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2 Tim Dillingham.....Naples, FL
3 Traci Floyd.....MDMR, MS
4 Susan Gerhart.....NMFS
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6 Pete Harwell.....NOAA OLE
7 Peter Hood.....NMFS
8 Chris Horton.....Congressional Sportsmen's Foundation
9 Dylan Hubbard.....FL
10 Stephanie Hunt.....NMFS
11 Bill Kelly.....FKCFA, FL
12 Kai Lorenzen.....GMFMC SSC
13 Lawrence Marino.....LA
14 Carole Neidig.....Sarasota, FL
15 Clay Porch.....SEFSC
16 Lisa Schmidt.....Palm Harbor, FL
17 Nick Spiliotis.....TX
18 Joe Spraggins.....MS
19 Jessica Stephen.....NMFS
20 Christian Waska.....Pensacola, FL

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PAGE 31: Motion to direct staff to add a payback provision to the document to address carryover. The motion failed on page 35.

PAGE 36: Motion to direct staff to add a payback provision to the document to address carryover for stocks in rebuilding plans. The motion carried on page 38.

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1 The Sustainable Fisheries Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Sandestin Golf and
3 Beach Resort, Miramar Beach, Florida, Monday afternoon, June 3,
4 2019, and was called to order by Chairman Dale Diaz.

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

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

15
16 First up on the agenda is the Adoption of the Agenda. It's so
17 moved by Mr. Banks and seconded by Mr. Swindell. Any opposition
18 to adopting the agenda? No other business? The agenda is
19 adopted.

20
21 Next up is the Approval of the April 2019 Minutes. Is there any
22 additions to the minutes? Seeing none, is there any opposition
23 to approving the minutes? Seeing none, the minutes are
24 approved.

25
26 Item Number III is the Action Guide and Next Steps. Dr.
27 Hollensead is going to go through just Item Number IV, and then
28 we're going to bring up our guest speaker. Dr. Hollensead.

29
30 **DR. LISA HOLLENSHAD:** Thank you, Mr. Chair. Agenda Item IV is
31 we will be receiving a presentation from Ms. Stephanie Hunt of
32 the National Marine Fisheries Service, and she will be
33 presenting the Modernization of the Recreational Fisheries
34 Management Act of 2018.

35
36 **MODERNIZING RECREATIONAL FISHERIES MANAGEMENT ACT OF 2018**
37

38 **MS. STEPHANIE HUNT:** Good afternoon. My name is Stephanie Hunt,
39 and I am the Policy and Guidance Branch Chief at the
40 Headquarters Office of Sustainable Fisheries in Silver Spring,
41 Maryland. My branch covers things like tracking stock status
42 around the country, preparing the Annual Status of Stocks Report
43 to Congress, preparing National Standard 1 Guidelines and
44 revisions, and tracking legislation, and so, as such, I'm here
45 to talk to you today about the Modernizing Recreational
46 Fisheries Management Act of 2018, otherwise known as the Modern
47 Fish Act.

1 This is an overview of my presentation, and it's the only photo
2 in my slide deck, and so apologies to those that like photos.
3 Soak this one in.
4

5 As most of you know, the Modern Fish Act was signed by the
6 President in December of this year. The purpose is to expand
7 recreational fishing opportunities through enhanced marine
8 fisheries conservation and management and for other purposes,
9 and the act requires a number of new reports and studies and
10 guidelines, and it highlights the importance of a variety of
11 fishery management measures for the recreational fisheries, and
12 it reaffirms the Magnuson Act requirement for annual catch
13 limits and accountability measures. The act also includes a
14 number of provisions related to state recreational registry and
15 data collection programs.
16

17 I am going to walk through the provisions of the Modern Fish Act
18 and tell you a little bit about how we're working with the
19 Government Accountability Office, the National Academies,
20 councils, commissions, and other stakeholders to implement it.
21

22 Section 2 adds a finding to the Magnuson Act that emphasizes
23 that commercial and recreational fisheries are different, and it
24 notes that our management approaches should be adapted, given
25 these different characteristics, and this sets context for the
26 bill.
27

28 Section 101 requires a Government Accountability Office report
29 and a study and a report to Congress of allocation of fishing
30 privileges in mixed-use fisheries in the South Atlantic and the
31 Gulf Council, and so this study needs to -- The GAO report needs
32 to recommend criteria that councils could use in allocating or
33 reallocating fishing privileges.
34

35 In developing these recommendations, the GAO should consider the
36 ecological, conservation, economic, and social factors of each
37 component of a mixed-use fishery. The report needs to identify
38 sources of information that could reasonably support the use of
39 such criteria and allocation decisions. It needs to have an
40 assessment of budget requirements for periodic allocation
41 reviews in the Gulf and South Atlantic Council, and it needs to
42 include recommendations for procedures for allocation reviews
43 and potential adjustments in allocation.
44

45 NOAA had an entrance conference with the GAO in April. Among
46 other things, we provided them with a 2016 procedural directive
47 and various policy documents that we have created. As you know,
48 the 2016 policy requires councils to identify triggers for their

1 allocation reviews, and the Gulf Council had already submitted
2 its triggers, and those are due in August, and so thanks for
3 doing that ahead of the deadline.

4
5 We think that the documents that we have already produced and
6 the ones that the councils are producing will provide a nice
7 foundation for the GAO study. Alyssa and Christa are here
8 today, and so, if anyone has questions about the scope of the
9 study or wants to provide some input to them, they are here
10 through Wednesday, and you're welcome to sign up and go talk to
11 them.

12
13 Section 102 gives councils the authority to use fishery
14 management measures in a recreational fishery or a mixed-use
15 fishery such as extraction rates, fishing mortality targets,
16 harvest control rules, or traditional and cultural practices.
17 This section also clarifies that these measures need to comply
18 with existing Magnuson Act requirements. Many of these tools
19 are already being used by councils around the country, and our
20 National Standard 1 Guidelines describe how to use such things.

21
22 This section also requires us to produce a report to Congress by
23 the end of June, and the report is supposed to outline actions
24 that councils have taken pursuant to this particular provision.
25 Councils haven't taken many actions pursuant to this law,
26 because it was recently enacted, but, as I mentioned, councils
27 have implemented a variety of measures that are outlined here,
28 and we will provide examples of those in our report to Congress,
29 and we hope to demonstrate that there is a variety of tools that
30 are being used and that can be used in recreational fisheries.

31
32 Section 103 requires a National Academy of Science study of
33 limited access privilege programs, or LAPPs. The study needs to
34 include an assessment of progress in meeting established LAPP
35 program goals and the goals of the Modern Fish Act. It needs to
36 provide an assessment of economic, social, and ecological
37 effects of LAPPs, and it needs to provide an assessment on
38 impacts on stakeholders in mixed-use fisheries and
39 recommendations of policies to address these stakeholder impacts
40 and factors to consider when designing and maintaining LAPPs in
41 mixed-use fisheries to mitigate these impacts.

42
43 The study does not apply to the Pacific and North Pacific
44 Council, except for the last part of it, which requires a review
45 of best practices and challenges in LAPPs in all eight councils,
46 and so we've reached out to the National Academies to try to set
47 up a scope of work for this study, so that it can be done by the
48 2020 deadline.

1
2 We also have a catch share policy, and our various allocation
3 documents do provide some background information that will be
4 helpful to the National Academies as they conduct this review.
5 As you all know, the Magnuson Act itself requires periodic
6 reviews of limited access privilege programs every five years
7 for a new program and at least every seven years thereafter,
8 and, in 2017, NMFS issued guidance on how to conduct these
9 allocation reviews, and our guidance aligns quite closely with
10 the requirements of the Modern Fish Act and what the NAS has to
11 look at, and so we think the results of these council
12 evaluations will be really helpful to the National Academies.

13
14 I know that you have conducted your reviews for red snapper and
15 grouper-tilefish already, and so that information should be
16 helpful as the NAS does this study. We also need to provide a
17 report to Congress when this study is complete.

18
19 The next section, Section 202, includes a number of provisions
20 that build on current recreational registry and data collection
21 programs outlined in Section 401 of the Magnuson Act. I am on
22 the wrong slide. Actually, this is 404, and so this one has a
23 couple of provisions too, and it builds on Section 404 of the
24 Magnuson Act, and that section requires NOAA to work with
25 councils on fishery research, and so there's two things in this
26 section.

27
28 NOAA needs to submit a report to Congress, working in
29 consultation with the council SSCs and the commissions, on
30 facilitating greater incorporation of data from state agencies
31 and non-governmental agencies in fishery management decisions.
32 The report needs to identify data, especially concerning
33 recreational fishing, that could be used as a basis for fishery
34 management.

35
36 It needs to provide specific recommendations for collecting data
37 and performing analyses, to reduce the uncertainty and improve
38 the accuracy of future stock assessments, and it needs to
39 consider the extent to which the acceptance and use of such data
40 is practicable and compatible with the Magnuson standard of
41 using best scientific information available.

42
43 This report is due at the end of 2019, and our Headquarters
44 Office of Science and Technology is working with our centers and
45 our Chief Stock Assessment Scientist, Rick Methot, to come up
46 with a plan for how to engage with the councils and commissions
47 on this.

48

1 The next provision in this section requires a biennial report to
2 Congress describing progress that NOAA has made in implementing
3 the recommendations from the 2017 Marine Recreational
4 Information Program, MRIP, and there's a National Academy study
5 on MRIP from 2017, and so, as you will recall, that study
6 highlighted some potential issues with in-season management, of
7 using MRIP for in-season management, and this biennial report to
8 Congress requires us to describe how we have implemented those
9 recommendations, and so we will produce the report to Congress,
10 and it's due at the end of next year, and then we need to
11 produce a report every two years thereafter, and so our Office
12 of Science and Technology is leading this one as well.

13
14 The next section, Section 202, includes a number of provisions
15 that build on current recreational registry and data collection
16 program requirements in Section 401 of the Magnuson Act, and so
17 you may remember, in 2016, the Magnuson Act was reauthorized,
18 and it included a new requirement for a federal angler registry,
19 and it allowed states to become exempt from that registry if
20 they had a compatible program, and, at this point, all states
21 except Hawaii have implemented a compatible program, and so this
22 provision really builds on trying to make improvements to those
23 existing state programs.

24
25 It has a number of different parts. The first one is that we,
26 NOAA, needs to establish state partnerships and develop best
27 practices and guidance for implementing state recreational
28 registry and data collection programs. We have a number of
29 existing partnerships through MRIP, including the Fisheries
30 Information Networks, or FINs, and we plan to build on these
31 successful partnerships and work with the MRIP Regional
32 Implementation Teams to fulfill this requirement.

33
34 The next provision in this section is a biennial report to
35 Congress on the accuracy of information in these state
36 registries and priorities for improving recreational data
37 collection, and so the information in this report will pull from
38 the priorities that have been identified in the MRIP Regional
39 Implementation Plans. There is no deadline for the first
40 report, but we will do it biennially after the first one.

41
42 The next provision provides us authority, but it does not
43 require, a state grant program to improve recreational registry
44 and data collection. Congress did not authorize funding for
45 this state grant program, but MRIP has funded some projects to
46 improve recreational data collection programs, and we plan to
47 work with our regional implementation plans to figure out how to
48 work on their priorities. The 2019 appropriations bill did

1 include an increase for MRIP for items similar to those outlined
2 in the bill.

3
4 The next thing that this section does is it requires another
5 National Academy study on using MRIP for in-season management,
6 and so, as I mentioned before, there was a 2017 study on MRIP
7 that brought up a variety of issues, one being in-season
8 management, and this will be a follow-on study to that previous
9 study, and we are working with the National Academies to develop
10 a scope of work for this one as well.

11
12 Then the bill has a rule of construction, which says -- It
13 reaffirms the Magnuson Act requirements, such as the National
14 Standards, annual catch limits, accountability measures, and
15 requirements for rebuilding, and that's what the bill does.

16
17 As I outlined, it includes a number of new studies and reports
18 and some guidance. It highlights options and flexibilities in
19 managing recreational fisheries, and it also reaffirms current
20 Magnuson Act requirements related to overfishing. It includes a
21 number of provisions related to state recreational registry and
22 data collection programs. The deadlines in the act are
23 challenging for us, especially because it was signed right
24 before the government was shut down, but we are working hard to
25 get these projects off the ground.

26
27 We have reached out to the -- We have communicated with the
28 Government Accountability Office and the National Academies, and
29 we're working on plans for reaching out to the councils and
30 commissions and other stakeholders, as is required, and so that
31 is the bill, in a nutshell, and I'm happy to answer any
32 questions you have.

33
34 **CHAIRMAN DIAZ:** Thank you, Ms. Hunt. Any questions for Ms.
35 Hunt? Mr. Anson.

36
37 **MR. KEVIN ANSON:** Thank you for your presentation, Ms. Hunt. I
38 don't know if this question necessarily goes to you, and it
39 might go to Clay, but, on Slide 8, or page 8, cooperative data
40 collection report to Congress, you say facilitating greater
41 incorporation of data from state agencies and non-governmental
42 sources into fishery management decisions, and so, I mean,
43 that's been an attempt for some time.

44
45 States have ideas, and have budgets, and they assign those
46 funding to certain data collection projects and such, and, in
47 the past, where those data collection efforts have been brought
48 forward, or brought to the table, for consideration in federal

1 management, they have not been met, I guess, resoundingly, and
2 so I can understand, and I recall some of the reasoning or
3 rationale is that they cover a small geographic area, and
4 they're not compatible, because of the gears that were used
5 relative to other gears that might be used in other regions, and
6 so I'm just wondering, maybe to Clay, is there a thought
7 forward, now that this Modernization Act has been passed, how
8 that might be accomplished, so that those programs that have
9 traditionally not be accepted, or well received, might be able
10 to be well received? Is there a mechanism, going forward, that
11 can help address that or kind of break out of that?

12
13 **DR. CLAY PORCH:** I don't know if they were specifically
14 targeting some of the items you were referring to, but it would
15 still be the case if you have, for instance, a survey that gets
16 a very tiny fraction of the entire Gulf of Mexico. It would be
17 hard to just plug it in a stock assessment, if that's what
18 you're referring to, and so there are challenges there.

19
20 The only way around that, really, would be to somehow combine
21 that survey with other surveys or you have more spatial
22 management, and so assessments that are structured spatially,
23 but then you need to collect data like that everywhere, and it's
24 a very expensive proposition, and so it's easy to say, in
25 theory, we want to facilitate greater incorporation of data, but
26 it requires a lot of new resources that haven't been put on the
27 table to do it right.

28
29 **MS. HUNT:** If I could add, I think the report that is required
30 lets us outline some of the challenges and opportunities, but I
31 don't think it would be able to resolve all of these problems.
32 Of course, it's due at the end of the year, and so I think there
33 are -- There is only a limited amount of time.

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

36
37 **DR. GREG STUNZ:** Thanks for a nice presentation summarizing that
38 act. I have a little bit of a question more on the
39 implementation side, rather than just sort of the act itself,
40 and I guess, from your perspective, or maybe this is even for
41 Clay or Roy, and I don't know, but what do you envision this
42 looks like for our management here in the Gulf, in terms of
43 alternative measures?

44
45 I mean, is it species or what? I mean, obviously, the state has
46 used these very successfully, and you pointed out there is
47 obviously differences in these fisheries, but I was curious to
48 see what your office might think something coming from the Gulf

1 would look like, in terms of alternate management.

2
3 **DR. ROY CRABTREE:** Well, I mean, I guess I would turn that back.
4 What do you have in mind? What is it that you're thinking of
5 trying? We just changed the whole management of red snapper
6 over the last year or two, and so, if you have ideas about
7 alternative management paths you want to try, we can certainly
8 explore those.

9
10 **DR. STUNZ:** I don't have anything specifically to throw out here
11 today, because I'm just hearing this, but, Roy, obviously, we
12 heard the same things around this table many times, in terms of
13 extraction rate management. In fact, several of them were
14 pointed out in her presentation.

15
16 I am just wondering what are the steps to go there? I mean, so
17 far, we haven't even implemented regional management yet, and
18 so, obviously, that's still pending, after this EFP, but,
19 really, where do we -- What is the next step? Does that just
20 come from this council of, hey, we would like to look at this or
21 look at that? I'm not real sure what the path forward is, Roy,
22 and that's what I am asking. If we have some of the ideas
23 there, what is the next step?

24
25 **DR. CRABTREE:** Well, to me, it would be defining what the terms
26 are on some of these. Extraction rate management, what exactly
27 does that mean, in terms of how we would change things? I mean,
28 our management currently is based on exploitation rates, and so
29 what would be the difference, if we went down that path, and
30 what exactly does that mean? I guess we can look at that, and
31 this seems to give us a green light to go with some of those,
32 but I don't think it really defines exactly what something like
33 extraction rate management and what specifically does that mean.

34
35 **DR. STUNZ:** I don't want to get too hung up on just extraction
36 rate right now, but that was just an example, because that was
37 one of the ones used there, is alternatives that there might be,
38 and I don't know what those would look like, and that's why I
39 was kind of asking you, Stephanie, too about what's the vision
40 like coming from your levels outside of the Gulf, and so, I
41 mean, I certainly have some ideas that we could throw forward
42 and move forward with and things like that, and not today,
43 certainly, but I'm just trying to get a general feel for how
44 does that play out and what process do we get those, or do we
45 just make a motion to move forward or have your group look at
46 it, Roy, or what?

47
48 **CHAIRMAN DIAZ:** Dr. Porch.

1
2 **DR. PORCH:** One of the challenges though is that the act still
3 requires ACLs, and it still requires us to achieve maximum
4 sustainable yield as reduced by relevant economic and social and
5 environmental considerations, and so it didn't fundamentally
6 change things, and it's all well and good to look at alternative
7 ways of managing the fishery, but, ultimately, they have to
8 achieve the same end, and I think, from what I have seen anyway,
9 a lot of people would like it to achieve a different end.

10
11 **CHAIRMAN DIAZ:** Ms. Bosarge.

12
13 **MS. LEANN BOSARGE:** But, I mean, Greg, that doesn't mean we
14 can't look at them, and so I think, if the recreational members
15 around the council have an idea of how to manage your fishery a
16 little differently, from a quantitative perspective, like that
17 exploitation rate, maybe you could outline it for us one day in
18 a presentation.

19
20 Then I think the step after that would probably be to send it to
21 the SSC and let them dive into the nuts and bolts of it and say,
22 okay, well, from a scientific perspective, this is what this is
23 going to mean and that's going to mean and do we have the data
24 to do that and what would that mean as far as timeliness of
25 management, and let us get some feedback and see if it's
26 feasible. I think, if we never start, we'll never get there.

27
28 **CHAIRMAN DIAZ:** To that point, Dr. Stunz?

29
30 **DR. STUNZ:** To that point, I don't -- I mean, I certainly don't
31 have anything to put out here today, and I don't know. We
32 haven't even really had any discussion around the table about
33 exactly what that would look like, but, Clay, to what you were
34 mentioning, you read one part of the document, and it talks
35 about -- Or other documents circulating regarding what this
36 means and the constraints of poundage-based type management, or
37 quotas or whatever you want to call it, and then you were just
38 talking about, right out of the gate, it talks about the ACLs,
39 and so I don't know -- Maybe I just don't have the understanding
40 of how do you -- They're almost mutually exclusive, and so I
41 don't know, and maybe that's some guidance from you, or maybe it
42 is the guidance, Leann, from the SSC, but I guess the point is
43 we've just got to get something on the table, and I don't really
44 know what that is yet, assuming we even want to go there, but
45 I'm just not real clear, is why I'm asking these questions.

46
47 **CHAIRMAN DIAZ:** Mr. Dyskow.

1 **MR. PHIL DYSKOW:** Thank you, Mr. Chairman. My take on what I
2 heard was slightly different than Greg's. I think we all agree
3 that the model, as laid out in MSA, works well, and it works
4 well for recreational fishing, and it works well for commercial
5 fishing, and working within those guidelines or constraints is
6 probably a smart thing to do, but our experience with Amendment
7 50 is very much in its infancy, but, if that model works for red
8 snapper, whereby recreational fishing is successfully managed by
9 the states, and we stay within the guidelines and constraints of
10 MSA, maybe an option would be to look at other species,
11 particularly non-migratory species, where we can add other
12 species to the state management environment, which I think
13 recreational anglers are more comfortable with, because we keep
14 butting heads that we don't need to butt.

15
16 We have a successful red snapper program for commercial
17 fishermen under the IFQ program, and hopefully we'll have a
18 successful program under Amendment 50, with state management,
19 and maybe we expand the state management program. That way, we
20 can stay within the guidelines, as specified in MSA, but still
21 give the anglers what they want and presumably keep everybody
22 happy.

23
24 **CHAIRMAN DIAZ:** Other questions for Ms. Hunt? Mr. Boyd.

25
26 **MR. DOUG BOYD:** Thank you for your presentation. Almost three
27 years ago, a directive came out from National Marine Fisheries
28 for each council to look at allocation triggers. In that, it
29 specified that National Marine Fisheries would like to use
30 adaptive management, and I think, a while ago, you said that
31 there are some councils or that somewhere that adaptive
32 management is being used, and could you tell me where that is in
33 a mixed-use fishery?

34
35 **MS. HUNT:** I am not exactly following the triggers versus the
36 adaptive management. Are you asking about two different things?

37
38 **MR. BOYD:** Well, National Marine Fisheries published two
39 processes, or two suggestions, however you want to call it, to
40 create triggers to review allocations. In that, they specified
41 they would like to see adaptive management used, and I think you
42 said that there was adaptive management policies, procedures,
43 being used somewhere, and I just wondered if it was being done
44 in a mixed-use fishery around the United States.

45
46 **MS. HUNT:** I am trying to parse it, and I was talking about
47 adaptive management in terms of the recreational fishery
48 management measures that we were just talking about, extraction

1 rates and harvest control rules, but I think maybe what you're
2 talking about is the triggers document that suggested that
3 councils think ahead of time about how to set up their
4 allocations so that, when things change, they could be more
5 adaptable and flexible in the decisions, and is that what you're
6 asking about?

7
8 **MR. BOYD:** Well, I think I'm just asking about the document and
9 the directive from National Marine Fisheries, as opposed to
10 mixed-use fisheries.

11
12 **MS. HUNT:** The trigger requirement, the requirement for councils
13 to produce triggers by August of this year, councils have done
14 that, for the most part, and I am not really aware of any -- I
15 think most councils have chosen time-based triggers, and so I
16 haven't seen anything really different than that related to the
17 allocation triggers.

18
19 **MR. BOYD:** Okay. Thank you.

20
21 **CHAIRMAN DIAZ:** Any other questions for Ms. Hunt? I would like
22 to make a quick comment before we move on. I am encouraged
23 that, inside the Modern Fish Act, that state grants are
24 available, can be available, to improve state registry and
25 improve state data collection programs.

26
27 We just passed Amendment 50, which is state management of
28 recreational red snapper throughout the Gulf, and we couldn't
29 have done that without every state in the Gulf stepping up to
30 implement data collection programs that enabled us to move that
31 document forward.

32
33 MRIP, for what it was designed to do, is probably pretty good,
34 but, for trying to manage in-season, it's very tough. It's in
35 two-month waves, and, by the time you get the data at the end of
36 the two-month wave, and that's forty-five days or sixty days
37 later, and it's just -- You can have problems while you're
38 waiting on the data to come in, and it's just not quick enough,
39 and I know that's another study, but, each one of these states
40 that have data collection programs, and I can guarantee you that
41 each one of these states have things that they can do to improve
42 their data collection programs, but finding money to do these
43 data collection programs out of state budgets is pretty tough.

44
45 I could tell you about some improvements I can see that could be
46 made right now, but that's a whole other topic, but I would
47 definitely encourage you and the rest of the NOAA staff, when
48 you have an opportunity to kind of pull, to help put some money

1 towards helping states out with these data collection programs,
2 because there's a lot more than can be done in that realm, and
3 so any other questions or comments?
4

5 Thank you very much, Ms. Hunt. You did a good job, and we
6 appreciate it. Next up, Dr. Hollensead is going to go over our
7 action guide and talk about Agenda Item Number V, and we're
8 going to lead right into that discussion. Dr. Hollensead.
9

10 **COMMITTEE DISCUSSION ON ALLOCATION ISSUES**

11
12 **DR. HOLLENSEAD:** Thank you, Mr. Chair. The next agenda item is
13 a discussion, specifically on allocation issues, and, in Ms.
14 Hunt's presentation, she had a slide sort of going over that in
15 mixed-used fisheries, but, at this point in time, the committee
16 can determine if any next steps are needed, as necessary, and
17 begin that discussion.
18

19 **CHAIRMAN DIAZ:** Okay, and so I would open the floor up, if
20 there's anybody that would like to start that. Dr. Frazer.
21

22 **DR. TOM FRAZER:** I am the one that put this agenda item on, and
23 the reason I did that is because I think everybody is -- During
24 Ms. Hunt's presentation of the Modern Fish Act, conspicuously
25 identified in there is the issue of allocation, and Doug made a
26 good point.
27

28 When we were looking at -- In past meetings, we've been guided
29 by these policy and procedural directives, and, in those
30 directives, Doug, you're exactly right. It said they should be
31 adaptive in character, or in nature, and that's because
32 fisheries are inherently dynamic.
33

34 The fish move, and the dynamics change, and the demographics
35 change, and one of the things that we're struggling with, I
36 think, as a council is how do we deal with these types of
37 allocation issues in a dynamic environment, where we're just
38 almost exclusively looking at historical data and catch records,
39 and we don't have very good records, in most cases, and so it's
40 difficult to move forward, and it's not because people don't
41 have good ideas, or their intentions aren't good, but it's just
42 inherently controversial.
43

44 What I wanted to do was to have some open discussion, a little
45 bit unstructured, and it's not typically what we do, and we've
46 got about twenty-five minutes or so to deal with it, and I'm
47 hoping that we can continue to do this in the council meetings
48 moving forward, and I don't think that we're going to solve

1 allocation issues today, but, for me, it's going to be helpful
2 to get an idea of where people are coming from and the way that
3 they think about the world, and so maybe, the next time that we
4 have this discussion, I can put a better outline together,
5 perhaps, and help start to structure this discussion.

6
7 When we talk about the policy, the policy is very vague, and it
8 has all of these things. We need to consider environmental
9 factors, or ecological factors, and we need to consider social
10 factors and economic factors, but all of those things mean
11 different things to different people, but they all essentially
12 reflect people's values, and so it's the values that ultimately
13 need to be stated. People need to understand what those values
14 are, because, until we do that, until we understand the whole
15 range, we can't turn those values into metrics, something that
16 we can measure.

17
18 In order to manage things, we need to be able to measure stuff,
19 and so there's two parts here that I think that would be helpful
20 for me, and I'm not committing anybody to anything in
21 particular, and I'm going to open the floor up here in a second,
22 but, when you think of things that are important in an
23 allocation arena, what things should we consider specifically in
24 those kind of categorical areas?

25
26 There are environmental considerations, and there are economic
27 considerations, and there are social considerations, but what
28 does that mean to people around this table? This is my big
29 experiment, and let's see how it goes.

30
31 **CHAIRMAN DIAZ:** Ms. Boggs.

32
33 **MS. SUSAN BOGGS:** Well, I will start, from a different
34 perspective, from the charter-for-hire headboat. When you look
35 at the economics and socioeconomics of it, one of the things for
36 us, and maybe this is not what you're looking for, but I am not
37 a scientist, and so I look at things a little differently, but
38 it's what can we provide to the recreational fishermen that fish
39 aboard the charter boats and headboats? How can we give them
40 more access?

41
42 As a business owner, how can we promote our business? How can
43 we create a business plan and market our business in these
44 unstable fishing seasons? I don't know if that's what you're
45 looking for, but that's what always comes to the forefront. Of
46 course, keeping in mind what's best for the fishery as you do
47 that.

48

1 **DR. FRAZER:** I am making some notes, and I just want to make
2 sure. When I hear that, what you're saying, first and foremost,
3 is what is the service that we can provide to the recreational
4 community that doesn't own a boat, perhaps, right, and so, when
5 you try to quantify that, what would be a good service, for
6 example? How would you know that you're providing a good
7 service to your clients?
8

9 **MS. BOGGS:** Well, I don't know if it's service, per se, because,
10 when I think about service, it's the quality, like when you go
11 to a restaurant and how were you taken care of and was the
12 waiter or waitress attendant and things like that, but I think
13 it's access. How can we help provide more access to the non-
14 boat-owning recreational fishermen to this fishery, and how can,
15 as a business owner, we build a business model around that, but,
16 again, protecting the fishery is the most important thing.
17

18 I mean, I am not -- But I think there's got to be a balance
19 there somewhere, and we haven't found that balance yet. I think
20 there's a lot of good ideas on the table of things that have
21 been tested and tried and ideas, but we need to move forward
22 with some of these things, and it seems like we keep stalling
23 out. There is always a roadblock, and, hearing the conversation
24 about the data collection, that's important, and I hear about,
25 and I'm just going to lay it out there, the funding for the
26 states. Well, the federal government can't get the funding to
27 roll out a charter/for-hire reporting plan, and so how do we
28 balance those types of things? I think it's got to just --
29 There has got to be a balancing act, and I don't know the answer
30 to that.
31

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

34 **DR. STUNZ:** Well, one starting point, and, Kevin, I'm going to
35 put you on the spot here, and I'm sorry. You made a motion, at
36 the last meeting, or the meeting before that, regarding putting
37 in some times -- Like a workshop that would then build in some
38 time triggers for allocation and that kind of thing, and I am
39 vaguely sort of recalling it, but we never really moved on that.
40

41 It was when we were discussing this letter, and maybe I'm just
42 dreaming this up, Kevin, and I don't know, but we had some
43 discussion, and I thought it was you, Kevin, that brought up
44 about having a workshop that maybe the Regional Office would put
45 together or something, and then we would really begin to look at
46 what this meant and what the triggers were like and then put
47 some real timelines on that, and that may be the starting point,
48 where we could do that, Tom, and I don't know what that would

1 look like, and I am just trying to spur the discussion based on
2 what we've already discussed.

3

4 Then that workshop could fill out what are the real needs and
5 what are we talking and really develop this, because, to me, it
6 seems like this is a real policy kind of thing, rather than
7 coming up from a motion on a reallocation, because it's such a
8 difficult issue, and it's got to come down to this is our
9 policy, and we have some workshop that defines that letter
10 better of what that really means, because I know there was a lot
11 of discussion and differences of opinion, but that letter sort
12 of set the overall framework, but we don't have any real details
13 of what that means, and so it seems like convening that --
14 Kevin, if I'm totally off, let me know, but, whatever your idea
15 was, maybe talk about that further again to develop that
16 workshop to get our heads around, like you're saying, Tom, what
17 this means.

18

19 **DR. FRAZER:** I don't think you're dreaming that up. It's
20 actually Kevin's comments at the last meeting that kind of
21 stimulated this discussion, and I would like, ultimately, to get
22 to a more structured workshop, so we can talk about allocation
23 issues in the future.

24

25 I mean, we're certainly going to get some input moving forward
26 with the GAO's report, and a lot of other people are working on
27 this as well, but, at the end of the day, those allocation
28 decisions are going to have to be made around this table, and so
29 those values need to reflect the values of the people that we
30 represent here, and so they will be inherently kind of
31 geographical in focus, I think, but I think, ultimately, we may
32 get to a workshop, but I don't think we have to do it tomorrow.
33 These issues aren't going away.

34

35 **CHAIRMAN DIAZ:** Dr. Stunz.

36

37 **DR. STUNZ:** To that point, with the activities that are all
38 going on around us that are related, and I guess they're going
39 to report back to us at some -- I was talking about the GAO and
40 other things going on related to the MSA and all that, and I
41 guess we'll be getting periodic updates here at this council or
42 something?

43

44 For example, today, we got a general briefing of the act, and it
45 has a whole variety of components, and one is what we're
46 discussing now, and, in other meetings and things going on, is
47 the plan to give us periodic feedback, which would feed into
48 that workshop or something?

1
2 **DR. FRAZER:** I don't want to speak for the GAO, but they did
3 indicate that they have a fairly aggressive timeline. They've
4 got a report that's due by December, and I don't want to try to
5 impose upon them to periodically report anything. I think we
6 can anticipate a report from that entity down the road, right,
7 and that will certainly, perhaps, play a role in how we develop
8 our own process moving forward.

9
10 I think my goal here is to just -- I mean, we have such a long
11 history of focusing on one particular species and recognizing
12 how difficult those decisions are, and, again, and you've heard
13 me say this before, but I think the difficulty there is we're
14 not forward-thinking, and we need, somehow, to get to a point
15 where we can adopt a policy and processes that are associated
16 with that policy that allow us to be much more flexible and
17 nimble and respond to, again, a change demographic and changes
18 in the ecology of fishes and changes in habitat and how climate
19 might affect distributional shift in fishes.

20
21 All of those things affect access, which is important, but it's
22 a complicated issue, and we're not going to get there in one
23 day, and this is my opinion, and it's one of the few times that
24 we've just had an open discussion, and there is no agenda here,
25 but it's just for me to start gathering some information, so
26 that I think that we can talk about it again, to start to have a
27 little more structured conversations moving forward.

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

30
31 **MS. BOSARGE:** I will focus on the value section that you were
32 asking for, as it relates to allocation, and this is just my
33 personal opinion, and I'm sure it's not the will of the entire
34 council, but, to me, we get into these allocation discussions a
35 lot of times, and usually it's for a fishery that is fully
36 utilized, right, and we're catching every bit of what we are
37 allowed to catch plus some, usually.

38
39 Usually it's a couple of different sectors that are involved and
40 fish in different ways, and we manage them differently, just
41 like our last presenter talked about. There is differences in
42 commercial versus recreational, and, therefore, there should be
43 differences in the way you manage them.

44
45 Then we get into the allocation discussions, and, to me, if one
46 sector was managed very efficiently, and our ultimate goal of
47 management is whether we stay inside that quota or not, right?
48 From a biological perspective, that's how we keep our stocks

1 healthy, and so successful management from that biological
2 perspective is staying within your quota, and so, if that's
3 where we're putting value on the health of the stock, is staying
4 within that biological quota, that value has to somehow also
5 transfer into our discussions on allocation.

6
7 You can't punish a sector, and, when I say punish, you would
8 take allocation away, for staying within that quota, right, and
9 essentially having an effective management system, and then, on
10 the other side, if you are managing another sector in a way that
11 you're not able to hit that goalpost the way you're trying to,
12 and you have overruns, that shouldn't be rewarded, right?

13
14 It would be like me having two kids and saying, you know,
15 hypothetically, and so it's a two-income household, husband and
16 wife, and I've got two kids, two teenagers, and they both get an
17 allowance. Let's say we make a lot of money and they both get
18 \$250 a month, and I've got a girl and a boy.

19
20 My husband leaves me for some reason, and I don't know, but he
21 just can't put up with me anymore, and so now I'm a single mom,
22 and I'm trying to raise these kids on one income, and so we've
23 all got to make cutbacks, right, and our financial health is not
24 very healthy right now. I look at them, and I say, all right,
25 guys, we've got to make some sacrifices, and I've got to cut
26 your allowance, and you're each going to get only \$100 a month
27 each, and I'm going to take that extra money that I would have
28 given you in allowance and I'm going to pay down our house note,
29 and I'm going to pay off our cars, and then we'll be in a better
30 situation financially, and I will be able to get you back up to
31 your \$250.

32
33 I give my son a hundred-dollar bill and say, there you go,
34 there's your allowance, and you stay within that hundred bucks,
35 and then I give my daughter a credit card without a limit, and I
36 say, now, you stay within that hundred dollars, baby, and, every
37 month, my son stays within his hundred, because, when he doesn't
38 have any more money in his pocket, he just can't spend anymore,
39 right, but my daughter spends about \$150 a month, and there's
40 another pair of shoes out there, and she might get \$200. She is
41 trying, but I'm not managing her well. I gave a teenager a
42 credit card, right? What the heck was I thinking?

43
44 But I'm able to get the credit cards paid down, and I get the
45 car paid off and the house paid off, and I say, guess what, our
46 financial position is healthy again, and so you all did great,
47 and you all helped me out, and I'm going to make your allowance
48 back to \$500 total for the both of you all, but then I look at

1 them, and I say, well, I don't think I can go back to giving my
2 son \$250 and my daughter \$250, because, over the last few years,
3 I've seen that my daughter really needs more money, because she
4 never could stay within her \$100.

5
6 She was spending \$150 or \$200, and so I look at my son and say,
7 babe, I'm sorry, but you've got to stick with the \$100, because
8 your sister needs the rest, because she just seems to have
9 higher needs, budgetary needs, and I kind of feel like sometimes
10 that's where we're at on allocation, when we have a stock that
11 declines and everybody makes some sacrifices, but, when you look
12 at the goalpost of what will rebuild the stock, you've got to
13 quit killing so many fish.

14
15 That's how you rebuild the stock, and so, if you manage to keep
16 one group to that hundred-dollar bill, but we don't manage the
17 other one effectively, we're just not doing it, and it's our
18 fault and not theirs, but, when they have overruns, and then we
19 go back and we look at allocation based on landings history, we
20 reward it. We say, well, we've got to change this allocation
21 and shift more fish in this direction, and so, from a value
22 perspective, that is what has always bothered me about red
23 snapper allocation, in particular.

24
25 Now, so to get off that soapbox, let's talk about a different
26 allocation, king mackerel. I think that this council has a lot
27 of room for our underutilized fisheries, where we're not
28 catching the full ACL, recreationally and commercially, the
29 overall ACL, to try and share.

30
31 I know you all have heard me beat this drum before, but I think
32 that's a value that we should put more emphasis on. If we can
33 keep from taking those recreational fish from those recreational
34 guys and hard-shifting them to the commercial sector -- That's a
35 tough pill for anybody to swallow, and I don't blame them for
36 not wanting to do that, even though they're not catching them.
37 I wouldn't want to do it if the shoe was on the other foot, but
38 I think we need to put some emphasis on sharing in the
39 underutilized fisheries, where we're not catching the whole
40 quota, and finding a way to share and land those fish. Those
41 are my two values.

42
43 **DR. FRAZER:** Thank you. Bob.

44
45 **CHAIRMAN DIAZ:** Dr. Shipp.

46
47 **DR. BOB SHIPP:** The Dalai Lama has some life principles, and one
48 of them is things change. I grew up in Fort Walton, and I moved

1 here when I was four years old, and having this meeting here
2 tells me something. I mean, look at what is here compared to
3 what was here in 1950.

4
5 I think Tom used a number of words, but the one I would like to
6 emphasize is the change in demographics. It's just been
7 incredible, and it's not just Destin and Fort Walton and Panama
8 City. It's the entire coast, from the Keys all the way around
9 to Brownsville, and yet the allocations are based on thirty and
10 forty-year-old catch records, and I think a strong case can be
11 made that the demographics has changed immeasurably, but the
12 allocations have not, and they need to catch up,

13

14 **CHAIRMAN DIAZ:** Mr. Sanchez and then Dr. Stunz.

15

16 **MR. JOHN SANCHEZ:** Thank you. That is one way to look at
17 things. Then you could also arguably say, all right, perhaps
18 this stock of fish is much greater than we all anticipate and
19 its ability and its resilience to be overrun the way it's been
20 recently, and we have had some de facto reallocations by keeping
21 the commercial guys to their level, and yet there is overruns
22 and there is overruns, and then, arguably, we don't share in
23 this larger population of fish, both sectors, that apparently
24 seems to exist out there in the real world.

25

26 I think, as we look at reallocation, we should probably look at
27 how big this biomass really is and perhaps give some increases
28 to both sectors, which could surely use them, and I think the
29 biomass is probably big enough to do it, because it's been
30 withstanding these overruns anyway.

31

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

33

34 **DR. STUNZ:** This isn't what I was going to say, John, but that's
35 exactly what teams of scientists are out doing right now, is
36 counting the snapper, and we're a ways out on that still, but
37 what I wanted to say was to follow-up to Bob's point about the
38 demographic shift, and, Bob, I'm assume you're talking about
39 demographic shift of people, though we have this huge
40 demographic shift of fish as well.

41

42 I mean, we've heard things, and this is a little different than
43 reallocation, but the grouper guys are discarding enormous
44 amounts of fish, and I forgot what that number was, because
45 things aren't set right, and you mentioned it, Tom, a little bit
46 in your opening remarks, is that having this proactive and
47 thinking-forward approach about not managing, Leann, or not
48 punishing what happened in the past or back and forth, and we've

1 got to be looking forward with what's this fishery going to look
2 like in ten years, or even beyond, much beyond, in fact, and
3 setting those allocations based on that and the demographic
4 changes not only to people, Bob, which is certainly the driving
5 factor, but the fish and how that's changing out there as well.
6

7 **CHAIRMAN DIAZ:** Ms. Bosarge.
8

9 **MS. BOSARGE:** Well, but, as you look at that, you have to
10 understand that the demographics on the seafood-consuming public
11 in the United States are changing too, and that can be evidenced
12 by that lease price on red snapper. There are so many more
13 people that want access to that on their plate in the middle of
14 the country, and the lease price is up to \$4.25, and so it's not
15 just the demographics of the recreational fishermen going out --
16 How many there are going out on the water that's changing, but
17 the same thing is happening in the middle of the country, and
18 they want access to that fish too, and I think we forget that
19 it's not just demographics in one side, that those same
20 demographic trends are occurring on the other side, and that's
21 what makes allocation battles in a fully-utilized fishery so
22 difficult.
23

24 There is really not a good answer. You could give 100 percent
25 of that red snapper quota to the commercial guys, and they could
26 catch every bit of it. You could give 100 percent to the
27 recreational guys, and they could catch every bit of it, and the
28 seafood consumer wants it just as much as the recreational guy
29 that wants to fish with his family, and I think that's what
30 makes this so tough, and so that's why I think it's so
31 fundamental, like Tom said, to identify the values that we're
32 going to place on making these decisions.
33

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

36 **MR. BOYD:** Yes, sir. Thank you. I know this is elementary, but
37 I would just like to make a small point. The objectives of the
38 two sectors we always talk about, the recreational and the
39 commercial sector, and I lump the for-hire industry in the
40 commercial sector, personally I do, because it's profit driven,
41 but the two objectives are totally different.
42

43 The recreational sector wants to have experiences. They don't
44 necessarily have to kill a fish to have that experience.
45 They're out there on the water, and they're out there running
46 their boat, because they enjoy the boat, and they're with their
47 family, and so, as we've seen with the king mackerel fishery,
48 not all of those fish are utilized back at the table. They're

1 not all killed. A lot of them are released.

2
3 In the commercial industry, a dead fish is the only thing that's
4 valuable to the commercial industry. It has to be killed in
5 order to be sold into commerce, in order to get to somebody's
6 table at some point, and so, as we consider allocations, we've
7 got to understand that the purpose of each one of these sectors,
8 or the desire for the recreational or for the commercial, are
9 completely different.

10
11 **DR. FRAZER:** I appreciate that, and I think, ultimately, that
12 will lead us into some discussions about kind of fairness and
13 equitability and how you actually quantify those values,
14 because, right now, the currency is much like the various MRIP
15 things that we're dealing with.

16
17 We're not always dealing with the same currency, and that's a
18 challenge for the economists as well as the sociologists, and so
19 I think I've taken up my thirty minutes of time, but I will
20 maybe take one or two.

21
22 This was an experiment for me, because I do think it's important
23 to think forward, maybe, what a properly-allocated fishery might
24 look like twenty years from now, and I think, if we have our eye
25 on that endpoint, I think we're going to be in a much better
26 position to get there in a way that's favorable to all parties
27 involved, but we have a lot of work to do, recognizing and
28 acknowledging the differences amongst the various stakeholder
29 groups and, again, how do we quantify those values in a way that
30 makes sense and how do we make decisions that, again, are
31 consistent with those National Standards, and there's a lot of
32 them, and so I think there's two more questions, because I want
33 to go to break, but there's Phil and then there's Martha.

34
35 **MS. MARTHA GUYAS:** Just to follow-up on Doug. I mean, I feel
36 like one of our major challenges is that the values within, I
37 guess if we're just talking recreational and commercial, within
38 those sectors themselves, they're vast. Like, for Doug's
39 example, we have from catch-and-release to I just want to go
40 fish and have fun with my kids to I want to bring something home
41 for dinner to who knows what else everybody's values are, and
42 it's extremely diverse.

43
44 Even within commercial, we've been talking about this IFQ
45 amendment and how we have issues with how that fishery is
46 allocated within that sector, or at least some people would
47 argue there is issues and others who would not feel that way,
48 but it's not just about recreational versus commercial, and I

1 don't know that, even around this table, we can represent all of
2 the values that are out there.

3

4 **CHAIRMAN DIAZ:** Mr. Dyskow.

5

6 **MR. DYSKOW:** Thank you. I appreciate all those points of view,
7 and they're all valid, and I think it's great that we have this
8 discussion, but, going back to the GAO, they're going to report
9 back to Congress. They're going to report back on this issue,
10 and they're going to take all of this input, and they're going
11 to, presumably, come to some conclusions, because they are not
12 reporting just for the sake of reporting, I hope.

13

14 I think it's very crucial that we understand the direction
15 they're going to take this thing, because it's going to affect
16 all of us, and so I think our opinions matter, and they are very
17 thoughtful, at least the ones we had today, but I think it's
18 really important to provide the maximum input to the GAO
19 representatives, so that, when they report to Congress, they
20 don't go out in left field one way or the other.

21

22 **DR. FRAZER:** Again, I agree with all of those points, and I
23 think all of the discussion that we had, again, just kind of
24 emphasizes the complexity of these issues. I am glad to have
25 the GAO here today, and I'm glad that they reached out to all of
26 the council members, and I would encourage everybody to go talk
27 to them, so they have the full benefits of everybody's thoughts
28 and perspectives on the broad suite of allocation issues that we
29 talk about, right, and so we have all kinds of issues.

30

31 They are not just recreational or commercial, but they are
32 allocations among states, and they are allocations within the
33 recreational sector, all kinds of things, and so I appreciate
34 your comments, Phil, and I appreciate everybody taking the time
35 to have this discussion today, and we'll have another one at the
36 next meeting, and hopefully I'll be a little more focused on it,
37 but I wanted to start somewhere, and so we'll take a break.

38

39 **CHAIRMAN DIAZ:** Let's take a fifteen-minute break, and we will
40 come back at 2:45. Thank you.

41

42 (Whereupon, a brief recess was taken.)

43

44 **CHAIRMAN DIAZ:** I would like to call the Sustainable Fisheries
45 Committee back to order. The next agenda item is the Generic
46 Amendment for Carryover Provisions and Framework Modifications.
47 Mr. Rindone.

48

1 provided further simulations that were looking particularly at
2 the situation of if you have underages and overages and you can
3 carry over some, but you are not required to pay back.

4
5 This is a very brief summary, and so this uses the latest SEDAR
6 assessments and then looked at twelve different scenarios of
7 underages and overages, both single years and sequences of
8 underages and overages, and it simulated perturbations, i.e.,
9 underages or overages, of up to 50 percent of the ABC, and it
10 used a one-to-one carryover of payback in the following year.

11
12 I have a little asterisk here. Remember that the one-to-one
13 carryover is larger than what would be allowed under National
14 Standard 1, in many cases, because you cannot have the quota
15 exceed the overfishing limit, and so the carryover would be
16 limited to a proportion of the difference between OFL and ABC in
17 the year where the carryover is applied, and, in fact, the
18 preferred alternative of the council is to allow only 50 percent
19 of that difference to be carried over anyway, and so the
20 simulations that were done here include larger carryover and
21 payback of underages and overages.

22
23 They showed that, basically, as long as you do both, you carry
24 over and you pay back at a one-to-one level, that will not
25 affect the long-term stock status, and no negative impact on the
26 spawning stock biomass or rebuilding timelines is expected from
27 those carryover and payback provisions.

28
29 The second part, the result for allowing carryover of unused
30 quota, but not requiring payback, that looked somewhat less
31 good, and, essentially, it shows that spawning stock biomass
32 declined relative to the base scenario when no overages
33 occurred. Under all overage scenarios, declines in spawning
34 biomass were sustained for extended periods, ten to twenty
35 years, following a single overage, and this resulted in delays
36 of rebuilding between one year for a sort of very small 1
37 percent single overage to six years for a 50 percent overage.

38
39 Repeated overages can be expected to have close to cumulative
40 effects, and, if overages are continually not paid back, it
41 cannot be expected that red snapper will rebuild in a reasonable
42 timeframe.

43
44 The SSC recommendations are that we recommend the simulation
45 analysis as the best available science for this purpose. If a
46 payback, in the case of a quota overage or a carryover, in the
47 case of a quota underage, is handled in a one-to-one fashion, in
48 the short term, there is little effect on rebuilding

1 trajectories, but the emphasis here is you would have to do
2 both.

3
4 The SSC also recommends that the council consider implementing
5 paybacks for overages for stocks under a rebuilding schedule in
6 light of the analyses here regarding what happens when you do
7 not include payback for overages, and that's it.

8
9 **CHAIRMAN DIAZ:** Thank you, Dr. Lorenzen. Any questions for Dr.
10 Lorenzen? Dr. Frazer.

11
12 **DR. FRAZER:** Kai, it's hard to look at this just in words, and
13 it would be helpful for me, because I'm a little more visual,
14 but so, if you have an extreme overage for a particular fishery,
15 and maybe the next year or something you have an underage, how
16 do you spread that overage, the payback of that overage, back?
17 From an optimization schedule, I guess, is it better just to
18 cram it all in one year? Mathematically, it might work that
19 way, but, socioeconomically, it may be a really bad deal.

20
21 **DR. LORENZEN:** Right, and so the simulations here, as far as I
22 know, consider only the following year payback or carryover, and
23 so they haven't looked at extended periods to pay back or carry
24 over, and I guess, in terms of the carryover, the amount you can
25 carry over and the timeframe are quite limited, whereas I think,
26 with the payback, there is more leeway, because, at the moment,
27 of course, payback is not technically required unless the
28 fishery is in an overfished state, and so I presume that the
29 council will have some leeway in deciding how the payback would
30 be timed, but the simulations that we looked at, as far as I
31 know, concerned only payback in the following year, and it's a
32 very short term.

33
34 **CHAIRMAN DIAZ:** Dr. Porch.

35
36 **DR. PORCH:** I would just add that it really just depends on how
37 fast you want to get back on track and how much you'll pay back
38 when, and so, obviously, the sooner and the more you pay back,
39 the faster you can get back on track, but the bottom line is if,
40 for instance, you exceeded the OFL, and the stock is not yet
41 rebuilt, then you would actually have to pay back more than what
42 your overage was to ever get back on track.

43
44 **CHAIRMAN DIAZ:** All right. I don't see any other questions.
45 Thank you, Dr. Lorenzen.

46
47 **DR. LORENZEN:** Thank you.

48

1 **CHAIRMAN DIAZ:** Ms. Muehlstein, would you like to go over the
2 public comments, and then we'll get Ryan back on the document.

3
4 **PUBLIC COMMENT SUMMARIES**
5

6 **MS. MUEHLSTEIN:** Absolutely. Thank you, Mr. Chair. You might
7 remember that, at our last meeting in April, we gave a summary
8 of the public comments that we had heard up until then, and,
9 just to remind you, we did host a webinar public hearing, and we
10 did not get any comments through that public hearing.

11
12 Since that time period, we have received two additional public
13 comments online, and we heard that the council should exclude
14 stocks that are under a rebuilding plan from the carryover
15 provision, to ensure that rebuilding targets are met, and then
16 we also heard support for carryover, because it will give
17 management and operators more flexibility and access to the
18 resource, and that's it.

19
20 **CHAIRMAN DIAZ:** Thank you, Ms. Muehlstein. Mr. Rindone.

21
22 **REVIEW OF DOCUMENT**
23

24 **MR. RINDONE:** Thank you, sir. All right. If you guys want to
25 just review real quick what you have as preferred alternatives
26 presently, in Action 1, which is on page 11 of the document, you
27 guys -- This Action 1 establishes eligibility for carryover for
28 managed reef fish and CMP stocks in the Gulf, and you guys
29 currently prefer Alternative 2, which would establish a
30 carryover provision for managed reef fish and CMP stocks.

31
32 It would apply to stocks and stock complexes with sector
33 allocations, and unused portions of sector ACLs for the species
34 managed under catch share programs are excluded, and you guys
35 took that out last year. Carryover would not apply to the
36 unused portion of the ACL for managed reef fish or CMP stocks or
37 stock complexes which are currently overfished or which did have
38 their fishing year closed as a result of the ACL and the quota
39 being projected to be met.

40
41 **CHAIRMAN DIAZ:** Any questions for Mr. Rindone? Ryan, based off
42 the SSC's comments, if we wanted to add the payback provision,
43 would this alternative be the place to do it right here, where
44 it's got carryover, but carryover/payback, every place there, or
45 would there be a cleaner way to do it, if we decided we wanted
46 to do something?

47
48 **MR. RINDONE:** I think there are a couple of different ways that

1 we could probably do it. A payback provision is -- It's an
2 accountability measure, and it's kind of a big thing. Mara, do
3 you have an opinion? I am just going to toss that grenade in
4 your direction.

5
6 **MS. MARA LEVY:** I mean, I think we could look at the document
7 and think about where the best place to add it is. If you want
8 to add it, I would just make a motion to add a payback provision
9 to the document to address the carryover/payback situation, and
10 then staff can go back and see how to best word that and bring
11 you whatever they come up with at the next meeting, in terms of
12 alternatives or some modification to this alternative.

13
14 **CHAIRMAN DIAZ:** Dr. Crabtree.

15
16 **DR. CRABTREE:** Given the SSC's comments, I think that's what we
17 need to do. **I will make a motion to direct staff to add a**
18 **payback provision to the document, and that would be a payback**
19 **regardless of stock status, I guess.**

20
21 **MR. RINDONE:** That would be either don't do it or do it for
22 everything?

23
24 **DR. CRABTREE:** Well, if a stock is going to be eligible for
25 carryover, then it has to have a payback provision, would be my
26 intent.

27
28 **CHAIRMAN DIAZ:** All right. We have a motion. Is there a
29 second? It's seconded by Ms. Bosarge. Is there discussion on
30 the motion? Mr. Banks.

31
32 **MR. PATRICK BANKS:** I have a question. Would this force us to
33 go back out for another public notice draft, because that seems
34 like a pretty substantive change.

35
36 **MR. RINDONE:** We could. If you guys wanted us to hold another
37 public hearing webinar, we could certainly do that. It's really
38 up to you all's discretion.

39
40 **MR. BANKS:** I am not necessarily saying you have to, but it just
41 seems like the law would dictate that we would probably have to
42 go back to public notice draft, but --

43
44 **CHAIRMAN DIAZ:** Dr. Crabtree, to that point?

45
46 **DR. CRABTREE:** Well, you will have another public hearing at the
47 next council meeting, before you vote it up, and I think that
48 meets any legal requirements. Did I hear you say, Ryan, that

1 you had a webinar and that no one tuned in?
2

3 **MR. RINDONE:** That is correct.
4

5 **DR. CRABTREE:** I will leave that up to you guys, but I'm not
6 sure that really indicates to me that we need to do anything
7 more than bring it back to the next council meeting, which would
8 be in New Orleans, and then we would hold a public hearing at
9 that time.

10
11 **CHAIRMAN DIAZ:** Go ahead, Mr. Banks.
12

13 **MR. BANKS:** I was just going to say that this carryover
14 provision is a great thing. We're giving something. If you
15 start talking about a payback, you start talking about taking
16 something away, and so that may garner some more interest, but
17 I'm fine to have the comments at the meeting.
18

19 **CHAIRMAN DIAZ:** For that reason, I think it's real important for
20 council members to think about this when we go through this
21 document again, because the payback is pound-for-pound, no
22 matter what you go over. The carryover is limited to -- Right
23 now, with our current preferreds, it's limited to 50 percent of
24 the difference between the ABC and the OFL, and so you've got a
25 limited potential gain, but you've got an unlimited potential
26 payback, and I think Ryan has an example later in the document
27 that he's probably going to show that can illustrate that, but
28 there could many scenarios, the way this can play out. Ms.
29 Guyas.
30

31 **MR. RINDONE:** This is to the payback point. The way that we
32 have the document set up right now is that the carryover applies
33 to the smallest managed portion for that species that had their
34 season cut short or whatever the circumstances were that
35 resulted in them having a carryover.
36

37 The paybacks would be set up to apply the same way, and so, as
38 an example, if a payback provision is approved, it would
39 institute a payback provision for the for-hire component for
40 recreational red snapper, because, in the document, they are
41 eligible for carryover, if everything passed the way that it
42 currently is, and so, if we added a payback provision, then, for
43 recreational red snapper for the for-hire component, a payback
44 provision would be added to their management, and so the same
45 would be true for commercial and recreational triggerfish and
46 recreational gag and recreational red grouper and commercial
47 kingfish, unless something changes with the effort environment
48 for recreational kingfish as well.

1
2 **CHAIRMAN DIAZ:** Ms. Guyas and then Ms. Beckwith.
3
4 **MS. GUYAS:** Just to clarify. The SSC's motion looks like it was
5 specifically about paybacks for overages for stocks under a
6 rebuilding schedule, but am I understanding correctly that this
7 would be for anything that's eligible for carryover? Okay.
8
9 **CHAIRMAN DIAZ:** Ms. Beckwith.
10
11 **MS. ANNA BECKWITH:** I am sorry, and I haven't read through this
12 particular document, but I'm just curious. You guys would be
13 conceivably putting a payback provision on recreational species
14 based on MRIP numbers?
15
16 **CHAIRMAN DIAZ:** Mr. Rindone.
17
18 **MR. RINDONE:** Yes.
19
20 **MS. BECKWITH:** I can tell you that we've had those discussions,
21 and we did not like that idea, and we have moved away from that.
22 We also, I think, when we have been talking about carryover, we
23 are not thinking about doing carryovers for species on
24 rebuilding schedules or, obviously, that are overfished, and so
25 we've got some similar concerns, but I -- It would certainly
26 make me very nervous if I was at my council meeting thinking
27 about doing a payback provision for all species under all
28 circumstances in all sectors.
29
30 **CHAIRMAN DIAZ:** Dr. Crabtree.
31
32 **DR. CRABTREE:** Well, it might be that we could put in here for
33 species that are not in rebuilding plans and that the payback
34 would only apply if it exceeded the OFL, and I don't know if
35 that makes it any less painless or not, and my worry always with
36 paybacks is that you get some really anomalously high year,
37 which happens in the recreational survey periodically, and that
38 it can create a really difficult time for you, but it's just not
39 clear to me, off the top of my head, how -- I mean, it seems
40 like we've got constraints on the amount we can carry over, and
41 so we might be able to put some constraints on how much we would
42 pay back, in some cases, but I think it would be easier to do
43 that in stocks that were not in rebuilding plans, but I think
44 that would require some more thought to figure out.
45
46 **CHAIRMAN DIAZ:** Ms. Bosarge.
47
48 **MS. BOSARGE:** I think the SSC's comments were largely to stocks

1 that were in a rebuilding plan or overfished, but I am not
2 opposed to having some sort of payback on stocks that aren't in
3 that condition, so that they don't get into that condition, but
4 a lot of our paybacks, Ryan, they read that there will be a
5 payback if there is an overage only if it exceeds the overall
6 ACL, and so, for stocks that are not in a rebuilding plan and
7 are not overfished, is that how we would implement a payback on
8 them, that only if the overall ACL was exceeded?

9
10 Otherwise, you're really not hurting the stock, right, and
11 that's the allowable catch, and, if one sector or the other has
12 -- Say there's a huge spike in recreational landings, and I'm
13 thinking about king mackerel, because we had a spike that one
14 year in recreational landings, but, as long as that spike
15 doesn't exceed the overall ACL, then they shouldn't have to have
16 a payback, because you're still fishing sustainably at that
17 point, as long as you're not in a rebuilding plan or anything.

18
19 **CHAIRMAN DIAZ:** Mr. Rindone.

20
21 **MR. RINDONE:** To that, the OFL is set with a 50 percent
22 probability that if you caught the OFL that you would not have -
23 - That it would not have resulted in overfishing, and so every
24 successive catch limit that we use that's below that increases
25 the probability that that harvest level has not resulted in
26 overfishing, and so that's something to think about when you
27 guys are trying to figure out, for stocks that aren't in a
28 rebuilding plan, where you might want to say this has to be
29 exceeded before we say we're going to do a payback.

30
31 For stocks that are in rebuilding plans, you guys have a lot of
32 precedent set up already with setting it at the annual catch
33 limit, or whatever the harvest level is that you decide to use
34 in that circumstance, but we don't have it too often for species
35 that are not in that sort of trouble, and so this is kind of
36 uncharted ground, and you can do what you think is most
37 appropriate.

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

40
41 **MS. LEVY:** Leann, just to -- I think what you're getting at is
42 the payback wouldn't apply even if one of the -- Like the lowest
43 component, right, the lowest common denominator, went over. If
44 the total of whatever you're measuring by didn't get exceeded,
45 the payback wouldn't apply, and I think that's probably okay. I
46 mean, that's how we've set up the carryover, right? The lowest
47 component, or the lowest common denominator, could be under,
48 but, if the rest of the parts went over enough that the ACL has

1 been met, nobody is getting a carryover.

2
3 I think, if we think about how we're going to set it up -- The
4 level at which you're doing it I think is what Ryan was getting
5 at, was we generally use the annual catch limit for the
6 overfished stocks, but maybe you want to choose some higher
7 level to trigger the payback, but it would still be the total, I
8 think, is what would trigger it, and so that's probably a good -
9 - I think it's a good discussion to have, and then maybe staff
10 can go back and try and figure out what kind of alternatives to
11 bring you that deal with all these different issues that are
12 coming up.

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

15
16 **MS. GUYAS:** Really, the only two species that are affected by
17 this right now are red snapper and triggerfish, but, for red
18 snapper, the way we have state management set up, there's a
19 payback if the individual states go over, and I don't think we
20 have that say way for charter/for-hire, and I just kind of feel
21 like, wherever we end up here, we probably need to keep that in
22 mind, and so, if we end up doing something different for
23 charter/for-hire, if we move forward with this, do we need to
24 look at what we did for the states, and that gets a little bit
25 complicated fast, but, looking back at Table 2.2.1, the margin
26 that could be carried over is so small, and it's like -- It's a
27 very insignificant amount. Triggerfish is a little bit of a
28 different story, but I'm just thinking about loud here.

29
30 **CHAIRMAN DIAZ:** Just to clarify something. Dr. Crabtree, when
31 you made your motion, you said that you wanted it to apply to
32 every species that was eligible for a carryover, and I am
33 hearing a few comments around the table, and I want to make sure
34 that everybody understands that, when he made the motion, and
35 it's not specifically said in the motion, but it was implied
36 that it's for everything that's eligible for a carryover, and so
37 I just want to make sure that everybody understands that.

38
39 If there's any other comments on the motion, we'll discuss them.
40 If not, we'll vote it up or down. Can you all put the motion
41 back up on the board? **The motion is to direct staff to add a**
42 **payback provision to the document to address carryover.** I want
43 to see a show of hands. **All those in favor of the motion, raise**
44 **your hands, two in favor; all those opposed like sign, four**
45 **opposed. The motion fails.** Ms. Levy.

46
47 **MS. LEVY:** Well, so you have some more time to consider this
48 before Full Council, but, if you don't address this at all, I

1 think there's going to be a potential problem approving this.
2 meaning, if you come forward and submit a document that allows
3 for carryover for a number of stocks that are still in a
4 rebuilding -- Especially the ones that are still in rebuilding
5 plans, but do not address an overage year, or paybacks, given
6 the Science Center's analysis, you're asking the agency to
7 approve something that doesn't seem like it's going to stay with
8 the rebuilding schedules, potentially, and so I just ask you to
9 think about that.

10

11 **CHAIRMAN DIAZ:** Dr. Crabtree.

12

13 **DR. CRABTREE:** All right. Let me try a revision of the motion,
14 which would be to direct staff to add a payback provision to the
15 document to address carryover for stocks in rebuilding plans.
16 If I have a second -- Ms. Bosarge.

17

18 I am sympathetic to the notion that we lock ourselves into
19 something that is going to result in paybacks that we can't live
20 with and that are unnecessary. I do think, somehow, we have to
21 address the SSC's comment, or we're going to be stuck, and maybe
22 that's what we ought to do, is drop the whole idea, but it does
23 seem to me, if a stock is not in a rebuilding plan, it's less of
24 a concern.

25

26 My worry with it is that we get in a situation where we have a
27 large quota overrun, and it's because we had really good
28 recruitment and there's lots of fish in the water, and, in a
29 case like that, there's really nothing to pay back, and so I
30 guess, Ryan, if there are ways to further tailor this or narrow
31 it some, that still meets the letter of the SSC's comments,
32 without tying us down, I would be interested in those ideas, but
33 this would then only affect greater amberjack and red snapper,
34 and is that correct, and gray triggerfish, at this time.

35

36 **CHAIRMAN DIAZ:** Dr. Simmons.

37

38 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Mr. Chairman. I
39 was just going to suggest, if we could go back to the document
40 for a moment, in Action 1, Preferred Alternative 2, carryover
41 provisions would not apply to the unused portion of the ACL for
42 managed reef fish or CMP stocks or stock complexes which are
43 currently under a rebuilding plan. If, instead of applying the
44 paybacks, the council just decided not to apply the carryovers
45 for stocks under a rebuilding plan, if that would ameliorate the
46 issue, the concerns of the SSC.

47

48 To me, the overages, the accountability measures with the

1 overages with other stocks, have been addressed in individual
2 documents and accountability measures, and so, if that's a major
3 issue, to me, the council could start another document to look
4 at the paybacks for those particular species.

5
6 **CHAIRMAN DIAZ:** Ms. Bosarge and then Ms. Levy.

7
8 **MS. BOSARGE:** I think that's possible, Carrie, but I think the
9 elephant in the room is always red snapper, and I think that's
10 why we started this document, was so that, if there were some
11 underages in red snapper for any sector, any state, whatever,
12 that you could carry it forward to the following year, because
13 you already have a payback state-by-state, and so the payback is
14 there for the elephant in the room for red snapper, and I would
15 think this would be something that the states would want.

16
17 I mean, you're trying to hit a specific number, and that's
18 tough. When you go over it, you've got to pay it back the next
19 year, and so if, next year, you manage it and you're slightly
20 under it, at least this would let you carry a piece of that
21 forward to the following year. You've already got the payback.

22
23 I feel like we've already got the payback for red snapper, and
24 let's carry on with this document and document that, these
25 paybacks. Yes, you will have to put it in there for those other
26 two species too, but so be it. Red snapper is the elephant in
27 the room, and at this would allow you to carry forward some if
28 you manage and you're slightly under.

29
30 **CHAIRMAN DIAZ:** Ms. Levy. All right. Any further discussion on
31 this motion? **The motion is to direct staff to add a payback**
32 **provision to the document to address carryover for stocks in**
33 **rebuilding plans.** Again, a show of hands. Mr. Anson.

34
35 **MR. ANSON:** Thank you, Mr. Chair. I guess, is this enough
36 direction, the way it's written, to address some of those
37 nuances relative to OFL and ABC, or would that not apply in this
38 case, for these particular stocks, Ryan?

39
40 **MR. RINDONE:** I would be inclined just to look to the ways that
41 we have established paybacks in the past for these species and
42 looking at the respective ACLs for the managed components,
43 whatever the smallest common denominator is, and so the paybacks
44 would be based on overages of that value, and you guys know
45 that, for some, you set the season based on whatever the ACT
46 might be. Like, for the for-hire component for red snapper, the
47 season is based on the ACT.

1 We would probably just look at what's been done in the past and
2 use the ACL. Unless you guys would like us to do something
3 different from the norm, that's what we're going to put forward
4 to you.

5
6 **CHAIRMAN DIAZ:** Okay. Any further discussion on the motion?
7 **Seeing none, all those in favor, raise your hand, seven; all**
8 **those opposed, like sign. The motion carries.** Mr. Rindone.

9
10 **MR. RINDONE:** Thank you, sir. We will go ahead and cruise on
11 down to Action 2. Action 2 is an adjustment in the carryover
12 provision allowing for management uncertainty, and Dale touched
13 on this a little bit, and so did Kai.

14
15 This basically throttles how much can be carried over from the
16 year when the underharvest occurred into the following year, and
17 you guys currently prefer Alternative 2, which limits the amount
18 of carryover to an amount that reduces the difference between
19 the ABC and the OFL by 50 percent, and so the difference between
20 the ABC and the OFL cannot be reduced by more than 50 percent.

21
22 We have an example that I have written into the document, and
23 Dale had asked me to make it a table, and so that has been done.
24 It's

25
26 Table 2.2.3, and I used the federal for-hire component for red
27 snapper, since you guys passed 50, and so applause to you for
28 that again, and that was a lot of work, and Ava.

29
30 You guys can see the example laid out here for the for-hire
31 component. Assuming that a total carryover of 500,000 pounds
32 existed in a given year, and so parsed out between the private
33 angling and the federal for-hire -- I see what we did here now.
34 It's parsed out between the private angling and the federal for-
35 hire component, and you can see the percent of the total for the
36 recreational sector broken out there, and then you can also see
37 the difference between the ABC and the OFL.

38
39 You guys approved an ACL increase for red snapper and hogfish in
40 the same document last year, and that went final in April, or
41 was implemented in April. Action 2 throttles the amount of the
42 carryover based on the difference between the ABC and the OFL at
43 50 percent, and so, based on the percent of the total eligible
44 carryover that comes from each component, you see what their
45 actual carryover would be, and so that's your demonstration of
46 how the carryover could be proportional if both components are
47 eligible.

48

1 **CHAIRMAN DIAZ:** Ms. Guyas.
2
3 **MS. GUYAS:** Thanks. I assume that this is in pounds, right?
4 Does anybody know, off the top of their head, how much
5 charter/for-hire harvests a day when they're open? I am just
6 trying to think of like what does this actually mean, in terms
7 of opportunities.
8
9 **MR. RINDONE:** I don't know, off the top of my head, what their
10 daily harvest is. I don't know if Sue might be lucky enough to
11 be in some life tweet-in.
12
13 **CHAIRMAN DIAZ:** Martha, I don't know the amount they can harvest
14 in a day, but I wanted Ryan to put something in the document,
15 for just an example, to drive the point home that there's a
16 limit on what you can carry over, but there's not a limit on
17 what you can pay back, and so, whatever number he would have
18 put, the actual carryover would be limited to 50 percent of the
19 difference between ABC and OFL, where, if they had exceeded the
20 amount by 750,000 pounds, they would pay back 750,000 pounds.
21
22 **MR. RINDONE:** Just to be precise, the payback is limited by the
23 following year's OFL, essentially.
24
25 **CHAIRMAN DIAZ:** Dr. Crabtree.
26
27 **DR. CRABTREE:** Ryan, can you remind me why we reduce with this
28 buffer and how much we would carry over to 25 percent, and where
29 does that come from?
30
31 **MR. RINDONE:** Sure. The council is required to prevent
32 overfishing from occurring, and all management actions are
33 supposed to bear that in mind, and so, if we had a carryover
34 that resulted in the ABC being increased to be equal to the OFL,
35 because it cannot exceed it, but it could be equal to it, and we
36 caught one pound more than that value, then the Secretary of
37 Commerce would have to assume that overfishing occurred, and
38 then the council would get a letter that said that overfishing
39 has occurred and you guys need to take immediate action to end
40 overfishing, which would prompt us to have to do something
41 immediately to reduce harvest. I see Mara raising her hand, and
42 so I may have not said that perfectly.
43
44 **CHAIRMAN DIAZ:** Ms. Levy.
45
46 **MS. LEVY:** Well, that's true, but it's also true that the
47 National Standard 1 Guidelines say that, if you have an ACL that
48 equals an ABC that equals an OFL, and you don't provide

1 justification for how that's going to prevent overfishing, then
2 the presumption is that it will, and so then there's the chance
3 that the Secretary is going to disapprove this, meaning you can
4 set up a system where they're all equal, but then you're going
5 to need to provide some sort of justification for how that's
6 going to prevent overfishing in the years when everything is
7 equal, and that's going to be somewhat difficult to do, given
8 the fact that we have these recreational fisheries that we're
9 not always exactly constraining harvest to the ACL.

10
11 **CHAIRMAN DIAZ:** Mr. Banks.

12
13 **MR. BANKS:** If I remember correctly, we use a 20 percent buffer
14 normally, and so I'm trying to figure out why we chose 50
15 percent and why we couldn't increase that to be able to use 80
16 percent of it, of the difference.

17
18 **CHAIRMAN DIAZ:** Mr. Rindone.

19
20 **MR. RINDONE:** You guys had actually had a discussion about this.
21 In the past, we had some other options in here that were to
22 allow the ABC to be increased within 10 percent of the OFL, as
23 opposed to 50 percent, and you guys had talked about being risk-
24 averse, or more liberal or conservative with how you were going
25 to go about dealing with this difference, and you ultimately
26 settled on 50 percent, and this is a measure to address
27 management uncertainty, because you could, if you could justify
28 it, set the ACL equal to the ABC equal to the OFL, as Mara
29 described, but, if you can't justify why that prevents
30 overfishing, then you could be in trouble.

31
32 You also need to think about the accuracy of how we set seasons
33 and when we close things down, and it's -- We are getting better
34 with time, with some things, but others are lagging behind, and
35 so there would be definite risk with other species, as far as
36 trying to be accurate with closing the season before the managed
37 catch limit was exceeded.

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

40
41 **MR. BANKS:** That's sort of what I figured, is that we were
42 worried about management uncertainty. Well, we've established
43 that we are worried about management uncertainty in the red
44 snapper fishery, and so we've set that at a 20 percent buffer,
45 and we've done that based on all of the things that Mr. Rindone
46 has already said, and so it just seems to me that we're worried
47 about management uncertainty, and we feel like 20 percent will
48 address that, but, here, we feel like we need 50 percent to

1 address that, and that was my point there.

2

3 **CHAIRMAN DIAZ:** Ms. Gerhart and then Ms. Levy. Ms. Levy.

4

5 **MS. LEVY:** Well, I mean, just to say that they're serving a
6 little bit different points, right? The 20 percent buffer was
7 between the annual catch limit and the ACT, and it's where we
8 set the season for red snapper. That is below already the OFL,
9 and it's equal to the ABC, but there's already that buffer with
10 the OFL.

11

12 If you raise the ABC and the ACL up, the closer you are to the
13 OFL, the more likelihood, when it's all combined, that it will
14 go over. I mean, I'm not dictating what buffer you use, but
15 this was just about having some method to decide how close you
16 should be getting to the OFL, based on the fact that these
17 different stocks have different buffers between the OFL and the
18 ABC, and so I'm just saying that, across the board, you can get
19 to 50 percent closer, no matter what that buffer is.

20

21 If you want to look at them each individually, and be like,
22 well, this one has a 90 percent buffer, and this one has a 5
23 percent buffer, and decide on an individual basis, maybe that's
24 somewhere to go, but the 20 percent was red snapper specific,
25 and it was to address what the season should be, and so I guess
26 I would just be careful about equating them in that way.

27

28 **CHAIRMAN DIAZ:** Mr. Anson.

29

30 **MR. ANSON:** Ryan, just to close the circle on what Patrick was
31 describing, it's the 140,000 for the private recreational
32 applying -- Just assume that was the quota then for next year.
33 Applying the buffer, you would essentially be taking 80 percent
34 of that and setting your season against 80 percent of 140,000,
35 correct?

36

37 **MR. RINDONE:** Not under Amendment 50, you wouldn't, no. The way
38 that this is described is the private angling component as a
39 whole, and so assume no state-by-state allocation in this
40 example. That 140,000 pounds would be added to the private
41 angling component's ACL in the following year, which would, by
42 default, adjust the ABC value.

43

44 The federal for-hire component would be -- Their ACL would be
45 increased by 60,000 pounds, which would further adjust the ABC,
46 and that's throttled by the preferred alternative in Action 2,
47 which limits the change in the ABC such that the difference
48 between the ABC and the OFL can't be decreased by more than 50

1 percent.

2
3 If you do it in -- Thinking about state management and that line
4 that's for private angling, that one line becomes five, and so
5 carryover would apply to each state individually, because each
6 state represents the smallest denominator, if you will, at that
7 point, and so some states, in a given year, may be eligible for
8 carryover, while others may not be, but, combined, for
9 everything, the ABC can't be -- The difference between the ABC
10 and the OFL can't be reduced by more than 50 percent, and this
11 is absolutely a management uncertainty situation.

12
13 That 50 percent was one that you guys picked from 25 percent, 50
14 percent, 75 percent, and 90 percent. Those were the options
15 that you guys have seen over the last eight months, or whatever
16 it was, a year, since we started talking about this particular
17 action. If you think it should be something different, you
18 simply need to justify why you think it should be that way, for
19 the record anyway, and we can certainly make a change.

20
21 **CHAIRMAN DIAZ:** Dr. Crabtree. Ms. Gerhart.

22
23 **MS. GERHART:** I want to put this a little in perspective
24 relative to a question that was asked earlier about catch rates.
25 For the for-hire component, the catch rates, which have been
26 fairly steady for the past three years, are about 46,000 pounds,
27 and so, with this carryover, you would get one more day,
28 maximum. I am working on the private angling number.

29
30 **MR. RINDONE:** Please also bear in mind that this is just an
31 example, and so it could be different for different species and
32 different years, and this is something that I literally just --
33 It's like throwing spaghetti at the wall, and that's what it
34 looked like.

35
36 **CHAIRMAN DIAZ:** Ms. Levy.

37
38 **MS. LEVY:** As Ryan mentioned, you do have other options in
39 Action 2 of 25, 50, and 75 percent. I think the Table 2.2.1
40 that was up there before is really what you should be looking
41 at. I mean, this is an example, but that table shows you what
42 the current difference is and then what each one of those
43 options would actually reduce that difference to, so that you
44 can see, if you choose to reduce it by 75 percent, the
45 difference between the red snapper OFL and ABC is going to be
46 0.65 percent, and so that table is helpful, so you can see how
47 close your buffers are going to be.

48

1 If you do decide that you're going to be a little more risk-
2 averse and allow for a 75 percent reduction in that buffer, you
3 do that knowing that, if you exceed the OFL, then you're
4 undergoing overfishing, and you're going to get the whole thing
5 about ending it immediately and all that stuff, and so that's
6 the way that essentially has to be done.

7

8 **CHAIRMAN DIAZ:** Mr. Rindone, do you have anything else?

9

10 **MR. RINDONE:** No, sir, not for this action.

11

12 **CHAIRMAN DIAZ:** Any further comments on this action? Then
13 that's it for this document, Mr. Rindone?

14

15 **MR. RINDONE:** We have one more action, and it's Action 3.

16

17 **CHAIRMAN DIAZ:** Okay.

18

19 **MR. RINDONE:** This is our paperwork fine print action for you
20 guys. This action would modify the framework procedures for the
21 Reef Fish, CMP, Coral and Coral Reefs, and Spiny Lobster FMPs,
22 and you guys currently prefer Alternative 2, which allows the
23 carryover provision to operate in an automated fashion, and so,
24 once the provisional landings come in for a fishing year, then
25 the Fisheries Service can look at those and determine whether or
26 not a component or sector or whatever that smallest pie slice is
27 is eligible for carryover for that year. Then they can make
28 that adjustment accordingly, through the closed framework
29 procedure.

30

31 Preferred Alternative 3 would modify the listed FMPs there to
32 allow the ABC to be specified as recommended by the SSC after a
33 stock assessment is reviewed and found to be best available
34 science.

35

36 Right now, we do this when we change the ACLs, as the result of
37 getting a stock assessment. We list in there that the SSC
38 recommends this OFL and this ABC, and that's how it's specified,
39 and so this would allow that to happen automatically through an
40 abbreviated documentation process, instead of having to wait for
41 that framework action to change the ACLs to come through, which
42 could be a benefit if a species is an overfished or undergoing
43 overfishing condition.

44

45 Then Preferred Alternative 4 would revise the framework
46 procedures for the listed FMPs just to have consistent
47 terminology and format, but also to include, in the standard
48 framework procedure for Coral and Coral Reefs and Spiny Lobster,

1 those highlighted accountability measures. Of course, we have
2 no take for corals and coral reefs, and so this would -- At
3 least in practice, this would apply more to spiny lobster, in
4 some respects. You guys currently prefer Alternatives 2, 3, and
5 4.

6
7 **CHAIRMAN DIAZ:** Any questions or comments on Action 3? Ms.
8 Bosarge.

9
10 **MS. BOSARGE:** If there's no comments on that action, I have a
11 comment that is unrelated to that action, but it's in the
12 document.

13
14 **CHAIRMAN DIAZ:** Go ahead.

15
16 **MS. BOSARGE:** All right, and this is really probably better in
17 the SEDAR Committee to come up, but, because this table is in
18 this document, if you don't mind, I will just kind of address it
19 here. If staff could turn to page 20, and that's paper document
20 page 20, and so where it actually says "20" at the bottom of the
21 page, and I don't know what PDF page that is, but it's Table
22 2.2.2.

23
24 Clay, this is probably going to be aimed your way. I was
25 wondering -- You know, that gray triggerfish, we've got a buffer
26 between OFL and ACL of 76 percent, and so that's scientific
27 uncertainty. I remember we got that last stock assessment, and
28 it had mixed reviews, let's just say, and it was blessed as the
29 best science available, but then it went on to say that it might
30 not be real useful for management.

31
32 I know we're working on -- We have an upcoming gray trigger
33 assessment coming up, and I hear maybe there is some things with
34 ageing that we're looking at and considering, and is gray
35 triggerfish something that maybe we should try some other type
36 of assessment for? Are we trying to put it into a box that
37 requires a lot of real certainty in a lot of categories that we
38 don't have, and maybe we should put it in more of a -- I don't
39 know, and I don't want to say data poor, because we have some
40 data on it, but should we do some different type of assessment?
41 Would we get a better result that way, do you think?

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

44
45 **DR. PORCH:** That was loaded. We did look at some data-limited
46 analyses, and, depending on which ones you apply, yes, you will
47 get some different answers. What the plan is at this point is
48 to review those issues with the ageing, and it basically has to

1 do with the fact that, in the middle of the spine, the area is
2 highly vascularized, and you lose one of those annual rings that
3 you count, and so we're looking to moving towards otoliths, to
4 basically get better ages on the animals, and we are looking to
5 some alternative ways to incorporate the information we do have
6 in the stock assessment model, and so we may have to change the
7 model a little bit, because of the issues you're talking about.

8
9 At the same time, we can look at some other techniques, but,
10 inevitably, when you have the potential to roll out the Cadillac
11 and you roll out the Volkswagen, people are dissatisfied, and so
12 we'll do the best we can. Again, the ageing issue is important,
13 and we need to get to the bottom of it, and we'll be looking at
14 that very seriously in the next assessment.

15
16 We can look at, while we're doing that, some alternative
17 techniques that use only a portion of the data, basically data-
18 limited techniques, but, again, by data-limited, it also means
19 basically less precise, and maybe less accurate, advice, and so
20 it may or may not give you an answer that would say a higher
21 ABC.

22
23 **CHAIRMAN DIAZ:** Thank you for that, Ms. Bosarge. Any other
24 comments on the document? Dr. Crabtree.

25
26 **DR. CRABTREE:** I guess I am -- When we started working on this,
27 we had the 20 percent buffer that we were dealing with on red
28 snapper, and we have since -- With the state management, we're
29 effectively letting the states use whatever buffer they think is
30 appropriate, and we've changed the buffer on the for-hire side
31 now.

32
33 I would question, I guess at this point, whether this is all
34 worth it. It seems awfully complicated and convoluted, and I
35 think everybody is getting confused by all of it, and it seems
36 to me that the potential amount of fish that we're talking about
37 carrying over probably doesn't amount to a day in the red
38 snapper season, and so I guess I would encourage everybody to
39 think about this between now and Full Council, as to whether or
40 not we have just created an overly complicated situation that is
41 fraught with complications, but really isn't going to have a
42 whole lot of benefit to it at this point.

43
44 **CHAIRMAN DIAZ:** Okay. I tend to agree with a lot of what you
45 said, Dr. Crabtree. As of right now, Ryan is going to rework
46 the document based on the motion we passed earlier, and, unless
47 something happens between now and Full Council, we'll see this
48 document again in August, and is that correct?

1
2 **MR. RINDONE:** That's correct.

3
4 **CHAIRMAN DIAZ:** All right. That takes us through this agenda
5 item, and Mr. Rindone is going to handle our next agenda item,
6 which is Item Number VII, and that's Discussion on a Two-Day
7 Possession Limit on Federal For-Hire Trips. Mr. Rindone.

8
9 **DISCUSSION: TWO-DAY POSSESSION LIMIT ON FEDERAL FOR-HIRE TRIPS**

10
11 **MR. RINDONE:** Thank you, sir. Some of you have been approached
12 about this topic as well, about the issue with two-day
13 possession limits on federal for-hire trips, and so Mara gave me
14 the codified address of where to start looking for where this is
15 in the regulations, so you guys could see the bits that are in
16 question here.

17
18 The point of contention is that, the way that a lot of the
19 multiday for-hire trips work is that they begin their trip, and
20 these are trips that are anywhere from twenty-nine hours -- They
21 are longer than twenty-four hours, but most of them are twenty-
22 nine hours and up, and the way that they have practiced fishing
23 largely, for the last few decades, as they have communicated, is
24 that they will target a certain species at a certain time during
25 the trip, and then they will get the two days' worth of
26 possession limits for that particular species, and then they
27 will avoid that species for the duration of the rest of the
28 trip.

29
30 If they were ten hours into a thirty-nine-hour trip, and they
31 caught everyone's two-day possession limit of X species, and it
32 doesn't matter what it is, then they would avoid that species,
33 to the extent they could, the rest of the time, and the goal
34 being that they don't have to worry about catching and
35 discarding any more of it.

36
37 However, in 622.11 Part (a), that highlighted sentence there, it
38 says that, unless otherwise specified, possession limits applied
39 to a person on a trip after the first twenty-four hours of that
40 trip. The way that that is interpreted is to say that you're
41 allowed one bag limit up until twenty-four hours of your twenty-
42 four-hour-plus trip have passed.

43
44 After twenty-four hours and one minute, if you're still on this
45 multiday trip and it has two captains and you've got your
46 receipt and all the other requirements, then you can possess two
47 bag limits, and that is expounded upon further in 622.38, which
48 is the second highlighted portion, where you can see the

1 requirements for the for-hire operators and the fishermen on
2 those vessels.

3
4 The issue at hand is how fishing has been conducted against what
5 the regulations actually say, like what was codified into law,
6 and that's where the consternation that you guys have been
7 approached with has come from, and so that does that make sense?
8 Does everyone understand the problem? Okay.

9
10 **CHAIRMAN DIAZ:** Mr. Sanchez.

11
12 **MR. SANCHEZ:** Mr. Chairman, I'm not on your committee, but this
13 seems to be Dylan's issue, and he happens to be in the audience.
14 If it's appropriate, I would kind of like to see him be able to
15 approach the podium and kind of give us some background on this
16 issue and how it affects him and his family's operation.

17
18 **CHAIRMAN DIAZ:** That would be okay. Mr. Hubbard.

19
20 **MR. DYLAN HUBBARD:** Thank you. I appreciate the time to come
21 and speak with you guys and you guys adding this to the agenda.
22 I will keep this brief. Basically, we're all here working
23 together to mitigate barotrauma and discard mortality, and this
24 issue that has arisen goes completely against the goals that we
25 seem to be working towards as a council.

26
27 As a for-hire operator, we try to be leaders, showing the
28 private anglers on our trips the importance of barotrauma
29 mitigation and the importance of venting tools, how to use them,
30 when to use them, and please don't force us to become part of
31 the problem and exponentially increase discards and discard
32 mortality in our fishery.

33
34 This is a very huge issue for a very small portion of the fleet
35 who operate multiday trips along the west coast of Florida. I'm
36 not the only one in this room who this is an issue for. Those
37 operating in this fishery are very large, slow-moving boats, and
38 they have very long runs to our fishing grounds, making us
39 easily accessible and enforceable for law enforcement. We're
40 all very long-standing participants in the fishery as well.

41
42 If we can hit the dock legally with a two-day limit, why does it
43 matter when we land that two-day limit? Why not operate
44 efficiently and minimizing discards? This is how we have
45 operated historically, to promote efficiency, but also avoid
46 discarding fish. We would like to change the rule, or change
47 whatever we need to, to allow low discard numbers and not change
48 any landings. The landings would be the same, and then, also, a

1 more efficient fishing fleet to conserve fuel and preserve that
2 historic access and low discard rate.

3
4 The issue, to me, is we have a very unclear amendment, or
5 unclear rule, and let's make it more clear and concise and
6 prevent any misuse or abuse while keeping minimized discards and
7 high efficiency. A lot of the issue that I see with this is
8 that a lot of people don't realize that highlighted requirement.
9 I have a lot of people that, multiple times in a month, will ask
10 me, well, how do I get a two-day bag limit on my boat, and I'm
11 leaving Friday night at midnight and coming back Saturday at
12 five o'clock, and how can I get a two-day bag limit? You can't.
13 The answer is you can't.

14
15 This is very unclear, and it needs to be more clear, and it
16 needs to be made to where we're operating efficiently and not
17 discarding fish. With VMS and GPS on the horizon, there is no
18 reason that we should be time-stamping our fish. We can hit the
19 dock with those fish, and we should be able to catch them at any
20 time throughout the trip. That way, we can avoid catching these
21 fish, especially with red snapper.

22
23 A lot of times in our area with red snapper, we're running
24 seventy, eighty, or ninety miles to catch these fish, and you
25 catch a lot of small fish, or you have a guy that's already
26 limited out, and so we're discarding fish at a very high rate
27 with fifty people on the boat.

28
29 Fifty people on the boat in 200 foot of water, and we're
30 discarding undersized fish, and we don't want to do that
31 multiple times in a trip. Let us do it once, and let us avoid
32 those fish. Greater amberjack, the same thing. If you catch a
33 small amberjack, thirty-two inches or thirty-three inches, we
34 have to release that fish, and we don't want to keep doing that
35 multiple times during the trip, and so the same people, the same
36 trip, and let's go get those fish and get away from those fish.
37 That's efficiency, and that's preventing discard mortality, and
38 that's what we would like to continue doing. I appreciate your
39 time.

40
41 **CHAIRMAN DIAZ:** Thank you, Mr. Hubbard. Ms. Bosarge.

42
43 **MS. BOSARGE:** I just want to make sure that I understand the
44 issue, and I think I do, because Dylan talked about it, I think,
45 at the last meeting, and so, essentially, they go out, and first
46 they hit the snapper, let's say, and they're going to catch
47 their limit of snapper, where they have already declared that
48 they're going to be on a two-day trip, or more than twenty-four

1 hours, and so they can keep two bag limits, but, the way the
2 rule was written, the way it was codified, they actually can
3 only keep one bag limit of red snapper when they leave out and
4 hit that spot, and then they've got to go do something else,
5 fish for something else or whatever, and, once they hit the
6 twenty-four-hour mark of that trip and they're into the second
7 day, then they can come back and get the second bag limit of the
8 red snapper, right?

9
10 I am kind of with Dylan. I mean, what does it -- If you're
11 allowed to keep two bag limits, because you're on a multiday
12 trip, and you have declared that trip, and you're playing by the
13 rules, and you're going to have a VMS on your boat pretty soon,
14 if you don't already, and you have to do your logbooks, and it's
15 a pretty accountable fishery, and I don't see that it matters
16 which day you catch the fish.

17
18 If you came in early, I could see where you could have an issue
19 if you came in early, and you had only been out for one day, but
20 you've got two bag limits, but, at that point, you're in
21 violation, and you were only out for one day, and you've got to
22 know that going into it, that you're going to be in violation if
23 you bring that boat in early, and I think, as long as that's
24 understood, I don't see the problem with it.

25
26 **CHAIRMAN DIAZ:** I agree with everything you said, but it doesn't
27 have to be snapper specifically. It could be amberjack, or it
28 could be triggerfish or a host of species. Dr. Stunz.

29
30 **DR. STUNZ:** That was my question, and I probably should have
31 asked Dylan. I really have two questions. One is, if you did
32 come back in early, and all of a sudden you have a boat full of
33 people that are in violation, and I don't know how often that
34 occurs, but I can imagine a situation with boat trouble, or
35 someone is very, very ill or something, where you have to come
36 back, and then I don't know how you account for extra fish, and
37 so that would be one.

38
39 I am still not following how that reduces the discard mortality
40 or bycatch or whatever. You are still, theoretically,
41 exhibiting the same amount of effort to catch those fish, and so
42 the discard rate, at least in my mind, unless I'm missing
43 something, should be about the same, and I'm not seeing how you
44 save on the discards, and I'm not necessarily opposed to this,
45 but I'm just wondering how you avoid having a boat full of fifty
46 passengers that have double limits and you're back early.

47
48 **MR. HUBBARD:** As far as coming back early, we had a situation

1 about a year-and-a-half ago where we were on a thirty-nine-hour
2 trip, and we were expecting rough weather, but we weren't
3 expecting the weather we got, and it ended up being close to
4 fourteen-foot seas, and the boat turned around and come inshore,
5 because we were seventy, eighty, ninety miles out. We came
6 around and came inshore, and we had a two-day limit on the boat,
7 and they anchored up at the sea buoy a mile from shore and
8 waited for four hours, until we were past the twenty-four-hour
9 minimum, and then we hit the dock.

10
11 We were aware that we would be in violation. I mean, we've been
12 doing this for over ninety years, and we wouldn't risk our
13 reputation and our permits and our livelihood on trying to break
14 the rules, especially on a boat that goes seven to nine knots
15 and that takes eight hours to get out to the fishing grounds.
16 Even if I wanted to go out there and catch a two-day limit and
17 come back in inside of twenty-four hours, it would be very hard
18 to do so with a seven to nine-hour ride out and a seven to nine-
19 hour ride back. It's tough to catch that many fish that
20 quickly.

21
22 As far as your second question about it would prevent discards
23 and lower discard mortality, throughout a trip, for example a
24 thirty-nine-hour trip, and we run forty-four-hour and sixty-
25 three-hour trips, and so our shortest trip that keeps a two-day
26 limit is thirty-nine hours.

27
28 What we do is we leave the dock -- For example, a Friday trip,
29 we leave the dock at 3:00 p.m. on a Friday, and we start fishing
30 around midnight, 1:00 a.m. or 2:00 a.m., depending on our
31 distance of our run. We start by fishing red snapper. In the
32 morning, we start fishing for grouper.

33
34 Then, throughout the day, we'll fish for amberjack or red
35 snapper. It's very easy to avoid an amberjack once we've caught
36 our limit or gotten close to our limit. We just stop fishing
37 wrecks or springs or big ledges. It's very easy to -- Well, not
38 so much anymore, because you've done such a good job with
39 conservation, but, with red snapper, it's fairly easy to avoid
40 by looking at the fish show, and you can tell what's down there.

41
42 We are pretty good at what we do, and we're able to have areas
43 that we know hold a certain type of fish historically. With
44 things like mangrove snapper, the two-day limit for our mangrove
45 is twenty, and so it's very difficult for a person to limit out
46 on those, and we don't have to avoid that type of fish as much.

47
48 The main two fish that we would avoid, because their bag limit

1 is so low, would be amberjack and red snapper, and it's pretty
2 easy to go out and catch that limit and avoid them the rest of
3 the trip, and that's what we want to be efficient doing and not
4 discard dead fish, and especially with red snapper and
5 amberjack. They're both very fragile fish, in my opinion.

6
7 That barotrauma is more likely to occur in those fish, and so,
8 when you discard those fish, the discard mortality rate is
9 higher, and so fishing efficiently and going out there and
10 targeting that fish, and then, once we're satisfied, moving away
11 from that fish, and that's how we've historically operated,
12 because the health of the fishery is our number-one concern, and
13 I would like to be able to continue doing that.

14
15 **CHAIRMAN DIAZ:** Dr. Stunz.

16
17 **DR. STUNZ:** To that point, Dylan, I'm not trying to put you on
18 the spot, but I'm just trying to understand better, and it's not
19 getting through to me. If you go out and you catch your one-day
20 limit of snapper, and then, currently, theoretically, you leave
21 and go do whatever else, the other fish, and then you come back
22 and catch another two-day limit at a different time, how is the
23 discard not collectively the same over sitting on there one
24 period and catching double?

25
26 **MR. HUBBARD:** When you have fifty people on the boat, and you
27 get anchored up on a spot that has a good show of whatever
28 you're fishing for, if you start dropping baits in the water and
29 catching fish, the regurgitating fish, the frenzy occurs, and
30 that frenzy takes a long time to get, and it takes a good spot
31 to find it, and, once you get it, you're typically satisfied
32 with your limit.

33
34 We're not going out there and limiting out the entire boat every
35 trip. I would like to think we could, but it doesn't happen,
36 and so we just get satisfied with that limit, and then we move
37 on to another species. If I was having to come back to that
38 same area and do it again, my range, my efficiency, is much
39 decreased, and then having to get to that point where that good
40 bite occurs and we start catching fish takes some time.

41
42 If you were able to go out and target a fish and move away from
43 it, your total fishing time targeted at that species is lower.
44 Less fishing time targeted at that species means lower discard
45 numbers. If I was having to come back and do that again later,
46 I would be fishing longer for red snapper or amberjack or
47 whatever it might, and I would have more discards. I have seen
48 it happen.

1
2 Now, since we found out this, in my opinion, ridiculous thing is
3 happening, we have changed the way we've done or trips, and
4 changed the way we've done business, and it's a night-and-day
5 difference, the amount of fish we're discarding over the boat,
6 and it just doesn't make sense, from an angler standpoint or a
7 conservation standpoint.

8
9 **CHAIRMAN DIAZ:** Mr. Banks.

10
11 **MR. BANKS:** Do we have anybody from law enforcement that could
12 give us an idea of whether this type of thing is an issue for
13 law enforcement? It seems like, to me, that, to go with
14 something like this, we're, number one, making an assumption
15 that, if we force them to fish in two different twenty-four-hour
16 periods, that they would, absolutely for sure, catch their limit
17 both days, and we have to assume that, by allowing this.

18
19 If we do assume that, then it is totally a law enforcement issue
20 at that point, and it's not a conservation one, because you're
21 going to catch four fish no matter what. Nobody assumes that I
22 can shoot six ducks every day for sixty days, 360 ducks a year,
23 and they would be right, because I can't shoot that well, but
24 that's what we're assuming here, is that they're going to catch
25 two fish today and two fish tomorrow, no matter what, and so we
26 might as well let them catch four fish on the first day, and, if
27 that's what we're assuming, then it becomes just an enforcement
28 issue and not a conservation one, and that's why I think it
29 would be helpful to hear from enforcement.

30
31 **CHAIRMAN DIAZ:** Martha and then Roy.

32
33 **MS. GUYAS:** I was just going to say that Captain Scott Pearce
34 from FWC Law Enforcement will be here on Wednesday, and I think
35 he could probably speak to that issue. He's pretty well-versed
36 in this.

37
38 **LT. ZANOWICZ:** I will just say, at least from the Coast Guard
39 side, our boarding officers are aware of this, and are aware to
40 look for paid receipts for trips that are greater than twenty-
41 four hours when you're keeping two daily bag limits, but I
42 haven't seen any violations of this provision, at least in the
43 past several years. Before that, I'm not sure, but, in the past
44 several years, I know there haven't been any, and so I don't see
45 this as a huge issue for us. Either everybody is abiding by it
46 or our guys aren't catching it, but it doesn't seem to be a
47 large issue, at least for the Coast Guard side.

48

1 **CHAIRMAN DIAZ:** Officer Harwell, if you would, if you would come
2 up to the mic. While he's coming up, Dr. Crabtree, did you have
3 a comment? Okay. Go ahead, Officer Harwell.

4
5 **MR. PETE HARWELL:** Good afternoon, council members. Pete
6 Harwell, right here in Panama City, with law enforcement. I
7 don't have much that I can input in this situation, other than
8 we enforce the regulations that are currently in effect. I
9 don't know the enforcement outcomes, but, since I've transferred
10 to the Southeast Division four-and-a-half years ago, I believe
11 we've made three cases specifically regarding this regulation,
12 but I don't know the enforcement outcomes of those. It goes to
13 the General Counsel attorneys for assessment.

14
15 **CHAIRMAN DIAZ:** Dr. Crabtree and then Mr. Banks.

16
17 **DR. CRABTREE:** Just some history on this provision. This was
18 put in the regulations in Amendment 1, and so back in 1990. As
19 best I can tell, there was little or no discussion at the
20 council level about the first twenty-four hours or what that
21 meant, and I don't find anything in the regulations in 1990
22 indicating that you had to catch one bag limit in the first
23 twenty-four hours and wait to catch the second bag limit.

24
25 Long about 1995 or 1996, the regulations were consolidated,
26 meaning we used to have regulations separate for each fishery
27 management plan, and they were all consolidated into one
28 packaged rule, and that's when this statement about after the
29 first twenty-four hours appears in the regulation. We have
30 since deconsolidated the regulations and are back to having regs
31 for each FMP, but the twenty-four-hour language carried over,
32 and so this is not a new provision. It's been in the
33 regulations I think since about 1996, but I can't find anything
34 to indicate one way or the other where exactly it came from or
35 what the council's intent is.

36
37 I am assuming that, because the bag limits were daily bag limit,
38 that the thought was that, if you're going to allow them to keep
39 two daily bag limits, that would be one bag limit the first day
40 and another the second day, but it's hard to get around the fact
41 that, if they're going to catch it anyway, what difference does
42 it make, and that's the best I can give you on history on this.

43
44 I am not aware that there has been a fine issued or a summary
45 settlement or a case made off of this. I have asked the
46 enforcement attorneys. I think there have been some warnings
47 and some cases on it, but I don't know that one has ever been
48 pushed through the system or pursued by the NOAA Office of

1 General Counsel.

2

3 **CHAIRMAN DIAZ:** Thank you, Dr. Crabtree. Mr. Banks.

4

5 **MR. BANKS:** I appreciate the information. I certainly respect
6 that you guys are going to enforce it however it's written.
7 What I was really meaning with my question was, if we allow what
8 has been described, for boats to catch double their daily creel
9 limit on the first day, because they're going to be out for
10 multiple days, what kind of enforcement issue does that give to
11 you and your officers on the water when you come upon something
12 like that?

13

14 **MR. HARWELL:** I don't feel like it would change very much, other
15 than -- I mean, we're going to get on there and we're going to
16 count fish, no matter what the situation is. It would come back
17 to that, and they have to have the receipt in their possession,
18 and they would have to have the two captains, licensed captains,
19 onboard, and the burden of proof would be on us, to prove that
20 they didn't stay out there for twenty-four hours, and so it's
21 still enforceable, but, again, we just go off of the regulations
22 that come out, and I don't see how it would be a big deal from
23 an enforcement standpoint. A bag limit is a bag limit.

24

25 **CHAIRMAN DIAZ:** Mr. Sanchez.

26

27 **MR. SANCHEZ:** Thank you. I view ourselves, this body, as part
28 of the rulemaking process, and, if there is a rule that maybe
29 needs a little bit of tinkering with to address something like
30 this that was maybe an issue that is clearly now before us, I
31 would like to hear if Dylan has a suggestion, a way out. Is
32 there a way out, in terms of what you think this rule should
33 read to address this, maybe to the comfort of everybody's
34 concerns involved?

35

36 **MR. HUBBARD:** To me, it's really easy to add, before this
37 paragraph that is specifying otherwise, what's listed above, and
38 to make it more clear and concise and add -- Where it states a
39 person or a vessel, the part about twenty-four hours -- Sorry.

40

41 The third sentence down, a trip is on a vessel that is operating
42 as a federally-permitted charter vessel or headboat with GPS/VMS
43 affixed to the vessel. By the time we make this a rule -- I
44 mean, I was hoping that we would be -- That that SEFHIER program
45 would be up and running by October, but, by the time this
46 becomes a rule, and I was thinking by October, the SEFHIER
47 program would be up.

48

1 I mean, right now, as it stands, I've got two GPS units and a
2 VMS on my boat, and I can pull the history of the vessel up for
3 the last year, and anybody can view it, and it's very clear that
4 our vessel is being tracked, and we're a part of three different
5 pilot programs testing these units.

6
7 I mean, we wanted to do electronic reporting for a long time in
8 this industry. We want to give that data, and we want to be
9 more accountable, and we want to help promote barotrauma
10 mitigations and proper fishing and best practices, and we want
11 to be the best leaders of this industry that we can, to help
12 preserve the health of our fishery, and so I feel that adding
13 and specifying otherwise and making this more clear, by adding
14 that it has to be a federally-permitted vessel.

15
16 To ease anybody's mind about enforcement, we're going to have
17 GPS and VMS affixed to the vessel. Let us hail-out as a two-day
18 trip, and then it's very easy, as Officer Harwell said, as far
19 as burden of proof. All they have to do is, if they see that we
20 have a two-day bag limit on the boat, check that we hailed-out
21 as a multiday trip and look at our VMS track.

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

24
25 **MR. LANCE ROBINSON:** To that point, Dylan, you're saying adding
26 the language referencing the VMS system and leaving the rest of
27 that the same, having the two captains and all of that onboard,
28 as well?

29
30 **MR. HUBBARD:** Yes. As a Coast-Guard-inspected vessel, I have to
31 have two captains operating longer than two hours, and so having
32 the two captains doesn't bother me. The part about the receipts
33 seems kind of stupid to me, but we've always done it, and so
34 everybody on the boat has a receipt, and it's a little difficult
35 to keep them dry, but, to me, making this more clear and adding
36 the part about federally-permitted vessel.

37
38 That way, it's very clear that you have to be a charter boat or
39 partyboat acting as a federally-permitted charter boat or
40 partyboat, and then you could add that secondary part about the
41 VMS or GPS affixed to the vessel.

42
43 Basically, this has evolved since this was implemented in 1990.
44 I have been reading meeting minutes from 1989 and 1990 and 1991
45 until my eyes bled, and, like Dr. Crabtree said, there is
46 nothing in there when they were originally making this rule
47 about the first twenty-four hours of the trip or anything. This
48 somehow evolved later. Like he said, in 1995 or 1996 is the

1 first time that you're able to find anything like this.
2
3 When they originally made the rule, they specifically, in the
4 meeting minutes, mention the boat from Madeira Beach that fishes
5 the Middle Grounds, and that's my vessel. This rule was built
6 around how we operate, and I just don't understand how this has
7 become an issue, and operating efficiently and promoting best
8 practices should be our goal, and that's why I feel that
9 changing this in that way would be an easy fix, and it would
10 make it clear, and it would lower the possibility of abuse or
11 misuse.

12
13 **CHAIRMAN DIAZ:** Mr. Anson.

14
15 **MR. ANSON:** I just want to follow-up with Dr. Stunz. Dylan, you
16 have just explained it and such, but I'm still a little fuzzy as
17 to how making this change would really effectively or
18 substantially reduce the amount of discards. That
19 notwithstanding, then, just to follow-up on Patrick's comment
20 too, I tend to agree with him that now we're putting the fish at
21 a disadvantage, I guess, and I'm trying to reconcile that, or
22 put it in my mind what the best way to describe it is.

23
24 We have a fishing opportunity, and a fishing opportunity is
25 based on a day, and that's how we've kind of set it up, at least
26 in this context, and now that one day might be different from
27 the next, and so, if they're being caught easily on the first
28 day of the trip, you could fill both day's bag limits, and the
29 next day, however, it might be difficult to catch. I mean,
30 that's fishing. The current could be bad, or the waves could --
31 The weather can change, and now you're fighting seas and such,
32 and so your catch rates go down.

33
34 I am just a little -- In the end, we may end up with more
35 harvest, versus the amount of discards, which still, in my mind,
36 is yet to be determined as to what the quantitative impact of
37 that would be.

38
39 **MS. LEVY:** Just a couple of things. I don't know that we should
40 be looking at the regulations and deciding how they need to be
41 written right now. I think we should be focusing in on what you
42 want the change to be, because I heard a potential change to be
43 getting rid of the idea that you have to be on the first twenty-
44 four hours of the trip before you can keep the possession limit.

45
46 Then I heard some idea about adding "federally-permitted",
47 which, to me, has no relation to that change, and so I think
48 what would be helpful is, to the extent the council wants to

1 make changes, what are those changes, and then we can figure out
2 how to write the regulation or how to do what the council wants
3 to look at doing or giving you options, but I kind of heard a
4 mixed bag, and I didn't get how the adding "federally-permitted"
5 was going to get at keeping the possession limit within the
6 first twenty-four hours.

7
8 **MS. BOSARGE:** I guess it sounds to me like we had a regulation,
9 and it was intended to be one way, and, just through
10 administrative consolidation, it changed, and that wasn't done
11 by the council, and so I would like to see -- I don't see where
12 there is really a -- I mean, he's a professional fisherman. I
13 am pretty sure that he can catch two snapper today and two
14 snapper tomorrow, and that's allowed. That's four fish per
15 person, and so what does it matter if he catches them all today
16 or if he catches them all tomorrow?

17
18 I am kind of like him. I would rather see you get out there and
19 get in the fish and get the hell away from them. Then I know
20 you're not going to be having bycatch of that species, right?
21 That seems pretty reasonable. If you know how to get out of
22 them, you're going to get out of them.

23
24 I really see this as kind of a minor deal, and I would love to
25 see staff come back with a -- I guess it would be an abbreviated
26 framework, one of those things where you don't even have
27 options, really, and you just come in and say this will be the
28 change, and you bless it up or down, and the only change, to
29 keep this streamlined, in my mind, would be to just put the
30 verbiage back the way it was before, which would take out that
31 "apply to a person on a trip after the first twenty-four hours
32 of that trip", and that's the part that got added.

33
34 If you could bring some sort of abbreviated framework that would
35 let us look at that and get this regulation back the way the
36 council originally intended it to be, I think that would be
37 something we should look at.

38
39 **CHAIRMAN DIAZ:** Mr. Rindone, to that point?

40
41 **MR. RINDONE:** Yes, we can do it via a framework.

42
43 **CHAIRMAN DIAZ:** Ms. Levy.

44
45 **MS. LEVY:** Just a couple of things. Again, I think it's good to
46 know what you want to do, and then maybe staff can figure out
47 how to do it, but know that that general applicability provision
48 -- That's in the general applicability provision, and so it

1 applies not only to Gulf reef fish, and snapper grouper has a
2 possession limit, and CMP, king mackerel and Spanish mackerel,
3 have a possession limit that that language applies to.

4
5 Now, it says "unless specified otherwise", and so we can
6 certainly specify in the Gulf provision that something is
7 different than the general applicability part, but I think you
8 also need to think about if you're going to change it or want to
9 look at changing it for reef fish, and do we want to also then
10 change it for CMP, and then I don't know -- I haven't gone back
11 in the history of the South Atlantic stuff, but I don't know if
12 that language was in a South Atlantic amendment or not, and so
13 then you've got a snapper grouper issue, which is their issue,
14 but I'm just saying that provision applies to more than reef
15 fish, and so, again, it would be helpful to know what you want
16 to do.

17
18 If it's to remove that restriction for reef fish, and Gulf CMP
19 maybe, then let us know that, and then let staff figure out how
20 to change the regulations, potentially, and what kind of
21 document you need and whether you need alternatives. I mean, I
22 am not going to make a pronouncement on any of that at this
23 point.

24
25 **CHAIRMAN DIAZ:** Next up, we have Ms. Guyas. After that, we're
26 going to start working towards wrapping this agenda item up.
27 We're over our time limit. Ms. Guyas.

28
29 **MS. GUYAS:** I guess I just wanted to put the other side of the
30 coin out there, because I hear this from time to time, well
31 before this whole issue came up, Dylan's specific issue, and I
32 hear where you're at.

33
34 The thing that kind of gets people on this, particularly for a
35 trip that's maybe twenty-five or twenty-six hours, is that boat
36 is probably really only fishing one day, and the question is why
37 can those people keep two limits when they are fishing one day,
38 and I don't know the answer to that, and I don't know the
39 history.

40
41 I have read the history of some of the discussion, but the
42 rationale for that is tough, and I think it's hard for some
43 people that aren't part of this group to swallow, because there
44 is lots of people that run seventy to ninety miles or whatever
45 out, and it takes them a good part of the day, and then they
46 fish, but they don't have the luxury of being able to do this,
47 and I'm just putting that out there.

48

1 **CHAIRMAN DIAZ:** Thank you, Ms. Guyas. We've had a lot of
2 discussion, and there is no motions that we're currently working
3 on on the board. I would encourage folks, if they would like to
4 make a motion, that maybe they could talk with folks on breaks
5 over the next couple of days, and this could be -- If somebody
6 wants to do anything, it could be done at Full Council. Seeing
7 no further hands up, we're going to wrap this agenda item up for
8 the time being. Mr. Rindone, do you have anything else?

9
10 **MR. RINDONE:** I do not. Thank you.

11
12 **CHAIRMAN DIAZ:** Is there any other business to come before the
13 Sustainable Fisheries Committee? Seeing none, Mr. Chair, I will
14 turn it back over to you.

15
16 (Whereupon, the meeting adjourned on June 3, 2019.)

17
18

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