

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
SUSTAINABLE FISHERIES COMMITTEE

Omni Hotel Corpus Christi, Texas

August 20, 2018

VOTING MEMBERS

- 10 Paul Mickle (designee for Joe Spraggins).....Mississippi
- 11 Kevin Anson (designee for Scott Bannon).....Alabama
- 12 Dale Diaz.....Mississippi
- 13 Dave Donaldson.....GSMFC
- 14 Tom Frazer.....Florida
- 15 Andy Strelcheck (designee for Roy Crabtree).....NMFS
- 16 Greg Stunz.....Texas

NON-VOTING MEMBERS

- 19 Susan Boggs.....Alabama
- 20 Leann Bosarge.....Mississippi
- 21 Doug Boyd.....Texas
- 22 Jonathan Dugas.....Louisiana
- 23 Phil Dyskow.....Florida
- 24 Martha Guyas (designee for Jessica McCawley).....Florida
- 25 Robin Riechers.....Texas
- 26 John Sanchez.....Florida
- 27 Chris Schieble (designee for Patrick Banks).....Louisiana
- 28 Lt Mark Zanowicz.....USCG

STAFF

- 31 Steven Atran.....Acting Deputy Director
- 32 Zeenatul Basher.....Coral and Habitat Biologist
- 33 John Froeschke.....Fishery Biologist-Statistician
- 34 Morgan Kilgour.....Fishery Biologist
- 35 Mara Levy.....NOAA General Counsel
- 36 Jessica Matos.....Administrative Assistant
- 37 Emily Muehlstein.....Public Information Officer
- 38 Ryan Rindone.....Fishery Biologist & SEDAR Liaison
- 39 Bernadine Roy.....Office Manager
- 40 Carrie Simmons.....Executive Director

OTHER PARTICIPANTS

- 43 Anna Beckwith.....SAFMC
- 44 Eric Brazer.....Shareholders Alliance
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12 Dale Rankin.....Island Moon Newspaper, TX
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15
16 - - -
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TABLE OF CONTENTS

1
2
3 Table of Contents.....3
4
5 Table of Motions.....4
6
7 Adoption of Agenda and Approval of Minutes.....5
8
9 Action Guide and Next Steps.....5
10
11 Draft Abbreviated Framework Action: Conversion of Historical
12 Captain Endorsements to Federal For-Hire Permits.....5
13
14 Review of Senate Bill S.3138 - A Bill to Establish a Regulatory
15 System for Marine Aquaculture in the United States Exclusive
16 Economic Zone.....24
17
18 Adjournment.....33
19
20 - - -
21

TABLE OF MOTIONS

1
2
3
4
5
6
7
8

PAGE 22: Motion to add the alternatives related to passenger capacity as discussed by the committee. The motion carried on page 24.

- - -

1 The Sustainable Fisheries Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Omni Hotel, Corpus
3 Christi, Texas, Monday morning, August 20, 2018, and was called
4 to order by Chairman Paul Mickle.

5
6 **ADOPTION OF AGENDA**
7 **APPROVAL OF MINUTES**
8 **ACTION GUIDE AND NEXT STEPS**
9

10 **CHAIRMAN PAUL MICKLE:** I would like to convene the Sustainable
11 Fisheries Committee, which is made up of the members of myself,
12 Dr. Stunz, Mr. Anson, Ms. Gerhart today, Mr. Diaz, Mr.
13 Donaldson, Dr. Frazer, and Mr. Swindell, I think, is calling in
14 correct, or is webinar present, and is that true or not? All
15 right. I would like to direct everyone to Tab E, Number 1,
16 Adoption of the Agenda.

17
18 **MR. DALE DIAZ:** So moved.

19
20 **CHAIRMAN MICKLE:** Do we have a second? It's seconded. All
21 right. Next, let's move through Approval of the Minutes, Tab E,
22 Number 2.

23
24 **MR. DIAZ:** I move that we approve the minutes.

25
26 **CHAIRMAN MICKLE:** It's been moved and seconded. Any opposition?
27 All right. The agenda, moving through the rest, we'll go
28 through the Action Guide and Next Steps, and then we have a
29 draft abbreviated framework action of the historical captain
30 endorsements, and then we will review the Senate Bill 3138.
31 With that, I will move on to Item Number III, Action Guide and
32 Next Steps, Tab E, Number 3, and Mr. Atran.

33
34 **MR. STEVEN ATRAN:** Actually, you just did it.

35
36 **CHAIRMAN MICKLE:** Okay. Well, I'm just keeping it moving. I
37 didn't want to steal your thunder though by what I just did.
38 All right, and so, continuing on, Number IV is Draft Abbreviated
39 Framework: Conversion of Historical Captain Endorsements to
40 Federal For-Hire Permits, Tab E, Number 4, and Dr. Froeschke.

41
42 **DRAFT ABBREVIATED FRAMEWORK ACTION: CONVERSION OF HISTORICAL**
43 **CAPTAIN ENDORSEMENTS TO FEDERAL FOR-HIRE PERMITS**
44

45 **DR. JOHN FROESCHKE:** Good morning, again. I will just start off
46 with a brief background on this document and how it came to be,
47 since we have some new members and things change fast. We began
48 working on this in response to some public comment that we

1 received at the January meeting.

2
3 We had a number of people that spoke that these historical
4 captains have been fishing under these permits and these
5 additional requirements under the historical captain endorsement
6 for a long time. The purpose and need of the original permit
7 moratorium has been met, and they would like to see these guys
8 converted to regular permits.

9
10 At the April meeting, we prepared a short presentation
11 describing the number of permits and the likely -- How many
12 people would be affected and those sorts of things. You didn't
13 look at this in June, because there was just not enough time to
14 get this on the schedule, and now we are back with a draft
15 document.

16
17 Briefly, this is a draft abbreviated framework. The background
18 and information is complete, but we haven't done any of the
19 effects analysis, and so I'll be asking you about the timing of
20 the document and if you have recommendations or if you're happy
21 with the current status of this. If you are, we could complete
22 the document and bring it back in October, and so I'll be asking
23 you about that.

24
25 Just for your information, it is an abbreviated framework, and
26 so the format is a little bit different, in terms of they are
27 not actions and alternatives in the way that you are typically
28 used to seeing documents. They're just a single paragraph
29 reflecting what the council may elect to do if they were to take
30 action on this.

31
32 What I would like to do is just give you a little information
33 about this, the background. As you are likely aware, there was
34 a moratorium put in place in 2003, and this was in response to a
35 concern that the for-hire fleet was overcapitalized, and the
36 idea was that, through attrition, we could reduce the size of
37 the for-hire fleet, through time, and this was reauthorized in a
38 subsequent amendment, and this affects both the reef fish and
39 CMP permits. Most captains have both of them.

40
41 As part of the original document, there was a historical captain
42 endorsement, and that's what the focus of this is today, and so
43 the terminology is a little bit confusing here, because there is
44 a permit, and this is called an endorsement, but it's really not
45 in addition to the permit. It's just a separate thing, and so
46 the terminology is a little bit conflated, and so I apologize
47 for that, but that's the way it is.

48

1 If you scroll down to Table 1.2.1, this is just a short table
2 that sort of summarizes some of the differences between a for-
3 hire permit and a historical captain endorsement. One thing
4 that's different is the for-hire permit is attached to the
5 vessel, and the historical captain endorsement is attached to
6 the captain. That does have some ramifications.

7
8 The for-hire permit is fully transferable, meaning, if I had
9 one, I could sell it to anyone else, whereas the historical
10 captain permit is really not, and so, if you look down there,
11 there essentially is no resale value for a historical captain
12 endorsement, where there is for a permit and for a for-hire
13 vessel.

14
15 Another limitation of the historical captain permit, or
16 endorsement, and I'm confusing myself, is that the captain must
17 be aboard the vessel in order to make a for-hire trip, whereas
18 the for-hire permit, because the permit is attached to the
19 vessel, they can have another licensed captain make the trip if
20 they need to or want to.

21
22 One thing that's consistent is the passenger capacity, and so,
23 when both the permits and the endorsements were initially put in
24 place in the early 2000s, the permit capacity was associated
25 with the Coast Guard vessel capacity at the time. Because the
26 for-hire permits are transferable, the permit may be associated
27 with -- It may have a different capacity than the vessel, and
28 so, for example, if you originally owned a twenty-five-person
29 vessel, but now you own a six-pack, you may have a larger permit
30 than what you are fishing, but those can be sold.

31
32 The same thing was done with the historical captain permit,
33 although you don't transfer it around, but, in some cases, the
34 passenger capacity of the endorsement or the permit may be
35 different than what they're actually either fishing on, in the
36 case of the historical captain endorsement, or what the vessel
37 is assigned to, but it's the lower number, and so, if your
38 endorsement is for six passengers and you're on a large boat,
39 you can still only take six passengers.

40
41 What the council had previously discussed was, if we were to do
42 this for the historical captains, whatever capacity they have on
43 their current endorsement, we would just maintain that going
44 forward. If you go down to -- I am going to jump around for
45 just a moment here.

46
47 Figure 1.2.3, and I will try to make sure that I explain what
48 this is, and you have seen this before, but what this is, it's a

1 chart, and this refers just to the historical captain
2 endorsements, and there are thirty-seven of these endorsements
3 across roughly nineteen vessels, and so, with the exception of
4 one vessel, as of March when we looked at this, the vessels have
5 both reef fish and CMP permits, and so there is nineteen vessels
6 with reef fish endorsements, and then eighteen of the nineteen
7 also have a CMP endorsement, and so totaling to thirty-seven.

8
9 The blue bars in this case, the tall blue bars, are the capacity
10 of the endorsement, and then the green bar is the capacity of
11 the vessel that the captain has the endorsement on, and so, in
12 the cases where you just see a green bar, that means the same.
13 For most of these, they have a six-pack capacity and they're on
14 a six-pack vessel. However, these large blue bars mean that
15 they're on a six-pack vessel, but they might have a larger
16 permit. Based on the council's previous discussion of this, our
17 intent was that we would just maintain -- Whatever that capacity
18 was, we would just maintain that going forward.

19
20 Below that, there is a paragraph, and this is really the meat of
21 what we're proposing to do. Again, there's not an actions and
22 alternatives kind of thing, because it's an abbreviated
23 framework, but, essentially, what we would do is we would
24 convert the historical captain endorsement into just a standard
25 for-hire permit, and so all these captains would just be awarded
26 the same either reef fish or CMP permit, with all the rights and
27 responsibilities, meaning they would be able to sell it or
28 transfer the permit, unlike their current historical captain
29 endorsement.

30
31 **CHAIRMAN MICKLE:** Sorry to interrupt, but we delved into this,
32 if I am recalling, at the end of January of this year in New
33 Orleans, and we really got pretty deep into this and had a lot
34 of discussion. We have some new members on the council, and I
35 would just like to talk a little bit of where we're headed with
36 this.

37
38 It's an abbreviated framework, and so it doesn't have the
39 actions or anything, but, as Dr. Froeschke informed us, this is
40 kind of where it is at this point, but, again, just trying to
41 revive my mind to what I have read, it's a total of thirty-
42 seven, and there is currently, right now, at least in 2017,
43 1,376 total federal reef fish permits, and is that correct, and
44 so that comes up to 2.7 percent, which is thirty-seven of that
45 number, and so we're dealing with a very small -- Just to put it
46 in relatively of what we're dealing with here, and so, with this
47 historical permit number, it's a small group, but they have
48 contributed in the fishery a long time, but, again, this was

1 brought up, I guess about a year or a year-and-a-half ago, and
2 then we really dove into it the beginning of this year.

3
4 Just to revive that, because it's been a little while, but there
5 was discussion on -- Well, we can delve into this as soon as Dr.
6 Froeschke is done, but the Table 1.2.1, which he went over, is
7 kind of the discussion points of whether those captains are
8 required to be aboard the vessel on a for-hire trip and whether
9 that needs to happen and what that will change, and then the
10 transferability and the resale value, but the big discussion
11 point, if I'm not mistaken in New Orleans, was, again, those
12 number of -- Going from a six-pack, and these folks have been
13 fishing, and they have a very large passenger capacity
14 associated with their historical permit, which would create a
15 big change with what they're currently fishing at.

16
17 **DR. FROESCHKE:** Just while I've got it here, Figure 1.2.1, this
18 only goes back to 2008, but, essentially, what this is, it's the
19 number of vessels over time, and it shows the -- These are of
20 the for-hire permits and not the historical captains, and it
21 reflects this terminal year of this 1,376 permits, based on the
22 last time we looked at this.

23
24 What you can see is, through attrition, it has declined, as
25 expected, over time by about fifteen-and-a-half percent in this
26 2008 through 2017 time period. If you look at the figure right
27 below this, when you first look at it, it looks very similar.
28 This applies to just the historical captain endorsements.
29 However, when you crunch the numbers, what you will see is that
30 the rate of decline is about three-times the rate of decline of
31 the vessels with the full for-hire permit, and so it's
32 consistent with the concept that it is imposing some sort of
33 burden on these guys.

34
35 **CHAIRMAN MICKLE:** Mr. Diaz.

36
37 **MR. DIAZ:** I would like to talk a little bit about this Figure
38 1.2.3 for just a second. Generally, I am in support of doing
39 this and letting these guys with this endorsement get a regular
40 permit, but my thinking up until now is that I did not want to
41 increase the fishing capacity by a whole lot.

42
43 Say one of these guys that has got a permit, an endorsement, for
44 up to 150 folks, but he's only fishing on a six-pack right now,
45 he could sell that endorsement, and somebody could make a
46 headboat and fish 150 off of that headboat.

47
48 That one six-pack boat now, if they sell it and that was to

1 happen, that turns into twenty-five -- That's the equivalent of
2 twenty-five six-pack boats fishing, and so we're upping -- I am
3 not that thrilled about that. I like the idea of doing that,
4 but I would rather it be where we -- Maybe we could have an
5 option in the paper, when you develop it, to let them have the
6 capacity it goes with or with the capacity they are currently
7 fishing on, and then at least we would have an option of capping
8 the fishing effort where we're at. If we don't, I mean,
9 potentially, we could add a lot more fishing effort, and that
10 was not my intention. Thank you.

11

12 **CHAIRMAN MICKLE:** Dr. Froeschke.

13

14 **DR. FROESCHKE:** We had talked about that, and we certainly can
15 add that to the document, and we even had it in at least the
16 presentation as an idea of something to talk about, but we
17 certainly can add that back in.

18

19 At this point, essentially, that's a summary of the information
20 that we have. Other than what Mr. Diaz has just talked about,
21 are you satisfied with the structure and the scope of the
22 document?

23

24 **CHAIRMAN MICKLE:** Any discussion on that request of being
25 satisfied with the current -- I mean, really, we need to discuss
26 how high on the radar does this get. Do we have the ability to
27 go from an abbreviated framework to a framework because of this
28 potential -- Does that give us more liberty in the analysis to
29 see -- You know, bring in socioeconomic stuff or -- I don't
30 really understand the options of going from abbreviated to a
31 straightforward framework. Thank you. Ms. Gerhart.

32

33 **MS. SUSAN GERHART:** I don't think we need to change. You can
34 put other options in here. We had designed this document based
35 on the conversation at the last meeting, which was to keep the
36 permit capacity what it was, or the passenger capacity what it
37 was, on the endorsement, and so that's why we didn't have
38 options in there, because we thought that decision had been
39 made, but, if you would like to see options for the different
40 passenger capacities, then we can add there, and it can still be
41 an abbreviated framework. It doesn't have to change the
42 document type.

43

44 **CHAIRMAN MICKLE:** All right. Does anybody have any opposition
45 to that? Dave Donaldson.

46

47 **MR. DAVE DONALDSON:** Thank you, Mr. Chair. I don't know if I
48 would necessarily have any opposition to it, but, if Ms. Gerhart

1 said that we had decided at the last meeting that we would
2 essentially do what Dale is talking about, I would say we
3 continue down that path without having to add more options and
4 make it more complicated, but I don't recall if we -- I don't
5 remember if we did or not, if we came to consensus about that.

6

7 **CHAIRMAN MICKLE:** Robin.

8

9 **MR. ROBIN RIECHERS:** I am not on your committee, but what I
10 think they came to a consensus on was that it would go to the
11 passenger capacity of the original, when it was originally
12 permitted. I think what Dale or Paul is suggesting is that it
13 goes to the current vessel capacity, and so that would just be a
14 subtle change in the council's previous decision.

15

16 **CHAIRMAN MICKLE:** Ms. Levy.

17

18 **MS. MARA LEVY:** You can certainly add an option to do that. I
19 mean, just from a practical perspective, these historical
20 captains could potentially now transfer it to another vessel
21 that they're going to be on that would have a higher passenger
22 capacity, right, and so, wherever they transfer it, it has to be
23 to the vessel that they are operating, but the ones that have a
24 passenger capacity of 150 could presumably, tomorrow, put it on
25 a boat that has a passenger capacity of 150, but they wouldn't
26 be able to transfer it to anybody else, and so keeping the
27 original passenger capacity and making them fully transferable
28 gives value to these permits that they don't currently have, but
29 it doesn't necessarily change the fishing effort that could
30 potentially happen, because, right now, that same fishing effort
31 could potentially happen, but it would just be limited to having
32 that captain onboard.

33

34 **CHAIRMAN MICKLE:** Mr. Anson.

35

36 **MR. KEVIN ANSON:** I agree with that, but I think it's my
37 understanding that, if we go through this action and allow them
38 to be transferable, that's a value in and of itself, and then
39 you have a secondary value, or an increase in the value, if you
40 will, if you were to keep or maintain the capacity for which the
41 permit is rather than reducing it, and so, as far as a
42 compromise thing, I think, as Dale said, we ought to put that
43 option in there to look at it for the secondary way, or at least
44 capping it at the current vessel capacity.

45

46 **CHAIRMAN MICKLE:** Yes, and so we have the current, and there is
47 historical capacities, and there is some compromise there, but I
48 have never -- Although I haven't had any interaction with any of

1 these folks outside of my state, and so I get nervous when I
2 don't get a lot of feedback on our decisions, but kicking this
3 along, kicking the can, as we've heard on the record lots in the
4 past, is something to do, but the council makes things
5 complicated. We could wrap this up, and it's something crazy,
6 and I definitely don't want that to happen, but there's got to
7 be that middle road where compromise is, and so I think that's a
8 good option. Dr. Frazer.

9
10 **DR. TOM FRAZER:** Just for John, and so the thirty-seven
11 currently, I guess valid historical captain's license, the
12 capacity for all thirty-seven of those, the ones that they are
13 fishing, are on a six-pack at this point?

14
15 **DR. FROESCHKE:** Not necessarily, and so, in the figure -- The
16 green bars there, keep in mind that each bar represents a permit
17 or a vessel capacity, and so, since some of those permits are
18 two permits on one vessel, they are duplicative in some ways,
19 but most of them are currently on six-pack boats, but not all of
20 them. There are a few of them that are on larger, but there
21 aren't any on the big headboats.

22
23 **CHAIRMAN MICKLE:** There is a total of six that are fishing
24 beyond a six-pack capabilities, on the captain itself and not
25 the vessel, remember. Mr. Anson.

26
27 **MR. ANSON:** I have a question for John. Dr. Froeschke, not to
28 make it too complicated, but the capacity on the reef fish
29 permit is the same as the capacity on the coastal migratory
30 pelagic permit for each of these captains?

31
32 **DR. FROESCHKE:** Yes. You can see on there that the really tall
33 bar -- That's the same vessel, but it just has two permits.

34
35 **CHAIRMAN MICKLE:** Mr. Strelcheck.

36
37 **MR. ANDY STRELCHECK:** I am not opposed to looking at multiple
38 options. I guess keep in mind that, under the standard for-hire
39 permits, they can do the same thing here as well, where they
40 have the vessel capacity that's much lower than their permit
41 capacity, and so, if that gets transferred, they, naturally,
42 could increase the capacity on the fishery.

43
44 One suggestion I would offer for staff is the graphics show
45 number of vessels, and it would probably be worthwhile looking
46 at passenger capacity in total and how that has changed over
47 time as well, as well as the actual permit capacity, just to get
48 a read, because we have a couple of competing forces here. One

1 is the concern about increasing passenger capacity with
2 transfers, but then we also have a decline in permits, and so
3 we're losing capacity simply because of lost permits.

4

5 **CHAIRMAN MICKLE:** Madam Chair.

6

7 **MS. LEANN BOSARGE:** I think we were hoping that the next time we
8 brought this document to you, and, Carrie, correct me if I'm
9 wrong, that we would notice it for final action, and so I think
10 this is a good, healthy discussion.

11

12 What I've gotten thus far, and, since we don't have any motions,
13 let me just make sure we've got this. You want us to bring you
14 this document back with an action in it that explores some
15 alternatives for what we're going to do with current vessel
16 capacity versus historic permit capacity, and I think what is
17 really maybe kind of scaring us is this 150 number, and I'm
18 looking at this graph, and so I see two of those bars that go up
19 to 150, and so I assume that's this one particular individual
20 that has a reef fish permit with a capacity of 150 and a CMP
21 permit with a capacity of 150.

22

23 I was just kind of trying to think of another middle ground. If
24 there was like a cap, if you all are more comfortable with that
25 fifty or -- Let's see. I guess some of those guys are at maybe
26 seventy, a capacity of seventy or something like that, and
27 that's the next lowest, and so, I mean, if that could be
28 something that maybe they could bring us back too, that, if you
29 have a capacity above this, it doesn't matter and we're capping
30 it at seventy.

31

32 **CHAIRMAN MICKLE:** Thank you, Madam Chair. My question is a
33 question of protocol. At what point does this -- Now we're
34 talking about actions, and then we're going to -- Madam Chair
35 has dropped an alternative, right, and so at what point do we
36 lose the abbreviated framework and now we're in a framework,
37 and, at this point, what's the difference? Ms. Gerhart.

38

39 **MS. GERHART:** The abbreviated framework has to do with the NEPA
40 process, and so it's whether the action is categorically
41 excluded or not, meaning that it falls under -- In this case, it
42 falls under an administrative action, which is categorically
43 excluded from the NEPA process, and so that's where we're
44 getting at with this abbreviated framework, is that we don't
45 have all the extensive analysis required by NEPA because of the
46 type of action that it is. If we start doing some things that
47 have more significant impacts, then that's what changes the type
48 of document it is, kind of in a nutshell.

1
2 **CHAIRMAN MICKLE:** Significant impact. All right. Doug.
3
4 **MR. DOUG BOYD:** Thank you, Mr. Chairman. I'm not on the
5 committee, but I do have a question for NMFS staff.
6 Hypothetically, if a captain's endorsement is for the capacity
7 that would allow that person to fish a headboat, and we do this
8 and they sell that permit, could the purchaser of the permit
9 then establish a new headboat, a new fishing boat, whether it's
10 designated as a headboat or not, that would increase the
11 capacity in the fishery?
12
13 **MR. STRELCHECK:** The answer is yes, and that would be consistent
14 with the standard permits in the fishery as well. There is many
15 permits, six-pack vessels, that have much larger permit
16 capacities than they actually have passenger capacities.
17
18 **CHAIRMAN MICKLE:** Dr. Frazer.
19
20 **DR. FRAZER:** Kind of along those lines, what is the difference
21 in the value of a permit that is transferred for a six-pack
22 captain versus one that is a 150-passenger capacity?
23
24 **CHAIRMAN MICKLE:** I don't think it -- Well, we would have to
25 request that information, I think, but I guarantee they're not
26 the same.
27
28 **DR. FRAZER:** So do I.
29
30 **CHAIRMAN MICKLE:** Council Member Boggs. Welcome.
31
32 **MS. SUSAN BOGGS:** Well, the norm in the industry is the
33 passenger capacity is anywhere from \$1,000 to \$2,000 per person.
34
35 **CHAIRMAN MICKLE:** Ms. Gerhart.
36
37 **MS. GERHART:** I just wanted to clarify, when I was speaking
38 earlier about the abbreviated framework, I spoke from the NEPA
39 standpoint. Mara reminded me that there's also the council
40 document.
41
42 We have a framework procedure for each of these FMPs that
43 outlines what can be done under an abbreviated framework versus
44 a regular framework or a plan amendment, and so we have a list
45 of things that can be done under the abbreviated framework, and
46 this type of action falls under that as well, and so it's also
47 within what the council itself decides it wanted to do that way.
48

1 **CHAIRMAN MICKLE:** Wonderful. Thank you for the clarification.
2 It sounds like, from the group, we're going to move forward with
3 a request to staff, and then I guess, potentially, have those
4 different other options within this abbreviated framework. Is
5 that correct, from the group? Ms. Levy.

6
7 **MS. LEVY:** I guess, from my perspective, I'm not exactly sure
8 which options you want staff to work on. I mean, we know we
9 have this one, and we know we have the option to make these
10 regular permits, but at the passenger capacity of the current
11 vessel, however and whenever that's defined, right, because,
12 potentially, between now and next month, someone could change
13 the vessel that they put this on and then change that graph.

14
15 Then, if there is another specific option you want staff to look
16 at, I think you need to tell them exactly what it is, but, when
17 you start looking at it and saying, well, okay, we're going to
18 cap it at seventy-five, in terms of changing the passenger
19 capacity of the permit, I would just suggest that you talk about
20 sort of why and -- It just seems sort of random.

21
22 Like we're not comfortable with one vessel having two permits
23 with 150, but we're okay with it being seventy-five, and what's
24 the basis for that? What is the reasoning? It would just be
25 nice to have a little more discussion about that and specific
26 options that you want staff to work on.

27
28 **CHAIRMAN MICKLE:** All right. Ms. Gerhart.

29
30 **MS. GERHART:** Something that just occurred to me is one of the
31 reasons we went the direction we did at the last meeting was
32 because there are actually a couple of vessels, or a couple of
33 these endorsements, that are not on vessels right now, and so
34 then that becomes something that you have to deal with, if
35 you're going to use the current vessel capacity, and you would
36 have to decide what capacity those permits would get. They
37 would have to be associated with a vessel when we change them
38 into a regular permit.

39
40 **CHAIRMAN MICKLE:** Any discussion? Dr. Stunz.

41
42 **DR. GREG STUNZ:** John, as far as the regional distribution of
43 these permits, do you have any indication, or are they just
44 everywhere, or are they localized in a particular area?

45
46 **DR. FROESCHKE:** I don't have that off the top of my head. We
47 could find out, but I don't have it with me.

48

1 **DR. STUNZ:** That would be interesting. The reason I'm asking is
2 we've had a little bit of public testimony from I think folks
3 that don't have one of these permits that we should move forward
4 with this, but I don't recall -- I haven't received any feedback
5 from anyone in my region, as far as that actually have these
6 permits, of what they want to do or any suggestions for them,
7 and so I don't know how we go about that, or I don't know if
8 maybe your office has received anything about what these folks
9 would like to do or not.

10
11 **CHAIRMAN MICKLE:** Dr. Froeschke.

12
13 **DR. FROESCHKE:** We can -- I think we have some information about
14 where the homeport is of the vessel with the permit, and so we
15 could certainly look at that and bring it back and add it to the
16 next draft.

17
18 **CHAIRMAN MICKLE:** Madam Chair.

19
20 **MS. BOSARGE:** Just to answer Mara or Sue, and I'm not sure which
21 one of you mentioned it, but so I guess the reason that I was
22 kind of thinking about moving that 150 to the side is because it
23 seems like an outlier, essentially, and so, if you were going to
24 bring back an option that removed that somehow and did something
25 in place of it, I guess -- I mean, you need to kind of have some
26 rationale for it, right?

27
28 Maybe we could look at what the average capacity in the current
29 fleet is on those permits and have some sort of option that you
30 can either have the average capacity or your current vessel
31 capacity, whichever one is lower, and would that be right? In
32 other words, that would get us out of this 150. If the average
33 capacity in the fleet is, I don't know, what, thirty, fifteen,
34 and I'm not sure what the average capacity is in the fleet right
35 now, passenger capacity.

36
37 Then, if we say you have to take the lower of the two, your
38 permit capacity or the average of the fleet currently, then they
39 would have to come down from that 150 to what the average
40 capacity in the fleet is right now, and that's getting awful
41 complicated, though. It's like six boats, five or six boats,
42 five or six permits, but I do see the issue.

43
44 **CHAIRMAN MICKLE:** Ms. Gerhart.

45
46 **MS. GERHART:** Just one more thing. Keep in mind that that 150-
47 passenger permit was on a 150-passenger vessel when that permit
48 was assigned, and so it was figured into that when we did the

1 original limited access, and so it's actually been transferred,
2 over that time, onto a six-pack now, where it originally was on
3 a vessel of that capacity.

4
5 **CHAIRMAN MICKLE:** Thank you. All right. Is there any more
6 discussion or recommendations? Ms. Levy.

7
8 **MS. LEVY:** I guess it's still not clear to me exactly what or if
9 you want a third option and what that option would be, and I
10 heard you say average of the fleet, but then it wasn't clear to
11 me if that's what you wanted, and, then again, what fleet are we
12 talking about?

13
14 Are we talking about the average of these historical captain
15 endorsements, or are we talking about the average of the for-
16 hire permits? I think, if you want a document to come back at
17 the next meeting that's ready for final action, we really have
18 to nail down the options you want in there.

19
20 **CHAIRMAN MICKLE:** I agree. Ms. Bosarge.

21
22 **MS. BOSARGE:** I am not tied to that, Mara. This seems overly
23 complicated for five or six permits, but I was just trying to
24 give us a middle-of-the-road option, right? When you come back
25 with this, we can say you can have your current vessel capacity
26 or you can have what was historically on the permit, and I was
27 trying to come up with something that was middle-of-the-road
28 that might address that 150 capacity, which seems to be where
29 our hang-up is.

30
31 **CHAIRMAN MICKLE:** Mr. Diaz.

32
33 **MR. DIAZ:** While we're talking about timing, and this might be a
34 question for Mara, a lot of times when I think about timing, I
35 want us to get something in place before the fishing year
36 starts. Does that make a difference with this? I mean, if this
37 thing comes final in the middle of a fishing year, can we just
38 swap them permits over in the middle of a year, or does it make
39 a difference? Ms. Levy.

40
41 **MS. LEVY:** I don't think it makes a difference, and I'm not sure
42 that they're just going to get swapped over. I think NMFS is
43 going to have to go back -- We're going to have to talk about
44 how to actually implement it, because these folks may have a
45 permit on a vessel that they don't, quote, unquote, own, right,
46 and like they're the captain. Then you have to sort of figure
47 out how you're going to give people time to actually get a
48 vessel or lease a vessel, so that it's actually a vessel that

1 they can have the permit issued to them for that vessel. I
2 don't think it's just going to be an it's implemented and
3 they're swapped out. That was a long answer, but I don't think
4 the timing, in terms of fishing year, matters at all.

5

6 **CHAIRMAN MICKLE:** Dr. Froeschke and then Mr. Anson.

7

8 **DR. FROESCHKE:** Just one other idea. Looking at the Figure
9 1.2.3, if you wanted to reduce it, if the largest value on the
10 current vessel capacity, and it looks like there's a couple with
11 like twenty, and so, if you were to do something like that, it
12 wouldn't restrict them, what they're currently doing, but it
13 would also not allow them to sell it to someone else and
14 increase their capacity.

15

16 **CHAIRMAN MICKLE:** Mr. Anson.

17

18 **MR. ANSON:** Mara, or maybe Andy, for the current reef fish
19 permit holders, and not the historical, they just have to
20 associate it with a vessel, and it doesn't have to be a vessel
21 that is inspected or permitted or used for charter fishing. It
22 just could be on a thirteen-foot aluminum johnboat if they had
23 to, and so I know what you were trying to say, Mara, that there
24 could be a little bit of time associated there, but it's not
25 restricted to an actually operating vessel or one that could be
26 used for charter fishing. Thank you.

27

28 **CHAIRMAN MICKLE:** Any other discussion? Any other
29 recommendations? Madam Chair.

30

31 **MS. BOSARGE:** All right, and so do you all want us to come back
32 with an action with alternatives for this? I see a lot of
33 shaking heads. All right. We will bring you back a document
34 that has got some options, at least two to three.

35

36 **CHAIRMAN MICKLE:** Also, there was additional figures requested
37 or analysis.

38

39 **DR. FROESCHKE:** Yes, I got that. What about timing? Is this
40 something that you still want to do final action -- Okay.

41

42 **CHAIRMAN MICKLE:** Mr. Donaldson and then Dr. Simmons.

43

44 **MR. DONALDSON:** Dr. Froeschke, do you have a good handle on what
45 we're asking, so you know what options we want and what we're
46 interested in, or do we need to -- Do we need to clarify?

47

48 **DR. FROESCHKE:** Well, let me give it a go, and you can tell me.

1 I have a request for some additional figures analyzing the
2 decline in permit capacity as well as the number of vessels. In
3 terms of looking at options for different reducing the capacity
4 -- What we currently have in there is you would keep your
5 current capacity. We also have a reduction to what the average
6 capacity is. Is there something -- We have talked about seventy
7 or something else, and is there something else other than the
8 average or the current?

9
10 **CHAIRMAN MICKLE:** Mr. Anson.

11
12 **MR. ANSON:** Just going back to the average, are you going to
13 look at the average within both the historical captain group as
14 well as the reef fish permit group, the two groups, and look at
15 those two numbers and provide that as an option?

16
17 **DR. FROESCHKE:** I guess we could make that sub-options, if
18 that's what you would like.

19
20 **CHAIRMAN MICKLE:** Dr. Simmons.

21
22 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Mr. Chairman. I
23 think we're getting away from an abbreviated framework action,
24 though, and so I think we're going to have to revisit that and
25 bring you something that may not be final action in October,
26 considering all these different things that you want to look at
27 and various -- You know, put some actions together, it sounds
28 like, instead of just making it a one-and-done.

29
30 **CHAIRMAN MICKLE:** Ms. Boggs.

31
32 **MS. BOGGS:** Based on how complicated this is getting, what will
33 the impact of those six reef and CMP endorsements that are
34 scheduled to expire that haven't been renewed, because that
35 could change your numbers, the longer this drags out.

36
37 **CHAIRMAN MICKLE:** Dr. Froeschke. Ms. Levy. Sorry.

38
39 **MS. LEVY:** It's just my personal opinion, but, I mean, I would
40 advise, to the extent that they are still renewable, we should
41 include them, meaning I would think we would want to know what
42 the passenger capacity is of the permit and of the current
43 vessel, because they are still renewable. Until they are
44 terminated, someone could come in and renew them, but that would
45 just be my suggestion.

46
47 **DR. FROESCHKE:** Understood, and keep in mind that the last time
48 we updated this was, I think, in March, and so we would update

1 this again, I'm presuming, and the numbers could be slightly
2 different.

3

4 **CHAIRMAN MICKLE:** Mr. Strelcheck.

5

6 **MR. STRELCHECK:** I wanted to go back to Figure 1.2.3, because I
7 think I have finally figured it out. There is eighteen reef
8 fish and seventeen CMP, and so all of these are combined in one
9 graphic, right, and so, in reality, we're talking about five
10 boats that have the potential to have different permit
11 capacities relative to their existing passenger capacity.

12

13 I state that because I'm wondering if we're making this way more
14 complicated than we need to, and the fear of this massive
15 increase in passenger capacity might not be warranted, and so I
16 just propose that for consideration as we move forward with this
17 action.

18

19 **CHAIRMAN MICKLE:** Well said. I tried to put it in perspective
20 at the beginning of all of this, with 2.7 percent of the overall
21 permits, even though it boils down to five actual vessels and
22 capacity within those.

23

24 There is a decision to make, and I would like to -- Shall we
25 move forward on all of the wonderful tasks that we have asked
26 Dr. Froeschke to do, or should we keep it exactly how it is and
27 move forward on final action at this meeting? Should I do a
28 vote to see -- I'm sorry, but a motion to decide our fork in the
29 road. Mr. Riechers.

30

31 **MR. RIECHERS:** Mara, this is to you, and it has to do with this
32 whole abbreviated framework question. If we went with just the
33 current passenger capacity, because that's a known, if you
34 limited them to that, can we still be inside of the abbreviated
35 framework, as opposed to four or five or six alternatives that
36 we have discussed?

37

38 **CHAIRMAN MICKLE:** Ms. Levy.

39

40 **MS. LEVY:** Yes, I mean, I think you could have -- I mean, the
41 simpler the better, but I don't think that the number of options
42 necessarily dictates the type of framework, standard or
43 abbreviated, and it more has to go to the change you're making,
44 and then we do sort of associate it with the NEPA process, just
45 because, if you're going to have to have a full NEPA analysis
46 for an environmental assessment or something, it doesn't make
47 much sense to do -- The abbreviated part sort of becomes
48 meaningless at that point, and so I think you can have the

1 options and still have an abbreviated framework for your council
2 document, and we did do that when we were looking at the hooks
3 that the longliners could have.

4
5 We had, I think, three different options about what we were
6 going to do with the maximum number of hooks, and we did that by
7 an abbreviated framework, again because of the type of action it
8 was.

9
10 **CHAIRMAN MICKLE:** Mr. Anson.

11
12 **MR. ANSON:** John, you may have mentioned this earlier, but were
13 there any comments received by the council relative to this
14 action?

15
16 **DR. FROESCHKE:** Not that I'm aware of. Emily, do you know if
17 there have been comments on the historical captain permit?

18
19 **MS. EMILY MUEHLSTEIN:** We have not solicited comments directly.
20 I think we were not prepared to take final action until October,
21 as far as soliciting comments.

22
23 **CHAIRMAN MICKLE:** Is there anyone that wants to make a motion?
24 Dr. Frazer.

25
26 **DR. FRAZER:** One quick question. Again, just to clarify, to
27 Robin's point, with regard to the options, really what we're
28 stuck on is trying to determine what the capacity will be,
29 right, and that's the options part. Okay. I'm good.

30
31 **CHAIRMAN MICKLE:** Mr. Atran.

32
33 **MR. ATRAN:** Something just struck me, and perhaps Mara can
34 answer this. If you want to look at capacity reduction options
35 that are only going to affect one or two vessels, under the
36 confidentiality requirements and the rule of three, will we run
37 into a problem with confidentiality?

38
39 **CHAIRMAN MICKLE:** Ms. Levy.

40
41 **MS. LEVY:** Well, the permit capacities aren't confidential. I
42 mean, that is not -- That's just is what it is. It's on the
43 permit, and it's not information they have submitted under the
44 regulations.

45
46 **CHAIRMAN MICKLE:** Any other discussion? Madam Chair.

47
48 **MS. BOSARGE:** I think we've gone back and forth enough, and so I

1 want to see a motion. Let's get a consensus of this body, and
2 let's see if we've got a majority of which way we want to go
3 here. If you want some alternatives, an action item with
4 alternatives, throw out a motion. If you don't throw out a
5 motion, I am going to assume that you don't want an action item
6 with alternatives. Let's throw out a motion.

7

8 **CHAIRMAN MICKLE:** Dr. Stunz.

9

10 **DR. STUNZ:** I will throw out a motion. I would like to make the
11 motion to add the alternatives that we discussed, but, John, I
12 don't know what I need to say to charge you with that. I would
13 make a motion to add -- Do I need to list those specific
14 alternatives? They are making this much simpler. For now,
15 let's go with that one. My intent here is to move forward with
16 the additional discussion that we have here in the form of
17 alternatives, and I think this motion encompasses that.

18

19 **CHAIRMAN MICKLE:** Mr. Diaz.

20

21 **MR. DIAZ:** Give some rationale.

22

23 **CHAIRMAN MICKLE:** It's seconded.

24

25 **MR. DIAZ:** Well, I mean, it doesn't seem as complicated to me,
26 but maybe I am looking at this different than other folks are.
27 This is two actions. Action 1 is going to be no action or we do
28 this, where we transfer this. Action 2 is giving us some
29 alternatives to look at of what the capacity would be if we
30 decide to do it in Action 1, and so that's what I see the
31 document looking like. I don't think it's any more complicated
32 than that, and so thank you.

33

34 **CHAIRMAN MICKLE:** We have a motion, and we have a second. Ms.
35 Levy.

36

37 **MS. LEVY:** Well, can we at least say to add alternatives related
38 to passenger capacity discussed by the committee?

39

40 **DR. STUNZ:** That's fine.

41

42 **CHAIRMAN MICKLE:** A friendly amendment to the current motion.

43

44 **MS. LEVY:** Then I don't know that you really need two actions.
45 I mean, the whole document is geared towards changing these
46 historical captain permits to the fully transferable for-hire
47 permits, and it seems like, if you're not going to do that, then
48 you just don't take action on the document, and your

1 alternatives go to how you want to deal with the passenger
2 capacity issue.

3

4 **CHAIRMAN MICKLE:** Ms. Gerhart.

5

6 **MS. GERHART:** Similar to that, we talk about actions and
7 alternatives usually, but that's really -- Those are NEPA
8 terminology, and so we don't have to have actions and
9 alternatives in this document, because it is not a NEPA
10 document, and so that's why we kept saying options, that we
11 would have these different options of how the council wants to
12 do it, showing that they're making a choice among different
13 ideas, but that's just so you're clear that we don't have to
14 have an action and a no action and all that kind of stuff. As
15 Mara said, if it's a no action, you're not going to do it, then
16 we wouldn't have the document at all, and so just clarifying
17 that.

18

19 **CHAIRMAN MICKLE:** Mr. Anson.

20

21 **MR. ANSON:** I will be supportive of this. I don't think it's
22 going to be too contentious of a vote, but I certainly
23 understand the intent that we tried to go forward with this and
24 tried to do it as expeditiously as possible, but oftentimes we
25 just can't do that, for lots of reasons, and I just think that
26 just saying that we're going to move these permits over and keep
27 them at the passenger capacities that they are, I think that
28 would surprise some folks, because they just don't know much
29 about it, and so this would give an opportunity for folks to
30 read it the next time we come see the document and look at those
31 various options and the potential for impacts and that type of
32 thing, and so, anyway, I will be supportive of it.

33

34 **CHAIRMAN MICKLE:** Any other additional discussion on the motion?
35 **Is there any opposition to the motion?** Mr. Strelcheck.

36

37 **MR. STRELCHECK:** My concern is we've talked about a lot of
38 potential alternatives here, but I'm not sure if staff has clear
39 direction as to exactly what those alternatives are, and so, to
40 me, there is benefit in specifically identifying those
41 alternatives for staff to consider bringing back to you.

42

43 **CHAIRMAN MICKLE:** Ms. Levy.

44

45 **MS. LEVY:** Well, I am going to suggest that we have the option
46 that's in there, and we have an option that it stay at what the
47 current vessel capacity is, and that staff look at some sort of
48 average middle option and come back to you with that at the next

1 meeting, and hopefully that works. I mean, unless you really
2 want to come up with something specific, but I feel like we've
3 been talking about it, and there's been a lot of not quite sure
4 about what that specific should be, and so we can just come back
5 with a suggestion, if that's better.

6
7 **CHAIRMAN MICKLE:** Yes, that's how I saw it, to bring back a
8 little bit more focus on the alternatives that we discussed here
9 today and to give staff the liberty to do so. Dr. Froeschke.

10
11 **DR. FROESCHKE:** Just to be clear, do you want us to include the
12 whole for-hire fleet in that averaging bit or sub-options for
13 the other one? The reason I mention that is, just generally,
14 when you get a wacky distribution data like that, you would
15 typically take the median, but, if you did the median or
16 something like that, it might be six, and so it might not be
17 very meaningful.

18
19 **CHAIRMAN MICKLE:** Mr. Anson.

20
21 **MR. ANSON:** I think it would my recommendation or suggestion
22 that we use both the full for-hire permits, the ones that aren't
23 historical captain permits, that are reef fish permits.

24
25 **CHAIRMAN MICKLE:** Is there any opposition to that suggestion for
26 staff? Okay. All right. We do have a motion on the board, for
27 a while now. **Is there any opposition to the motion? The motion**
28 **passes.** Is there any other discussion on this agenda item here
29 today? Mr. Boyd.

30
31 **MR. BOYD:** Thank you, again. I'm not on the committee, but I
32 just want to note that there is some implication on the
33 allocation within a particular sector based on how much capacity
34 is increased, if there is any.

35
36 **CHAIRMAN MICKLE:** Thank you. Anything else to talk about on
37 Item IV? All right. That brings us to our next item on the
38 Sustainable Fisheries agenda, which is Review of Senate Bill
39 3138, A Bill to Establish a Regulatory System for Marine
40 Aquaculture in the United States Exclusive Economic Zone, Tab E,
41 Number 5, and the additional summary provided by council staff.
42 Dr. Kilgour. Thank you.

43
44 **REVIEW OF SENATE BILL S.3138 - A BILL TO ESTABLISH A REGULATORY**
45 **SYSTEM FOR MARINE AQUACULTURE IN THE UNITED STATES EXCLUSIVE**
46 **ECONOMIC ZONE**

47
48 **DR. MORGAN KILGOUR:** I didn't come up with a formal

1 presentation, and so I'm just going to walk through some of the
2 -- There is the actual bill, and you're welcome to read it.
3 It's titillating.

4
5 I also went through and kind of commented on where there might
6 be something that I thought the council would find interesting.
7 In the Section 4, they establish an Office of Marine
8 Aquaculture, and it provides opportunities for engagement with
9 fishery management councils, but it doesn't require it in this
10 particular section. It establishes a panel of experts similar
11 to the makeup of the Aquaculture AP that is developed in the
12 Aquaculture FMP.

13
14 It establishes a National Aquaculture Sub-Committee, and I noted
15 that that may lack the regional expertise that would be
16 available on the panel, but directly advising the national goals
17 and objectives. Section 5 is the administration. It doesn't
18 specifically address, in Section 5, for the --

19
20 **CHAIRMAN MICKLE:** Hang on, Dr. Kilgour. One second. Madam
21 Chair.

22
23 **MS. BOSARGE:** Dr. Kilgour, just for our newer members, would you
24 maybe kind of give us an overview of how aquaculture is
25 currently regulated? If you could just kind of backup and give
26 us a 30,000-foot view, and then maybe we can jump into the
27 differences? Okay.

28
29 **DR. KILGOUR:** Sure thing. There is a nationwide push for
30 aquaculture, it seems right now. This is a Senate bill that
31 would develop an aquaculture office in NMFS. Right now, the
32 Gulf of Mexico is the only fishery management council that has a
33 fishery management plan for aquaculture. Several council
34 members, I think, attended an MREP aquaculture meeting that was
35 held in New Orleans, and also you guys went to Maine, I think.

36
37 Anyway, there seems to be a push towards aquaculture. This
38 aquaculture bill would -- I will get to it, but it would
39 basically remove the FMP, and it would become a national
40 program, and so aquaculture would be managed based on this bill,
41 or this act, and it wouldn't be -- The Gulf FMP would go away.

42
43 I am just going through the different parts of the bill on how
44 they are different from what we have in our existing FMP and
45 maybe areas that the council would think are interesting or are
46 very different or are similar to the FMP, and you will notice
47 that a lot of the language in the bill, if you compare it to the
48 actions and alternatives in our FMP, were almost pulled directly

1 across, and so I'm happy to answer questions, as best I can, as
2 I'm going through this, but is that what you're looking for?
3 Okay.

4
5 So this bill was put in the June briefing book, and that was a
6 draft bill. There have been some changes, and so I'm going to
7 go through a bill that was introduced to the Senate. In Section
8 5, the one major difference that I noted was that it established
9 the criteria for practicing veterinary medicine did not require
10 an American Fisheries Society fish health inspector or a fish
11 health pathologist, like we do in the FMP. It just says that it
12 has to be a licensed veterinarian. Also, in the FMP, we
13 outlined specific things, drugs, biologics, medicine, basically,
14 needs to be approved by the FDA, EPA, or USDA, and that's not
15 specifically outlined in this bill.

16
17 In Section 6, aquaculture permits, one thing that's interesting
18 is the Gulf Council FMP only allows the culture of native Gulf
19 species in the Gulf of Mexico. In the aquaculture bill, it says
20 native or otherwise sterile or not capable of producing, and so
21 it's kind of vague on whether or not invasive species, if they
22 were sterile, could be cultured in water bodies, and it would
23 also not -- The Gulf FMP specifically prohibits the culture of
24 shrimp and coral, and the rationale was provided in the FMP, and
25 those prohibitions would also go away under this bill. That
26 would be up to the Office of Aquaculture.

27
28 The permit procedures, pretty much all of them are outlined in
29 the FMP, but it also includes three things that I think the
30 council would find interesting, including a disease outbreak
31 reporting, a significant weather plan, and environmental
32 monitoring. These are all things that I think that the council
33 requested for the exempted fishing permit to have, and so it's
34 interesting that they made it into this bill.

35
36 It doesn't specifically mention providing regional councils with
37 the opportunity to provide comment on permits, but there is, in
38 I think it's Section 8 -- No, I'm wrong. It's in Section 10,
39 that the regional management councils should be consulted.

40
41 If you look at the permit, the duration of the permit is also
42 very different from the FMP. In our FMP, it would be ten years,
43 with five-year renewal increments. In the bill, it would be
44 twenty-five years with the ability to renew for additional
45 twenty-five-year increments, and it specifically -- In Item (k),
46 the Magnuson-Stevens Act, it removes harvest of cultured species
47 from the definition of fishing, and so this would make
48 aquaculture not under the Magnuson-Stevens Act.

1
2 In Section 7, the restrictions on offshore aquaculture
3 activities, it would grandfather in any existing aquaculture
4 permits, Gulf aquaculture permits, should those exist at the
5 time of passage of this bill. It allows for aquaculture in the
6 federal waters off of states that may specifically prohibit
7 aquaculture, and it doesn't establish a clear mechanism, and so
8 it would be a revocation of the permit if there were repeated
9 offenses, but it doesn't say how these offenses would be
10 documented.

11
12 Right now, in the bill, there would be biannual, and so every
13 two years, inspections of a site, and that would be where,
14 logically, the offenses could be listed, but it doesn't say how
15 often those offenses -- Anyway, it wasn't clear on where these
16 repeated offenses would come from, if these were random
17 inspections or were these from these biannual inspections.

18
19 The recordkeeping and access to information are very similar to
20 what we outline in the FMP, and, the Programmatic Environmental
21 Impact Statement, that's also similar to what we have to do for
22 an EIS.

23
24 Section 10 would be the environmental management and standards,
25 and this is where the councils are specifically listed as
26 consultations for Section 6 and Section 9 activities, but it
27 doesn't have the open process that the council has. We have
28 scoping and options and a public hearing draft. When you look
29 at this, it would be basically a scoping, a draft environmental
30 impact statement, and a final environmental impact statement,
31 and so there wouldn't be a lot of back-and-forth talking about
32 the different alternatives and how do you want to massage those,
33 like we have in the council process.

34
35 One other thing of note is that any issues that arise from the
36 things outlined in the bill would have to go through an act of
37 Congress to change them, whereas, if we have something that we
38 find that needs to be changed in an FMP, we just do a plan
39 amendment.

40
41 Then the research and development grant program, it would
42 advance research, but it's not clear if the developing
43 therapies, medicinal therapies, for aquaculture would be allowed
44 in offshore facilities or if they would have to be tested in
45 facilities onshore, and so there is the potential for escapement
46 or contamination of wild stocks if they're doing some type of
47 gene therapy or whatnot.

48

1 The last two, enforcement, that kind of goes by itself, and then
2 authorization of appropriations is probably, monetarily, the
3 most significant thing. It outlines funding cycles of \$60
4 million in the first year, and that increases by I think \$5
5 million increments to the year 2022. I guess my question is,
6 and maybe Madam Chair can help me, is if I need to provide a
7 letter or if this is just an overview on the bill.

8
9 **MS. BOSARGE:** Well, the council can decide that, but it wasn't
10 my intent to provide any kind of letter. It was more or less to
11 have a general discussion about this in case somebody asked the
12 council for their specific feedback, and I would like to have
13 some sort of conversation on the record, in a transparent
14 manner, as to how we feel about certain parts of this and would
15 there be any changes that we would recommend or anything like
16 that, and that's what I was hoping for.

17
18 **CHAIRMAN MICKLE:** Any discussion toward the bill itself? Ms.
19 Guyas.

20
21 **MS. MARTHA GUYAS:** Thanks. I'm not on your committee, but I
22 have I guess just some questions to put out there about the
23 bill, mostly. Our agency doesn't have a position one way or the
24 other on this, but one of the items that our agency and
25 Department of Agriculture, which is the agency in Florida that
26 manages, largely, aquaculture activity, one of the things we
27 flagged was in the definition section.

28
29 It seems that this bill would apply to aquaculture activities
30 that are occurring in waters of the state and on lands of the
31 state, which is a potential concern for us. We have a lot of
32 regulatory -- We have a regulatory framework, an extensive one,
33 for aquaculture in Florida, and so I think we're wanting to
34 understand how this bill applies to things that are only
35 occurring on land and wouldn't be, maybe, feeding or seeding
36 activities in the EEZ, and then those that would. We just want
37 to understand how this impacts the state jurisdiction.

38
39 What else? On the twenty-five-year duration of the permit, I
40 guess another question would be it seems like, in twenty-five
41 years, the permit may become outdated, with technology and
42 things changing, and would there be a process for updating a
43 permit, and not necessarily revoking and restarting a permit,
44 but it seems like that would need to be built into this to make
45 it really work for the applicant.

46
47 On the fees, would there be interest, I guess, in waiving fees
48 for stock enhancement and restoration? Then the last thing I

1 will mention, before I stop, is does this bill address ranching,
2 in other words harvesting life stages that are not necessarily
3 going to be brood stock, because that could have some effect on
4 our wild stocks, and I will stop there.

5
6 **CHAIRMAN MICKLE:** Any other discussion? Go ahead, Robin.

7
8 **MR. RIECHERS:** It's going to be all your non-committee members.
9 Sorry about that, but, since this is the place that we're having
10 the discussion, I want to weigh-in, or at least ask a couple of
11 questions. Certainly I want to echo Martha's number-one issue
12 regarding reading of the bill and our question as to whether or
13 not that's going to impact those land-based facilities we
14 currently have for shrimp and red drum and other things, and so
15 that's one thing.

16
17 The other thing is I guess what I'm trying to -- This is a
18 question to NMFS, and you all may or may not want to go on
19 record or may not have a suggestion about this yet, but,
20 obviously, a lot of things changed from the previous management
21 plan, to where they're not as defined in the current bill. Do
22 you envision a rulemaking that will come in and define a lot of
23 those things, or do you envision it as more of a policy-level
24 decision by this new office, in your team, if you will?

25
26 **CHAIRMAN MICKLE:** Ms. Levy.

27
28 **MS. LEVY:** Well, so I will just say that the act itself requires
29 the Secretary to go through a rulemaking to implement this act,
30 and so none of this is going to be applicable to -- Well, first
31 of all, it has to pass, and then the rulemaking has to happen
32 through the Secretary or the Office of Aquaculture or whatever
33 to actually implement it, and so, like most legislation, a lot
34 of things get defined and fleshed out in the regulatory process.

35
36 **MR. RIECHERS:** As a follow-up then, so certainly, some of the
37 places where we've seen these differences, they will probably
38 look to what the council had done in the past, and while
39 certainly I'm sure there is room for simplification there, but
40 they will probably be looking at that as a way to determine some
41 of those bounds.

42
43 Others, maybe not, for instance where they went ahead and made
44 the permit longer, but it's just kind of a point that I think we
45 will end up being a guide for a lot of those discussions, moving
46 through time, based on the previous work that we had done.

47
48 **CHAIRMAN MICKLE:** Madam Chair.

1
2 **MS. BOSARGE:** Two things that kind of stood out to me, and, as
3 Robin said, maybe it will be more fleshed out over time, but the
4 current -- The way it's currently written that -- In our FMP,
5 it's outlined that only drugs, biologics, and other chemicals
6 approved for aquaculture by the FDA, EPA, or USDA should be used
7 in these facilities. I hope that that would be the path that
8 this legislation will follow. I mean, there's a lot of
9 government agencies in there that safeguard us, and I would hope
10 that we would follow what they have lined out.

11
12 Also, and I don't know, and it's strange to me, but, in our FMP,
13 we state that a veterinarian must be certified by the American
14 Fisheries Society Fish Health Section is a fish pathologist or
15 fish health inspector, and I think, the way the legislation is
16 currently written, it can be any veterinarian. I don't know how
17 many normal veterinarians have a lot of experience prescribing
18 drugs for fish, and so I hope that, when they flesh that out,
19 that they will follow that lead as well and make sure that there
20 is some training in whatever may be prescribed to go into our
21 marine environment.

22
23 That and then just one last question. Morgan, as the bill
24 states currently, does it say they should consult with the
25 council or they will consult with the council?

26
27 **DR. KILGOUR:** In Section 10, it requires a consultation with the
28 council for anything -- For the Programmatic Environmental
29 Impact Statement and for the offshore aquaculture permit, and so
30 Section 6 and Section 9.

31
32 **MS. BOSARGE:** So that means that, as a permit comes before this
33 new agency, that, any new permits, they must at least come --
34 Sort of like G.P. did. He will come before us and pass it by
35 us, and then what level of authority does our recommendation
36 have at that point, our feedback?

37
38 **CHAIRMAN MICKLE:** Dr. Kilgour.

39
40 **DR. KILGOUR:** It doesn't say what level of authority the council
41 has. It just requires that consultation, similar to what the
42 Gulf Aquaculture Permit has now, where a permit is supposed to
43 be brought before the council, and the council may comment on
44 it, but, ultimately, I believe the decision would rest with the
45 Office of Aquaculture.

46
47 I'm sure they would take into consideration your comments, but
48 the ultimate authority right now for the Gulf Aquaculture Permit

1 is -- It rests with NMFS, and so I would assume that it would be
2 the same and that it would rest with the Office of Aquaculture
3 for this.

4

5 **CHAIRMAN MICKLE:** Madam Chair.

6

7 **MS. BOSARGE:** So does the current legislation require that they
8 consult with anybody else, like the oil and gas industry, and
9 what level of authority does their recommendation have?

10

11 **CHAIRMAN MICKLE:** Dr. Kilgour.

12

13 **DR. KILGOUR:** Well, I am not sure. I can get back to you on
14 that. I will get back to you, but it does require consultation
15 with the Secretary of Interior, but was specific to lease block
16 lessees and whatnot, and so I will find out what the level of
17 authority is there.

18

19 **CHAIRMAN MICKLE:** There is language in the bill that establishes
20 a sub-committee, an aquaculture sub-committee, with interest
21 groups of localized regional expertise, and so I would assume
22 that those user groups would be included in that.

23

24 I really like what the council staff has done here. It would be
25 advantageous for the Gulf of Mexico, which I hear is the most
26 industrialized body of water in our country -- It's a crowded
27 place, even though we think it's big, and there's a lot of
28 interest groups within the Gulf. Those regional sub-committees,
29 I think, would give a lot of more peace of mind toward the user
30 group interaction.

31

32 I have been inquiring a lot about this. The senator from
33 Mississippi introduced this bill, and so I've been talking to a
34 lot of folks within the industry and the user groups.

35

36 To Ms. Guyas's questions, I always wondered why twenty-five
37 years was -- It's such a long time, and, again, the technology
38 is going to move so fast, especially in a fledgling industry,
39 but the business interests really need that. They really wanted
40 large amounts of time, because the investments are so incredibly
41 large.

42

43 Going from state-water aquaculture to a federal EEZ aquaculture
44 system is a gigantic leap and financial justification of the
45 lien holders and the investments from it, and so I think a lot
46 of that talk with the industry says that it just takes that long
47 to get the risk assessments done, and then those -- Let's see.

48

1 I did talk a little bit about the terrestrial potential
2 conflicts with the permitting of terrestrial-based aquaculture
3 production, and those seem to, at least from the federal side --
4 I was told that this might streamline it. Instead of going from
5 five or six different federal agencies, this would be directed
6 toward this new potential group within the federal government,
7 and so, from at least the federal side, this might actually
8 streamline some of that terrestrial-based permitting. It's
9 going through at least four different federal agencies,
10 currently, or at least that's the information I got. Ms. Levy
11 and then Dr. Stunz.

12
13 **MS. LEVY:** Just to point out that the section that requires the
14 consultation, which is Section 10, the language is pretty much
15 the same for almost everyone, at least under that section, and
16 so the Secretary has to consult with the appropriate federal
17 agencies, coastal states, and regional fishery management
18 councils, et cetera, et cetera, and so there is the same non-
19 standard as to what that means applies.

20
21 I read a consultation as a consultation. You're seeking input,
22 but nothing that's provided is going to be binding on the
23 decision to issue the permit. The Secretary or the agency is
24 going to decide that.

25
26 Also, I know that you weren't writing a letter, which is good,
27 but just to -- I know you're all aware of this, right, and so
28 the council can't lobby on legislation, and so you can't just
29 sort of sua sponte send in your opinions and such about what you
30 like and don't like about a bill. You can respond to requests,
31 in terms of what the impacts might be to your grant funding and
32 all that sort of stuff, and so I just wanted to remind you of
33 that.

34
35 **CHAIRMAN MICKLE:** Dr. Stunz.

36
37 **DR. STUNZ:** This is something, I guess, just to get on the
38 record for our group to start discussing, and the reason I'm
39 bringing it up is because it's similar and analogous to the oil
40 and gas situation and the artificial rigs to reefs, and that has
41 to do with the fee section.

42
43 In looking through the bill, I think it's covered, but it's
44 still one of these things, and also the clause that the
45 Secretary can waive fees, but it's related also to what Paul
46 mentioned. In a fledgling industry like this, you're going to
47 have a lot of people maybe going out of business, and so then
48 what happens to that structure that's out there, and the same

1 thing happens to the oil and gas platforms that goes through a
2 whole series of owners and then no one is left to remove it.

3
4 Well, it talked about that there is some bonding clauses in
5 there and that that shall be done and that sort of thing, but
6 it's not real clear. I mean, we certainly don't want a
7 structure out there that's going to interfere with other fishing
8 operations and run into corals or get loose in storms of
9 companies that have gone bankrupt, and so I think it would be --
10 This is a good time, in the initial discussions, to make sure
11 there is a firm bonding procedure or whatever procedure might
12 happen to be in place that there is funds to remove that
13 structure should the initial company go out of business.

14
15 **CHAIRMAN MICKLE:** Madam Chair.

16
17 **MS. BOSARGE:** I would be remiss if I didn't put it on the record
18 that I have some hesitations about aquaculture with shrimp and
19 coral. We prohibited those in our FMP for some -- We had a lot
20 of justification in there, and so I will put that on the record.

21
22 **CHAIRMAN MICKLE:** Dr. Frazer.

23
24 **DR. FRAZER:** I just have a question for Leann. Is that
25 reservation for land-based operations as well for shrimp?

26
27 **CHAIRMAN MICKLE:** Madam Chair.

28
29 **MS. BOSARGE:** Well, our FMP only spoke to offshore, and so I
30 won't get into my land-based reservations, but for offshore.

31
32 **CHAIRMAN MICKLE:** All right. Is there any other discussion on
33 this agenda item here today? All right. Let's see. That
34 brings us to Item Number VI, Other Business. Is there any other
35 business within the committee of Sustainable Fisheries? Seeing
36 none, I will recess the committee.

37
38 (Whereupon, the meeting adjourned on August 20, 2018.)

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40 - - -