

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

REEF FISH MANAGEMENT COMMITTEE

Sandestin Golf and Beach Resort Miramar Beach, Florida

JUNE 4, 2019

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19

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PAGE 63: Motion to move Action 4 to Considered but Rejected. The motion failed on page 68.

PAGE 68: Motion in Action 4 to modify the alternatives to require that the estimated weight reported on advance landing notifications be within 20 percent, 25 percent, or 30 percent of actual landed weight per share category when the total weight on board of that share category is more than: Option a: 100 pounds; Option b: 500 pounds; Option c: 750 pounds. The motion carried on page 71.

PAGE 85: Motion in Action 1 to make Alternative 2 the preferred alternative. The motion carried on page 86.

PAGE 91: Motion in Action 1 to make Alternative 2 the preferred alternative. The motion carried on page 92.

PAGE 93: Motion in Action 1 to make Alternative 5 a preferred alternative. The motion carried on page 94.

PAGE 95: Motion in Action 2 to make Alternative 2 the preferred alternative. The motion carried on page 95.

PAGE 97: Motion in Action 5 to make Alternative 2, Option 2b the preferred alternative. The motion carried on page 101.

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1 The Reef Fish Management Committee of the Gulf of Mexico Fishery  
2 Management Council convened at the Sandestin Golf and Beach  
3 Resort, Miramar Beach, Florida, Tuesday morning, June 4, 2019,  
4 and was called to order by Chairman Martha Guyas.

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

10 **CHAIRMAN MARTHA GUYAS:** Let's kick it off with Adoption of the  
11 Agenda. Does anybody have any additions to the agenda for  
12 today? If nobody else does, I do. This would be a discussion  
13 about recreational amberjack, and then I would also like to have  
14 a quick discussion about the size limit for almaco jack.  
15 Anything else? Okay. Any desire to approve the agenda as  
16 modified? I need a motion, people. It's so moved by Mr. Boyd  
17 and seconded by Roy, or have you got another addition?  
18

19 **DR. ROY CRABTREE:** I have another addition. I know there are a  
20 number of folks here from the grouper fishery who have some  
21 concerns, and I wonder if it wouldn't be worth talking about  
22 that very briefly, and I'm sure then we'll hear from them at the  
23 Q&A and in public testimony.  
24

25 **CHAIRMAN GUYAS:** All right, and so we'll talk grouper at some  
26 point if we have time to as well. Mr. Banks.  
27

28 **MR. PATRICK BANKS:** I just have a question about process. I am  
29 certainly interested in talking about the amberjack issue, but,  
30 from a correct process standpoint, we have never notified the  
31 public that we're going to be discussing this topic, and I just  
32 want to know what that does to us from a public meeting  
33 standpoint.  
34

35 **MS. MARA LEVY:** I think you can pretty much talk about whatever  
36 you want to. The notice really is required for action, and so,  
37 to the extent you're going to take final action on something and  
38 you haven't noticed it, then that would be a problem.  
39

40 **MR. BANKS:** So we're not able to take any kind of votes on  
41 anything regarding that topic, but this would just be able to be  
42 a discussion?  
43

44 **MS. LEVY:** You could say to start some sort of action to address  
45 it, but you can't take a final action.  
46

47 **CHAIRMAN GUYAS:** Okay. Is everybody good? All right, and so  
48 we've got a motion. well, I assumed, Roy, that your hand also

1 was a second. We'll just go with that. Perfect. Okay. Any  
2 opposition to the motion? Seeing none, the agenda is adopted as  
3 modified.

4  
5 Let's move on to Tab B, Number 2, which is Approval of the  
6 Minutes. Are there any modifications to the minutes? I know  
7 everybody read them last night before bed. Okay. Seeing none,  
8 we will approve the minutes as written.

9  
10 Next, we have the Action Guide and Next Steps, but we'll just  
11 jump right into the Reef Fish Landings. Is there an action  
12 guide item for that? Okay, and so then that takes us, I think,  
13 to -- Sue, are you going to present that for us? Thank you.

#### 14 15 **REVIEW OF REEF FISH LANDINGS**

16  
17 **MS. SUSAN GERHART:** Thank you. First, the commercial landings,  
18 and we have the two species that we're tracking here,  
19 triggerfish and amberjack. I have first the 2019 preliminary  
20 landings and the 2018, which we consider final at this time.

21  
22 For 2018, you can see there was a slight overage on each of  
23 those species, and that was a little bit of payback for this  
24 year. Right now, triggerfish is in a closed season. They close  
25 from June through July, and so we're only at 61 percent of the  
26 ACT. They will reopen again in August until the quota is met.

27  
28 For greater amberjack, we had a closure that was March through  
29 May, and so they just reopened on June 1. We projected how long  
30 the remainder of the ACT would remain, and we have a projected  
31 closure date of June 9, and so there will be nine days before we  
32 project 100 percent of the ACT, and that closure notice went out  
33 several weeks ago.

34  
35 For recreational landings, starting with amberjack, remember  
36 that the fishing year is August through July. We opened in  
37 August, and this is very similar to what you saw last time. For  
38 recreational, the only thing we have different is that we did  
39 get Wave 1, and you can see there were no Wave 1 landings for  
40 greater amberjack. There is a little bit of Wave 2 landings,  
41 and those are from LA Creel.

42  
43 The graphs that you see here have not changed from last year,  
44 with that updated 250,000 pounds, and so they're just the same,  
45 for your information, since I suspected that you would be  
46 talking about recreational amberjack during this meeting, and so  
47 you can see that we exceeded just a little bit the ACT, and  
48 that's why we were not able to open again for a May season for

1 the recreational sector.

2  
3 Here are the other recreational landings. 2019 is on the top  
4 and 2018. The 2018 is not completely final yet, but this has  
5 been updated, to some extent. We now have the Texas high-use  
6 season, which gets us Texas data all the way through November  
7 20, and so we're just missing that last little bit of the year,  
8 which is part of their low-use wave, but we do have, for  
9 recreational, all of the waves through Wave 6, with the  
10 exception of headboats. We don't have Wave 6 right now, and so  
11 you can look at those landings, and you can see that we were way  
12 over on gray triggerfish, and we were very low on gag and red  
13 grouper, and red snapper for-hire was a little over the ACT, but  
14 well under the ACL.

15  
16 For this year, up at the top, like I said, we have Wave 1  
17 landings from MRIP, and we have Wave 2 from LA Creel, and so you  
18 can see those landings, and we only have red grouper. That was  
19 the only species that was open in Wave 1 federally, and so we're  
20 very preliminary in those landings. I did not include the  
21 private angling for red snapper this time, because we're just  
22 getting started on all the state seasons for this year, and  
23 we'll include that next time.

24  
25 The next page, to the stocks, 2019 preliminary, this includes  
26 commercial up to about a week ago, and it includes recreational,  
27 just Wave 1, and so it's a little skewed, and we don't have a  
28 good picture yet for this year, but I wanted to show you what  
29 we're looking like for some of these species right now. These  
30 are not all of the species that we manage, but these are the  
31 ones that have been of interest to the council recently.

32  
33 2018 stock landings, going back to last year, again, as we said  
34 with the recreational, we're missing a little bit of Texas data  
35 as well as Wave 6 headboats, but the rest of this should be  
36 complete, but we're not final yet. Cobia and hogfish were two  
37 that were of interest, and they were well below their ACL, and  
38 then there are three other species here, the lane, the mutton,  
39 and vermilion snapper. You can see they were all over their  
40 ACL.

41  
42 In the case of lane snapper, we had sent already a letter to the  
43 council saying that they had exceeded the overfishing limit in  
44 2017. With these new landings that we've gotten for 2018, we  
45 have also exceeded the overfishing level in 2018 by a very small  
46 amount at this point, about 1,000 pounds, and so it's not very  
47 much. However, we are working with the council and the Science  
48 Center to look at a little bit of an update, and, Ryan, maybe

1 you can speak to that a little bit.

2  
3 **MR. RYAN RINDONE:** Sure. We have been communicating with the  
4 Science Center about updating the Itarget model run, which was  
5 the data-poor run from SEDAR 49 for lane snapper, and this was  
6 the only run that produced management advice from SEDAR 49 that  
7 the SSC had looked at, and I believe it was 344,000 pounds was  
8 the recommended ABC that had come out of that run.

9  
10 We have requested that the Science Center update this again with  
11 the most recent information, and they will be bringing that to  
12 the September SSC meeting, and then we can present those  
13 findings to you guys in October and move forward from there.

14  
15 **MS. GERHART:** With these three snapper species, the  
16 accountability measure is that, if they exceed the ACL in one  
17 year, then, the next year, we'll do projections and shut them  
18 down if they're going to meet the ACL again. We have done  
19 projections, and I think I presented this to you last meeting,  
20 based on previous years' landings for these three. For mutton  
21 and vermilion, we did not anticipate a shutdown at all for this  
22 year, because we generally use a three-year average to determine  
23 the projections.

24  
25 For lane snapper, however, we did show a potential closure later  
26 in this year, and we were really waiting to get a little bit  
27 more data from this year and redo those projections to be a  
28 little more accurate, because, again, it's based on the previous  
29 three years, but, if we can get some of this year's landings  
30 data in there, that will make it a little bit more accurate, we  
31 hope, and so that's our intention. Hopefully we can get another  
32 wave of recreational data in there and do another projection,  
33 and then we will, most likely, somewhere before the end of the  
34 year, be doing a closure for lane snapper, and that's the end of  
35 my report, if there are any questions.

36  
37 **CHAIRMAN GUYAS:** Dale.

38  
39 **MR. DALE DIAZ:** Ms. Gerhart, I just want to ask a favor. At  
40 this next meeting for this, would you mind including king  
41 mackerel? I like to keep track of king mackerel when we go over  
42 this. Thank you.

43  
44 **CHAIRMAN GUYAS:** Kevin.

45  
46 **MR. KEVIN ANSON:** Ryan, is there anything going on with lane  
47 snapper? I mean, obviously, they are catching more, and  
48 landings are increasing, but, I mean, is there any trends that



1 you had seen, in looking at the data, that would indicate that  
2 it's coming from a particular area or the average size is  
3 getting larger? Did you look that closely?

4  
5 **MR. RINDONE:** I don't recall seeing anything from the last time,  
6 from SEDAR 49, which expressed any sort of change in trend. I  
7 don't have a solid answer for that.

8  
9 **MR. ANSON:** All right. Thank you.

10  
11 **CHAIRMAN GUYAS:** Any other questions? Go ahead, Paul.

12  
13 **DR. PAUL MICKLE:** All right. I've got the mic, and so I'm going  
14 to ask one. Just real quick, with triggerfish and amberjack, it  
15 seems like, through a single wave of data in 2019, we're so far  
16 on the ACL. Has the effort increased exponentially and caught  
17 us off-guard with the season projections? It just seems like  
18 these are pretty fast harvest rates, as far as these species.

19  
20 **MS. GERHART:** Are you talking about commercial or recreational?

21  
22 **DR. MICKLE:** Commercial. Sorry.

23  
24 **MS. GERHART:** These are up-to-date landings. We get these  
25 landings weekly, and so they aren't in the waves like the  
26 recreational are, and so these landings are good through --  
27 Usually we have a date on here, but it's good through -- It's  
28 up-to-date at least to two weeks ago, and so that would be  
29 through mid to late May.

30  
31 **CHAIRMAN GUYAS:** Dr. Simmons.

32  
33 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Madam Chair.  
34 Sue, can you remind us again why we don't need to do anything  
35 with mutton snapper? Is that because of the apportionment? I  
36 think we talked about this, but I cannot remember what you said,  
37 and I'm sorry.

38  
39 **MS. GERHART:** Mutton snapper was not over the OFL, and so  
40 there's not a problem there. It exceeded the ACL, and what the  
41 accountability measure is -- If it exceeds the ACL in one year,  
42 which it did in 2018, then we should be tracking and projecting  
43 a closure for 2019. When we projected the closure, because  
44 we're using a three-year average, and there was very little  
45 overage in 2018, the catch rates were below the level that would  
46 reach the ACL, and so we don't project a closure for this year.

47  
48 **CHAIRMAN GUYAS:** All right. Anybody else? Okay. I guess we'll

1 move on then. Thank you, Sue. Our next item is the Joint  
2 Enforcement Agreement Discussion, and I think Officer Harwell is  
3 here for that. Ava, can you give us an intro about what we're  
4 doing here?

5  
6 **JOINT ENFORCEMENT AGREEMENT DISCUSSION**  
7

8 **DR. AVA LASSETER:** Thank you. At your last council meeting, you  
9 requested some further information on the JEA agreement, the  
10 joint enforcement agreement, and we requested Tracy Dunn to  
11 attend, and he was unable to do so, but we did present him with  
12 a series of your questions, and he has made available  
13 Enforcement Officer Pete Harwell, who I'm hoping can get us  
14 started with some of those questions, and then we could turn it  
15 over to discussion for some of the committee members as well.  
16 Thank you.

17  
18 **MR. PETE HARWELL:** Good morning, council members. I'm Pete  
19 Harwell, and my duty station is here in Panama City. I cover  
20 the Mississippi/Alabama line to Perry, Florida. I work heavily  
21 with my JEA partners in this area, but, unfortunately, I don't  
22 have anything to do with the budget aspect. Tracy did provide  
23 me with a couple of questions that you all had asked and the  
24 answers.

25  
26 According to his email, the biggest change was when it comes to  
27 the EFPs and red snapper. Federal funding couldn't be used for  
28 a state-managed fishery, and I think that was the biggest part  
29 of his email, and he has some other answered questions in here.

30  
31 **CHAIRMAN GUYAS:** Mr. Banks.

32  
33 **MR. PATRICK BANKS:** Sorry, and I didn't mean to interrupt you,  
34 but I was just trying to get a question in. The federal  
35 government for the council has delegated that authority for  
36 management, but it is still a federally-managed species, and so  
37 I'm confused as to why that would be a situation where NOAA  
38 couldn't help enforce something that had to do with a federally-  
39 managed species.

40  
41 **MR. HARWELL:** I will write that one down for Tracy.

42  
43 **MR. BANKS:** Thank you.

44  
45 **MR. HARWELL:** With the EFPs, I can still go out there and  
46 patrol. I am not necessarily patrolling for red snapper, but  
47 I'm looking for over the bag limit, and I'm making sure that  
48 they possess their exempted fishing permit and size limits for

1 red snapper. I still check it, but, if somebody is not in  
2 compliance, I can still write them under the federal side.  
3 However, the states have management of that fishery during that  
4 season.

5  
6 The other thing that he said in there was, kind of along those  
7 same lines, JEA funding can be used. They changed the wording  
8 to where it can be used for a federally-managed program in state  
9 waters, whereas, before, it didn't say that. Is there any other  
10 questions about that? That was 90 percent of his email to me.

11  
12 **CHAIRMAN GUYAS:** Does anybody have questions for Officer  
13 Harwell? Go ahead.

14  
15 **MR. BANKS:** I am just curious. You cover from Pensacola to  
16 Perry, and about how many square miles of Gulf are you talking  
17 about?

18  
19 **MR. HARWELL:** I have no idea, and it's the Mississippi/Alabama  
20 line to Perry, and so I have Dauphin Island and --

21  
22 **MR. BANKS:** That seems like a large area. How many folks are on  
23 your team?

24  
25 **MR. HARWELL:** Just me, but that's the reason why the JEA is very  
26 important to me, because I work with all of the Alabama folks,  
27 and I work with all of the Florida folks. Our uniformed guys on  
28 the ground are the liaison between that joint enforcement  
29 agreement, and I couldn't do my job without them, and I am not  
30 going to beef myself up, but I feel like they couldn't do their  
31 job without me, without the priorities of this is what we need  
32 to do and this is -- Shrimping is going on in Carrabelle, and  
33 let's go board those shrimp boats, and that's kind of -- We work  
34 together to get the job done.

35  
36 **MR. BANKS:** To that point, I would agree. I work very closely  
37 with our enforcement guys in Louisiana, and they talk a lot  
38 about the good working relationship they have with NOAA Law  
39 Enforcement, and so I wanted you to know that. They speak  
40 highly of you guys, and they enjoy working with you, and so  
41 thank you.

42  
43 **MR. HARWELL:** I appreciate it.

44  
45 **CHAIRMAN GUYAS:** Paul.

46  
47 **DR. MICKLE:** My experiences are with our state law enforcement,  
48 and so I'm very ignorant of what the federal perspective is. Is

1 your enforcement in federal waters, obviously, and do you write  
2 citations in state waters, and do you do like terrestrial? Are  
3 you writing tickets on the ground, too? Are there lines drawn  
4 where you can go and state guys -- I know the state guys go with  
5 JEA into federal waters, and I know that part. Like I said, I  
6 know the perspective from my guys and gals in the marine patrol  
7 for the state, but, again, if you could just explain kind of the  
8 realm and just the typical citations that you write and where.  
9 Thank you.

10  
11 **MR. HARWELL:** Yes, sir. Our primary mission is in federal  
12 waters. When it comes to IFQ vessels, any of the IFQ species,  
13 we don't have to prove that they caught it in federal waters,  
14 because it's covered in state and federal waters, and so  
15 monitoring IFQ offloads at the dock is one of our primary  
16 priorities. If there's a violation of undersized fish, again  
17 IFQ species, I address that with not a -- We don't call it a  
18 citation. It's called a summary settlement, unless it's a large  
19 quantity, and then we type up a NOVA and send it to General  
20 Counsel.

21  
22 TEDs is the other one. It doesn't matter where they are. We  
23 can check TEDs in state waters, inland waters, or federal  
24 waters. As far as other fish, say a vermilion snapper, if I  
25 check them at the dock and they have a hundred undersized  
26 vermilion snapper, I have to prove that those fish came from  
27 federal waters, but I have great relationships with JEA  
28 partners, and so they can always come and issue a state citation  
29 if I can't prove that those fish came from federal waters.

30  
31 **DR. MICKLE:** Thank you very much.

32  
33 **CHAIRMAN GUYAS:** Thank you, Officer Harwell.

34  
35 **MR. HARWELL:** Thank you.

36  
37 **CHAIRMAN GUYAS:** Okay. Our next item is Draft Amendment 36B,  
38 and we have a number of sub-items on this one, and so, in  
39 conferencing with Ava, we, I think, want to modify the order of  
40 these, to be a little bit efficient and be thoughtful in how we  
41 go through this. I think it would be best if we start with the  
42 quota bank presentation from Eric Brazer, if he's in the room,  
43 which is not. Go ahead, Ava.

44  
45 **DRAFT AMENDMENT 36B: MODIFICATIONS TO COMMERCIAL IFQ PROGRAMS**  
46 **AND PRESENTATIONS**

47  
48 **DR. LASSETER:** Good morning, everybody. Just to give us a

1 moment there, I just thought that I would go over all the things  
2 we're going to talk about for Amendment 36B. Of course, we have  
3 brought you the document, but we're really going to use a  
4 presentation to go through and cover all of the actions and your  
5 purpose and need and whatnot.

6  
7 At your last meeting, you invited people to come and talk to you  
8 about quota banks, and so we did invite Mr. Eric Brazer, who we  
9 believe will be here shortly, and he can give you the context of  
10 an industry-created quota bank here in the Gulf of Mexico. Mr.  
11 Brazer last came and spoke to you at the August 2016 meeting,  
12 and he made a presentation on the Shareholders Alliance quota  
13 bank as well.

14  
15 We also invited Mr. Paul Parker, who works currently with an  
16 organization that he founded with these industry-driven quota  
17 banks all over the country, and so that can give you a more  
18 national perspective of how these work. Unfortunately, Mr.  
19 Parker wasn't able to make it to this meeting. He did say, if  
20 you are interested in pursuing quota banks, he would be  
21 interested to come back and speak to you at a later time, such  
22 as the August meeting. It's just a little difficult to get  
23 here.

24  
25 The quota bank presentations, this would really reflect and  
26 speak to what is Action 3 in Amendment 36B, and that's the  
27 establishment and development of a quota bank, and then,  
28 finally, on the agenda, you have two other items. Ms. Cynthia  
29 Fenyk is available remotely. She is online right now, and she's  
30 going to talk to you about the law enforcement penalty schedule  
31 that is used for Magnuson violations, and then, also, you  
32 invited Sergeant Carron, who is the Law Enforcement Technical  
33 Committee Chair, and I am not sure if Patrick is here quite yet.  
34 He did send me an email earlier that he's on his way, but those  
35 last two relate to Action 4, which is the required accuracy in  
36 the estimated weights provided in advance landing notifications.

37  
38 I would suggest that, those last two items, that we cover those  
39 while we're actually in the Action 4 for discussion. That way,  
40 you have them available for responding to your questions as we  
41 discuss the action, but I think, for Mr. Brazer's presentation,  
42 perhaps we could start with that before we go through the rest  
43 of the items.

44  
45 **CHAIRMAN GUYAS:** Eric has entered the building.

46  
47 **DR. LASSETER:** Perfect. Mr. Brazer, if we could invite you up,  
48 and I will pass the mic over to you.

## QUOTA BANK PRESENTATION

**MR. ERIC BRAZER:** Thank you very much, council. My name is Eric Brazer, and I'm a little out of breath, but I'm here today to talk to you a little bit about the Gulf of Mexico reef fish quota bank. First and foremost, thank you, guys, for the opportunity to come back to you and talk to you about the quota bank and what we've done and how we've built this program and how it continues to grow and evolve since it first launched back in 2015.

If it's okay with the Chair, I will take questions at the end, and I'm going to kind of run through at a fairly high level, with a few deep dives into some of the programmatic components of the program.

The Gulf of Mexico reef fish quota bank is a product of changes that are happening, or have happened, in the fishery, and we have identified a few drivers of change here that really contributed to the implementation and development of this program.

What are we seeing happen in the fishery? In no particular order, we've seen an increase in expanding red snapper population, and we're all familiar with that. There are more red snapper to catch, they're easier to catch, they're showing up in more areas, like the eastern Gulf that, at least in recent years, haven't held a large amount of red snapper. This is often painted as a problem, but I would counter that this is an indicator of success. It's a good thing.

Recently, we have seen a precipitous decline in red grouper, and you guys have heard this from commercial fishermen, charter fishermen, and private anglers coming to the mic for the last few years. There is a problem with red grouper.

We also saw some challenges with quotas lagging behind biomass, and so, in our opinion, the agency is doing a fine job. They're doing what they can, but the reality is that there is a three to five-year, or more, gap between data collection and management implication, and so we're in situations where we're always chasing our tail.

We have seen an increase in discards, which is a product of what I just talked to you guys about, and we're seeing a transition in the fishery. Nobody is getting any younger, and, as this older population starts to age out, we're starting to see

1 younger fishermen step up and start to build business plans and  
2 look for financing and really want to roll their sleeves up and  
3 become successful commercial fishermen.

4  
5 How did we respond? We responded with a grassroots program,  
6 where fishermen identified the need for a cooperative private  
7 sector program developed by fishermen for fishermen that  
8 operates in real time, that sets an even higher bar for  
9 accountability than what current exists, that increases access  
10 within the existing management structure, without hurting other  
11 fishermen, and that complements the existing IFQ programs and  
12 supports these market-based systems.

13  
14 Enter the Gulf of Mexico reef fish quota bank. We started  
15 having these discussions in 2013, and we spent most of that  
16 year, and basically all of 2014, in research and development.  
17 It was a very lengthy, time consuming, intensive process, but we  
18 knew that, if we wanted to do this, we wanted to do it right,  
19 and we had meetings with fishermen, and we conducted a lot of  
20 analysis of existing quota banks and permit banks. We did a lot  
21 of research into legal implications, what can and can't you do  
22 as a quota bank, as a non-profit, versus a for-profit, entity.  
23 We consulted with a lot of experts from around the country, some  
24 of which have come and presented to you guys.

25  
26 We launched mid-way in 2015, as the first and only quota bank in  
27 the Gulf of Mexico, a title we still hold today. At that point,  
28 we had no money, and we had no quota, and so our board members  
29 kicked in allocation. They donated allocation to help seed this  
30 program, and we, in turn, leased it out to qualifying fishermen,  
31 and I'll talk more about the qualifications later.

32  
33 It's effectively a continuous cycle of review and evaluation and  
34 evolution. We are constantly evaluating the program and looking  
35 for opportunities to make it better, and then, on an annual  
36 basis, we analyze, discuss, and then implement those changes.

37  
38 We have had full years of operation for the last four years,  
39 and, in 2019, we're about halfway through our fifth year. I  
40 wanted to point out that, between 2015 and 2018, the quota that  
41 we used was either leased by us or donated outright, and so we  
42 were at the mercy of the IFQ market. You hear a lot of  
43 fishermen talk about how the IFQ is a market-based system, and  
44 we were a participant in that, and we were subject to the ebbs  
45 and flows and the restrictions and opportunities of that market.

46  
47 We found, for our program, as a non-profit doing what we wanted  
48 to do, we needed more stability. We needed more certainty, and

1 so, last year, we took out a sizeable loan, and we bought a  
2 fairly significant, in my mind fairly significant, number of  
3 shares, which I will talk more about later, and so we are fully  
4 invested in the IFQ fishery right now for red snapper.

5  
6 In shameless self-promotion, the picture you see on the screen,  
7 in 2017, the EPA honored the quota bank with a 2<sup>nd</sup> Place Gulf  
8 Guardian Award for the Non-Profit Civic Category, and so we're  
9 pretty proud of that.

10  
11 Our priorities are constantly discussed and debated by the  
12 Shareholders Alliance Board of Directors. The quota bank is a  
13 program of the Shareholders Alliance, and we're always thinking  
14 through how we can be most helpful with effectively a limited  
15 amount of allocation, and so the board has determined that the  
16 program, at least today, has two priorities. The top priority  
17 is to reduce red snapper discards in the grouper fishery in the  
18 eastern Gulf, and this has been a priority since 2015.

19  
20 In 2017, the board added a secondary priority, which is to  
21 support the next generation of commercial fishermen, and the  
22 beauty about this program is that we can, the board can, discuss  
23 and identify priorities as these issues, as these opportunities,  
24 come up in the fishery, and so we're constantly moving to try  
25 and keep pace with what's happening in the fishery.

26  
27 We spent a significant amount of time fleshing out goals and  
28 objectives, because we wanted to know what we're doing and why,  
29 two very important questions. Obviously, we prioritize  
30 conservation, a conservation goal to reduce red snapper discards  
31 and discard mortality in the grouper fishery.

32  
33 As part of the IFQ system, a market-based system, there are  
34 clear economic goals as well, and that is primarily to improve  
35 the profitability of fishing businesses and supply chain  
36 businesses, the downstream effects, and then provide some  
37 business stability for the next generation of commercial  
38 fishermen.

39  
40 One of the neat opportunities with an industry-based, or  
41 community-based, quota bank is that you can start to work toward  
42 some social goals as well, and so we've identified three here.  
43 We're really trying to find ways to increase an already  
44 accountable sector, the accountability of an already accountable  
45 sector, to support the next generation of fishermen, and to  
46 build a model that other communities or states or industry  
47 groups can use to start to address issues or challenges in their  
48 region.



1  
2 We don't have a monopoly on the quota bank concept. It's  
3 something that we decided, and we work to address some of the  
4 issues that we're dealing with, and anybody, at any time, can  
5 build one of these, and I would encourage industry groups and  
6 states to consider how this model could address some of the  
7 challenges in their community, or with their audience.

8  
9 From a management perspective, clearly, because you see us at  
10 all the meetings, and we talk to you at all of these meetings,  
11 we put a lot of value in public participation, and so we have  
12 infused into this program a goal for building more capacity with  
13 more commercial fishermen to get active and get involved in the  
14 management and regulatory process.

15  
16 Like I said before, the reef fish quota bank is managed by the  
17 Shareholders Alliance Board of Directors. The board develops  
18 the program policies, and they review the applications that come  
19 in from fishermen who are interested in being part of the  
20 program, and then the Deputy Director and the Policy Analyst  
21 pretty much run the day-to-day operations of the quota bank, and  
22 that includes processing applications, tracking and reconciling  
23 payments for allocation, transferring allocation and managing  
24 allocation and making sure we're staying within our allotted  
25 allocation, collecting, reconciling, and analyzing paperwork,  
26 the trip reports that we require to be part of the program.  
27 Also, tracking the general program compliance and communications  
28 and outreach with industry members.

29  
30 Now I want to talk a little bit about our portfolio, and, in the  
31 interest of being fully transparent, last year, like I mentioned  
32 before, we went out and we bought about 50,000 pounds of red  
33 snapper shares.

34  
35 In order to get the loan to buy the shares, we needed equity,  
36 and, as far as I know, we're the only group to have done this in  
37 the entire country, but board members, the two sellers that we  
38 purchased from, and then a handful of Shareholders Alliance  
39 members actually donated shares, not allocation, but shares,  
40 into the program to serve as equity in the loan.

41  
42 We are pretty excited about that as well. Every single one of  
43 our board members donated, because they believe so strongly in  
44 what we're doing, and they believe that this program is really -  
45 - It's a good thing, and it's helping to address some of the  
46 problems that we're all dealing with and talking about in the  
47 fishery, and so we collected 15,000 pounds through donations,  
48 plus some additional contributions, and we're looking at about

1 75,000 pounds for the year. We are pretty excited about that.

2  
3 Allocation is first-come-first-serve. We don't hold back  
4 allocation. We have a quarterly application process, and so, if  
5 you're interested, you fill out an application and send it in,  
6 and the board reviews them and then divvies up the available  
7 quota based on a formula, and then that's distributed on a  
8 quarterly basis.

9  
10 Since I know somebody is going to ask me about price, and  
11 everybody wants to know about price, the price is set that uses  
12 a formula, and the board doesn't set the price. The board can't  
13 even talk about the price. It's set using a formula that  
14 factors in publicly-available information, and the details of  
15 that are laid out on our website, if you guys want to know more.

16  
17 Generally, we are aiming to be somewhere in the fair-market  
18 range. We prefer not to be the highest, and we prefer not to be  
19 the lowest, but the formula that we developed and vetted, in our  
20 experience so far, has put us right in that range of what is  
21 considered fair market.

22  
23 This is a good time to say that the Shareholders Alliance is a  
24 501(c)(6) non-profit organization, and so there's a lot of time  
25 spent figuring out, legally and logistically, what we can and  
26 can't do when it comes to profit or revenue from these shares,  
27 from the leasing of the allocation, and, just so you all know,  
28 100 percent of that revenue goes back into paying down this  
29 loan.

30  
31 This is a big loan, and it's about \$2 million, and it's going to  
32 take us ten years to repay it, and so I think that demonstrates  
33 our level of commitment to this fishery, and I can answer any  
34 questions about that after the presentation, but, in the  
35 interest of time, I will keep moving.

36  
37 Participation in the program, we have a relatively short list of  
38 eligibility criteria. You've got to own an active reef fish permit  
39 and have an active IFQ account. You have to join the  
40 Shareholders Alliance, if you're not a member already, and you  
41 have to provide us a copy of your trip tickets within twenty-  
42 four hours, or before your next trip, and we do that so we can  
43 track this allocation and make sure it's being used for what  
44 it's intended to.

45  
46 We prohibit the releasing or the flipping of quota, and we need  
47 to make sure that this program doesn't allow fishermen to take  
48 allocation from us and then turn it for a profit, and so we've

1 built in structures to make sure that doesn't happen, and you do  
2 that electronically, and so, until we get electronic logbooks,  
3 it's a lot of text messages and scans and photos of trip  
4 tickets, and that's my shameless plug for commercial electronic  
5 logbooks.

6  
7 We also require meeting attendance. In 2019, to be part of the  
8 program, you've got to attend two meetings, and one is a quota  
9 bank membership meeting, and we hold two of them during the  
10 year, and another one is a policy or a management meeting. It  
11 could be a Gulf Council meeting, or it could be a trip to  
12 Washington, D.C., or it could be a meeting of the FWC. This  
13 goes back to the goal about engagement and getting active in the  
14 regulatory process.

15  
16 This is clearly one of our most important criteria. If  
17 fishermen aren't interested in getting active, that's their  
18 right to make that decision. If that's the case, then the quota  
19 bank is not for them. We can't help everybody, and so we've set  
20 a bar, and we're willing to help those that are willing to get  
21 active.

22  
23 We have a number of best business practices as well, and they  
24 are listed in detail on the website, but I have summarized them  
25 here. First and foremost, we are really looking to find ways to  
26 reduce discards and discard mortality, and it's a commitment  
27 that your allocation that we lease you will be caught and not  
28 re-released, and we're looking for ways to improve catch reporting  
29 and accountability, attend meetings, and then, in general, to  
30 support the program that you're a part of and work with us to  
31 make it the best program and the most effective program that it  
32 could possibly be.

33  
34 In conclusion, there are three things -- What are the take-home  
35 messages? There are three take-home messages for you guys.  
36 Number one is that structure and governance are critical. We  
37 spent a lot of time trying to figure out roles and  
38 responsibilities and deciding who makes decisions and how they  
39 are made and what decisions need to be made and how does the  
40 program evolve and adapt and change.

41  
42 Programming is essential. The programming is what brings your  
43 quota bank to life, and it's what makes it more than just a  
44 leasing program, and this gets to things like vision, mission,  
45 goals, how will it -- A quota bank is basically a cooperative,  
46 and how does the quota bank make that vision a reality? How do  
47 you ensure that the program is doing what it's intended to be  
48 doing? What are your enforcement aspects? How do you respond

1 if it isn't doing it? How do you make those midstream or  
2 midcourse corrections, to make sure that this program is doing  
3 what it's supposed to?

4  
5 Then, finally, success is a commitment, and it's a commitment by  
6 those developing the program to build something that's relevant  
7 and effective, and it's a commitment by those who are managing  
8 and enforcing the program, to ensure its success, and it's a  
9 commitment by those fishermen who are members of the program,  
10 because, at the end of the day, these programs work best -- They  
11 only work when the fishermen who are part of them believe in the  
12 program.

13  
14 Like I said, this is more than just a transfer of allocation  
15 from Point A to Point B. It's an opportunity to use allocation  
16 and organize fishermen around a problem that they want to solve.  
17 With that, I want to thank you guys for giving me a chance to  
18 talk, and I know I hit you with a lot of information, and I'm  
19 happy to answer questions now, and, like I said, we've got -- On  
20 the Shareholders Alliance website, there is a link to our quota  
21 bank page that lays out all the documents in more detail than  
22 what I spoke about. Thank you very much.

23  
24 **CHAIRMAN GUYAS:** Bob.

25  
26 **DR. BOB SHIPP:** Thank you, Eric. That was a very valuable  
27 presentation, and I have a couple of questions that I'm not sure  
28 that I totally understand, but, the 75,000 pounds that you  
29 mentioned, that's roughly 1 percent of the total annual quota.  
30 Do you anticipate increasing that amount in the future, and, if  
31 so, how or where from would you get the additional allocation?

32  
33 **MR. BRAZER:** I think the organization would increase that amount  
34 if the need presented itself, because we have a fully utilized  
35 fishery, because there continue to be young fishermen wanting to  
36 enter the fishery, and, at least for the near future, there  
37 continues to be a discard problem in the eastern Gulf. We see  
38 an opportunity for us to increase that.

39  
40 To be fully honest, I've never taken out a \$2 million loan  
41 before, and so I'm focused on paying that down before spending  
42 any money, but that's, ultimately, a decision that is left up to  
43 the board, and, as to where the allocation would come from, it's  
44 a market-based system, and so, if there are sellers out there,  
45 then we would look to identify who those individuals are and see  
46 if they're interested in partnering with us and if they want to  
47 contribute or sell some of their portfolio into this type of  
48 program.

1  
2 **CHAIRMAN GUYAS:** Phil.

3  
4 **MR. PHIL DYSKOW:** Thank you, Eric. It was a good presentation.  
5 I have a question. Obviously, quota is leased by many  
6 individuals between fishermen, and your quota bank also leases  
7 shares to fishermen, and what percentage are you versus the  
8 total population of leased shares? Do you have any idea? Are  
9 you 5 percent, with the other 95 percent being fisherman-to-  
10 fisherman, or how do you fit into this equation?

11  
12 **MR. BRAZER:** The only way I can answer that is that, based on  
13 what we own -- The amount of shares we own is about 1 percent of  
14 the total amount of commercial red snapper shares in the  
15 fishery. In terms of the pounds leased between fishermen,  
16 obviously, if you add up all the leases, that total is greater  
17 than the commercial quota, and I couldn't tell you what that is  
18 relative to what we are, but we're about a 1 percent stakeholder  
19 in this fishery.

20  
21 **CHAIRMAN GUYAS:** Leann.

22  
23 **MS. LEANN BOSARGE:** My question is a little more kind of about  
24 the nuts-and-bolts of how it works day-to-day, just because this  
25 is an option in our document right now, to possibly explore the  
26 development of a quota bank on the governmental side, and so,  
27 day-to-day, what does this look like?

28  
29 I am thinking about my day-to-day world in the shrimp boat  
30 world, but that is a 24/7 type of deal. We do a lot of work at  
31 night and things like that, but what does it look like on your  
32 side? You are reviewing trip tickets, and you essentially said  
33 you've got a twenty-four-hour turnaround on that, and so there's  
34 a deadline on that, but what else goes on day-to-day that you're  
35 reviewing and looking at and things like that?

36  
37 **MR. BRAZER:** That's a good question, and it is a pretty time-  
38 intensive process, and we're looking for ways to make that more  
39 efficient, but, at the end of the day, a typical day could look  
40 like tracking down paperwork, analyzing catch ratios on that  
41 paperwork, receiving checks, processing payments, transferring  
42 allocation, receiving applications, answering questions about  
43 applications, answering questions about the program.

44  
45 We get a lot of people who may not apply to the program, but  
46 they're interested and they want to learn more, and I field a  
47 few calls a week, sometimes a few calls a day, just fishermen  
48 who say, hey, I hear you're leasing allocation and tell me more

1 about this program.

2  
3 It's working with the board to make sure we've got the best  
4 policies in place, and, if those policies aren't working, or  
5 they're falling down, or fishermen are starting to have  
6 questions about this, or present opportunities to change these  
7 policies, and it's working with the board from a programmatic  
8 level to figure out a way that we can improve the program.

9  
10 Some days, I don't spend any time with the quota bank, and some  
11 days I spend my entire day working on the quota bank, and so  
12 it's hard to say, but it's something that definitely requires --  
13 It requires oversight, and, in my personal opinion, it would be  
14 very challenging to develop a program like this and wind it up  
15 and set it off and not have any sort of continual evolution or  
16 review and improvement system set up with this thing, with the  
17 program. I'm not sure if that answers your question.

18  
19 **CHAIRMAN GUYAS:** Kevin.

20  
21 **MR. ANSON:** Thank you, Madam Chair, and I have several  
22 questions. Thank you, Eric, for the presentation. How many  
23 pounds are requested that come in with the applications? You  
24 have 75,000 pounds available, but how many pounds come in in  
25 your applications?

26  
27 **MR. BRAZER:** It really depends on the individual and their  
28 business plan. We have some fishermen that request 500 pounds,  
29 and we have some fishermen that request 1,000 or 2,000, and then  
30 we have others that request 5,000 or 10,000.

31  
32 **MR. ANSON:** What is the total though of all those that are  
33 submitted? Over the year, how many pounds are requested?

34  
35 **MR. BRAZER:** More than we have available.

36  
37 **MR. ANSON:** How much is your membership fee?

38  
39 **MR. BRAZER:** The membership fee right now is twenty-cents a  
40 pound, up to 5,000 pounds. If you lease 5,000 pounds or less  
41 from the quota bank, it's twenty-cents a pound. Anything above  
42 5,000 pounds, there is no additional membership fee on it. If  
43 you're already a member of the Shareholders Alliance, then there  
44 is no additional membership fee, if that makes sense.

45  
46 **MR. ANSON:** How does one become a member if they're not leasing  
47 pounds? Is there any membership fee?

1 **MR. BRAZER:** Yes. If you want to join our organization, you  
2 send in a check, or send us money through PayPal.  
3  
4 **MR. ANSON:** How much is that?  
5  
6 **MR. BRAZER:** It ranges. We have a \$25.00 membership level, and  
7 we have a \$5,000 membership level.  
8  
9 **MR. ANSON:** Are any stipends or salaries given to the board  
10 members?  
11  
12 **MR. BRAZER:** No, and that's actually a good point. Because  
13 we're a non-profit, the board does not receive any stipends or  
14 any revenue. It does not benefit financially from the  
15 Shareholders Alliance or this program, and we spent a lot of  
16 time with the lawyers making sure that that's the case.  
17  
18 **MR. ANSON:** Is travel paid for the meetings for attendance for  
19 board members?  
20  
21 **MR. BRAZER:** For board members? No. They pay it all  
22 themselves.  
23  
24 **MR. ANSON:** Thank you.  
25  
26 **MR. BRAZER:** Thank you.  
27  
28 **CHAIRMAN GUYAS:** Next on my list, I have Greg.  
29  
30 **DR. GREG STUNZ:** Thanks, Madam Chair. Nice presentation, Eric.  
31 That was very informative. I have a question, kind of like  
32 Leann, on the nuts-and-bolts. Maybe you can help. If you're  
33 talking to a -- If you want to facilitate new entrants in the  
34 next generation of this fishery, obviously, as you said, what  
35 does that really look like?  
36  
37 For example, in your goals, you talked about providing someone  
38 wanting allocation, essentially, and then also providing access,  
39 which I assume is leasing, based upon what we're talking about  
40 here, and so is it a combination of both, people that want to  
41 actually get quota and then lease it? Let me rephrase it.  
42  
43 If you're coming into the fishery as a brand-new fisherman with  
44 not a lot of money, but wanting to get into it, what do those  
45 steps look like for a new fisherman? Do you start leasing and  
46 then eventually get your own quota, or -- I am not  
47 distinguishing between actually buying real allocation and  
48 leasing the allocation, and then I have a follow-up question

1 from there.

2  
3 **MR. BRAZER:** Sure, and I guess I would preface this by saying  
4 that I'm not a commercial fisherman, and I don't have a  
5 commercial fishing business plan, and that question would  
6 probably be more suited to someone who does, but, in my  
7 experience, those young fishermen that are looking to get into  
8 this fishery oftentimes will lease before they buy. I have seen  
9 very few instances where someone can come and step out on day-  
10 one and buy shares.

11  
12 Much like many of us in the housing market, you rent and build  
13 up some capital, and then you buy your first house. We see that  
14 a lot with young fishermen, with replacement entrants in the  
15 fishery, that they are leasing allocation and generating that  
16 capital, with the intent to start to actually buy shares and  
17 become shareholders in the fishery.

18  
19 **DR. STUNZ:** Okay, and so then the steps, generally, would be, as  
20 far as you know, begin to lease and build up that capital to be  
21 able to afford to actually buy shares through your program, but  
22 are you all facilitating just the lease or the actual purchase  
23 of those shares, for those that could afford them?

24  
25 **MR. BRAZER:** Just the allocation lease at this point. We are  
26 still a relatively young program, and there may come a point  
27 down the road, if the pieces fall in line, that we would look to  
28 offer shares, instead of just leasing allocation, but I don't  
29 want to get out over our skis on that. Right now, our model is  
30 built on leasing the allocation to eligible fishermen.

31  
32 **DR. STUNZ:** Last really quick follow-up question. I will ask a  
33 tough question, and maybe you said that -- Just to fully get it  
34 on the table, but what is the fair market, as of today, roughly,  
35 of quota per share?

36  
37 **MR. BRAZER:** Based on our research, and based on the formula  
38 that was developed, through Quarter 1 and Quarter 2 in 2019, we  
39 have leased for \$3.75 a pound.

40  
41 **CHAIRMAN GUYAS:** All right. Next, I have Dale.

42  
43 **MR. DIAZ:** Dr. Stunz asked the question that I was interested  
44 in. Thank you.

45  
46 **CHAIRMAN GUYAS:** In that case, I have got just a couple. How  
47 many people do you have that are leasing from the quota bank?  
48



1 **MR. BRAZER:** Right now, we have -- I just want to double-check  
2 my numbers, to make sure that I don't give you the wrong number.  
3 Traditionally, for the last few years, we've had between sixteen  
4 and twenty-five members. This year, the board has approved  
5 twenty-one, thus far.

6  
7 **CHAIRMAN GUYAS:** I guess my follow-up to that would be are --  
8 What is, I guess, the percentage or the number of people within  
9 that group, and I understand it's not static, that have come on  
10 to be part of the Shareholders Alliance specifically because of  
11 the quota bank? Maybe those are the people that are paying the  
12 per-pound membership fee or whatever.

13  
14 **MR. BRAZER:** If you're a member of the quota bank, then you're a  
15 member of the Shareholders Alliance.

16  
17 **CHAIRMAN GUYAS:** Right. What I'm trying to get at is if you  
18 have a sense of how many people have been recruited to the  
19 Shareholders Alliance basically because of this quota bank, and  
20 so they weren't members before, and they heard about this quota  
21 bank, and so they jumped onboard.

22  
23 **MR. BRAZER:** I would have to go back and double-check, and I  
24 don't want to speculate. Let me go back and double-check on  
25 that, and I will get you an answer.

26  
27 **CHAIRMAN GUYAS:** Patrick.

28  
29 **MR. BANKS:** Eric, thank you for the presentation. It was  
30 informative, and certainly the website is helpful as well. I  
31 was looking through some of the information on your website, and  
32 you -- When you are determining who gets the allocation, or at  
33 least the more directors -- Going through what appears to be a  
34 fairly objective process, which I'm glad to see, but some of it  
35 has to do with gear type, and what was the thought process as to  
36 why bottom longline is the -- You get more credit, I guess, when  
37 you're applying if you're a bottom longliner versus somebody  
38 else.

39  
40 **MR. BRAZER:** That's a good question, and that's a product of the  
41 primary goal of the program being discard reduction, and the  
42 thought was that -- Again, generally speaking, longliners --  
43 Most of the commercial red grouper quota is caught by longline,  
44 and so, if there's a red snapper discard issue in the eastern  
45 Gulf as part of the grouper fishery, then we wanted to work with  
46 that gear type, or prioritize that gear type, that is primarily  
47 targeting red grouper, and that also may have the most -- May be  
48 the most challenged with reducing discards, as opposed to bandit

1 gear or rod-and-reel gear or spear gear.

2  
3 **CHAIRMAN GUYAS:** Tom.

4  
5 **DR. TOM FRAZER:** Thanks, Eric, and I appreciate you standing up  
6 here answering a lot of questions and getting into the weeds,  
7 and I've got some as well, and one of them is a follow-up to the  
8 question that Phil Dyskow asked. Right now, with 75,000 pounds,  
9 and I guess Bob pointed that out too, it's about 1 percent of  
10 the shares that are available, and maybe the question is not  
11 exactly for you, but maybe it's for Jessica over there. How  
12 many pounds of red snapper are leased annually?

13  
14 **DR. JESSICA STEPHEN:** Preliminary 2018 values, we leased almost  
15 eight-million pounds, because remember you can lease more than  
16 the quota, because allocation gets leased multiple times.

17  
18 **DR. FRAZER:** Gotcha. All right, and so that will put it in  
19 perspective, I think. I was also trying to figure out, and I'm  
20 not a banker, but I would be scared of the \$2 million loan too,  
21 but, when I look at the math, and I'm trying to figure out how  
22 that might work. You leased 50,000 pounds, or you attained  
23 50,000 pounds, this year, and that -- That is a ten-year loan,  
24 and so you plan to acquire 50,000 pounds every year for the next  
25 ten years, and so explain to me what you actually got for \$2  
26 million.

27  
28 **MR. BRAZER:** Sure thing. We got 50,000 pounds for \$2 million,  
29 but we have -- That extra 25,000 pounds, and so we're at 75,000  
30 this year, and we bought 50,000, and we had 15,000 that was  
31 contributed, that was kicked in as equity, and so that brings us  
32 up to 65,000, plus an additional 10,000 that was donated by the  
33 fishermen into the program, and so we just bought that 50,000,  
34 and it's going to take us ten years to repay that, but we have  
35 those additional shares and that additional allocation, the  
36 revenue from which we use to repay that loan.

37  
38 **DR. FRAZER:** Thank you. I was a little confused. It's shares  
39 that you're acquiring and not the allocation.

40  
41 **MR. BRAZER:** Yes.

42  
43 **DR. FRAZER:** All right. Thanks.

44  
45 **CHAIRMAN GUYAS:** Leann.

46  
47 **MS. BOSARGE:** Thanks. I'm learning a lot of good stuff, and so,  
48 the bottom longline thing, that was very interesting, because

1 that's applicable, I think, in a lot of the different things  
2 that the council is discussing or looking at doing when we're  
3 talking about eastern Gulf discards of red snapper, and so that  
4 was interesting, and so that's one way that you're making sure  
5 that you prioritize things towards discards.

6  
7 Do you also go back and like do a post-landing review of some  
8 sort, to make sure that it didn't end up being a directed trip  
9 for red snapper? Is there some sort of like mix of the  
10 landings, a certain percentage or something like that, that  
11 you're reviewing to make sure that you are addressing bycatch?

12  
13 **MR. BRAZER:** That's another very good question, and I knew  
14 somebody would ask that question. We have not defined bycatch  
15 versus targeted fishery. Is that 50 percent of your trip? Is  
16 it 51 percent? Is it 49 percent? That number is variable based  
17 on time and based on space and based on gear type and based on  
18 fishing practices.

19  
20 This year, being the first year where we've owned shares and we  
21 have all this additional accountability and oversight, our goal  
22 is to collect as much information this year as we can about the  
23 catch composition and catch ratios, which is why we require the  
24 trip tickets, to see if we can start to hone-in on what that  
25 number is, either as a program or looking at more of a spatial  
26 or temporal pattern, and I think it's the intent of the board to  
27 start to really drill down and maybe get as far as identifying  
28 that or identifying a range for the program next year.

29  
30 **CHAIRMAN GUYAS:** Bob.

31  
32 **DR. SHIPP:** Eric, would it be correct to say that the quota bank  
33 is owned by the Shareholders Alliance, or is it a totally  
34 separate entity?

35  
36 **MR. BRAZER:** The quota bank is a program of the Shareholders  
37 Alliance, but we developed an LLC, and so the LLC is the actual  
38 corporation that owns the shares, and so, if you go onto the  
39 NOAA website, you will see that the shares associated with this  
40 quota bank -- You're not going to see the Shareholders Alliance.  
41 You're going to see Gulf of Mexico Fishery Quota Holdings LLC,  
42 and we did that, obviously, for liability reasons.

43  
44 **CHAIRMAN GUYAS:** Leann.

45  
46 **MS. BOSARGE:** Sorry. One more nuts-and-bolts type of question.  
47 It sounds like, originally, your maybe one and only focus  
48 originally was the bycatch, to reduce those discards, and then I

1 think, in 2017, your slide said, you added on the new entrant  
2 goal, and so I was just wondering how has that developed over  
3 time, and I did get to -- I attended the IFQ AP meeting, and,  
4 the other presenter that Ava was mentioning may be able to come  
5 to our August meeting, he said that their organization kind of  
6 had some stumbling blocks with that at first, and they had a  
7 little bit of trouble trying to define who was the new entrant  
8 that they were looking for, and so I was just kind of wondering  
9 how you all are dealing with that, and do you have criteria, or  
10 do you think you will be getting criteria in the future? Are  
11 you doing credit checks? I mean, how does it kind of go?  
12

13 **MR. BRAZER:** Not so deep this year. It's likely to get more  
14 deep in the future. As you've seen, as you've heard fishermen  
15 come to the mic, there's a number of different ways you can  
16 define a new entrant or a replacement entrant or a next-  
17 generation entrant. Is it based on business plan, or is it  
18 based on age, or is it -- We're looking into that now, but what  
19 we've generally been treating it as is someone who hasn't been  
20 involved or hasn't been substantially involved in commercial  
21 fishing prior to now.  
22

23 Usually, it's somebody who is on the younger side of things, and  
24 sometimes it's folks that are going from doing nothing to being  
25 commercial fishermen, and sometimes it's people who have left  
26 the charter fishery and are becoming commercial fishermen.  
27

28 To your point about a business plan, that's a good point. We  
29 don't currently require you to present a business plan, or you  
30 to even have a business plan to be part of the program, but this  
31 is something that is very important to the board of directors,  
32 and they have publicly let it be known that this may become a  
33 criteria down the road, and, again, this comes back to the fact  
34 that we can't help everybody and that we're building a program  
35 to reduce discards and help the next generation, and we truly  
36 believe that those next-generation fishermen -- The ones that  
37 are going to be the most successful are the ones that have a  
38 business plan.  
39

40 They know how to read a profit-and-loss statement, and maybe  
41 they have started looking at bankability and their ability to  
42 get loans and to put up shares as collateral, to really be  
43 thinking about more than just how many fish am I going to catch  
44 today and how much money am I going to make today versus my  
45 expenses today.  
46

47 **CHAIRMAN GUYAS:** Go ahead, Ed.  
48

1 **MR. ED SWINDELL:** Thank you, Eric. Just a couple of short  
2 questions. How many states are your members involved in?

3  
4 **MR. BRAZER:** Currently, in 2019, we have members from three  
5 states, mostly from Florida, and we have one from Alabama and  
6 one from Louisiana.

7  
8 **MR. SWINDELL:** Can you go back to your slide about participation  
9 and eligibility criteria?

10  
11 **MR. BRAZER:** I believe I can.

12  
13 **MR. SWINDELL:** As I look at this, I'm ashamed of myself for --  
14 How do you get new people into the fishery? I don't see any way  
15 for you to have -- That you are helping new entrants into the  
16 commercial fishery, because the guy, as you have here, already  
17 has to have a reef fish permit, and he has to be using hook-and-  
18 line hook gear, and then have an active IFQ account and so forth  
19 before you even become a member of your organization, and so I'm  
20 concerned about getting new membership into the commercial  
21 fishery, and I don't know how we're going to do it.

22  
23 I mean, you're not, evidently, supporting that, it doesn't  
24 appear to me. Do you have a -- I was looking at the membership,  
25 and you only have twenty-one members now, is what I think you  
26 said.

27  
28 **MR. BRAZER:** For the quota bank, yes.

29  
30 **MR. SWINDELL:** On the quota bank. How many total members of the  
31 organization?

32  
33 **MR. BRAZER:** At last count, we've got eighty or ninety, and I  
34 can get you an exact number.

35  
36 **MR. SWINDELL:** Okay. That's good to know, and how many is there  
37 in the whole industry? Do you know? I don't know what the  
38 industry number is, in general, in the Gulf.

39  
40 **MR. BRAZER:** You don't have to be a fisherman to be a member of  
41 the Shareholders Alliance. We have a number of folks in the  
42 general public, seafood consumers and the restaurant industry,  
43 and so I don't know what the total universe could be, but  
44 anybody who supports our program can be a member of our program.

45  
46 **MR. SWINDELL:** That's all I have. Thank you.

47  
48 **DR. FRAZER:** Eric, I just wanted to go back. Of those 75,000

1 pounds, and you kind of review them quarterly, and do you just  
2 meter them out? Like, let's say for the first quarter of the  
3 year or something, how do you make that decision?

4  
5 **MR. BRAZER:** There is no hard-and-fast formula at this point.  
6 It's really based on need, and so we had I think thirteen or  
7 fourteen applications in Quarter 1. We had twenty-one, and so  
8 whatever the difference was, six or seven, applications in  
9 Quarter 2, and so the board ended up distributing more in  
10 Quarter 1 than in Quarter 2, and our goal is to distribute, the  
11 board, the organization, to distribute 100 percent of this quota  
12 and to use all of it prior to or by the end of the year, and,  
13 based on utilization rates, I don't think we're going to have  
14 any problem doing that.

15  
16 We've tried to stay away from setting very specific numbers that  
17 the board wants to lease out X percent in Quarter 1 and Y  
18 percent in Quarter 2, because it really is based on what the  
19 fishermen need and who is applying to the program and how much  
20 they're asking for.

21  
22 **DR. FRAZER:** Thank you.

23  
24 **CHAIRMAN GUYAS:** Eric, let me ask you another question, kind of  
25 similar to my other ones, and a ballpark is just okay. How many  
26 inquiries do you get from what you judge as serious potential  
27 applicants about this quota bank?

28  
29 **MR. BRAZER:** Probably, including the inquiries that resulted in  
30 applications, probably I have fielded seventy-five to a hundred  
31 phone calls this year.

32  
33 **CHAIRMAN GUYAS:** Susan.

34  
35 **MS. SUSAN BOGGS:** Thank you, Eric, for the presentation. Is  
36 there a maximum? Is there a cap on how much can be leased by  
37 one person?

38  
39 **MR. BRAZER:** Not yet, but it's something that the board has  
40 discussed. If someone came in and they demonstrate a need to  
41 lease 5,000 versus 1,000, we don't want to necessarily restrict  
42 them, but we're really taking this year to figure out what's the  
43 level of interest and what do the individuals that are applying  
44 need and then what that cap could be.

45  
46 Now, in some of our documentation, we have mentioned a  
47 reasonable limit, and so, if you come to us asking for 100,000  
48 pounds, that is not a reasonable request. Most of the requests

1 we get are between -- I would say between 1,000 and 5,000  
2 pounds, with some coming in lower and some coming in a little  
3 bit higher.

4  
5 **CHAIRMAN GUYAS:** All right. Are there other questions for Mr.  
6 Brazer? If not, thank you, Eric, for sharing this information  
7 about your program with us.

8  
9 **MR. BRAZER:** Thank you very much, and, like I said, if you guys  
10 have follow-up questions, I am here all week. Come find me.

11  
12 **CHAIRMAN GUYAS:** Excellent. I think, at this point, we will  
13 move into the document, right, through the presentation, and  
14 probably at some point we'll take a break, but, Kevin, go ahead.

15  
16 **MR. ANSON:** I wanted to ask a follow-up question of Dr. Stephen.  
17 She stepped away from the table, and I wonder if she can come  
18 back. This is to get further into the question and the response  
19 that Dr. Stephen had given to Dr. Frazer about the amount of  
20 leased pounds. Did she step out of the room?

21  
22 **CHAIRMAN GUYAS:** I was going to say, is she still in the room?  
23 We might have to put that on hold. We can come back to that, if  
24 that's okay. All right. I am thinking that we will start this  
25 presentation, and we talked about how we would take a break to  
26 address some of these other issues, and we'll probably take a  
27 fifteen-minute break, I'm guessing, at some point during this.

## 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48

**PRESENTATION**

**DR. LASSETER:** Thank you. We're going to use this presentation  
today to kind of go through some of the issues that staff is  
kind of wanting some more guidance on, and so, as an overview of  
what we're going to cover, and so we'll begin with the purpose  
and need again.

We're going to first review some of your motions, your recent  
motions, that staff has used to develop a preliminary purpose  
and need, and we are requesting clarification on the scope of  
actions to support these new goals, and so we're going to touch  
on some definitions, which I think it really helped having  
Eric's presentation first, because we kind of covered some of  
that, and then relate those to some of your motions. Should I  
pause here for just a moment and let Kevin ask Jessica -- I will  
just pause for just a moment.

**CHAIRMAN GUYAS:** Sure. Jessica, you have a question from Kevin.

1 **MR. ANSON:** Thank you for pausing for a moment, Madam Chair.  
2 Dr. Stephen, just to follow-up on the response you had given to  
3 Dr. Frazer regarding the number of pounds that are leased, you  
4 mentioned eight-million pounds, but you said there was some  
5 double-counting, if you will, in that number, and so I'm -- I  
6 guess it could morph into two or more questions, but I'm  
7 curious. How many pounds are actually utilized by the  
8 shareholder? How many pounds is that? Do you have that off the  
9 top of your head?

10  
11 **DR. STEPHEN:** Used for landings?

12  
13 **MR. ANSON:** Correct. Directly by the shareholder.

14  
15 **DR. STEPHEN:** Give me one second, and I will have that number.  
16 Preliminary numbers in 2018 had landings from accounts that had  
17 shares and were 53 percent of the landings, and so that was  
18 roughly 3.3 million.

19  
20 **MR. ANSON:** Then the issue -- I guess it goes back, I think, to  
21 the questions that I had when you gave the presentation on the  
22 IFQ program summary and the mechanics of how the IFQ program  
23 worked, and so you have three-and-a-half million pounds that are  
24 used directly by the shareholders and then eight million pounds  
25 that is being leased and used, and so, I mean, that comes out to  
26 eleven-and-a-half million pounds, versus the seven-and-a-half  
27 million pounds that are available to be actually caught as part  
28 of the commercial sector's share of the overall ACL, and so, I  
29 mean, how does the agency know -- I was looking more for a more  
30 definitive number, rather than eight million pounds, because  
31 that seemed kind of high.

32  
33 **DR. STEPHEN:** The way we calculate allocation transfers is,  
34 every time there is a transaction between two separate entities,  
35 we log it, and it's just that entities transfer allocation  
36 multiple times, and I will give you a couple different examples  
37 of that that I've heard about.

38  
39 Someone might give someone 1,000 pounds, just in case, or say  
40 they're going to run into red snapper, but, if they don't use  
41 it, that person, Entity A, might want them to be transferred  
42 back to them if they weren't used, and so you could see multiple  
43 ones like this, where they're trying to help out a fellow  
44 fisherman, but, if it's not being used, they would like it back,  
45 so actually they can use it for someone else.

46  
47 We see transactions like that, and just because someone has  
48 shares, it doesn't mean that they're not also leasing some of



1 their allocation, versus landing all of it, and so, in general,  
2 what we've seen for at least the last five years or more is that  
3 the allocation transfers have exceeded the quota by more than  
4 100 percent.

5  
6 **MR. ANSON:** Would it be fair to say then that if three-and-a-  
7 half million pounds are being used by those shareholder  
8 accounts, and it's a seven-and-a-half-million pound quota, that  
9 four million pounds are being leased, and would that be correct?

10  
11 **DR. STEPHEN:** I'm not quite sure if you can actually do the math  
12 in that manner, because we don't number allocations by  
13 individual poundage, like a transaction like a stock, where you  
14 would have a number to each pound, and so what we do is we  
15 calculate what people do based on different statuses they have,  
16 and so the number I gave you, the 3.3, that's for landings from  
17 accounts that have shares. It didn't mean all of their landings  
18 came from the allocation that resulted from shares.

19  
20 **MR. ANSON:** So it could be more than four million pounds?

21  
22 **DR. STEPHEN:** Yes.

23  
24 **MR. ANSON:** Okay. Thank you.

25  
26 **DR. LASSETER:** Okay, and so we'll pick back up, and so we're  
27 going to spend a few minutes and a couple more slides on the  
28 purpose and need, and then we'll review the current actions in  
29 the document, and some of these incorporate multiple actions,  
30 and so the first one is permit requirement, and this is an  
31 action to require some or all shareholders, as you specify, to  
32 possess a commercial reef fish permit to maintain those shares.

33  
34 For those who would not be able to retain those shares under a  
35 new requirement, under that first action, there is a subsequent  
36 action for divestment of shares, and that could end up resulting  
37 in additional shares being brought back into NMFS that could be  
38 available for distribution as well as those that were reclaimed  
39 through Amendment 36A, and so that's the next item, to  
40 distribute reclaimed shares or creating a quota bank with those  
41 reclaimed shares, because that also speaks to one of the motions  
42 that you have previously made.

43  
44 Then there's a whole section on developing a quota bank, which  
45 we'll spend some time on, and then, finally, the last action in  
46 the amendment is to require accuracy in the estimated weights  
47 and landing notifications, and that's when we have a couple of  
48 additional speakers for you to ask questions with as well, and I

1 will pause there for just a moment.

2  
3 **CHAIRMAN GUYAS:** Phil.

4  
5 **MR. DYSKOW:** Thank you, Madam Chair. If I could ask a question  
6 of Ava, or a comment, as a follow-up on Kevin. I think, for us  
7 to be able to discuss many of the things that are stated in your  
8 36B presentation, it's vitally important for the council to  
9 know, of the allocated shares, how many of them are fished by  
10 quota holders and how many of them are leased, and I summarized  
11 the math that Kevin was going at of over half of the allocated  
12 shares are leased, and that's a critical part of this  
13 discussion, and I think I would request of council staff to give  
14 us some more definitive answers in that specific area. If 100  
15 percent of the quota is distributed, and we use 100 percent, how  
16 much is used by quota holders, and how much is leased for profit  
17 to other fishermen?

18  
19 **DR. LASSETER:** Dr. Stephen and I will both make attempts at  
20 getting at a lot of this, and there's a lot of ways to look at  
21 this, and that's when we get into this public participant  
22 accounts and related accounts, and so I put up one slide here as  
23 one way that we can look at it.

24  
25 Here we have, for each share category, and let's just stick with  
26 this first line of red snapper, and this is for 2016, and so  
27 there were a total of 247 accounts that were associated with a  
28 permit, and so a shareholder account was associated with a  
29 vessel account then, and it had a permit.

30  
31 There were an additional 127 accounts that had red snapper  
32 shares, but that were not associated with a permit, and, if we  
33 look at proportion of shares, those accounts that were  
34 associated with a permit represented 70 percent, and so those  
35 accounts, those shareholder accounts, had the ability to land  
36 all of their own shares.

37  
38 Now, not all of them did. Some of them did transfer allocation.  
39 Also, some of them are related to other accounts, and so they  
40 may be related to an account that does not have a permit, and so  
41 it's still a shareholder that has a permit, but he's  
42 transferring it to a different account.

43  
44 The percent of shares that are held in an account without a  
45 permit was 30 percent in 2016, and it went up I want to say  
46 about a half a percentage point in 2017, but this is the same  
47 data that's in the amendment, and so this is one way to just  
48 look at how much people in the setup of accounts either have the

1 ability to land what they have, what they have been given at the  
2 beginning of the year, or not.

3  
4 It gets tricky, and this is what Dr. Stephen was alluding to,  
5 with these related accounts. People will be transferring some  
6 of their allocation either to somebody that is completely  
7 unrelated to them or possibly an account that they are related  
8 to, because they're using these different accounts to isolate  
9 their assets, to put them in separate LLCs, and let me pause  
10 there and see if maybe Jessica wants to add anything to that.

11  
12 To actually go in and to track each account and each person's  
13 shareholder account and then to look at how many pounds they  
14 landed for each year, I think the NMFS staff could do that, but  
15 that would be a serious data request that would take us some  
16 time to do, and so we have some other proxies for looking at  
17 this kind of information, and so this kind of gives you a sense,  
18 I would think, that about 30 percent of the red snapper shares  
19 in 2016 could not be landed by the person who received that  
20 allocation at the beginning of the year, because that account  
21 was not associated with a reef fish permit.

22  
23 I think that kind of gives us a ballpark, and this number is  
24 increasing each year, and so we have a separate table in these  
25 annual reports for just red snapper, where you can look at how  
26 those number of accounts with and without a permit have changed  
27 each year and the corresponding proportion of shares.

28  
29 **CHAIRMAN GUYAS:** I am going to go to Patrick, and then I've got  
30 you, Greg.

31  
32 **MR. BANKS:** Mine is quick, and I'm pretty sure you already  
33 answered it, but the Shareholders Alliance would be an example  
34 of an account with no permit, shares with no permit? Okay. I  
35 just wanted to make that clarification.

36  
37 **DR. LASSETER:** As far as I know -- I do not believe that they  
38 have a vessel account associated with the shareholder account  
39 that's on there, and all of this information is actually  
40 available online, because the shares are considered permits, and  
41 there is a list of all current shareholders and the proportion  
42 of shares that they have for each of these different share  
43 categories that you can look at, and you can see the account,  
44 the Shareholders' quota bank account, that Eric just talked  
45 about as well.

46  
47 **DR. STUNZ:** Ava, if I'm interpreting this right, and, if I'm  
48 not, please let me know. So no less than 30 percent of the

1 shares, if we're talking about red snapper -- The only way to  
2 land those fish is to lease them. That would be the bare  
3 minimum, and so at least 30 percent is -- Without some crazy  
4 calculation that's very hard to do, we have no idea of what the  
5 upper bound of that leasing is then, right?

6  
7 **DR. LASSETER:** I would say, generally, and, again, when we say  
8 leasing, some of these people are related to other accounts,  
9 where -- When I say related to, they have their shares held in  
10 one account, and then they maybe have a separate account where  
11 they put their permit associated with it, and so they have  
12 separated their assets across accounts, and I'm looking at  
13 Jessica, but I would say, probably, roughly, you've probably got  
14 about 30 percent of the quota are being distributed to accounts  
15 at the beginning of the year that are not able to land those,  
16 that must transfer them in some way to another entity with a  
17 vessel account, correct.

18  
19 **CHAIRMAN GUYAS:** Okay. Nobody looks really okay with this, but  
20 I don't see any more questions, and so I think everybody is just  
21 kind of thinking about it. I guess we can back up when you're  
22 ready.

23  
24 **DR. LASSETER:** Okay, and so we'll definitely be coming back to  
25 that table when we go into the permit requirements section, and  
26 this slide was really just to kind of give you an idea how these  
27 different actions -- They all relate to each other, except for  
28 the very end one, the accuracy of estimated weights, and this is  
29 more of a law enforcement issue, but all of these other ones  
30 relate together and affect each other.

31  
32 Let's go into the purpose and need slides first, and so we have  
33 some definitions, and then your council motions, and then we'll  
34 come back to the draft purpose and need for you. Thanks to Mr.  
35 Brazer's presentation, I think everybody kind of has a handle on  
36 this, and I would kind of like to start with this as an  
37 overview.

38  
39 Shares, we know, this is the percentage of the quota. These are  
40 durable, and they stay with the shareholder, unless that person  
41 transfers them. Once they are transferred, then they belong to  
42 that new shareholder, and so there has only been one  
43 distribution of shares for each of these IFQ programs to date.

44  
45 Allocation, on the other hand, that refers to the pounds of fish  
46 that are represented by that proportion of shares, and this  
47 allocation is an annual usage. It disappears out of your  
48 account at the end of the year if it has not been used.

1  
2 The implications of whatever you are talking about doing,  
3 whether you're talking about distributing shares or allocation,  
4 are going to be very different, the implications of that, and  
5 so, coming back to some of your motions, and we have provided  
6 the date when these were made as well, and so, in October of  
7 2017, the council passed a motion to identify quota set-asides  
8 to address and assist small participants and new entrants and to  
9 reduce discards.

10  
11 Subsequently, there was a motion, and this was in response to an  
12 advisory panel recommendation, and that motion was to create,  
13 again, a quota set-aside from the non-activated accounts, and  
14 this goes back to 36A, to run a NOAA quota bank for addressing  
15 commercial discards, and so those are discards, again.

16  
17 While we were working on the document and in the time you made  
18 these two motions, and shortly thereafter, we have structured  
19 the document to support development of a quota bank, and so,  
20 this idea of quota set-asides, we interpreted, and we brought  
21 the document back to you, as establishing a quota bank that  
22 would distribute allocation only, and it didn't say to  
23 distribute shares, to redistribute shares, and so that's how we  
24 understood this, was for it to be allocation only. You wouldn't  
25 be handing back out, again, these more durable property rights,  
26 but you would just be distributing additional annual allocation.

27  
28 In January of 2019, and so two meetings ago, you passed a motion  
29 to increase the access to shares to actively fishing commercial  
30 fishermen, and, initially, staff -- We weren't quite sure if you  
31 meant shares or allocation, and so we are requesting a little  
32 more discussion here about that, as we go through the document.

33  
34 Right now, we have this quota bank idea established in the  
35 document, and we're not quite sure if you mean to do something  
36 separate, distribute some -- Reclaim some kind of shares and  
37 distribute just shares, which are going to stay with this new  
38 group of people that would be the recipients for a defined  
39 period of time, five or ten years, or just in perpetuity until  
40 you change it, or should this be part of the quota bank?

41  
42 Then, also, we're going to come back to this next point as we  
43 get into the quota bank part. We need some help in defining  
44 what you mean by these small participants, new entrants, who  
45 would be the ones to receive quota for reducing discards, and  
46 what do you mean by "actively-fishing eligible commercial  
47 fishermen". Are these discreet groups, or are there overlapping  
48 characteristics, because we want to think about, also, how much

1 quota are you going to want to be providing to these discreet  
2 groups, and I would guess that there's overlap, but let's be  
3 thinking about that as we get down to the quota bank action.

4  
5 Coming from those council motions, the draft purpose and need,  
6 at the moment, states the purpose of this action is to assist  
7 small participants and new entrants to the IFQ program, to  
8 reduce discards, and to increase access to shares to actively  
9 fishing eligible commercial fishermen.

10  
11 You will notice, in the first couple of lines, the quota set-  
12 aside part has been removed from those motions, because that's  
13 the whole action in the amendment now, but we have left that  
14 increase access to shares here, because we still want to ensure  
15 that the scope of actions in the document is going to support  
16 the motions that you have made for creating your new goals for  
17 the program.

18  
19 If we could be thinking about all of that, we'll come back to  
20 those questions when we get into the quota bank part, but,  
21 again, this is our overarching program goals and objectives, and  
22 we want to ensure that whatever is done in the document supports  
23 these goals and objectives or we work on modifying and fine-  
24 tuning that purpose and need as well.

25  
26 Getting into the actions now, Action 1.1 would be a permit  
27 requirement. This is requiring some or all shareholders to have  
28 a permit, commercial reef fish permit, and so, of course, our  
29 Alternative 1 is no action, and that would allow status quo to  
30 remain in place, that a permit, commercial reef fish permit, is  
31 not required for a shareholder to buy additional shares or to  
32 keep shares that they already have.

33  
34 The action alternatives propose that, in order to obtain, and  
35 that means getting more shares, or keeping, maintaining your  
36 shares that you already have in your account, that three  
37 alternatives are proposed.

38  
39 Alternative 2 would require that all shareholders possess a  
40 valid or renewable commercial reef fish permit. Alternative 3  
41 and 4 would allow some people to be grandfathered into this.  
42 Alternative 3 would just require shareholders who entered the  
43 IFQ programs after January 1, 2015 must possess a reef fish  
44 permit. Now, that date would be when public participation --  
45 When shares went open for public of the grouper-tilefish  
46 program, and so it was three years prior for the red snapper  
47 program, and this was the date for the grouper-tilefish program,  
48 and so this is five years after implementation of the grouper-

1 tilefish program.

2  
3 Alternative 4 would require shareholders who enter the IFQ  
4 program following implementation of this amendment, and so it's  
5 basically grandfathering everybody in until you finish this  
6 amendment and then going forward. Anybody who enters the  
7 programs and buys shares must also possess a valid or renewable  
8 reef fish permit. I will pause there for just a moment.

9  
10 **CHAIRMAN GUYAS:** Bob.

11  
12 **DR. SHIPP:** I just want to find out exactly where we are in this  
13 process. Are we at a point where we can discuss these and  
14 select preferred alternatives, or are you just going to go  
15 through and then go back through it at a later date? Where are  
16 we in the process?

17  
18 **DR. LASSETER:** You have reviewed this action several times, and  
19 there is some analysis in there. I guess my goal for this  
20 meeting was to even get a sense of if we have covered everything  
21 that's going to support the goals and objectives, and so I'm  
22 looking at Mara, but I guess, if they wanted to pick a preferred  
23 now --

24  
25 **MS. LEVY:** I don't know the answer to that. I mean, sometimes  
26 you pick preferreds with no analysis, which I don't like, and  
27 there is some analysis. I guess there are whole parts of this  
28 document though that are like void of any -- That still need  
29 work, meaning we have actions that aren't even fleshed out, and  
30 so I don't know if picking a preferred here is going to be super  
31 helpful, because, really, we've been trying to flesh out this  
32 document for a really long time, and we keep getting caught up  
33 on the later actions and how to further develop them, but I  
34 think it's up to you what you want to do.

35  
36 **DR. SHIPP:** My personal preference would be to wait until all  
37 these additional issues and alternatives are presented to us  
38 all, because we could get hung up on this one for an hour, but I  
39 just wanted to know where we are in the process, and so Mara has  
40 cleared it up.

41  
42 **DR. LASSETER:** Great. Thank you. Yes, I'm really hoping to get  
43 a sense that we have encompassed everything that you do want to  
44 look at. That would be great, and we do have one more  
45 alternative for this action. All of these alternatives, the 2  
46 through 4, would apply regardless of how much shares that  
47 shareholder holds. They could hold a teeny-tiny amount, or they  
48 could hold a large amount, close to the share cap, and so this

1 is applying to anybody, regardless of their volume of shares.

2  
3 There may be some people that you want to allow to have some  
4 shares, a small amount of shares, because they are say new  
5 entrants, or they're crew, or they are working their way into  
6 the fishery, and perhaps there's a reason to not require  
7 everybody to have shareholders, and so this alternative is  
8 provided that would just restrict the amount of shares that  
9 could be held by a shareholder account without a permit to some  
10 amount, and these are small amounts of the share cap, of the  
11 respective share category, and so that's if you wanted to allow  
12 people to hold some small amount of quota.

13  
14 **CHAIRMAN GUYAS:** Kevin.

15  
16 **MR. ANSON:** Ava, how would any of these alternatives match up,  
17 or not, with how the shareholder accounts are currently  
18 structured? You briefly mentioned it earlier, about how you  
19 have like a parent account and then these sub-accounts, and they  
20 are used as kind of holdovers for LLCs, and the LLC is tied into  
21 that shareholder account, where there's another LLC that's tied  
22 into the parent account, and is that -- I mean, I don't want to  
23 necessarily restrict that for valid shareholders, fishermen, to  
24 restrict their ability to run their business, but is that  
25 something that can be tailored, or can an alternative be  
26 structured so that it's worded such that the sub-accounts or an  
27 account can be established as long as it ties into a parent  
28 account that does have a permit, and is that something -- I  
29 don't know what the official names of them are, or if there is  
30 even guidelines that the agency is using that identifies those  
31 specific accounts that are, again, separate, but yet they have  
32 that tie-in with the actual share account.

33  
34 **DR. LASSETER:** I think -- Are you getting at would this be more  
35 like a share cap, and so share caps are put in place at the  
36 individual level. Like any individual citizen or resident alien  
37 is to a maximum amount across any and all of their holdings, if  
38 you will, and they can only control the maximum amount, and are  
39 you asking if it would be calculated that way or at the account  
40 level?

41  
42 **MR. ANSON:** I am looking for, and I don't see it in any of the  
43 alternatives, where, if the council decided that a permit was  
44 required, associated with each of the accounts, I don't  
45 necessarily want the structure then to preclude those that are  
46 eligible and they have a permit and they have shares and to  
47 allow them to set up a sub-account that could be just tied-in  
48 with the LLC.



1  
2 Legally, I don't know how that works, but that is apparently  
3 being used as a method to operate the businesses, and so I don't  
4 necessarily want to restrict that, or I wouldn't want that as an  
5 option going forward, and so I'm just trying to see if there is  
6 a way that that sub-account would still be under the umbrella of  
7 a permit, but yet be utilized in the legal manner that it's not  
8 tied into that original account or original --  
9

10 **DR. LASSETER:** Okay. I am going to try what I think you're  
11 asking. By putting this requirement in place, you're going --  
12 Really, it's these alternatives that you're talking about,  
13 right? Okay.  
14

15 This is going to require, I would think, some consolidation of a  
16 lot of those accounts, because people are not going to have -- I  
17 would assume, I'm going to guess, that, if you pick one of  
18 these, you're going to have people needing to consolidate their  
19 accounts, and so that wouldn't -- Selecting one of these might  
20 not allow people to continue to separate those in the same way.  
21 Now, people also incorporate a vessel that is still associated  
22 with their account, the vessel account associated to the same  
23 shareholder account, and so they can probably still continue to  
24 do that, but you would be requiring some consolidation of  
25 accounts here, if that's what you're asking.  
26

27 **MR. ANSON:** I guess that's what I was looking for, is the naming  
28 convention, and so there's a vessel account, essentially is what  
29 it's called, and that does not require the permit, or wouldn't  
30 require the permit, as it's structured here, correct, because  
31 it's just the vessel, and the vessel is holding it, but the  
32 vessel --  
33

34 **DR. LASSETER:** The vessel account must be associated with a  
35 commercial reef fish permit, yes.  
36

37 **DR. STEPHEN:** To add to that, the vessel accounts are always  
38 associated with a shareholder account. They are not orphaned  
39 out there on their own. If a shareholder has two permits under  
40 their name, they have two vessel accounts associated with that  
41 shareholder account.  
42

43 **DR. LASSETER:** To make it more complicated, a shareholder  
44 account doesn't necessarily have shares. They use the term  
45 "shareholder account" to be any of those accounts, but a  
46 shareholder account may hold shares, or it may not hold shares,  
47 but you do need the shareholder account first to connect your  
48 vessel account.

1  
2 **CHAIRMAN GUYAS:** All right. I'm going to go to Mr. Dyskow.  
3 He's been waiting patiently.  
4

5 **MR. DYSKOW:** Patience is a requirement to operate on the  
6 council. Thank you, Madam Chair. Alternatives 2, 3, and 4 are  
7 all variations of each other, and I'm going to ask what I  
8 initially thought was a simple question, but I now understand is  
9 very complicated.  
10

11 Alternative 2 says all shareholders must possess a valid or  
12 renewable commercial reef fish permit. You can't participate in  
13 the fishery without a valid or renewable reef fish permit, and  
14 so why would we allocate shares to someone that has no way to  
15 utilize those shares other than selling them for profit? As we  
16 all know, that takes place, and was that an intended consequence  
17 of this, that people would be given shares just to resell them?  
18

19 **DR. LASSETER:** We can come back to the very beginning of each of  
20 these programs, and so each of these programs were set up such  
21 that the first five years -- In order to obtain additional  
22 shares, you had to have a reef fish permit. At the end of the  
23 five years, any U.S. citizen or resident alien could obtain a  
24 shareholder account and buy shares. They don't need to have a  
25 reef fish permit anymore. The only thing they could do in  
26 buying those shares would be to lease them out.  
27

28 Now, the council did, at the end of five years, consider undoing  
29 that and going back to requiring permits, and that was the  
30 original Amendment 36, and there was a motion at the last  
31 meeting, and it was October of 2011, and the motion passed, to  
32 pick an alternative as preferred that would have not allowed  
33 that public participation.  
34

35 At the next meeting, that was undone, and Amendment 36 was  
36 disbanded and combined into 37 and a control date was set,  
37 advising people that, if you bought shares after that control  
38 date, the council was considering making modifications to the  
39 program, and you were not guaranteed access to those shares in  
40 the future, but the program was established to allow public  
41 participation of people to invest in this fishery after five  
42 years, and so it was established with that provision in place  
43 for each of the programs.  
44

45 **CHAIRMAN GUYAS:** Roy.  
46

47 **DR. CRABTREE:** I think it's interesting to go back and read the  
48 minutes of the meeting back in 2005 and 2006, when we had this

1 discussion, but this council set this program up in a way that  
2 allowed this to happen, and they were very aware that this could  
3 be happening when they set it up. It was an accommodation done  
4 to satisfy certain interests on the council and pass the  
5 program, but it was, by and large, opposed by the commercial  
6 fishing industry, but there are aspects of this program now that  
7 I look back that I would have done differently, but now this is  
8 how the program is set up, and it's a mature program at this  
9 point, and it's very difficult to figure out how to go back and  
10 change all of it without a lot of disruption.

11  
12 I had a couple of other comments. I look at the purpose of the  
13 program, which is largely on helping small participants and  
14 facilitating new entrants and reducing discards and increasing  
15 access to shares, and then I try to look at, well, how does  
16 requiring a reef fish permit get you towards your purpose?

17  
18 I guess if your belief is that none of the people who are  
19 shareholders now that don't have permits, that they will all  
20 sell out, maybe then you could argue that will reduce share  
21 prices and new people will buy all of that up.

22  
23 I suspect though that an equally likely outcome is that they  
24 will lease permits, lease vessels, and that will drive up the  
25 cost of the reef fish permits, and they will stop leasing,  
26 because now they're going to fish them, or someone is going to  
27 fish them, on the vessel they are leasing, which will make less  
28 quota available to new entrants and small participants, and so I  
29 can look at this as kind of exercise in social engineering, to  
30 me, but I can look at this and see how what we're proposing  
31 could in fact result in the opposite of what our purpose is, and  
32 so I think we need to be really careful and make sure we  
33 understand how this is likely to go, because I think some of  
34 this could very well work in the other direction.

35  
36 **CHAIRMAN GUYAS:** Leann.

37  
38 **MS. BOSARGE:** Ava, will you go to the slide with I think it was  
39 Action 5, or something 5, where you said a certain percentage of  
40 the shares -- There. It was Alternative 5. Thank you. All  
41 right, and so, I guess in my mind, this is an either do it or  
42 don't do it. Either require a permit or don't, and I don't  
43 really like the idea of requiring a permit and then building in  
44 -- I don't mind like the idea of grandfathering, like a date  
45 before this that you're not required or whatever, but this  
46 particular idea, where you would be requiring a permit, but then  
47 build in all of these exceptions, I don't particularly care for  
48 that. I think there's too many ways to work this to your

1 advantage. Either you need to have a permit or you don't.

2  
3 I would be in favor of removing this alternative from the  
4 document, to streamline the document and help us focus on where  
5 we want to go, but I would like to hear feedback from the rest  
6 of the group.

7  
8 **CHAIRMAN GUYAS:** Kevin.

9  
10 **MR. ANSON:** I would agree with that, too. I mean, if your  
11 intention is to try to keep it to fishermen, and you require a  
12 permit for landing of the fish, then this doesn't get there. I  
13 was only -- In the context of, again, providing as much  
14 flexibility for those shareholders to set up multiple accounts  
15 that would then be tied into an LLC, and that's all I was trying  
16 to do, but apparently it's not able to do that in the context of  
17 this action, from what I understand currently, and so I would  
18 also agree with that. Thank you.

19  
20 **CHAIRMAN GUYAS:** Leann.

21  
22 **MS. BOSARGE:** Would you like a motion? Okay. I will try. I  
23 would like to make a motion that, in Action 1.1, Alternative 5 -  
24 - Is this appropriate to put it in Considered but Rejected at  
25 this point, Mara, or just remove it from the document? Be  
26 removed from the document, Mara says.

27  
28 **CHAIRMAN GUYAS:** All right. It's seconded by Dr. Shipp. We'll  
29 get that on the board. In Action 1.1. remove Action 5 is what  
30 we're -- Alternative 5. Leann.

31  
32 **MS. BOSARGE:** I see some people in the audience going what is  
33 she doing, and so just to go back over -- Because we kind of  
34 were all around this topic and other topics in this discussion,  
35 but, essentially, this was, if we do require a permit of  
36 everybody, then this was like an exception to that, and it built  
37 in a bunch of exceptions, where, well, you could be a  
38 shareholder with part of this and this and that and this and  
39 that without a permit, and this gets rid of all of that. You've  
40 either got to have a permit to own shares or you don't. This  
41 doesn't leave a lot of exceptions if you do pass that.

42  
43 **CHAIRMAN GUYAS:** Any other discussion on this? Ed.

44  
45 **MR. SWINDELL:** Leann, it's my understanding that what you're  
46 trying to do is to say that, if you don't have a permit, you  
47 can't own shares, and is that correct?

1 **CHAIRMAN GUYAS:** Go ahead, Leann.

2  
3 **MS. BOSARGE:** No, we haven't made that decision yet, Ed. There  
4 is options in here that say -- Right now, you can own shares  
5 without a permit, and we have options in this action that would  
6 change that, that would say you do have to own a permit in order  
7 to own shares.

8  
9 This would have been a second preferred alternative that we  
10 could have picked, and so say we decide that, yes, you have to  
11 have a permit to own shares. We could have also picked this as  
12 a preferred alternative and said, but, we'll let you own a  
13 little bit without having to have a permit, and you could do it  
14 this way or that way, and no. Either own a permit and shares or  
15 don't like those together, and I don't want a bunch of  
16 exceptions if we do decide to link them together. Either do it  
17 or don't do it, but we haven't made the decision about whether  
18 we're going to do it or not do it yet. This just says, if we do  
19 it, we're not going to have a whole bunch of exceptions to that  
20 rule.

21  
22 **CHAIRMAN GUYAS:** Is there any other discussion on this? **Is**  
23 **there any opposition to this motion? Seeing none, the motion**  
24 **carries.** That takes us to a nice breaking point, Mr. Chairman.

25  
26 **DR. FRAZER:** We will take a break, and we'll reconvene in about  
27 fifteen minutes.

28  
29 (Whereupon, a brief recess was taken.)

30  
31 **DR. LASSETER:** Cynthia Fenyk is going to be doing this remotely,  
32 and let's jump into the Action 4 and have our speakers be  
33 available as well, and then, once we finish Action 4, we'll come  
34 back to the remaining actions in the amendment that we have,  
35 with the time we have available.

36  
37 Just to put everybody in the right context, Action 4 is the  
38 action to require accuracy in the estimated weights that are  
39 provided in the advance landing notifications, and so we have  
40 two presentations here.

41  
42 One, Ms. Bosarge asked for a discussion on how penalties are  
43 determined, in terms of violations, and so we have Cynthia Fenyk  
44 on the phone to provide a presentation on NOAA's policy for the  
45 assessment of penalties, and then we also have the Chair of the  
46 Law Enforcement Technical Committee to come and answer your  
47 questions as well, and so I will pause there.

1     **NOAA GENERAL COUNSEL ENFORCEMENT SECTION PENALTIES PRESENTATION**

2  
3     **MS. CYNTHIA FENYK:**     My name is Cynthia Fenyk, and I am the  
4     Enforcement Attorney from NOAA's Office of General Counsel in  
5     St. Petersburg, Florida. I understand that you would like to  
6     know how the penalty schedule is applied for offenses under the  
7     Magnuson Act and other statutory considerations.

8  
9     The Enforcement Section's mission is to support the protection  
10    and sustainability of marine resources through fair and  
11    consistent enforcement of statutes and implementing regulations  
12    under NOAA's purview in order to promote compliance with marine  
13    resource conservation measures.

14  
15    What do we enforce? More than thirty statutes and implementing  
16    regulations, including those in the list that follows below, and  
17    your interest is primarily with the Magnuson-Stevens Fishery  
18    Conservation and Management Act, but each of these other acts  
19    also have a penalty policy matrix associated with them.

20  
21    There are currently thirteen Enforcement Section attorneys, two  
22    in the Greater Atlantic, three in Southeast, two in Alaska, two  
23    on the west coast, one in the Pacific Islands, and three in  
24    Silver Spring. The penalty policy is intended to make sure that  
25    all thirteen of us are roughly on the same page and making sure  
26    that our penalties are fair and consistent.

27  
28    Not all violations result in an issuance of a NOVA. A NOVA is a  
29    Notice of Violation and Assessment of civil penalty, but we have  
30    a broad spectrum of methods that we hope will achieve  
31    compliance, from outreach and education, compliance assistance,  
32    verbal warnings, fix-it tickets, written warnings, summary  
33    settlements, of course the NOVA, seizure and forfeiture, permit  
34    sanctions and denials, and criminal referral to the Justice  
35    Department.

36  
37    The Magnuson-Stevens Act provides, in determining the amount of  
38    a penalty, the Secretary shall take into account the nature,  
39    circumstances, extent, and gravity of the prohibited act  
40    committed and, with respect to the violator, the degree of  
41    culpability, any history of prior offenses, and such other  
42    matters as justice may require. In assessing the penalty, the  
43    Secretary may also consider any information provided by the  
44    violator related to the ability of the violator to pay.

45  
46    These statutory factors that are mandated for consideration in  
47    assessing penalties can make each case seem much like a  
48    snowflake. The unique evidence pertaining to one violator is

1 not always conducive to making an apples-to-apples comparison  
2 among other violators of the same provision.

3  
4 The penalty policy was developed as an internal policy to be  
5 applied by the Enforcement Section, to give effect to this  
6 statutory mandate. The policy uses an offense level schedule to  
7 determine an offense level for the most commonly occurring  
8 violations. This offense level schedule is designed to reflect  
9 the nature, circumstances, extent, and gravity of the violation.  
10 It's on a continuum of increasing gravity, with Level I  
11 representing the least significant charged offenses and Offense  
12 Level VI the most significant.

13  
14 In determining the appropriate offense level to assign, a number  
15 of factors were considered, including the status of the resource  
16 at issue. Is it overfished, is overfishing continuing? Is the  
17 stock particular vulnerable? The extent of harm done to the  
18 resource or regulatory scheme, the potential harm to the  
19 resource, whether the violation involved fishing in a closed  
20 area, in excess of quotas, without a permit, or with  
21 unauthorized gear, whether the violation provides a significant,  
22 competitive advantage over those operating legally, the nature  
23 of the regulatory program. Is it limited access, or is it open  
24 access? Also, whether the violation is difficult to detect  
25 without on-scene enforcement or other compliance mechanisms,  
26 like VMS or observers.

27  
28 A penalty matrix is then used to take into consideration the  
29 degree of culpability factor and establish a base penalty. The  
30 degrees of culpability are unintentional, negligent, reckless,  
31 and intentional.

32  
33 It is an intentional when a violation is committed deliberately  
34 and the person intends the result or foresees that a result will  
35 arise if certain actions are taken and desires the result to  
36 occur. Reckless is a conscious disregard of a substantial risk  
37 that involves a gross deviation from the standard conduct that a  
38 law-abiding person would observe. They may not intend a certain  
39 result, but nonetheless foresees the possibility, but  
40 consciously takes that risk.

41  
42 Negligence denotes a lack of diligence, a disregard of  
43 consequences likely to result or carelessness. The failure to  
44 know of applicable laws may itself be evidence of negligence.  
45 An unintentional act is one that is an inadvertent, unplanned,  
46 and is the result of accident or mistake. This category  
47 reflects the strict liability nature of many of the Magnuson-  
48 Stevens Act regulations.

1  
2 In assessing culpability, the NOAA attorney considers whether  
3 the alleged violator took reasonable precautions against events  
4 constituting the violation, how much control the alleged  
5 violator had over the events constituting the violation, and  
6 whether the violator knew or should have known of the potential  
7 harm associated with the conduct.

8  
9 Once we have a base penalty, it can be adjusted based on the  
10 violator's history of prior offenses and such other matters as  
11 justice may require. For instance, cooperation, attempt to  
12 impede the investigation, and the like.

13  
14 Prior offenses is evidence of an intentional disregard for  
15 regulations or a reckless or negligent attitude toward  
16 compliance, and it may also be evidence that a prior enforcement  
17 response was insufficient to deter future violations. Prior  
18 violations are a basis to adjust the penalty upwards. Once the  
19 penalty has been assessed, the violator may provide financial  
20 information relating to their ability to pay the assessed  
21 penalty.

22  
23 This is what the current penalty matrix for Magnuson Act  
24 violations looks like. The horizontal axis provides the levels  
25 of culpability, unintentional, negligent, reckless, and  
26 intentional, and the gravity of offense levels, from I to VI.  
27 Looking at the Levels I, II, and III, you can see that,  
28 depending on the level of culpability, unintentional through  
29 intentional, the range goes from written warning to \$40,000 plus  
30 a five to twenty-day permit sanction for subsequent violations.

31  
32 The penalty policy is designed to ensure that we enforce in a  
33 fair and consistent manner, that the penalties and sanctions are  
34 appropriate for the gravity of the violation, that it's  
35 sufficient to deter both individual violators and the regulated  
36 community as a whole from committing violations, that economic  
37 incentives for non-compliance are eliminated, and that  
38 compliance is achieved to protect natural resources.

39  
40 The penalty matrix that I showed you and the policy associated  
41 with that matrix was first issued on July 11, 2014. At that  
42 time, NOAA committed to doing a periodic review to take into  
43 account changes or provide clarifications and additional  
44 guidance. That periodic review resulted in a draft penalty  
45 policy published and noticed in the Federal Register on May 2,  
46 and the informal comment period ended on that draft policy  
47 yesterday.



1 The revisions reflect new legislation and provide clarifications  
2 to improve national consistency. It makes adjustments to the  
3 maximum civil monetary penalties authorized, and this draft  
4 policy can be found at the link at the bottom of the page. The  
5 policy and the associated matrices, it's a fairly dense  
6 document. It is sixty-three pages long, and it provides  
7 examples of applying the penalty policy to specified specific  
8 examples. It's a long read, but it gives you the deep dive into  
9 how the penalties are assessed.

10  
11 This is what that draft penalty matrix that just closed for  
12 public comment looks like. Under this draft, the potential  
13 penalties range from Levels I, II, or III violations, depending  
14 on whether culpability is unintentional, negligent, reckless, or  
15 intentional. Our Level 1 is a written warning to \$10,000.  
16 Level II is \$2,500 to \$24,000. Level III is \$5,000 to \$48,000  
17 plus the permit sanction, and so, for a Level I, from the matrix  
18 that is currently in effect, it went up \$2,000. For Level II,  
19 it increased by \$4,000, and, for Level III, it increased by  
20 \$8,000.

21  
22 The initial base penalty is the midpoint of a penalty range  
23 within the appropriate culpability box, and then an adjustment  
24 is made either upward or downward, depending on such other  
25 matters as justice may require or the prior history of offenses.

26  
27 The penalty policy that is in draft and should be finalized soon  
28 after the public comments are analyzed remains largely the same,  
29 but the notable changes to the previous penalty policy include  
30 additional clarity on what would be considered such others  
31 matters as justice may require under the adjustment factors.

32  
33 Such other matters includes the conduct of the alleged violator  
34 after the violation, whether the violator self-reports, makes a  
35 good faith effort to come into compliance promptly, or  
36 cooperates with the investigation, or, alternatively, whether  
37 the violator attempts to avoid detection, interferes with an  
38 investigation, lies or participates in other obstructive  
39 activity, and other considerations, such as a long history of  
40 compliance, the economic impact of a penalty on a business, the  
41 subsequent rescindment of a regulation, remedial measures taken  
42 by the violator, indications of a pattern, course of conduct,  
43 common scheme or conspiracy, and the violator's role in the  
44 activity, plus the need to decrease the economic incentives for  
45 committing a violation, where the economic benefits outweigh the  
46 potential costs of a penalty.

47  
48 In making adjustments for prior offenses, the NOAA attorney will

1 look at the similarity of the prior and the present violation,  
2 how recently the prior violation occurred, the number of prior  
3 violations, and the violator's effort to correct. NOAA will  
4 consider all prior violations that have been finally adjudicated  
5 within five years of the current violation.

6  
7 As far as the statutory maximums, all three acts on the penalty  
8 matrix that you were just shown, the Magnuson-Stevens Act, the  
9 Antarctic Marine Living Resources Convention Act, and the Port  
10 State Measures Agreement Act, have a maximum statutory penalty  
11 of \$189,427 per violation, as when published in the Federal  
12 Register in February of 2019.

13  
14 The pages behind the penalty matrix are each act's offense level  
15 guidance. This is the offense level guidance for Magnuson-  
16 Stevens Act violations, and the category in the box are -- As  
17 you can see, there are not that many of them, but they  
18 encompass, hopefully, all the violations that occur under the  
19 Magnuson-Stevens Act.

20  
21 The policy does provide that, if there is not an identical  
22 violation in the offense level guidance for the Magnuson-Stevens  
23 Act, that the NOAA attorney can look to another statute for an  
24 analogous violation that may not be addressed.

25  
26 If the council decides to make a modification to the commercial  
27 IFQ program by requiring a measure of accuracy for estimated  
28 weights of IFQ species on the advance notifications, the NOAA  
29 attorney would then identify the category most applicable for  
30 the violation. Since the requirement for advance notice of  
31 landing is one of the measures in the codified text to enhance  
32 IFQ program enforceability, that second violation category  
33 regarding the facilitation of enforcement seems most applicable.

34  
35 These are all of the violations listed under facilitation of  
36 enforcement, scientific monitors or observers, and the  
37 highlighted box is for submitting inaccurate or false data,  
38 statements, or reports, which would be what I would think would  
39 be the appropriate category for making inaccurate or not having  
40 the accuracy of the weight correct, and that can be either a  
41 Level I, II, or III violation.

42  
43 It is an Offense Level I where the adverse impact on the  
44 statutory or regulatory program is insignificant and there is no  
45 economic gain from the violation. It is an Offense Level II  
46 where the adverse impact on the statutory or regulatory program  
47 is minor or there is some economic gain from the violation. It  
48 is an Offense Level III where the adverse impact on the

1 statutory or regulatory program is significant or there is a  
2 significant economic gain from the violation.

3  
4 Here you have those -- How you determine which level, I, II, or  
5 III, it is. As I pointed out, the draft penalty matrix, soon to  
6 be finalized, has Level I as written warning to \$10,000, Level  
7 II as \$2,500 to \$24,000, and Level III as \$5,000 to \$48,000 plus  
8 permit sanction, but, as I noted on the slide that gave the  
9 enforcement spectrum, you don't necessarily go straight to NOVA.

10  
11 The spectrum also had the compliance assistance, verbal warning,  
12 fix-it tickets, written warnings, summary settlements, and then  
13 the NOVAs. There were also seizure, permit sanction, and  
14 criminal referral, and a graduated, or a phased-in, enforcement  
15 response for newly-implemented regulations has sometimes been  
16 warranted.

17  
18 Also, note that, while low-offense-level IFQ violations are not  
19 currently on the Southeast summary settlement schedule, a  
20 proposed revision to add some of the more commonly-occurring  
21 violations is pending Headquarters review. The thought is that  
22 we'll wait until the main penalty policy, the draft, becomes  
23 final to move on to the summary settlement, but, depending on  
24 council actions, it is possible that violation of a measure  
25 requiring some level of accuracy for reporting estimated weights  
26 of IFQ species at the time of the advance notice of landing  
27 could be proposed and approved for summary settlement inclusion.

28  
29 If an alleged violation does have this violation addressed with  
30 the issuance of an assessment of penalty or a permit sanction,  
31 he or she is going to know how the NOAA attorney arrived at the  
32 base penalty and whether it was assessed at a negligent or  
33 reckless, and it will be identified whether the gravity is I,  
34 II, and III. It will be identified, and then the matrix  
35 penalty, which is generally the midpoint, is set out.

36  
37 Then we move to the box that requires the attorney to consider  
38 adjustment factors and whether there is any history of prior  
39 offenses and other such matters as justice may require, by  
40 either having an adjustment upwards in the culpability box or an  
41 adjustment downwards in the culpability box, or it may move  
42 entirely to a new box if this other matters or history of  
43 offenses require. If there is any economic benefit, the  
44 proceeds of the unlawful activity would also be added to the  
45 assessment. That is my presentation. If you have any  
46 questions, I am happy to try to answer.

47  
48 **CHAIRMAN GUYAS:** All right. Thank you, Ms. Fenyk. Are there

1 questions on this presentation? Leann.

2  
3 **MS. BOSARGE:** Thank you for your presentation. It was very  
4 informative. If we can back up one slide, please. With the  
5 action item that the council is currently considering, where we  
6 may put an accuracy threshold on the estimated landings  
7 notification that goes in for law enforcement, I understand that  
8 there could be a base penalty, either in Level I, II, or III. I  
9 am assuming that most of these are going to fall into that  
10 negligent category, and so it's going to be somewhere between  
11 \$4,500 and \$18,000 for the base penalty.

12  
13 If their estimated weight of fish onboard that they send in,  
14 before they ever get to the dock, is under what they end up  
15 actually having, are they also going to be assessed in that  
16 Level II category, where it says additional economic benefit,  
17 and so, every pound over what they estimated, you're going to  
18 multiply that times, I guess, a market value per pound, and  
19 that's going to get added to the penalty, or would that not be  
20 applicable, because they sent that estimate in before they ever  
21 got to the dock, and, as long as they made sure that the trip  
22 ticket reflects the accurate amount, then they didn't actually  
23 have any economic gain, and how will that work?

24  
25 **MS. FENYK:** Well, I'm not sure how the regulation would be  
26 written up, but I just want to step back on where you thought  
27 the penalty would be. If it was a Level I negligent, it could  
28 be anywhere from written warning to \$5,000, and the midpoint  
29 would be \$2,500, but we could adjust it downward based on other  
30 matters as justice requires.

31  
32 As far as the economic benefit, that one has to be part of my  
33 case package that the investigating officer would note what the  
34 reported amount was and what the landed amount was and what the  
35 market value of those fish for that day would benefit him, but,  
36 if it's an underestimate -- I mean, if it's an overestimate --  
37 Was that the question that you also asked, if it's an  
38 overestimate? Then he didn't have any economic benefit.

39  
40 **MS. BOSARGE:** Right, and I just asked for the underestimate, and  
41 so, essentially, we would be saying we assume that everybody  
42 that underestimates was going to lie and not say anything about  
43 those other fish and fine him for it. We are assuming that is  
44 their intention and they are guilty if we fine them for every  
45 pound that they're off, even if they adjust -- If their landings  
46 and their trip tickets and their allocation and everything is  
47 right, we assumed that they were going to lie and fine them.

1 **MS. FENYK:** Well, I wouldn't make an assumption that they were  
2 going to lie. I would have to have some evidence of intent. If  
3 they lied, they wouldn't be in the negligent category. They  
4 would be in the intentional category.

5  
6 **MS. BOSARGE:** Okay, and one more question. I've got to make  
7 sure that I'm looking at this matrix correctly, and so I was  
8 looking at the draft penalty matrix, because I assume that's  
9 what is going to be in effect fairly shortly.

10  
11 **MS. FENYK:** Yes.

12  
13 **MS. BOSARGE:** On that one, if I assume that most of these  
14 violations are going to fall into that negligent category, that  
15 B category, because they should have taken precautions, and they  
16 knew the law, and they're the captain on the boat, and so I  
17 assume most of the -- Reading the examples that you have in your  
18 policy, I assume this is probably going to fall into that  
19 negligent category, and then you said it could be a I, II, or a  
20 III, depending on some other factors, and so would that not be  
21 somewhere between the \$5,000 and \$18,000 range?

22  
23 **MS. FENYK:** Well, I would make -- The first calculation would be  
24 is it a I or is it a II or is it a III, and then, if I decided  
25 it was a Level I, because the adverse impact is insignificant,  
26 and there is no economic gain, I would go to the midpoint at  
27 \$2,500 and then adjust it either upwards or downwards based on  
28 whether there are any priors or other matters as justice  
29 requires.

30  
31 **MS. BOSARGE:** Okay. Thank you.

32  
33 **CHAIRMAN GUYAS:** Okay. Are there other questions for Ms. Fenyk?  
34 Seeing none, thank you very much for joining us on the webinar  
35 and giving us that presentation, but we're going to keep going  
36 to our next presenter, the LETC Chair, Sergeant Carron.

37  
38 **LAW ENFORCEMENT TECHNICAL COMMITTEE DISCUSSION AND LETC REPORT**

39  
40 **DR. LASSETER:** If I could clarify that, Sergeant Carron has not  
41 brought a presentation, but we asked that he be made available  
42 to answer questions, and so the LETC has met a couple of times  
43 in the last year, and they meet in coordination with the Gulf  
44 States Commission, and they have -- In their March meeting last  
45 year, they passed a motion, but then, in their October meeting,  
46 they fleshed out a quite extensive consensus statement, and we  
47 provided that as background information in your briefing  
48 materials, which is Tab B, Number 6(e), and then Sergeant Carron

1 has come to just answer any questions you have about that, and,  
2 again, this is speaking to that requirement for requiring  
3 accuracy in the estimated weights on the landing notifications.  
4

5 **SERGEANT PATRICK CARRON:** Good morning. I'm Patrick Carron from  
6 the Mississippi Department of Marine Resources. As Dr. Lasseter  
7 said, I'm here to answer any questions you may have, and I will  
8 do my best to address your concerns.  
9

10 **CHAIRMAN GUYAS:** All right. Who would like to start? Dr.  
11 Crabtree.  
12

13 **DR. CRABTREE:** Thanks for being here, Officer. I am looking  
14 through the background for LETC discussion paper that we have,  
15 and, in it, there is an example of I guess a fisherman who  
16 reported 500 pounds. Anyway, it's saying the fisherman's landed  
17 weight is routinely 1,500 pounds, and so he underreported by  
18 1,000 pounds. Is most of the concern here really only with  
19 underreporting and with dramatic underreporting? I mean, in  
20 this case, it's not 10 or 20 percent. He's underreporting by  
21 more than 100 percent.  
22

23 **SERGEANT CARRON:** Yes, sir. That tends to be the primary  
24 concern. There are several other states that -- There has been  
25 a couple of instances in Mississippi in the past where we have a  
26 fisherman do something similar to that. We haven't had any more  
27 issues in Mississippi, but, in speaking to some of the other  
28 Gulf states, there is a concern that fishermen land -- He may  
29 say that he's landing 500 pounds, and he will consistently  
30 report that, and, if law enforcement isn't there to oversee the  
31 offload, the actual transaction amount is 500 pounds as well.  
32 However, if law enforcement shows up, the amount reported goes  
33 up significantly.  
34

35 **DR. CRABTREE:** So the concern is just with underreporting, and  
36 it's with dramatic underreporting and not just 10 percent  
37 underreporting.  
38

39 **SERGEANT CARRON:** Yes, sir.  
40

41 **DR. CRABTREE:** Thank you, Officer.  
42

43 **CHAIRMAN GUYAS:** Kevin.  
44

45 **MR. ANSON:** The reported amount and the landing total goes to  
46 this whole question, but what is your sense of the ability of  
47 fishermen to weigh their catch within 10 percent of the total or  
48 20 percent? I mean, is that something -- Do you see that more

1 often than not, that what you actually weigh on the boat and  
2 what is reported on the front-end through the notification  
3 report -- Are they fairly similar most of the time?

4  
5 **SERGEANT CARRON:** It's my experience that most people will  
6 actually just submit a number, just to get that notification in,  
7 most times even before going fishing, but, in my own experience,  
8 the guys that are out there fishing, they are pretty close to  
9 knowing what they have before they ever get to the dock. They  
10 know their boat, and they know the capacity of their holds, and  
11 they know where they're at, and they can generally estimate  
12 within I would say 20 percent, easily.

13  
14 **MR. ANSON:** Thank you.

15  
16 **CHAIRMAN GUYAS:** Leann.

17  
18 **MS. BOSARGE:** Thanks for being here today. It's good to see you  
19 again. It's my understanding that this estimated weight was  
20 originally put in place to be a courtesy to law enforcement,  
21 right, because, from an accountability standpoint, we have a  
22 quota, and that flows down into allocation, which is monitored  
23 in accounts, and there's only so much -- It's sort of like that  
24 cash money example that I gave the other day. You have got to  
25 have the allocation to land the fish, right?

26  
27 If this was put in place originally as like a courtesy to law  
28 enforcement, help me understand how that helps you all. What  
29 does it allow you all to do differently or to do more  
30 efficiently?

31  
32 **SERGEANT CARRON:** From a law enforcement perspective, there's  
33 always going to be more fishermen than law enforcement, and we  
34 have to make operational decisions every day on where we're  
35 going to focus our efforts, and that notification aids us in  
36 doing our job, and we can make decisions on where we need to go  
37 and what offloads we need to oversee, and so, in the smaller  
38 states like Mississippi, there's a better chance that we can  
39 oversee a majority of the offloads, but, as the geographical  
40 area increases, those notifications become more important on  
41 focusing your law enforcement effort.

42  
43 **CHAIRMAN GUYAS:** Go ahead, Leann.

44  
45 **MS. BOSARGE:** I guess, in the bigger states with more coastline,  
46 it allows you to say, all right, well, this is going to be a  
47 bigger offload, this is going to be a 5,000 or 10,000-pound  
48 offload, and, if there's something off there, it would be more

1 significant than some sort of error on a 500-pound offload, and  
2 so you would probably focus your efforts more on the bigger  
3 offloads, and that's essentially kind of how you're  
4 prioritizing, I guess, or is it more of a time priority, like,  
5 okay, this is a 500-pound offload, and this is not going to take  
6 us a whole lot of time, if we want to go oversee that, and then  
7 we could get to this, versus this is going to be a 5,000-pound  
8 offload, and this is going to take a little bit longer, and so,  
9 if we go and oversee that offload, then we're going to have to  
10 change some things over here, and that's what I'm trying to  
11 figure. What kind of courtesy, and what are you using it for?  
12 How do you prioritize?  
13

14 **SERGEANT CARRON:** I would say both, and some of it may factor on  
15 specific law enforcement knowledge as well, as far as history of  
16 the fisherman and even geographical location. Does the location  
17 lend itself to someone unloading fish and never being inspected?  
18 There's a variety of things that we use to make those decisions.  
19

20 **CHAIRMAN GUYAS:** Dale.  
21

22 **MR. DIAZ:** Thank you, Sergeant Carron, for coming. I just want  
23 to make sure. The example you gave is with the 500 pounds and  
24 somebody unloading 1,500 pounds, and I know that has happened a  
25 couple of times. From the law enforcement committee, was it  
26 relayed that this has been a problem in other states and  
27 specific examples given that this similar type activity has  
28 occurred in other states?  
29

30 **SERGEANT CARRON:** Yes, sir. That's correct. That's the  
31 consensus across the Gulf, is that there is issues and concerns  
32 with this in every Gulf state.  
33

34 **CHAIRMAN GUYAS:** Go ahead, Dale, and then Leann.  
35

36 **MR. DIAZ:** We've been going back and forth on this thing, and  
37 I'm not sure, if we voted on this, where it would go. I think,  
38 the last time we voted on it, it was a really close vote to even  
39 leave it in the document, and I always try to think of is there  
40 another way to approach it, and so, I mean, this is an approach  
41 that the council has come up with to potentially deal with this  
42 problem, but do you all have any other suggestions? I am going  
43 to use the phrase of a different way to skin the cat. Have you  
44 all thought of any alternative ways that maybe we could explore?  
45

46 **SERGEANT CARRON:** In the discussions, it has always circled back  
47 to this. I think, in conversation with the other state  
48 representatives, this has really been the leading alternative



1 for addressing the issue.

2  
3 **MR. DIAZ:** Thank you.

4  
5 **CHAIRMAN GUYAS:** All right, Leann.

6  
7 **MS. BOSARGE:** I can see where this would be a very efficient way  
8 to address the issue, and I guess my concern is that it's also a  
9 way that a lot of honest fishermen would end up getting pretty  
10 hefty fines, and so my question is -- I know we had one bad  
11 apple in Mississippi, and I'm pretty familiar with that  
12 situation that you were talking about, and you're right that it  
13 was a bad apple.

14  
15 Is there any other way to catch those bad apples? That's I  
16 guess what I am wondering. I mean, I have to think that surely  
17 -- The fish have to enter commerce at some point, and you have  
18 to offload at a -- That guy had a VMS, and you could see him all  
19 the time, and he was hailing-in, obviously, but he was hailing-  
20 in with an underage, and I think he was his own dealer,  
21 probably, I am guessing, and that would make it easier for him  
22 to adjust the tickets and do what he needed to do to only show  
23 that 500 pounds were landed, when really he had more than that  
24 on the boat, but, even if he's his own dealer, those fish have  
25 to enter commerce at some point, and he's got to sell them, and  
26 so is there another way to catch these people, so that we don't  
27 punish all the other fishermen that are out on the water with no  
28 scales on those boats, and it's not feasible, and they're doing  
29 the best they can, but 35 percent of our trips are off by more  
30 than 20 percent on our estimated weights, 35 percent of all the  
31 IFQ trips.

32  
33 **SERGEANT CARRON:** I can't speak to specifics from the other  
34 states, but the incidents we have had in Mississippi -- The guy  
35 was acting as his own dealer, and he was landing at a private  
36 residence, and those fish were going into commerce, but they  
37 were going directly into a van, and they were being driven three  
38 states away, and so, if we were not there, or we didn't have  
39 some sort of law enforcement surveillance, there was no way for  
40 us to follow those fish.

41  
42 The only other alternative, I think, would be to follow the  
43 people. I mean, you would have to document where the fish going  
44 into commerce, and, in this particular instance, we're talking  
45 about now, as a state officer, I need to follow fish three  
46 states away, and the amount of logistics involved with that is -  
47 - It far exceeds the type of violation.

1 **CHAIRMAN GUYAS:** General Spraggins.

2  
3 **GENERAL JOE SPRAGGINS:** Patrick, I thank you for getting up this  
4 morning and driving here. I know that it's a long trip, and I  
5 thank you all, and I believe you know how I believe in law  
6 enforcement and what you're doing and trying to do what's right,  
7 and I know that. I know you all try hard every day, and I  
8 appreciate you for that.

9  
10 The question I've got, and it really -- Maybe Mississippi is  
11 just so small about it that it really doesn't matter how we do  
12 it, and you all pretty well keep it under control, but is it  
13 just because of the large amount of fish that some catch or  
14 something that is not in Mississippi that causes the issue to  
15 worry about going over by 20 percent, because my thoughts are,  
16 if you've got a quota, and you go over the quota, you get fined,  
17 and you get fined good, but, if you don't go over the quota,  
18 what does the 20 -- Why, if you're 25 percent, does it require a  
19 fine? That's what bothers me.

20  
21 **SERGEANT CARRON:** What we're seeing is the folks that are doing  
22 this, if they are -- The example we gave, where the guy was  
23 saying he was going to land 500, and, when we show up, he lands  
24 1,500, unless we show up, that 1,000 pounds never goes onto the  
25 quota. It's never documented. It's all black-market sales, and  
26 it never goes on any sort of reporting documents, and it doesn't  
27 go on trip tickets, and so it's taking fish right out of the  
28 stock that are never accounted for.

29  
30 **GENERAL SPRAGGINS:** I guess what you're saying is that it's a  
31 situation like we had before in Mississippi though that that 20  
32 percent that they're catching, that they may come in over, they  
33 are not reporting, and that's what you are believing?

34  
35 **SERGEANT CARRON:** The 20 percent is just an accuracy measure to  
36 discourage these landings, where people are loading the fish up  
37 and selling them through the back doors of restaurants or  
38 selling them at markets, and so it's not so much the 20 percent  
39 that's not being reported, but it could be exponentially higher  
40 than 20 percent. There is just -- You would have to track the  
41 fish. This would discourage the behavior.

42  
43 **GENERAL SPRAGGINS:** I understand that there are bad apples, like  
44 Leann talked about, but is there that many of them that are  
45 actually doing that?

46  
47 **SERGEANT CARRON:** In Mississippi, and I can only speak to the  
48 specifics in Mississippi, and we are doing pretty well right

1 now. Because of our geographical size, we oversee a majority of  
2 all the offloads, whereas, in other states, that's not the case.  
3 In Florida, Texas, and Louisiana, they oversee a much smaller  
4 percentage of the offloads, and so that lends itself to -- You  
5 know that Fish and Wildlife is only going to come around to your  
6 area once every month or once every two months, and you kind of  
7 have better odds to play fast and loose, if you wanted to.

8  
9 **CHAIRMAN GUYAS:** Dale.

10  
11 **MR. DIAZ:** I have struggled with this for a while, and I've been  
12 back and forth on it, and General Spraggins and Leann make me  
13 think about it. I share Leann's concern about not wanting to  
14 catch, and I believe the word you used was an honest fisherman  
15 inadvertently, and I share the concern, and I don't want  
16 somebody that is bad at estimating to get a ticket, but, also,  
17 Patrick tells me that all the states have some issues with this  
18 and some concerns about it, and those honest fishermen -- The  
19 people that circumvent this rule and happen to sell those fish  
20 without charging them against their quota, they are stealing  
21 from those honest fishermen and taking money right out of their  
22 pockets.

23  
24 On one hand, we want to protect them, and, on the other hand, I  
25 don't want to see them get caught inadvertently, if they're bad  
26 at estimating weights, and so that's kind of my thought process  
27 here. I am kind of stuck, and I don't want to make a bad rule,  
28 but I certainly would like to give law enforcement some tools to  
29 deal with the bad actors that are out there. Thank you.

30  
31 **CHAIRMAN GUYAS:** All right. Are there other questions?  
32 Patrick.

33  
34 **MR. BANKS:** Just a little bit of clarity on -- Without this  
35 change in rule, and if you know this is occurring, how do you go  
36 about fixing it? Do you set up some surveillance and some  
37 undercover type -- Maybe you shouldn't tell me your techniques.  
38 I'm sorry. I'm just trying to figure out whether -- It sounds  
39 like, to me, you are addressing it. I mean, I appreciate that  
40 more tools in the toolbox is better, but it sounds like the fact  
41 that you all are there and you all are catching these guys --  
42 You all are -- It sounds to me like you're addressing it, but  
43 that's not how you guys feel, and you feel like we need some  
44 more teeth in the law?

45  
46 **SERGEANT CARRON:** As far as addressing it, I think we've  
47 addressed the issue with the particular individual in  
48 Mississippi, but the greatest concern is coming from other

1 states. It's coming from some of the other Gulf states, and  
2 it's something that they would like to have this tool in the  
3 toolbox to address their issues. There is certainly law  
4 enforcement means. I mean, there's a lot of stuff available,  
5 but it's just dependent on a multitude of factors.

6  
7 **CHAIRMAN GUYAS:** Susan.

8  
9 **MS. BOGGS:** Something I'm unclear about is so, currently, in  
10 this situation, is there a fine that was assessed to this  
11 dealer/fisherman?

12  
13 **SERGEANT CARRON:** No, ma'am. The instance in Mississippi, he  
14 was not fined, because the pattern of behavior was there, but,  
15 every time we would show up, he would say, oh, it's a typo, or I  
16 entered the information into my VMS unit wrong, and it's  
17 supposed to be, instead of 500, it's supposed to be 1,500, or  
18 whatever the case may be, and so it kind of leaves us -- He's  
19 got the fish, and he submits the landing confirmation with the  
20 correct amount, and there is no violation, and so the only other  
21 way to address it with him, to stop the activity, was to be  
22 there every single time he came to the dock, and, at that point,  
23 we run into manpower and resource concerns.

24  
25 **MS. BOGGS:** I understand, by what the council is looking at --  
26 It seems like now it would come to fines, but you're kind of in  
27 the same situation. He could estimate his fish at 500 pounds,  
28 and hope that no one shows up, kind of like what he's doing now,  
29 and I don't see how this fixes the problem, other than now fines  
30 are being assessed.

31  
32 **CHAIRMAN GUYAS:** Doug.

33  
34 **MR. DOUG BOYD:** Thank you, Officer. A question on follow-up if  
35 you suspect something is happening, but you can't catch  
36 somebody. What is the cost in manpower and in dollars and time  
37 to do a sting operation or a follow-up operation like you talked  
38 about, where the product may be going through three states?

39  
40 **SERGEANT CARRON:** It could get pretty significant pretty  
41 quickly. It just depends on where it's at and if you're having  
42 to bring officers in from other areas, and, again, that's going  
43 to be specific to the individual states and how their  
44 enforcement programs are structured, but it certainly has the  
45 potential to get very costly, resources-wise, very quickly.

46  
47 The other thing is there is quite a few states that don't have  
48 the covert means immediately available. They don't have

1 unmarked trucks or plain-clothes officers that can immediately  
2 address anything or go set up surveillance. In certain states,  
3 they have to get prior approval, and there has to be written and  
4 authorized operational plans, and so it kind of turns into a  
5 drawn-out process.

6  
7 **CHAIRMAN GUYAS:** Roy.

8  
9 **DR. CRABTREE:** I would kind of like to hear NOAA Law  
10 Enforcement's perspective on this, Martha, and I wonder if we  
11 could ask Officer Harwell to come up and make a comment or two  
12 on their perspective.

13  
14 **CHAIRMAN GUYAS:** Sure.

15  
16 **MR. HARWELL:** Thank you, Dr. Crabtree. OLE really respects our  
17 JEA partners and their opinion. They believe there is a  
18 problem, and it possibly is. OLE is opposed to implementing a  
19 percentage requirement for them. It may not be the exact same  
20 example, but I investigated an example just like that out of  
21 Texas, and I went back and looked at the guy's previous twenty  
22 landings, where every single one of them he hailed that he had  
23 500 pounds, and his IFQ transaction was over 1,000 pounds, and,  
24 if he was cheating, why wouldn't he have just said, okay, I've  
25 got 500 pounds, and nobody is here, and I offloaded 500 pounds?

26  
27 In my area here, and, as I told you all earlier, it's the  
28 Mississippi/Alabama line to Perry, I've had two boats that I  
29 have caught underreporting, and all it was was one cooler with  
30 fifty-something fish that they were taking to a restaurant to  
31 sell instead of that, and we catch them with investigative work,  
32 and I really don't believe this is a huge problem, and I really  
33 don't want to see a lot of the honest fishermen get punished.

34  
35 Some of the boats have scales, and they weigh vats on fish on  
36 the boat and winch it down into their fish hold, and then  
37 there's other boats that are center consoles that can't hold up  
38 a fish. The ones in between, the captain is in the wheelhouse,  
39 and the crew is out there, and the crew says, hey, we brought in  
40 fifty head of red snapper, and he estimates based on the area  
41 that they're fishing and the amount of fish, and I just really  
42 don't want to see people punished for something that they're not  
43 already having a problem. If we have a bad apple in the batch,  
44 we can investigate that one bad apple and resolve this issue  
45 that way. I can answer any other questions too, if you all have  
46 any.

47  
48 **CHAIRMAN GUYAS:** All right. I am not seeing any other questions

1 at this point, but thank you, gentlemen. I guess, at this  
2 point, Ava, do you want to go back to that presentation, Action  
3 4?

4  
5 **PRESENTATION (CONTINUED)**  
6

7 **DR. LASSETER:** That would be good, yes. If we go back to the  
8 presentation, Action 4 starts on Slide 21, if that helps, just  
9 so we can take a look at the alternatives. Again, this is  
10 Action 4, accuracy of estimated weights in advance landing  
11 notifications.  
12

13 Your Alternative 1, always your no action, would mean to  
14 continue to not require accuracy in these estimated weights.  
15 Then you have two alternatives, Alternative 2 and 3, and they  
16 are very similar, except for the amounts, the specificity, of  
17 that accuracy. Alternative 2 would require that the estimated  
18 weight reported on these advance landing notifications be within  
19 10 percent of what is actually landed per share category, and  
20 Alternative 3 would require that that estimated weight be within  
21 20 percent of the actual landed weight.  
22

23 Then there is Options 2a or 3a that would apply to each one of  
24 those alternatives, and so whether you select Alternative 2 that  
25 would require that the estimated weights be within 10 percent of  
26 actual landed weight or Alternative 3, 20 percent, for both of  
27 those, that would only apply if the total weight onboard of that  
28 share category is more than 100 pounds for Option a or 500  
29 pounds for Option b, and that's because it can be very difficult  
30 to get within a 10 or 20 percent when you're talking about a  
31 small number of fish, a handful of fish even.  
32

33 Now, also, these alternatives were thrown out that the values  
34 were put in there kind of in -- They were come up with from  
35 discussion from the Law Enforcement Technical Committee, but, if  
36 the committee has some different idea on the scope of the range  
37 of alternatives that you want considered here, that would be  
38 good guidance as well for us. Thank you.  
39

40 **CHAIRMAN GUYAS:** All right. Is there any discussion on this  
41 action? Leann.  
42

43 **MS. BOSARGE:** I mean, I think you all know how I feel about this  
44 one. I am really worried that we're going to punish a lot of  
45 honest fishermen with fines that are not minimal fines, and  
46 that's why I asked for that presentation, so everybody could see  
47 that penalty matrix and really visualize that commercial fines  
48 are not penny-ante fines. They are real fines.

1  
2 I mean, the minimum fine is \$2,500, and I would guess that, more  
3 than likely, it's going to be in that Category B, negligent, and  
4 I don't see how it wouldn't fall in that category, based on the  
5 examples that I read, and that's a \$5,000 minimum fine for being  
6 off, for not estimating your weight right, and it's an  
7 estimation. Everything we do is based on estimation. We don't  
8 fine Clay when his estimations turn out to be off. I am just --  
9 Sorry, Clay.

10  
11 At first, I thought maybe we should get rid of the landings  
12 estimation altogether, you know, but I don't want to do that. I  
13 can see how law enforcement can utilize it to try and prioritize  
14 where they want to go and how long that might take and things  
15 like that, but I don't want to punish good fishermen, and you  
16 can see it in the numbers.

17  
18 You've got the data. 35 percent of the trips, all the trips,  
19 are off. They are off by more than 20 percent, and so we're  
20 going to possibly -- By the letter of the law, we could write  
21 them a ticket for 35 percent of all the IFQ trips that get  
22 landed, and those are good fishermen. You can't tell me that  
23 there's that many bad apples out there. I don't think so. It's  
24 too hard to fish in that IFQ system. You wear an ankle  
25 bracelet, just about, to fish in that system.

26  
27 You tell the government before you leave, and you've got a  
28 tracking device on your boat, and, boy, if you go anywhere  
29 you're not supposed to go, they can get you while sitting in an  
30 office, and they have called -- We have them on our boats for  
31 some of the stuff we do in the South Atlantic, and I have had  
32 them call me and say, hey, did you know Georges is closed right  
33 now, and I say, hey, we're not shrimping, and we're just  
34 transiting through there and trying to get somewhere else.

35  
36 That was nice, but that's what I'm saying. We are extremely  
37 monitored, and I think we're really accountable, and I want to  
38 catch the bad apples. I don't want them out there doing that  
39 stuff. You're right that that affects all of us, but I think  
40 maybe we need to pursue those people by other means.

41  
42 I think there are some other ways that we can catch them, and I  
43 want to get them, but I don't want to do it this way, and I hope  
44 my Mississippi law enforcement is not offended by that, because  
45 you do a good job, and you got that bad apple, and rightfully  
46 so. **I am going to make a motion that we move Action 4 to the**  
47 **Considered but Rejected category, if I can get a second.**  
48

1 **CHAIRMAN GUYAS:** Is that a second, Susan? It's seconded by  
2 Susan. We'll get that on the board, but, Patrick, I know you  
3 had your hand up. I don't know if your comments are now germane  
4 to this, but they probably are.

5  
6 **MR. BANKS:** I was going to talk about duck hunting, if that's  
7 okay with everybody. No. I am going to support this motion,  
8 but probably for a little bit different reason than what Leann  
9 just expressed. It sounds like it's a concern from some of the  
10 law enforcement, although I truly believe, based on what I heard  
11 from both of the law enforcement personnel, that they fully  
12 address this through very good investigative work, it sounds  
13 like to me.

14  
15 Will this be another tool? Probably so, but it sounds like to  
16 me that they do their job very well, and they investigate this  
17 issue, and they address it. I am going to speak in favor of the  
18 motion, because I don't believe that it fits our purpose and  
19 need at all to have it in this document.

20  
21 **CHAIRMAN GUYAS:** All right. Is there other discussion? Kevin.

22  
23 **MR. ANSON:** I am still the same as I was the last meeting when  
24 this motion came up. I am going to vote against it. I feel  
25 like it would be another tool for the enforcement to have in  
26 their proverbial toolbox, and no deference to Officer Harwell,  
27 but, for those instances that he said that, yes, the landing  
28 notification came at 500 pounds and then the report came in with  
29 1,000, who knows? It could have been 1,200, and they had the  
30 discretion to put in any number that they wanted to at that  
31 point, and so I just think that this is an opportunity.

32  
33 I mean, the IFQ program, granted, they are monitored, but they  
34 are monitored because they have a very exclusive privilege to  
35 access those fish, and those fish are very valuable, and so the  
36 opportunity and the desire, coupled with that high expense, or  
37 cost, and value could lead to things that would be an incentive  
38 for folks to skirt the system and such, and so I just think that  
39 20 percent is reasonable, and it could be 25 percent, for those  
40 34 percent of the trips that are not being reported accurately,  
41 and we might need a little bit more of a buffer, but, I mean,  
42 it's just a buffer. That's what it is. I mean, we have a  
43 buffer for management.

44  
45 Clay told me that he's right all the time, and so he wouldn't be  
46 over or underestimating, but we've got buffers in management  
47 already, and so this is just a buffer, and it's at a very small  
48 level, and it's at a trip level, and the fishermen -- They are



1 professionals, and I just think it's within their capacity that  
2 they can estimate their catch within a percentage, within a  
3 buffer.

4  
5 **CHAIRMAN GUYAS:** Greg.

6  
7 **DR. STUNZ:** I agree with Kevin, and I don't support the motion,  
8 Leann, primarily because my opinion is, when the law enforcement  
9 is asking for something, even if it's not every state, or even  
10 the federal enforcement, that we need to give them every tool or  
11 option that they need to enforce what they need to, but, in  
12 addition, just to add a different component to that, in that 30  
13 percent or whatever of trips that are off, they are, right now,  
14 not necessarily incentivized to be on, because there is no,  
15 obviously, enforcement, or we wouldn't be talking about this,  
16 and so I would suspect that, when they realize that, well, now  
17 the game is on a little bit and I need to be a little more  
18 accurate, that those would increase, in terms of the accuracy of  
19 what their landings would be.

20  
21 I don't put a whole lot of weight right now on that 30 percent,  
22 since they don't have to do it, but the short of it is that I  
23 don't support the motion, and I think we need to give these  
24 officers whatever they need to do their job.

25  
26 **CHAIRMAN GUYAS:** Doug, go ahead.

27  
28 **MR. BOYD:** Thank you, Madam Chairman. Just to put it in  
29 perspective, if you use a 3,000-pound trip, and you use a five-  
30 pound average, that's 600 fish, 600 physical fish. If you use a  
31 20 percent rule on that, that means that you can be off by 150  
32 fish out of 600, and that's quite a bit, in my opinion, and  
33 these guys are professionals, and they do this every day, and  
34 they know what their average fish is.

35  
36 They know, because they have orders, basically, from a lot of  
37 dealers about the size of the fish, and so that's what they're  
38 looking for, and they know what that fish weighs, and I think  
39 that they can extrapolate that out pretty easily, and so I would  
40 speak in opposition to this motion.

41  
42 **CHAIRMAN GUYAS:** Leann.

43  
44 **MS. BOSARGE:** Just to that point, it's not necessarily that  
45 they're off by that many fish, like they had that many fish come  
46 over the side and they miscounted them. Some of these guys  
47 measure by the box, right, and so you've got a box of fish that  
48 usually holds about 1,000 pounds of fish, and so what happens

1 is, if you don't catch them all at one time, you've got to ice  
2 the fish down. That box holds fish and ice, but, generally  
3 speaking, there will be about 1,000 pounds of fish when you fill  
4 that box up with fish and ice, but you catch a little here and a  
5 little there.

6  
7 If you've got a deckhand that over-ices something, and you're  
8 off, or under-ices something, and you're off, and so it's not  
9 that you miscounted every single fish. You are estimating by  
10 the box sometimes, and so you're estimating fish and ice and  
11 everything else, and I think that's kind of what frustrates me,  
12 is that we're going to put this in there, and I bet half of us  
13 have never even been on a commercial reef fish boat and seen how  
14 you actually have to estimate this stuff and see what goes into  
15 it.

16  
17 We just say, well, they ought to be able to do it, and we've got  
18 the numbers in front of us showing us that there is good  
19 fishermen that aren't doing it regularly, and they're missing  
20 the mark, and it must be a little more difficult than what we  
21 think.

22  
23 **CHAIRMAN GUYAS:** Patrick and then Roy.

24  
25 **MR. BANKS:** I just have a question, because I don't believe this  
26 action fits with our purpose and need, and I don't believe it  
27 should be in the document, but, if we were to have it somewhere  
28 else -- How would we address this issue if we didn't have this  
29 document available? Is there any other option?

30  
31 **DR. LASSETER:** I will speak to that, as far as the purpose and  
32 need. Similar to 36A, there was an action in 36A that law  
33 enforcement had requested, and so, more broadly, this amendment  
34 is about modifications to the commercial IFQ program. The other  
35 actions, what we're kind of trying to get purpose and need out  
36 of you for is because those are changes that you as a council,  
37 as a body, are wanting to make. The other action coming from  
38 law enforcement, that is the purpose that could be incorporated  
39 in the purpose and need, and so that's not an obstacle right  
40 now. The rationale is coming from the Law Enforcement Committee  
41 for that action, but it is up to you as a body whether or not  
42 you want to retain that action.

43  
44 **CHAIRMAN GUYAS:** Roy.

45  
46 **DR. CRABTREE:** I suspect, Doug, that this is more complicated  
47 than you might think at first blush, and say you're a grouper  
48 longline vessel that's out on a ten-day trip, and you catch some

1 red snapper somewhere along the way over a period of days, and  
2 you have moved around a good bit, and so the sizes aren't  
3 consistent, and now they're packed in the ice with mostly  
4 grouper, and I think you're going to require that they have to  
5 come in with their estimate of red snapper, their estimate of  
6 shallow-water grouper, their estimate of red grouper -- It's  
7 quite a few things, and I'm not sure that it doesn't get a lot  
8 more complicated in some cases in doing that.

9  
10 I do appreciate the advice from law enforcement, but we are  
11 hearing different things from our law enforcement advisors, and  
12 so I am going to respect what I am hearing from NOAA Office of  
13 Law Enforcement over all of this, that there are other ways to  
14 address this, and I'm going to support the motion.

15  
16 **CHAIRMAN GUYAS:** All right. We've got time maybe for one more  
17 comment. Otherwise, we're going to vote on this thing. Go  
18 ahead.

19  
20 **GENERAL SPRAGGINS:** In reference to -- One of my biggest  
21 problems is I don't see how -- I see what law enforcement is  
22 doing, and I appreciate you so much. I do. I appreciate  
23 everything you do and the way you do it, but, unless you get a  
24 bad apple, I'm not sure how we are really solving the problem,  
25 because the bad apple is going to keep doing it. If we don't  
26 catch him, he's going to keep doing it, or whatever, and I just  
27 don't understand.

28  
29 I mean, I am torn here pretty bad, and Paul is not helping me  
30 any over there, and the situation here of which way to go with  
31 this, but the point I'm getting at is I would really like to see  
32 a different option. I would like to see it raised up a little  
33 bit or something, and that's just my thoughts.

34  
35 **CHAIRMAN GUYAS:** All right, Ed. Make it quick.

36  
37 **MR. SWINDELL:** Thank you, Madam Chair. I just am sitting here  
38 as a commercial representative, and I'm wondering just how in  
39 the world do we manage this. I want the commercial people to be  
40 honest and for us to have a good handle on just what they're  
41 doing and what they're catching, and I'm certain that the  
42 majority of the commercial industry wants it that way, and we  
43 are -- On the other hand, we have regulations of two fish per  
44 person for the recreational side, and also for the headboat side  
45 and for the charter boat people, and I can't see just getting  
46 away totally from having a way for law enforcement -- Law  
47 enforcement are checking all these other people, but yet we're  
48 going to just do away with the total law enforcement effort of

1 helping us keep track on the commercial catch, which is a  
2 significant part of the resource being taken.

3  
4 I just -- Leann, I just don't know which way to go, and I really  
5 don't. I hear what Joe is saying, and he thinks there ought to  
6 be some way, and so I am just at a loss as to how to vote on the  
7 message right now, but I do think there needs to be some way  
8 that we can use law enforcement to help us keep track. I wish  
9 there was some way that dealers could be held responsible, but,  
10 then again, if you've got some bad apples that aren't going to  
11 dealers -- Maybe there are some dealer reporting that needs to  
12 be the main part of this picture, and the bad apples are still  
13 going to go and offload it somewhere else. Thank you.

14  
15 **CHAIRMAN GUYAS:** Okay. Roy.

16  
17 **DR. CRABTREE:** I'm sorry, but I just want to be clear, Ed, that  
18 the dealers are held accountable. The dealers do have to verify  
19 the catch report when it comes into the dock, and so, if someone  
20 is illegally selling fish, the dealer would have to be in  
21 cahoots with them, basically, and, if this motion passes, we  
22 aren't giving up anything. We are maintaining the current set  
23 of regulations that we've had in place for years, but the  
24 dealers are involved in the whole process.

25  
26 **CHAIRMAN GUYAS:** All right. It's time, people. We're going to  
27 do a show of hands, because clearly -- **All those in favor of**  
28 **this motion, please raise your hand; all those opposed, please**  
29 **raise your hand. The motion fails six to nine.** Dale, real  
30 quick.

31  
32 **MR. DIAZ:** I would like to make a motion to add a new  
33 **alternative and to make that alternative be a 25 percent.**

34  
35 **MR. ANSON:** I will second it.

36  
37 **CHAIRMAN GUYAS:** While that's going on the board, Dale, I assume  
38 it would still have the a and b underneath, right, kind of like  
39 structured the way the other ones are, with the poundages?

40  
41 **MR. DIAZ:** Yes.

42  
43 **CHAIRMAN GUYAS:** Okay.

44  
45 **MR. DIAZ:** I want to speak to something that is slightly off the  
46 motion while they're getting that straight, if that's okay with  
47 you, Madam Chair. I would like to see us clean this document  
48 up, and this might take another motion, but the main concern is

1 if people underreport, and so I would hate to see people get a  
2 violation if, for some reason or another, they were on the lower  
3 side of what they reported, and so I don't know if we could  
4 handle that, if it's agreeable through consensus, and just get  
5 staff to clean it up before we see the document again or if that  
6 requires a motion, but that is a concern of mine, and Leann's  
7 example made me think of that. I think it would be a better  
8 document if we only had it where they were penalized in the one  
9 direction.

10  
11 **CHAIRMAN GUYAS:** I am going to suggest, for now, that we  
12 dispense with the motion that's here, and maybe we need to think  
13 about how to move that forward. I don't know that we got a  
14 second. Did we get a second for that motion? Kevin. Okay.  
15 Thanks. Roy.

16  
17 **DR. CRABTREE:** Dale, I would be in support of this, but my  
18 preference would be, rather than just adding 25 percent in,  
19 would be to eliminate the 10 percent and add 20, 25, and 30  
20 percent as the alternatives. I think, based on what I have  
21 heard, 10 percent is simply too unrealistic and too burdensome  
22 on them. **I am not sure 25 is enough, but I would be receptive**  
23 **to the notion of only if it's an underreporting, but I wonder if**  
24 **you would be willing to consider taking 10 out and just going**  
25 **20, 25, and 30 percent as the alternatives.**

26  
27 **MR. DIAZ:** I would be receptive to that friendly amendment, if  
28 the seconder is amendable, and so I would accept that, Dr.  
29 Crabtree.

30  
31 **CHAIRMAN GUYAS:** Kevin is nodding yes, and so let's see if we  
32 can get that on the board. It's remove 10 percent, and then it  
33 was 20, 25, and 30, and is that what you said, Roy? Those would  
34 be the options for the alternatives? All right. While that is  
35 going on the board, John Sanchez.

36  
37 **MR. SANCHEZ:** I had thought of maybe some loftier percentages,  
38 but this works, and it's along the same line of thinking.

39  
40 **CHAIRMAN GUYAS:** Leann.

41  
42 **MS. BOSARGE:** I am kind of like John. I had hoped that we could  
43 make the percentages higher. Essentially, what we're seeing is  
44 the bad apple is going to put a very minimal number down and  
45 land three-times more than that, right, and so I want to get up  
46 there in those percentages where those bad apples are. When you  
47 go from 20 percent to 25 percent, if it's a bycatch species that  
48 you've got 500 pounds of, that you've been catching over a

1 several-day period, that gives you twenty-five pounds of wiggle  
2 room, when you go up by 5 percent. Do you see what I'm saying?

3  
4 That's where you see a lot of your stuff that's off, is in these  
5 smaller landings numbers, because, a lot of times, this is your  
6 bycatch species, and you're catching one fish here and one fish  
7 there, and they're all different weights, and you're throwing  
8 them in the box, and now you're counting fish and trying to keep  
9 up with how many of those fish you caught and not looking at a  
10 box of fish anymore and saying that's about 1,000 pounds.  
11 That's tough to do, and so I would like to see something a  
12 little bit higher than that 30 percent, Dale.

13  
14 Our bad apples are saying they've got 500 and landing 1,500, and  
15 that's three-times what they said. Our good fishermen are off -  
16 - 35 percent of them are off by more than 20 percent, but I bet  
17 they're not in the three-times category, and so I would still  
18 like to see those percentages get a little higher. I would like  
19 to see something get at least up to 50 percent.

20  
21 **CHAIRMAN GUYAS:** All right, and so we've mix-mastered this  
22 motion quite a bit, and so, at this point, I just want to read  
23 it, so that we're all on the same page and we know what we're  
24 doing. **The motion would be, in Action 4, to modify the**  
25 **alternatives to require that the estimated weight reported on**  
26 **advance landing notifications be within 20 percent, 25 percent,**  
27 **or 30 percent of actual landed weight per share category when**  
28 **the total weight onboard of that share category is more than**  
29 **Option a, 100 pounds, or Option b, 500 pounds.**

30  
31 I think the assumption in this is that the 10 percent goes away,  
32 Roy, since that was part of your request, and so this is where  
33 we are right now. Is there further discussion? Yes, sir.

34  
35 **GENERAL SPRAGGINS:** Since we've got three categories there,  
36 **would we want to add an Option c and make it maybe 750 pounds**  
37 **that we work of for that?**

38  
39 **CHAIRMAN GUYAS:** I am not seeing a lot of enthusiasm for that at  
40 this point, but maybe we're just thinking about it. Leann's  
41 hand is going up.

42  
43 **MS. BOSARGE:** I like it. I mean, if you start getting up to 750  
44 or so, maybe we can get out of some of these bycatch species.

45  
46 **CHAIRMAN GUYAS:** Bob.

47  
48 **DR. SHIPP:** Just a matter of cleaning it up. Since we've agreed

1 that we're not going to choose preferred alternatives now, let's  
2 leave it up to staff, because that really requires three  
3 alternatives there, the 20, 25, and 30, and, if we go to 750,  
4 that's going to require another motion, and so my suggestion is  
5 let the staff clean it up, and we've agreed not to go to  
6 preferred alternatives, and have it presented properly the next  
7 meeting.

8  
9 **CHAIRMAN GUYAS:** Roy.

10  
11 **DR. CRABTREE:** However you want to handle it procedurally, but I  
12 would be receptive to Joe's idea of including the 750 in there.

13  
14 **MR. DIAZ:** If that's a friendly amendment, suggestion, I'm okay  
15 with adding the 750 also, if the seconder agrees.

16  
17 **MR. ANSON:** I will agree.

18  
19 **CHAIRMAN GUYAS:** All right. Let's get it on the board, and so  
20 everything I said before, plus Option c of 750 pounds. Are we  
21 ready? I think we are. **Is there any opposition to this motion?**  
22 **Seeing none, the motion carries.** It is 12:03.

23  
24 **DR. FRAZER:** It's lunchtime, and so we will reconvene at 1:30.

25  
26 (Whereupon, the meeting recessed for lunch on June 4, 2019.)

27  
28 - - -

29  
30 June 4, 2019

31  
32 TUESDAY AFTERNOON SESSION

33  
34 - - -

35  
36 The Reef Fish Management Committee of the Gulf of Mexico Fishery  
37 Management Council reconvened at the Sandestin Golf and Beach  
38 Resort, Miramar Beach, Florida, Tuesday afternoon, June 4, 2019,  
39 and was called to order by Chairman Martha Guyas.

40  
41 **DR. FRAZER:** In order to keep us on schedule, we're going to go  
42 ahead and move away from 36B at this point, and I realize that  
43 there is action items in that document that we didn't have an  
44 opportunity to discuss. We did have a really good discussion on  
45 Action 1 and good discussion on Action Item 4 as well.

46  
47 I think Ava has prepared information to discuss Action Items 2  
48 and 3, but we're going to have to carry those over to the August

1 meeting, to be honest with you, to follow-up that discussion,  
2 because I don't feel good about moving into Full Council without  
3 having discussed either one of those actions in detail in  
4 committee, but we also need to keep on schedule, and we've got  
5 final action slated for the greater amberjack commercial trip  
6 limits, and so we're just going to go ahead and move into that  
7 particular topic, and so, Martha.

8  
9 **CHAIRMAN GUYAS:** All right. Thanks, and I will turn it over to  
10 Dr. Hollensead, who is going to lead us through this one.

11  
12 **FINAL ACTION: FRAMEWORK ACTION TO MODIFY GREATER AMBERJACK TRIP**  
13 **LIMITS**  
14

15 **DR. LISA HOLLENSEAD:** Thank you, Madam Chair. Just real quick  
16 background information to get everybody oriented, Gulf greater  
17 amberjack is a quota-managed fishery, and it operates on the  
18 calendar year, and so starting on January 1, and then the  
19 fishing season goes on through December 31, or until that quota  
20 is met, and, from what we've been hearing from stakeholders,  
21 there is interest in extending the season as far as possible  
22 using commercial trip limits, and so that's where we are with  
23 this framework.

24  
25 If you will recall, back in April, we had a very rough draft of  
26 this document, just Chapters 1 and 2, to present then. Then the  
27 council tasked staff with sort of four things, and I'm going to  
28 remind everybody what those four requests were and then mention  
29 how they've been incorporated into the document or what we've  
30 done to fulfill those requests.

31  
32 Number one was convene a meeting of the Reef Fish AP, and so  
33 that was done on May 9, and the summary is in your briefing  
34 book, and I will touch on that briefly. The next was to add  
35 some information about west Florida commercial landings  
36 specifically into the document, and that was added in Figure  
37 2.1.1. Also, we were asked to put in -- A motion was passed  
38 that we put language into the document making Alternative 4 the  
39 preferred alternative, and that was for the 500-pound trip  
40 limit, and so that language is now in the document, as well as  
41 the addition of another alternative, which would be an  
42 additional step-down, and so what you would have is you would  
43 have a commercial trip limit starting on January 1. Then, when  
44 75 percent of the ACT is projected to be met, you would then  
45 step down to a 250-pound commercial trip limit, and so that's  
46 where we're at.

47  
48 Also, in April, there was some discussion of perhaps if this new



1 commercial trip limit could be implemented by January 1, 2020.  
2 In doing so, final action would have to be taken at this  
3 meeting. Thanks to the hard work of the folks at the IPT, this  
4 document, codified text, the public comment summaries and those  
5 things are now available for you all for this meeting, and so,  
6 should the council decide to take final action, that avenue is  
7 now open for you to do so.

8  
9 With that, I'm just going to start with sort of the general  
10 feedback that we got on the document from both the public and  
11 the Reef Fish AP, and so, Madam Chair, if it's okay with you,  
12 I'm going to hand it over to Emily to give us a summary from  
13 public comment.

14  
15 **CHAIRMAN GUYAS:** Sounds great.

16  
17 **PUBLIC COMMENTS SUMMARY**

18  
19 **MS. EMILY MUEHLSTEIN:** Okay. Thank you, guys. We received six  
20 comments on this document, and, when we initially summarized  
21 them for the briefing book, you will notice we had only had two  
22 comments at that time, and, since then, we have received an  
23 additional four comments.

24  
25 Basically, what we heard was some support for the no action  
26 alternative, and some of the rationale provided for that support  
27 for no action was because dual permit holders that are in the  
28 Panhandle of Florida often target amberjack in the winter  
29 months, and reducing the trip limit would be economically  
30 harmful for those folks. We also heard from dealers that  
31 anything less than 1,500 pounds makes it sort of inconsequential  
32 and might lower the price of amberjack. Then we also heard  
33 support for decreasing the trip limit to 500 pounds, in order to  
34 extend the season for commercial harvest, and that's it.

35  
36 **REEF FISH ADVISORY PANEL SUMMARY**

37  
38 **DR. HOLLENSHAD:** Thank you, Emily. Bernie, if you wouldn't mind  
39 pulling up, just really quickly, the Reef Fish AP summary, Tab  
40 E-7(b). There is one thing that I want to highlight. Like I  
41 said, it's in your briefing book. In the interest of time, I'm  
42 not going to go through it in detail, but I do want to point out  
43 to you that a motion was made for your consideration by the AP,  
44 and so, Bernie, if you wouldn't mind just scrolling down to that  
45 first bolded text that is on the top of the second page. Thank  
46 you.

47  
48 There is the motion, and you can see it. What they had

1 recommended was a 500-pound trip limit and then an alternative  
2 to then reduce down to 250 pounds when 75 percent of the ACT was  
3 met. However, if there is any point in the year that the season  
4 is not extended throughout the calendar year, that, in the next  
5 year, you would have that step-down again, but it would be for  
6 50 percent of the ACT, rather than 75, if that makes sense to  
7 everyone, and that was sort of a proposed motion by the Reef  
8 Fish AP.

9  
10 **CHAIRMAN GUYAS:** Roy.

11  
12 **DR. CRABTREE:** If that circumstance occurred and we then went to  
13 the 50 percent, or to the 250 pounds, would we stay at 250  
14 pounds in future years, or would that be just a one-year thing  
15 and then it goes back?

16  
17 **DR. HOLLENSEAD:** That is not really made clear in that motion.

18  
19 **CHAIRMAN GUYAS:** I've got Dale and then Sue.

20  
21 **MR. DIAZ:** I don't have it in front of me, but what -- Where I  
22 thought we were at is that the trip limit is 500 pounds, was the  
23 preferred, and then, when we reach 75 percent, we drop it back  
24 to 250 pounds. Now, that's for that year. The next year, it  
25 would start all over again, is my perception of where we're at  
26 with the document, and I don't have it in front of me reading it  
27 right now, but that's where I thought we were at.

28  
29 **DR. HOLLENSEAD:** Yes, and so the intent would be for -- I'm  
30 sorry. I misunderstood. It would be to stay at 500 on January  
31 1, and then you would have that step-down at 50 percent of the  
32 ACT.

33  
34 **DR. CRABTREE:** I guess my question is so then would the step-  
35 down occur at 50 percent for all subsequent years, or would it  
36 be one year at 50 percent and then you go back to the 75 percent  
37 the next year?

38  
39 **CHAIRMAN GUYAS:** Sue, I saw your hand. I don't think anybody  
40 can answer that around this table, because none of us are on the  
41 AP.

42  
43 **MS. GERHART:** I was going to say what Roy just said.

44  
45 **CHAIRMAN GUYAS:** Okay. Well, we have this motion.

46  
47 **DR. HOLLENSEAD:** Yes, certainly, and it was just mostly my  
48 intent to bring it to your attention, that that was what had

1 come out, as it was requested by the council to have the Reef  
2 Fish AP meet, and this was the outcome of that meeting, and so I  
3 just wanted to bring it to everyone's attention.

4  
5 **CHAIRMAN GUYAS:** Dale.

6  
7 **MR. DIAZ:** At the last meeting, I made the motion that is the  
8 current preferred, and I mostly made that motion because, in  
9 public comments, there were several commercial fishermen in the  
10 audience that made public comments that that was basically what  
11 they were proposing. However, we've had the AP meet, and  
12 they've made this suggestion, and I actually think this is a  
13 good addition to the current preferred.

14  
15 Being as they did not specify whether it stays at 50 percent in  
16 subsequent years or not, I guess we would have to make that  
17 decision now, if we want to go final, and so my question would  
18 be, if we modified the current preferred to do what the AP is  
19 asking us to do, is the analysis in the document sufficient  
20 where we could still go final at this meeting?

21  
22 **CHAIRMAN GUYAS:** Mara.

23  
24 **MS. LEVY:** Well, I think the problem is going to be that there's  
25 a number of like projections in there about how these  
26 alternatives work together, and so how the step-down would work  
27 and when and what that would get you in terms of a season. We  
28 don't have the analysis about this going down to 50 percent  
29 piece, and so I don't know that you would be able to take final  
30 action today. It's not something that is contemplated in there  
31 right now, and so we haven't done any analysis about its  
32 effects, and so I think you would need to wait until the next  
33 meeting.

34  
35 **CHAIRMAN GUYAS:** I've got Patrick, and then I've got Roy.

36  
37 **MR. BANKS:** As I read this, and I as I understand the discussion  
38 that happened, the only reason we would stay at 50 percent is if  
39 the season were to close before making it the entire year, and  
40 so that is not it would automatically stay at 50 percent in  
41 subsequent years. It would only stay at 50 percent if, each of  
42 those years, the season closed early.

43  
44 **CHAIRMAN GUYAS:** Roy.

45  
46 **DR. CRABTREE:** Okay. Well, that's fine, but I do see problems  
47 with it. Let's say, for example, we got to -- What's the  
48 fishing year? Is it August now, or for commercial it's still --

1 What if we got to November 15 and we hit 50 percent of the  
2 quota, fishing was slow or whatever, and there is no way that  
3 they're even going to catch the quota? Then we would go to 250,  
4 drop the trip limit in half, even though there would be no  
5 apparent reason to, and that's one of the problems with these  
6 step-downs, if there's not a time component to it. You could  
7 actually end up having to do a step-down when it was unlikely  
8 that you were going to face a closure at all, and so I think  
9 that's something you ought to think about.

10  
11 **CHAIRMAN GUYAS:** Kind of the other side of that is remember a  
12 few years ago, with red grouper for recreational, we had the bag  
13 limit that would drop following a year where we hit the ACT or  
14 something, but then -- It would drop down the following year for  
15 a year, but then it would bounce right back up the following  
16 year, or the year subsequent to that, and it was very confusing,  
17 and I felt like it added a lot of uncertainty into that fishery.  
18 We ended up abandoning that whole accountability measure  
19 altogether because it was kind of a mess, for those who were on  
20 the council at that time. Any other questions on this? Leann.

21  
22 **MS. BOSARGE:** I was just going to look at this Figure 2.1.1, and  
23 I'm trying to figure out exactly out to read it. I think what I  
24 need to focus on is -- The blue bars are Gulf-wide, and so we're  
25 talking about going down to a 500-pound limit. About 40 percent  
26 of the trips are landing in that one to 250-pound range, and  
27 about another 10 percent are landing in that 250 to 500-pound  
28 range, and so approximately 50 percent of the trips are landing  
29 500 pounds or less.

30  
31 That tells me that the other 50 percent of the trips are landing  
32 more than 500 pounds, and I see a pretty nice sized blue bar in  
33 that 1,000 to 1,500, and that looks like -- If you add that blue  
34 bar, that 1,000 to 1,500 bar, and the 1,500 to 2,000 blue bar,  
35 that's about 30 percent, probably, that are landing over 1,000  
36 pounds a trip, and so I guess I just -- I mean, I know the point  
37 is to extend the season throughout the year, to make it a  
38 bycatch fishery, essentially, but I am a little concerned that -  
39 - I see some trips that are probably more directed amberjack  
40 trips.

41  
42 If you assume that a lot of those are day boats -- In  
43 Mississippi, we've got a lot of boats that go out in the morning  
44 and come back in the evenings, and that's a directed amberjack  
45 trip right there, and I talked to some of them, and they said,  
46 well, you know, lately, it has been mainly bycatch, but, yes, we  
47 do make directed amberjack trips, and we would need 1,000  
48 pounds, minimum, to do a directed amberjack trip. If you change

1 it to 500, it's not going to be worth our while.

2  
3 Then, when I go to this Table 1.1.3, I thought, well, okay, but  
4 Mississippi is a little place, and we've just got a handful of  
5 fishermen, and maybe I've got to think about this Gulf-wide, and  
6 there went all my paperwork on the floor. All right.

7  
8 In 2017 though, if you look at that Mississippi and Alabama  
9 column, we landed almost a quarter of the commercial amberjack,  
10 in Mississippi and Alabama, and I assume that's probably  
11 aggregated, because we only have a handful of fishermen, and so  
12 they aggregated us with Alabama, but, anyhow, I guess I have  
13 some hesitation about going all the way to 500.

14  
15 Yes, I want to make sure that we reduce bycatch, but I think  
16 anything that we do under the current level will reduce some  
17 bycatch, because it's going to extend the season some, but I  
18 also don't want to get in a situation where -- Most of our guys  
19 in Mississippi, they don't own red snapper quota. They are  
20 leasing, and so they have to fish for a little bit of  
21 everything. They can't depend on just red snapper.

22  
23 They will lease some red snapper and fish that, but they're also  
24 going to go catch mullet, and so they're making some directed  
25 amberjack trips too, and I just want to be cognizant of that and  
26 maybe have a discussion about if the council would be okay with  
27 a 1,000-pound limit on this. I'm just throwing it out there for  
28 discussion, to see what you think.

29  
30 **CHAIRMAN GUYAS:** All right, and so I think we're ready to move  
31 into the document, it sounds like, and so I'm going to let. Dr.  
32 Hollensead queue up that action and some of the tables and stuff  
33 that I know she wants to show us, and that will probably be  
34 helpful towards the discussion of whatever preferred alternative  
35 we land on here.

#### 36 37 **REVIEW OF DOCUMENT**

38  
39 **DR. HOLLENSEAD:** Thank you, Madam Chair. Bernie, would it be  
40 possible to go to the top of Chapter 2, where we've got the  
41 alternatives, and I just want to show the committee what we've  
42 changed since last time.

43  
44 As you can see, here is the list of the alternatives. There is  
45 now language in there for the preferred, Number 4, which is the  
46 establish a commercial trip limit for greater amberjack of 500  
47 pounds, and that's what happened last time, but I also just want  
48 to direct your attention to Alternative 6, and so that was the

1 requested additional alternative, which is reduce the commercial  
2 trip limit for greater amberjack to 250 pounds when 75 percent  
3 of the ACT is projected to be met, and then you will notice that  
4 italicized language underneath that, and so this says the Gulf  
5 Council may choose any one of these alternatives, and so 1  
6 through 4, in conjunction with Alternative 6, and so what you  
7 would do is you would say we prefer, for January 1, that this  
8 would be the start of the trip limit, and then we would have  
9 that step-down in conjunction with Number 6.

10  
11 If I'm understanding this correct, Mara, you would make, for  
12 example, the Preferred Number 4 in conjunction with Number 6,  
13 and that's how you would go about doing that, and so you have  
14 some options there. When we did the analysis, we, of course,  
15 wanted to see projection scenarios for the duration of the  
16 fishing season that were all those combinations, and so that's  
17 what you will see as you go through the document and look at the  
18 tables, if that's clear as mud to everybody.

19  
20 Then, Bernie, if you wouldn't mind scrolling down, and Ms.  
21 Bosarge had mentioned Figure 2.1.1, and she interpreted  
22 everything correctly that she said with that, and that's  
23 exactly, actually, what I was going to highlight in that figure  
24 as well as to show that we do see that west Florida is sort of  
25 driving the bus here, and it seems to be sort of the underlying  
26 driver for what we're seeing Gulf-wide, and so that's been  
27 highlighted there, and then, yes, to recognize that about 50  
28 percent of the trips are less than 500 pounds, but there is  
29 certainly a number of trips that do hit that minimum that we  
30 have right now of 1,500 pounds, but this is sort of a narrow  
31 focus.

32  
33 We're just looking at trips from 2016 to 2018. In this case,  
34 we've pulled out west Florida, because we were just interested  
35 in seeing that, and so, if we want to pull our scope out a  
36 little bit broader and just think about the Gulf, just in terms  
37 of just to inform your decision, if we scroll down to the next  
38 figure, and so 2.1.2.

39  
40 What this figure is going to show is that, in that gray, shaded  
41 area, that's the maximum pounds per trip that have been observed  
42 since 2000, and then the blue and red lines indicate the  
43 commercial trip limit that has been implemented, but what's  
44 interesting is that line at the bottom, that little black line,  
45 is the average pounds per trip since 2000, and so before there  
46 was a commercial trip limit and then since, and there is no real  
47 trend in that value Gulf-wide, and so just looking at it from a  
48 broad scale.

1  
2 Like I said, when you look at this figure, it seems like that  
3 pounds per trip has remained generally constant since 2000, and  
4 so just to throw that out there and just highlight that for the  
5 committee to consider in their discussions. If we continue on  
6 down, specifically sort of the meat and potatoes of the document  
7 -- I'm sorry. There is questions.

8  
9 **CHAIRMAN GUYAS:** Leann.

10  
11 **MS. BOSARGE:** Sorry. My question is on this figure, and so,  
12 before you leave it, I was going to ask it. In that 2013, or  
13 2012 or something, that you see that huge drop, did we also have  
14 a big quota reduction right around that time? I mean, that's a  
15 pretty big drop, and surely that was more than just us putting a  
16 trip limit in. Was there also a big quota reduction that went  
17 in place because of the stock assessment or something?

18  
19 **CHAIRMAN GUYAS:** Dr. Froeschke.

20  
21 **DR. FROESCHKE:** I would have to check that, but, on this trip,  
22 the big reduction, that should be interpreted as the trip limit  
23 reduction, because this isn't an indication of the total harvest  
24 from that sector in the year. This just shows the -- The way I  
25 interpret this figure is, prior to the implementation, you can  
26 see there are at least some individuals that were targeting  
27 amberjack through directed trips.

28  
29 After that, that behavior is changed, and that really just shows  
30 you what the trip limit does, and so it has worked, but, in  
31 terms of the quota, we have made small reductions, and so, just  
32 stepping back through time, and I forget the year, but, in  
33 Amendment 35, we set the ACL based on -- They had a stock  
34 assessment, but the management projections were not reliable,  
35 and so we used the Tier 3 ACL, and I believe it was 1.78 million  
36 pounds, and so 27 percent of that would be commercial.

37  
38 We did a stock assessment in 2015-ish, and I believe we lowered  
39 that to 1.72 million pounds for the stock, and 27 percent,  
40 again, would be commercial, but I would have to go back further  
41 to see what it was before that, but I don't think it was greatly  
42 different than that just prior to the Amendment 35.

43  
44 **CHAIRMAN GUYAS:** Leann.

45  
46 **MS. BOSARGE:** John, a follow-up to that. Before we put in that  
47 2,000-pound trip limit, whatever year that is, how long was the  
48 season before that? Was it miniscule?

1  
2 **DR. FROESCHKE:** I would have to check, but, I mean, this was the  
3 problem that we were trying to fix, is that the commercial guys  
4 were closing very early in the season, and we were trying to  
5 extend it out, and so we did the 2,000 pounds, and then that,  
6 presumably, did extend it, but not enough, and so we did 1,500,  
7 and that extended it, but not enough, and so here we are.

8  
9 **CHAIRMAN GUYAS:** Leann, if you look at the document, on page 2,  
10 it's got a list of closure dates for the fishery. Table 1.1.3  
11 has totals as well.

12  
13 **DR. FRAZER:** I just had a quick question. I want to go back to  
14 that Table 1.1.3 that Leann was talking about earlier. When you  
15 look at the time series for each of the states, it's interesting  
16 to me over that, kind of seventeen or eighteen-year period of  
17 record, that Florida is clearly -- It kind of has a downward  
18 trend. Texas arguably has a downward trend as well, and  
19 Louisiana is stable, but something is happening in Mississippi  
20 and Alabama, and so is that an effort shift? I mean, what's  
21 going on there? Do you have any insight, John?

22  
23 **DR. FROESCHKE:** No, I don't, and, I mean, they may be catching  
24 them somewhere else and just the place where they're landing  
25 them has perhaps changed through time as well. It may not be  
26 indicative of where they're catching them.

27  
28 **DR. FRAZER:** Okay. Thanks.

29  
30 **DR. HOLLENSEAD:** We can certainly answer any more questions as  
31 we go through, but, just to kind of move through the document a  
32 little bit further, Bernie, if you wouldn't mind going to Table  
33 2.1.3.

34  
35 This table is going to have the predicted or estimated closure  
36 dates with the various alternatives. Like I said, if you  
37 recall, that other alternative for a step-down, we did analysis  
38 for that in every combination, and so Alternative 1 with  
39 Alternative 6, and so starting with the 1,500 and then moving  
40 down to a 75 percent ACT step-down, and so we've got -- That  
41 second column would be the predicted date of that 75 percent ACT  
42 harvest, and so you can see that there.

43  
44 Then the next column is the estimated closure dates for each one  
45 of those alternatives or alternative combinations, so that you  
46 can see that there for your review. Alternative 5 and the  
47 Preferred Alternative 4, in conjunction with Alternative 6, are  
48 there two alternatives that would extend the season throughout



1 the calendar year, and then the percent of the ACT that is  
2 predicted to be harvested in that time period is there in  
3 parentheses, and that's really just what I wanted to highlight  
4 about the document, and so, if anybody has any questions about  
5 any part of the document, I'm happy to answer those questions.

6  
7 **CHAIRMAN GUYAS:** Leann.

8  
9 **MS. BOSARGE:** I guess I'm leaning more towards, I guess, a  
10 compromise, and so I was really leaning towards Alternative 2,  
11 but I guess a compromise between our preferred alternative,  
12 which is 500 pounds, which gets you out to October, and gets you  
13 203 days, and what I was hoping for, which only gets you 109  
14 days, would maybe be Alternative 6.

15  
16 That still allows you to have -- That's the 1,000 pounds, and so  
17 you can have some directed trips, right, and it looks like  
18 they've been able to make these directed trips. I am looking at  
19 the closure date for the last couple of years, and it's been  
20 July and June, and there was one April closure date, but 2019 is  
21 June again, and so, if they've been able to make those directed  
22 trips in those months before, they would presumably be able to  
23 do that again, but, around June, you would have hit your 75  
24 percent, and then you will drop down to that lower rate, that  
25 250, and that will let you have a bycatch fishery all the way  
26 out to September 20, and so that's 170 days, and that's getting  
27 a lot closer to our preferred alternative of 203. That would be  
28 my compromise.

29  
30 I would hope that maybe we could do Alternative 6. People that  
31 it's a bycatch fishery for still can do a bycatch fishery, and,  
32 instead of them only being able to have a bycatch fishery until  
33 June, they will have a bycatch fishery all the way through  
34 September 20, and that's better than they had before, but it  
35 still allows those guys that are doing some directed trips to  
36 make a living doing a directed trip here or there, when they  
37 need to supplement for other things.

38  
39 **CHAIRMAN GUYAS:** Leann, I think what you're talking about is  
40 actually Alternative 2 and Alternative 6, having a 1,000 pound  
41 plus the step-down, but I just wanted to put that out there, in  
42 case you were teeing-up a motion.

43  
44 **MS. BOSARGE:** Thank you. I am just looking at the board, and it  
45 says Alternative 6, but, yes. What I'm talking about is the  
46 1,000-pound limit, until 75 percent of the ACT is harvested, and  
47 then it will step down to 250, which is a bycatch-only fishery  
48 for sure, and that will get you all the way out to September 20,

1 and it's 170 days, but I would like to hear some discussion on  
2 it before I throw a motion out.

3  
4 **CHAIRMAN GUYAS:** Dale.

5  
6 **MR. DIAZ:** I'm considering what you're saying, Leann. Before  
7 you started talking, I was trying to get to the point where we  
8 could try to target to limit dead discards in this fishery  
9 throughout the year, because this fishery is in trouble. I was  
10 more leaning towards doing the 500 pounds with the step-down,  
11 which would be Alternative 6, which is on the board. Anyway, I  
12 am debating what you just said, but that's in the back of my  
13 mind, is I wanted to try to have 365 days where we could have an  
14 option to not have dead discards. Thank you.

15  
16 **CHAIRMAN GUYAS:** Don't forget this fishery is closed March 1 to  
17 May 31, and that doesn't change here.

18  
19 **DR. HOLLENSEAD:** Yes, and this takes into account that fixed  
20 closure.

21  
22 **CHAIRMAN GUYAS:** Kevin.

23  
24 **MR. ANSON:** Leann, I'm just wondering -- I realize the graph  
25 that shows the breakdown of trips by their landings, and there  
26 was a significant number of trips that are in that 1,000 to  
27 1,500 pounds, and so I'm just wondering. Now that -- I mean,  
28 will there be some effort shifting, or will there be some  
29 changes in trips, where they might focus a little bit more?

30  
31 It's hard to tell, and so I'm kind of like Dale. Maybe I was  
32 thinking a little bit less, and maybe we'll hear some public  
33 testimony on it and some folks that do target them or know about  
34 the fishery can comment on what impact that might have or if  
35 that will even come to be, but that's all. I was just thinking  
36 a little bit lower, maybe, and just, again, trying to keep more  
37 of a discard fishery and help spread that out.

38  
39 **CHAIRMAN GUYAS:** All right. I'm getting the sense that we're  
40 kind of done talking about this right now and maybe we want to  
41 hear some more public testimony from people, and we'll bring  
42 this back at Full Council and decide where to go from there and  
43 finalize this, if that's where we want to go. Is there anybody  
44 else who wants to speak about this before we move on? Okay.

45  
46 That will then take us to the Draft Framework Action to Modify  
47 the Recreational For-Hire Red Snapper Annual Catch Target  
48 Buffer.

1  
2 **DRAFT FRAMEWORK ACTION TO MODIFY THE RECREATIONAL FOR-HIRE RED**  
3 **SNAPPER ANNUAL CATCH TARGET BUFFER**  
4

5 **MR. RINDONE:** Thank you, Madam Chair. You guys previously  
6 decreased the buffer between the annual catch target and the  
7 annual catch limit for the for-hire component for red snapper to  
8 9 percent from 20 percent for the 2019 fishing season only in a  
9 previous framework action, and that's in effect now, and you had  
10 set that up such that it would sunset at the end of the 2019  
11 fishing season, and then you expressed interest in reducing that  
12 buffer on a more permanent level for the for-hire component, and  
13 that is what is reflected in this document, and so, if we go to  
14 the purpose and need, it pretty much says that.

15  
16 The purpose of this action is to reduce the buffer between the  
17 federal for-hire component ACL and ACT for red snapper to a  
18 level that will allow a greater harvest, while continuing to  
19 constrain landings to the component ACL as well as the total  
20 recreational ACL. The need is to allow the for-hire component  
21 harvest of red snapper at a level consistent with achieving  
22 optimum yield while preventing overfishing and rebuilding the  
23 stock.

24  
25 If we just glance real quick at some of these tables, so you  
26 guys get an idea of where things stand for -- We'll go to Table  
27 1.1.1, and so this shows the federal recreational landings and  
28 quotas, and landings are in pounds whole weight, and so you can  
29 see how things have shaken out through 2018, and the 2019  
30 fishing season, obviously, is quite young right now, and so we  
31 don't have that represented in the document, but, generally  
32 speaking, the for-hire component has been under its ACL for the  
33 last several years that there has been sector separation in  
34 place.

35  
36 If we go to Table 1.1.2, you can see that the season projections  
37 for the season duration for the federal for-hire component have  
38 increased since 2015, which is the first time that there were  
39 separate components for the recreational sector, and, from here,  
40 if there's no questions on any of that, we can move down on into  
41 the action and alternatives.

42  
43 We just have this one action here, and that's to modify the red  
44 snapper recreational for-hire component's annual catch target,  
45 and no action would leave it where it is, which there is the  
46 annual catch target is 9 percent below the annual catch limit  
47 for 2019. In 2020 and in subsequent years, it will go back to  
48 20 percent, and that's our current situation.

1  
2 Alternative 2 would repeat what we did in the previous framework  
3 action and set it at 9 percent, except that there would be no  
4 sunset on that. It would just be changed to 9 percent, based on  
5 the data from 2014 to 2017, and then Alternative 3 would again  
6 apply the council's ACL/ACT control rule, just like Alternative  
7 2, except it would use the most recent four years, 2015 to 2018,  
8 which results in a 5 percent buffer between the ACT and the ACL.  
9

10 If we can pull up the control rule spreadsheet, you guys are  
11 probably wondering why there is a difference between 2014 to  
12 2017 and 2015 to 2018, and, primarily, this difference comes  
13 from the uncertainty that is presumed in landings and because of  
14 separating the landings apart by component in 2015. For that  
15 entire 2015 to 2018 time series, we had separate monitoring for  
16 the for-hire component and for the private recreational  
17 component, and the for-hire component's landings are thought to  
18 be known with a higher degree of certainty. Because of that  
19 increased precision, the control rule gives us a reduced buffer.  
20

21 You guys still have the option of what you requested when you  
22 requested the document, which was just to fix it at 9 percent,  
23 or, if you wanted to apply it in the same way as it was applied  
24 before, you can see how that is set up in front of you. Any  
25 questions?

26  
27 **CHAIRMAN GUYAS:** Mara.  
28

29 **MS. LEVY:** I don't know that this is going to change the control  
30 rule, but the numbers that are in the document for preliminary  
31 2018 landings are lower than what Sue presented, because she had  
32 more recent landings, and so I don't know if that's going to  
33 affect anything, but I would just like to make sure that, when  
34 we're looking at the most recent landings and considering the  
35 options here, that we're realizing that the 2018 landings -- We  
36 did exceed the ACT by 9 percent, right, and so we've been under,  
37 we've been very close, and now we have started to inch over the  
38 ACT, and so, when we're looking at 9 percent or 5 percent, I  
39 just want us to be aware of the most recent numbers and also  
40 that we're not looking at this in a vacuum, even though we kind  
41 of are, but we do have the private rec side, which still has  
42 some unknowns, right, and so we're going with this state  
43 management thing, but they are linked, such that we need to stay  
44 under the total ACL for the rec, and so, even though it's not  
45 presented in this document, I think we need to remember that  
46 those two components are still linked by a common total annual  
47 catch limit.  
48

1 **CHAIRMAN GUYAS:** I am going to go to Ryan and then Dale.

2  
3 **MR. RINDONE:** To Mara's point, the blue box that's on the  
4 control rule spreadsheet, if we bring that back up, the blue box  
5 is where we talk about the ability to constrain catch within the  
6 control rule, and the values there are essentially zero or one,  
7 and then there's an augmentation for if the year with the max  
8 overage is a considerable overage, but this is based on the  
9 annual catch limit, which, for the federal for-hire component,  
10 has not been exceeded in the last four years, and so, even  
11 though the annual catch target was exceeded in 2018, the annual  
12 catch limit for that component was not, which is why a value of  
13 zero was put in for that part of the control rule. Does that  
14 make sense to everybody?

15  
16 **CHAIRMAN GUYAS:** Dale.

17  
18 **MR. DIAZ:** I don't have a question, but I wanted to make a  
19 comment. The question though, Ryan, is could your exercise have  
20 been done using 2014 through 2018, five years, instead of four  
21 years?

22  
23 **MR. RINDONE:** We can use whatever time series you would like,  
24 but the way that the rule is currently designed is to look at  
25 the last four years, because the presumption being that the  
26 performance of the fishery within the recent time series should  
27 be reflective of what should happen in the subsequent year, and  
28 so, the further back in time you go, the more you include about  
29 regulatory variability and other changes, whereas the last four  
30 years should reflect the recent current regulatory environment  
31 and the effort environment.

32  
33 **MR. DIAZ:** I have thought about a lot of the things that Ms.  
34 Levy brought up, and I would like to throw out a motion for a  
35 preferred alternative, so we could get some feedback at public  
36 comment and without having to restate all the things that Ms.  
37 Levy just said. **I am going to make a motion to make Alternative**  
38 **2 the preferred alternative.**

39  
40 **CHAIRMAN GUYAS:** All right. While that's going on the board, is  
41 there a second for this motion? Don't all jump up at once.  
42 It's seconded by Patrick. We have a motion on the board to make  
43 Alternative 2 the preferred. Let's have some discussion about  
44 this. You have already kind of put your rationale out there,  
45 but did you want to say anything more?

46  
47 **MR. DIAZ:** Sure, and one of the reasons I'm picking Alternative  
48 2, and I know it's a little bit more conservative, but their

1 numbers did edge up this year, and I feel strongly that letting  
2 them go back to 20 percent would not be fair to the charter  
3 fleet, and I think at least letting them maintain status quo is  
4 a decent compromise. I think 2018 landings are not 100 percent  
5 finalized yet too, and so I'm a little bit reluctant to choose  
6 Alternative 3, for that reason. Thank you.

7  
8 **CHAIRMAN GUYAS:** Doug.

9  
10 **MR. BOYD:** Thank you, Madam Chairman. Just for clarification on  
11 this motion, could we put the action on there also, just to make  
12 sure that I'm reading the right one?

13  
14 **CHAIRMAN GUYAS:** Yes, and this is Action 1.

15  
16 **MR. BOYD:** Thank you.

17  
18 **CHAIRMAN GUYAS:** Yes. Patrick.

19  
20 **MR. BANKS:** I seconded the motion because I agree with Dale. I  
21 am a little bit concerned over what Mara mentioned, but I feel  
22 like that sector should be rewarded in some fashion for staying  
23 under their -- Or at least the management scenario should be  
24 rewarded for staying under the ACL, and I think that, by leaving  
25 it this way, it allows NMFS to set a longer season for that  
26 component, and that's ultimately what we're going to see happen,  
27 without them going over the ACL, and so I would agree with Dale  
28 on this.

29  
30 **CHAIRMAN GUYAS:** All right. Is there any more discussion on  
31 this? **Is there any opposition to this motion? Seeing none, the**  
32 **motion carries.** This is our only action in this document, and  
33 this is supposed to be final at the next meeting, and is that  
34 where we're at?

35  
36 **MR. RINDONE:** That's the plan.

37  
38 **CHAIRMAN GUYAS:** Okay. Cool. Thanks, Ryan. All right. Next  
39 up is gray snapper. I can't find my agenda, and so I don't know  
40 who that is, but come on up. It's John.

41  
42 **PUBLIC HEARING DRAFT AMENDMENT 51: ESTABLISH GRAY SNAPPER STATUS**  
43 **DETERMINATION CRITERIA, REFERENCE POINTS, AND MODIFY ANNUAL**  
44 **CATCH LIMITS**

45  
46 **DR. FROESCHKE:** Good afternoon, everyone. This is Tab B, Number  
47 9, if you want to pull that up. The plan today is I'm going to  
48 update you on what we've done since the last meeting, the last

1 time we looked at this document, I guess, and hopefully you guys  
2 can pick some preferreds, and we can get this teed-up to take  
3 final action at the next meeting.

4  
5 This document we've been working on for a while, and it's five  
6 actions, four of which are defining or modifying status  
7 determination criteria, and then the Action 5 will be modifying  
8 the ACLs, et cetera, based on the results of the stock  
9 assessment that we got last year that we've been working through  
10 this process for a while.

11  
12 That's the short story, and you've seen this document a few  
13 times. If you will bring up Action 1, Bernie, I am just going  
14 to start here, and we talked about this. Action 1 is the  
15 maximum sustainable yield proxy for the Gulf gray snapper, and  
16 this is one of the SDC criteria that is not defined for gray  
17 snapper, and so we need to do that. We have a range of  
18 alternatives.

19  
20 In previous iterations of this document, we had both 30 percent  
21 and 40 percent SPR, and you all discussed that red snapper is  
22 set at 26 percent, and then there is some literature produced  
23 from the Science Center that suggested that perhaps a lower  
24 minimum might be appropriate and requested some analysis and  
25 review from the SSC, which was done, and so they reviewed the  
26 MSY proxy at F 26 percent SPR, and, essentially, their advice  
27 was that they reviewed the analysis for this, and they felt that  
28 the methods and things were adequate, and this is a reasonable  
29 MSY proxy for the species. However, their preference was for  
30 the F 30 percent SPR. They did acknowledge that this was within  
31 the council's purview to make that recommendation.

32  
33 Just hold that thought for a moment. What we've done throughout  
34 the Action 2, which is the maximum fishing mortality threshold,  
35 and it's very logical that these values would correspond to the  
36 MSY proxy values, and so, for example, Alternative 2 in Action 2  
37 now has this MFMT equal to F 26 percent SPR.

38  
39 Action 5, and I'm just going to skip, and we can come back to  
40 this, but it essentially has alternatives to establish the ACLs,  
41 and we were able to update the catch projections from 2019  
42 through 2021 based on this 26 percent SPR proxy, and so we can  
43 take a look at those, and so it kind of depends on how you want  
44 to do this, whether you want to start with the landings and work  
45 backwards to the SDC, which is probably not quite correct, but  
46 you might want to do that, or, if you want to go through and try  
47 to pick some preferreds on the proxies.

1 **CHAIRMAN GUYAS:** Does anybody have a preference for how we move  
2 through this?

3  
4 **DR. FROESCHKE:** Let's go to Action 5, and let's start with the  
5 end. This action, again, would modify the overfishing limit,  
6 the ABC, the ACL, and we currently have an ACT, although we  
7 don't have that in the action alternatives at this time.

8  
9 Just for your information, Alternative 1, these numbers -- The  
10 OFL is currently 2.8 million pounds, and the ABC and ACL are  
11 2.42 million pounds, and this was set using the Tier 3a control  
12 rule in the generic amendment, which essentially takes the 1999  
13 through 2008 landings, and then it's calculated off of the mean  
14 plus standard 1.5 and two standard deviations, and that's how  
15 those values were set, and that's what we have today.

16  
17 We have three alternatives, each with options, but Alternatives  
18 2, 3, and 4, the key things -- One, none of them have an ACT,  
19 and the reason is that, currently, the ACT that we have on the  
20 books -- There are no accountability measures associated with  
21 this ACT, and so, in practice, it really doesn't accomplish  
22 things, other than just add another level of management, and so  
23 we have included that to this point.

24  
25 The other thing you will notice in each of the alternatives is  
26 there are two options, and Option a would set the ACL equal to  
27 the ABC in all cases, and, with Option b, we would apply the  
28 control rule, which we just kind of talked through. In this  
29 case, that would result in an 11 percent buffer between the ABC  
30 and the ACL for each of the alternatives, and so the ACL would  
31 be reduced from the ABC.

32  
33 That is sort of worth thinking about, since, if you look at all  
34 of the options, the OFL and the ABC are very tightly coupled,  
35 and so there really isn't a margin for leeway. Historically, we  
36 have been pretty close to the ACL/ABC, and so, if that were to  
37 continue, which seems likely, we may run into situations where  
38 we would be very close to the OFL and the resulting actions that  
39 would be required if we didn't have an ACL buffer.

40  
41 That being said, the difference between Alternatives 2, 3, and  
42 4, those noted, are based on the MSY proxy, and so Alternative 2  
43 is based off the F 26 percent SPR proxy, Alternative 3 is on the  
44 30 percent SPR proxy, and Alternative 4 is on the 40 percent.  
45 In general, the lower the SPR proxy, the higher the retained  
46 yields can be, and so, not surprisingly, and you have to compare  
47 option to option, and so, in 2a, the landings are the highest  
48 and then 3a and then 4a. 2a is the only one of all of these



1 that's actually a little bit higher than the current ACL that we  
2 have now, the 2.42 million pounds.

3  
4 The last little bit of information is the Alternatives 3 and 4,  
5 there is modest increases, very modest increases, each year in  
6 the projections, whereas, in Alternative 2, there is very, very  
7 modest declines in that, and that's just based on where we think  
8 the stock is, and so, essentially, we would be fishing down just  
9 a very tiny bit under Alternative 2 at the lower MSY proxy.

10  
11 Kind of how we were thinking about that is, if you wanted to  
12 sort of maximize the yields, but maintain a buffer, you could  
13 sort of go with the lower MSY proxy and the ACL buffer, some  
14 combinations of those, and so I wanted to open the floor to  
15 discussion for this. Then I thought, once we kind of had some  
16 feedback on this, selecting the MSY proxies might be a little  
17 bit more informed.

18  
19 **CHAIRMAN GUYAS:** All right. Kevin.

20  
21 **MR. ANSON:** Dr. Froeschke, remind me -- You mentioned a time  
22 series of 1998 to 2008 for the landings that were used for the  
23 proxy, and is that correct? Why that old data?

24  
25 **DR. FROESCHKE:** I think it's 1999 through 2008, and I think it's  
26 actually a typo in the document, and so this was based on the  
27 Generic ACL/ACT Amendment we did in 2011-ish, and the rationale  
28 for that is we tried to select a recent time series of at least  
29 ten years that we thought were fairly stable in landings.

30  
31 At the time, we went through all of these data-poor stocks one-  
32 by-one at the SSC meetings, and they kind of picked around and  
33 found time series that were as long as they could get it where  
34 they thought that the data were somewhat reliable and there  
35 weren't major trends, if you will, though we never really  
36 defined what that meant, in the data. Some of the groupers and  
37 things, if you got too far back, there were species  
38 identification issues or other changes, but this is what the SSC  
39 ultimately selected for gray snapper at that time.

40  
41 **MR. ANSON:** Just something for us to consider for the future, as  
42 we go forward with calibrations with the recreational data, is  
43 it might be something that we want to have the SSC look at again  
44 and see which time series looks the most attractive and best for  
45 each species.

46  
47 **CHAIRMAN GUYAS:** Yes, I was thinking the same thing. John, can  
48 you remind us -- What is the accountability measure for this

1 fishery? I am kind of wondering, with some of these options, if  
2 we would be bumping up against the quota, and I'm wondering if  
3 we close in-season or post-season.

4  
5 **DR. FROESCHKE:** Right now, the accountability measure is, if you  
6 exceed the ACL, then we would do in-season monitoring the  
7 following year, and then we would close the season if we were  
8 projected to be met, and this one is a little bit tricky,  
9 because of the data calibrations and things. In an earlier  
10 draft, we had thought that we had exceeded the ACL at least once  
11 since we had done this.

12  
13 At some point in this draft progression, the data has been  
14 updated, and they made some underlying changes to the data, and  
15 so, if you look at Table 1.1.1, you will see the total landings  
16 again, and so everything is below the 2.42 million pounds,  
17 although, in 2014 and 2016, we got pretty danged close.

18  
19 **CHAIRMAN GUYAS:** Okay. Is there other discussion on this  
20 action? Remember that we sort of need to think about preferred  
21 alternatives here, because we're about ready to take this out  
22 for public hearing. Kevin, I can see you're wanting to put your  
23 hand up, I think.

24  
25 **MR. ANSON:** If staff can scroll down a little bit, please, to  
26 Alternative 3 and the options under Alternative 3. We had some  
27 discussion, I think, at the last meeting, and I can't remember  
28 if it was physically the last meeting or the one before, where  
29 we were talking about this particular amendment, and we had some  
30 discussion about the FMSY and proxy, SPR proxy, and I am reading  
31 here the summarized SSC comments.

32  
33 I would probably go along with what they recommended, and that's  
34 a 30 percent SPR, based on the uncertainty of the assessment and  
35 just a lot of unknowns out there and some questions about the  
36 data and such and where those fish are caught. I guess, for the  
37 sake of moving the document along -- Well, do we need to go back  
38 to Action 1? Would that be better? Now that we've kind of  
39 looked at this, should we go back and address Action 1?

40  
41 **CHAIRMAN GUYAS:** Yes, we probably should, because that's going  
42 to set this whole thing up, and so hold that thought. Would you  
43 like to talk about Action 1, and then we'll call on Kevin.

44  
45 **DR. FROESCHKE:** Action 1, again, this is the maximum sustainable  
46 yield proxy, and we currently don't have a defined value for  
47 this. We're using a proxy, because there is not a defined  
48 stock-recruitment relationship for this, based on the

1 assessment, which is typical of our species that we manage in  
2 the Gulf.

3  
4 We looked at three alternatives of 26 percent, 30, and 40, 40  
5 being more on the conservative end, if you will, and there is  
6 some literature out there to support that that we cite all the  
7 time. 26 percent, we've kind of talked about, and that's more  
8 of the aggressive end. 30 percent is a fairly middle-of-the-  
9 road -- It's pretty typical of reef fish species in the  
10 Southeast Region, and so let's start there, and then we'll  
11 circle back to Alternative 5.

12  
13 **CHAIRMAN GUYAS:** Kevin.

14  
15 **MR. ANSON:** Just, again, to expound upon what I said earlier,  
16 the SSC recommended 30 percent SPR, and that's what I would like  
17 to do, is make a motion that, in Action 1, Alternative 3 be the  
18 preferred alternative.

19  
20 **CHAIRMAN GUYAS:** All right. Is there a second for this motion,  
21 while it's going on the board? Seconded by Mr. Swindell. All  
22 right. We've got our motion that, in Action 1, to make  
23 Alternative 3 the preferred, and that's the 30 percent proxy.  
24 Any discussion on this? Roy.

25  
26 **DR. CRABTREE:** A question. John, if we choose 30 percent, and  
27 then the MFMT is F 30 percent, then we're overfishing, and is  
28 that correct?

29  
30 **DR. FROESCHKE:** I believe so. Let me check. Yes, I believe  
31 that's correct, and it should be, because, in Action 5, the  
32 yields are increasing through time.

33  
34 **DR. CRABTREE:** Again I guess the only question is why would you  
35 choose to set it more conservatively than you've done with red  
36 snapper?

37  
38 **CHAIRMAN GUYAS:** Bob.

39  
40 **DR. SHIPP:** I would like to follow-up on that. I think, for  
41 this species, we have an issue of credibility. Most of the  
42 population in the Gulf considers gray snapper almost like  
43 pinfish, and the idea that we're going to start putting  
44 restrictions on a species like this just adds to the populous  
45 having less and less credibility and trust in the council and  
46 what we do, and so I would go with the least conservative  
47 options at this point, in which case it would be the 26 percent  
48 SPR, and so I will speak against my colleague's motion.

1  
2 **CHAIRMAN GUYAS:** Patrick.

3  
4 **MR. BANKS:** I tend to agree in going against this motion, simply  
5 because I think what we're seeing is a result of some very  
6 stringent red snapper seasons, and I think that's why the data  
7 is showing that we've had a problem, and I just think, going  
8 forward, you're going to see less and less of an issue with gray  
9 snapper, now that we're getting a little bit better with our red  
10 snapper seasons and people just aren't having to target gray  
11 snapper as much anymore, and so I would tend to stick with the  
12 26 percent as well and not the 30.

13  
14 **CHAIRMAN GUYAS:** Dr. Shipp.

15  
16 **DR. SHIPP:** In lieu of this, I would offer a substitute motion  
17 that Action 1, Alternative 2 be the preferred alternative.

18  
19 **CHAIRMAN GUYAS:** All right. Can I get a second for that? It's  
20 seconded by Patrick. We'll get that substitute on the board.  
21 Any discussion on the substitute motion? John.

22  
23 **MR. SANCHEZ:** I speak in support of that, and I think we had  
24 ample discussion on this before, and I think we can even go down  
25 as low as 24 percent, and so I think 26 percent is a happy place  
26 between the 24 and 30.

27  
28 **CHAIRMAN GUYAS:** We have talked about this a lot in this  
29 assessment and some of the issues they had, and is there  
30 anything else on this motion? Okay. **Is there any opposition to**  
31 **this motion? Seeing none, the motion carries.** I guess that  
32 takes us to Action 2.

33  
34 **DR. FROESCHKE:** Well, almost. Alternative 5 -- If you recall, I  
35 said I would circle back to this, and so what this is, it's an  
36 alternative that we've discussed in the past, but, essentially,  
37 the intent is that, in a future gray snapper assessment, if the  
38 SSC reviewed the assessment and found that a different MSY proxy  
39 was scientifically more appropriate, this would give -- If we  
40 selected this as a preferred in addition to the one that we just  
41 did or the others, that it would give the council the ability to  
42 change the MSY proxy without an amendment, but it would allow  
43 the council to do that, but it would not require the council to  
44 do that.

45  
46 On page 8, in the bottom, there is some text that kind of  
47 describes this, but, essentially, it would allow us to change  
48 the MSY proxy through a streamlined process, and we could note

1 it in a plan amendment, but it wouldn't require us to bring you  
2 back a document with a range of alternatives that sort of, by  
3 definition, were not the scientifically best information that we  
4 have, and so you could select that as preferred in addition to  
5 Alternative 2 that you just did, if you were open to that.

6  
7 **CHAIRMAN GUYAS:** Leann.

8  
9 **MS. BOSARGE:** I will make that motion. I think that sounds like  
10 an efficient and wise move, and so I would move that we also  
11 choose, in Action 1, Alternative 5 as a preferred alternative.

12  
13 **CHAIRMAN GUYAS:** All right. Is there a second for this motion?  
14 It's seconded by Dale. Is there discussion on this motion?  
15 Roy.

16  
17 **DR. CRABTREE:** Given that the SSC expressed I think it was a  
18 preference for 30 percent here, and we have chosen 26 percent,  
19 if we choose Alternative 5, and we get some future assessment  
20 and another preference by the SSC for 30, yet we want to stay at  
21 26 percent, and the Center feels that's defensible, what would  
22 happen then? Would we have to do something to keep it at 26, or  
23 would we just be able to say we don't agree and we're not going  
24 to change it?

25  
26 **DR. FROESCHKE:** My interpretation is that you could do nothing,  
27 and it would remain exactly as it is, and this was solely -- It  
28 would solely give the council discretion to change it if they  
29 chose, but not require any action on their part.

30  
31 **DR. CRABTREE:** All right, and so it would probably be good if it  
32 was clear about that, explicit in the text, and maybe it is and  
33 I just haven't read it, John.

34  
35 **DR. FROESCHKE:** On page 8, at the bottom under this, there is a  
36 sentence in there, and it's the third sentence, and it says this  
37 alternative would allow, but not require, the council to adopt  
38 the SSC recommendation for a new MSY proxy by noting the change  
39 in a plan amendment, rather than analyzing the recommendation,  
40 and so --

41  
42 **DR. CRABTREE:** Okay. I think that covers it.

43  
44 **CHAIRMAN GUYAS:** All right. Mr. Swindell.

45  
46 **MR. SWINDELL:** I agree, because, if you look further up at the  
47 page, right above the Alternative 1, in the last sentence, the  
48 paragraph says that, ultimately, the SSC recognized that 26

1 percent SPR is scientifically acceptable as a proxy for MSY.  
2 They maintained their previous recommendation of the more risk-  
3 averse proxy using 30 percent, and so I think the SSC is still  
4 fine with the 26 percent. Thank you.

5  
6 **CHAIRMAN GUYAS:** Kevin.

7  
8 **MR. ANSON:** I'm curious if this has passed the IPT, and Mara  
9 hasn't said anything, but does this kind of side-step any NEPA  
10 requirements, without doing any analysis or any alternatives for  
11 any of this and just inserting it into the plan amendment  
12 without really doing any of that?

13  
14 **MS. LEVY:** I think the justification for it is it's a scientific  
15 determination, really. I mean, to the extent that you want to  
16 accept new scientific advice and put that into the plan  
17 amendment, then it obviates the need to sort of go through this  
18 alternative discussion, and you've analyzed it here, and you've  
19 said, from now on, we're just going to take the advice of the  
20 SSC, if we feel like it's appropriate, and insert that MSY proxy  
21 in there. I think that's probably okay.

22  
23 I think, to the extent they come up with a new recommendation  
24 and you don't want to do it, we're at least going to have to  
25 have some sort of discussion and documentation about why, but I  
26 think, if you did want to adopt it, you would be okay just  
27 adopting it, based on the recommendation from the science body.

28  
29 **CHAIRMAN GUYAS:** Okay. Any more discussion on this? Our motion  
30 right now is to add Alternative 5 as a preferred in Action 1.  
31 **Is there any opposition to this motion? Seeing none, the motion**  
32 **carries.** Now we can move on to Action 2.

33  
34 **DR. FROESCHKE:** Okay. Action 2 addresses the maximum fishing  
35 mortality threshold, and it's a little bit unusual, but this is  
36 the only SDC criterion that we do have an accepted definition  
37 for, and this was defined in the Generic Sustainable Fisheries  
38 Act Amendment in 1999. In that amendment, there were also other  
39 SDC criterion, for example MSY proxy, that were established, but  
40 they were rejected because they weren't biomass-based estimates,  
41 and so that's why, but this one was allowed to be implemented.

42  
43 We have three alternatives, and they correspond to the  
44 alternatives in Action 1, and so the current no action is the 30  
45 percent SPR, Alternative 2 is 26 percent, and Alternative 3 is  
46 40 percent. Essentially, this is the maximum fishing mortality  
47 that you can have without overfishing, and it makes a lot of  
48 sense that it would correspond to the MSY proxy.

1  
2 **CHAIRMAN GUYAS:** Bob.

3  
4 **DR. SHIPP:** I move that Alternative 2 be the preferred  
5 alternative.

6  
7 **CHAIRMAN GUYAS:** It's seconded by John Sanchez. Let's get that  
8 on the board. We've got it on the board now. In Action 2, to  
9 make Alternative 2 the preferred, and that's the MFMT is equal  
10 to F 26 percent SPR, and this corresponds to what we did in  
11 Action 1, but is there any other discussion or rationale for  
12 this from anybody? Leann.

13  
14 **MS. BOSARGE:** Just a question. Did we get any guidance from the  
15 SSC on this? Did we already talk about that? Did they have any  
16 recommendations on this one?

17  
18 **DR. FROESCHKE:** I think their advice was -- Go ahead, Clay.

19  
20 **DR. PORCH:** I would just say it wouldn't make any sense to have  
21 an alternative here that doesn't match the alternative in the  
22 first action. In fact, they shouldn't have even been two  
23 separate actions. I mean, one depends on the other in the  
24 calculation.

25  
26 **CHAIRMAN GUYAS:** Well, there you have it.

27  
28 **DR. FROESCHKE:** Their guidance, as he indicated, was sort of all  
29 wrapped into a single bow.

30  
31 **CHAIRMAN GUYAS:** All right. Is there any opposition to this  
32 motion? Seeing none, the motion carries.

33  
34 **DR. FROESCHKE:** Action 3 is establish a minimum stock size  
35 threshold for gray snapper, and so just a bit of background  
36 here. Obviously, the biomass that you would want would be the  
37 biomass to support MSY, and so, in terms of management, that's  
38 what we're aiming for. However, for a multitude of factors,  
39 there is variance about that from fishing, natural variability,  
40 our ability to precisely estimate where the biomass is, and so,  
41 if the minimum stock size threshold was at MSY, every time you  
42 had some minor perturbation, you would be doing rebuilding  
43 plans, and so that doesn't make a lot of sense.

44  
45 The way that we have done these in the past, in several  
46 documents, is to allow the biomass to fall some specified amount  
47 below the biomass at MSY without declaring an overfished status  
48 and requiring a rebuilding plan, and so, thinking about it, the

1 closer that threshold is to MSY, you are likely to -- It's  
2 easier to rebuild, if necessary, because you're already fairly  
3 close. However, you may have some false positives, where you're  
4 doing all the work of rebuilding plans for perhaps no reason,  
5 and it may have solved itself faster than we could do our  
6 process.

7  
8 There are three alternatives, sort of following the guidance of  
9 how we've done things before, and Alternative 2 is sort of how  
10 we've done it for stocks sort of prior to the recent past, and  
11 that would be using the natural mortality, in this case a 0.15,  
12 and we would set the threshold at one minus M, and so 85 percent  
13 of the value at MSY, and so that would essentially leave you a  
14 15 percent buffer on the low side.

15  
16 Sort of an intermediate value would just be a straight 75  
17 percent of BMSY scalar, and that's Alternative 3, or a 50  
18 percent BMSY would be Alternative 4. We have already selected  
19 Alternative 4 as a preferred, and this is similar to what we've  
20 done with other stocks recently, like Reef Fish Amendment 44,  
21 and so this gives us a fairly large buffer to allow for these  
22 fluctuations without having to do rebuilding plans, and so, if  
23 there's no discussion, you've got a preferred already.

24  
25 **CHAIRMAN GUYAS:** Okay. Any interest in additional discussions  
26 on this action? If not, I think we can sail on to the next one,  
27 since we already made a decision here.

28  
29 **DR. FROESCHKE:** Okay. Action 4 is to establish optimum yield,  
30 and this is the final SDC requirement that we have for this  
31 stock, and this is another one that we have selected a preferred  
32 the last time we reviewed the document, and we selected  
33 Preferred Option 2c to set optimum yield at 90 percent of FMSY,  
34 or the FMSY proxy.

35  
36 The OY is a long-term yield that essentially is lower than the  
37 MSY value and should account for some relevant economic, social,  
38 and ecological factors, and the discussion last time you talked  
39 about that is understanding that objective, but your desire to  
40 be fairly aggressive with this, thinking that it's a fairly  
41 resilient stock, and it has some life history traits that are  
42 likely to support resilience in fishing and things like that.

43  
44 **CHAIRMAN GUYAS:** All right. Any discussion on this one? As  
45 with the last action, we already have a preferred, and so --  
46 Okay.

47  
48 **DR. FROESCHKE:** Then let's go back to Action 5. Again, Action



1 5, the Alternatives 2, 3, and 4 are the action alternatives, and  
2 the alternative that would correspond to Actions 1 and 2 that  
3 you selected, the alternatives in that, would be Alternative 2,  
4 and so, again, there are two options.

5  
6 Option 2a would essentially set the ACL equal to the ABC, which  
7 is not too far from the OFL, and Option 2b would set an 11  
8 percent buffer between the ACL and the ABC, which would -- If  
9 you look across, there is tables in there, and that gives you  
10 some buffer or margin of error between the ACL and the OFL for  
11 this stock. Again, the stock has -- We've basically been  
12 catching the ACL in recent years, and that seems unlikely to  
13 change, going forward, and I will stop there.

14  
15 **CHAIRMAN GUYAS:** Okay. We do need to choose a preferred on this  
16 one. As John mentioned, Alternative 2, those set of options,  
17 would correspond with what we've done with past actions in this  
18 document, but, however, we do need to choose a or b for the  
19 option, regardless of -- Assuming we move forward with  
20 Alternative 2, and so thoughts on all of that? Bob.

21  
22 **DR. SHIPP:** If you want a motion, I will move that Alternative 2  
23 be the preferred alternative.

24  
25 **CHAIRMAN GUYAS:** You have got to choose a sub-option to go with  
26 it, if you want ABC to equal ACL or you want to have the buffer  
27 between ABC and ACL.

28  
29 **DR. SHIPP:** I don't have an opinion on that. I haven't thought  
30 about it.

31  
32 **CHAIRMAN GUYAS:** Okay. Let's talk about that a little bit, I  
33 guess, because we're going to need to make a decision. The OFL  
34 and ABC are really close, and the ACL -- It looks like, if we  
35 chose Option 2a, that looks like it's largely above what's been  
36 caught historically for this fishery, right? If we chose Option  
37 b, there's a couple of years where landings have been greater  
38 than the ACL here, and is Table 1.1.1 the new MRIP-calibrated  
39 data, or is that old MRIP, or is that something else?

40  
41 **DR. FROESCHKE:** You had to make it complicated.

42  
43 **CHAIRMAN GUYAS:** Sorry.

44  
45 **DR. FROESCHKE:** Table 1.1.1 is the assessment values which were  
46 done in MRIP calibrated backwards into MRFSS units. The  
47 original generic ACL/ACT were set in MRFSS units, and so that's  
48 what the quota is. These values in the action before you are in

1 the MRIP and not the FES units, but the MRIP APAIS, and so it  
2 comes out the same units, and so there is the difference between  
3 the MRFSS and the MRIP. In this case, in this stock, it wasn't  
4 a large difference, but there is a little bit of a difference in  
5 there, less than 10 percent.

6  
7 **DR. SHIPP:** I would go with 2a. I would add that to my motion.

8  
9 **CHAIRMAN GUYAS:** All right. Let's get that motion on the board.  
10 John is going to second it. That would be for the preferred to  
11 be Alternative 2, Option 2a. It looks like we've got that on  
12 the board now. Roy.

13  
14 **DR. CRABTREE:** The only thing I would raise is, when you look at  
15 this, the buffer between the OFL and the ABC is really small,  
16 right? In 2019, it's a 2.59-million-pound OFL and a 2.52-  
17 million-pound ABC, and so, somewhere where they do the P\*  
18 analysis, I don't think it's picking up how much uncertainty  
19 there is, because this is a pretty uncertain assessment, right,  
20 and we've talked about that.

21  
22 The worry I have with setting the ACL equal to the ABC is we're  
23 pretty close to overfishing there, and I think you can do that  
24 if that's where you want to go, but it's cutting it pretty thin,  
25 and I think, and Clay can comment on it, but I think, if you  
26 really had a -- I think the problem here is the P\* is not  
27 capturing the extent of the uncertainty, and so it leaves you  
28 with an unrealistically small buffer there, and that is some  
29 risk.

30  
31 **CHAIRMAN GUYAS:** Clay.

32  
33 **DR. PORCH:** I think we do need to revisit the ABC control rule,  
34 but the bottom line is the variance, and it's not the P\* itself,  
35 but it's the variance that we estimate from the assessment is  
36 almost certainly an underestimate, and so there are some ways to  
37 impose a minimum variance, based on a series of historical  
38 analyses, but that's just a technical way to deal with the fact  
39 that, in the assessments now, we underestimate that uncertainty,  
40 and, therefore, we have too small of a buffer, and so we are  
41 working on trying to fix that and have a more realistic buffer,  
42 although it may require us to revisit that ABC control rule.  
43 Certainly the way it's written now doesn't accommodate the best  
44 way to handle that uncertainty.

45  
46 **CHAIRMAN GUYAS:** I have got Tom and then John.

47  
48 **DR. FRAZER:** To that point, I guess, or to several points that

1 were raised, when the SSC was discussing this, part of the  
2 reason that they went to the 30 percent SPR is they recognized  
3 that that uncertainty surrounding that 26 percent -- There was  
4 some false confidence there, and then I think people should look  
5 around a little bit, and I'm not opposed to what preferreds were  
6 picked, but, by going to that less conservative SPR of 26  
7 percent and carrying a very liberal approach, I guess, through  
8 Actions 2 through 5, you essentially allowed no buffer, or very  
9 little buffer, all through the process, and it's a choice that  
10 we make, but I just wanted everybody to realize the consequences  
11 of choosing all those preferreds that way.

12  
13 **MR. SANCHEZ:** I agree with the comments that Clay made, and I  
14 support this preferred as picked, with 2a. The control rule is  
15 eight years old, and, I mean, this fishery right now is in a  
16 rebuilding mode, and so I don't --

17  
18 **DR. FROESCHKE:** Just as an FYI, we do agree that we need to work  
19 on the control rule, and it's on the agenda for the July SSC  
20 meeting, and so we do plan to take a look at that and see where  
21 some improvements can be made and bring it back to you guys.

22  
23 **DR. CRABTREE:** To the extent we push this now and set the catch  
24 limits as high as we can, if we do revisit the control rule and  
25 revisit the variance estimate, we could end up making reductions  
26 down the road, and so we could be doing something that feels  
27 good now, but it could come back to bite us a little bit down  
28 the road.

29  
30 **CHAIRMAN GUYAS:** Leann.

31  
32 **MS. BOSARGE:** I am kind of cognizant of the amount of risk that  
33 we took on in all the other actions before this, and I think  
34 though that part of our rationale for being more liberal was  
35 that there is a lot of uncertainty in this assessment, and we  
36 kind of feel like there may be more fish out there than what the  
37 assessment is showing, and I think, in this case, that is why we  
38 were more liberal.

39  
40 Now, having said that, I don't usually like to be more liberal,  
41 and so I think I would be okay with this, and the whole point  
42 was to get more pounds out there for the fishermen, because we  
43 feel like the fish are really there, but I would be much more  
44 comfortable supporting this in Action 5, to not have an ACT, if  
45 we were to go back and revisit Action 3, where we established  
46 the MSST and we set that at the maximum allowable by the law,  
47 which is 50 percent of BMSY, and if we looked at maybe doing 75  
48 percent of BMSY on that one.

1  
2 That would mean that, yes, we'll set these catch limits pretty  
3 much as high as we can, but, if we overshoot them, and we fish  
4 this thing real hard, we won't fish it as far down before we  
5 say, you know what, that's too far and it's overfished. We'll  
6 have a little bit more conservative estimate of what is  
7 overfished, but it still won't be overfished right now, even if  
8 we change it, and so I'm going to vote in favor of this, hoping  
9 that, when we finish this and dispense with this motion, we'll  
10 go back and look at Action 3.

11  
12 **CHAIRMAN GUYAS:** Just to clarify something you said, Leann.  
13 None of the alternatives here would add an ACT. We're talking  
14 about the buffer between the ACL and the ABC. That's what the  
15 two options would do, just to make sure you're --

16  
17 **MS. BOSARGE:** Sorry. This is going to set ABC equal to ACL, or  
18 ACL equal to ABC. There is no buffer, yes.

19  
20 **CHAIRMAN GUYAS:** Roy.

21  
22 **DR. CRABTREE:** Well, I think Leann is talking about one path of  
23 looking at this, but it seems to me that more of my concern here  
24 has to do with risk of overfishing and not the overfished issue.  
25 That doesn't bother me. In this case, I'm a little more worried  
26 just about the fact that we're pretty sure that distance between  
27 the ABC and the OFL is underestimated, and so, by setting the  
28 catch limit a little higher, we're pushing the risk of  
29 overfishing, regardless of where the MSST is set, and so I don't  
30 think I'm ready to make a substitute motion, but I don't really  
31 think the MSST argument gets at the crux of my worry. I would  
32 be equally worried if you were at a higher MSST as you are here.

33  
34 **CHAIRMAN GUYAS:** All right. Any other thoughts on this before  
35 we vote? Clay.

36  
37 **DR. PORCH:** I would just reiterate that the assessment certainly  
38 underestimates what the buffer should be, and then, of course,  
39 there is some management implementation uncertainty, and so a  
40 way around this is to actually set an ACT that is somewhat below  
41 the ACL and avoids invoking accountability measures.

42  
43 **CHAIRMAN GUYAS:** Did I see a hand that way? No. Okay. John,  
44 go ahead.

45  
46 **MR. SANCHEZ:** I don't know if somebody could help me explain  
47 this, but, in Action 1, when we picked Alternative 2, and we  
48 kind of paired it with Alternative 5, didn't the inclusion of

1 Alternative 5 in that provide some more streamlined ability, if  
2 the MSY proxies change and all of that, to address some of these  
3 concerns?

4  
5 **CHAIRMAN GUYAS:** Roy.

6  
7 **DR. CRABTREE:** It addressed procedurally how we would change  
8 things in the future, but it doesn't directly affect the risk of  
9 what we're doing. **I will go ahead and make a substitute motion**  
10 **that we adopt Option 2b as the preferred.** Then I will leave it  
11 to you as to what you want to do.

12  
13 **CHAIRMAN GUYAS:** All right. Is there a second for Roy's motion?  
14 It's seconded by Dale for discussion.

15  
16 **DR. CRABTREE:** My rationale is just, given Clay's comments on  
17 the variance is likely underestimated, it seems to me that there  
18 ought to be a little more space between the catch limit and the  
19 OFL, and, I mean, you could get there with ACTs, and you could  
20 get there with changing the control rule, but I'm just looking  
21 at a practical matter. This is what is right before us, and  
22 it's really not that many fish, and we're not looking at  
23 substantive reductions, I don't think, under any circumstance.  
24 It's a -- What are we talking here, 300,000 pounds, roughly, and  
25 so it just gives me a little more comfort with it, and so I will  
26 leave it at that.

27  
28 **CHAIRMAN GUYAS:** All right. Mara.

29  
30 **MS. LEVY:** Well, I'm sure this is obvious, but, the closer that  
31 you have the ACL to the OFL, the greater the risk of exceeding  
32 the OFL and getting a declaration that it's undergoing  
33 overfishing, and you have to end that immediately and do  
34 whatever you need to do to make sure that that's not going to  
35 happen again, and so you can set the catch levels higher, but  
36 then you're running the risk in the future of getting that  
37 overfishing determination, which then has consequences for what  
38 you need to do in the future.

39  
40 **CHAIRMAN GUYAS:** Okay. The motion we have now is, in Action 5,  
41 to make Alternative 2, Option 2b, the preferred. Is there any  
42 other discussion on this motion, the substitute motion, I should  
43 say? **Is there any opposition to this motion? Seeing none, the**  
44 **motion carries.**

45  
46 **DR. FROESCHKE:** That is the end of this, and so we plan --  
47 Emily, tell me if I'm wrong, but we were going to do a webinar  
48 public hearing for this document and notice it and bring it back

1 for final action in August?

2  
3 **MS. MUEHLSTEIN:** Yes. Based on the fact that this is not a  
4 framework, we will be doing a webinar, and we'll also create a  
5 video and collect comments online that way.

6  
7 **CHAIRMAN GUYAS:** Leann.

8  
9 **MS. BOSARGE:** Can we go back to that action item that I was  
10 talking about and just take a look at it and see if it makes any  
11 big changes if we were to --

12  
13 **CHAIRMAN GUYAS:** Was that Action 3?

14  
15 **MS. BOSARGE:** It's Action 3, and so, right now, we have our  
16 preferred is Alternative 4, which is the minimum stock size  
17 threshold for gray snapper is equal to 50 percent of BMSY, which  
18 I'm pretty sure that's the maximum that Magnuson will let you  
19 fish something down before you have to declare it overfished,  
20 and, yes, we did that in Amendment 44 for some other stocks, but  
21 I think we all know that there were some reasons for that, and I  
22 don't know that they were all based on science, since there were  
23 other things, but I have a fundamental issue with fishing  
24 something down to that level before you declare it overfished.

25  
26 I really like something a little more conservative than that.  
27 The Alternative 3 is the minimum stock size threshold for gray  
28 snapper is equal to 75 percent of BMSY, and that's a little more  
29 conservative, and we won't fish it down quite as hard before we  
30 decide that it's overfished, and, therefore, we don't have to  
31 take, hopefully, quite as punitive measures to rebuild it.

32  
33 I think -- John, this is my question for you. If we go with  
34 Alternative 3, that's not going to change the designation on the  
35 stock right now, correct? Because we chose that 26 percent SPR  
36 in the first action, even if we choose Alternative 3 here, we  
37 will not be declared overfished, right?

38  
39 **DR. FROESCHKE:** We are just looking at that. Bernie, can you  
40 bring up Table 2.3.1? We are lucky that Peter Hood wrote this  
41 action, and he's in the audience, and so, if I go astray, he can  
42 rein me in. I am looking at the first column on Table 2.3.1,  
43 which has essentially the SSB over SSB at 26 percent, and so my  
44 interpretation of that is that, so long as you're above the  
45 0.75, in this case for the alternative that you're talking  
46 about, we would be fine. In this case, it projects that we  
47 would be at 1.04 in 2019, and so that wouldn't be problematic.

1 **MS. BOSARGE:** Okay, and so it's not going to change our  
2 designation, and we would still have some wiggle room to go down  
3 a decent amount and still not be overfished. I would like to  
4 make a motion that, in Action 3, to make Alternative 3 the  
5 preferred alternative.

6  
7 **CHAIRMAN GUYAS:** All right. Is there a second for this motion?  
8 Going once, going twice, going three times. The motion dies for  
9 lack of a second. Well, I guess we're done with this amendment  
10 for right now.

11  
12 **DR. FROESCHKE:** Thank you, all.

13  
14 **DR. FRAZER:** We will take a break until 3:30.

15  
16 (Whereupon, a brief recess was taken.)

17  
18 **DR. FRAZER:** Okay, and so we're going to carry on. Martha.

19  
20 **CHAIRMAN GUYAS:** Okay, and so we are on Item X on our agenda,  
21 which is a Discussion of Commercial Crew Size Requirements, and  
22 I'm going to let Ava explain what this is that we're talking  
23 about here.

24  
25 **DISCUSSION OF COMMERCIAL CREW SIZE REQUIREMENTS**

26  
27 **DR. LASSETER:** Thank you. My understanding is that a couple of  
28 council members have been talking about this, and we've heard  
29 some public testimony about people in the public asking for this  
30 to be revisited, and so we added this to the agenda, and I  
31 believe it's been assigned to me because I did work on the last  
32 action that addressed this issue, and that amendment is  
33 Amendment 34.

34  
35 On dual-permitted vessels, and, by that, we mean a reef fish  
36 vessel that has both a commercial permit and a charter/headboat  
37 permit, and so those vessels have a restriction that they cannot  
38 have more than four people onboard when that vessel is fishing  
39 commercially.

40  
41 For those vessels that have both permits, they have to declare  
42 what their trip is when they go out, and they have to hail-out,  
43 and are they charter fishing or are they commercial fishing,  
44 and, if they have both permits on it and they're commercial  
45 fishing, they are restricted to a maximum of four people  
46 onboard.

47  
48 Now, we have Amendment 34 provided for you at Tab B, Number 10,

1 and that was the last time we addressed this, in 2012. At that  
2 time, the council increased that maximum crew size on those  
3 dual-permitted vessels from three to four. Prior to that, this  
4 restriction has been in place since Amendment 1.  
5

6 At the time of Amendment 1 is when that original restriction was  
7 put in place that, on dual-permitted vessels, when fishing  
8 commercially, they were restricted to no more than three people  
9 onboard, and so that was a little background, and you asked that  
10 this be brought up for discussion in committee, and so I will  
11 turn it over to the committee.  
12

13 **CHAIRMAN GUYAS:** Patrick.  
14

15 **MR. BANKS:** Can you remind us, Ava, about the rationale for  
16 restricting it at all? If they have their own quota, and  
17 they're going out and fishing under the quota, they won't be  
18 able to get any more than their quota, under the commercial IFQ,  
19 and so what's the rationale for restricting it to three or four  
20 or whatever or restricting it at all, actually, back in those  
21 days?  
22

23 **DR. LASSETER:** To go back to Amendment 1, I believe it was to  
24 make it clear whether you were commercial fishing or charter  
25 fishing, to make the trip clear, and so this is pre-VMS days.  
26 I'm sorry, but did you ask when it was originally --  
27

28 **MR. BANKS:** I probably was very unclear in my question. What  
29 was the rationale for placing a crew size restriction at all on  
30 the commercial vessel? I know they have to declare that they're  
31 going out on a commercial trip, but they're already restricted  
32 by the number of fish they can catch.  
33

34 **DR. LASSETER:** When it was first put in place in Amendment 1,  
35 there wasn't VMS, and there wasn't a hail-out, and so, at that  
36 time, in order to distinguish being at-sea if you had both  
37 permits -- Actually, at that time, I don't believe there was  
38 officially a charter permit, and I think you could be charter  
39 fishing, or you had one of those original commercial permits.  
40

41 Law enforcement would be able to tell, if you were capped to  
42 only three, and, okay, you're commercial fishing. If you have  
43 more than three, okay, you're charter fishing. That would mean  
44 that, if you were commercial fishing with only a maximum of  
45 three, then you were excluded from, exempt from, the  
46 recreational bag limits. That was how commercial fishing was  
47 defined.  
48



1 That stayed in place until Amendment 34, and the council  
2 evaluated -- If we have that action up, where we can look at the  
3 alternatives, and it's Action 2, actually. There were three  
4 alternatives, and Alternative 1 was no action, keeping it at  
5 three. Alternative 2 was to eliminate the crew size requirement  
6 completely, and then the council's preferred alternative was 3,  
7 which was to increase the crew size to four.

8  
9 Now, the rationale, at that time of addressing this action at  
10 all, was it came from commercial spear fishers who were asking  
11 to be able to have four people onboard, so they could have two  
12 up and two down, for safety reasons, and this went along with  
13 OSHA regulations, being consistent with OSHA regulations.

14  
15 Law enforcement did evaluate this at the time as well, because  
16 the council said, well, why don't we just eliminate it  
17 completely, and law enforcement, at that time, did say, well, we  
18 would prefer that you still kept a maximum crew size, but we're  
19 okay with you increasing it from three to four, and so that was  
20 the rationale for picking a Preferred Alternative 3 instead of 2  
21 at that time, and, again, this went final in 2012.

22  
23 **MR. BANKS:** What was the rationale for law enforcement to say  
24 that it still needed to be at four? They had VMS at the time,  
25 right, in 2012? The original reason why we had to have it at  
26 three was because it was hard to tell, just visually, whether  
27 they were commercial or charter, and so, if they only had three  
28 people onboard, then you could tell they were commercial. They  
29 didn't have to hail-out at the time, yada, yada, but, in 2012, I  
30 think they probably would have had to do all of that, and so why  
31 wouldn't the restriction just come off? Any idea from what  
32 enforcement's thought process was at the time?

33  
34 **DR. LASSETER:** I believe they felt that you just didn't need  
35 more than four people if you were commercial fishing. I just  
36 know that they said that they felt better having a rule in  
37 place, a maximum crew size in place, and they didn't see the  
38 need for it to just be wide open. Did they discuss the VMS as  
39 much? I don't quite remember those details, and we could have  
40 law enforcement evaluate this again.

41  
42 **MR. BANKS:** I would like to request that.

43  
44 **CHAIRMAN GUYAS:** Roy and then Dale.

45  
46 **DR. CRABTREE:** Bear in mind too that this doesn't apply just to  
47 red snapper or IFQ species. This applies -- I think it's even  
48 broader than -- Well, I guess it is reef fish, but it does apply

1 to other species, and bear in mind that, even now, there is some  
2 gray about this, because we have had instances where folks go  
3 out for the IFQ experience type trips, and then they buy the  
4 fish at the end of the trip, and so there still is some gray  
5 here about how this works a little bit, but I think it plays  
6 into it, and I'm not saying that we shouldn't change this, but  
7 it would apply, for example, to someone who is on an amberjack  
8 trip or a vermilion snapper trip, where we don't have the IFQ  
9 programs, although I think we would have the hail-out for  
10 everything.

11  
12 **CHAIRMAN GUYAS:** Dale.

13  
14 **MR. DIAZ:** I do remember some of these discussions back in 2012,  
15 and I did read the document, and I don't remember people asking  
16 for an unlimited amount of people back then. It seems like the  
17 issue did revolve around diving safety, and they were trying to  
18 just bump it up by one or two people, and I don't remember it  
19 being people asking for unlimited back then, but I could be  
20 wrong about that.

21  
22 **MR. BANKS:** I guess my question is from a conservation  
23 standpoint. If this boat is a commercial boat, and its quota is  
24 1,000 pounds, what do we care whether he catches 1,000 pounds in  
25 one trip or ten trips? That may go along with the argument  
26 though about the daily bag limit and catching them both in the  
27 first day of the two-day trip.

28  
29 **CHAIRMAN GUYAS:** I feel like the elephant of that's not in this  
30 document is the dude fishing issue, right, which was kind of  
31 bubbling up at the same time that this was, and, if you're a  
32 dual-permitted operation that is running dude trips, then you're  
33 ready to jack up that crew size limit and load up your boat. If  
34 you are a charter vessel that does not have a dual permit and is  
35 not running those trips, then you do not want to remove that  
36 crew size limit, is how that seemed to fall.

37  
38 It creates some perceived, I guess, inequities at the dock and  
39 in terms of services that are offered to customers, whether you  
40 want to call them your charter customers or your commercial  
41 clients or deckhand, so to speak, and so, yes, that's not  
42 outlined in this document, but I seem to recall that being part  
43 of the discussion when this was all happening. Patrick.

44  
45 **MR. BANKS:** My only response to that is it seems like, to me,  
46 there's a perceived inequity at the dock already. I mean, if  
47 I've got a dually-permitted boat, then I have myself and three  
48 crew members that are paying for the commercial experience, and

1 we come back with 2,000 pounds of snapper, and I pull up beside  
2 J.D.'s boat, and he's got six paying customers, and they have  
3 twelve fish. I mean, there's already a perception there that is  
4 a problem, and so I don't know that we're keeping the perception  
5 at bay by being inefficient here.

6  
7 **CHAIRMAN GUYAS:** I think there was some, at least, discussion of  
8 how to -- Whether to put a lid on that activity, for that  
9 reason. I see Leann's hand.

10  
11 **MS. BOSARGE:** Well, I was just going to ask what -- Is there  
12 like a codified definition of what a charter is, and what is it?

13  
14 **CHAIRMAN GUYAS:** Mara.

15  
16 **MS. LEVY:** It's a really long definition, and so I don't want to  
17 read it all, but it does say that a charter vessel -- There is a  
18 charter vessel and a headboat, right, the way we define them in  
19 the regulations. Charter vessel is six or fewer passengers that  
20 engages in charter fishing at any time during the fishing year,  
21 and then there are parts of that definition that talk about a  
22 charter vessel with a commercial permit, to sort of say when  
23 you're operating as a charter vessel.

24  
25 A charter vessel that has a charter vessel permit for Gulf reef  
26 fish and a commercial vessel reef fish for Gulf reef fish is  
27 considered to be operating as a charter vessel when it carries a  
28 passenger who pays a fee or when there are more than four  
29 persons aboard, including operator or crew, and so that's where  
30 the four persons aboard come in, right, and so, if you're  
31 dually-permitted, and you have four or more persons, you are  
32 considered to be operating as a charter vessel.

33  
34 Then there are some exceptions for if you have a Certificate of  
35 Inspection issued by the Coast Guard. You will not be  
36 considered to be operating as a charter vessel, provided you are  
37 not carrying a passenger who pays a fee, and there are things  
38 that talk about when you're underway for more than twelve hours  
39 and the vessel meets, but does not exceed, the minimum manning  
40 requirements for being away for over twelve hours, and, when  
41 you're underway for not more than twelve hours, the vessel meets  
42 the minimum manning requirements outlined by the COI.

43  
44 If you have a COI that dictates some other manning requirements,  
45 then you can have those people onboard, but it's a very long  
46 definition, and, if you want to take a look at it, it's in  
47 622.2. Again, there is one for charter, and there is one for  
48 headboat, but that is where the crew size limitation comes in

1 for the charter vessels, in that definition.

2  
3 **CHAIRMAN GUYAS:** Leann.

4  
5 **MS. BOSARGE:** Yes, and so, I mean, that makes sense to me,  
6 because, on a commercial trip, the crew doesn't pay you. You  
7 pay the crew, right, and they run out there and catch fish, and  
8 they get a share of the profits. That is their share that you  
9 pay the crew. On a charter trip, anybody that gets on that boat  
10 is paying the captain or the boat owner or whatever, and the  
11 people on the boat pay to be on the boat, whereas, in  
12 commercial, you pay them to be on the boat, because you are  
13 paying them to work. Then that means that we don't really have  
14 this issue?

15  
16 **DR. SHIPP:** A stupid question, but what are we asked to do? Is  
17 it raise it or lower it, or why is this coming up? I don't  
18 understand.

19  
20 **CHAIRMAN GUYAS:** I think there's been some public testimony, and  
21 a council member requested this be on the agenda. I think we're  
22 just learning about this topic right now, right? The ad hoc AP,  
23 I guess, has also talked about this. Go ahead, Mara.

24  
25 **MS. LEVY:** Just to Leann's question, if you are dually-  
26 permitted, you are considered to be operating as a charter  
27 vessel when you're carrying a passenger who pays a fee or if  
28 there are four or more people onboard, four or more crew. I  
29 think the thing with the IFQ experience fishing is those people  
30 are not paying a fee to the charter, and so they're onboard and  
31 having this experience.

32  
33 The way that they pay money is when they buy the fish at the end  
34 from the fish house. I don't know how the whole operation goes  
35 down, but, getting to your point, in that circumstance, there  
36 would be no fee paid for being on the vessel, per se, and so it  
37 wouldn't necessarily fall under this definition, but you would  
38 be limited by the crew size, because, if you took more than four  
39 people, then you would be presumed to be a charter. Does that  
40 make sense? It's either or. Either they're paying a fee or  
41 you're above the crew size limitation, and that would throw you  
42 into the charter realm, if you're dually-permitted.

43  
44 **CHAIRMAN GUYAS:** Mr. Dyskow.

45  
46 **MR. DYSKOW:** Thank you, Madam Chair. I'm going to ask you a  
47 question, because I don't really know the answer. Looking at  
48 the number of dual-permitted boats, the vast majority of them

1 are in Florida, and I would also presume that this issue with  
2 the IFQ experience takes place primarily in the Panhandle, I'm  
3 guessing, and what does your commission feel about this, because  
4 I'm guessing that it's a Florida issue, and have they gotten  
5 involved at all, or have they taken a position?

6  
7 **CHAIRMAN GUYAS:** I think this happens in -- I know it happens in  
8 other states, and it's actually talked a lot about in Texas, and  
9 that's kind of where this started. I hear snippets that's  
10 occurring in other places, but I don't think that our commission  
11 has an opinion on this topic right now. Kevin.

12  
13 **MR. ANSON:** Madam Chair, since you said we're just kind of  
14 talking about this and getting a little bit more information, I  
15 kind of agree with Roy. This is kind of some gray area here to  
16 this whole issue, but, Mara, I'm wondering, in that long  
17 definition, is there not anything in regard to what payment --  
18 How payment is defined? Does it also include barter and that  
19 type of thing? It's not actual exchange of money is it, and is  
20 that correct?

21  
22 **MS. LEVY:** I might have to go refresh my recollection, because  
23 we went through this exercise a few years ago, about trying to  
24 hone-in on what that means, but there is a -- It links back to  
25 also what is charter fishing as defined in the Magnuson Act, and  
26 that is linked to passengers who pay a fee, which is linked to  
27 Coast Guard law and regulations, and they have things that talk  
28 about trade and barter and other consideration, and so I know we  
29 had a document that talked about all that stuff, and maybe I can  
30 go back and look at it.

31  
32 It's not in our regulations, because we were going back and  
33 looking at adding something like that, but we went through the  
34 whole exercise, and it got fairly complicated, and, because it  
35 was kind of address through other means, if you went through  
36 this cycle of here, here, here, I think we just dropped it at  
37 some point.

38  
39 **CHAIRMAN GUYAS:** Go ahead, Kevin.

40  
41 **MR. ANSON:** I don't want to take too much time, since we don't  
42 have that information in front of us, but I guess my line of  
43 thinking, to that point of barter, is kind of, at least on the  
44 Coast Guard side of the house, kind of constitutes as payment.

45  
46 As to whether or not those fish that are showing up as a result  
47 of that fishing trip would be available exclusively to those  
48 anglers who went on the fishing trip, are they also available to

1 other people just walking in off the street, and I guess, if  
2 other people who are walking in off the street don't have access  
3 to those 100 pounds, or 200 pounds, of fish that were caught on  
4 that trip, and they're just exclusively reserved for those  
5 fishermen, then I would consider that to be kind of a barter  
6 arrangement, and could possibly fall towards the charter side of  
7 the definition, and that's all I guess I was going at.

8  
9 **CHAIRMAN GUYAS:** John.

10  
11 **MR. SANCHEZ:** Thank you. My understanding is that they go out  
12 on this type of experience and they catch the number of fish  
13 that they're able to catch. On a good day, you probably catch  
14 quite a few fish. They come back to the fish house, and then  
15 they sell the fish, and the person riding along for this  
16 experience has the ability to buy those fish from the fish  
17 house, but there are additional fish landed during that trip,  
18 and so I don't know if that answers your question or not, but,  
19 yes, I see this as something that some people may frown upon. I  
20 kind of view it as a little bit ingenious.

21  
22 Somebody found a way to insulate themselves from all of this  
23 sector separation stuff maybe that was going on, and, at the  
24 time, they were worried about it, and so they bought some quota  
25 shares, and they happen to be dually-permitted, which makes it a  
26 lawful pursuit, and then this developed, and, if they have all  
27 the licenses and the ability to do this, and they're selling the  
28 fish to the fish house, and if the customer chooses to buy some  
29 of those fish, then that's, I guess, the compensation for this  
30 experience somehow, and it's lawful, and I don't see the problem  
31 for why we're penalizing somebody for having a business model  
32 that's thinking out of the box.

33  
34 **CHAIRMAN GUYAS:** Doug.

35  
36 **MR. BOYD:** Thank you, Madam Chairman. I go back to Mara. Mara,  
37 the definition that you gave a minute ago of a charter trip, did  
38 I understand you to say that, if there are more than four people  
39 on the trip, it's considered a charter trip? If that's the  
40 case, how would one of these experience trips be legal if there  
41 were more than four people on there?

42  
43 **MS. LEVY:** Well, I think that's the point. Right now, they are  
44 limited by the crew size limitation in the definition. The  
45 point is, if you increase that, or you take it away, then there  
46 is the opportunity to have more people and it still be, quote, a  
47 commercial trip. Right now, they are limited by that  
48 limitation.

1  
2 **MR. BOYD:** Okay. Let me come at it a different way. I  
3 understand that some of those experience trips have been six or  
4 eight people, and so does that mean that, if they took one of  
5 those trips with six or eight people, that would have been  
6 illegal?

7  
8 **CHAIRMAN GUYAS:** I think Ava can help with this one.  
9

10 **DR. LASSETER:** They have taken the charter permit off the boat,  
11 and so a dual-permitted boat would be capped to that, and so  
12 they would take the charter permit off, and you've only got a  
13 commercial permit on that boat. With only a commercial permit  
14 on the boat, you don't have a maximum crew size, but, if we  
15 remove that requirement, if you remove that requirement  
16 completely, they could put the charter permit back on there,  
17 and, when you have more people -- You could decide then what  
18 kind of trip, what kind of charter trip, you want to do.  
19

20 If it's considered a commercial charter trip, then you're using  
21 your IFQ allocation, or, if you're just doing straight charter,  
22 you would charge that way. To reiterate, the maximum crew size  
23 only applies when you have both of those permits on there. If  
24 you have only your commercial permit on there, there is no  
25 maximum crew size.  
26

27 **CHAIRMAN GUYAS:** Kevin.  
28

29 **MR. ANSON:** This is refreshing my memory. I had a conversation  
30 with a person who has a dually-permitted vessel, and their point  
31 of contention with the way it's currently set up is that they  
32 would prefer to not have to have two vessels, because you can  
33 take the permit off, but you're only able to do that one time in  
34 a year, and, actually, I think we've recently -- Roy could  
35 probably comment on this, but I think, in 2017, they --  
36 Basically, if the vessel was permitted as a charter vessel, and  
37 you took the permit off, for the remainder of that year, it's  
38 still considered to be a charter vessel, even though you don't  
39 physically have the permit on there, and so that's, I think,  
40 where some of the discussion came toward me from a person in  
41 Alabama who is in that situation that wanted that restriction  
42 taken off, because it limited them and their business, or it  
43 required them to have the additional vessel in order to do those  
44 trips.  
45

46 **CHAIRMAN GUYAS:** Doug.  
47

48 **MR. BOYD:** Kind of back to my original question a while ago. So

1 this brings us back to a discussion we had, and I don't know  
2 that we ever came to a conclusion on it, but we have had  
3 instances in Texas where a charter operator, because of the  
4 availability of red snapper, he will take the permit off at some  
5 time during the year and put the permit back on again. Is that  
6 what is happening with these experience trips, is that they're  
7 removing their permit for X number of months and then putting it  
8 back on again?

9  
10 **DR. LASSETER:** I do not believe so. I believe that that is --  
11 Because they cannot put it back on, and we did some kind of an  
12 analysis about this at some point, how frequently were the  
13 permits being transferred on and off. Johnny Greene asked for  
14 that.

15  
16 **MR. BOYD:** I thought he said it was like one year, that you had  
17 to --

18  
19 **DR. LASSETER:** Right, and so let me let Mara respond to this.

20  
21 **MS. LEVY:** I think we're mixing up two things. We're mixing up  
22 private angling and for-hire and the fact that you're not  
23 allowed to, if you have a vessel with a for-hire permit anytime  
24 during the fishing year, you can't take it off and fish under  
25 the private angling ACL and ACT in that season.

26  
27 That's different than having a for-hire permit and a commercial  
28 permit. There is nothing that prohibits you from removing a  
29 for-hire permit and just having a commercial vessel permit and  
30 then somehow putting that back on again. Those are two  
31 different issues, I think.

32  
33 **DR. LASSETER:** I feel we may -- Kevin has the same expression  
34 that I do, and I feel like we did have a presentation, and,  
35 actually, Jessica Stephen, did you perhaps provide us this  
36 information on the permits being transferred on and off? I  
37 thought that, once you take the for-hire permit off for that  
38 year, you're not allowed to use that vessel for for-hire fishing  
39 for the rest of the year.

40  
41 **DR. CRABTREE:** That had to do with which quota you're fishing  
42 under, the for-hire quota versus the private sector quota, and  
43 not to the crew size issue, or at least that's the context that  
44 I recall that coming up.

45  
46 **CHAIRMAN GUYAS:** Leann.

47  
48 **MS. BOSARGE:** Roy, I think that's kind of the same question we



1 have here. Are they fishing under the for-hire quota, or are  
2 they fishing under the commercial quota?

3  
4 **DR. CRABTREE:** Well, in this case, assuming we're talking about  
5 red snapper, they're fishing their IFQ, and so that's clearly  
6 under the commercial quota.

7  
8 **CHAIRMAN GUYAS:** Doug.

9  
10 **MR. BOYD:** Just one comment in follow-up. It seems to me like  
11 what we have is a pseudo intersector trading between commercial  
12 and recreational fishing.

13  
14 **CHAIRMAN GUYAS:** Patrick.

15  
16 **MR. BANKS:** Well, it doesn't really matter what context we're  
17 talking about. What we're asking is, if you take your charter  
18 permit off, is there any kind of time limit that would restrict  
19 you from putting it back on that boat the very next day? Is  
20 there any restriction, whether you're doing it for the purpose  
21 of getting to the recreational side or to the commercial side?  
22 Is there any kind of restriction on reestablishing the permit on  
23 that charter vessel?

24  
25 **DR. CRABTREE:** No, except that, as a practical matter, things  
26 don't work that way. When you take the permit off of your  
27 vessel, you have to transfer it to another vessel, generally  
28 speaking, and then you have to transfer it back, and those  
29 things take weeks to do and not one day, but there's not  
30 anything that keeps people from transferring permits. We have  
31 never put limits on how many times you could transfer a permit.

32  
33 **MR. BANKS:** So the controlling factor is the processing time of  
34 transferring it, and so it sounds like a dually-permitted vessel  
35 could remove their charter permit and operate with an unlimited  
36 crew for a certain amount of time and then immediately apply to  
37 have it re-transferred, and then it would take several weeks to  
38 get it back on the boat, and, for those several weeks, they  
39 could operate with an unlimited crew size, it sounds like to me.

40  
41 **CHAIRMAN GUYAS:** John and then Kevin.

42  
43 **MR. SANCHEZ:** Yes, but under that scenario, Patrick, for that to  
44 have any consequence, or any motivation to do it, that  
45 respective individual would have had to have made an investment  
46 in enough shares to pursue that, and, I mean, I don't know, but  
47 who am I to tell this person that you shouldn't have made that  
48 investment?

1  
2 It's a lawful investment, and they did it, and maybe others  
3 didn't, and maybe they are jealous, and I don't know, but it  
4 seems to me that they're declaring what kind of trip they are  
5 going on, and then there's these safeguards put in with the  
6 number of crew or not, if they are dually-permitted, or what  
7 have you, but, whatever the scenario is how they approach this  
8 thing, it's lawful, and so they have made the investment, and I  
9 don't have a problem with it.

10  
11 **CHAIRMAN GUYAS:** Kevin.

12  
13 **MR. ANSON:** When you transfer the permit, Roy, the vessel that  
14 the for-hire permit has to go onto is just a registered vessel,  
15 correct, and it has to be another vessel that is shown to have a  
16 valid registration, whether it be state or Coast Guard  
17 documentation, and is that correct?

18  
19 **DR. CRABTREE:** I believe that's right.

20  
21 **CHAIRMAN GUYAS:** Susan.

22  
23 **MS. BOGGS:** Let's look at this another way. I think a lot of  
24 this is revolving around the six-pack boats, and they want to be  
25 able to carry six passengers. What if you have a multi-  
26 passenger boat and you do away with these limits and you've got  
27 a twelve, twenty-four, or sixty-four-passenger boat now with a  
28 commercial reef fish permit, and they're going out there and  
29 they're buying up all the allocation? What about these  
30 commercial fishermen that you all are sitting here today talking  
31 about trying to give access to this fishery, and now,  
32 ultimately, you're giving a way to take it away again. That's  
33 just a thought.

34  
35 **CHAIRMAN GUYAS:** John.

36  
37 **MR. SANCHEZ:** To that, I would say good luck buying enough  
38 allocation.

39  
40 **CHAIRMAN GUYAS:** Sue.

41  
42 **MS. GERHART:** To kind of get back to what Kevin just said about  
43 transferring it to any registered vessel, remember that we're  
44 putting in place these for-hire reporting requirements, which  
45 include having to have some sort of GPS tracking and doing all  
46 this logging and all those sorts of things, hail-outs and such,  
47 and so there will be, in the future, further requirements for  
48 having that vessel, and you can't just park it on another vessel

1 right now.

2  
3 **CHAIRMAN GUYAS:** Leann.

4  
5 **MS. BOSARGE:** Mara, is there a definition of crew? No? I was  
6 just wondering, on these trips, are there some people that are  
7 getting paid one way and some people that are paying, and a crew  
8 has got to be crew, right, and, in my mind, the crew gets paid  
9 for being on the boat and fishing. If there is a captain and  
10 two deckhands and some other people, are the two deckhands  
11 getting paid to be on the boat, or are they having to buy fish  
12 at the end of the trip, too?

13  
14 **DR. CRABTREE:** I mean, if I was an eighteen-year-old kid, and I  
15 knew a commercial fisherman who was going fishing, and he said,  
16 hey, do you want to come crew for me, and I won't pay you  
17 anything, but you can come out if you just want to go, there is  
18 nothing that would stop that from happening, and I'm sure that  
19 kind of thing has happened in the past, and so we can check the  
20 regulations, but I'm not sure there is a definition for -- There  
21 is no definition for that, and then there's certainly no  
22 requirement that you have to pay the crew on a commercial  
23 fishing vessel.

24  
25 **CHAIRMAN GUYAS:** I feel like one of the things that has kind of  
26 bubbled up around crew, when we've talked about this before, and  
27 this is not my bailiwick, and so I'm just remembering like Pam  
28 and Johnny talking about this, but that is that, if you're  
29 running commercial, you have different requirements than charter  
30 or for-hire, in terms of safety requirements, as a condition of  
31 Coast Guard regulations, and some of those differences are  
32 pretty significant, in terms of drug cards and that kind of  
33 stuff, and so that's another thing I think we've talked about  
34 around this issue as well.

35  
36 **MR. DIAZ:** MR. Boyd is making me think. I mean, we've talked  
37 about intersector trading around this table, and it's never got  
38 any traction, but I think you are correct that it's roundabout  
39 way for intersector trading, and so it's something the council  
40 has never been able to pass anything on, or never took a serious  
41 look at, but it is indeed a roundabout way of doing that.

42  
43 **CHAIRMAN GUYAS:** Greg.

44  
45 **DR. STUNZ:** To add to that, maybe I will just say it. I mean,  
46 if we're looking at triggers for reallocation, should something  
47 like this be getting more and more popular, I mean, that's  
48 justification that perhaps things aren't allocated the way they

1 should be.

2  
3 **CHAIRMAN GUYAS:** Roy.

4  
5 **DR. CRABTREE:** Or you could make the argument that the market is  
6 addressing the problem and the fish are being allocated to those  
7 who want them in ways that are legal and consistent with the  
8 regulations, and so I would be careful of somehow deciding that  
9 something is necessarily bad just because it's different.  
10 Frankly, I have never understood the reluctance to incorporate  
11 some aspects of intersector trading into what we do, and I think  
12 there are a lot of reasons why that might make sense.

13  
14 **CHAIRMAN GUYAS:** All right. The can of worms is open, and  
15 things are starting to get quiet, and so, unless there is any  
16 other comments or discussion on this, then I think we can move  
17 into Other Business. All right. We've got three items, and  
18 let's start with the item about the grouper fishery. Roy, do  
19 you want to talk about that, since that was your suggestion?

20  
21 **OTHER BUSINESS**  
22 **GROUPEL DISCUSSION**

23  
24 **DR. CRABTREE:** Yes, and so I spoke to some longliners in the  
25 grouper fishery, and, of course, their target species has  
26 traditionally been red grouper, and the red grouper fishery has  
27 not done well, and we have reduced the quotas, and they have  
28 expressed concerns to me, one about that the red grouper fishing  
29 is not doing well, but also about the numbers of red snapper  
30 that they are encountering on grouper longline trips.

31  
32 There are concerns that they are, through discards, killing more  
33 fish than they are comfortable with, and leasing prices make it  
34 difficult for them to go too far down that path, and we have a  
35 red grouper assessment going on now, and we're going to be  
36 revisting red grouper quotas, I think at our fall meeting, and  
37 so there were -- I think there is a number of them who are here  
38 at this meeting, and we're probably, in the Q&A afterwards,  
39 going to talk about some of this.

40  
41 The question that came is, is there any way to get some more red  
42 snapper quota into their hands, to allow them to land some of  
43 the fish that they believe they're already killing now as dead  
44 discards, and so I wanted to just try to get this issue on your  
45 radar screen and thinking about it, because it does seem to me  
46 that there could be ways to get at that, even though, like most  
47 things, the complications are all in the details, but, if you  
48 think about it, if these guys are having a substantial amount of

1 discard mortality on the vessels, if you could figure out a way  
2 to let them land the fish that they're killing anyway on their  
3 trips without having them catch any additional fish, it would be  
4 sort of a mortality-neutral kind of situation.

5  
6 The thing that I've had some discussions about is if we could  
7 figure out a way to make the fishery go to a total retention  
8 fishery and nothing goes over the side, with the exception,  
9 obviously, of exceptional species, like turtles and things like  
10 that.

11  
12 You could then, in theory, add in the red snapper that they're  
13 killing through discards into their IFQ accounts and let them  
14 fish those and land them, but you would have to have some sort  
15 of way of monitoring, to make sure that nothing is being  
16 discarded, which would mean either observers or camera arrays,  
17 and then they would have to agree that, when they've caught the  
18 quota that they had, they are done fishing for the year, and  
19 they're tied up to the dock.

20  
21 I think, in theory, there might be a way to accomplish this,  
22 although, in practice, I don't know. There would be a lot of  
23 decisions and steps along the way. At any rate, I thought I  
24 would bring up some of the ideas, because my understanding is  
25 they're probably going to talk about some of these at the Q&A,  
26 and I believe we're going to hear some of these concerns in  
27 public testimony tomorrow, and I know that it's something we've  
28 talked about quite a bit, and it had to do with discard issues  
29 in the longline fishery in particular, because the mortality  
30 rates are high there, because they are fishing in deep water and  
31 the quota allocations and how some of those work. I thought I  
32 would just bring the issue to you and give you some familiarity  
33 with it, because I think you will hear something about it.

34  
35 **CHAIRMAN GUYAS:** Tom.

36  
37 **DR. FRAZER:** I think we've brought it up before, and I think  
38 it's worth discussing, and I realize that discard mortality is  
39 probably the single biggest issue that we're dealing with in the  
40 red snapper fishery at the moment, and there's lots of different  
41 chunks of it that we need to attack, and we don't necessarily  
42 need to do it all at one time, but, thinking about how to do  
43 that, I guess I'm thinking about the type of information that we  
44 would need.

45  
46 There's some assumptions, for example, about what that discard  
47 mortality might be, and so we would have to lean on Clay's shop  
48 to provide, I believe, some of that information, to make sure in

1 fact that, if you're retaining red snapper, and it's a full-  
2 retention fishery, that you don't have any discards at all, and  
3 that offsets the loss, right, and so we would have to go through  
4 that math to do that, and I guess what I would ask Clay here, in  
5 advance of these discussions, is are we prepared, moving  
6 forward, to provide that information?

7  
8 **DR. PORCH:** I mean, we certainly could. One of the keys, of  
9 course, is demonstrating that they aren't still going over the  
10 side, and so that would require either observers on boats or  
11 video monitoring, really good video monitoring, so there's not  
12 blind spots and things like that.

13  
14 I mean, that's the only way that I can see making this work, but  
15 we certainly could do the analysis looking at historically what  
16 we've been discarding from longline boats and figuring out how  
17 much would be offset by the fraction that would have died  
18 anyway, which is somewhere I think almost certainly above 50 or  
19 60 percent for the longline fishery, because they're fishing in  
20 the deepest water for red snapper, compared to recreational, and  
21 so it's certainly a high mortality rate.

22  
23 We can figure out how much more of the quota would have to go to  
24 that to make up for the difference between those that would have  
25 died from release mortality and those that are landed and kept.  
26 I mean, we could do all those sorts of analyses and find out  
27 what sort of a -- What allowance could be made.

28  
29 **DR. FRAZER:** Just, again, trying to see if we can attack this,  
30 perhaps, in an efficient manner moving forward, and so what --  
31 With regard to some type of a rule or amendment or a framework  
32 action, how might we do this, Roy?

33  
34 **DR. CRABTREE:** Well, I think it would likely take a plan  
35 amendment, because I don't believe these are things that you  
36 could change in a framework, and I also think it would require  
37 the Science Center's analysis, and that would have to go before  
38 the SSC, because, to make this work, you would need to get an  
39 increase in the ABC for red snapper that would allow you to land  
40 the fish that are being killed as dead discards.

41  
42 Let's just say, hypothetically, you decided the longline fleet  
43 is killing 300,000 pounds of red snapper a year as dead  
44 discards, and so now we're no longer going to kill those, and we  
45 have convinced that we're not going to kill any additional red  
46 snapper, and so we're going to land those, and so, in theory,  
47 the ABC could be increased by 300,000 pounds.

1 You would then have to offset that 300,000 pounds from the  
2 normal quotas, and that is then going to be allocated to those  
3 longline vessels, and you would have to decide who gets how much  
4 among those vessels, what are the rules that they have to do  
5 with it, in terms of trading it or whatever, and you would have  
6 to require the various types of equipment onboard to monitor the  
7 quotas, and they would have to demonstrate that they're in  
8 compliance of all of this, and so there are a number of steps  
9 that you would have to go through with this, and probably a  
10 number of decisions that I haven't even thought of about these  
11 things, and so I think it would take a plan amendment to get  
12 there.

13  
14 **CHAIRMAN GUYAS:** I am going to go to Kevin, but, first, I'm  
15 going to ask a question about something you said, Roy, because  
16 I've been thinking about this and how it seems to me that you  
17 would have an allocation question, but I think you just said  
18 that this would somehow come off the commercial quota.

19  
20 **DR. CRABTREE:** It wouldn't come off the commercial quota. This  
21 would be an additional amount of fish that is now going to be  
22 available, because we have reduced discards, and so that would  
23 kind of be a set-aside, is how I'm thinking about it, whatever  
24 you want to call it, but if it was, hypothetically, that 300,000  
25 fish, it is technically part of the commercial quota, but it  
26 would be set aside from that that's allocated out to the normal  
27 shareholders.

28  
29 **CHAIRMAN GUYAS:** Yes, and so I guess it seems to me that we  
30 would have to -- We would have to do a plan amendment to change  
31 allocations too, as part of this.

32  
33 **DR. CRABTREE:** In my view, yes, this would take a plan  
34 amendment, and then you have a set number of vessels that have  
35 longline permits, and you would have to decide, of those guys,  
36 and of the fish you have available, how do you allocate that  
37 among them, and does everybody get the same, or do you look at  
38 who actually fishes and who doesn't and that kind of thing, and  
39 so there are a lot of those types of decisions that would have  
40 to be made to get you there.

41  
42 The benefit of it would be, if it worked, you would have a more  
43 efficient fishery, and you would be producing more seafood and  
44 more benefits for the nation, and you would have gone further  
45 towards your obligation to reduce bycatch, to the extent  
46 practical, and, in theory, if it's mortality neutral, it would  
47 have no negative impacts on the stock recovery.

1 **CHAIRMAN GUYAS:** Tom.

2  
3 **DR. FRAZER:** I mean, to that point, the potential rewards are  
4 high, but the process of working through a plan amendment is  
5 long, and the key phrase there is "if it works", and so is there  
6 an opportunity, perhaps, and I'm just thinking of options moving  
7 forward, is could we work through a proof of concept with an  
8 EFP, for example, to demonstrate that in fact you can have a  
9 full-retention fishery with no discards, and you could generate  
10 or evaluate the cost, for example, of the observers, to make  
11 sure that it's an economically-viable option?

12  
13 **DR. CRABTREE:** Well, I think we would have to have a discussion  
14 with Mara about is this possible to do under that. Normally,  
15 with an EFP, you're exempting people from regulations. In this  
16 case, I'm not sure that's all you're doing. You are actually  
17 requiring -- It might be possible, but I wouldn't be prepared to  
18 say without knowing the particulars of what we're doing and a  
19 long conversation with our attorneys.

20  
21 **CHAIRMAN GUYAS:** Kevin.

22  
23 **MR. ANSON:** I'm kind of with Tom that that would be something  
24 interesting to look at, is through an EFP. I mean, we've kind  
25 of had some requirements, the states have had some requirements,  
26 as far as data collection and anglers have to do some things,  
27 and so I don't see that necessarily as a hurdle.

28  
29 Something else that we might want to consider as an alternative  
30 way going forward is we'll have a SEDAR for red snapper coming  
31 up, and I think now it's been pushed back, because of red  
32 grouper, but that will be coming up, and there's the potential  
33 there for maybe setting aside or taking any additions that might  
34 be coming, increases in ACL, or ABC, to just take some of those  
35 and put them aside to those grouper fishermen, because they are  
36 having the negative impacts of an improved fishery and having to  
37 deal with it, and so that might be an opportunity too, is to  
38 try, as we go through a document, to have an alternative through  
39 an assessment and any increases in assessment, that there might  
40 be some set-aside there.

41  
42 **CHAIRMAN GUYAS:** I think Ryan is going to speak to the  
43 assessment schedule.

44  
45 **MR. RINDONE:** Thank you, Madam Chair. If I were you guys, I  
46 would not expect to take any action on the results of the red  
47 snapper research track and operational assessment until 2023,  
48 and that will be discussed more during the SEDAR Committee



1 tomorrow.

2  
3 **CHAIRMAN GUYAS:** Leann.

4  
5 **MS. BOSARGE:** I like the idea of pursuing this and looking into  
6 it, and I think it solves another problem that we've had with  
7 the other options that we've been trying to look at, even that  
8 three-to-one trade, and you heard in that quota bank discussion,  
9 and how do we make sure that they don't take and go make a  
10 directed snapper trip.

11  
12 This is going to disincentivize that, I would imagine, because,  
13 if you've got a full-retention fishery, that's going to be your  
14 choke species now, is red snapper, and so, if you took that  
15 amount, that set-aside, and you go try and direct at it, well,  
16 then, when you want to go grouper fishing later in the year,  
17 you're going to have to lease red snapper allocation so that you  
18 don't have any snapper discards, and so there is an incentive  
19 there not to go and be a directed fishery at snapper and to  
20 truly use it for bycatch, because it's going to be a choke  
21 species, and so I think this sounds good.

22  
23 **CHAIRMAN GUYAS:** All right. Well, it sounds like this will be  
24 continued, I guess, this discussion with the fishermen at the  
25 round table, more or less, and maybe at public comment tomorrow.  
26 Do you have anything else, Roy, on this one?

27  
28 **DR. CRABTREE:** No, that's it, and I think we'll just see what  
29 discussion and what we hear in public testimony tomorrow and go  
30 from there.

31  
32 **RECREATIONAL AMBERJACK DISCUSSION**

33  
34 **CHAIRMAN GUYAS:** Okay. Let's jump back to the first item on our  
35 Other Business, and that was recreational amberjack. This was -  
36 - I put this on the list. I wanted to talk about a couple of  
37 things. First, at our recent FWC meeting, there was a pretty  
38 substantial discussion about the May season being cancelled this  
39 year for the recreational fishery, and a lot of consternation  
40 about that.

41  
42 I think you all have seen emails from folks about this and how  
43 this has been pretty disruptive towards people, at least in the  
44 Panhandle and the eastern Gulf, and so our commission is  
45 interested in finding ways to bring that May season back, and I  
46 also wanted to ask Dylan to come up here, Dylan Hubbard, because  
47 I think the Reef Fish AP also discussed this topic and had a  
48 motion in that report from that committee that we didn't

1 discuss, because it didn't pertain to the commercial action that  
2 we were working on, but there was a motion relative to  
3 recreational. Can you talk about that discussion, Dylan, and  
4 what the motion was and all that?

5  
6 **MR. DYLAN HUBBARD:** At the Reef Fish AP meeting recently, when  
7 we discussed amberjack trip limits, we also discussed that very  
8 issue that Martha just brought up, and I was at the FWC meeting  
9 recently, where it was also discussed, and the goal is to have  
10 some sort of May season, or May access, something that we could  
11 count on reliably.

12  
13 What was discussed in the Reef Fish AP, the motion I made was  
14 evaluating a split quota, whether it's 70/30 or 60/40, to ensure  
15 that the May season has some quota available, but, in  
16 discussions with council staff and other anglers, it seems like  
17 an easier solution, due to accountability measures and overages  
18 not being able to be paid back to certain seasons. Like, for  
19 example, if you overfished in May, there is no way to pay that  
20 back to just May, and so a simpler solution is just changing the  
21 fishing year start date back to January, in my opinion.

22  
23 Martha's question of what was discussed in the Reef Fish AP was  
24 moving to split quotas, and so a 60/40 or a 70/30, whatever the  
25 council would decide, but, in further discussions, I think  
26 making it easier would be changing that fishing year start date  
27 back to January 1, guaranteeing a May season.

28  
29 The issue is, if you look at the numbers, there is no way to  
30 guarantee four months of amberjack season, and so, in my  
31 opinion, to try to make everybody happy, start the fishing year  
32 on January 1, but maybe perhaps shorten the May season to twenty  
33 days, and so, that way, we have twenty days of access guaranteed  
34 in May, and it won't affect the fall fishery, hopefully, at all,  
35 and, if it does, it would be very little impact, but that was  
36 the goal of trying to get some May access for the Panhandle and  
37 western Florida in the spring, Florida amberjack, when it's  
38 really needed to preserve the businesses and access for private  
39 recreational anglers who come fishing with us. Thank you.

40  
41 **CHAIRMAN GUYAS:** Okay, and so I suspect we'll hear more about  
42 this tomorrow, and I don't know if we want to talk about it more  
43 now, but I suspect there will be people that come over at least  
44 from Panama City to talk about it, and probably from in town,  
45 over in Destin, but some of the requests that we have heard  
46 specifically were changing the fishing year, as Dylan mentioned,  
47 looking at fractional bag limits, and potentially a trip limit.

1 I mean, we've talked about all of these things before, and none  
2 of these things are new, and these are the ideas that we've been  
3 getting from captains and anglers who need something to fish for  
4 in May, especially since triggerfish has been closing, and I  
5 guess this year it closed on May 11, and so they didn't have  
6 much of a May fishing activity, since grouper is still closed at  
7 that point, and so I'm just putting that out there, and I may  
8 throw something out there at Full Council, but that's what I've  
9 got. Any other discussion on that item? Patrick.

10  
11 **MR. BANKS:** I just wanted to make a comment that I appreciate  
12 the issue that Dylan brought up. The problem is, if you switch  
13 it back to January, then the guys in the western Gulf have the  
14 same issue, except in the fall, and, I mean, it's tough for our  
15 guys to get out in January, February, March, and April to go  
16 fishing, and so we were cut out of the fishery altogether,  
17 because it was closing before our guys would ever have the  
18 weather to get out there, and so, once we shifted the season to  
19 start in August, it brought our guys back into the fishery  
20 again, and that was a wonderful thing to them, and, of course,  
21 it brought us all back in too well to the fishery, such that we  
22 didn't have a season to reopen in May, and so then that hurt our  
23 guys as well.

24  
25 I don't know that I could support changing the fishing year, but  
26 I do appreciate Dylan's problem with not having fish to go in  
27 May, but I do want to bring up another issue that we have, at  
28 least in Louisiana, and that's our recreational red snapper  
29 season.

30  
31 Typically, and I know this year we didn't have a May season,  
32 but, typically, we don't have amberjack at the same time we have  
33 red snapper, and these guys are catching red snapper, and, if  
34 you want to catch a big red snapper, where do you go? You go  
35 deeper with bigger baits, and we're catching a lot of amberjack,  
36 and possibly killing a lot of amberjack, and so I don't think a  
37 May season is going to solve that issue for us either, because  
38 our recreational red snapper season usually is in June and July,  
39 and so, anyway, I don't know how to solve it, but I am just  
40 pointing out some issues. Thank you.

41  
42 **CHAIRMAN GUYAS:** Roy.

43  
44 **DR. CRABTREE:** If I am understanding what Dylan is talking  
45 about, even though the fishing year would switch back to  
46 January, it still would not open up until May 1. It would be  
47 closed until May 1, and then I think I heard him say open up for  
48 twenty days and then close back down and then reopen in August

1 and finish the rest of the quota out there, and so maybe there  
2 is still some compromise that could be reached to try and  
3 balance this.

4  
5 **ALMACO JACK SIZE LIMIT DISCUSSION**  
6

7 **CHAIRMAN GUYAS:** Yes. Okay. Any other comments or thoughts on  
8 this one for now? All right. The last item on Other Business,  
9 from our list this morning, was almaco jack size limits, and so  
10 this is another item that came out of our commission meeting,  
11 and let me give a little bit of background.

12  
13 On the South Atlantic Council recently, I think they took some  
14 action to set a commercial minimum size limit for almaco jack,  
15 and our commission was considering and approved consistency with  
16 that minimum size limit on our Atlantic coast, and, during that  
17 discussion, some of the comments that we got were from Gulf  
18 fishermen who wanted to have a similar minimum size limit in the  
19 Gulf, and it was unclear to me whether that request was for  
20 recreational or commercial, but I just wanted to put that out  
21 here again at this meeting, so that people -- It's out there,  
22 and, if folks want to comment on it tomorrow, then they could.  
23 Bob, go ahead.

24  
25 **DR. SHIPP:** A couple of things about that species. First of  
26 all, as you heard, it's being considered for mariculture, but,  
27 beyond that, it's becoming more and more popular. I just did a  
28 -- I judged a tournament at the Flora-Bama last weekend, and  
29 almaco jack is now a category, and we probably had twenty or  
30 thirty of them come in over a two-day period, and so I think  
31 it's something that we do need to discuss.

32  
33 **CHAIRMAN GUYAS:** Kevin.

34  
35 **MR. ANSON:** What was the minimum size that the South Atlantic  
36 put in?

37  
38 **CHAIRMAN GUYAS:** I think it's a twenty-inch fork, but it's only  
39 on the commercial side and not for recreational, at least at  
40 this time, and so they've gone through this process where they -  
41 - They call it visioning, and so they basically evaluated their  
42 snapper grouper fishery and said where do we want to go, and  
43 they ended up with some commercial and some recreational  
44 amendments, and so this came out of the commercial amendment. I  
45 guess it's possible in a subsequent recreational amendment that  
46 they're going to consider it, and I do know the -- Is that on  
47 the table for recreational? No? Okay. That's what I thought.

1 All right, and so that's the end of our list. Is there any  
2 other business to come before the Reef Fish Committee? If not,  
3 I will pass it back to Mr. Chairman.

4  
5 **DR. FRAZER:** All right. You guys can leave early today. Leann,  
6 this never happened under your watch. Have a nice evening.

7  
8 (Whereupon, the meeting adjourned on June 4, 2019.)  
9

10 - - -