

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL
SUSTAINABLE FISHERIES COMMITTEE

Renaissance Battle House Mobile, Alabama

October 22, 2018

VOTING MEMBERS

- 10 Dale Diaz.....Mississippi
- 11 Kevin Anson (designee for Scott Bannon).....Alabama
- 12 Patrick Banks.....Louisiana
- 13 Leann Bosarge.....Mississippi
- 14 Doug Boyd.....Texas
- 15 Roy Crabtree.....NMFS
- 16 Dave Donaldson.....GSMFC
- 17 Martha Guyas (designee for Jessica McCawley).....Florida
- 18 Greg Stunz.....Texas
- 19 Ed Swindell.....Louisiana

NON-VOTING MEMBERS

- 22 Susan Boggs.....Alabama
- 23 Jonathan Dugas.....Louisiana
- 24 Tom Frazer.....Florida
- 25 Paul Mickle (designee for Joe Spraggins).....Mississippi
- 26 Robin Riechers.....Texas
- 27 John Sanchez.....Florida
- 28 Lt Mark Zanowicz.....USCG

STAFF

- 31 Assane Diagne.....Economist
- 32 Matt Freeman.....Economist
- 33 John Froeschke.....Deputy Director
- 34 Beth Hager.....Administrative Officer
- 35 Karen Hoak.....Administrative & Financial Assistant
- 36 Morgan Kilgour.....Fishery Biologist
- 37 Mara Levy.....NOAA General Counsel
- 38 Emily Muehlstein.....Public Information Officer
- 39 Ryan Rindone.....Fishery Biologist & SEDAR Liaison
- 40 Bernadine Roy.....Office Manager
- 41 Carrie Simmons.....Executive Director

OTHER PARTICIPANTS

- 44 Luiz Barbieri.....SSC
- 45 Avery Bates.....Organized Seafood Association of Alabama, AL
- 46 Eric Brazer.....Shareholders Alliance
- 47 Shannon Calay.....SEFSC
- 48 Michael Drexler.....St. Petersburg, FL

1 Joel Fightmaster.....USCG
2 Traci Floyd.....MDMR, MS
3 Susan Gerhart.....NMFS
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5 Ken Haddad.....Lloyd, FL
6 Joe Jewell.....MDMR, MS
7 Rich Malinowski.....NMFS
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9 Clay Porch.....SEFSC
10 Ashford Rosenberg.....Shareholders Alliance
11 Chris Schieble.....LA
12 Jim Zurbrick.....Steinhatchee, FL

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TABLE OF MOTIONS

PAGE 16: Motion to add language to the Conversion of Historical Captain Endorsements to Federal For-Hire Permits document that would render eligibility letters for historical captains invalid as of the implementation date and not add Options 2 through 6 to the document. The motion carried on page 20.

- - -

1 The Sustainable Fisheries Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Renaissance Battle
3 House, Mobile Alabama, Monday morning, October 22, 2018, and was
4 called to order by Chairman Dale Diaz.
5

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

10 **CHAIRMAN DALE DIAZ:** I would like to call the Sustainable
11 Fisheries Committee to order. First up, I want to read the new
12 membership, and so the new membership is myself as the Chair,
13 Mr. Swindell as the Vice Chair, Mr. Schieble, Mr. Anson, Ms.
14 Bosarge, Mr. Boyd, Dr. Crabtree, Mr. Donaldson, Ms. Guyas, and
15 Dr. Stunz.
16

17 First up on the agenda is the Adoption of the Agenda. We have a
18 motion by Kevin to adopt the agenda and seconded by Mr.
19 Donaldson. Anybody in opposition? Seeing none, the agenda is
20 adopted.
21

22 Next up is the approval of the minutes from August of 2018.
23 It's so moved by Mr. Anson and seconded by Dr. Stunz. Any
24 opposition to adopting the minutes? Seeing none, Item III is
25 the Action Guide and Next Steps.
26

27 I believe, as we go through these agenda items, we've going to
28 take the Action Guide and Next Steps for that specific agenda
29 item up right before the agenda item, and so first up is going
30 to be Dr. Diagne, and he's going to talk about the conversion of
31 the historical captain endorsements to federal for-hire permits.
32 Dr. Diagne, will you talk about the Action Guide and Next Steps
33 and then take us through Agenda Item Number IV, please?
34

35 **CONVERSION OF HISTORICAL CAPTAIN ENDORSEMENTS TO FEDERAL FOR-**
36 **HIRE PERMITS**
37

38 **DR. ASSANE DIAGNE:** Yes, Mr. Chair. Thank you. For this agenda
39 item, essentially what we have prepared is a revised draft, and
40 we are going to present this revised draft, and we will also
41 discuss some options relative to passenger capacity. If you
42 recall, the last meeting, you did pass a motion requesting that
43 we look at some of those. We are looking for some feedback from
44 the committee based on those options, and we also have some new
45 information to share with the committee. Thank you.
46

47 Then we will start with the document, and, essentially, I will
48 just read the purpose and need for this action and then turn it

1 over to Ms. Levy, so that she can share some information with
2 the committee.

3
4 The purpose of this action is to replace reef fish and CMP
5 historical captain permits held by thirty-two operators and
6 replace these with standard for-hire permits. The need, as
7 written here, is to reduce the regulatory and the potential
8 economic burden on historical captains.

9
10 I will turn it over to Ms. Levy, because there may be some
11 adjustments to be made as far as the universe of historical
12 captains that we thought was capped at thirty-two.

13
14 **CHAIRMAN DIAZ:** Ms. Levy.

15
16 **MS. MARA LEVY:** Okay. Thank you. As Assane said, this document
17 deals with currently the thirty-two permits that are historical
18 captain permits, or have the historical captain endorsement.
19 When the moratorium was first put in place, there were letters
20 of eligibility that went out for these historical captain
21 permits, and so NMFS -- I believe people sent information in,
22 and then NMFS sent a letter back saying you are eligible for a
23 historical captain endorsement, and this is what you have to do
24 to get it, and so folks returned those letters with the
25 information to get their endorsement, and I think that started
26 back in 2003.

27
28 In 2006, when the limited access system was put in place, there
29 was some discussion about how -- What happened to the letters of
30 eligibility, and so were they still valid, were they no longer
31 valid, because the moratorium was replaced by the limited access
32 system, and I did not realize, before maybe a month ago, that
33 there had been this discussion and there had been a
34 determination that the letters were essentially valid or could
35 be turned in with the required application for a historical
36 captain endorsement indefinitely.

37
38 As long as the limited access system was in place, these letters
39 of eligibility could be turned in for permits, and so I think
40 there are sixty-seven outstanding letters that have never been
41 redeemed, and so, just to give you further information that
42 there are potentially sixty-seven people out there, and, whether
43 they're still out there or not, I don't know, that may have
44 these letters that could potentially turn them in for a
45 historical captain endorsements.

46
47 I think that, with that information, you have a couple of
48 decisions to make. This particular document deals with the

1 current thirty-two permit holders. I don't think that needs to
2 change, unless you want it to, meaning it can still deal with
3 the fact that there are thirty-two people that already have
4 these permits, and you then want to allow them to convert those
5 permits into a regular for-hire permit.

6
7 Then the second question is what to do with these letters of
8 eligibility. Does the council want to continue to allow folks
9 to be able to turn those in for historical captain permits,
10 because that's what they're valid for, or does the council want
11 to potentially include them in this, even though they don't
12 currently have a permit and somehow say that these letters would
13 make it so that you get a regular transferable permit, and I
14 guess there are some decision points for you there.

15
16 When we first started talking about doing this action, it seemed
17 to be that the discussion was these particular people had these
18 permits, and they were active in the fishery, and there were a
19 limited number of them, and so you wanted to just give them the
20 opportunity to have a regular permit. I don't know how that
21 reasoning stands up for the sixty-seven letters of eligibility
22 that are still outstanding.

23
24 If you want to move ahead with this particular document, like I
25 said, I think that's fine, and you can address the letters of
26 eligibility separately, but I think that's going to be a
27 decision for you. If you do want to somehow wrap the letters of
28 eligibility into this document, it may take a little longer to
29 get through this and finalize it. I realize that was a lot, and
30 a little bit confusing, and so, if anyone has any questions, let
31 me know.

32
33 **CHAIRMAN DIAZ:** Mr. Donaldson.

34
35 **MR. DAVE DONALDSON:** Thank you, Mr. Chair. Mara, how long ago
36 were those letters sent out? Did you say? You may have said
37 and I missed it.

38
39 **MS. LEVY:** 2003, I believe.

40
41 **MR. DONALDSON:** Okay. Thank you.

42
43 **CHAIRMAN DIAZ:** Dr. Crabtree.

44
45 **DR. ROY CRABTREE:** The letter went out on February 19, 2003, and
46 it was based on the criteria that we put into the permits
47 moratorium way back then, and the final rule on that published
48 in June of 2002, and so this is a long time ago.

1
2 My understanding of our discussion has always been that we were
3 going to take the historical captains who have the permits now
4 that have the restricted transferability on them and issue them
5 regular permits and not these guys who may have this letter in a
6 desk somewhere and they aren't in the charter boat business,
7 because the letter is not worth anything to you unless you're
8 going to be a charter boat fisherman, but, if you let them come
9 in with a letter and get a limited-entry permit, then it's worth
10 money.

11
12 My understanding of where we've been all along is the guys who
13 have permits now, and so the way this would work is the
14 historical captains who have these permits -- Next time they
15 come in to renew their permit, they would be issued a regular
16 transferable permit, and my view is that, when we do a final
17 rule on this amendment, we would essentially eliminate these
18 letters as having any meaning in the fishery right now.

19
20 Now, I guess, if in the time we work on this and if someone
21 comes in and gets a permit or something, we will have to deal
22 with that, but if we can move on this relatively quickly, and if
23 we narrow down the range of alternatives we have here, because
24 we had this originally as a categorical exclusion, which can
25 make this happen fairly quickly, I think we can avoid some of
26 those issues, but I certainly never had any intention of
27 allowing these guys who haven't been in the fishery for fifteen-
28 plus years to come in and get a permit.

29
30 **CHAIRMAN DIAZ:** Mr. Anson.

31
32 **MR. KEVIN ANSON:** Dr. Crabtree addressed some of my question, or
33 questions, but so, as I understand it right now, Mara, with
34 these people that have the letters, they just have the letter,
35 and it's open, and they didn't have to do anything, and they can
36 come in tomorrow and apply and get the permit, while those that
37 have been operating, or using the historical captain permit,
38 they're under the other restriction or guidelines that limited-
39 access permits have, and that is, if you don't renew within a
40 certain date, that permit will lapse. The historical captains
41 are under the same guidelines as that? Is that correct?

42
43 **MS. LEVY:** Correct, because they actually have the permit. The
44 people that have the letters could only get the historical
45 captain permit, and I will say that there have been, I
46 understand, three historical captains permits issued since 2006,
47 and so it's not like nobody has come in during this span of nine
48 years and gotten one. It's been a limited number of people, but

1 like, if someone applied tomorrow for a historical captain
2 permit, based on this letter and they had whatever else they
3 needed, the agency would issue one.

4

5 **CHAIRMAN DIAZ:** Ms. Guyas.

6

7 **MS. MARTHA GUYAS:** Along those lines, I guess I'm wondering if
8 it would make sense to apply a control date to this, and then I
9 guess my question would be that, and then, if we did that, would
10 that mess up the categorical exclusion fast-track process? It
11 seems like, if we put a control date in here, that may solve our
12 problem and prevent new people from surfacing.

13

14 **CHAIRMAN DIAZ:** Ms. Levy.

15

16 **MS. LEVY:** I have been thinking about this, and I guess the
17 thing is what would be the purpose of the control date? Right
18 now, you have a document that addresses the thirty-two current
19 permit holders. It very clearly addresses those permits. I
20 don't think we need to do anything to change that.

21

22 If the intention is to make it so that these letters of
23 eligibility are potentially no longer being valid to turn in for
24 a permit, from my perspective, the easiest thing to do would be
25 to, either in this document or another document, specify that
26 and then do a rulemaking and then just say, as of the effective
27 date of this rule, your thing is no longer eligible. That is
28 giving people enough notice to do what they need to do.

29

30 To say the control date -- If the control date is as of today,
31 and you can no longer turn in the letter, that is almost like no
32 notice. I guess what I'm saying is, when we do control dates,
33 we usually say we're going to use this, and we're potentially
34 doing this thing, and, if you haven't landed fish up until this
35 date, you may not be included, but it hasn't been like a -- It
36 hasn't been, as of this date, your thing is no longer valid, and
37 does that make sense? It's a little bit funky to do a control
38 date on, is what I'm trying to say.

39

40 **CHAIRMAN DIAZ:** All right. I've got a handful of people that
41 want to -- Is it to that point, Martha?

42

43 **DR. CRABTREE:** Normally, when we do control dates, it's to
44 notify people in the fishery that they may not be able to
45 continue in the fishery. These people aren't in the fishery,
46 and they probably haven't been for many, many, many years, and
47 so it is a little different.

48

1 **CHAIRMAN DIAZ:** Mr. Donaldson. Dr. Stunz.
2
3 **DR. GREG STUNZ:** I too was going to suggest some type of control
4 date, but, if that doesn't seem appropriate for here, I mean, I
5 would support having what Mara was saying, something in the
6 document that says, as this becomes effective or whatever
7 verbiage we might use, that that essentially invalidates the
8 current letters that are out there.
9
10 **CHAIRMAN DIAZ:** Ms. Boggs.
11
12 **MS. SUSAN BOGGS:** Thank you. I'm not on your committee, but I
13 would like to say I know a couple of fishermen that are
14 currently in the fishery that do have their historical captain
15 license letter, but they are currently fishing on a vessel that
16 has a permit, and so they have not turned in their letter for a
17 permit.
18
19 **CHAIRMAN DIAZ:** Dr. Diagne, are you ready to move us forward?
20
21 **DR. DIAGNE:** Yes, Mr. Chair. Then we are going to discuss the
22 document that we have, which deals with the thirty-two
23 historical captains that do have these permits. Essentially, we
24 have some background information, and it shows the rate of
25 attrition in the number of federal for-hire permits, and that
26 would be Figure 1.2.1. Figure 1.2.2 would show the decline in
27 the historical captain permits.
28
29 This one shows the decline in the federal for-hire permits,
30 because, of course, we have a limited-entry system. What we
31 see, over time, is a decrease in the number of these permits,
32 and, on the next figure, Figure 1.2.2, this is the evolution of
33 the historical captain permits, and we see here a more
34 pronounced decline, and that is due to the fact that we have
35 limitations on the transferability of these permits, and so, in
36 percentage terms, the decline here would be more pronounced.
37
38 We can move to Table 1.2.2 at the bottom, and this table
39 essentially shows us the distribution by state of these
40 historical captain permits. We have the CMP permits and the
41 reef fish permits, but the two distributions are identical,
42 except for that fact that, in Florida, we have one historical
43 captain that only has a CMP permit, and everyone else has both,
44 and so, in terms of the total, we would have then thirty-two
45 historical captains that would be affected by this proposed
46 action.
47
48 We will spend most of our time discussing passenger capacity,

1 because the council did request that we look at some options to
2 deal with passenger capacity, and, in terms of capacity, we will
3 have to make a distinction between the permit capacity, which is
4 the passenger capacity indicated on the permit, as opposed to
5 the vessel capacity, which is the passenger capacity specified
6 by the vessel's COI. As you know, if the vessel does not have a
7 COI, then it would be limited to six passengers.

8
9 Looking at the Figure 1.2.3, which is just below a little bit,
10 this essentially compares the aggregate permit capacity, which
11 will decline, of course, because the number of permits,
12 historical captain permits that is, has declined to the vessel
13 capacity, meaning the capacity of the vessels that are currently
14 used with those permits, and we see here a smaller decline, but
15 what we would like to mention is the fact that the gap between
16 the two is really narrowing, and so there is not much difference
17 between, if you would, the maximum, which would be the permit
18 capacity, as opposed to the vessel capacity, which is now used.

19
20 Before we look at the options, in terms of passenger capacity,
21 we could discuss a couple of tables. Table 1.2.1.3, which is
22 just below the figure here, will show the permit capacity for
23 these historical captain CMP permits. We chose the CMP permits
24 because we have thirty-two of them, and the reef fish permits
25 would follow essentially the same distribution.

26
27 The bulk of these are six-pack vessels, meaning 68.7 percent
28 would be six-pack vessels, and then we have vessels with a
29 permit capacity between seven and twenty-nine, and we only have
30 three vessels, and, finally, vessels with a capacity -- Permits
31 with a capacity of sixty-plus, we only have three of those.

32
33 The point here is that, out of the thirty-two permits, twenty-
34 three of them have the same permit and vessel capacity, and so,
35 the majority of these, the permit capacity and the vessel
36 capacity are the same.

37
38 There is one more table here which looks at the vessel capacity
39 itself instead of the permit capacity, although there is only
40 one permit that has a vessel capacity above thirty, and, again,
41 the bulk of these would be six-pack, meaning six passengers,
42 when it comes to the capacity.

43
44 The council is looking into converting the historical captain
45 permits into regular permits. Your initial intent was
46 essentially a direct swap, taking a historical captain and then
47 replacing it with what I would call a regular or standard for-
48 hire permit. Then, during the last council meeting, the

1 discussion started and went towards looking at options to, if
2 you would, limit or restrict the capacity of the standard permit
3 to be issued.

4
5 The understanding is that, if we were to move from the direct
6 approach that was initially considered, and if we wanted to
7 consider options when it comes to capacity, perhaps an
8 abbreviated framework would no longer be appropriate, and we
9 would have to develop an EA, with options and alternatives to
10 compare and contrast, and so that is something to bring to your
11 attention.

12
13 We can review some of the options that we have put together to
14 address passenger capacity, and these are in the appendix,
15 Appendix A to this document, and some of these, and, of course,
16 you didn't see these, and some of the options are additions to
17 passenger capacity, and so they address some lingering issues, I
18 guess.

19
20 Option 1 is the one that would reflect your original intent,
21 meaning replace historical captain permit with a standard for-
22 hire permit, and, in the process, we would retain the permit
23 capacity associated with the original historical captain permit.
24 That was the initial intent for this abbreviated framework.

25
26 The other options look at some of the things that you discussed
27 here during the council, one of which is to cap the permit
28 capacity at the average for-hire permit capacity in the Gulf,
29 and that average is about fourteen. It was thirteen-point-
30 something, and so, fourteen, essentially, would be the permit
31 capacity then of the standard permits once the conversion is
32 made under Option 2.

33
34 For Option 3, the capacity of the standard permit would be
35 capped to the vessel capacity of the vessel currently operated
36 by the historical captain, and so, essentially, if let's say a
37 historical captain has a permit that has a hundred passengers,
38 in terms of permit capacity, but is currently using a six-pack
39 vessel, then the standard permit he would receive would be
40 capped at six passengers.

41
42 Option 4 would essentially give all historical captains standard
43 permits limited to six passengers, and so, again, here, we have
44 some with a permit capacity greater than six, but they would be
45 limited to six.

46
47 One thing that came to our attention is that some historical
48 captains would need time to find a suitable vessel to be able to

1 associate it with their permit, and so Option 5 was developed to
2 account for the fact that we would give the historical captains
3 two or three years from implementation of this action to be able
4 to essentially receive the standard permit and associate it with
5 a vessel.

6
7 There is one more option here for your consideration, and the
8 original intent of this action is to lessen the burden, if you
9 would, administrative as well as economic burden, on the
10 historical captains, but some of these options would essentially
11 make some of the captains worse off than they currently are, for
12 example by limiting their choices in terms of which vessel they
13 can put their permit on.

14
15 For that reason, there is an option here that would essentially
16 allow them to opt out of this conversion or replacement if they
17 feel that essentially this would be harmful to them, and so
18 these are the options that we developed for your consideration,
19 and, before I pause, two things.

20
21 If we were to consider these, again, we would have to move away
22 from the abbreviated framework and develop a standard EA to be
23 able to evaluate these, and the second thing is, when we look at
24 the difference between vessel capacities and permit capacity,
25 and the composition of the fleet, there is really no major
26 difference there, and so, in terms of, I guess, policy, your
27 first option would seem to be the most, I guess, practicable and
28 the most straightforward, meaning a one-for-one swap in
29 retaining the permit capacity associated with the historical
30 captain permit. Thank you. I will stop here and try to answer
31 questions.

32
33 **CHAIRMAN DIAZ:** Dr. Crabtree.

34
35 **DR. CRABTREE:** I guess my way of coming at this is let's keep it
36 simple and let's do what we originally intended to do, which is
37 Option 1. That allows us to avoid having to do a NEPA document,
38 and we can move much more quickly on this.

39
40 These guys retain the current permit capacity that they're
41 fishing on now, and that makes sense to me, and then I don't
42 think we need any of these other options, and, if you do it that
43 way, then, when they come in to renew their permit, we would
44 just, when we renew it, issue them a regular permit that would
45 be transferable.

46
47 That would take, potentially, two years, because you could have
48 a captain who had just renewed his permit before this rule was

1 effective, and then they have a year before it expires, and then
2 they have a one-year grace period to renew the permit. If they
3 don't renew it within that period of time, they will have lost
4 the permit anyway, and then my suggestion to you is we add into
5 this document that the letters -- I can't remember, but that the
6 language that renders the eligibility letters invalid as of the
7 date of the effective rule.

8
9 Now, I think we have -- As far as I know, the last eligibility
10 letter that anyone came in with and got a permit was in 2015,
11 but they have sure had plenty of time to do something with the
12 eligibility letters, and so my recommendation to you, and I
13 think what's been our intent all along, is just to go with
14 Option 1 and get rid of the eligibility letters at that time,
15 and I think, if you do that, you can bring this into the next
16 meeting and probably vote it up, and we can implement it pretty
17 quickly.

18
19 **CHAIRMAN DIAZ:** Any further discussion? Mr. Anson.

20
21 **MR. ANSON:** That would be my take, too. It's the simplest way
22 and the easiest way. I guess I'm just curious. In light of the
23 new information that Mara talked about, these eligibility
24 letters, and, Susan, you mentioned that you knew of a couple of
25 folks that had them, and do you know what their motivations are
26 for -- I mean, obviously, you don't throw it away, but, I mean,
27 if they're not -- I thought you said that they were still kind
28 of in the fishery, and what would be their motivation? Is it
29 because they have another permit already, another limited-access
30 permit, and they just are using that one, and they only have one
31 boat and one permit, and is that why?

32
33 **CHAIRMAN DIAZ:** Ms. Boggs.

34
35 **MS. BOGGS:** Yes. One captain -- Well, actually both of the
36 captains are currently fishing on vessels that have regular
37 permits, and they just held their historical captain license.
38 One of them commented to me that he's held it kind of like
39 insurance, so if his vessel that he is currently working on ever
40 sold, he would have the ability to go obtain a license and
41 continue in the fishery. The other is -- I mean, he has the
42 license, but, again, he's fishing on vessels that already are
43 permitted, and he just continues to hold the letter.

44
45 **CHAIRMAN DIAZ:** Mr. Donaldson.

46
47 **MR. DONALDSON:** Roy suggested adding some language to this
48 document, in terms of these letters of eligibility, and, Mara,

1 I've got a question. Is that the simplest way to do it? Can we
2 do that, just adding language making those letters no longer
3 valid?

4
5 **MS. LEVY:** I think you can add that, and then it would be -- I
6 think the language that might be proposed is on the effective
7 date of the rule, and so that letter wouldn't be invalid until
8 the rule implementing this is actually effective, and we would
9 put that in the rulemaking, right, and so it gives people notice
10 and opportunity to comment. If they really want to come in and
11 get a historical captain permit with their letter, they are
12 going to have however long it takes to actually implement this.

13
14 It would not include them in the thirty-two permits that are
15 considered in this document to become the regular permits. If
16 that's what you wanted to do, that would have to be much more
17 explicit. Like we would have to add that.

18
19 **CHAIRMAN DIAZ:** Go ahead, Mr. Donaldson.

20
21 **MR. DONALDSON:** Ms. Boggs, you mentioned the two gentlemen that
22 -- They have the letter, but they don't have the historical
23 captains license, and is that true, or do they have -- You
24 mentioned that they had the license and they were just holding
25 it, but they just have the letter?

26
27 **MS. BOGGS:** Right. They are licensed captains, but they have a
28 letter, the historical license letter.

29
30 **MR. DONALDSON:** Okay. Thank you.

31
32 **CHAIRMAN DIAZ:** Dr. Stunz.

33
34 **DR. STUNZ:** I too agree with Option 1, and that was the intent
35 of what we've been discussing, but I didn't quite realize, until
36 Assane brought it up, that -- You mentioned that some of these
37 individuals could be worse off than they are today, and so that
38 is my only concern, because we haven't heard -- At least I
39 haven't heard any concern from the -- I just assumed it was a
40 positive thing, until today, but I assume that, when we move
41 this forward along and maybe put Option 1 as our preferred or
42 something, we have the potential for hearing from these
43 individuals, but I guess, Roy, and I don't know, but is a letter
44 going to go out from your office to these folks notifying them
45 of this, or do we just -- Does it just move forward?

46
47 I guess what I am wondering is I'm trying to avoid some
48 unintended consequences that we may not be thinking, around this

1 table, about Option 1 and how impacts of some of them might be
2 that we're not thinking about.

3
4 **CHAIRMAN DIAZ:** Maybe Assane can clarify that, but it's my
5 understanding that Option 1 -- I don't think they will be worse
6 off. When you get down into subsequent options, there is a
7 chance that they could be worse off. Ms. Guyas next and then
8 Dr. Crabtree. Dr. Crabtree.

9
10 **DR. CRABTREE:** Maybe Assane said this, but I don't think anyone
11 could be worse off if we go with Option 1. The way this would
12 work is we would -- When this was implemented, we would send out
13 a Fishery Bulletin to -- We would contact the thirty-two
14 captains, I guess, with a letter saying your permit, when you
15 renew it next, will be converted into a -- Then we'll have to
16 figure out whether you just put a general -- You see the problem
17 is the letter-holders, if they don't have permits or aren't in
18 it anywhere, I'm not sure we have any way to contact them. I
19 don't know that we know where they are. I would be prepared to
20 make a motion, if you would like, Mr. Chairman.

21
22 **CHAIRMAN DIAZ:** Please do.

23
24 **DR. CRABTREE:** I move to add language to the historical captain
25 framework action that would render eligibility letters for
26 historical captains invalid as of the effective date of the rule
27 implementing the document and not add Options 2 to 6 to the
28 document.

29
30 **CHAIRMAN DIAZ:** All right. We have a motion by Dr. Crabtree.
31 Is there a second for the motion? It's seconded by Dr. Stunz.
32 Is there further discussion? Ms. Guyas.

33
34 **MS. MARTHA GUYAS:** Just a question. If we move forward with
35 this, potentially there is going to be some people that come out
36 of the woodwork with their letters, and that's all good, to say
37 that they're going to redeem for their captain permit, and I
38 think it would probably be helpful to add to this document some
39 analysis of the passenger capacity that potentially could --
40 That is associated with those, so that we know.

41
42 **DR. CRABTREE:** That's implicit in the motion. Option 1 retains
43 the permit capacity on the --

44
45 **MS. GUYAS:** Well, but I'm talking about the people that have the
46 letter but haven't -- That potentially could come forward and
47 join the historical captain ranks between now and the effective
48 date of this rule, and I'm just saying it might be helpful to

1 know more information about this group of people, since we
2 potentially, and I'm not saying it's going to happen, but it
3 could have a three-fold increase in the number of historical
4 captain permits between now and when this takes effect, if I am
5 understanding this right, and maybe I'm not.

6
7 **DR. CRABTREE:** If I could, Mr. Chairman, if one of these guys
8 with a letter in his desk is listening and thinks this is going
9 to happen, yes, he could go get a boat and claim his permit and
10 put it on the boat, and then he would be eligible to get a
11 permit when this happens.

12
13 I suspect most of these guys are long gone, a long time ago, and
14 so I would be surprised if there are more than a few of them out
15 there that are likely to do anything, and, to me, whether five
16 or six guys get a permit out of this that we didn't anticipate,
17 it's not a big deal, but I'm not sure what more we can do to
18 determine that.

19
20 **CHAIRMAN DIAZ:** Ms. Guyas.

21
22 **MS. GUYAS:** I'm not saying that that's not okay, but I'm just
23 saying it would be helpful, I think, for us to understand what
24 that population of people could mean here, and that's all. It's
25 just some information about the passenger capacity.

26
27 **CHAIRMAN DIAZ:** Dr. Diagne and then --

28
29 **DR. DIAGNE:** To Ms. Guyas's point, we also looked a little bit
30 into that, and, to date, we have information on sixty-three out
31 of the sixty-seven potential, if you would, new permits. The
32 bulk of them would be in Florida, and that's not surprising,
33 thirty-six of them, about, almost 60 percent, but, in terms of
34 passenger capacity, about thirty-four of them are six-pack
35 vessels, essentially.

36
37 We only, in this group, have five of them that would receive a
38 permit of a capacity, permit capacity, of sixty or greater, and
39 so, if all sixty-three, I guess, and we have four that we didn't
40 get information on, came up today and claimed their permit, the
41 total permit capacity that would be added would be 1,280, to a
42 much, much larger number, actually, and the total number in the
43 fleet is I think 17,000, for the regular, if you would, for-hire
44 fleet, and so even then that wouldn't be a whole lot.

45
46 **CHAIRMAN DIAZ:** Ms. Levy.

47
48 **MS. LEVY:** Well, just to note that -- I mean, the passenger

1 capacity that would be potentially added by people coming to get
2 a historical captain permit was analyzed when the moratorium was
3 put in place. These people have all been eligible since then,
4 and so I get it as the current today, if they came in you would
5 be increasing it, but it was taken into account when the
6 moratorium went in place, and so then -- Also, just to clarify,
7 which we said, and I said, is that people that would come --
8 Anybody that would redeem their letter for a historical captain
9 permit now would not be included in this action that gives folks
10 the regular for-hire permit.

11
12 Meaning, the way I saw it and we talked about it, it was the
13 letters of eligibility are still valid. You can come get a
14 historical captain permit, but this document and this action is
15 limited to the thirty-two current permit holders, and I just
16 want to make sure that everybody is on the same page there,
17 because, if that's not what is going to happen, then we have a
18 whole different document going on.

19
20 **CHAIRMAN DIAZ:** Mr. Anson.

21
22 **MR. ANSON:** Sue or Mara or Dr. Crabtree, if someone that had an
23 eligibility letter were to come in, and on the letter it said
24 there was a vessel capacity of twenty, but they ended up getting
25 a six-pack vessel, that original twenty would stay with them,
26 even though they would renew for a six-pack vessel, and is that
27 correct? They wouldn't be dropped down to a six-pack and then
28 only stay at a six-pack, and is that correct?

29
30 **MS. SUSAN GERHART:** Yes, that's correct, and that's the way it
31 is with the standard ones as well. The permit capacity does not
32 change, regardless of the size of the vessel. If someone puts
33 it on a smaller capacity vessel, then they're limited by their
34 COI, or lack thereof, to a six-pack. If they put it on a larger
35 vessel, then they're limited to the permit capacity when they
36 are taking out fishing passengers.

37
38 **CHAIRMAN DIAZ:** Dr. Stunz.

39
40 **DR. STUNZ:** I was just going to say that I agree with Mara. In
41 my mind, I had always just assumed it was for these individuals
42 that we were talking about here, not knowing the whole other
43 letters that existed out there, but I also thought that sort of
44 the purpose of this document was to clean things up a little bit
45 and streamline it and avoid all the regulatory issues and that
46 kind of thing, and so, by doing that, and if there is any other
47 individuals that come forward, then you still sort of have the
48 same situation that we're in now. We have fixed it for thirty-

1 two people, but then you have however many number that may or
2 may not come forward, and so we haven't really changed anything,
3 other than you just created thirty-two new for-hire permits.

4

5 **CHAIRMAN DIAZ:** Dr. Crabtree and then Mr. Boyd.

6

7 **DR. CRABTREE:** I guess what would happen is, if someone came
8 through after we vote this and gets a permit with their
9 historical captain letter, then we would still have a couple of
10 historical captains, but they wouldn't be able to transfer their
11 permits, and so what we're doing here is allowing the guys who
12 have been in the fishery and been fishing to have the same
13 permits rights as the other guys, but we could still end up with
14 a few historical captains whose permits would go away when they
15 essentially weren't able to fish anymore.

16

17 **CHAIRMAN DIAZ:** Mr. Boyd.

18

19 **MR. DOUG BOYD:** Dr. Crabtree, just a clarification. I'm
20 assuming that the eligibility letters were never transferable,
21 and so, if someone passed away and wanted to give that letter to
22 their son or daughter, they couldn't do it, and is that correct?

23

24 **DR. CRABTREE:** Yes, that's correct.

25

26 **CHAIRMAN DIAZ:** All right. Is there any more discussion on this
27 motion? Mr. Riechers.

28

29 **MR. ROBIN RIECHERS:** I'm not on your committee, but, Mara and
30 Roy, you all apparently were talking a little at cross-odds a
31 moment ago. Mara made the clarification that this was to the
32 thirty-two. In a previous statement, Roy, you had said, if they
33 are listening and go get it, they would be included, and so can
34 we just get a discussion about which one of those it is,
35 because, Mara, you were adamant that that's what you thought
36 this document was, was just those thirty-two, and just a little
37 bit of questioning going on there as to which one of you meant
38 what there and maybe just before it comes out of committee.

39

40 **DR. CRABTREE:** I think I misspoke. What would happen is this
41 would apply to these thirty-two permit holders. If someone else
42 out there with a letter comes in, they can get a historical
43 captain permit, but it won't be converted into a transferable
44 permit. They will just have a historical captain permit.

45

46 **CHAIRMAN DIAZ:** Okay. I think we're ready to vote. I am going
47 to read the motion, and then we will take a vote.

48

1 The motion is to add language to the conversion of historical
2 captain endorsements to the federal for-hire permits document
3 that would render eligibility letters of historical captains
4 invalid as of the implementation date and not add Options 2
5 through 6 to the document. All those in favor, signify by
6 raising your hand; all opposed, none opposed. The motion
7 carries.
8

9 A real quick question for Assane. We'll be ready to vote this
10 up or down at the next meeting in January?
11

12 **DR. DIAGNE:** Yes, we will prepare this for final action in
13 January.
14

15 **CHAIRMAN DIAZ:** Thank you. Do you have anything else, Assane,
16 on this agenda item?
17

18 **DR. DIAGNE:** No, Mr. Chair. Thank you. That's it.
19

20 **CHAIRMAN DIAZ:** All right. I am going to turn it back over to
21 the Chair.
22

23 **DR. TOM FRAZER:** It looks like we're about ten minutes from our
24 regularly-schedule lunch hour, and so we'll just take a clean
25 break right here and pick up the Sustainable Fisheries Committee
26 at 1:30. Have a nice lunch.
27

28 (Whereupon, the meeting recessed for lunch on October 22, 2018.)
29

30 - - -
31

32 October 22, 2018
33

34 MONDAY AFTERNOON SESSION
35

36 - - -
37

38 The Sustainable Fisheries Committee of the Gulf of Mexico
39 Fishery Management Council reconvened at the Renaissance Battle
40 House, Mobile Alabama, Monday afternoon, October 22, 2018, and
41 was called to order by Chairman Dale Diaz.
42

43 **CHAIRMAN DIAZ:** We are going to call the Sustainable Fisheries
44 Committee back to order, and next up on the agenda is Mr.
45 Rindone is going to go through the Action Guide and Agenda Item
46 Number V, which is Revised Draft Generic Amendment for Carryover
47 of Unharvested Quota. Mr. Rindone.
48

1 **REVISED DRAFT GENERIC AMENDMENT FOR CARRYOVER OF UNHARVESTED**
2 **QUOTA**

3
4 **MR. RYAN RINDONE:** Thank you, sir. All right. Here we go. You
5 guys are looking at a revised draft. I know, at the end of the
6 last council meeting, we had talked about trying to bring a
7 public hearing draft to you guys this time, and the IPT did some
8 inner reflection, if you will, about some of the alternatives,
9 and they thought that a revised draft would best capture an
10 easier, more succinct path forward.

11
12 You guys will need to review our proposed alternatives here.
13 Actions 1 and 2 have seen some pretty big changes, and I will go
14 through those for you. They really do help though with the
15 functionality of this entire process and what you guys have made
16 it pretty clear that you want to achieve.

17
18 If you guys like the proposed alternatives, then you can direct
19 staff to move forward with the development of a public hearing
20 draft, which we can bring to you in January, and, due to the
21 technical nature of this document, staff is proposing conducting
22 public hearings for this via webinar. Is there any questions?
23

24 **CHAIRMAN DIAZ:** Seeing none, proceed, Mr. Rindone.
25

26 **MR. RINDONE:** All right. We will go right to the document then.
27 We will wait for that to come on up, and we'll start with the
28 purpose and need. I hope you guys like our new graphic there
29 that we have on the title page. I know we don't manage
30 goldfish, but I will admit that, after trying to finagle that
31 thing and get the background deleted, I kind of gave up on
32 swapping out the goldfish for a snapper or a grouper or
33 something like that, and so maybe we'll edit that later.
34

35 Let's go to the purpose and need. The purpose of this action is
36 to incorporate provisions to allow a carryover of portions of
37 the ACLs that were uncaught, due to landings uncertainty and
38 management limitations, and to modify the framework procedure to
39 allow all of this and some other changes to happen in a timely
40 fashion.

41
42 The need is to increase flexibility and quota management to
43 promote achievement of the optimum yield for reef fish and CMP
44 stocks, as allowed under the October 2016 revision to the
45 National Standard 1 Guidelines, and to streamline our framework
46 procedures, which I'm sure you guys know by now that we are
47 always trying to do.
48

1 We will go right to Chapter 2 and to Action 1. Action 1 looks
2 at the eligibility for the carryover provision for the managed
3 reef fish and CMP stocks in the Gulf.

4
5 Alternative 1, obviously, we won't do a carryover provision.
6 Alternative 2 would establish one for managed reef fish and CMP
7 stocks, and carryover provisions would apply to stocks and stock
8 complexes with sector allocations. This means that it would not
9 apply to those stocks and stock complexes without the sector
10 allocations.

11
12 Part of the reason behind this change is that, when we're
13 talking about carrying over fish from Year X to Year X-plus-one,
14 it is somewhat dependent on who is catching those fish. For
15 example, a private boat red snapper fisherman may prioritize a
16 larger fish over the smaller fish that might be prioritized by
17 say the commercial red snapper fishermen, and so pounds-to-
18 pounds don't come out the same as fish-to-fish when you're
19 talking about carrying those pounds over to the following year,
20 and it's not the same number of fish for every fleet.

21
22 By not doing this for species that don't have sector
23 allocations, we avoid the uncertainty inherent with that
24 particular problem, and does that make sense? Also, if anyone
25 is curious, for our stocks that don't have sector allocations,
26 by and large, we're under the ACLs anyway, and so it's not as
27 much of a concern for those as it is maybe for some other
28 species.

29
30 The unused portions of the sector ACLs for the species managed
31 by a catch share program are excluded from the carryover
32 provisions, and that's based on the discussion we had the last
33 time around about looking at IFQ species, perhaps, in a later
34 document.

35
36 Then the carryover provisions would further exclude the unused
37 portion of the ACL for managed reef fish or CMP stocks or stock
38 complexes, and we have a few options here. Option 2a is which
39 are currently under a rebuilding plan, and so this one is pretty
40 obvious. If you have a species that was overfished and it's in
41 a rebuilding plan and you're trying to get back to some end
42 goal, some rebuilt status, carrying over the nickels and dimes
43 left over from the previous fishing year -- It may not hurt the
44 rebuilding plan, but it's certainly not going to help it either,
45 and it could jeopardize that rebuilding plan, depending on the
46 situation, if you're in between stock assessments, and so you
47 may not know exactly what's going on on a year-to-year basis,
48 and so that one is definitely a low-hanging fruit.

1
2 Option 2b is stocks that are currently overfished, and it's the
3 same general thinking as Option 2a. Option 2c is stocks which
4 did not have their fishing year closed because the ACL or quota
5 was met or projected to be met, and so an example of this might
6 be like recreational king mackerel, and so it's regularly under
7 its ACL, and so, if it's not -- If a season wasn't closed
8 because the ACL was met, or projected to be met, the odds are
9 the ACL isn't being landed, so much so that NMFS has not seen it
10 fit to close the fishing season. In those cases, having that
11 runaway carryover effect isn't really going to help anything.
12 Those fish aren't being caught anyway, and so that's another one
13 that might be a low-hanging fruit.

14
15 Option 2d is for those stocks whose catch limits or their ABC
16 and their ACLs were not determined using projections from a
17 peer-reviewed, quantitative stock assessment, and so there might
18 be stocks that have their catch limits set using one of the
19 lower tiers from the ABC control rule, and that basically means
20 that we don't know a lot about what's going on with these
21 stocks, not near to the degree that we may for some other
22 stocks, and so doing carryover for these stocks for which we
23 know less may be a little more dangerous, given the uncertainty
24 that we might have with those compared to other species.

25
26 Then the last one, Option 2e, is stocks that are managed by
27 apportionment with an adjacent fishery management council, and
28 so, in our case exclusively, that's the South Atlantic Council,
29 and part of that -- The main reason for Option 2e is you guys
30 made it pretty clear that you want this thing to roll. You want
31 it to happen automatically, to the extent practical, and so that
32 it can kind of function behind the scenes, and, when the next
33 fishing season comes up, the quota can be automatically
34 adjusted.

35
36 If we have to go back to the South Atlantic Council, for those
37 jointly-managed species, and get joint permission between both
38 councils for those jointly-managed species, that is definitely
39 going to slay the autonomy goal, and so that's why that one is
40 in there. Are there any questions about any of these?

41
42 **CHAIRMAN DIAZ:** Ms. Guyas.

43
44 **MS. GUYAS:** I just want to make sure that I understand 2c, which
45 would exclude stocks that did not have their fishing year closed
46 because their ACL was met or projected to be met, and so is
47 there like a time on that? I guess when would the carryover
48 occur? Are we saying that if it doesn't close in a given year,

1 then the previous year's wouldn't carry over, or are we saying,
2 if there has never been a case where the ACL has been met or
3 exceeded, then they would be excluded?
4

5 **MR. RINDONE:** It's not based on like an average of a time series
6 or anything like that. It's, if the season was not closed
7 because the ACL was not met in Year X, then, in Year X-plus-one,
8 there is no carryover.
9

10 **MS. GUYAS:** Okay.
11

12 **MR. RINDONE:** Like in Table 2.1.1, you can see an example of the
13 stocks that the carryover provision would not apply under the
14 options for Alternative 2, and so that's why I mentioned
15 recreational king mackerel there, because it's been under for so
16 long, and so, last year, obviously, we didn't close recreational
17 king mackerel. There isn't a reason to do a carryover for that,
18 at least based on Option 2c.
19

20 **CHAIRMAN DIAZ:** Any other questions for Ryan? Then multiple
21 options can be picked under Alternative 2, also, Ryan?
22

23 **MR. RINDONE:** Yes, sir. You guys can select all five, or some
24 combination thereof, and so the IPT would recommend strong
25 consideration of the first two.
26

27 **CHAIRMAN DIAZ:** At this point, Ryan, we just want the committee
28 to let you know if this is a reasonable range of alternatives to
29 stay in the document, right?
30

31 **MR. RINDONE:** Right. You guys don't have to pick preferreds
32 right now. You just have to tell us whether you think these
33 are, like I said, reasonable. Then, if you have any questions
34 about it, so we can flesh those out and make sure that we're
35 providing enough information.
36

37 **CHAIRMAN DIAZ:** Mr. Riechers.
38

39 **MR. RIECHERS:** I'm not on your committee, but, Ryan, it seems to
40 me that 2c is going to have to have some criteria associated
41 with it if we're going to leave it in as an option. I
42 understand what you're trying to do, but I just don't know where
43 that break of it hasn't been closed in X years, and we're X
44 percentage under, and it just seems to me that you're basically
45 setting up a provision that would apply to any of the
46 carryovers, in many respects there, and so then how do you
47 suggest that that's one that we don't carry over with, as
48 opposed to another that you choose to? That's just my two-

1 cents' worth.

2

3 **CHAIRMAN DIAZ:** Dr. Crabtree.

4

5 **DR. CRABTREE:** The way I'm thinking about this is it would be --
6 If you close a fishery, and then you find out you closed
7 prematurely and there is leftover quota, that you carry over.
8 If you didn't close the fishery, and they couldn't catch it,
9 that you don't carry over, because look at the situation that we
10 have with red grouper now. They can't -- They are not even
11 catching half of the quota, and everyone is telling us the stock
12 is in trouble, and it's the same thing with cobia.

13

14 You wouldn't want to carry that over to the next year, but then
15 we had a situation a couple of years ago with red snapper, where
16 we had that buffer built in, and we would close and the year
17 would be past and we would find out there was uncaught quota,
18 because we closed them too soon, and so that you would carry
19 over, and so the way I'm thinking about it is the act of closing
20 is what caused you to not catch it all, and so you carry that
21 over, but you wouldn't want to have a stock that's in decline
22 and they fished all year. That wouldn't make much sense to
23 carry it over, or at least that's how I'm thinking about it.

24

25 **MR. RINDONE:** That's exactly the way that we have tried to
26 describe it in the document.

27

28 **CHAIRMAN DIAZ:** Mr. Riechers.

29

30 **MR. RIECHERS:** Well, and it may be described better, and excuse
31 me there if I haven't read down to the description completely,
32 but, just looking at this, that's not clear with just the
33 option. Those of you closer to the document may have intended
34 that that's what it meant, but that's not clear based on that,
35 because, right there, you have that the fishing year closed and
36 then the quota wasn't met. What he is suggesting is you had the
37 fishing year closed and the quota wasn't met, and so we're then
38 going to carry over. I am sorry. It did not have the fishing
39 year closed here, not had the fishing year closed, and so that's
40 the difference in the two discussions here.

41

42 **CHAIRMAN DIAZ:** Ms. Guyas.

43

44 **MS. GUYAS:** Along those lines, and maybe I'm getting ahead of
45 myself, I think kind of where I got confused too was with -- If
46 you scroll down to Table 2.1.1, that shows like basically what
47 this applies to or doesn't apply to, I guess, the Option 2c
48 there says no ACL closure 2012 to 2016, and so that's kind of

1 why I was confused here. That seems to me that those were like
2 the qualifying years, but maybe I'm ahead of myself.

3
4 **MR. RINDONE:** Yes, that wasn't the intention. That was just to
5 show, like for a long time series there, that the ACL had not
6 been met or projected to be met, and, during that time, as you
7 all know, king mackerel has remained open year-round for the
8 recreational sector, and so, if there is a better way that you
9 guys would like to word Option 2c, by all means. I mean, now is
10 the time to make some edits to that.

11
12 **CHAIRMAN DIAZ:** Mr. Riechers.

13
14 **MR. RIECHERS:** Well, at least based on what Roy was saying, at
15 the very least, you would put "which had the fishing year
16 closed", because the ACL or quota was projected to be met, and
17 then it was not, or at least that's his explanation of what he
18 was thinking there. If yours is different, then we are even
19 more confused.

20
21 **MR. RINDONE:** Well, I think this gets into the inverse
22 discussion that we had at the IPT about whether to say these
23 stocks are included or these stocks are excluded, and so, based
24 on whatever you use in that sentence that precedes the options,
25 it kind of dictates how the options are going to be worded, and
26 so I think we're talking about the same thing, but it's that
27 debate that we had at the IPT level.

28
29 The way that you would read it is that carryover provisions
30 would further exclude the unused portion of the ACL for the
31 managed species which did not have their fishing year closed
32 because the ACL or quota was met or projected to be met, and so,
33 if their fishing year was not closed, because the quota was met,
34 then they would not have a carryover the following year.

35
36 **CHAIRMAN DIAZ:** Mr. Riechers.

37
38 **MR. RIECHERS:** Dale, I'm sorry, but I'm not on your committee.
39 Ryan, I'm not trying to be argumentative here, but that's
40 exactly the opposite of what Roy said that he envisioned this
41 as, and so there's a disconnect between what you're thinking it
42 is -- Well, no, you said it was closed, and then the ACL was not
43 met.

44
45 **DR. CRABTREE:** If the fishery fished all year and didn't catch
46 the ACL, you would not carry them over. That would be excluded.
47 That would be a stock that was not closed, because the ACL
48 wasn't caught. If you had a fishery that was open six months

1 and we closed it, because we thought they had caught it, and
2 then we found after the fact that they didn't in fact catch it,
3 then that would be carried over to the next year, and so I think
4 Ryan and I are saying the same thing.

5

6 **CHAIRMAN DIAZ:** Mr. Anson.

7

8 **MR. ANSON:** I guess maybe addressing the wordsmithing portion of
9 this, and that's why I had the puzzled look on my face when you
10 were trying to explain it earlier, Ryan, is because it -- You
11 have to read -- For me at least, you have to read each option,
12 sub-option, with the previous sentence, and so maybe if the
13 sentence that leads into the options would say something like
14 carryover provisions with unused portions of the ACL would not
15 apply to managed reef fish or CMP stocks or stock complexes
16 which are currently under rebuilding plans, which are currently
17 overfished, and so just -- It would not apply under these
18 situations, basically, and maybe just say something like that.

19

20 **CHAIRMAN DIAZ:** Ms. Bosarge.

21

22 **MS. LEANN BOSARGE:** I will just be contrary and say I like the
23 way it's worded this time. Last time, it confused me, and maybe
24 my gears turn the opposite direction of most people, but, this
25 time, I think it's a lot clearer, with that.

26

27 Like you said though, Kevin, you have to almost go back and read
28 the last sentence in Alternative 2 with each of those options to
29 really get it in your mind what is being said, and so I guess it
30 would be wordy, but maybe you need to put that last sentence in
31 front of each one of those options down there, just so we could
32 keep it straight, but I kind of like it this way.

33

34 **CHAIRMAN DIAZ:** All right. Mr. Rindone, it looks like -- I am
35 not seeing any more hands up, and I'm not seeing anybody saying
36 that they don't like the list of alternatives, and so can you
37 proceed?

38

39 **MR. RINDONE:** Yes, sure. Just to review some of the general
40 rules that we have established, and these are things that we
41 have written in as being kind of hard and fast, based on the
42 National Standard Guidance, and these are at the top of page 10,
43 that the unused portion of the ACL that's being considered for a
44 carryover would apply to the smallest divisible managed portion,
45 whether it's an individual fishing sector, component, zone,
46 gear, whatever it is, from which the remaining ACL or quota went
47 unharvested.

48

1 Kingfish is an easy example, because we have divided that pie
2 several times. If the gillnetters had their season closed
3 because their ACL was projected to be met, and if 18,000 pounds
4 is left over, the following year, if that 18,000 pounds was
5 carried over, it wouldn't be divided equally amongst the
6 recreational and all the commercial zones, because those fish
7 mean different things to different fleets.

8
9 The gillnetters might be landing an average of say an eight-
10 pound king, whereas the hook-and-line commercial guys might be
11 landing more of like a twelve to fourteen-pound king, and a
12 recreational fisherman might be trying to target more of a
13 smoker king, a larger king, and so the pounds being carried over
14 don't mean the same thing across-the-board, and, in order to
15 reduce the uncertainty that is generated by that, the carryover
16 going back to the smallest divisible portion acts as a safety
17 net for that, and that's part of the guidance.

18
19 Point 2 is that, if the combined sector landings exceed the
20 sector ACL or the stock ACL, then there will be no carryover,
21 even if one sector component did not harvest its quota for that
22 fishing year, and that is designed to prevent overfishing from
23 occurring.

24
25 Point 3 is that the amount to be carried over to the following
26 fishing year, when added to the ABC, cannot result in an ABC
27 which is greater than the OFL, and that the carryover will only
28 be an underage of the original ACL and not the adjusted or the
29 carryover cumulative ACL. Then we go into explaining all of
30 that in there, and you guys are free to peruse that at your
31 leisure.

32
33 I will move on to Action 2, and this is Mara's favorite action.
34 We did a lot of thinking on this one, and I think we've come up
35 with something that's definitely better than what we had before,
36 and so Action 2 looks at an adjustment in the carryover
37 provision to account for management uncertainty, and, of course,
38 this action is only valid if you guys elect to do a carryover
39 provision in Action 1, and so, if Action 2 ends up being no
40 action, then the rest of this is -- Then Action 2 anyway is
41 moot.

42
43 Alternative 1 wouldn't limit the carryover provision to account
44 for any management uncertainty, and that would allow the ABC to
45 set up to and equal to the OFL. We have several stocks that the
46 ACL is equal to the ABC, and so that would mean ACL equal to the
47 ABC equal to the OFL does not provide much room for error, and
48 we have to be able to justify that we're trying to do something

1 to prevent overfishing from occurring. Otherwise, if we were to
2 land the OFL, then the Secretary of Commerce could assume that
3 overfishing is occurring, and then you guys would have to take
4 immediate and proactive steps to end overfishing.

5
6 Alternative 2 aims to put a little bit of a safety net there,
7 but adjusting the amount of the ACL to be carried over to the
8 following fishing year by eliminating how much the difference
9 between the ABC and the OFL, or the buffer between the two, can
10 be reduced, and so you have three options there for saying that
11 the difference between the ABC and the OFL can be reduced by 50
12 percent, by 70 percent, or by 90 percent, and so we have a table
13 in here, which does a good job of looking at this for the
14 subject species, to show you guys what that actually means in
15 terms of what the percent difference would ultimately be between
16 the ABC and the OFL in a max carryover situation for these
17 species.

18
19 Are there any questions about the table or about what we're
20 trying to do here? Essentially, what we're doing is we're
21 leaning on the scientific uncertainty that was established in
22 setting the OFL and the ABC via the SSC's use of the ABC control
23 rule, and this management uncertainty adjustment that we're
24 talking about in Action 2 is then making that adjustment based
25 on the scientific uncertainty that has already been established
26 by species, and so this ends up being species-specific, which is
27 a lot better than just one big umbrella that says we're just
28 going to do the same thing for everything. Does anybody have
29 any questions about what we're trying to do here?

30
31 Again, the main goal is to consider, anyway, having some buffer
32 between the ABC and the OFL, so that, if the ABC -- You prevent
33 yourself from being in a situation where, if the ABC equals the
34 OFL and you land it, now you're overfishing.

35
36 **CHAIRMAN DIAZ:** Mr. Anson.

37
38 **MR. ANSON:** Ryan, I'm not too familiar with the control rule,
39 but does it take into account what the fishery has done, its
40 most recent performance, relative to ACLs and going over and
41 that type of thing, or is it just static, looking at that just
42 that previous year?

43
44 **MR. RINDONE:** The ACL/ACT control rule considers more about past
45 fishery performance than the ABC control rule does. The ABC
46 control rule looks at the merits established through the stock
47 assessment, in terms of do you have a good time series of
48 landings, do you have a good characterization of uncertainty,

1 are there ecosystem components that are incorporated, or just
2 how well do you understand the physical and biological
3 environment in which this species exists, and how well do you
4 understand fishing effort.

5
6 As far as like what is actually landed, the ACL/ACT control rule
7 leans more on that, and so the ABC control rule is very much
8 more so a scientific process compared to the ACL/ACT control
9 rule, but, at the end of the day, they are both umbrella metrics
10 by which we try to address uncertainty, and so trying to say we
11 know something about what we acknowledge we don't know.

12
13 **CHAIRMAN DIAZ:** Ms. Levy.

14
15 **MS. LEVY:** I probably should have asked this before the meeting,
16 but, Ryan, in the table, that table there, it doesn't include,
17 for example, the two stocks that are identified in the prior
18 action that don't have stock assessments, and so, if you were to
19 pick that option to exclude the stocks that don't have an
20 assessment from the carryover, it would be fine, but, to the
21 extent that wasn't chosen, do we have the information for those
22 stocks to add to this table? I mean, I'm assuming we do. That
23 other table that showed what would be excluded under the
24 different options.

25
26 **MR. RINDONE:** If there are stocks that don't have sector
27 allocations established, then they would be excluded on the
28 frontend, and so which ones were you --

29
30 **MS. LEVY:** In 2.1.1, there is blueline and goldface tilefish are
31 in that table.

32
33 **MR. RINDONE:** Right.

34
35 **MS. LEVY:** But then they're not reflected in this.

36
37 **MR. RINDONE:** I feel like there was a reason for that. I feel
38 like that one was actually undefined, but I can look that up
39 really quickly. We don't have an accepted stock assessment for
40 them, that's true.

41
42 **MS. LEVY:** Right, but we would still have an OFL and an ABC,
43 right, based on the ABC control rule, or we don't, like the
44 series of years that we did in the generic amendment?

45
46 **CHAIRMAN DIAZ:** Go ahead, Dr. Simmons.

47
48 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Mr. Chairman.

1 Yes, it would be based on that stock complex. It would include
2 the golden tilefish, and it would be based on a time series of
3 landings, ten years, for the OFL and ABC.

4

5 **MR. RINDONE:** But we don't --

6

7 **MS. LEVY:** I am just trying to figure out whether we should be
8 including them in this table, and so, assuming that that option
9 isn't picked, we would want to know what the impact would be
10 with respect to the next action, is I guess what I'm getting at.

11

12 **MR. RINDONE:** I think why it might have been left out is because
13 we don't have official sector allocations for tilefish. We have
14 a portion of the ABC for tilefish that is reserved for the IFQ
15 program, but we don't have official sector allocations for it,
16 and the same with black grouper, or like with the shallow-water
17 groupers.

18

19 **MS. LEVY:** Well, then I guess we need to be clear in the first
20 action what's in and what's out, right, because we said in the
21 first action that it doesn't include stocks without sector
22 allocations, but then we have them in the table as being
23 excluded under the peer review option, and so I just want to
24 make sure that we're being clear about what's in and out in the
25 first action and what the basis for that in or out is.

26

27 **MR. RINDONE:** You're right, and so we should delete tilefish out
28 of Table 2.1.1, because, under the idea of they're not being
29 sector -- If it doesn't have sector allocations, then we're
30 automatically excluding it, and then we would exclude tilefish,
31 based on that, and so I will make a note to delete those.

32

33 **CHAIRMAN DIAZ:** Ms. Bosarge.

34

35 **MS. BOSARGE:** Thank you. My question kind of follows along with
36 Kevin's question, his thought process, and so I am trying to go
37 through it in my mind, like with red snapper, and so I
38 understand that Action 2, if we leave stocks under a rebuilding
39 plan, and so that leaves red snapper in, and then we get to
40 Action 2, and we're trying to figure out how close to that OFL
41 we really want to get, and so we're looking at these percentages
42 that we'll let the difference between the ABC and OFL, that
43 buffer, get down to, and that's the scientific uncertainty side
44 of the house, and Kevin was asking, I think, a little bit about
45 more the management uncertainty, like how good we are at holding
46 that particular species to its actual quota every year, how good
47 we are at hitting a mark.

48

1 If we did red snapper, we would reduce, possibly reduce, some of
2 that science buffer with this Action 2, but then, once you get
3 that new number, if you carry forward, if you roll forward, some
4 quota, you're still going to drill down to an ACL and an ACT,
5 and so we will still have our management uncertainty wiggle room
6 in there, right?

7

8 **CHAIRMAN DIAZ:** Mr. Rindone.

9

10 **MR. RINDONE:** Not as much as you might think you do. For some
11 of these species, there is not much of a difference between the
12 OFL and the ACL, and you can see that in Table 2.2.2. For some
13 of them, there is a sizable difference, like gray triggerfish,
14 but, like red snapper, the ACL equals the ABC, and so there is
15 no room there, and, with gray triggerfish and greater amberjack,
16 obviously there has been some recent ratcheting down on those,
17 and so those are a little bit more spread out. King mackerel is
18 quite narrow, and then red grouper and gag have some decent room
19 between the ACL and the OFL.

20

21 **CHAIRMAN DIAZ:** Ms. Levy, were you speaking to that point?

22

23 **MS. LEVY:** I think the issue is that, generally as the council,
24 you have not reduced the ACL from the ABC to account for
25 management uncertainty. You have set a lot of the annual catch
26 limits at the ABC level, and so, if you're going to try and
27 carry something over, then you're getting closer and closer to
28 that OFL, and so there's not room there, and we want to have
29 some limit on how close you think it's okay to get to the OFL.
30 Yes, it's being addressed through the difference between the OFL
31 and the ABC, but that's mostly because a lot of them don't have
32 a difference between the ABC and the ACL.

33

34 **CHAIRMAN DIAZ:** Ms. Bosarge.

35

36 **MS. BOSARGE:** Yes, and I was trying to get comfortable with it,
37 and I guess my thought process was, well, Leann, it's going to
38 be okay though, because, for red snapper, the only fish in the
39 Gulf of Mexico, we'll still have an ACT that we're going to
40 drill down to.

41

42 Yes, we will carry some forward, and we will have a new ABC that
43 is higher, but you're still going to have to -- We still have a
44 buffer in there that we still have to abide by, and so you're
45 still going to come down to an ACT at some point, albeit it will
46 be a higher ACT than it would have been without the carryover.

47

48 **CHAIRMAN DIAZ:** Dr. Stunz.

1
2 **DR. STUNZ:** Ryan, maybe I'm asking the same question as Leann
3 here in a different way, because I'm still trying to get my head
4 around this Action 2. Obviously, if we went with Alternative 2
5 there, the fishery has been closed, and we didn't meet the quota
6 and there is extra fish, but that has taken place, and that has
7 happened. We know what that number is.

8
9 When we originally set those yield streams and applied that to
10 the control rule, there was a level of uncertainty built into
11 that yield, and so I am not quite clear why we would need to
12 essentially put in another buffer right now, when we know what
13 has happened, when that's still going to be accounted for even
14 the next year, when these carryover provisions apply. Is that
15 making sense? It seems like we're just adding in a buffer for
16 something we already know that's happened, and it should just be
17 included back in, because we have already accounted for that
18 uncertainty.

19
20 **CHAIRMAN DIAZ:** Mr. Rindone.

21
22 **MR. RINDONE:** I think I understand your question, and so, if I
23 am with it, let me know. When we're talking about doing a
24 carryover to the following year, using the last year's
25 leftovers, that will change the ABC from whatever it is, and
26 it's going to increase it, and so that means whatever percent
27 difference you see between them in the fifth column, that middle
28 column there in Table 2.2.1, that percent difference is going to
29 get smaller.

30
31 Now, for some species, there is more room than there is for
32 others, but, depending on how much is carried over to the
33 following year, the percent difference between the ABC and the
34 OFL could get quite small, and, if there is no Action 2 that is
35 used, then basically what we're saying is, if there is enough
36 carryover, if we missed the closing date on a particular species
37 bad enough, and there is enough fish to carry over, the ABC in
38 the Year X-plus-one, in the carryover year, could be set to
39 equal the OFL, and then, if in Year X-plus-one, you land the
40 OFL, then the department has to assume that overfishing occurred
41 in Year X-plus-one, which means then it comes back to you guys
42 to do something to end overfishing, per the Act.

43
44 Action 2 is designed to prevent you from being in that
45 situation, by saying we recognize that we're going to carry some
46 fish over and that we're going to increase the ABC and we're
47 going to make those percent differences smaller, but we're going
48 to give ourselves just a little bit of insurance, and we're only

1 going to let them get so small, and so either 50 percent, 75
2 percent, or 90 percent.

3

4 **CHAIRMAN DIAZ:** Mr. Anson.

5

6 **MR. ANSON:** Thank you. In that conversation, to carry on, I
7 mean, I -- Even though there is other fish in the sea, when you
8 look at red snapper, and you use that as an example of what this
9 would all apply to, potentially, that's a little -- It makes me
10 a little nervous, I guess, for what you just described of what
11 would happen, as far as what the council would have to do if we
12 were to reach or exceed OFL in that particular instance, and,
13 although there is some buffers, if you will, built in with this
14 carryover provision, I think -- I realize what you may have been
15 trying to do was to set up a situation where it would make it
16 worth our while, so to speak, to go through this whole process,
17 to have enough fish, when you calculate a season, potentially,
18 that there's enough pounds that are added in to even make it
19 worthwhile to do the analysis and to provide some additional
20 days, or opportunities, but Option 2c seems a little aggressive,
21 to me. It seems a little bit too much to have it go 90 percent.
22 I would probably be more in deference to, if we wanted to have
23 three options, or sub-options, there, it's to go to 25 and then
24 50 and then 75.

25

26 **MR. RINDONE:** We can make that edit if that's what you guys want
27 us to do. The 90 percent is aggressive. I mean, it makes it
28 really narrow, and you guys know how finicky those final
29 landings can end up coming out.

30

31 **CHAIRMAN DIAZ:** Dr. Frazer.

32

33 **DR. FRAZER:** I am not on the committee either, but I think Kevin
34 makes a really good point. If you're closing a fishery, and at
35 the end of the year you've missed the mark that badly, we have a
36 fair amount of uncertainty involved, and so there's a reason to
37 think a little bit conservatively here with the range of
38 alternatives, and so I would agree with your comments.

39

40 **CHAIRMAN DIAZ:** For the record, I agree with Kevin's comments
41 also. All right, Mr. Rindone. I am not seeing any more hands,
42 and if you would like to proceed.

43

44 **MR. RINDONE:** Yes, sir. All right. What I got from that was
45 that you guys want to remove Option 2c as 90 percent and re-
46 write it so that it's 25, 50, and 75 percent for Options 2a
47 through 2c. I see some casual head-nodding, and so I will
48 consider that to be correct. That's what I have written down

1 too, and so that's good. All right.
2
3 Action 3 is what makes the whole thing work, at least on the
4 backend, so that we don't have to do a framework action every
5 year to implement this, which is what we would have to do under
6 Alternative 1. Alternative 2 modifies the closed framework
7 procedures for the FMPs to allow the Regional Administrator to
8 adjust the ABC, the ACL, the ACT, and the quota for a species,
9 sub-species, species group, sector, or component of a sector to
10 allow for the carryover of the unused ACL, as determined by this
11 provision that's going to be added to the ABC control rule, if
12 you guys go forward with Action 1.

13
14 This is the automation of the process that allows this to happen
15 on the backend. We don't have to do a formal document that we
16 have to bring to you guys, but it's just it functions.

17
18 Alternative 3 would modify the abbreviated framework procedures
19 for the listed FMPs to allow the specification of an ABC
20 recommended by the SSC, based on the results of a new stock
21 assessment and using the ABC control rule, and so it just adds
22 in the specification of ABC along with MSY, OY, et cetera, to
23 happen through that abbreviated process, and that's a gain in
24 efficiency once we're coming out of the stock assessment. That
25 ABC needs to be codified anyway.

26
27 Alternative 4 revises the framework procedures for the listed
28 FMPs to have consistent terminology and format and to include
29 changes to the standard framework procedure for the Coral and
30 Coral Reef and Spiny Lobster FMPs regarding their accountability
31 measures, and the highlighted section down there shows you what
32 is going to be added to those specific FMPs.

33
34 You guys can select Alternatives 2, 3, and/or 4 as preferred,
35 but these are all -- Alternative 2 is necessary to automate the
36 carryover process, and Alternatives 3 and 4 are big efficiency
37 gains, in terms of the backend documentation work that we have
38 to do as a function of doing the FMPs and the amendments. Does
39 anybody have any questions about this most fun part of the
40 document?

41
42 **CHAIRMAN DIAZ:** Mr. Anson.

43
44 **MR. ANSON:** Ryan, they are exclusive of one another, but you
45 almost need to pick Alternative 2, if we're going to choose to
46 have carryover provisions, and then one of Alternative 3 or 4?

47
48 **MR. RINDONE:** If you decide you're going to do a carryover, you

1 have to pick Alternative 2 for it to be automated, and so that's
2 plugging it into the wall. If you don't do that, it's not going
3 to work anywhere near like you guys want it to. It's going to
4 take forever.

5
6 Then Alternative 3 and 4, you could select both of them, and the
7 IPT would say that you probably should, if you want to see some
8 of those efficiency gains that are going to come from that from
9 some of the stuff being able to just happen on the backend
10 instead of it being additional language and formal documents
11 that you have to review.

12
13 Things like specification of the ABC, the SSC has to do that as
14 a function of what it does, and so this allows that to be -- It
15 allows that to be specified and codified on the backend, once
16 the SSC has already examined the stock assessment, and they have
17 applied the ABC control rule, and that's done, and so you guys
18 still specify what the ACL and ACT, if applicable, is going to
19 be. That's still your job, and so that doesn't change that
20 part.

21
22 Then Alternative 4 just makes the -- It gives us some consistent
23 terminology and format across the FMPs, and it makes it easier
24 to find things in the same places and whatnot, and it -- As the
25 highlighted section for Coral and Coral Reefs and Spiny Lobster,
26 which has to do with in-season and post-season accountability
27 measures, and so you can see the things in there that would be
28 allowed to be done via the standard framework procedure, as
29 opposed to a plan amendment. It allows you guys to make those
30 changes to the in-season and post-season accountability measures
31 in a more efficient way, rather than a long plan amendment.
32 Alternative 3 and 4 are both good for you. Alternative 2 is
33 necessary for the carryover to be automated.

34
35 **CHAIRMAN DIAZ:** All right, Ryan. I'm not seeing any questions
36 right now. Dr. Stunz.

37
38 **DR. STUNZ:** Not so much in this action, but it's back on Action
39 2. I don't know if you wanted to see if there's any more
40 related to that one, but I am still stuck on Action 2, and I
41 have one more question for you, Ryan.

42
43 **MR. RINDONE:** Sure.

44
45 **DR. STUNZ:** You're good with that? Okay. What I think would
46 help me, Ryan, and I think I understand what you're saying,
47 based on my question, but an example of what this would look
48 like would really help, and I guess you can choose whether that

1 actually appears in the document or not, but just what would
2 this look like over a series of years of putting that forward
3 into the next year, assuming there was -- In the example,
4 obviously, you would make sure there is some left over, and then
5 what would that look like under those different options in
6 Alternative 2 for that Action 2, and that would, I think, help
7 me understand it a little better, if I could see what would it
8 look like under a real-world situation.

9
10 **MR. RINDONE:** Okay. I can drum one up for a carryover for red
11 snapper or -- Red snapper would probably be the most appropriate
12 one, because king mackerel for the recreational side has been so
13 far under, and it's not nearly as applicable, but I could do it
14 for red snapper, and that would be good, because you can pair
15 that against what the Science Center did, looking at the effect
16 of carrying over from one year to the next on the rebuilding
17 plan, and the Cliff Notes version of that is you can carry over
18 pound-for-pound to the following year without it long-term
19 having a negative effect on the rebuilding plan.

20
21 **DR. STUNZ:** Yes, and that's exactly what I'm asking for.

22
23 **MR. RINDONE:** Okay. If that answers that, then --

24
25 **DR. STUNZ:** It kind of does, but I still would like to see an
26 example of that.

27
28 **MR. RINDONE:** Okay.

29
30 **CHAIRMAN DIAZ:** Tim, I've got a question for you. Have you all
31 done anything with the document for a carryover provision in the
32 South Atlantic?

33
34 **MR. TIM GRINER:** No, we haven't started working on it yet. We
35 are working on some carryover provisions specifically for
36 yellowtail snapper.

37
38 **CHAIRMAN DIAZ:** That was what I was thinking about when I asked
39 that question, and so, back in Action 1, and I know we're going
40 way back, and sorry about that, Ryan, but we got that one, which
41 we could look to exclude the which are managed by apportionment
42 with an adjacent fishery management council, and I could see
43 where that would be a high priority for them, and so I'm just
44 trying to figure out how we would interact with them, should we
45 choose to exclude that one here. Is that too far into the
46 weeds?

47
48 **MR. RINDONE:** We have yellowtail excluded two ways right now,

1 one because we manage yellowtail as a stock ACL, and the South
2 Atlantic has it managed with sector allocations, and we also
3 have yellowtail excluded because we manage it and apportion it
4 with an adjacent council.

5
6 I could see some timeliness problems resulting from us trying to
7 do a carryover provision with yellowtail, just from the fact
8 that we manage it very differently than they do, and, if we got
9 to a point where we were just managing it as one ACL with or
10 without sector allocations, and we agreed to do it a certain way
11 -- I mean, we could always revisit this, even for a specific
12 species, and have an action that addresses a species
13 specifically that's done in such a way that both councils agree
14 with the format, but the broad strokes that we have taken at
15 this point to try to make this as functional as possible have us
16 excluding yellowtail, like I said, two ways right now.

17
18 **CHAIRMAN DIAZ:** Is there other discussion? Have we provided you
19 what you need to this point, Ryan?

20
21 **MR. RINDONE:** I think so. We've got a couple of edits for
22 Action 1 that I have made note of in the language in the
23 alternatives, deleting blueline and goldface tilefish from Table
24 2.1.1, and then I feel like I had another note in there
25 somewhere else. Mara.

26
27 **CHAIRMAN DIAZ:** Ms. Levy.

28
29 **MS. LEVY:** Just a question about that tilefish. Are those the
30 only two then that we have listed as 2d applying to, but it
31 doesn't really apply? Does the council need Option 2d?
32 Meaning, have we narrowed it so much in the beginning that we
33 don't need 2d, which says no peer-reviewed stock assessment,
34 because they all have it, or do we still need that in there?

35
36 **CHAIRMAN DIAZ:** Mr. Rindone.

37
38 **MR. RINDONE:** For the species that it currently applies to, no,
39 we would not need Option 2d, but, if you're thinking about this
40 on a long-game perspective, and we make other management changes
41 that perhaps include establishing sector allocations for a
42 species, and then, because of that, down the road, that species
43 may be eligible for a carryover, and maybe it does or doesn't
44 have a quantitative, peer-reviewed stock assessment, having done
45 this ahead of time might give you peace of mind when you're
46 dealing with this in the long game, and so, just because you
47 don't have it now, it doesn't mean that you may not need it
48 later. It's really up to you guys.

1
2 **CHAIRMAN DIAZ:** Ms. Bosarge.

3
4 **MS. BOSARGE:** Just one comment before we leave this document.
5 We did have the IFQ species in here, and we took them out,
6 because it's a little bit different scenario, and a little more
7 complicated, in some ways, and we said we would bring it back in
8 a different document later, and Dr. Lasseter is not here, but I
9 was just thinking that we have 36B, and I just wanted to throw
10 it out there as an idea, that, if staff thinks it fits well in
11 that document, that might be a place to take a look at that.

12
13 **CHAIRMAN DIAZ:** It looks like we're winding things down, and so,
14 reading over the Action Guide coming in, what we were attempting
15 to do was to get to the point where we would be ready for a
16 public hearing draft in January, and so, unless somebody on the
17 committee feels like we need to pause and work on it further,
18 staff is going to move forward with developing a public hearing
19 draft for January, and is that correct? That's the plan. All
20 right. You're done, Mr. Rindone? All right.

21
22 We are going to move into our next agenda item, and we'll give
23 Dr. Diagne a minute or two to get up to the table. Dr. Diagne,
24 if you would, if you would go through the Action Guide and Next
25 Steps for Agenda Item Number VI and just proceed on into your
26 presentation.

27
28 **DISCUSSION AND SELECTION OF ALLOCATION REVIEW TRIGGERS**

29
30 **DR. DIAGNE:** Thank you, Mr. Chair. In terms of the Action
31 Guide, staff is going to cover the allocation review policy and
32 also the directive, emphasizing the allocation review triggers.
33 You will also review the SSC comments, which Dr. Barbieri is
34 going to provide.

35
36 Essentially, during the presentation, I will try to emphasize
37 the practical side of things, and meaning by that the
38 identification of allocations subject to this policy, as well as
39 discussing the different types of triggers that are considered
40 in the policy.

41
42 If the committee selects allocation triggers, following your
43 discussions, they should direct staff to draft a letter to NMFS
44 detailing the allocation triggers that you have selected as a
45 council, and that would be, essentially, the Action Guide, and
46 so two main things to identify the fisheries subject to the
47 policy, but that it would be more just for the council to, I
48 guess, discuss, based on the legal advice we've already got, and

1 the second part is discussing the different types of triggers,
2 and, if you see fit, picking triggers or a set of triggers for
3 your fisheries. Finally, direct us to send a letter to the
4 agency indicating that the Gulf Council picked these triggers.

5
6 We can turn our attention and discuss the presentation that we
7 put together to accompany the discussion paper that we prepared.
8 For the most part, it is -- Some of the slides are going to be
9 the same as the ones that we discussed during the last council,
10 but perhaps, this time around, I am going to try to emphasize
11 more the practical aspects of this, if you would, in terms of
12 the decision points that, as a council, you could consider.

13
14 The agency published a policy, an allocation review policy, as
15 well as some directives, essentially, and the directive of
16 interest, as far as we are concerned today, is the one looking
17 at the criteria for initiating allocation reviews. As you
18 recall, last time you discussed, and I believe Dr. Freeman led
19 the discussion, another directive, which looks at the factor to
20 consider while reallocating, if you would.

21
22 We will try to define a few terms, so that I make sure that I
23 don't use them in improper order, if you would. First, when we
24 talk about fisheries allocation, NMFS defines this as a direct
25 and deliberate distribution of the opportunity to participate in
26 a fishery among identifiable and discreet user groups or
27 individuals. This would be helpful when it comes time to
28 identifying the fisheries that should be considered.

29
30 Number 2 is fisheries allocation review, and this is the
31 evaluation that leads to the decision of whether or not the
32 development of options, if you would, allocation options, is
33 warranted, but the allocation review is not an implicit trigger
34 to consider alternative allocations, and, finally, the last term
35 or phrase that we would like to define is the evaluation of
36 fisheries allocation options for an FMP amendment, and this is
37 the usual process that, as a council, you go through when we
38 have options and alternative actions and so forth.

39
40 The policy recommends the use of an adaptive management
41 approach, and, by that, it is meant that this should be an
42 ongoing process of evaluating if the management objectives have
43 been met and adjusting our strategies in response. The process
44 includes a periodical reevaluation and an update of the
45 management goals and objectives, to make sure that they are
46 still current and relevant.

47
48 On this little graph, we tried to perhaps point to one of the

1 key decision points here. If we start from an existing
2 allocation, based on the policy that we have, assuming that we
3 have already selected review triggers, one of two things. If
4 the review triggers are met, essentially, for example, then we
5 would have to proceed with the allocation review, regardless of
6 the triggers selected, and we are going to discuss that today,
7 but if the allocation does not meet the FMP objectives following
8 the review, then we go back to the existing allocation, and
9 there is nothing to be done.

10
11 Should we realize that the allocation no longer meets our FMP
12 objectives after the review, then we can proceed to the final
13 step here, meaning the evaluation of an allocation, meaning FMP
14 amendment, and so the last step, the allocation evaluation, is
15 not new to us. That is what we routinely do in terms of
16 amendments. For example, your current consideration of
17 reallocation of red snapper would be an allocation evaluation,
18 and that's the last box there.

19
20 What is new for us is that second thing, allocation review. To
21 date, we have initiated allocations based on, for example,
22 motions offered by the council's discussion, which, in some
23 ways, could be folded, really, if you would, into some type of
24 review, and so, for today, our main emphasis would be for the
25 council to look at the different types of review triggers and,
26 if possible, select review triggers for our fisheries, so that
27 that information could be forwarded to the agency.

28
29 In terms of the review triggers, the policy did indicate that
30 the councils are responsible for identifying and establishing
31 their own review triggers and that this should be done by August
32 of 2019. The policy document essentially outlines and discusses
33 three types of triggers, time-based triggers, public-interest-
34 based triggers, and indicator-based triggers, and we are going
35 to discuss all three of these and perhaps highlight some of the
36 pros and cons of each type. Again, these are the three types:
37 public interest, time, and indicator-based.

38
39 Let us start with the public-interest-based criteria. Here, we
40 can look at it in I guess two ways. One would be just to rely
41 on the ongoing council process, which is a fairly open and
42 transparent process, which provides the public with ample
43 opportunities to comment and discuss a variety of issues,
44 including allocations themselves, and the second way of looking
45 at it would be by using what I would call more structured
46 approaches. In there, we could have the solicitation of public
47 comments at specific times and the formal initiatives, and the
48 formal initiatives would include efforts such as petitions, for

1 example.

2

3 In terms of using the ongoing public process, this would offer
4 the public really a feedback loop to comment and get reaction
5 from the council and discuss, and, as I mentioned initially, the
6 council does provide a variety of opportunities to the public to
7 comment on several issues, including allocation, if need be.

8

9 In terms of the solicitation of public comments specific to
10 allocation, this would be a deliberate and targeted effort, if
11 you would, and, essentially, the council would let the public
12 know that comments on allocation review are solicited, and the
13 public would comment, and the council would gather those, and it
14 would essentially decide on how to proceed.

15

16 This could give the council the ability to dictate the schedule
17 of the review, but the council should be careful and account for
18 the expectations of the public, of the stakeholders, because,
19 before you ask for input, specific input, for allocation review,
20 the council has to make sure, when it comes to the availability
21 of resources and capacity to move forward with the review, as
22 well as the council needs to have the willingness to follow
23 through after it receives the solicited comments.

24

25 In terms of the more formal initiative, and, essentially, by
26 that, we mean something like a petition, this would be a
27 stronger, quote, unquote, way, in terms of the public-interest-
28 based approach. A petition would require the council to
29 initiate an allocation review within a reasonable period of time
30 following the receipt of that petition.

31

32 If the council decided to consider petitions, it is recommended
33 that the council establish guidelines for the petitions, how
34 many people should sign it, what timeframe, et cetera, and that
35 sort of thing.

36

37 Time-based criteria would be a pretty straightforward approach.
38 Essentially, they would rely on a periodic evaluation of the
39 allocation on a set schedule, whatever time interval is
40 selected, for example five or ten years, and this is the most
41 straightforward and the easiest criterion to consider. In this
42 approach, one of the benefits is that it is less vulnerable to
43 political pressures and to the changes in council dynamics, if
44 you would.

45

46 One of the, I guess, drawbacks here is that, just by itself, it
47 would mandate a strict schedule, and it would perhaps take away
48 some of the flexibility, if it is used just by itself, but, when

1 combined with others, perhaps that would not be here.

2
3 Time-based criteria are also most suitable for fisheries where
4 conflicts amongst different user groups, sectors and
5 stakeholders, make the decision to initiate even the allocation
6 review contentious.

7
8 Finally, the third and last type of criteria would be the
9 indicator-based criteria. Based on the OY definition that is in
10 the Magnuson Act, some of these indicators may come from that,
11 because, as you recall, OY is defined as MSY as reduced by
12 relevant social, economic, and ecological factors, and so,
13 whatever those factors are, they may provide a set of
14 indicators, and that set of indicators can be augmented by other
15 indicators, as the council can see fit.

16
17 With indicator-based criteria, the council has to establish a
18 separate process to track the indicator, or indicators, over
19 time. The council also has to determine and define thresholds
20 below which or above which the allocation review will be
21 triggered, and so, in a sense, the indicator-based approach
22 would be more resource and time consuming, as far as the council
23 would be concerned.

24
25 As we mentioned in the definition for OY, we talked about
26 economic, social, and ecological criteria, and these are just
27 some of the examples that could be considered. For example, on
28 the economic side, cost-benefit analysis, impact analysis, and
29 efficiency analysis would be some of the potential, if you
30 would, indicators.

31
32 In doing so, one needs to be careful about looking at the
33 public's understanding of these various concepts, because, at
34 times, perhaps there is confusion between the different terms.
35 Examples for the social criteria are studies which have been
36 published that include some social metrics, such as resilience,
37 vulnerability, and well-being in the various communities, and so
38 those also council be considered. Finally, in terms of
39 ecological criteria, changes in fishery status would be an
40 example that could be considered. Increasing discards would be
41 another one.

42
43 That is an overview, if you would, of the different types of
44 criteria that the policy considers and discussed, and now we are
45 going to look at the allocations that may be subject to this
46 policy and finish with looking again at the criteria, to perhaps
47 stimulate the discussion for the council to select some.

48

1 In terms of allocations, we have a variety of allocations in the
2 Gulf Council. We have allocations between the sectors, and that
3 is the most of them, between the commercial and the recreational
4 sector, and we have an allocation within a particular sector,
5 the recreational sector, here meaning between the for-hire and
6 the private angling, and we have allocations between zones and
7 gear types, and we have some allocations between councils,
8 between us and the South Atlantic Council, and you are
9 developing an amendment that would allocate resources between
10 the five states in the Gulf of Mexico.

11
12 This table shows the different allocations that we have between
13 the sectors, and those would include the six share categories
14 that we have in our two IFQ programs, and, by that, I mean red
15 snapper, gag, red grouper, the shallow-water IFQ aggregate, the
16 deepwater aggregate, and the tilefish aggregate, and we also
17 have gray triggerfish, greater amberjack, and king mackerel.

18
19 Here, for three of these allocations, we have a little asterisk
20 there, and those are the shallow-water, deepwater, and tilefish
21 aggregates, and the reason for this is that we do not have an
22 explicit commercial and recreational split. What we have is
23 that, because of the IFQ program, a specific portion was
24 allocated to the commercial sector. Then, I guess by
25 subtraction, whatever is left is a de facto allocation to the
26 other sector, and so these are, if you would, implicit
27 allocations to the other sector, but, in discussion with NOAA
28 GC, it was brought to our attention that even these should be
29 included and would be subject to the policy.

30
31 In terms of allocation within a particular sector, the example
32 that we have in the Gulf would be the allocation of the
33 recreational red snapper ACL between the federal for-hire
34 component and the private angling component. Allocations
35 between our council and the South Atlantic Council would include
36 black grouper, yellowtail snapper, and mutton snapper.

37
38 In terms of allocations between the zones, we will have the king
39 mackerel Gulf group allocated between the zones, as well as
40 between the two gear types, the handline and the gillnet
41 component.

42
43 In discussions with NMFS, and in particular with NOAA GC, it has
44 been determined that all of these allocations that we have
45 discussed are subject to the allocation review policy, and so,
46 essentially, the council would just concur, and these would then
47 be the allocations that are subject to the allocation review
48 policy, and, again, as we defined earlier, a fisheries

1 allocation is a direct and deliberate distribution of an
2 opportunity to participate in a fishery amongst identifiable and
3 discreet user groups or individuals, and all of the allocations
4 we talked about meet that definition. Therefore, they would all
5 be subject to the policy.

6
7 Now on to the selection of review triggers. Now, if we look at
8 the different allocations that we just discussed and identified,
9 we could split them into two groups. The first group would
10 include the LAPP stocks, or stock complexes, meaning all of the
11 fisheries that we have that are currently managed under an IFQ,
12 and we have two of them, the red snapper IFQ program and the
13 grouper and tilefish one, and everything else, which we would
14 call the non-LAPP stocks, if you would.

15
16 That is, again, the LAPP stocks that we have. We have six share
17 categories, the red snapper, red grouper, gag, and the
18 aggregates, shallow-water and deepwater, and the tilefish
19 aggregates.

20
21 The Magnuson-Stevens Act requires that we review these IFQ
22 programs every five years for the initial review and every five
23 to seven years thereafter for the subsequent review. Because of
24 that, time-based triggers would be the most practicable triggers
25 to pick for LAPP fisheries, and, in a sense, the allocation
26 review process could be just folded in the review, which is
27 already mandated anyways, and so this would be -- For these, the
28 allocation reviews would be included in the regularly-scheduled
29 IFQ program reviews.

30
31 For the non-LAPP allocations, and what we have here would be
32 greater amberjack, gray triggerfish, the Gulf group of king
33 mackerel, black grouper, and yellowtail snapper, and I think I
34 missed one there, and that would be mutton snapper, because, in
35 talking about the allocations, that was also here.

36
37 The council could pick one type of trigger, let's say time-
38 based, public interest, or indicator-based, or pick a
39 combination of triggers, because these are not mutually
40 exclusive.

41
42 The time-based trigger, or criteria, as we said before, would be
43 the most straightforward and the easiest one to implement, and
44 it would not really require additional resources to be dedicated
45 to this purpose.

46
47 In terms of the public-interest-based, they would have to
48 trigger a review whenever the public requests one, and so,

1 essentially, to use them as the primary trigger may perhaps lead
2 the council to an unnecessarily large number of reviews, but
3 they could be used as a secondary trigger, for example. The
4 council's usual comment period could serve as a secondary
5 trigger, because, for example, if we were to pick petitions as
6 the primary trigger, every time someone puts a petition together
7 and comes and submits it, then the logical step would be that we
8 would have to follow with an allocation review, and that may be
9 unnecessarily cumbersome and perhaps too frequent.

10
11 The indicator-based triggers would be the most challenging, in
12 the sense that they would require the most amount of resources.
13 It would require the selection of indicators, the establishment
14 of a tracking process, and the establishment of thresholds above
15 or below which the allocation review would be triggered.
16 Essentially, this approach here may lead to a process more
17 cumbersome than the allocation review itself that it is supposed
18 to trigger, and so that is something to keep in mind.

19
20 The council could also consider using these triggers in
21 combination. We looked at the three types, but, because of what
22 we just said when it comes to the indicator-based triggers, we
23 would, I guess, say that any combination which would include
24 indicator-based triggers would be at least as burdensome as
25 selecting indicator-based triggers by themselves, and so that
26 would take out the indicator-based with public interest, at
27 least just in this argument, and indicator-based with time-
28 based.

29
30 The suggested combination here would be possibly to use time-
31 based triggers as the primary trigger and use public interest
32 triggers based on the council's ongoing process as the secondary
33 trigger. If this were selected or considered as an option, if
34 you would, it would allow the council the flexibility to plan
35 reviews without the obligation to initiate it every time someone
36 brings a request, and that's number one, and, two, it would give
37 the council the flexibility to consider allocation reviews even
38 outside of the time intervals, because the secondary trigger can
39 kick in and be used as a justification for an allocation review.
40 I think that should be the last slide. Yes. Thank you, and I
41 will try to answer questions, if I can.

42
43 **CHAIRMAN DIAZ:** Any questions for Dr. Diagne?

44
45 **DR. DIAGNE:** I just wanted to say that we also have SSC
46 recommendations, and they discussed some of these at length, and
47 perhaps that would also add to --

1 **CHAIRMAN DIAZ:** This would probably be a good time to go over
2 the SSC recommendations.

3
4 **DR. LUIZ BARBIERI:** Thank you, Mr. Chairman and committee
5 members. I have a brief presentation summarizing the main
6 points of our report. This was an excellent overview that Dr.
7 Diagne just gave you that reviews the whole process in quite a
8 bit of detail.

9
10 The SSC, by the way, has now a number of socioeconomic members,
11 and I think engaged in this discussion pretty well, because
12 those members were more knowledgeable and had experience looking
13 at this issue, and so that was positive. This was just to show
14 you that my comments are really following up this presentation
15 that Dr. Diagne just presented.

16
17 To refresh your memory, those are the three types of triggers
18 that Dr. Diagne presented to you for the allocation review
19 process, the public-interest-based triggers, the time-based
20 triggers, and the indicator-based triggers.

21
22 The SSC had quite a bit of discussion about this. Initially, I
23 think the first main point that we've brought up was that the
24 public-interest-based triggers -- Several committee members felt
25 that was subject to influence by special interest groups that
26 could actually divert the motives of a particular constituency
27 and not necessarily reflect what the majority would be intending
28 to do, and so it's something where there would be more political
29 or perhaps organizations that have more resources that could
30 invest in petitions or other forms of public interest
31 communication with the council to, if you will, force the hand
32 of the council to put allocation ahead of where it should be.

33
34 The committee felt that perhaps using this as a secondary
35 criteria to one of the other types of review triggers would be
36 best to avoid that potential conflict. The time-based triggers,
37 as Dr. Diagne explained, are the simplest, and so ease of
38 implementation is a very practical approach, and he presented an
39 example of the North Pacific Fishery Management Council that has
40 this ten-year timeframe as a primary trigger for review of non-
41 LAPP allocations, and that makes it easy, and so you have that a
42 primary trigger, and then you can use a public input process, or
43 public-interest-based trigger, as a secondary criteria.

44
45 The indicator-based triggers, as he explained, are much more
46 complex. I mean, they involve the use of criteria that is more
47 objective and defined. You actually have to see what to use,
48 what level of thresholds for each one of these indicators, and

1 then you have to monitor the indicators to see if you are there
2 or not.

3
4 In considering the paucity of data, socioeconomic data, that we
5 have in the southeastern U.S., in the Gulf of Mexico, this would
6 be perhaps the most complicated process to be used, and not
7 unsuitable, but it would involve a level of complexity that is
8 higher than the other ones.

9
10 Here is a summary of the main SSC comments. The committee felt
11 that there was a lot of information in Dr. Diagne's presentation
12 and discussion, the review paper that he presented to us and
13 discussed, and that was very informative, but the committee
14 would be better served by having some kind of a document put
15 together that could list the existing allocations in the Gulf,
16 and so the regulatory action that established these allocations
17 and a summary of the methods used to allocate the resources, and
18 so, basically, to set a level playing field, where we will know
19 what is in the books already and what the criteria have been
20 that you have used over time, so we can start from that
21 perspective.

22
23 We also requested that the staff present, at a future meeting,
24 the objectives of FMPs, including allocations subjected to
25 review policy, and so, basically, to make sure that the
26 allocations that either are in the books or desired to be
27 reviewed in the future are well aligned with the objectives of
28 the FMPs.

29
30 We discussed the potential establishment of a Socioeconomic SSC
31 sub-committee to help guide the process for the committee as a
32 whole, for the full SSC, and, actually, I myself made that
33 recommendation. On second thought, I'm not sure that that would
34 be the most practical way for the committee to do this, for
35 several reasons. One, it involves a lot of work, and there is a
36 lot of data, a lot of criteria, there to be looked at that
37 perhaps SSC members would not be the most suitable to look
38 through and evaluate, one. Two is that, when you have a process
39 like this that's done by a sub-committee, and then you bring
40 that to the full SSC, that involves that sub-committee having to
41 bring the whole committee up to speed, and that sometimes can
42 create difficulties.

43
44 We are very happy that we have a fairly strong SSC, in terms of
45 socioeconomic members, and that we're going to continue working
46 with Dr. Diagne and you in reviewing and making recommendations
47 on allocation review, and that completes my report, Mr.
48 Chairman.

1
2 **CHAIRMAN DIAZ:** Thank you, Dr. Barbieri. Any questions for Dr.
3 Barbieri? Ms. Bosarge.

4
5 **MS. BOSARGE:** I think it might be for Dr. Diagne. If we chose
6 the time-based trigger as our trigger for this policy, and say
7 that was our only trigger and we didn't follow it up with a
8 secondary trigger, are our hands tied at that point?

9
10 In other words, say we say every ten years. Can we not look at
11 something before that ten-year mark rolls around? I am thinking
12 about things like yellowtail snapper, and I think that's the one
13 where the South Atlantic asked us to kind of look at our
14 allocation and see if there was anything we can do, because
15 they're bumping up against some things, and so it's an
16 allocation between two councils and not between recreational and
17 commercial, and so, if something like that came up, and we're
18 not slated to look at those allocations until 2025, can we still
19 go into it and look at it, or are we not allowed?

20
21 **DR. DIAGNE:** I will try to answer, and then perhaps someone can
22 jump in. The example that you gave is not really an allocation
23 review. It is the step after that, meaning the evaluation of an
24 allocation, with options and alternatives.

25
26 Let's say, for example, consider reallocating the yellowtail
27 between us and a different council. That's an allocation
28 evaluation, but, as far as just reviewing an existing
29 allocation, if the only trigger we have is a time-based trigger,
30 say a ten-year, in my understanding right now, it would be that
31 that would be pretty much it.

32
33 You review this allocation every ten years, which is why the
34 example that Dr. Barbieri discussed and we talked about, for
35 example the North Pacific, they have two. You have the primary
36 trigger and a secondary trigger, and, putting both of those
37 together, you would have the flexibility to review your
38 allocations, really, as the need arises.

39
40 **CHAIRMAN DIAZ:** Dr. Stunz.

41
42 **DR. STUNZ:** Thank you, Mr. Chair, and this isn't so much a
43 question for Luiz, but just a comment. It seems to me, in
44 listening to this discussion, that we probably should retain all
45 three of these triggers, to some extent, because it gives us the
46 most flexibility to do what we need to do.

47
48 To me, the time-based trigger is kind of a no-brainer. It

1 forces us to look at this, and, I mean, I don't think anyone
2 around this table enjoys these allocation discussions and having
3 to make these difficult decisions.

4
5 Probably, at least in my mind, it's the hardest thing that we
6 do, and so the time-based thing makes us and forces us to have
7 those decisions, but then it seems like we don't want to neglect
8 the public-interest-based trigger, and things might come up that
9 we don't anticipate outside of that prescribed timeline that we
10 might have.

11
12 Now, of course, that could be influenced greatly and that sort
13 of thing, and so, somehow, we would have to have some ability to
14 decide does the public-based trigger really warrant further
15 discussion kind of thing, or is it just because one person comes
16 to public testimony and says something and that we don't
17 initiate the process.

18
19 To me, that kind of seems where the indicator-based trigger
20 could come in. I mean, obviously, that's a very informative
21 one, but, as Luiz points out, it takes a lot of time and effort
22 and that kind of thing, but let's say we didn't reach the time,
23 and a lot of public interest says, hey, we really need to do
24 something. Then we could make invoke this indicator approach,
25 to see if those public concerns are valid, and then move down
26 that direction, if it's warranted, but, ideally I guess, we
27 might just be able to keep within the timeframe. I guess, in
28 short, what I'm saying is we kind of keep it all available, with
29 our preferred option to do this time-based approach.

30
31 **CHAIRMAN DIAZ:** Dr. Diagne.

32
33 **DR. DIAGNE:** Yes, but there is, I guess, one more layer, in the
34 sense that whichever one of these or combination we pick will
35 have to be specific in meeting, I guess, the requirement by
36 August of 2019. Let's say, for example, if we were to keep all
37 three around, we would have to specify the timeframe, the time
38 interval, for the time-based trigger, and that's easy enough to
39 do.

40
41 In terms of the public-interest trigger, the SSC has cautioned
42 against the use of petitions, and also targeted solicitation,
43 because of outside interests and this and that, and that leaves
44 the normal council process, which is open and people can
45 comment, but my main, I guess, point is that, for indicator
46 triggers, we don't have the flexibility of saying we are going
47 to retain indicator triggers and we'll see what's coming down
48 the line.

1
2 We would have to be very specific, I guess, between now and
3 then, to say that these are the three, four, or five variables
4 that we are tracking, and this is going to be the threshold by
5 which we are going to trigger an allocation review and so forth
6 and define the process that you are going to use to track it,
7 and so it is a little more than just us saying we are going to
8 retain the indicator-based triggers. We would have to be fairly
9 specific in picking them and identifying the thresholds and
10 looking at the data sources that we are going to collect and
11 looking at the process that one would use to track that variable
12 over time.

13
14 **CHAIRMAN DIAZ:** As we go through this and read through the
15 documents, kind of where I'm at -- I mean, I kind of think that
16 it makes sense to take care of the IFQ species during the
17 regular reviews, and that's something we're already doing, and
18 we would just tack that on to it, and it's already at certain
19 intervals, and I'm kind of in favor of doing the time-based, and
20 I keep thinking ten years, when I think about it, but I wouldn't
21 want all of them to hit at the same time. We would have to
22 figure out a way to stagger it or to divide them up in some
23 fashion, where maybe we didn't try to tackle them all at one
24 time.

25
26 Then I like the way that the North Pacific did it, by having the
27 secondary -- For the council public input process as a secondary
28 trigger for review, in addition to that. Did you have
29 something, Mr. Anson?

30
31 **MR. ANSON:** I did. Thank you. I guess a couple of points. You
32 know, if we have a time-based trigger as one of our trigger
33 mechanisms, I guess, I'm a little concerned on the staff time
34 and resources, and I'm just looking at one species that we tried
35 to go through with allocation and how much time that took to try
36 to come up with an allocation.

37
38 It doesn't mean that we have to review or have to change the
39 allocation every time we review, but certainly staggering -- We
40 would have to stagger, I think, the species. Some species, do
41 we have the flexibility, Assane, do you think, to have some
42 species, which have historically not been very contentious, to
43 have a longer time series than others and kind of pick and
44 choose species, on the frontend, I guess, and so I'm just trying
45 to conceptualize, as we go forward with whatever plan it is that
46 we're trying to address, is, on the backend, what's going to
47 happen as far as what we have to do as a council, and it seems
48 like it's a lot of -- It's going to take a lot of time to go

1 through those, if we go through and we identify all those
2 species that we have to be committed and be very sure as to the
3 process.

4
5 I guess the last comment I have is the indicator-based species,
6 indicator-based trigger, and it seems to me that, on one hand,
7 you wouldn't want to necessarily include indicator-based
8 triggers, because you're going to probably use those in your
9 final assessment for allocation at some point, but, on the other
10 hand, there is probably a couple of indicators that are readily
11 available that could be utilized that are not very hard to do.

12
13 You could essentially get them here at most council meetings,
14 and that is what have the catches been relative to their
15 allocations by sector, for instance, and look at that as part of
16 the time series within a certain time that you have set up as to
17 how many times that one sector may exceed their allocation over
18 the other, and I know it's different for IFQ programs, and we
19 may not have that luxury to do that, but I still think that
20 maybe there's a chance for some indicator triggers to be
21 incorporated with other triggers.

22
23 **CHAIRMAN DIAZ:** Dr. Diagne.

24
25 **DR. BARBIERI:** Mr. Chairman, I don't mean to interrupt, but, if
26 you're done with me, I guess I'm going to go back and sit down.

27
28 **CHAIRMAN DIAZ:** Thank you, Dr. Barbieri.

29
30 **DR. DIAGNE:** I will, I guess, try to answer. If I say something
31 that is not correct, maybe someone can correct me. I think, in
32 drafting this policy, a lot of flexibility has been given to the
33 councils, essentially, and, based on my understanding, you have
34 the flexibility of looking at what Mr. Diaz said here. When
35 you're using time-based triggers, you can pick different
36 timeframes for different fisheries.

37
38 I mean, the concern, and it was well expressed by both of you,
39 in terms of resources at the council level, staff time, et
40 cetera, to have all of your allocations hit at the same time to
41 be reviewed, and, again, what you are talking about here is only
42 the allocation review part. Following that review, there is a
43 decision to be made of is this allocation still consistent with
44 our FMP objectives.

45
46 If the answer is yes, there is nothing else to do. We have
47 looked at it, but there is nothing to see, quote, unquote, and
48 everyone goes home, or we feel that perhaps the existing

1 allocation no longer meets our FMP objectives, and then we would
2 proceed and develop options and alternatives, and so the short
3 answer is, yes, you will have the flexibility of doing that, of
4 choosing different timeframes, so that you can allocate our
5 resources, staff time, et cetera, in the most efficient way.

6
7 **CHAIRMAN DIAZ:** Ms. Guyas.

8
9 **MS. GUYAS:** I was going to say that I think, somehow, we need to
10 incorporate into this that one of our criteria would be changes
11 to data collection systems and historical data, right, because
12 we don't want to be in a situation where we have an allocation
13 in apples and we're measuring now in oranges, and so I think
14 we're in that situation now, or we're going to be, with these
15 MRIP calibrations, as those get incorporated into assessments.
16 I think we're going to have to look at allocations.

17
18 **CHAIRMAN DIAZ:** Dr. Simmons.

19
20 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chairman. I just
21 wanted to go back to a question, I guess, that came up earlier
22 and ask maybe for some clarification on this. As far as a
23 policy, I didn't understand that this tied the council's hands.
24 If there was new information that they wanted to look at, with
25 reallocating a specific species, and it was a different time
26 period, or new information, or maybe it was an ecological type
27 of indicator, I thought the council could pass a motion to look
28 at reallocation at any point in time, and this is just a policy
29 that we're going to set and put in place that we're going to do
30 this, and we're going to follow that policy as best we can, but
31 the council could always modify that policy as well, and so
32 maybe I misinterpreted what the guidance was, but that was my
33 understanding.

34
35 **CHAIRMAN DIAZ:** Mr. Sanchez.

36
37 **MR. JOHN SANCHEZ:** Thank you. Maybe this is a question for
38 Luiz, Dr. Barbieri, and I don't know if it is or not, but let me
39 know. Where are we at with the MRIP calibrations, as this
40 discussion is brewing?

41
42 **DR. FRAZER:** John and Luiz, we might just hold off on that
43 conversation, because SEDAR is next.

44
45 **DR. BARBIERI:** That's exactly what I was going to say, that, our
46 next committee meeting, there will be quite a bit of discussion
47 about that.

48

1 **CHAIRMAN DIAZ:** Dr. Stunz.

2
3 **DR. STUNZ:** Kind of to Carrie's point and the others, and that's
4 why I don't really see -- That's why I was saying that we keep
5 all of these three as options, and I don't really see that -- In
6 many instances, you can't really have one without the other.
7 Even if you have a time-based trigger, and let's say we're all
8 happy with it and nobody really feels the need to do -- As
9 Assane is saying, we could decide at that point whether it
10 merits a full discussion, but we're still going to have to look
11 at some indicators indicating whether there is some
12 justification for reallocation or not, and so it seems to me
13 like we've got the flexibility to look at a time-based trigger
14 to set the stage, to make sure we're on track.

15
16 We still have what -- I can't imagine, if there was a lot of
17 public interest, genuine interest, and not what the SSC
18 cautioned against, about the folks in the fisheries wanting some
19 reallocation discussions, that we wouldn't pay attention to
20 that, and that could always be this secondary aspect that we're
21 talking about, and so you've got the time and the secondary
22 aspect, and then you still have all these indicators that we
23 could build that on.

24
25 Now, I'm not saying, Assane -- The indicator thing gets real
26 tricky real quick, because you've got all -- You might have
27 different indicators for different fisheries and all kinds of
28 other things, but there are -- I think we just need to maintain
29 that flexibility, because, just like Martha is saying, an MRIP
30 calibration might come along, and there is probably going to be
31 something else that we don't even know about right now which
32 could want us to reconsider some of these allocation decisions.

33
34 I guess what I'm saying is we have like what Carrie said, is you
35 sort of have this policy, and you're adaptable to meet this in
36 whatever methods we have at our disposal.

37
38 **CHAIRMAN DIAZ:** Ms. Levy.

39
40 **MS. LEVY:** I mean, I agree that you have a lot of flexibility
41 with respect to the policy, and it's not meant to sort of bind
42 you from future unknowns and you want to consider some sort of
43 allocation or look at it, but I think, for it to be meaningful,
44 right, it's supposed to really tell the public and the body what
45 you have decided are appropriate times when you're going to have
46 an allocation review.

47
48 Like, when this happens, despite everything else, we're going to

1 look at our allocations and decide whether it's consistent with
2 our FMP objectives, and so ten years passed and we're going to
3 do it, and the public has input about it, and we're going to do
4 it, and I think it's fine to include indicator-based stuff, but
5 I think you have to be fairly specific, because, if you're not
6 specific, then it's not telling anybody what indicators you're
7 going to say require that you think you need to look at the
8 allocation, and so then it sort of becomes less meaningful, I
9 think, in terms of telling people what the intent is. Again,
10 not that it binds you to unforeseen circumstances, but, if the
11 goal is to sort of put out there when you think this is going to
12 be appropriate, the specificity is what is helpful.

13

14 **CHAIRMAN DIAZ:** Dr. Frazer.

15

16 **DR. FRAZER:** Let me just -- I mean, we're getting close to the
17 end of the time for this session, but I just wanted to kind of
18 reword the question a little bit, right, and so, more
19 explicitly, if you go to a time-based trigger, for example, that
20 doesn't tie the hands of the council, should something arise, a
21 compelling argument that comes forward, to initiate an
22 allocation review. I just want to make sure that that's true,
23 from a legal perspective.

24

25 **MS. LEVY:** I don't think any of this binds the council. I mean,
26 it's a policy. It's a NMFS directive that this is how they
27 would like you to operate or to put out your intentions about
28 how you're going to operate with respect to allocation reviews.
29 I think it's letting the public know that, after this many years
30 with an allocation, we're going to look at our allocation and
31 decide whether it's consistent with the FMP objectives.

32

33 It seems perfectly reasonable to have public input as a
34 secondary, because you get that anyway, right? It's going to
35 happen, and so I don't think anything binds you, per se. It's
36 not a legal requirement. It's a policy directive that is
37 supposed to give folks notice about how you're going to handle
38 allocation reviews or when you think an allocation review is
39 appropriate, outside of other circumstances.

40

41 **CHAIRMAN DIAZ:** I think we're winding down on our time, and we
42 had some really good discussion. Dr. Frazer said we can go a
43 couple more minutes. Dr. Diagne, are you finished, or do you
44 still have some things that you want to cover?

45

46 **DR. DIAGNE:** No, I think, as far as the presentation portion and
47 so forth, that part is finished, but, in reading the Action
48 Guide, perhaps, one of the things that we would, if possible,

1 have the council consider would be a motion specifying the type
2 of triggers that you as a council would want to consider,
3 because let's say, for us to meet one of the requirements of the
4 policy, we would essentially draft a letter to the agency
5 informing them that the Gulf Council met and discussed this and
6 these are the triggers that we have selected, as a council.
7 That is the end goal here, and, to the extent that we could make
8 progress towards that end goal, that would be great.

9
10 **CHAIRMAN DIAZ:** Ms. Levy and then Ms. Bosarge.

11
12 **MS. LEVY:** Thank you. Just one more comment. In the
13 presentation and in the document, it separates out limited
14 access privilege stocks, I guess, and not. The only thing I am
15 wondering there, and maybe we can talk about it more or think
16 about it, is so, in the non-LAPP stocks and stock complexes, you
17 don't include things like red snapper.

18
19 Now, I understand that red snapper is an IFQ, and so that piece
20 of it is a limited access privilege program that is subject to
21 the five-year or seven-year review, and I don't know that that
22 necessarily means that you want to have the same trigger, and
23 maybe it does, for the commercial/recreational allocation or the
24 recreational component allocation. There are LAPP components to
25 these different stocks, but not all of the allocations are
26 limited access privilege allocations, is what I am saying.

27
28 **CHAIRMAN DIAZ:** Ms. Bosarge.

29
30 **MS. BOSARGE:** Just a couple of broad comments. I kind of like
31 the idea, in some ways, of retaining all three types of
32 triggers, but then the flip side of that is I worry about
33 stakeholder expectations, right, if you retain all three, and
34 especially if you have a public input trigger. I feel like
35 we're going to over-promise and under-deliver.

36
37 I mean, I heard, in public comments on cobia earlier, some
38 things that talked about allocation. Well, that was a public
39 comment, and so is there going to be an expectation there that
40 there was a public comment on that and so now we should start a
41 document that should be evaluating any kind of allocation
42 between commercial and recreational or for-hire or whatever?

43
44 I guess that part kind of scares me just a little bit, and I
45 kind of wonder about the impetus of this policy, and maybe Dr.
46 Simmons can speak to that, and so where did this all emulate
47 from? In other words, was this due to maybe some councils that
48 have some very entrenched fisheries, maybe, with big

1 corporations and things like that, where it was very hard to
2 ever get to the point where the council would even discuss
3 changes in allocations, because it spoke a little bit to
4 councils avoiding things that are controversial, and I don't
5 think the Gulf Council does that. We seem to flop towards
6 things that are controversial, and so I was just wondering, you
7 know, is it all that applicable? How deep into this do we need
8 to get?

9
10 **CHAIRMAN DIAZ:** Dr. Simmons.

11
12 **EXECUTIVE DIRECTOR SIMMONS:** Thank you. I think there's a
13 couple of questions in there, and I will try to address some of
14 them. I think we heard several presentations at the Council
15 Coordinating Committee, at the national level, trying to get the
16 councils to think about this and take an approach that they
17 would look at reviewing these allocations and what did that
18 mean, and I think there certainly has been probably a lot of
19 public comment, all the way up to the Hill, that probably
20 prompted them to look at developing this policy. That's what I
21 remember anyway.

22
23 **CHAIRMAN DIAZ:** Mr. Boyd.

24
25 **MR. BOYD:** I think Leann's question dovetails right into what I
26 wanted to talk about for a minute. This is a directive from
27 National Marine Fisheries, and I have talked to Russ Dunn about
28 this, at Headquarters, a couple of times, and that's the reason
29 why I brought up adopting their allocation policy, is because of
30 the conversations with him and the time limits that that
31 directive has on it.

32
33 I would suggest that, before we actually try to select triggers,
34 that we get Russ Dunn on the phone, or we ask him to the next
35 meeting, and have him give us a background and where National
36 Marine Fisheries is coming from in developing this document and
37 the reasons for it and what their expectations of the councils
38 are under this document, and we could do that if he wants to get
39 on the phone, later on in the week, or we could bring him next
40 time, either one.

41
42 **CHAIRMAN DIAZ:** Mr. Anson.

43
44 **MR. ANSON:** This question is for Dr. Diagne. You may have
45 covered this, Assane, and so I apologize, but the letter that --
46 The deadline of August 2019, where we have to communicate with
47 the agency as to what the Gulf Council wants to do relative to
48 allocation review, it says identify allocation review triggers,

1 and so we just have to identify the 30,000-foot triggers, or do
2 we have to identify that this species is going to be reviewed
3 this way and that species is going to be reviewed this other
4 way, and is that what we have to do?
5

6 **DR. DIAGNE:** Maybe Ms. Levy can chime in, if what I say needs
7 additional -- But my understanding is that identification
8 process has to be, I guess, as complete as we can make it. We
9 will say, for example, for X and Y and Z species, we are using
10 this primary trigger and this secondary trigger, but one thing
11 that I guess we could say is that we cannot say that we are
12 picking indicator-based triggers, period.
13

14 The policy is very clear in saying that, if a council wants to
15 select indicator-based triggers, that council needs to identify
16 the indicators, discuss and define the process by which that
17 indicator will be tracked over time, and essentially set the
18 threshold beforehand, a priori, to say that, when you hit this
19 threshold, then you will trigger the allocation review, and so
20 it is more than just saying, well, we are going to keep this.
21 We will have then to continue the discussion in identifying and
22 establishing those.
23

24 **CHAIRMAN DIAZ:** Mr. Griner.
25

26 **MR. GRINER:** To that point, could something as simple as a
27 percent of harvested or unharvested ACL over a period of time be
28 an indicator trigger?
29

30 **DR. DIAGNE:** Yes, and I guess I would need to hear a little
31 more, but, in terms of the triggers, the indicators to be
32 selected, the councils have some flexibility there, but a
33 percent of harvested ACL, but then you would have some rationale
34 as to the threshold that you set, how would you pick that
35 threshold, what's the reasoning behind it, and so forth, but
36 that could be the case.
37

38 **CHAIRMAN DIAZ:** Mr. Anson.
39

40 **MR. ANSON:** I was just -- I will say we're supposed to get a
41 letter done by August?
42

43 **DR. DIAGNE:** The agency, I think, in the policy was fairly
44 flexible. It says by August of 2019 or as soon as practicable.
45 That's what it says.
46

47 **CHAIRMAN DIAZ:** From talking with Tom, and based on Mr. Boyd's
48 suggestion, I think we are going to try to get to Mr. Russ Dunn

1 at some point in the future. I'm not sure when that's going to
2 be yet, Mr. Boyd, but we can try to make that happen. We've had
3 some really good discussion, though. I don't want to stop
4 discussion, if we've got time, but we've had some good
5 discussion, and I think people have got a better idea now.
6 Either at Full Council, or maybe in January, we can have some
7 further discussions and see if we're starting to get to a point
8 where we can come to some type of a consensus. Mr. Anson.

9
10 **MR. ANSON:** Thank you. In Dr. Barbieri's report, he said that
11 the SSC had asked for some additional information relative to
12 the proportion of the ACL and that type of thing and the
13 landings and that type of -- Do you think that will be available
14 for the January council meeting or later?

15
16 **DR. DIAGNE:** Yes, and, if I recall, what the SSC asked for is
17 essentially a summary document, like Dr. Barbieri mentioned,
18 that would list the allocations, the amendment that implemented
19 them, and a little bit of the rationale that the council used at
20 the time.

21
22 That we have, essentially here in I guess one of the slides.
23 What we show, we show the allocation as well as the amendment
24 that implemented that allocation. What we need to do is add to
25 that essentially what it is that the council used, and, as far
26 as I can recall, all of our past allocations are based on some
27 historical time series.

28
29 The time period may change, but to use 50 percent recent and 50
30 percent the entire time series, or 1987 to 1992, et cetera, and
31 so, as far as I know, all of our allocations follow that model,
32 and so that will be fairly easy to provide, and that is, just I
33 guess, for them, for that information.

34
35 The second thing that he mentioned had to do with the FMP
36 objectives of the fisheries that are subject to this policy. As
37 a council, you have initiated that discussion already when it
38 comes to the FMP of the reef fish fishery, and you are going to
39 continue that discussion I guess tomorrow.

40
41 The other set of FMP objectives that we will provide to the SSC
42 will be essentially those of the CMP, and so that we would
43 supply, definitely, to the SSC for the January meeting,
44 absolutely, yes.

45
46 **CHAIRMAN DIAZ:** Dr. Frazer.

47
48 **DR. FRAZER:** I just wanted to follow-up on Doug Boyd's comments.

1 I think, between now and Full Council, what we'll try to do is
2 figure out what we need to do to seek clarity on what is
3 actually requested from us, whether or not that involves
4 somebody coming here, or we can settle that with Mara or
5 whoever, but just clarify it by Full Council.

6

7 **CHAIRMAN DIAZ:** Ms. Levy.

8

9 **MS. LEVY:** Well, just to point out that the fisheries allocation
10 review policy document itself -- I mean, it explains that it's
11 going to provide a mechanism to ensure fisheries allocations are
12 periodically evaluated to remain relevant to current conditions.
13 In addition, it will improve transparency and minimize conflicts
14 for a process that's often controversial. I mean, that's the
15 intent of what it's trying to do.

16

17 It has a section about authorities and responsibilities and what
18 the council is supposed to be doing in response to this policy,
19 which is identifying the triggers, and then it does mention,
20 also, just in response to Leann's comment about the public input
21 piece of it becoming overly burdensome, and so the idea is, if
22 you have a trigger based on public input, then, once that
23 trigger happens, then you check for changes in social,
24 ecological, or economic criteria, to ensure that assessment of
25 fisheries allocations is an appropriate use of the council
26 resources, meaning the public input -- There is then supposed to
27 be a second little step that you actually look at what is
28 happening and decide whether that's actually going to trigger
29 your review, and so it's not meant to be, every time somebody
30 makes a comment about allocation, you are suddenly reviewing
31 everything, and it specifically says that, at the step-one
32 stage, the trigger is met, and in-depth analyses are not
33 required, and so the trigger met piece isn't supposed to be a
34 really heavy lift at that point in time.

35

36 **CHAIRMAN DIAZ:** Dr. Frazer.

37

38 **DR. FRAZER:** I appreciate exactly what you're saying, Mara, and
39 that was the reason that I asked the question the first time.
40 If you have a time-based trigger with a secondary one, it's at
41 the council's discretion whether or not you want to entertain
42 the idea to move forward with an allocation review. At that
43 point, it's going to be based on some -- Presumably a compelling
44 argument that somebody has made based on either some catch data
45 or some socioeconomic factor, and so our hands aren't tied, and
46 so I like that idea of moving forward, and I think we may be
47 making this a little more complicated than we have to at this
48 point, and so I think we can move on, probably.

1
2 **CHAIRMAN DIAZ:** Dr. Stunz.

3
4 **DR. STUNZ:** Just briefly to that, exactly what Mara read and was
5 just discussed, that's exactly what I mean by this indicator-
6 based maybe even kind of being a tertiary thing after time,
7 after maybe there is some public input, and then that would
8 actually kick in, to exactly the points that you two just made.

9
10 **CHAIRMAN DIAZ:** All right. I want to thank the committee for
11 all their discussion. Dr. Diagne.

12
13 **DR. DIAGNE:** I am just seeking or looking to make progress,
14 perhaps, and just a question for the committee. Is there
15 anything that you would want us to do or to think about in the
16 meantime, because, at this point, we have discussed this twice.
17 The first time, it was too much, and that was just an
18 introduction to bring the concepts. This time around, I guess
19 we tried to compare and contrast these types of indicators, and
20 so what would you expect from us let's say next time, or perhaps
21 during Full Council you may consider picking a set of triggers.

22
23 **CHAIRMAN DIAZ:** Ms. Guyas.

24
25 **MS. GUYAS:** There's been a couple of ideas that have been thrown
26 out, and it might be helpful to kind of get a running list
27 going, so that we can refine it. Like, for example, we know
28 recalibrations, changes to the data collection systems, we think
29 some kind of time-based trigger, and whether that's five years
30 or ten years, I don't know, and somebody said when the IFQ
31 reviews are going on that maybe that's a trigger, and that could
32 be a time one. I don't know, but that's just some of the ones
33 that I can think of, but just capturing some of those thoughts,
34 maybe, and putting them on paper, and then we can refine them.

35
36 **CHAIRMAN DIAZ:** With that, thank you, Ms. Guyas. We are going
37 to close this committee out. Did anybody have any other
38 business? Seeing no other business, thank you.

39
40 (Whereupon, the meeting adjourned on October 22, 2018.)

41
42 - - -