

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

JOINT SNAPPER GROUPER & DOLPHIN WAHOO COMMITTEES

**Charleston Marriott Hotel
Charleston, SC**

September 17-18, 2014

SUMMARY MINUTES

Snapper Grouper Committee:

Dr. Michelle Duval, Chairman
Mel Bell
Dr. Roy Crabtree
Ben Hartig
Doug Haymans
Anna Beckwith
Pres Pate

Jessica McCawley, Vice-Chair
Chris Conklin
Mark Brown
Jack Cox
Zack Bowen
Charlie Phillips

Dolphin Wahoo Committee:

Anna Beckwith, Chair
Zack Bowen
Doug Haymans

Mark Brown
Chester Brewer

Council Members:

Lt. Morgan Fowler

Dr. Wilson Laney

Council Staff:

Bob Mahood
Mike Collins
Dr. Kari MacLauchlin
Kim Iverson
Julie O'Dell
Myra Brouwer
Julia Byrd

Gregg Waugh
John Carmichael
Amber Von Harten
Dr. Mike Errigo
Roger Pugliese
Dr. Brian Chevront

Observers/Participants:

Monica Smit-Brunello
Dr. Bonnie Ponwith
Kevin Anson
Jeff Radonski

Jessica Stephen
Phil Steele
Scott Sandorf

Additional Observers Attached

The Joint Dolphin Wahoo and Snapper Grouper Committees of the South Atlantic Fishery Management Council convened in the Topaz Room of the Charleston Marriott Hotel, September 17, 2014, and was called to order at 3:05 o'clock p.m. by Chairman Anna Beckwith.

MS. BECKWITH: I call the meeting to order. If everyone has a chance to take a peek at the agenda; are there any comments, changes or questions on the agenda? Seeing none; the agenda is approved.

The same for the minutes; did everyone have a chance to take a peek at the minutes? Any changes? Seeing none; those minutes are approved. We're going to move to the status of the commercial and recreational catches. I believe Jessica is going to do our recreational and Phil is going to do our commercial.

MR. STEELE: There is quite an uptick in commercial landings for dolphin for this year. So far we've landed about 730,000 pounds, which is more than we landed during all of last year. We landed about 484,000 pounds this time last year of dolphin; and for the whole year we only landed a little over 600,000. Whether the price was up or the weather was good, whatever, we've increased our dolphin landings commercially quite significantly here in 2014.

For wahoo; wahoo is about where we were last year. We're at about 49 percent of the quota with 34,000 pounds. This time last year we had 39,000 pounds; and we only totaled out about 60,000 pounds of wahoo, which is about 94 or 95 percent of the quota last year. Right now we're at about 50 percent, so it seems like we're a little bit under our wahoo landings compared to 2013. That's it for the commercial.

MS. STEPHEN: Okay, I'm going to go over the recreational landings for the dolphin. In 2013 we had 38 percent of the quota; and the quota was 13 million pounds. In 2014 we had 20 percent of the quota; and it was a 14 million pound quota, which resulted in landings around 2.8 million pounds. As you can see in the table here, we looked back through time.

I just want to remind you that this is from New England down to the east coast Florida for the dolphin landings. Again, one of the same graphs as we presented the other day, you can see that we're well under the ACL for this year; and we have been for the previous years as well.

Moving on to wahoo; in 2013 we had 27 percent of the quota landed; and in 2014 it was just 6 percent of the quota landed. Once again, it goes from New England down to Florida. As a whole, one thing I'd like you to keep in mind is that we do not have Waves 4 and 5 yet for wahoo; and those were the highest landings for the previous years. Again, here is just a graphic demonstrating where we were. You can see two years ago we went slightly over the ACL, but for the last few years we've been under it so far. That's all I have.

MS. BECKWITH: Next is a presentation that I requested at the last Dolphin Wahoo Committee about the Southeast Operator Card that is required for the rock shrimp fishery and our dolphin wahoo fishery. I believe Phil is going to bring through that presentation.

MR. STEELE: I want to thank Kate Mitchie and my South Atlantic staff for putting this together. I am not an expert on operator cards; I can tell you that right now. I think there is enough information in the presentation to give the history, the background and what the council's intent was so you can get a good feel of where we're going or why you did what you did.

At the last meeting the council requested a review of the operator cards and how they're being used in the South Atlantic. Operator cards are required in the dolphin wahoo commercial and for-hire fisheries as well as the rock shrimp fishery. Every operator of a vessel in these fisheries must have a valid operator card as versus a non-valid operator card, I guess.

An operator is defined as the master or other individuals on board a vessel who is in charge of that vessel. They're good for three years from the date of issuance of the card. Who is required to have an operator card? Well, Shrimp Amendment 5 and the Dolphin Wahoo FMP required operator cards for those two fisheries.

In the northeast, however, operator cards are required for all federally managed fisheries. Here are the websites where operator card applications for the northeast and the southeast can be found. They're both very similar and they basically require a passport-type photo and some other basic information to get them.

Operator cards that are issued by the regions are generic; meaning one card fulfills the requirements for all fisheries. Operator cards issued by the Northeast Region are valid in the Southeast Region and vice versa. Here is the council's intent and this is what they had in mind when you passed the requirements.

There were intended to aid enforcement efforts, operator identification, data collection and help vessel owners in the hiring process. There was also some thought and one time I remember at least in the Gulf where a lot of the vessel owners thought that having operator cards would decrease their liability if they were not operating the vessel and someone else was. I think that turned out to not be the case.

The Dolphin Wahoo FMP implementing actions state – as you can read yourself. Here are the actions requiring the operator cards in the Dolphin Wahoo FMP. You can see the council's intent is captured in the action language of why they wanted to have these. I think especially the federally permitted operator will be held accountable for violations of fishing regulations and may also be subject to permit sanctions.

The dolphin wahoo continue here the council's conclusions reiterates what was intended by requiring operator cards in the dolphin wahoo fishery. The council concluded that requiring an operator permit will make vessel captains more responsible for complying with fisheries regulations, thus helping to achieve optimum yield.

Shrimp Amendment 5, industry or the vessel owners also asked the council to require operator cards in the rock shrimp fishery. This started really back in Shrimp Amendment 1 and operator

cards were eventually required I think it is Shrimp Amendment 5; so it took a little while, but they got them up and running.

Vessel owners wanted a way for operators to be held liable for violations rather than the vessel owner – again, that comes up. In the council's conclusions of Shrimp Amendment 5, the council indicated there was an expectation that operator cards would eventually be required for all fisheries. As you well know, that hasn't been the case.

How they're being used; we did some research to find out how operator cards are being used in the Northeast Region. In the Northeast Region they require the operators to fill out their operator permit number and their name in their trip ticket reports and in their electronic reporting systems. This way there is always an individual tied to every trip report. I have some contact information for the northeast folks if you're interested in getting that.

In the Southeast Region operator cards are not being used for data collection or distributing information. Processing operator card applications is very timely and very time-consuming in the southeast. We get about 15 new or renewal applications a day; and the application information has to be entered in two different databases; one to process the application – and, of course, we make it difficult – and one to issue the card.

In the meeting preparing this presentation, however, the OLE folks expressed support for requiring operator cards for all fisheries and say it would provide a consistent way for officers to check IDs when they board vessels. We have our OLE representative here, by the way, if you have some questions for him.

In the rock shrimp fishery the operator cards have been used for sanctioning purposes at least seven times. Two of those cards were sanctioned for failure to pay a final penalty. I'm just trying to give you a little background on these cards have been used in a legal context. There have been two old cases for failure to display an operator card, one in 2006 and one in 2007.

Very recently another case came up for an expired dolphin wahoo operator card. They have been used a little bit for enforcement. In the rock shrimp fishery operator cards have used for sanctioning purposes at least seven times; and two of those cards were sanctioned for failure to pay a final penalty. That's about all I have, folks. Between myself and Brian and OLE we'll try and answer any questions you may have.

MS. BECKWITH: I think Mel had something to share. I wanted to remind folks I was the one that asked for this presentation. We know that the northeast card is free; and if you look at the application, it doesn't require people to mail in their social security number. Our South Atlantic through SERO card is fifty dollars a pop every three years.

If you look at the application, it has people filling out their social security and birth date information. My questions were answered. It doesn't seem like at least for our area this card is being utilized for any significant data collection or enforcement. I would like some discussion on how we would like to move forward. If we require this for one fishery, should we be moving forward and thinking through its utility in all of our fisheries, included mackerel and snapper

grouper. If they're not useful for what we're looking to do right now, then is it time for us to reconsider either suspending this requirement or potentially eliminating it? I would like some thoughts. Mel.

MR. BELL: Mark was kind enough to show me his operator card. I was just trying to figure out how we ended up with this requirement for just those two particular fisheries. I could see where this would be advantageous to have for all fisheries; and then you could list on there all the particular fisheries the individual is permitted to fish in.

Of course, producing a card is a little more expensive than I guess the normal permit. I'm just thinking the practical application of this is what is – because you may participate in other fisheries and you're required to keep a copy of your – I assume you're required to keep a copy of your permit on the vessel; so you've got your permit.

I know that is what we do with state-permitted fisheries; the permittee is required to have the permit on board with them. They have to be able to identify themselves as the permittee; but you could certainly simplify all that on a card. If there is a heck of a lot of expense with that, I'm trying to kind of do the cost benefit here. I guess you explained why those particular fisheries and none others and what the advantage is.

MS. BECKWITH: Our captains are required to have a copy of their captain's licenses as a form of identification as well on the boat along with the permits. Jack.

MR. COX: I have always wondered the same thing of why we don't have it for other fisheries. I think if we're going to have them for a couple fisheries, we should have them for snapper grouper as well. I think there is a time and place for these cards. A lot of our captains don't have a driver's license; and so when they get stopped by law enforcement, they need something to produce. I think we should carry forward with them.

LT. FOWLER: I have a comment to make regarding the prosecutions for not having these. I had several instances where I've been on board a vessel and they didn't have it with them; but we were able to verify that they did actually have a permit. They just didn't have it on their person; and then the NOAA agent said that they would not prosecute. That might be why you're not seeing prosecutions because even though they didn't follow the letter of the law, there were a little more lenient with that.

MS. BECKWITH: Ben, what are your thoughts about this operator card for – I mean if we're going to keep these, then I think the discussion would be would we want to expand them to other fisheries. Is that something that would be appropriate for mackerel, maybe, eventually if we wanted to keep these?

MR. HARTIG: Yes; I think it is either all or none. You either do it for everything or you don't do it at all. Some of the violations are coming because you don't have the damned card; and that's ludicrous, in my opinion, or it has been out of date. If you get a violation on something that is not required across all fisheries, that's pushing the envelope.

MR. STEELE: Well, Jeff is here and I think he would like to make a couple of comments towards this operator card, if that's all right.

MR. BOWEN: Right now from what I've heard thus far; and I know it has not been a real long discussion, but I'm leaning toward why even have the danged things, anyway. It's just for people to think about.

MR. RADONSKI: Jeff Radonski, Acting Deputy SAC for NOAA OLE. Okay, on these cards I think a couple of things. Not having the card on board during a boarding, yes, that's a minor offense. It is something that could be looked into as a summary settlement type issue, but that is a low-level violation.

Where it is helpful is identifying them if it is an across-the-board fishery; it is not just two fisheries out of the South Atlantic having that on board. Also, I think for vessel owners because captains migrate from boat to boat, they might know if somebody is a problem on other boats. They may not know that they have existing violations; and it could be something that maybe a check could be made with OLE or something on priors before hiring them; and it probably gives some owners a little more protection.

And, too, payment of penalties; because captains do move from boat to boat, they may not be paying the penalties for prior acts; and this gives us the ability of pulling a ticket, so to speak. I think from OLE's standpoint – and there are processing problems and expenses, but I think the benefits can be there down the road for OLE.

MS. BECKWITH: So when an owner moves to hire a potential captain, what is the process for them to contact OLE to find out if there is a violation on an operator card? That's not kind of private information?

MR. RADONSKI: We probably wouldn't go into the details with it, but we probably could get to a situation where we could say that there are prior violations that haven't been paid. Public records, NOVAs are a public record that are issued. I think there is a mechanism that could be done in the future. Obviously, we would have to have a process for it.

MR. PHILLIPS: Madam Chair, I'm not on your committee; but –

MS. BECKWITH: Yes, you are.

MR. PHILLIPS: I am?

MS. BECKWITH: Snapper Grouper.

MR. PHILLIPS: Snapper Grouper and Dolphin; okay. Anyway, I could see the utility especially if somebody has a violation not only with the next potential owner that would hire him, no, but if they're not going to take care of their fines and stuff, they probably don't need to be on the water.

On the other hand, we don't want to spend two weeks trying to get a card if you just hired a new captain or a deckhand is going to take a captain's job or something like that. We need to be able to get a card in a pretty quick manner. We don't want to tie up the region with doing ten times the amount of cards they're doing if they don't have the resources to do it unless we can just all go get our cards from the northeast and we don't have to bother the people down here.

MS. BECKWITH: Yes, I was wondering about all of us getting our cards from the northeast because they process their cards within about a week and it's free. Again, they don't require the social security number on those applications, which is just a personal pet peeve of mine.

MR. BELL: I was just going to say in terms of if you want to talk about this further and think about doing something with it, it might fit better under the Law Enforcement Committee or something just because it is obviously of importance to law enforcement, most of all. And then consideration of all fisheries, that may be a logical place to continue discussion later on.

I'm looking again at Mark's card. It doesn't say on his card rock shrimp or dolphin and wahoo; it just says he has got a – so, this could easily cover all fisheries; because I can't tell from that if he is a rock shrimp guy or he is a dolphin and wahoo right now. It is a very generic, but that could easily be adapted for any. I guess maybe you must somehow do a data check or something to figure out which it is, but it doesn't say on the card actually which it is. Jeff may want to comment on that.

MR. RADONSKI: First off, remember except for in a few instances, permits are issued to vessels and not to individuals; so that is why you wouldn't see it on there. If they're involved in that fishery, then they have to have the card, but the vessel is what is actually permitted.

DR. DUVAL: I'm wondering the Northeast Region has issued 9,200 operator cards and we've only issued 2,002 and yet we're getting 15 operator cards per day in terms of issuances and renewals; I'm just wondering why the fifty dollar fee? I mean why free in the northeast but a fifty dollar fee down here; I'm just curious.

DR. CRABTREE: We charge administrative costs for permit fees in the southeast. The northeast does not charge fees for permits. I can tell you that we aren't going to stop charging fees. Now, whether the northeast plans to begin charging fees or not in the near future, I don't know.

DR. DUVAL: I have one more question. It seems like that there could be some utility – just looking at how the Northeast Region is using the operator cards in terms of linking with the VTR system, because I think here in the southeast we're not able to link – most fishermen have multiple permits that are issued to them; so if you're trying to – and I'm thinking mostly about like dealer reporting, that sort of thing; so if you're trying to link permits – and I think this was an issue with the golden tilefish thing – that having an operator card might be a better way to do that in terms of having a permits' database talking to the dealer reporting database.

I'm just thinking off the top of my head. I wish Dave Gloecker was still here because he would probably be able to answer this question. I know he has worked up in the northeast. It seems to

me like that might provide some utility should the council decide to expand the use of operator cards throughout all fisheries.

MR. BROWN: Roy, we already pay a fee for the permit. When we go to get our permits, we already pay a fee that permit to fish that fishery; so this is just something extra that is piled on top of that. I've never quite understood the permit card other than what he said about maybe tracking somebody. It is supposed to be so that you can rock shrimp or fish for dolphin and wahoo. To me those are two completely different ends of the spectrum there. It doesn't cover everything else in between. It's just covering those two things. If you're going to do something like this, it should cover the entire spectrum.

MS. BECKWITH: And I think that's why we're having this discussion; it should be an all or nothing for our region. Previously I said captains' licenses, but that's the for-hire industry. The commercial guys are not required to have a captain's license to run the boats; so part of the utility of this card is an identifier for a commercial fisherman who might not have any other form of like a license or a captain's license; a driver's license or otherwise. Michelle.

DR. DUVAL: Obviously, it was meant to try to protect a vessel owner so that there could be some other means of citing the operator of the vessel with a violation if you don't happen to be the owner of the vessel and a permit holder does not get stuck with that violation. I guess one question about these three past cases in which NOVAs were issued for not having a dolphin wahoo operator permit – I mean, has OLE used the permits to – have they used the operator cards to track violations at all?

MR. RADONSKI: I'm not sure if "tracking" is the word, but we know the individual, who it is and it does give us an opportunity to pull that card from them and give them access to that fishery.

DR. DUVAL: Yes, I guess I'm thinking it is easier to zero in on where violations are occurring and if multiple violations have occurred in conjunction with the same person and maybe not necessarily the same vessel. I'm just thinking out loud; it has been a long two days for me; so I may not be making sense; apologies.

MR. HAYMANS: Okay, I'm going to make a comment to Michelle and maybe there is an answer for it; and then I really have a question for Monica. Could there not be a large number of North Carolina fishermen who are getting their permit from the northeast, which is part of that 9,000?

That's what I was thinking; so maybe from the southeast point of view there may be 3,000 operators in the southeast, which to me is a large percentage of our boats that are in the southeast. There are 600 snapper grouper boats. I know they aren't required for all of them, but there are a lot of operator cards in the southeast is where I was going.

MS. BECKWITH: Right; there is a lot of for-hire permits for the dolphin and wahoo out there.

MR. HAYMANS: Well, my question for Monica really was on the social security issue that you're jamming on here. That sounds to me like the northeast is probably out of sync somehow because doesn't the new immigration laws that went into place after 9/11 and all the security checks require social security numbers? I know I have to do it for the state of Georgia on our license. Now, part of that is Deadbeat Dad Laws, but it is also part of the public benefit and citizenship.

MS. SMIT-BRUNELLO: It is a good question and I'm not sure. I do know that you can't just require a social security number for someone without getting I think exemptions or something from the IRS because they try to protect everyone's social security number. To answer your question, I don't know but I can try to find out.

MR. PHILLIPS: I'm still trying to wrap my head around how you sanction somebody with a violation with an operator card. If he did something in dolphin and wahoo; do you not let him snapper grouper, do you not make it where he can't king mackerel, do you make it where he can't run boat; but he can be a deckhand, yes or no? I'm not quite sure what the boundaries are for sanctioning somebody.

MS. BECKWITH: Great question.

MR. RADONSKI: Well, the limitations right now would be dolphin and wahoo; and it would be operating the boat. If it was across the board, it would take him out of federal fisheries until the sanction was lifted, paid for, whatever, but it would be a mechanism just like a permit sanction on a vessel. It would carry the same weight.

MR. PHILLIPS: But could also preclude him from working on the deck; because a lot of times if the captain loses his license, then he becomes the deckhand as soon as LE gets around. They get around it pretty easy if that's possible.

MR. RADONSKI: There are a lot of things people get around us on. We did have a case down in the Florida Keys where a guy was a criminal charge, but he was banned from fishing in the Florida Keys for five years. He recently violated that so he'll go back to jail. But it's the judge's order, but it would have to be the mechanism within general counsel or the administration law judge maybe of saying what the final sanctions are.

MS. BECKWITH: I would assume, Charlie, that if someone else on the boat also happened to have an operator card, then that would satisfy.

MS. SMIT-BRUNELLO: I was just going to say to Charlie's point people who get charged enter into settlement agreements sometimes with our office or with the agency and they could agree as forgiving some of their fine for whatever reason to not fish anymore or not be on another vessel's crew.

MR. BELL: A real world practical consideration here; so right now you've got some concerns because let's say in the northeast they don't charge for this and in the southeast charge fifty dollars for that; so if we were to go to a system and require it for all fisheries, a real

consideration is now all of our fishermen are going to have to pay an additional fifty bucks, because you heard Roy say that's what they're doing and that's the way they're going to do it.

I understand the cost associated with producing something like this or administrative fees or whatever, because we struggle with that. That is a real consideration is while it makes – I like it just because it makes perfect sense that law enforcement has a card just like when you're pulled over for a driving kind of thing.

The officer asks for your driver's license and they can positively identify you as a person, so it makes it real easy for law enforcement to identify you for issues; but there is a real cost to that if we go down that road and suggest that we implement it for all fisheries. The way the card is designed, it would be easy enough to do. Nothing changes on that card; it all just looks the same, I would think; but fifty bucks is fifty bucks.

MR. COX: I think we're probably the only organization in the country that has professional transportation that doesn't have any form of identification on it. Even with my coast guard license, I've got to have a TWIC card. I think it's part of accountability and I say we need it.

MS. BECKWITH: You actually don't need a TWIC card anymore. Ben.

MR. HARTIG: I really need to understand how this works. Is it the captain of a vessel who is operating for an owner; does he have to have the card?

MS. BECKWITH: Yes.

MR. RADONSKI: It is the operator.

MR. HARTIG: The operator. Okay, if a crewman on that vessel has an operator card that he could be a second operator; would that suffice?

MR. RADONSKI: I don't see why not. I don't think there is anything where we stated the requirements of having to be a licensed coast guard captain or anything else that goes with it. Anybody can apply for that license or operator's card.

MR. HARTIG: Okay, anybody can apply; you don't have to have a permit or anything to apply for an operator's card?

MR. RADONSKI: Permits are tied to the boat; so people operating those boats don't necessary have the permit in their name.

MR. BROWN: So if you're operating a boat and you're not catching those species or you don't have those species on board, then you're not in violation; is that correct?

MR. RADONSKI: If you're fishing under the permit for those species or you're not operating under that permit?

MR. BROWN: No, say you stepped on somebody else's boat and you ran somebody else's boat and you did not have this card but you caught other species of fish; even the boat had the permit, would you still be required to have the card?

MR. RADONSKI: That one I'm not sure of because it is permitted for those fisheries. Whether it is limited to engaging at the time or if it is just based on the permit; I'm not sure.

MR. STEELE: If you look at the implementing action, what it states – let's just go to dolphin and wahoo; and it says, "Require that the operator of a commercial or for-hire vessel obtain an operator's permit issued by NMFS", so forth and so forth, "to harvest or possess dolphin or wahoo in or from the Atlantic EEZ.

"On each federally permitted dolphin wahoo commercial or fir-hire vessel there must be on board at least one operator who has been issued a federal operator's permit for the dolphin wahoo fishery. The federally permitted operator will be held accountable for violations of fishing regulations and may also be subject to permit sanctions. If an operator permit has been sanctioned, during the permit sanction period the individual operator may not work in any capacity aboard a federally permitted fishing vessel." That is pretty clear and that's what you wanted.

MR. PHILLIPS: Again, I'm still trying to wrap my head around it. If the operator is permitted for a boat, his boat breaks down and he is going to take somebody else's boat fishing, so he has got to get another card for that boat.

MS. BECKWITH: No.

MR. PHILLIPS: The card goes with him?

MS. BECKWITH: Right, so if there is a permit associated – if there is a dolphin wahoo permit associated with that vessel, someone with an operator card has to be on that vessel.

MR. PHILLIPS: No, but if he goes to another vessel with another dolphin wahoo permit –

MS. BECKWITH: Then he is okay. Yes, the card is for the person; the permits are issued to the boats. Are there any other comments right now? I think our way forward is I like Mel's idea. I'm happy to kick this can over to his curb; or I can see this going to law enforcement or to data collection. Both, Mel, are yours, so which one would you like it to go to?

MR. BELL: Well, I thought about that, but I don't really see it as a data collection thing. It is about law enforcement and it is about enforceability across the spectrum of fisheries and all.

MS. BECKWITH: Well, the hope is it would collect some data some day for some purpose.

MR. BELL: Well, it made sense to me if you wanted to do that; because you'd need to be able to discuss the whole spectrum; and we don't want to have some giant joint everything meeting. It is just a thought.

DR. DUVAL: Just to sort of the future data collection potential there; again, when we moved forward with the dealer amendment and all the data collection fields are consistent with what is in the northeast, and one of those is the VTR number.

There has been a little bit of mumbling and muttering about putting the VTR number on the dealer's trip ticket before it is submitted; because the VTR number is actually on your logbook form, and concerns about having to have that with you; but if you did have an operator card across all your fisheries, you would be able to put that operator permit number potentially as a field on the dealer reports so that you're able to associate a person with that trip ticket report. It just might allow for better tracking of catches. I just throw that out there as like a future data collection potential.

MR. HARTIG: That is on the logbook now. If you have an operator card, it is not a mandatory field, but you could put it in there – it says “if available”; so it is in the logbook now.

MR. BELL: I was just going to say to that point the card itself does not have a unique identifier number on it anywhere. That would be something if you wanted to have a number associated, like a driver's license number, there is no driver's license number on that card.

MS. BECKWITH: So the ones that come from the northeast –

MR. BELL: They have them.

MS. BECKWITH: Yes; so you must have gotten yours from the South Atlantic, but the northeast cards have an identifier.

MR. BELL: Well, I can see what you were talking about. If it did, then you'd put that number on the VTR.

MS. BECKWITH: So now we all know that Mark paid his fifty dollars. Morgan.

LT. FOWLER: I was going to say if someone did have sanctions on them for their permit, but then they were crewing on another vessel and they're in violation; when we call and run names through our database, that's not going to give us the information that person has a NOAA operator's card and they're currently under sanctions. For enforceability for that, there is no way for us to know that you're not allowed to be on a boat right now.

MR. HARTIG: I want to be clear on one more thing. I was operating under the assumption that my operator card would cover my operator. Obviously, I'm wrong. My operator would have to have his own dolphin wahoo card if he had encountered dolphin and wahoo on a trip?

MR. RADONSKI: Or if your boat is permitted.

MR. BOWEN: I would like to make a motion if it's the right time. I think we've had plenty of discussion on this topic. I would like to make a motion that we discontinue the operator cards or **I'd like to make a motion that we discontinue the requirement of operator cards.**

MS. BECKWITH: In the dolphin and wahoo?

MR. BOWEN: Yes, for our dolphin and wahoo.

MS. BECKWITH: Do we have a second to that?

MR. HARTIG: Yes, I'll second it.

MS. BECKWITH: Okay, it has been seconded so it is open for discussion. Roy.

DR. CRABTREE: So you want to eliminate them for dolphin and wahoo but keep them for rock shrimp?

MS. BECKWITH: I don't have power over that committee.

MR. BOWEN: I'm not over rock shrimp. If we have the I guess power, if that's the right word to do it, I'm all for discontinuing the operator card.

DR. CRABTREE: Well, let me suggest this. This was put in place by the council through a plan amendment; so to remove it, you'll have to do a plan amendment; and in that amendment you will have to look at alternatives and things. I would think in this amendment you would want to have an alternative to eliminate it in dolphin wahoo and one to eliminate it in rock shrimp or you could you eliminate it in both. I'm not sure what our rationale for getting rid of it in one fishery and not the other would be exactly. You'd have to go through the whole process to do this.

MR. BOWEN: Well, I'll be glad to amend my motion to include eliminate the card, period.

MS. BECKWITH: Your motion is up for a second and let's hear some discussion. Michelle.

DR. DUVAL: My recommendation would be to do as Mel has suggested then. If we're thinking about eliminating the operator card completely and because it does apply to two fisheries and Roy has laid out his concern about having alternatives that would remove it from one and remove it from another fishery,

it seems more appropriate to maybe move this to the Law Enforcement Committee. Not that your motion wouldn't stand, but I think you might want to include in there to move the discussion to the Law Enforcement Committee and explore discontinuing the requirement for operator cards in the southeast.

MR. BOWEN: Perfect!

MS. BECKWITH: Okay, so while the changes to that motion are being made, Doug, go ahead.

MR. HAYMANS: I would just say, Madam Chair, that I would not be in favor of this motion whatsoever. There is some history as to why the operator card was developed specifically for the rock shrimp fishery. Perhaps one of the staff who has been around a while – because I don't

know that there is a council member that was here when that was put into place, but maybe Gregg could possibly speak to why we have the operator card in the rock shrimp fishery.

MS. BECKWITH: And I think the changes to the motion were to move this discussion to the Law Enforcement Committee and explore discontinuing the requirement for the operator cards. We would not be moving in that direction yet. We would have another opportunity to think this through in some detail and explore the plan amendments required.

Part of that plan amendment I think within the range would be either to eliminate them completely or to make them mandatory for all of our fisheries. I think that would still be within the range that we would likely have to explore. Zack and then the seconder were okay with the changes to the language. Those verbiage changes were made by Zack and Ben who made the motion and the seconder.

MR. BELL: Procedurally here; so can I recommend modifications to that at this point?

MS. BECKWITH: Sure.

MR. BELL: Okay, given that there is utility and benefit in this for law enforcement, we can certainly consider the option of discontinuing, but we might want to consider the option of expanding into the other fisheries as well if we going to talk about it, because I believe there is real usefulness from a law enforcement perspective in having this. If you're going to talk about discontinuing it altogether, you might want to talk about expanding or discontinuing; keep all options on the table, I guess.

MS. BECKWITH: Zack, are you okay with that language change?

MR. BOWEN: Yes, I am; and one reason I brought this up is when Phil was giving his presentation, just from me insinuating I guess from his language and body tone, it seemed like these operator cards for the Southeast Regional Office were kind of a hassle. If they're doing, what did he say, 15 a day or something and cost-effective-wise and from what we can tell by reading from the card, we don't get any information from them. That's the reason I made this motion.

MS. BECKWITH: Yes; and for the second time today I agree with you; but I still think it requires some additional discussion in law enforcement, maybe.

MR. BOWEN: I agree.

MS. BECKWITH: Ben, were you okay with the language changes? Okay, **so the motion currently reads move the discussion to the Law Enforcement Committee to explore modifications to the operator card.** Is there any further concerns, comments, discussion? Mel and then any insight from Gregg.

MR. BELL: I was just going to say related to that, if we all understand what we're talking about is not modifications to the card; it is modifications to the system or the use of the card or how we

use the card, but everybody understands the requirements. As long as we understand that, you can leave it like that, but we're not really modifying the card.

MR. WAUGH: We were dealing with rock shrimp when this first surfaced; and we had the issue of there were complaints from captains of problem captains that would have violations and would just jump from vessel to vessel and cause issues. This operator card was in use in the northeast and the suggestion was to include that requirement as a way to aid law enforcement.

At the same time we were working on the Dolphin Wahoo FMP and so we put it in the Dolphin Wahoo FMP. The intent was always to then sequentially put it in our other fishery management plans. That didn't happen probably it just slipped through the cracks. This is the first report we've ever gotten. From the council's perspective, it was to aid law enforcement. Law Enforcement was in support of it at that time; and we thought it was important to increase compliance in those two fisheries. We just never got around to expanding it to the other fisheries.

MS. BECKWITH: Okay, there has been a language change so let me read the motion again. **Move the discussion to the Law Enforcement Committee to explore modifications to the operator card requirements. Is there any further discussion? Everybody ready to vote. Okay, everyone in favor of this motion please raise your hand. The motion carries.** Thanks for that discussion, Guys. Next is we will be discussing Dolphin Wahoo Amendment 7/Snapper Grouper Amendment 33. The decision document is Attachment 2 in your briefing book.

DR. CHEUVRONT: Okay, there was another item on the agenda to look at the public hearing comments for this amendment; but what I did is I embedded the comments that we received for each action with that action within this document; so what we will do as we look at each specific action, we'll also discuss the public hearing comments that came with that action. That way you can keep those fresh in mind as you're looking at that.

Just to keep you up to date on what is going on with this amendment, we are looking to approve this for submission to the secretary at this meeting. We started this amendment about a year ago when it was just going to be a single action to make what happens for snapper grouper also happen for dolphin and wahoo.

You gave the direction to staff a year ago. In September we took that and we worked on it; and we came back to you in December. We had identified some problems that existed with dolphin and wahoo that were not exactly the same as the snapper grouper fillets issue. What you had requested that we do is then work on developing a full amendment to deal with this.

That is what you have been working on since March of this year. We came up with some actions and alternatives in March. You reviewed them in March, you looked at them again in June, you winnowed them down, you had this sent out to public hearing in August. Now you're getting what is now the final product or as close as we could get to it before this meeting.

What we would like to do; there are a couple of wording changes that came about, suggested wording changes from the IPT, some of them came from law enforcement and other folks, but

everybody has had a chance to review this. I think Monica might want to jump in with a couple of comments here and there, but I'm sure she'll do that when she needs to.

Right now what we'd like to do is look at the purpose and need. We've looked at this several times before; and the IPT has suggested one change, which is in the need, to remove the language that refers to removing impediments to and changing the wording to "allowing". The idea is keeping it closer to what the action really is doing.

MS. BECKWITH: Okay, if everyone has had a chance to look at that wording, I would entertain a motion to accept the recommended wording changes by Doug and seconded by Jessica. Is there any discussion? Any opposition? Seeing none; that motion carries.

DR. CHEUVRONT: Action 1; now there has been some work on this and I want to give a little history. At the June meeting there was some discussion of gear stowage and what exactly was meant by that needed to be included in the discussion of this first action. It comes up again later on in another action, I believe.

The IPT has recommended some wording changes and let's talk about that first. First is an initial description of Action 1. It tightens the language a bit; but what it does is it cuts out that sentence that is marked out and just says, "Exempt dolphin and wahoo harvested lawfully in The Bahamas by recreational fishermen from U.S. regulations that require them to be landed with head and fins intact in the U.S. EEZ. It is put in there "recreational fishermen" because recreational fishermen are the only ones who are allowed to fish in The Bahamas.

The Bahamas government does not license foreign commercial fishing vessels to fish in their territorial waters. Somebody who goes to The Bahamas and fishes even on a recreational permit cannot come back to the U.S. and sell those fish even if they have commercial permits that allow them to sell fish otherwise. That would be a Lacey Act violation, I believe; and so that can't be done.

Then under Preferred Alternative 2 there was the addition that you added that you wanted to have all fishing gear must be appropriately stowed while in transit. Then under the note we explain about recreational fishing in The Bahamas and then give a definition of what fishing gear appropriately stowed means.

This follows the language that is used in other federal regulations regarding stowage of gear on recreational fishing trips. We've run into some problems with some of this language. When we get to the public comments, a lot of folks just were not happy with this stowage language; but stowage means "Terminal gear; for example, the hook, leader, sinker, flasher or bait used with an automatic reel, bandit gear, buoy gear, handline or rod and reel, must be disconnected and stowed separately from such fishing gear.

"A rod and reel must be removed from the rod holder and stowed securely on or below deck. Sinkers must be disconnected from the down rigger and stowed separately." The sentence that causes a lot of problems – and we did get 13 public comments about this – was the rod and reel must be removed from the rod holder and stowed securely on or below deck.

The comments about that were largely that some of the vessels did not have any place below deck because they didn't have a below deck to store the gear; and the fear is that the rod and reels – the gear could be damage by being laid on the deck or could be a safety hazard. That was the gist of the comments that we received; and like I said 13 people commented on it and ten were not in favor of requiring the removal of the rods from the holders.

MS BECKWITH: So that begs the question if this committee feels like we could or should remove that sentence that requires a rod and reel must be removed from the rod holders and stowed securely on or below deck and retain the remaining requirements of terminal gear being separated and sinkers being disconnected from down riggers. Doug.

MR. HAYMANS: My question was to Brian so I will wait for him for a second.

LT. FOWLER: Would it be correct to say that if you don't have the capability to stow your rod and reel appropriately, then you just don't fillet the fish; you leave them in whole form; and that is the work-around for that?

MS. BECKWITH: Thank you for those comments, Morgan. Jessica.

MS. McCAWLEY: I'm not okay with what Morgan said. I think the sentence that says "a rod and reel must be removed from the rod holder and stowed securely on or below deck" can be removed and just keep the rest of what is listed in there about disconnecting the terminal gear. We've worked heavily with our law enforcement officers on this; and they also felt that sentence was not needed in order to accommodate these types of vessels.

MR. HAYMANS: My question to Brian was you said that is in the code somewhere and it is directly applicable to recreational vessels?

DR. CHEUVRONT: That is correct. Monica, can you give the examples for that?

MR. HAYMANS: So reaching beyond that, what are the ramifications if we pull that out? I'm in agreement as long as the terminal gear is off of them and not in fishable condition. Monica.

MS. SMIT-BRUNELLO: I don't know where we got that language and so if you give me a minute, maybe I can figure that out. I'm not sure.

MR. BREWER: I've got some personal experience with this. A number of the boats that are crossing normally from around Palm Beach County over to West End; it is a fifty-mile run. In decent water you can make it very, very safely in a 23- or 25- or a 27-foot boat. I've done it. It happens that sometime when you're coming back across, the weather comes up on you. It can get nasty pretty quick.

If you've got rods and reels laying on the deck when you're in eight-foot seas and running, that is a safety hazard. It is dangerous. The language that is here about taking off terminal tackle; it says for an automatic reel, bandit gear, buoy gear, handline or rod and reel, the terminal gear must be disconnected and stored separately from such fishing gear.

You've bundled all of those types of gear together and you say that as long as you take the terminal gear off and you store it somewhere else, you're okay. The problem then comes in when you separate out just the rod and reel and say, okay, that is going to have to be stored below deck or on deck. As mentioned, a lot of these boats, they're smaller boats; they don't have storage below decks; and running with stuff on the deck is a real bad idea if you get into anything rough. I would also move or would ask that one sentence be taken out.

MS. BECKWITH: Was that a motion, Chester, because that would be your first.

MR. BREWER: Sure, I move to remove the language "a rod and reel must be removed from the rod holder and stored securely on or below deck."

MS. BECKWITH: And Jessica seconds that. Discussion, Jessica?

MS. McCAWLEY: Yes, I just wanted to make sure that this was removed throughout the codified text; because I looked at the codified text and it was in there about five or six times. I'm thinking that this motion means it would be removed throughout the codified text. I just was checking.

MS. SMIT-BRUNELLO: With the help of friends, I was able to find out where this language came from; and it is from your MPAs. It is also language that is used in the Gulf for Madison-Swanson Restricted Areas or MPAs, I think; so in your MPAs you state this very language, "Terminal gear" and then you describe it "used with automatic reel, bandit gear, all that, must be disconnected and stowed separately; and then it states "A rod and reel must be removed from the rod holder and stowed securely on or below deck."

MS. BECKWITH: So noted.

MS. SMIT-BRUNELLO: The code section is 50 CFR Part 622.183A; and then if you go down – because 183 lays out all the MPAs; and then towards the bottom it gives you that particular restriction. It is in Section 183A.

MS. BECKWITH: Okay, is there any further discussion on this motion? Monica.

MS. SMIT-BRUNELLO: Brian, other than these individuals coming forward and telling you this and then we have had some testimony here, too, but do we have any other information regarding this particular problem?

MR. HARTIG: Yes, I had a couple of calls, Monica, specifically to this action. They had the same concerns that the other people had voiced as well. Two different people had called me.

DR. CHEUVRONT: The only comments that we received that specifically addressed stowage were all against removing the rod and reels from the holders. Nobody spoke in favor of it; and when I talked with folks about it, I asked them the other provisions of stowage. None of them had any problems with any of the other things. It was simply the rod and reel. Nobody

expressed any issues with removing terminal gear and stowing it separately as Chester had described.

MS. McCAWLEY: Yes, FWC also submitted comments to Brian that we were in favor of that language being removed. We had originally suggested using that Madison-Swanson language; but after we reviewed it further with a wider number of law enforcement officers, then they also suggested that language needed to be removed.

MS. SMIT-BRUNELLO: Brian, you're probably going to tell me no; but did these individuals give any information as to their vessel length? I'm thinking this must be a problem with certain size vessels.

DR. CHEUVRONT: Yes; sure, it is. A lot of these are – the guys who talked to me told me about their personal experience and problems and said, "You know, it is a Center Console Boat going across. We simply are not large enough to have a space" or "We don't have below-deck storage, period." They all expressed that. It was, yes, it was inconvenient but there was also the concern about safety and damaging the gear potentially if they encountered rough seas or something like that or moving about on the deck.

DR. DUVAL: It seems like this is a problem for vessels below a certain size. Is there a way to modify that language to only have it apply to vessels below a certain size or to only apply to vessels that do not have a below decks.

MS. McCAWLEY: I think you could; but our officers who are ultimately going to be the ones enforcing this felt like even with that sentence deleted, that they could still enforce this bringing the fish back from The Bahamas because they have been enforcing it now with snapper grouper without this very specific language like that in there.

MR. BREWER: Also, on these small boats, these Center Console small boats, the most secure storage that there is for a rod and reel is in the rod holder right beside the Center Console. You don't want these things on the deck where they can slide around, you can trip on them when you're in rough seas. You don't want anything, really, sliding around on the deck, be it an ice cooler or a rod and reel or a tackle box or whatever. The safest place to put them is right beside the Console; so I think it is a good idea, like I said, to remove this language.

DR. DUVAL: Right; and so I was only referring to vessels that had a below-decks to stow them and not Center Consoles that don't have any below-deck storage. I'm fine with just taking the sentence out if that's the consensus. I was just trying to offer a different means to ensure proper enforcement.

MS. McCAWLEY: I was just going to say that we discussed that at length; and we decided that it was easier to delete than to try to define what is a boat's below deck.

MS. BECKWITH: Okay, just to note, I know I have OLE shaking their head in the background; so I just wanted to point that out. Is there any further discussion on this motion? **Is there anyone opposed to this motion? Okay, with one opposition, this motion carries.**

DR. CHEUVRONT: Okay, Madam Chairman, one of the things that needed to make sure is that the council is happy with their current preferred alternatives, which in this case this action was the one that was allowing folks to bring fillets back from The Bahamas. We don't need to reiterate it. I just wanted to make sure that you understand that's where we are with that. We probably need to have a motion to accept the IPT suggested wording changes except for that one sentence, which was removed by the previous motion.

MS. BECKWITH: Michelle, would you like to make that motion?

DR. DUVAL: I move that we accept the IPT's recommended wording changes with the exception of the previously changed language.

MS. BECKWITH: Second by Jessica. Okay, accept the IPT's wording changes except for the previously removed sentence. Is there any discussion on this motion? Is there any opposition to this motion? Seeing none; that motion carries.

DR. CHEUVRONT: Okay, we have Action 2. We have some IPT suggested wording changes; and the wording changes here came from OLE largely to make sure we define what we're talking about in terms of possession for dolphin and wahoo and put them into the alternatives as well as the action.

The committee needs to look and decide whether they want to approve the wording changes. The current preferred is only to exempt wahoo lawfully harvested in The Bahamas from the regulations for bag limits in the U.S. EEZ. Now, remember, this one here we were talking about dolphin and wahoo. The U.S. possession limits for dolphin are already higher than what is allowed in The Bahamas.

If you're coming back from The Bahamas, you're allowed to have 18 fish in combination or any combination of dolphin, wahoo, king mackerel and tunas. Since you're allowed to have ten fish per person per day for dolphin in the U.S. EEZ, the U.S. EEZ regulations are more liberal than what is allowed in The Bahamas.

However, it is possible that a vessel coming back from The Bahamas could have more than the two fish per person per day that is allowed by U.S. regulations of wahoo. The council had previously chosen to exempt just wahoo from those bag limits; so if somebody actually had 18 wahoo on board, that they could do that. Now, this says nothing about requiring them to have them in fillet form of whatever, so it could be 18 fish or 36 fillets.

MS. BECKWITH: So how about a motion to accept the recommended wording changes if anyone is interested. Jessica; seconded by Chester. The motion reads accept the IPT recommended wording changes for Action 2. Is there any discussion on this motion? Any opposition? Seeing none; that motion carries.

DR. CHEUVRONT: We get to Action 3. It is to require fillets of dolphin and wahoo and snapper grouper species brought into the U.S. EEZ lawfully harvested from The Bahamas to

have skin intact. There is only minor wording change that the IPT has recommended; and that is in Alternative 1, no action, to add the words “or scales” to that alternative.

You currently have Preferred Alternative 2 and Preferred Alternative 3 in each of those. Preferred Alternative 2 requires snapper grouper fillets to be brought in to have skin intact; and Preferred Alternative 3 would require dolphin and wahoo.

MS. BECKWITH: Does anyone feel the need to accept those changes? Jessica.

MS. McCAWLEY: I move we accept the IPT’s suggested changes.

MS. BECKWITH: Seconded by Ben. Any discussion? Charlie.

MR. PHILLIPS: Just a question; what is the average size of these wahoo?

MR. BREWER: It depends on the time of year and where you’re fishing. There is a run up at the top of Matanilla Shoals that you get some massive – in May, I think it is, but you get some massive wahoo. We had one actually smoke a 12-O. I’ve never seen that before in my life. The ones that are up around the Bank are smaller fish; so it depends on where you are fishing in The Bahamas and the time of year.

MS. BECKWITH: Okay, the motion reads accept the IPT’s recommended wording changes for Action 3. Is there any discussion? Opposition? Seeing none; it carries.

DR. CHEUVRONT: Action 4 has to do with possessing valid Bahamian cruising and fishing permits and required stamped and dated passports to prove that vessel passengers were in The Bahamas if the vessel is in possession of snapper grouper fillets in the U.S. EEZ. The current regulations do not specifically require stamped and dated passports; but we did put that language in for dolphin and wahoo.

The idea was that while you can’t get into The Bahamas without that passport for all the passengers on board the vessel, we discussed this in June and the council decided they really wanted to reiterate this is a requirement. To make the language match what you currently voted on for dolphin and wahoo, this action was going to make it match for snapper grouper species.

As you can see, under your Preferred Alternative 2 the IPT recommended adding this sentence to the end of that alternative; and that sentence is “All fishing gear must be appropriately stowed while in transit”.

MS. BECKWITH: And, of course, with the changes we made previously to the appropriately stored, that would follow through into this as well.

DR. CHEUVRONT: That is correct.

MS. BECKWITH: Okay, so I would be looking for a motion to accept the recommended word changes and that would Chester; seconded by Jessica. Any discussion? Monica.

MS. SMIT-BRUNELLO: Brian, to clarify, when we say “all vessel passengers have to have a stamped and dated passport”, that is everybody on the vessel? It could be captain, crew, anyone on the vessel.

DR. CHEUVRONT: That is everybody whether they fished or not. I think that is just an immigration requirement to get into The Bahamas; so everybody, whether they fished or not, would have to have a passport.

LT. FOWLER: Do you need to put any kind of time limit on that stamped and dated; within a certain time period from when they return or something?

DR. CHEUVRONT: It is hard to say because sometimes there are some people who go over and they may spend an entire season over there with the vessel. The captain and the crew; they may go over there and run charters out of The Bahamas for an entire season; and then they’re coming back at the end of the season and potentially they could be stopped then; and so how do we know how long – because we had kind of discussed this, but we didn’t really know how we could adequately measure that time.

LT. FOWLER: Because how do you get around if someone is going back and forth but not getting their passport stamped; like maybe they went, returned, went back over and didn’t get the stamp, but they were just there last weekend, how do you –

MS. BECKWITH: Did you have an answer to that, Jessica.

MS. McCAWLEY: We discussed this with our law enforcement; so technically the scenario you described isn’t legal; and we also felt like the cruising was – as long as they had valid cruising permit, that also allows them to go back and forth in a limited timespan. All these things together are what the FWC officers are looking at.

MR. BREWER: I think in answer to that question or respond to that question it needs to be remembered this is a daily bag limit that we’re talking about here of possessing. It is one day’s fish; so it doesn’t make a lot of sense that you would be crossing back and forth with one day’s limit of fish.

MS. BECKWITH: Anyone else? Phil.

MR. STEELE: Madam Chairman, under Action 3, I missed this, but we need to say “have skin and scale intact”. You can’t really have scales without skin; so we need to change that “or” to “and”; minor point.

MS. BECKWITH: That’s a good catch. Okay, so we’ve got a motion on the floor right now; so let’s vote this one up or down and then move on. If there is no further discussion, the motion reads accepts the IPT’s recommended wording changes for Action 4. Is there any opposition? Okay, seeing none, that motion carries. Can we give direction to staff to fix that “or” to “and”?

DR. CHEUVRONT: Well, this is the last time you're going to see this; so why don't you just do a quick motion to change "or scales" to "and scales" and that would solve it.

MS. McCAWLEY: I make a motion to change "or scales" to "and scales" in Action 3.

MS. BECKWITH: Seconded by Ben. Any discussion? Opposition? The motion carries.

DR. CHEUVRONT: And the final action in this amendment is specify the number of snapper grouper fillets lawfully harvested in The Bahamas that may be brought into the U.S. EEZ. You have a preferred alternative here. The IPT has recommended some language change that I believe the NEPA folks had recommended be changed to tighten it up a bit.

It doesn't really significantly change the meaning or the intent of the action at all. They want to get rid of under Alternative 1, the 60 pounds or 20 fish of snapper grouper species lawfully harvested in The Bahamas may be brought into the U.S. EEZ and change that to "Fishermen must abide by the U.S. bag and possession limits for snapper grouper species as well as Bahamian bag and possession limits for fillets brought into the U.S. EEZ."

Then Preferred Alternative 2; they wanted to change the language that says "Up to 40 fillets of snapper grouper species lawfully harvested in The Bahamas may be brought into the U.S. EEZ" to "Fishermen must abide by U.S. bag and possession limits for snapper grouper species as well as Bahamian bag and possession limits for fillets brought into the U.S. EEZ."

MR. HAYMANS: Is that just a complicated way of saying whichever is less?

DR. CHEUVRONT: Well, I've always described this to everybody is the easiest rule of thumb is you have to be legal wherever you are; and so when you are leaving The Bahamas, you must be legal in The Bahamas. As soon as you cross into the U.S. EEZ, you must be legal in the U.S. EEZ.

In effect what that means is except where the wahoo possession limit which in the previous action there you removed the U.S. bag limit restrictions for wahoo, if there were fillets on board coming from The Bahamas; then as soon as you come into the U.S. EEZ, you must abide by U.S. bag limits and possession limits.

For example, if gag grouper is closed in the U.S. and you're over in The Bahamas and you've got gag grouper, you'd better eat them before you come back into the U.S. EEZ. I'll tell you when I was talking with fishermen individually who objected to this, their feeling was if I catch something and it's legal in The Bahamas, why can't I bring it into the United States?

I would always say to them, you know, I can go to Amsterdam and smoke all the pot I want, but I can't bring it back to the U.S. (Laughter) No, you cannot, you cannot bring it from out of the country into the U.S. You can't do that. I'm just telling you that's the way it is; so you have to abide by the laws where you are at any given moment; and this is no different.

MS. BECKWITH: I think should be one of the examples in the amendment. Monica.

MS. SMIT-BRUNELLO: Gee, I want to ask Brian all kinds of questions, but I'm going to focus on this amendment. Just for the record, Brian, I'm looking at the actual amendment as well as the decision document. In Section 2.5 for Action 5 the wording is a little bit different than in Section 4.5 in the text box for the alternatives; so we need to make sure that the preferred alternative matches up.

Then the other issue I have is I like your explanation. I think it's good and I think the document will reflect that. The wording; it is the second sentence of Preferred Alternative 2 that just makes me think about what exactly does that mean. You've given a good explanation; so I think if we make sure that gets over in the various sections of the document, that will be a good idea. What I understand this to mean is that U.S. fishermen are not exempt from the U.S. bag and possession limits for snapper grouper species.

DR. CHEUVRONT: When they are in the U.S. EEZ; that is correct.

MS. SMIT-BRUNELLO: Right, in the U.S. EEZ; and so if we had a closure of a species and you couldn't possess – like the recreational harvest was closed for porgies or whatever, then you couldn't have that in – you couldn't bring those back from The Bahamas either. We're not exempting any of those kinds of regulations?

DR. CHEUVRONT: That is correct.

DR. DUVAL: I guess I have a little bit of the same concern because the way I read the sentence – and it could just be the time of day – “fishermen must abide by U.S. bag and possession limits for snapper grouper species as well as Bahamian bag and possession limits for fillets brought into the U.S. EEZ” – it seems a little confusing. I'm wondering why we need “as well as Bahamian bag and possession limits” if when they're in the U.S. EEZ they're going to be bound by the U.S. possession limits?

DR. CHEUVRONT: Well, because if they were fishing in The Bahamas and they brought back something that is legal in the U.S. but not legal in The Bahamas and it came from The Bahamas, I believe that's a Lacey Act violation.

MR. PHILLIPS: If once they get into our EEZ and they're under our snapper grouper bag limits, then they're just like everybody else, basically, with the exception of the fillets. If you didn't give them that special exemption for using the Bahamian bag limits on wahoo and you made them come back with our bag limits, then you don't really need to stow the gear because everything is legal. You wouldn't have to have gear stowage requirements, unless I'm wrong.

DR. CHEUVRONT: You can't do that because you would have no way to prove that they were not also fishing in the U.S. EEZ; because if you have fillets on board, you must transit nonstop once you reach the U.S. EEZ until you get back to the home port to show you're not fishing in the U.S. EEZ.

That's a requirement of having fillets on board, because there would be no way of knowing whether the vessel actually went to The Bahamas or not. What's to stop somebody who just

wanted to fish in the U.S. EEZ? I don't know why they would want to go that far out and not go all the way over, but you wouldn't have any way of being able to show or prove that you were not fishing in The Bahamas. I think we need to leave that gear stowage thing there. If you've got fillets on board, you've got to abide by all these rules.

DR. DUVAL: So I guess just one more time; it seems like with that sentence, I would say, well, I was abiding by my Bahamian bag and possession limits. It is just hard for me to wrap my head around this.

I realize you've got to be legal where you are; and if we could put that in there, I think it would be a lot clearer because if you caught something that in The Bahamas that was legal there, but you knew it wasn't legal in the U.S., then presumably you wouldn't be stupid enough to try to bring it back. But the way this sentence reads, I could see someone saying, well, duh, I knew I was legal in The Bahamas and I'm obeying the Bahamian bag limit and possession limits.

DR. CHEUVRONT: Well, the issue that's really hard to get at here – and certainly if you guys have language that you would like to use to change this, it would be great; but the thing is that what we have to do is to make sure that anything they're bringing into the U.S. EEZ was legally caught in The Bahamas; and then once they're in the U.S. EEZ, it does not violate any U.S. possession or bag limits.

MS. BECKWITH: I'd almost rather see that in there where it is longer and it might take a paragraph to explain, but I think it is clearer than that sentence. I struggled with that sentence as well when I first read it. Jessica.

MS. McCAWLEY: Yes, I agree. I'm afraid that someone is going to look at this and say, "Well, I took this Nassau grouper and this queen conch and it was legal when I was in The Bahamas, so I can bring it back." I think explaining this a little bit better helps.

MR. HAYMANS: But that's not the issue if I understand. Brian, it is the other way; is if it's legal in the U.S. and not in The Bahamas; and that is what you're getting at. Well, if you were just worried about what they bring back into the U.S., all it has to be is legal in the U.S.

DR. CHEUVRONT: No; it has to be legal in The Bahamas as well because it would be a Lacey Act violation.

MR. HAYMANS: But we're not enforcing Bahamian Law; we're only enforcing U.S. Law.

MS. BECKWITH: Okay, I think there are some issues with the language that could use some work, it sounds like. We don't have to approve this right now. We could do this at full council if folks want to spend a little time clarifying the language or we can try and do it now. I need a direction because we're just going in circles here. Jessica.

MS. McCAWLEY: I guess I would suggest that maybe Brian and Monica talk about this language a little bit more. I think the group wordsmithing is just – yes, it is awful. I would rather come back at full council with some different language.

MS. SMIT-BRUNELLO: I think that's a good idea and I will talk with Karen Raine from Enforcement as well, because I'm that last clause isn't necessary to make a Lacey Act violation. We will work this out; and if we need to clean up the language, we can do it at full council.

DR. CRABTREE: Brian, is there anything in here about how the fillets have to be packaged or anything? Is there anything that would prevent one of these boats from taking a whole bunch of fillets and freezing them into a block?

DR. CHEUVRONT: The council had an action in June that they considered; and it is in the considered but rejected appendix that would specify how those fillets would have to be packaged. In June the council decided not to require that and took that out. I believe the action was a recommendation from the IPT; and so the council chose not to include that in the amendment at that time.

DR. CRABTREE: Well, I guess we've talked about rewording and things; but I think we probably need to have a broader conversation about the wisdom of all this. I particularly would like to hear NOAA Law Enforcement's comments on this. The other thing I would point out, too, it has gotten a little more complicated because of the proposed rule to list Nassau grouper.

My concern is that Nassau grouper fillets from The Bahamas would potentially be coming in and how effectively is enforcement going to be able to tell. I'm not totally convinced that having skin attached is going to work that well for identification; but if these things are frozen and all, what are they going to do? Are they going to make them set up at sea or come into the dock and thaw them all out so they can look at them? I'd like to hear Jeff's comments on some of these issues if we could.

MR. BELL: Well, I've been kind of quiet about this whole thing; but I'll tell you if we had gone on to the last action here, I can't support this at all. That's me perhaps wearing my Law Enforcement Committee hat. I know we've received a tremendous amount of input from OLE and law enforcement in general.

I know we have put a tremendous amount of work into this. Brian will hate my guts, but I'm just speaking from a standpoint of representing I guess – and I'm not speaking for enforcement, but it's a bit of a law enforcement nightmare any way you cut it. If you consider all of the hours we've spent discussing the minute details about this and that – and Roy just brought up another interesting point – I just think the whole thing is wrought with peril.

That is just me, and I know that, and I've taken those little bit of issues before. Now or full council, I just have issues with it; and I think the big challenge is the enforceability of it. Law Enforcement will do – whatever we put in regulations, they will do their best to make it happen; but this is just kind of a mess. I can say that now; and you know what I'm thinking. I'm not trying to blindside anybody; but if you want to hear input from Jeff, that's fine.

MR. PHILLIPS: I agree with Mel. We've worked really hard trying to figure out a way to make this work. There are just too many things that can happen. If you use Bahamian bag limits for

wahoo, that turns into a lot of fish or potentially a lot of fish. I'm inclined to agree with Mel. In spite of the amount of work and effort and stuff, it just doesn't feel good.

MR. RADONSKI: I have been dealing with Bahamian issues for 30 years now, ever since I was an agent; first in Miami back in the late eighties. Poaching activity has always been heavy there; and to this day we make a lot of cases with people coming back from The Bahamas with illegal catch, whether it is lobster, conch, CITES violations or snapper grouper.

It is difficult, though, with the fillets of any of the species to knock it down, because it goes against the framework that we've always done in law enforcement saying we want to have the whole fish. Our bag limits are based on numbers and not weights; and it is number of fish in identifiable form.

As Roy stated, if Nassau grouper became listed, that changes the complex completely. Then that turns it into an Endangered Species Act case; and then we would probably be in the situation where we would have to expend a lot more money in getting DNA testing, getting ready for court; but it also puts the fisherman in the position of, hey, they've got fillets, knowledge, intent that is probably is going to move it closer to a criminal realm than it is a civil administrative violation.

I've been doing this for a long time. Having these fillets and having special exemptions in different areas just compounds the ability for us to enforce the resource laws of the United States. We get questions probably on a daily basis what is legal in The Bahamas and the U.S.; and the easiest explanation we always give people is you see the EEZ line on the chart; if you're on The Bahama side, you need to follow Bahamian rules; if you are on the U.S. side, you need to follow our rules.

I see here you have to abide by U.S. bag and possession limits. How do we enforce U.S. size limits in the EEZ if they're filleted out? How do we enforce possession limits in numbers if it is in filleted form? If we're allowing them to have blocks of fish, how are we going to enforce that? That would almost mean that if they went into doing that, we're going to have to defrost the whole thing to count it out and grade the value of that fish.

Enforcement is not for this. From our perspective, we don't see this as a fisheries management issue; this is an issue that is hampering enforcement's ability to do our job to enforce the regulations. I know Tracy Dunn has already stated it; and I've stated it several times. We really cannot support this because this will hamper our abilities now and down the road. We were not for the snapper grouper regulations of allowing fillets when the council first enacted it; so we have not changed our stance.

MS. McCRAWLEY: We're talking about Nassau grouper now; and snapper grouper fillets are allowed already. Now we're just talking about the addition of dolphin and wahoo. I could also offer to have some from our law enforcement, say, on the phone either tomorrow or at full council to have a discussion of this and maybe some of what we see when we board boats and why they are for some of the items that we're adding in this amendment.

They also feel like it strengthens what is already in place for snapper and grouper, which they believe is difficult the way it is written now. They feel like these updates are actually a positive step. I could offer to get someone from FWC Law Enforcement to be on the phone for a discussion if that's something that you guys would like.

MR. BREWER: With regard to the fillets, what we will be adding can be filleted or brought in as fillets are dolphin and wahoo. Snapper grouper can already be legally filleted on the boat. If you can't identify dolphin and wahoo with the skin still attached, there is something wrong. The idea that someone is going to take these fish and put them into a block of ice; I'm wondering where in The Bahamas would have the facilities to do something like that.

I've certainly never seen it. I think we're trying to throw up obstacles to something that a number of people in my jurisdiction really would like to see. If we're going to throw up obstacles, let's make them real obstacles. Let's talk about real problems. Blocks of ice is not it and identifying dolphin and wahoo is not it.

DR. CRABTREE: Well, Chester, my concern is some of these guys go over there and stay a while on pretty good-sized boats; and I'm assuming some of them have chest freezers or some ability – I'm not talking about putting fillets in a block of ice. I'm talking about freezing the fillets and bringing back frozen fish. You could have a bag or whatever that has ten fillets in it that are frozen solid. That is what I'm talking about.

LT. FOWLER: I was going to say just that, that I thought that you meant together as a block; because then you can be sandwiching other fillets in between to disguise what you have in there. Also with the fish ID point, it becomes very difficult for us to tell the color after the fish have been frozen.

DR. CRABTREE: And I guess what I'm having – okay, there is the dolphin and wahoo issue; but I'm having thoughts of – and I guess we talked about this and moved to considered but rejected; but I'm not sure what we're currently allowing for snapper grouper is a good idea; and I'm not sure we ought not rethink that and not allow fillets of snapper grouper to come in.

DR. DUVAL: I agree with Jessica; I think what we've proposed in here for snapper grouper is a lot tighter than what we have now. My concern with Action 5 was just what I felt was a lack of clarity in that last sentence with regard to being clear to the public what they're subject to where they are and when they come into the EEZ.

I'm supportive of having Monica and Brian confer and see if they can modify that sentence. Jessica has already pointed out that the codified text is going to need to be modified in order to reflect the change that we made with regard to stowage of gear. There is a little bit of work to be done before full council. I don't disagree with some of the concerns around the table about whether this is a good idea for snapper grouper; but we've come a long way and we've had those arguments before. I guess I just say if people feel really strongly about it, you can speak with your vote at full council.

MS. BECKWITH: This went about as well as I expected it to. My suggestion is it is 4:49 p.m. I would suggest that we recess, we have FWC on the phone tomorrow morning, we reconvene this committee and maybe see some fresh language tomorrow morning that we can talk about. I'm not sure it would be great to battle this out at full council; so let's take another hack at it tomorrow morning since we've got some time on the agenda. Is that okay with everybody? Okay, I'm going to adjourn until tomorrow.

(Whereupon, the meeting was recessed at 4:50 o'clock p.m., September 17, 2014.)

The Joint Dolphin Wahoo and Snapper Grouper Committees of the South Atlantic Fishery Management Council reconvened in the Topaz Room of the Charleston Marriott Hotel, September 18, 2014, and was called to order at 8:30 o'clock a.m. by Chairman Anna Beckwith.

MS. BECKWITH: We are back on Action 5. Brian and Monica and Karen Raine worked last night to clarify some language that we might feel more comfortable within Action 5. That language is on the screen before you.

It reads, "Two fillets of snapper grouper species, regardless of the size of the fillet, will count as one fish towards U.S. possession limits. Fishermen must abide by both U.S. and Bahamian bag and possession limits, in other words, the more restrictive of the two when in the U.S. EEZ."

I will give you guys a second to process that language and then we can discuss if that's more acceptable. I would entertain a motion if this is cleaner for folks to modify the current Action 5 Preferred Alternative 2 to reflect the new language. Motion by Michelle; seconded by Jessica. Is there any discussion on the language of this motion? Michelle.

DR. DUVAL: I really appreciate the effort that all the brains going into this made to put this language together. I think it is much clearer at least to me. When I read this, I know what I'm supposed to do.

MS. BECKWITH: Is there any further discussion on this motion? Is there any opposition to this motion? Seeing none; the motion carries, and this becomes the new language to our Action 5, Alternative 2, which is also our preferred. We were going to have a call-in discussion with FWC this morning. Jessica, can you run us through where we are with that.

MS. McCAWLEY: Yes. We're not going to have FWC this morning. I was having a little difficulty getting a person on the phone on such short notice. I think if you really want to talk to an FWC officer, then we could table the amendment and bring them back to the following meeting; or I can continue to talk about the history of this amendment and try to speak for law enforcement, but you guys won't have the benefit of asking them specifically about what they're seeing when they encounter these boats on the water, how many people they're encountering, things like that that you would hear from them, because I don't have those numbers.

MS. BECKWITH: Jessica, would you like to take five minutes and go through the history because I know we do have some fairly recent council members that weren't privy to the process and just kind of go through from your version of history of how we got here.

MS. McCRAWLEY: Okay, the way we got here is that FWC had made some cases on some folks that were bringing fish back from The Bahamas. When they stopped these boats, they had snapper and grouper fillets on board as well as dolphin and wahoo fillets on board. The officers explained you're not allowed to have dolphin and wahoo fillets.

These particular individuals said, "Well, I can have snapper and grouper fillets, and snapper and grouper are usually smaller than my dolphin and wahoo. It doesn't make sense that I'm allowed to have these particular fillets but not have these fillets of these larger fish." Those folks approached the FWC – the people that got the tickets approached the agency and said, "You know, hey, this rule doesn't make any sense; is there any way that you can consider allowing fillets of dolphin and wahoo?"

We said, "Well, that's really our bailiwick; that is the South Atlantic Council, and you need to talk to the council about that." The council I guess got some e-mails or letters from these individuals; and we started talking about this amendment. When we first started embarking on the amendment, we at the FWC talked about the existing rules for snapper and grouper and what we would like to see and how we could maybe make it a little easier to better enforce the snapper grouper rules that are already on the books because it doesn't say things such as that a Bahamian cruising permit is allowed, that a stamped passport from The Bahamas is needed.

Since it is not very clear – although our legal office would argue that those things are needed, but it is really not clear in rules. Also, law enforcement was saying things like, "Hey, you know what would really help us is if you had skin on those fillets; so if you're going to make changes and you're going to consider these changes for dolphin and wahoo, we would really appreciate if you would go back to snapper and grouper and that fillet issue and strengthen those rules."

That is when the council got into talking about things like having skin on the fillets and also considering things like two fillets equal one fish. Those were some of the things that as this amendment has changed over time that were added partly because our law enforcement felt like those things would strengthen the rule that is in place and make a dolphin and wahoo rule, if we go down that path, easier to enforce. I'll let Gregg go ahead and then you guys can ask me some more questions if you want.

MR. WAUGH: I just wanted to point out that we also consulted with The Bahamas on the development of this. The Director of Fisheries, Michael Brennan, commented on an earlier draft of this and we addressed their concerns. This also has an implication for The Bahamas in terms of tourism. It is an important aspect these folks coming over and spending time and money in The Bahamas.

We did consult with them. They have reviewed the earlier draft. We explored trying to get someone to come to this meeting given it was final consideration; but they weren't in a position at this stage to send somebody. I just wanted to make sure that people understood that connection as well.

MR. HAYMANS: I was simply going to say that Florida's Marine Fisheries Management Chief is well versed in what their law enforcement feels like they could do. I'm comfortable with

going with Jessica's explanation and not having to wait for FWC Law Enforcement to come in and talk to us.

MS. McCRAWLEY: One more point. Another thing that we had talked about that I forgot to mention at a previous council meeting was about – it gets back to the two fillets equals one fish. Law enforcement did comment that it was difficult to weigh fish on board the boat; and so that's why they were asking this to be a certain number of fish.

Right now the way the amendment is structured, basically people coming back from The Bahamas would have to abide by all U.S. regulations except for right now we have modified the wahoo bag limit so they could have a greater bag limit, the Bahamian bag limit on wahoo; not the U.S. bag limit.

Other than that, they would have to abide by the U.S. regulations no matter what. Our law enforcement is used to looking for things like people trying to bring in lobster out of season, people trying to bring in conch, people trying to bring in Nassau grouper. Those are the types of things that they're looking for in addition to drugs and other types of violations. That is what they're looking for when they stop these vessels.

MS. BECKWITH: I think we've had enough discussion on this amendment. **I think the next appropriate motion would be to approve the Dolphin Wahoo Amendment 7/Snapper Grouper Amendment 33 for secretarial review and deem the codified text – of course, we've made some changes that will be necessary – so deem the codified as necessary and appropriate and give the staff editorial license to make any necessary editorial changes to the document and codified text and give the Council Chair authority to approve the revisions and redeem the codified text. Whom would like to make that motion?** Ben.

MR. HARTIG: I'll make that motion.

MS. BECKWITH: Seconded by Jessica. Again, I feel like we've had a ton of discussion on this; so unless someone has a burning desire, I would like to have you guys speak with your vote. If I can see a show of hands of everyone who is in opposition to this motion. Okay, so there is five in opposition. All those in favor raise your hands. **The motion carries.** Brian, when you're ready, can you take us through the timing?

DR. CHEUVRONT: Okay, the timing on this amendment is what you have done here at this committee is that you have reviewed public input, revised the document and you take final action. This will go before the council tomorrow. Then the plan is to submit this document for secretarial review by the end of October.

We have got a little bit of work to do on it just cleaning it up and editing. It may go in before then. It just depends on how quickly everybody who needs to review it can get through it. Then the target date for the regulations to be place would be by summer of 2015.

MS. BECKWITH: Great! Thank you, everyone, for the fantastic discussion and the hard work on this. This amendment in particular has taken up quite a bit of Brian's time; so we appreciate it, Brian. Ben.

MR. HARTIG: There is one more working part I'd like to get straightened out on this before we move completely from this issue. I guess Jessica had made a definitive action that she wanted to talk to her higher-up FWC and get them on the phone and have a presentation today. I'm getting this secondhand. I guess Jeff Radonski said that couldn't happen; that was a violation of the JEA agreement. I think I'd like to hear from Jeff why that is a violation and why we can't hear from our partners in law enforcement from another agency to talk about an issue that the council needs to manage.

MR. RADONSKI: Well, to clarify one; I did not say it was a violation of JEA. I said it was inappropriate when we have the U.S. Coast Guard and NOAA OLE talking about federal law enforcement, which the state is deputized to enforce, to come in and be counter to our efforts.

MR. HARTIG: And that's fine; that clarifies it; so there wouldn't have been any problem with an FWC – you say it is inappropriate, but we still could have gotten the information if the council would have wanted it from them without being illegal.

MR. RADONSKI: Correct; and I said inappropriate and it is not helping the enforcement effort of having different voices and not coming through us and all of a sudden it is at this type of meeting we're hearing different viewpoints. It is not coming forward to us.

MS. BECKWITH: I'm going to let Jessica respond to that and then Bob.

MS. McCRAWLEY: Well, I'd like to say that first of all I'm in the agency seat; so I'm bringing forward the agency's position and the commission's position, which includes our law enforcement; and our law enforcement the entire time has spoken in favor of this amendment with the additions that would strengthen it.

I would say that the entire time, even back from the last Law Enforcement Advisory Panel Meeting, which might have been in February, that our law enforcement has been supportive of this. That has been occurring the whole time.

MR. MAHOOD: I would just like to point out that our Law Enforcement AP is made up of our states, NOAA Fisheries Enforcement and the Coast Guard. They don't always agree and they don't always walk in lockstep with NOAA Law Enforcement just because they have a JEA and they are funded for that. I would hate to think that it would be inappropriate for our state agency folks to speak up at our Law Enforcement Advisory Panel Meeting and put their position forward relative to the enforceability. I don't think this is any different.

MS. BECKWITH: Given that new information, Jessica, I would still welcome your FWC individual if you would like to check it they'd like to make some comments; because even though we've voted on this amendment, we'll certainly have an opportunity to discuss it full

council and that information would still be valuable. Before we break this committee, if you can get somebody on the phone or we can try –

MS. McCRAWLEY: I don't think I could get somebody on the phone right now. It would take some time for me to try to set that up.

MS. BECKWITH: Okay, if you decide you'd like to do that, then I will welcome that at full council, the opportunity for FWC to say their piece. Okay, let's move forward.

DR. CHEUVRONT: Okay, the last bit of action that this committee needs to do is to look at the Comprehensive AM and Dolphin Allocation Amendment. Now, this went out to public hearing in August. We received a total of four comments. Of those four comments, two of them really didn't speak to any of the issues in the document.

They just sort of said they were talking about that, but then didn't go on and talk about it, but at least acknowledged them. The Southeast Fisheries Association supported the council's choice of preferred alternatives for both of the actions that are in this amendment. The other comment, which was received at the Key West public hearing, was from a recreational fisherman who agreed with the council's preferred alternative for modifying the dolphin sector allocation.

That was the grand total of all comments received on this amendment. Now, this amendment is in pretty good shape. There isn't any recommended IPT language change for the actions or alternatives; but I want to go through the actions, remind you of what your preferred alternatives are and then we can discuss from there.

You've got your purpose and need, which was revised I believe in June and there has been no suggested changes for this amendment since June. At this time it would be appropriate to see if anybody wanted to discuss purpose and need. If not, we ought to move on to the first action.

MS. BECKWITH: Anybody need to chat about purpose and need? No; okay.

DR. CHEUVRONT: Action 1 is to revise the accountability measure triggers. If you remember, what the council has here is trying to get a large number of snapper grouper species and golden crab to match the same triggers for their accountability measures that are currently in place for the CMP species as well as dolphin and wahoo.

What that does is that the accountability measures will be triggered if the stock is overfished and the total ACL has been exceeded. For the commercial sector, that is your current Preferred Subalternative 2C.

For the recreational sector, that is Subalternative 3C. Now, one of the things that also there have been discussions in the past was to give the RA the opportunity to close a recreational sector's participation in a fishery if it is known that the ACL is going to be exceeded and there is time to stop the fishery before the end of the fishing year.

That was largely due to species like snowy grouper where I believe the recreational ACL right now is 523 fish. It is going up, but still it is still not a number of fish; and depending on how you go with this in the future, it might be in a wave or two all the fish could be caught and then the RA would have plenty of time to be able to shut fishery down to stop the overfishing from continuing.

Your preferred Subalternative 4B gives the RA the authority to be able to stop that recreational sector fishery in season regardless of the status of the stock. That's just basically to try to stop overfishing. You have three preferred subalternatives for this action; and I didn't know if you wanted to discuss that or not.

MS. BECKWITH: Is everyone comfortable with the current preferreds? Any desire to change?

DR. CHEUVRONT: And Action 2 is to revise the sector allocations for dolphin. Your current preferred allocation is to set the commercial allocation at the average of the percentages of the total catch over the past five years, which is 2008 through 2012. The recreational sector allocation for dolphin would be 90 percent and the commercial sector allocation would be 10 percent.

Currently the recreational sector allocation is 92.46 percent and the commercial sector is 7.54 percent. You've got your preferred; and that's the only preferred alternative. Just to remind you a bit of the history here is that prior to the Comprehensive ACL where the allocation for dolphin was changed to the current method, the commercial sector was allowed to land up to 13 percent of the total landings of dolphin or 1.5 million pounds, whichever was reached.

The AP all liked this because where the ACL is set at now, the commercial sector is right about 1.5 million pounds. Everybody seems to understand that ACL could change in the future, depending on a stock assessment or whatever guidance the council gets from the SSC. The good news is that nobody is fishing over their sector ACL.

The commercial sector landings have been fairly volatile in the past and have come quite close to this 1.5 million pounds. Well, actually they were closer I think to 1.2 million pounds before this change. I think in 2010 they would have exceeded their ACL had this ACL been in place at that time.

Part of the reasoning behind doing this was to build in some buffer into that commercial ACL to help keep the commercial sector from exceeding its ACL; and the recreational sector is not even coming close to their. That was the bottom line behind some of the reasoning for this. That reasoning is included in the document. Because Roy had raised the point at the last meeting, well, we need some justification as to why we're changing the ACL, right now that is what we've got for the justification.

MS. BECKWITH: Okay, is everyone comfortable with that preferred? Chester.

MR. BREWER: I'm going to be a voice crying in the wilderness. The recreational sector does not object to this preferred alternative. I think it would be hypocritical to do so. As things stand

right now, we have a year-round season on dolphin. We have a reasonable bag limit. Insofar as the recreational sector goes if that's is the case, then we should not be attempting to do anything negative towards the commercial sector.

The concern with this has been and will be – and I don't know why our comments didn't get in on this. I'm going to have to find out where that glitch was. I'm not saying NMFS lost them; I don't know why they didn't get it. The concern has been and will be that right now the commercial is not really considered a directed fishery. The concern is that maybe that will occur at some point; and we might see longlines directed towards dolphin, which would be a matter of concern. Excuse me.

DR. CHEUVRONT: There already is a commercial longline fishery.

MR. BREWER: I know but I'm talking about more. There have been some 20- and 30-pound trips that have been made apparently. When this amendment, as I understand it because I was not around at the time, but when this went up before, there was a trip limit that was in place for the commercial sector; and for whatever reason that was taken out.

Our only objection is that there is no trip limit here on the commercial side; and the fear is that as these fish – you know, there are a lot of them out there; but as they become more and more popular, that we're going to get into a situation where again we're bumping up against the commercial quota; and are we going to say at this time, "Um, okay, we're bumping up against the commercial quota; we need to give more quota to the commercial side." That being said, there is no objection to the preferred alternative.

MS. BECKWITH: So noted, Chester. The FMP does have language in there that states that dolphin primarily should be kept a recreational fishery, but did have that 1.5 million pounds kind of written into the original cap; and that was part of the discussion. This changed allocation certainly keeps the commercial around that amount. In terms of the trip limit, that is something that this council can always reconsider if the need comes up; but we did determine that the need was not there at this time. That's why we took it out.

MR. BREWER: I understand; but because the need or the concern may arise in future is why I took to the microphone now.

MR. COX: I just want to remind folks that our commercial fishermen feed a lot of American citizens with our catches with mahi. I just don't feel like the allocation is right on this. I just wondered if anybody wanted to have any discussion on it.

MS. BECKWITH: We've had lots of discussion on this; and this is the recommendation from the AP. We have been chatting about this amendment for a year.

MR. COX: Yes, just as we had the fillets.

MS. BECKWITH: Yes, that's true, too. Brian, did you have a response to that?

DR. CHEUVRONT: Well, I'm kind of ready to move along here.

DR. DUVAL: Well, Jack, part of the history of the whole question of modifying allocation for dolphin and wahoo was that there was this allocation, this soft allocation but a hard cap, and that was changed through the Comprehensive ACL Amendment. The advisory panel pretty unanimously on multiple occasions wanted to go back to that or have some allocation scheme that would get them as close to that 1.5 million pounds as possible.

They didn't feel like there was justification for modifying the allocation that was already in the original fishery management plan. The discussion around the table at the advisory panel was not that they wanted more than that 1.5 million pounds. They just wanted to make sure that there was some means of having that 1.5 million pounds.

They weren't looking for more. They didn't think that there was a need to change that allocation at that time. That's how we end up with looking at the average landings over the past five years at least just trying to maintain something of a status quo instead of the Bowtie Law. The advisory panel was unanimously not in support of the Bowtie Law. That's how we got to this point.

MR. PHILLIPS: And to Jack's point, I think what he is really saying in another way is we've got a really healthy resource out there. It is a public resource; and if the recreational limit is leaving a lot of fish on the table, then it makes sense for us to figure out a way for the commercial people to catch some of that resource that is being left out there – it is almost a yearly crop – so that the public in the country can have the benefit of it.

Now, whether we switch allocations or we can borrow from each other, that is going to come up in visioning. I'm thinking that's really what Jack is saying; how do we get the most benefit for the nation; and I think that's what I heard earlier when we swore in our new members, the benefit of the nation. We don't want to leave fish on the table, especially when it is a yearly crop. If it was a long-lived species that we needed stock in the water, then that's a different issue. I think we need to make sure we're trying to use the resource for the country.

DR. CHEUVRONT: Dolphin is a bit different than when we're talking snapper grouper here. These fish come up the coast in waves. A good year in the commercial fishery is when they can get out and get to one of those waves. There have no restrictions; nothing has stopped the commercial fishery from going out and getting whatever they could get in recent years.

We have not bumped up against that scenario you're talking about. If the fish are there, people are going out and getting them and nothing has stopped them. There is no ACL that has stopped them. The commercial or the recreational fishery have never been shut down midseason. The issue really is more availability. This is a very short-lived species.

They're kind of like the rabbits of the ocean. I think they live maybe for three years; so if the fish are there and people can find them, they catch them. It doesn't matter whether they're commercial or recreational; if they're there, they get them. What this does is helps move the

commercial sector up to – actually a little bit above anything that we’ve seen in the history that we looked at for this fishery.

I think what this is going to do is unless the commercial fishery was to try to grow and there are bigger waves or more waves of these fish coming north, then you could potentially run into that problem that they could run up against their ACL. I just don’t see that on the near horizon; and if it does happen, then you can change it later on.

MR. PHILLIPS: Yes; and I agree, we haven’t been stopped from fishing, but again we need to look down the road; and that’s why I’m saying we’ll look at this in allocations. I think there are places where – you know, this has got to be a two-way street between the recreational sector and commercial.

I’m not saying this is not the thing to do; but especially in the commercial sector, we have effort change all over the place because we can’t catch one species so we’re trying to go catch something else. We have a lot of effort change, unfortunately; but, no, it is not that it is not – I’ll use the word “fair” for lack of a better term – but I just remember we need to keep flexibility in this.

MS. BECKWITH: Well, if you guys remember our accountability measure there is no payback provision unless the whole ACL is reached; so it would allow us to – if there was an effort change and the commercials did bump up against or surpass their ACL, it would give us an opportunity to come back and discuss that at the council table. Without any accountability measure payback provisions being put forth against the commercial, it would allow us to kind of watch the behavior patterns. Jack.

MR. COX: I just wanted to bring it up because as I buy these mahis off these longline boats, I count every poundage and put it into the computer and look at the VMSs and the requirements these boats have got to have. I just have to bring up the allocation issue because of the accountability that fishery has on the commercial side. Thank you.

DR. CHEUVRONT: Okay, as you can see, this amendment is just about finished; but as we had talked about before, what we’re trying to do is to get back onto the old schedule where we don’t have to have a motion where you approve the amendment and then it gets some more and then the council chair has to approve those and then redeem the codified text.

Back in the old days what we used to do is the council would be at this point, have its final approval of the action and alternatives, the staff would go back and then at the next meeting we’d present you with a final document ready for submission to the secretary; and that’s what we’re going to do with this one.

This one is not something is really, really time-sensitive. Because of the workload on the staff at SERO and your own staff, we’re trying to get this one back on that older schedule. What we’re going to do is at this meeting we reviewed the hearing comments and modified and approved all actions at this meeting. Then we’re going to approve it for formal review in December.

Because the document is going to be ready in December, we'll be able to do a quick turnaround and just get that thing submitted in December. That's the plan and that's where we are. If you want to do a timing and task motion for this, that would be –

MR. HARTIG: Anna, operationally, are we in the Dolphin Wahoo Committee or are we in the Joint?

MS. BECKWITH: Joint.

DR. CHEUVRONT: So here is a motion.

DR. DUVAL: I move that we direct staff to prepare the Comprehensive Accountability Measures and Dolphin Allocation Amendment for final approval at the December 2014 Council Meeting.

MS. BECKWITH: Seconded by Ben. Any discussion on that motion? Any opposition? Seeing none; that motion carries. Is there any other business to come before the committee? Seeing none; I adjourn the Joint Dolphin Wahoo and Snapper Grouper Committee.

(Whereupon, the meeting was adjourned at 9:10 o'clock a.m., September 18, 2014.)

Certified By: _____ Date: _____

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