

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL  
SUSTAINABLE FISHERIES COMMITTEE

Omni Hotel Corpus Christi, Texas

August 20, 2018

**VOTING MEMBERS**

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

**NON-VOTING MEMBERS**

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

**STAFF**

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

**OTHER PARTICIPANTS**

- 43 Anna Beckwith.....SAFMC
- 44 Eric Brazer.....Shareholders Alliance
- 45 James Bruce.....Magnolia, MS
- 46 Nikki Burch.....Magnolia, MS
- 47 Rick Burris.....MDMR
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14 Matt Streich.....TX  
15  
16 - - -  
17

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

- - -

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

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

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

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

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

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

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

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

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

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

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

1 received at the January meeting.

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

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

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

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

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

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

48

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

11

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

13

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

18

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

23

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

32

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

43

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

46

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

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

6

7 **CHAIRMAN MICKLE:** Robin.

8

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

15

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

17

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

33

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

35

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

45

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

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

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

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

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

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

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

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

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

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

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

4  
5 **CHAIRMAN MICKLE:** Madam Chair.

6  
7 **MS. LEANN BOSARGE:** I think we were hoping that the next time we  
8 brought this document to you, and, Carrie, correct me if I'm  
9 wrong, that we would notice it for final action, and so I think  
10 this is a good, healthy discussion.

11  
12 What I've gotten thus far, and, since we don't have any motions,  
13 let me just make sure we've got this. You want us to bring you  
14 this document back with an action in it that explores some  
15 alternatives for what we're going to do with current vessel  
16 capacity versus historic permit capacity, and I think what is  
17 really maybe kind of scaring us is this 150 number, and I'm  
18 looking at this graph, and so I see two of those bars that go up  
19 to 150, and so I assume that's this one particular individual  
20 that has a reef fish permit with a capacity of 150 and a CMP  
21 permit with a capacity of 150.

22  
23 I was just kind of trying to think of another middle ground. If  
24 there was like a cap, if you all are more comfortable with that  
25 fifty or -- Let's see. I guess some of those guys are at maybe  
26 seventy, a capacity of seventy or something like that, and  
27 that's the next lowest, and so, I mean, if that could be  
28 something that maybe they could bring us back too, that, if you  
29 have a capacity above this, it doesn't matter and we're capping  
30 it at seventy.

31  
32 **CHAIRMAN MICKLE:** Thank you, Madam Chair. My question is a  
33 question of protocol. At what point does this -- Now we're  
34 talking about actions, and then we're going to -- Madam Chair  
35 has dropped an alternative, right, and so at what point do we  
36 lose the abbreviated framework and now we're in a framework,  
37 and, at this point, what's the difference? Ms. Gerhart.

38  
39 **MS. GERHART:** The abbreviated framework has to do with the NEPA  
40 process, and so it's whether the action is categorically  
41 excluded or not, meaning that it falls under -- In this case, it  
42 falls under an administrative action, which is categorically  
43 excluded from the NEPA process, and so that's where we're  
44 getting at with this abbreviated framework, is that we don't  
45 have all the extensive analysis required by NEPA because of the  
46 type of action that it is. If we start doing some things that  
47 have more significant impacts, then that's what changes the type  
48 of document it is, kind of in a nutshell.

1  
2 **CHAIRMAN MICKLE:** Significant impact. All right. Doug.

3  
4 **MR. DOUG BOYD:** Thank you, Mr. Chairman. I'm not on the  
5 committee, but I do have a question for NMFS staff.  
6 Hypothetically, if a captain's endorsement is for the capacity  
7 that would allow that person to fish a headboat, and we do this  
8 and they sell that permit, could the purchaser of the permit  
9 then establish a new headboat, a new fishing boat, whether it's  
10 designated as a headboat or not, that would increase the  
11 capacity in the fishery?

12  
13 **MR. STRELCHECK:** The answer is yes, and that would be consistent  
14 with the standard permits in the fishery as well. There is many  
15 permits, six-pack vessels, that have much larger permit  
16 capacities than they actually have passenger capacities.

17  
18 **CHAIRMAN MICKLE:** Dr. Frazer.

19  
20 **DR. FRAZER:** Kind of along those lines, what is the difference  
21 in the value of a permit that is transferred for a six-pack  
22 captain versus one that is a 150-passenger capacity?

23  
24 **CHAIRMAN MICKLE:** I don't think it -- Well, we would have to  
25 request that information, I think, but I guarantee they're not  
26 the same.

27  
28 **DR. FRAZER:** So do I.

29  
30 **CHAIRMAN MICKLE:** Council Member Boggs. Welcome.

31  
32 **MS. SUSAN BOGGS:** Well, the norm in the industry is the  
33 passenger capacity is anywhere from \$1,000 to \$2,000 per person.

34  
35 **CHAIRMAN MICKLE:** Ms. Gerhart.

36  
37 **MS. GERHART:** I just wanted to clarify, when I was speaking  
38 earlier about the abbreviated framework, I spoke from the NEPA  
39 standpoint. Mara reminded me that there's also the council  
40 document.

41  
42 We have a framework procedure for each of these FMPs that  
43 outlines what can be done under an abbreviated framework versus  
44 a regular framework or a plan amendment, and so we have a list  
45 of things that can be done under the abbreviated framework, and  
46 this type of action falls under that as well, and so it's also  
47 within what the council itself decides it wanted to do that way.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

5

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

7

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

15

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

17

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

27

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

30

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

35

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

38

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

41

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

43

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

47

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

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

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

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

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

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

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

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

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

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

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

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

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

3

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

5

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

12

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

18

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

23

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

30

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

37

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

39

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7

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

9

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

18

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

20

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

22

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

24

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

33

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

36

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

39

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

41

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

43

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

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

3

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

5

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

18

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

20

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

33

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

36

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

42

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

44

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48

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

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

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

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

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

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

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

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

5

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

7

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

16

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

25

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

27

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

35

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

42

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

47

48 **CHAIRMAN MICKLE:** Madam Chair.

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

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

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

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

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

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

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

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

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

4

5 **CHAIRMAN MICKLE:** Madam Chair.

6

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

10

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

12

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

18

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

23

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

31

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

35

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

42

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

48

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

39  
40 - - -