessels have been fishing for snapper grouper within an MPA. That is another example. For those reasons, it is a mystery fishery to us now, because we don't know exactly where these vessels fish.

It would enhance enforcement. We brought up the concept of using drones and all; but as far as we've had a lot of experience using this as an enforcement tool in the rock shrimp, I think we can probably directly associate VMS to a high level compliance with Oculina Bank now. It took us

probably a couple seasons to get to that point, but I think there is a direct correlation between enhanced compliance and having VMS or requiring VMS.

MR. BEATON: Like was mentioned yesterday with the rock shrimp folks, I remember we did a workshop over in I think it was Jacksonville or Titusville. These folks have a lot of money invested in their gear, so they don't want to drag over coral because it fouls their gear and they lose their gear.

Through the VMS tracks, like was mentioned yesterday, they know where to drag where there is not coral. It helped the council kind of tweak those boundaries a little bit and allowed these rock shrimpers still to fish some productive grounds that were a little bit north and east I think of the traditional outside boundary.

They know; they are looking at the bottom machines. They don't want to lose their gear. They've got a lot of time and money vested in having a productive trawl. I think the council considered by looking at the VMS that they are not fouling gear here and took another look and said, okay, this is an area we might not need to include in that box. It does have a positive effect on better management of these MPAs and closures.

LT. FISHER: Just to speak also to the drones, just to clarify expectations on them as far as their use as an enforcement tool, we are flying a small number of them at the joint venture between CBP and the Coast Guard. Their primary focus is on drug interdiction, migrant interdiction. They are providing some mission time for living marine resource enforcement on an opportunistic basis.

That will probably continue to develop, and we'll see how that develops as time goes forward, but it is unrealistic now to expect that as an answer to how you are going to get an adequate level of enforcement, monitoring and compliance on the new Deepwater MPAs or any MPAs the council is considering.

MS. RAINE: To the issue of drones; that is a developing area legally, and I'll leave it at that.

MR. RENDA: I think that is seen on the news just the last couple of days it's developing.

MR. BEATON: Also, and maybe Brandon knows better, there are still conflicts with flight areas with the FAA. In fact, I think the North Florida MPA is in one of those zones where a drone can't go. There are still issues with conflict between FAA rules and regulations and flight areas and drone use.

LT. FISHER: They are still by the FAA heavily restricted in the areas they can and can't fly.

MR. CHESLER: Just to go back to what Rob had said about it having a potential beneficial affect for fishermen, the example is rock shrimp. The council was looking at expanding the Oculina HAPC or even some of the Deepwater Coral HAPCs. By having that VMS data, you could see where traditional fisheries had occurred, whether they were rock shrimp or royal red shrimp. By being able to have that data available, there is not an unnecessary closing of fishing grounds because there is already that historical effort. It is something I think that could affect the placement of MPAs maybe in the future or different issues related to time and space of where

fishing can occur. That is something else I think should be pointed out that there is potential beneficial effects beyond just for enforcement.

MR. BEATON: One more thing and I'll be done. As far as the vessel owners not being on the boat, vessel owners have access to their own VMS. They are watching their boats, because they have an interest in their permit and their fleet. I've heard of occasions where a vessel owner who is home is seeing his boat get a little close to the box in the Gulf and make a satellite call and say, "Don't go in there. It is going to be your job and my permit." They can monitor their fleet and there maybe shaky boat operators through VMS.

MR. RENDA: If this information is so available to the boat owners and to other law enforcement groups, rather than let's say the Coast Guard or the federal groups; what would stop this information to any hacker that can get in there? A lot of these snapper grouper boats, they've got honey holes, and they don't like that location being transmitted.

If it is so easy to get this information, which I heard it was supposed to be so private, and now I'm hearing that the state can get the information. These snapper grouper fishermen are really protective about their little honey holes. Is this as secure as they make it sound or is this a fallacy? Thank you.

MR. O'SHAUGHNESSY: I can address those concerns. What Rob brought up; the owners can access the data, but the only data they can see is their own vessel's data. That is separate and distinct from the entire system. That information goes to the satellite down to the land earth station. There is a separate component where that owner with the one vessel that he has registered, he can see the data on his one vessel; that's it.

He doesn't have any access or any way to break into the other data. That data is secure. The only ones that have access to it are obviously NOAA, our state partners that have assigned JEA agreement, and the Coast Guard. All of that is to secure SSL VPN clients. There is a lot of redundancy in the security. As some of our state partners will attest to, our system is rather a pain in the butt to use and access.

There isn't a concern about the hacking or this information being readily available. The stuff that is available to the owners is for their vessels only. To that statement, we have a lot of owners that do that. The first thing they do is wake up, they log in and they see where their boats are at. There are oftentimes that my technicians will get to work, sit down; and before they've even had a time to fire up their computers, the phone is ringing and it is an owner saying, "Hey, I've already called my captain, he's getting a little close. He knows not to go in."

In some instances he's called up and said, "Hey, I see the boat is not reporting. I don't know what happened. I'm getting hold of him on the sat phone right now." They are already trouble shooting to try to find out what's up early on. The owner does have that ability to check and monitor his vessels.

I know I've heard captains complain about it; that the owners can see where I'm going and what I'm doing and they are not a big proponent of it. But the owners – and there are a fair amount that like that benefit, but I don't know if they would ever get to a microphone and espouse that publicly, but I know they are all using it for that fashion.

MR. RENDA: Can I address that? You know, we have hackers hacking into government computers. Let me tell you something; don't ever underestimate the capability of a hacker. I mean they've gotten into missile sites, VA accounts. I think that this could be very dangerous waters. Thank you.

MR. WAUGH: Just to follow up on that; in terms of council staff, those of us on the technical staff who have access to confidential catch data, we have to sign a confidentiality agreement. The penalties there, if you even inadvertently disclose information, are significant. But we treat – and as I understand it, the VMS data are treated even more confidential than that.

We only have one person in our office that has access to the VMS. Anything that we put out there in our documents has been aggregated to a level that you can't see anything from any particular vessel. It is also presented at a large enough scale so that you are not divulging any area where any particular person is fishing.

MR. RENDA: Can I address that, please? We understand the good guys follow the rules. Let me tell you something, and I can appreciate that. I was in law enforcement for 23 years. I understand the good guys like to follow the rules; but the bad guys will go to extraordinary measures to break a code, to get into a system. As I say, you can sign an agreement and I can sign an agreement, and the bad guy laughs at you. I just like to take this into consideration before you make it a blanket across-the-board thing. Thank you.

MR. KENNEDY: Yes, and to his point; I think as we talked about it yesterday is just making sure that the folks that are using the VMS. When we explain it to them, they understand the protections that are in place. We do it in plain English, because I've heard that from others. I don't think that is an isolated concern. But if we show them the protections that the system has, I think we are all better off. I would take that back to what we talked about yesterday.

MR. SHUSTER: I would like to let you know the strict approach we do through general order and philosophy on the way this information is treated and handled on the state's level. It is of the utmost importance. I understand where those thoughts are coming from, because that is livelihood.

But, the times are also changing and a great effort anymore to acquire numbers even from the general public is a trip to West Marine, because the technology is out now that recreational level radars and chart plotters can grab somebody's numbers from 15, 20 miles away. The old days of secret bottom and secret numbers, it is going away on its own. Even though we treat it with the absolute utmost security and policy and philosophies in handling it, times are changing. The recreational guys; those numbers aren't so secret anymore.

MR. O'SHAUGHNESSY: I didn't want you to think that we've got a system – if you look in the newspaper today, DODs and last night's Federal Reserve's computers were hacked into. It can be done, and I'm sure if someone wanted to invest that time, effort and money. I'm just saying the systems we have are not taken lightly, and there are built-in safeguards to prevent the everyday or average hacker. But as DOD and the Federal Reserve have just shown last night, anything can be hacked if somebody really wanted to.

MR. RENDA: When I came to this meeting, I'm just addressing the concerns that I hear across the dock and from the fishermen. I personally don't fish that group. Really, do whatever you want, but I am trying to address their concerns. If I'm looking a little strong-headed here, I made an obligation to them that I was going to bring it up, and I'm going to stand up to what I have to do. Thank you.

MR. WAUGH: That is great, and that is the role we want you to play here. Myra reminded me we had a little bit of discussion yesterday about dually permitted vessels. If this goes forward and a commercial snapper grouper vessel has a VMS and they are also permitted as a headboat or a charterboat, then they would have to – I think as is done in the Gulf, they would have to use that on those trips as well. Any advice or input on how to do that or any considerations, any issues the council should discuss in particular related to that?

MR. BEATON: I think it is just as simple as declaring what type of trip you're on. Through the VMS, generally by time and everything like that, time at sea, you can determine – you know, commercial trips are usually longer. If you've got a suspicion that a boat is claiming charter trip and you've got information that he is exceeding – he is actually taking these paying passengers and allowing them to catch over their bag limit, in essence a commercial trip, you know where that boat is coming.

You know when he is going to be at the dock so you meet and greet and check bag limits. Again, it is a tool based upon information we've received on the Hill and at the docks and word of mouth through informants. It is working. Nothing is perfect, but it does make the ocean smaller for us in enforcement.

MR. SHUSTER: We have this in so many situations right now, these stone crab, and snapper grouper, some of our shrimp industry even, so we're dealing with this daily in the Gulf Coast where somebody may be on a dive trip one day. They might be stone crab the next and they are hitting all the seasons or all the fisheries with the same boat.

I'm just declaring some things that have come up, and I think through Pat's shop have been more streamlined as some of the kind of out of the norm declaration codes for a recreational trip or you just purely want to go boat riding or a maintenance trip, something like that. Those things – Pat, you can speak to that, but those are the only things I've run into that have ever been concerns that have even warranted a phone call to ask for help there.

MR. BELL: I think one of the concerns with the dually permitted was that – and if I understand this correctly, you are doing one or the other and that can be identified. But in a case where let's say your unit craps out on you, you have to do maintenance, replace it or whatever; I think one of the concerns was that then you are kind of shut down until that is resolved. An individual's charter business and his commercial business would both be shut down. In other words, there isn't a mechanism to – you know, you get a pass or something.

MR. O'SHAUGHNESSY: As it clearly stands in the Gulf, if you have a Gulf commercial permit, which has with it a VMS requirement and that breaks, you have to repair the VMS one way or another before you are gone away for that charter side of it. Now if that goes into a lengthy thing, normally we'd put the onus on the captain and we put them in touch with the vender.

Today with overnight stuff you can usually identify and get something overnight. If we're told that is going to be weeks or months, well, we'll have to look at it a little bit differently to try to get something else set up. But by and large, the vendors are pretty responsive. They know what is involved here to try to get that vessel up and up.

There are those instances where we get involved and it is not; but as the regulations stand now, if you have a permit that requires VMS, you are required to have that prior to getting underway. If that is not the way, then the council will have to look at if there is some means or mechanism to allow a charterboat to go out without that, we'd have to establish that beforehand.

MR. BEATON: These vendors are very responsive. They are in steep competition with each other, because they know it is an expanding business opportunity. They want to have the best reputation that they can. If we could equate it to our everyday lives, it would be like not being able to get internet for a day and how our world comes crashing down.

That is the way the fishermen, the boat owners and everything view it. They want immediate service so they can go back out and make money. With the improvement of the equipment, everything is getting hardened, if you want to call it that, way more seaworthy. I don't think we really have that many failures that last more than two days.

MR. KENNEDY: I was just going to ask Gregg; do you want a specific action on this? It looks to me as if Alternatives 2 and 3 are the same except one has a caveat if funding is available. Are our comments enough or do you need something more direct?

MR. WAUGH: I think the comments have been excellent. The council's current preferred now is only if funding is available for reimbursement, but you all are free to indicate if your preference would be for either Alternative 3 or Alternative 2. You can do that in the form of a motion and that is fine. We've gotten lots of good input on the overall issue; but if you want to indicate which one you prefer, that would be great.

MR. KENNEDY: I was just asking if you need anything further. I think the positions are relatively straightforward.

LT. FISHER: I just had a quick question for Mr. O'Shaughnessy. Looking through the briefing book there for Amendment 30, I didn't see anything, and I may have missed it, that specified which models would be allowable, and if any thought had been given to that. I know that the HMS suites recently upgraded to the EMTU units. Would it be assumed that would be – the entry level, as we started off in this program, would be the standard requirement for this fishery? Is that a nation-wide requirement that every fishery is going to EMTUs?

MR. O'SHAUGHNESSY: Yes, the national VMS regulations now require, the only acceptable VMS is an EMTU. There are some fisheries like rock shrimp that are still grandfathered in with what they have, which is the pinger only. Any new VMS units that are sold today must be the enhanced mobile transmitting, which means they have the ability to send and receive e-mail and also to send forms as well.

LT. FISHER: Okay, so those would be all units that have the full capabilities that are potentially beneficial for fishermen who send and receive and communicate; anyone with an EMTU unit could do that.

MR. O'SHAUGHNESSY: Yes, anything that would be required for this fishery would be the new units.

MR. WAUGH: All right, thank you very much for that input. The next item is CE-BA3. Right now what is left in this is an action that deals with collecting bycatch, monitoring bycatch and discard reporting. What we have in place right now particularly in snapper grouper is they are required if selected to carry observers, logbooks, electronic logbooks, video monitoring, any other methods deemed necessary to monitor bycatch.

That applies to commercial, for-hire and private recreational snapper grouper vessels; but due to funding issues, nobody is getting selected. We are still running into shortages of bycatch data. What the council is looking at doing is they are considering expanding this. Alternative 2, we are looking at some rewording.

How Alternative 2 would be reworded would be to apply this same requirement for if you are selected having to carry an observer or electronic logbooks, video monitoring, having that apply – in addition to snapper grouper, having that apply to dolphin wahoo and coastal migratory pelagics. Golden crab, they are already required if selected.

Then Alternative 3 would implement the aspects of the Atlantic Coast Cooperative Statistics Program that are not currently being done, and that is basically the observer coverage. Alternative 3 would establish an observer program and cover between 3 and 5 percent of the trips. We are still working up some cost information.

I don't think we have it in this version that has been sent to you. The cost is high for observer coverage. We are looking \$675 a day in the headboat fishery; \$850 in the snapper grouper fishery; and some cost estimates out of the Center as high as \$1,500 a day. You are looking at around 2.5, 3 million dollars to implement coverage in the range of 2 to 5 percent of the trips in these fisheries.

That is really the crux of the issue before the council. Everybody agrees that this is good information to have and we should have it. The question is, is there sufficient funding to go forward with that? Again, the council has no preferred. They will be reviewing this in March. I don't know if you see law enforcement issues here or not. I'll leave that up to you. You are either thinking or due to the overwhelming silence, I take that as there really isn't anything here that really would carry law enforcement concerns over what is already existent once they are selected.

MR. CHESLER: Yes, really that is all you have. There is potential for observer problems. Also the other factor is whether these vessels could even handle observers because of the size or what have you. Most of the snapper grouper vessels, at least in Florida, are fairly small. They run small crews. That is a potential problem. Then there is also the different Coast Guard requirement, the commercial fishing vessel safety examination, which is going to be universal

anyway. That is the only things I can see. I don't want to put law enforcement in the place that we are trying to collect that data either. Those are the concerns there.

MR. BEATON: What is so expensive? Is it the observer's hourly rate or is it the insurance that is involved, because I wish I was making \$850 a day.

MR. WAUGH: I've never run or been involved in these programs, but certainly the cost of \$850 a day, this is the Gulf and South Atlantic Fisheries Foundation running an observer program. That is a good point to break out exactly what is in those costs. I think in some instances they could be compensating the vessel for having an additional person on board.

As I remember from years ago when we were looking at this in early years of swordfish, insurance was an issue. I don't know if that folds in training and whatnot into just looking at your overall observer program and how many days you get out of that, what is your total cost. But that is a good point to break it out. Looking at these two numbers and then a number of 1,500, sort of makes you scratch your head even more. We'll take that as a recommendation to break this cost out so we can see exactly what is in there.

MR. RENDA: Just a point of reference here, especially in North Carolina, we have a pot fishery for black sea bass. The black sea bass are in the snapper grouper complex. These fishermen, they use this strictly as a winter fishery. This is to get them through the winter fishery, the winter season.

For them to go for such a big expense for such a short fishery would really be cost-prohibitive and it is a major concern for these people. They say they fish 80 feet of water and shallower. It is such a short season for them; is there any way if a man shows catch history with logbooks, let's say, over the past 15 years he hasn't caught a snapper or a grouper other than a black sea bass, if they can be exempt from this program.

MR. WAUGH: That is certainly something we can consider, but I need to point out that the council, the way they have discussed this thus far is the fishermen would not be paying the cost of this program. It would be the National Marine Fisheries Service. That is the real rub now, because the feedback we get from them is they don't have the funding to implement this program or they would have selected certain trips to be monitored already.

The council could look at some other provision like that. Also in terms of implementing this, it could be implemented in parts of the snapper grouper fishery where we have more questions. In the black sea bass pot fishery there have been quite a number of cooperative research projects where there have been scientists out on those vessels, and we have a much better idea what the catch composition is of a black sea bass pot trip versus other trips.

MR. RENDA: From the information that I had, the equipment would be purchased by the federal government, but all the other responsibilities of it, the maintenance and the monthly fees and the transmission fees would be the responsibility of the owner. Did I get that wrong?

MR. WAUGH: No, and you are back on VMS; that is true for VMS. Now what we are talking about is this requiring observer programs. Under the observer program, the council is not looking to require the fishermen to pay for any portion of that; other than acknowledging that if

you have to take an observer on board the vessel, that is obviously going to disrupt your normal fishing operation so that is a cost to the vessel.

MR. RENDA: I believe you have to feed them, and you don't have to feed them anything special, but nothing less than what the crew eats.

MR. WAUGH: Okay, then our next one is our headboat reporting. This will implement electronic reporting in the headboat sector. The National Marine Fisheries Service, beginning in January of this year, is moving all the headboats to electronic reporting, but they can only require monthly reporting.

What this does is complement the switch to electronic, and the council's current preferred is to require that vessels submit fishing records to the Science and Research Director weekly or at intervals shorter than a week if notified by the Science and Research Director. We considered this for charter and headboats.

The council's preferred alternative is to just implement this for headboats right now. We are going to work cooperatively with the Gulf Council to look at implementing electronic reporting in charterboats. That is a much more complex issue, because it involves MRIP; what was MRFSS.

They do sampling for charter vessels. Some states like South Carolina have the charter vessels under a logbook program, but for the headboats the National Marine Fisheries Service operates a logbook program already, so it was easier to deal with this one first. It is important for tracking a number of the recreational annual catch limits.

The idea is let's move forward with the headboat portion first. This came up before the Gulf Council early this morning and their committee has approved this. It goes to their full council tomorrow. Then our council will deal with it in March. There are provisions in here that will allow the regional administrator to make exceptions to this and allow paper reporting for catastrophic conditions like Hurricane Katrina type things.

There is also a provision that will be in here requiring vessels to report when they are not fishing and a compliance provision that they have to be current in their reporting in order to be out fishing. We've run into this a lot with our snapper grouper where they wait until permit renewal to submit their logbooks.

Well, we will talk about that in a minute, but the fix here is for them to be out on a charter they have to be current with their reporting. This will speed up reporting much more quickly. We put in this provision that it can go to shorter than a week if the Science and Research Director determines that they need more than weekly reporting in order to keep up with some of these annual catch limits, and then they can do that without it having to come back to the councils for another plan amendment.

MR. BEATON: You probably have considered it, but will there will be timeframes where if they are on a trip today, the information needs to be input before midnight of that same day of the trip so they are not at the end of the week sitting there going, oh, gosh, Tuesday, 20 red snapper, 5 grouper, 6 black sea bass.

I think that would help and that would also keep up with your current reporting requirements that if we were to go on board or to know that the boat went out and call whomever to say he has been out the last three days straight with a full party each day; do you have the records, or we could go and somehow look. It can't be a guessing game or else it is useless information. I forgot my second point.

MS. RAINE: I hope that there is some conversation about some of the notification requirements in this regard. I see under Alternative 4, for example, that the intervals may be shorter than a week if notified via electronic reporting via the computer or internet. I hope there will be some conversation about whether receipts of notification on the Science Center's part would be required.

I would hope so, because we need to know from a prosecution standpoint whether somebody was actually notified. And also that there would be some conversation, what if there are difficulties electronically notifying folks; will there be provisions that notification may be made by, for example, certified mail, return receipt requested.

Also, in regard to the catastrophic conditions, well, that is good that there is an alternative for that, but what if there are individual difficulties such as your internet service going out? I know that sometimes my internet service goes out, and will a dealer have another option to be able to report?

MR. WAUGH: First, let me clarify here that this switch to shorter than a week; that is something that would be done through I would presume like a notice in the Federal Register. The portion dealing with electronic reporting; that is requiring that the vessel submit records to the Science and Research Director via electronic reporting.

This weekly or at intervals, that is not intended to be a switching back and forth. Now they are requiring – well, upon implementation of this, it will be weekly; and then should the Center Director determine that, well, we need to go to something less, then some sort of notice will be done indicating that they have made that switch, similar to what has been done now as of January 1, letting all the headboat owners know that they have to now report electronically.

Yes, that part is being done. As far as some other exception, what this is saying now is that seven days after the end of each week you have to report that week's trips. To me within that seven days after that week, you better go find some working internet. I don't know of any discussions to make an allowance for that.

MS. RAINE: If there isn't going to be an allowance, I am hoping that there is a discussion explaining that; so that if the situation comes up, in our office we can be clear as to what the council intended and what we are supposed to do.

MR. LEWIS: Also, what would the penalties be if they did not report?

MR. WAUGH: Karen, would you like us to add that?

MR. LEWIS: I mean will it be a monetary thing or would it be losing your permit to fish or what? How long of a process would that take?

MS. RAINE: The penalties are covered in our penalty policy nationwide and that is online.

MR. WAUGH: The short answer to your question is, no, they are not going to jerk your permit the first time; maybe not the second time. That isn't the intent for this, but putting in that requirement that for you to be out legally fishing you have to turn in your reports, it is not going to get that far out of hand.

Certainly, there are not that many headboats and those permits are valuable to them. I don't see it being that big of an issue. We don't have a whole lot of permit sanctions, I don't believe. Okay, these single-action amendments make it a little bit easier at least on the review part. When you are writing them, it is not quite the time saver.

And again as I indicated with that, the Gulf Committee approved it today. It goes to their council tomorrow. I would anticipate we would approve that headboat amendment at our meeting in March and then sometime midyear or a little later. Then if there is an issue with compliance in the headboat reporting, getting it up to weekly, then they will be able to enforce it. That is what they are asking the headboat sector to report now; they are asking them to report weekly.

Then the final amendment we ask you to look at – you have a summary of it – this was previously in CE-BA3 also. It deals with our commercial logbooks, and this is something the South Atlantic Council has been trying to address for quite a number of years. There is useful information that comes in the logbook programs.

They are supposed to submit the report seven days after the trip, golden crab it is 30 days; but in actual effect a number of people don't supply their logbook reports until it is time for permit renewal and their permit is denied because they are not in compliance. Then they get a six-pack and fill out the logbook reports and send them in and get their permit.

What this would do is the council's current preferred alternative is to develop a system to allow fishermen to report electronically. The Center has indicated they are working towards this in the future. This would put in a requirement to make a provision that right now fishermen who wanted to report electronically they could.

We are looking at the timeframe, whether we stay with the seven days – if you stay with the seven days, the fisherman doesn't have all his current economic information on what he was paid for on that trip to fill out the economic logbook portion. The fishermen would like to have a longer 21 days in order to give more accurate information on the economic side.

Right now the logbook directions say you turn it in seven days and use the average market price, which isn't as accurate in terms of economic impacts. Right now the council's position is 21 days. Again, here we have that provision for the catastrophic. If there is a hurricane or something, they would be allowed to submit electronically.

Then we also put in the compliance that you have to be current with your logbook reporting in order to be out fishing legally. We were doing this initially for the snapper grouper fishery. Then there was some interest in broadening it; and then as was pointed out, well, this affects coastal migratory pelagics, which involves the Gulf Council. This same logbook program also operates for the Gulf reef fish fishery.

We were asked to work cooperatively with the Gulf Council to put this amendment together. That request was presented to the Gulf Committee this morning and they've agreed to it. Presumably their council will approve that tomorrow. We will begin working on an amendment that would make these changes. There are also a few other changes that NMFS is making to the logbook.

We will be refining our council's current preferred with a new alternative that we got from the Southeast Fisheries Science Center and then see what the Gulf Council has in mind as well. We've gone out to public hearings already with this; but now broadening it and including the Gulf, they want an opportunity to go out to public hearing. In all likelihood you will have a chance to see this again before it gets finalized.

MS. RAINE: My same comment about hoping for a discussion on other types of exemptions that could be covered by the councils. It might not just be internet service. It could be some other event, but having it clear that they considered that there may be other reasons for not filing electronically or on time and whether those reasons are acceptable or not; just so it is very clear to all of us. Thank you.

MR. KELLEY: At this point it is time to bring forth other business. Does anyone have any issues that they need to bring up?

MS. BROUWER: Okay, I wanted to just make sure everybody was aware -- I failed to mention it when I was talking about management of yellowtail and mutton -- that Amendment 27 actually included five actions that would have made the South Atlantic Council the managing entity for yellowtail and mutton.

Then it had actions that would have addressed permitting requirements and bag limits and all that stuff. The Gulf Council actually met in October and they said I think -- you know what, I think they wanted the formation of a joint committee that would address management issues for South Florida fisheries instead.

What our council did was they put all those actions pertaining to yellowtail and mutton snapper in the considered but rejected appendix pending the formation of this committee. Well, there was a notification that was sent out a couple of days ago that there has been the formation of such a committee and they are going to meet on February 25 via webinar from 12:30 to 4:00.

The link to that webinar is on our website, and you probably all received this already, anyway, but I wanted to make sure everybody was aware of that. The intent of that committee is to address joint management of these species that cause a lot of issues particularly in South Florida. If you have anything to say about that, just be aware that is happening. If you want to join the webinar, you will find the link to it on the website.

Okay besides that, I had made myself a note when I was out on public hearings, and, of course, now I've lost it in all this paper that I have in front of me. Mainly I had probably three or four members of the public fishermen that came up and said, well, is law enforcement going to do anything about these big processor boats that are anchoring right offshore, because they are always there and they are processing large quantities of fish, and what's going on with that?

Evidently I know nothing about it, but this was brought to our attention and I wanted to just put it out there to see if you all had anything to say about that.

MR. BEATON: I will start. The only offshore processing boats or boat that we have heard of recently is a gentleman that wants to start a calico scallop fishery again down in the southeast or off Titusville, between Titusville and Palm Beach, I believe off that coast. I've been working with the Division of Marine Fishery Management in the past and what Rama will be doing now in looking at where we stand on it as a state.

His intention is to have a mothership. Everything will occur in the EEZ. No product will be landed in Florida, and what kind of permits and everything are we going to require. Basically if it is out of Florida waters, no requirement for an SPL unless the product is going to come to Florida.

Nothing, as he says, is going to. I don't know where this venture is right now. We haven't heard that there is any type of money that can be made off these calico scallops, but he claims there is. They are deepwater, 180 to beyond. I believe the collection method was deepwater trawl. That is the only mothership, large offshore processing vessel that we have got in Florida that I know of.

MS BROUWER: Actually that does ring a bell. It may have been during our Cocoa hearing that that came up, so it would have been around the area that you mentioned.

MR. CHESLER: We sometimes get complaints of this and it is kind of hard to run down. I think there might be a perception specifically in the recreational fishery that there are these mother ships, that there are foreign fishing vessels in our waters. This stuff spreads like wildfire on the forums.

It has probably been a good year or two years that somebody posted pictures of a large vessel – it was obviously some kind of large commercial vessel – saying that it was a large Japanese processor. We ran it down and it came out to be a mobile drilling platform that was just being relocated from the Gulf to Barbados or something like that.

It is just weird, because this constantly comes up periodically – not constantly but periodically comes up and there is not any foundation to it. It is definitely not reported to law enforcement. The few times I've had discussions with fishermen about it. I said, well, first of all, it is illegal for foreign fishing vessels to operate in our waters; and besides that, it is a national security threat, so I think the Coast Guard would be pretty heavily involved with it. It is just interesting that these things surface; and at least the one instance I gave it clearly wasn't. Somebody heard somebody chattering in a foreign language over the radio and put one and one together and came up with three.

MS. BROUWER: Thanks for that, Rich. That is exactly in a nutshell the kinds of comments that I receive as well. I bring this up mainly because I want to be confident in what I am relaying back to the fishermen that these things are indeed not happening. But for that reason, I wanted to make sure that something was said on the record about this. I appreciate that.

LT. FISHER: I have heard absolutely nothing about a large foreign or domestic catcher/processor type boats in the South Atlantic. But if there was a large foreign processing boat in the U.S. EEZ setting up shop out here, we would be intensely interested in that. We would definitely want to hear about it.

MS. BROUWER: Okay, one more thing. We will be again doing this year the Law Enforcement Officer of the Year. Recall that last year each agency submitted a nominee to the council via – well, sent it to me via e-mail. I provided it to the Law Enforcement Committee and the council at the June meeting.

They made their selection and then the award is presented to the deserving officer at the September meeting. I just wanted to remind everybody to be expecting some more e-mails from me in the coming months urging that you put together a nomination for submission for Law Enforcement Officer of the Year.

MS. RAINE: Are you expecting that this LEAP will have another meeting this year?

MS. BROUWER: That is a good question. I think we have budgeted for two meetings, because there are so many amendments that we're working on. In the past we have typically met in March and then in August. This year we are having public hearings in August and so it is going to be kind of tight. I'll just have to keep you updated on that depending on developments and the guidance that I get from the council and the Law Enforcement Committee.

MR. KELLEY: Are there any other items? Seeing none; I will entertain a motion to adjourn. Second. We're done.

(Whereupon the meeting was adjourned on February 7, 2013.)

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