GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

REEF FISH MANAGEMENT COMMITTEE

Sandestin Golf and Beach Resort Miramar Beach, Florida

JUNE 4, 2019

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PAGE 44: Motion to remove Alternative 5 from Action 1.1. The motion carried on page 45.

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

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

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

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

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

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

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

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

ADOPTION OF AGENDA
APPROVAL OF MINUTES
ACTION GUIDE AND NEXT STEPS

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

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

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

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

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

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

MS. LEVY: You could say to start some sort of action to address it, but you can’t take a final action.

CHAIRMAN GUYAS: Okay. Is everybody good? All right, and so we’ve got a motion. well, I assumed, Roy, that your hand also
was a second. We’ll just go with that. Perfect. Okay. Any opposition to the motion? Seeing none, the agenda is adopted as modified.

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

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

**REVIEW OF REEF FISH LANDINGS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CHAIRMAN GUYAS:** Dale.

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

**CHAIRMAN GUYAS:** Kevin.

**MR. KEVIN ANSON:** Ryan, is there anything going on with lane snapper? I mean, obviously, they are catching more, and landings are increasing, but, I mean, is there any trends that
you had seen, in looking at the data, that would indicate that it’s coming from a particular area or the average size is getting larger? Did you look that closely?

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

MR. ANSON: All right. Thank you.

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

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

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

DR. MICKLE: Commercial. Sorry.

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

CHAIRMAN GUYAS: Dr. Simmons.

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

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

CHAIRMAN GUYAS: All right. Anybody else? Okay. I guess we’ll
move on then. Thank you, Sue. Our next item is the Joint
Enforcement Agreement Discussion, and I think Officer Harwell is
here for that. Ava, can you give us an intro about what we’re
doing here?

JOINT ENFORCEMENT AGREEMENT DISCUSSION

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

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

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

CHAIRMAN GUYAS: Mr. Banks.

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

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

MR. BANKS: Thank you.

MR. HARWELL: With the EFPs, I can still go out there and
patrol. I am not necessarily patrolling for red snapper, but
I’m looking for over the bag limit, and I’m making sure that
they possess their exempted fishing permit and size limits for
red snapper. I still check it, but, if somebody is not in compliance, I can still write them under the federal side. However, the states have management of that fishery during that season.

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

CHAIRMAN GUYAS: Does anybody have questions for Officer Harwell? Go ahead.

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

MR. HARWELL: I have no idea, and it’s the Mississippi/Alabama line to Perry, and so I have Dauphin Island and --

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

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

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

MR. HARWELL: I appreciate it.

CHAIRMAN GUYAS: Paul.

DR. MICKLE: My experiences are with our state law enforcement, and so I’m very ignorant of what the federal perspective is. Is
your enforcement in federal waters, obviously, and do you write
citations in state waters, and do you do like terrestrial? Are
you writing tickets on the ground, too? Are there lines drawn
where you can go and state guys -- I know the state guys go with
JEA into federal waters, and I know that part. Like I said, I
know the perspective from my guys and gals in the marine patrol
for the state, but, again, if you could just explain kind of the
realm and just the typical citations that you write and where.
Thank you.

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

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

Dr. Mickle: Thank you very much.

Chairman Guyas: Thank you, Officer Harwell.

Mr. Harwell: Thank you.

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

Draft Amendment 36B: Modifications to Commercial IFQ Programs
and Presentations

Dr. Lasseter: Good morning, everybody. Just to give us a
moment there, I just thought that I would go over all the things we’re going to talk about for Amendment 36B. Of course, we have brought you the document, but we’re really going to use a presentation to go through and cover all of the actions and your purpose and need and whatnot.

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

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

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

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

CHAIRMAN GUYAS: Eric has entered the building.

DR. LASSETER: Perfect. Mr. Brazer, if we could invite you up, and I will pass the mic over to you.
QUOTA BANK PRESENTATION

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

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

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

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

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

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

We have seen an increase in discards, which is a product of what I just talked to you guys about, and we’re seeing a transition in the fishery. Nobody is getting any younger, and, as this older population starts to age out, we’re starting to see
younger fishermen step up and start to build business plans and
look for financing and really want to roll their sleeves up and
become successful commercial fishermen.

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

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

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

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

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

We found, for our program, as a non-profit doing what we wanted
to do, we needed more stability. We needed more certainty, and
so, last year, we took out a sizeable loan, and we bought a fairly significant, in my mind fairly significant, number of shares, which I will talk more about later, and so we are fully invested in the IFQ fishery right now for red snapper.

In shameless self-promotion, the picture you see on the screen, in 2017, the EPA honored the quota bank with a 2nd Place Gulf Guardian Award for the Non-Profit Civic Category, and so we’re pretty proud of that.

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

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

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

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

One of the neat opportunities with an industry-based, or community-based, quota bank is that you can start to work toward some social goals as well, and so we’ve identified three here. We’re really trying to find ways to increase an already accountable sector, the accountability of an already accountable sector, to support the next generation of fishermen, and to build a model that other communities or states or industry groups can use to start to address issues or challenges in their region.
We don’t have a monopoly on the quota bank concept. It’s something that we decided, and we work to address some of the issues that we’re dealing with, and anybody, at any time, can build one of these, and I would encourage industry groups and states to consider how this model could address some of the challenges in their community, or with their audience.

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

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

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

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

We are pretty excited about that as well. Every single one of our board members donated, because they believe so strongly in what we’re doing, and they believe that this program is really — It’s a good thing, and it’s helping to address some of the problems that we’re all dealing with and talking about in the fishery, and so we collected 15,000 pounds through donations, plus some additional contributions, and we’re looking at about
75,000 pounds for the year. We are pretty excited about that.

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

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

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

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

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

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

We prohibit the releasing or the flipping of quota, and we need to make sure that this program doesn’t allow fishermen to take allocation from us and then turn it for a profit, and so we’ve
built in structures to make sure that doesn’t happen, and you do that electronically, and so, until we get electronic logbooks, it’s a lot of text messages and scans and photos of trip tickets, and that’s my shameless plug for commercial electronic logbooks.

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

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

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

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

Programming is essential. The programming is what brings your quota bank to life, and it’s what makes it more than just a leasing program, and this gets to things like vision, mission, goals, how will it -- A quota bank is basically a cooperative, and how does the quota bank make that vision a reality? How do you ensure that the program is doing what it’s intended to be doing? What are your enforcement aspects? How do you respond
if it isn’t doing it? How do you make those midstream or midcourse corrections, to make sure that this program is doing what it’s supposed to?

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

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

**CHAIRMAN GUYAS:** Bob.

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

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

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

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

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

CHAIRMAN GUYAS: Leann.

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

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

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

We get a lot of people who may not apply to the program, but they’re interested and they want to learn more, and I field a few calls a week, sometimes a few calls a day, just fishermen who say, hey, I hear you’re leasing allocation and tell me more
about this program.

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

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

CHAIRMAN GUYAS: Kevin.

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

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

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

MR. BRAZER: More than we have available.

MR. ANSON: How much is your membership fee?

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

MR. ANSON: How does one become a member if they’re not leasing pounds? Is there any membership fee?
MR. BRAZER: Yes. If you want to join our organization, you send in a check, or send us money through PayPal.

MR. ANSON: How much is that?

MR. BRAZER: It ranges. We have a $25.00 membership level, and we have a $5,000 membership level.

MR. ANSON: Are any stipends or salaries given to the board members?

MR. BRAZER: No, and that’s actually a good point. Because we’re a non-profit, the board does not receive any stipends or any revenue. It does not benefit financially from the Shareholders Alliance or this program, and we spent a lot of time with the lawyers making sure that that’s the case.

MR. ANSON: Is travel paid for the meetings for attendance for board members?

MR. BRAZER: For board members? No. They pay it all themselves.

MR. ANSON: Thank you.

MR. BRAZER: Thank you.

CHAIRMAN GUYAS: Next on my list, I have Greg.

DR. GREG STUNZ: Thanks, Madam Chair. Nice presentation, Eric. That was very informative. I have a question, kind of like Leann, on the nuts-and-bolts. Maybe you can help. If you’re talking to a -- If you want to facilitate new entrants in the next generation of this fishery, obviously, as you said, what does that really look like?

For example, in your goals, you talked about providing someone wanting allocation, essentially, and then also providing access, which I assume is leasing, based upon what we’re talking about here, and so is it a combination of both, people that want to actually get quota and then lease it? Let me rephrase it.

If you’re coming into the fishery as a brand-new fisherman with not a lot of money, but wanting to get into it, what do those steps look like for a new fisherman? Do you start leasing and then eventually get your own quota, or -- I am not distinguishing between actually buying real allocation and leasing the allocation, and then I have a follow-up question
from there.

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

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

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

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

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

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

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

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

**CHAIRMAN GUYAS:** In that case, I have got just a couple. How many people do you have that are leasing from the quota bank?
MR. BRAZER: Right now, we have -- I just want to double-check my numbers, to make sure that I don’t give you the wrong number. Traditionally, for the last few years, we’ve had between sixteen and twenty-five members. This year, the board has approved twenty-one, thus far.

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

MR. BRAZER: If you’re a member of the quota bank, then you’re a member of the Shareholders Alliance.

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

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

CHAIRMAN GUYAS: Patrick.

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

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

CHAIRMAN GUYAS: Tom.

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

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

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

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

DR. FRAZER: Thank you. I was a little confused. It’s shares that you’re acquiring and not the allocation.

MR. BRAZER: Yes.

DR. FRAZER: All right. Thanks.

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: Thanks. I’m learning a lot of good stuff, and so, the bottom longline thing, that was very interesting, because
that’s applicable, I think, in a lot of the different things
that the council is discussing or looking at doing when we’re
talking about eastern Gulf discards of red snapper, and so that
was interesting, and so that’s one way that you’re making sure
that you prioritize things towards discards.

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

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

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

CHAIRMAN GUYAS: Bob.

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

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

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: Sorry. One more nuts-and-bolts type of question.
It sounds like, originally, your maybe one and only focus
originally was the bycatch, to reduce those discards, and then I
think, in 2017, your slide said, you added on the new entrant
goal, and so I was just wondering how has that developed over
time, and I did get to -- I attended the IFQ AP meeting, and,
the other presenter that Ava was mentioning may be able to come
to our August meeting, he said that their organization kind of
had some stumbling blocks with that at first, and they had a
little bit of trouble trying to define who was the new entrant
that they were looking for, and so I was just kind of wondering
how you all are dealing with that, and do you have criteria, or
do you think you will be getting criteria in the future? Are
you doing credit checks? I mean, how does it kind of go?

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

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

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

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

CHAIRMAN GUYAS: Go ahead, Ed.
MR. ED SWINDELL: Thank you, Eric. Just a couple of short questions. How many states are your members involved in?

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

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

MR. BRAZER: I believe I can.

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

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

MR. BRAZER: For the quota bank, yes.

MR. SWINDELL: On the quota bank. How many total members of the organization?

MR. BRAZER: At last count, we’ve got eighty or ninety, and I can get you an exact number.

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

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

MR. SWINDELL: That’s all I have. Thank you.

DR. FRAZER: Eric, I just wanted to go back. Of those 75,000
pounds, and you kind of review them quarterly, and do you just
meter them out? Like, let’s say for the first quarter of the
year or something, how do you make that decision?

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

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

DR. FRAZER: Thank you.

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

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

CHAIRMAN GUYAS: Susan.

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

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

Now, in some of our documentation, we have mentioned a reasonable limit, and so, if you come to us asking for 100,000 pounds, that is not a reasonable request. Most of the requests
we get are between -- I would say between 1,000 and 5,000 pounds, with some coming in lower and some coming in a little bit higher.

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

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

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

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

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

PRESENTATION

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

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

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

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

DR. STEPHEN: Used for landings?

MR. ANSON: Correct. Directly by the shareholder.

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

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

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

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

We see transactions like that, and just because someone has shares, it doesn’t mean that they’re not also leasing some of
their allocation, versus landing all of it, and so, in general, what we’ve seen for at least the last five years or more is that the allocation transfers have exceeded the quota by more than 100 percent.

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

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

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

DR. STEPHEN: Yes.

MR. ANSON: Okay. Thank you.

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

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

Then there’s a whole section on developing a quota bank, which we’ll spend some time on, and then, finally, the last action in the amendment is to require accuracy in the estimated weights and landing notifications, and that’s when we have a couple of additional speakers for you to ask questions with as well, and I
will pause there for just a moment.

CHAIRMAN GUYAS: Phil.

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

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

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

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

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

The percent of shares that are held in an account without a permit was 30 percent in 2016, and it went up I want to say about a half a percentage point in 2017, but this is the same data that’s in the amendment, and so this is one way to just look at how much people in the setup of accounts either have the
ability to land what they have, what they have been given at the
beginning of the year, or not.

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

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

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

CHAIRMAN GUYAS: I am going to go to Patrick, and then I’ve got
you, Greg.

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

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

DR. STUNZ: Ava, if I’m interpreting this right, and, if I’m
not, please let me know. So no less than 30 percent of the
shares, if we’re talking about red snapper -- The only way to land those fish is to lease them. That would be the bare minimum, and so at least 30 percent is -- Without some crazy calculation that’s very hard to do, we have no idea of what the upper bound of that leasing is then, right?

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

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

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

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

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

Allocation, on the other hand, that refers to the pounds of fish that are represented by that proportion of shares, and this allocation is an annual usage. It disappears out of your account at the end of the year if it has not been used.
The implications of whatever you are talking about doing, whether you’re talking about distributing shares or allocation, are going to be very different, the implications of that, and so, coming back to some of your motions, and we have provided the date when these were made as well, and so, in October of 2017, the council passed a motion to identify quota set-asides to address and assist small participants and new entrants and to reduce discards.

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

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

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

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

Then, also, we’re going to come back to this next point as we get into the quota bank part. We need some help in defining what you mean by these small participants, new entrants, who would be the ones to receive quota for reducing discards, and what do you mean by “actively-fishing eligible commercial fishermen”. Are these discreet groups, or are there overlapping characteristics, because we want to think about, also, how much
quota are you going to want to be providing to these discreet
groups, and I would guess that there’s overlap, but let’s be
thinking about that as we get down to the quota bank action.

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

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

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

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

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

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

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

**CHAIRMAN GUYAS:** Bob.

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

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

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

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

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

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

CHAIRMAN GUYAS: Kevin.

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

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

MR. ANSON: I am looking for, and I don’t see it in any of the alternatives, where, if the council decided that a permit was required, associated with each of the accounts, I don’t necessarily want the structure then to preclude those that are eligible and they have a permit and they have shares and to allow them to set up a sub-account that could be just tied-in with the LLC.
Legally, I don’t know how that works, but that is apparently being used as a method to operate the businesses, and so I don’t necessarily want to restrict that, or I wouldn’t want that as an option going forward, and so I’m just trying to see if there is a way that that sub-account would still be under the umbrella of a permit, but yet be utilized in the legal manner that it’s not tied into that original account or original --

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

This is going to require, I would think, some consolidation of a lot of those accounts, because people are not going to have -- I would assume, I’m going to guess, that, if you pick one of these, you’re going to have people needing to consolidate their accounts, and so that wouldn’t -- Selecting one of these might not allow people to continue to separate those in the same way.

Now, people also incorporate a vessel that is still associated with their account, the vessel account associated to the same shareholder account, and so they can probably still continue to do that, but you would be requiring some consolidation of accounts here, if that’s what you’re asking.

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

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

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

**DR. LASSETER:** To make it more complicated, a shareholder account doesn’t necessarily have shares. They use the term “shareholder account” to be any of those accounts, but a shareholder account may hold shares, or it may not hold shares, but you do need the shareholder account first to connect your vessel account.
CHAIRMAN GUYAS: All right. I’m going to go to Mr. Dyskow. He’s been waiting patiently.

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

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

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

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

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

CHAIRMAN GUYAS: Roy.

DR. CRABTREE: I think it’s interesting to go back and read the minutes of the meeting back in 2005 and 2006, when we had this
discussion, but this council set this program up in a way that
allowed this to happen, and they were very aware that this could
be happening when they set it up. It was an accommodation done
to satisfy certain interests on the council and pass the
program, but it was, by and large, opposed by the commercial
fishing industry, but there are aspects of this program now that
I look back that I would have done differently, but now this is
how the program is set up, and it’s a mature program at this
point, and it’s very difficult to figure out how to go back and
change all of it without a lot of disruption.

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

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

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

CHAIRMAN GUYAS: Leann.

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

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

CHAIRMAN GUYAS: Kevin.

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

CHAIRMAN GUYAS: Leann.

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

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

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

CHAIRMAN GUYAS: Any other discussion on this? Ed.

MR. SWINDELL: Leann, it’s my understanding that what you’re
trying to do is to say that, if you don’t have a permit, you
can’t own shares, and is that correct?
CHAIRMAN GUYAS: Go ahead, Leann.

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

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

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

DR. FRAZER: We will take a break, and we’ll reconvene in about fifteen minutes.

(Whereupon, a brief recess was taken.)

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

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

One, Ms. Bosarge asked for a discussion on how penalties are determined, in terms of violations, and so we have Cynthia Fenyk on the phone to provide a presentation on NOAA’s policy for the assessment of penalties, and then we also have the Chair of the Law Enforcement Technical Committee to come and answer your questions as well, and so I will pause there.
NOAA GENERAL COUNSEL ENFORCEMENT SECTION PENALTIES PRESENTATION

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

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

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

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

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

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

These statutory factors that are mandated for consideration in assessing penalties can make each case seem much like a snowflake. The unique evidence pertaining to one violator is
not always conducive to making an apples-to-apples comparison
among other violators of the same provision.

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

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

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

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

Negligence denotes a lack of diligence, a disregard of
consequences likely to result or carelessness. The failure to
know of applicable laws may itself be evidence of negligence.
An unintentional act is one that is an inadvertent, unplanned,
and is the result of accident or mistake. This category
reflects the strict liability nature of many of the Magnuson-
Stevens Act regulations.
In assessing culpability, the NOAA attorney considers whether the alleged violator took reasonable precautions against events constituting the violation, how much control the alleged violator had over the events constituting the violation, and whether the violator knew or should have known of the potential harm associated with the conduct.

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

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

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

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

The penalty matrix that I showed you and the policy associated with that matrix was first issued on July 11, 2014. At that time, NOAA committed to doing a periodic review to take into account changes or provide clarifications and additional guidance. That periodic review resulted in a draft penalty policy published and noticed in the Federal Register on May 2, and the informal comment period ended on that draft policy yesterday.
The revisions reflect new legislation and provide clarifications to improve national consistency. It makes adjustments to the maximum civil monetary penalties authorized, and this draft policy can be found at the link at the bottom of the page. The policy and the associated matrices, it’s a fairly dense document. It is sixty-three pages long, and it provides examples of applying the penalty policy to specified specific examples. It’s a long read, but it gives you the deep dive into how the penalties are assessed.

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

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

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

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

In making adjustments for prior offenses, the NOAA attorney will
look at the similarity of the prior and the present violation, how recently the prior violation occurred, the number of prior violations, and the violator’s effort to correct. NOAA will consider all prior violations that have been finally adjudicated within five years of the current violation.

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

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

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

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

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

It is an Offense Level I where the adverse impact on the statutory or regulatory program is insignificant and there is no economic gain from the violation. It is an Offense Level II where the adverse impact on the statutory or regulatory program is minor or there is some economic gain from the violation. It is an Offense Level III where the adverse impact on the
statutory or regulatory program is significant or there is a significant economic gain from the violation.

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

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

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

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

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

CHAIRMAN GUYAS: All right. Thank you, Ms. Fenyk. Are there
questions on this presentation? Leann.

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

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

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

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

MS. BOSARGE: Right, and I just asked for the underestimate, and so, essentially, we would be saying we assume that everybody that underestimates was going to lie and not say anything about those other fish and fine him for it. We are assuming that is their intention and they are guilty if we fine them for every pound that they’re off, even if they adjust -- If their landings and their trip tickets and their allocation and everything is right, we assumed that they were going to lie and fine them.
MS. FENYK: Well, I wouldn’t make an assumption that they were
going to lie. I would have to have some evidence of intent. If
they lied, they wouldn’t be in the negligent category. They
would be in the intentional category.

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

MS. FENYK: Yes.

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

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

MS. BOSARGE: Okay. Thank you.

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

LAW ENFORCEMENT TECHNICAL COMMITTEE DISCUSSION AND LETC REPORT

DR. LASSETER: If I could clarify that, Sergeant Carron has not
brought a presentation, but we asked that he be made available
to answer questions, and so the LETC has met a couple of times
in the last year, and they meet in coordination with the Gulf
States Commission, and they have -- In their March meeting last
year, they passed a motion, but then, in their October meeting,
they fleshed out a quite extensive consensus statement, and we
provided that as background information in your briefing
materials, which is Tab B, Number 6(e), and then Sergeant Carron
has come to just answer any questions you have about that, and, again, this is speaking to that requirement for requiring accuracy in the estimated weights on the landing notifications.

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

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

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

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

**DR. CRABTREE:** So the concern is just with underreporting, and it’s with dramatic underreporting and not just 10 percent underreporting.

**SERGEANT CARRON:** Yes, sir.

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

**CHAIRMAN GUYAS:** Kevin.

**MR. ANSON:** The reported amount and the landing total goes to this whole question, but what is your sense of the ability of fishermen to weigh their catch within 10 percent of the total or 20 percent? I mean, is that something -- Do you see that more
often than not, that what you actually weigh on the boat and
what is reported on the front-end through the notification
report -- Are they fairly similar most of the time?

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

MR. ANSON: Thank you.

CHAIRMAN GUYAS: Leann.

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

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

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

CHAIRMAN GUYAS: Go ahead, Leann.

MS. BOSARGE: I guess, in the bigger states with more coastline,
it allows you to say, all right, well, this is going to be a
bigger offload, this is going to be a 5,000 or 10,000-pound
offload, and, if there’s something off there, it would be more
significant than some sort of error on a 500-pound offload, and
so you would probably focus your efforts more on the bigger
offloads, and that’s essentially kind of how you’re
prioritizing, I guess, or is it more of a time priority, like,
okay, this is a 500-pound offload, and this is not going to take
us a whole lot of time, if we want to go oversee that, and then
we could get to this, versus this is going to be a 5,000-pound
offload, and this is going to take a little bit longer, and so, if we go and oversee that offload, then we’re going to have to
change some things over here, and that’s what I’m trying to
figure. What kind of courtesy, and what are you using it for?
How do you prioritize?

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

CHAIRMAN GUYAS: Dale.

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

SERGEANT CARRON: Yes, sir. That’s correct. That’s the
consensus across the Gulf, is that there is issues and concerns
with this in every Gulf state.

CHAIRMAN GUYAS: Go ahead, Dale, and then Leann.

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

SERGEANT CARRON: In the discussions, it has always circled back
to this. I think, in conversation with the other state
representatives, this has really been the leading alternative
for addressing the issue.

MR. DIAZ: Thank you.

CHAIRMAN GUYAS: All right, Leann.

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

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

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

The only other alternative, I think, would be to follow the
people. I mean, you would have to document were the fish going
into commerce, and, in this particular instance, we’re talking
about now, as a state officer, I need to follow fish three
states away, and the amount of logistics involved with that is --
- It far exceeds the type of violation.
CHAIRMAN GUYAS: General Spraggins.

GENERAL JOE SPRA GGINS: Patrick, I thank you for getting up this morning and driving here. I know that it’s a long trip, and I thank you all, and I believe you know how I believe in law enforcement and what you’re doing and trying to do what’s right, and I know that. I know you all try hard every day, and I appreciate you for that.

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

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

GENERAL SPRA GGINS: I guess what you’re saying is that it’s a situation like we had before in Mississippi though that 20 percent that they’re catching, that they may come in over, they are not reporting, and that’s what you are believing?

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

GENERAL SPRA GGINS: I understand that there are bad apples, like Leann talked about, but is there that many of them that are actually doing that?

SERGEANT CARRON: In Mississippi, and I can only speak to the specifics in Mississippi, and we are doing pretty well right
now. Because of our geographical size, we oversee a majority of all the offloads, whereas, in other states, that’s not the case. In Florida, Texas, and Louisiana, they oversee a much smaller percentage of the offloads, and so that lends itself to -- You know that Fish and Wildlife is only going to come around to your area once every month or once every two months, and you kind of have better odds to play fast and loose, if you wanted to.

CHAIRMAN GUYAS: Dale.

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

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

CHAIRMAN GUYAS: All right. Are there other questions? Patrick.

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

SERGEANT CARRON: As far as addressing it, I think we’ve addressed the issue with the particular individual in Mississippi, but the greatest concern is coming from other
states. It’s coming from some of the other Gulf states, and it’s something that they would like to have this tool in the toolbox to address their issues. There is certainly law enforcement means. I mean, there’s a lot of stuff available, but it’s just dependent on a multitude of factors.

**CHAIRMAN GUYAS:** Susan.

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

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

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

**CHAIRMAN GUYAS:** Doug.

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

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

The other thing is there is quite a few states that don’t have the covert means immediately available. They don’t have
unmarked trucks or plain-clothes officers that can immediately
address anything or go set up surveillance. In certain states,
they have to get prior approval, and there has to be written and
authorized operational plans, and so it kind of turns into a
drawn-out process.

CHAIRMAN GUYAS: Roy.

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

CHAIRMAN GUYAS: Sure.

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

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

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

CHAIRMAN GUYAS: All right. I am not seeing any other questions
at this point, but thank you, gentlemen. I guess, at this point, Ava, do you want to go back to that presentation, Action 4?

PRESENTATION (CONTINUED)

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

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

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

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

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

**MS. BOSARGE:** I mean, I think you all know how I feel about this one. I am really worried that we’re going to punish a lot of honest fishermen with fines that are not minimal fines, and that’s why I asked for that presentation, so everybody could see that penalty matrix and really visualize that commercial fines are not penny-ante fines. They are real fines.
I mean, the minimum fine is $2,500, and I would guess that, more than likely, it’s going to be in that Category B, negligent, and I don’t see how it wouldn’t fall in that category, based on the examples that I read, and that’s a $5,000 minimum fine for being off, for not estimating your weight right, and it’s an estimation. Everything we do is based on estimation. We don’t fine Clay when his estimations turn out to be off. I am just -- Sorry, Clay. 

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

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

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

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

I think there are some other ways that we can catch them, and I want to get them, but I don’t want to do it this way, and I hope my Mississippi law enforcement is not offended by that, because you do a good job, and you got that bad apple, and rightfully so. I am going to make a motion that we move Action 4 to the Considered but Rejected category, if I can get a second.
CHAIRMAN GUYAS: Is that a second, Susan? It’s seconded by Susan. We’ll get that on the board, but, Patrick, I know you had your hand up. I don’t know if your comments are now germane to this, but they probably are.

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

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

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

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

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

Clay told me that he’s right all the time, and so he wouldn’t be over or underestimating, but we’ve got buffers in management already, and so this is just a buffer, and it’s at a very small level, and it’s at a trip level, and the fishermen -- They are
professionals, and I just think it’s within their capacity that they can estimate their catch within a percentage, within a buffer.

CHAIRMAN GUYAS: Greg.

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

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

CHAIRMAN GUYAS: Doug, go ahead.

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

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

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: Just to that point, it’s not necessarily that they’re off by that many fish, like they had that many fish come over the side and they miscounted them. Some of these guys measure by the box, right, and so you’ve got a box of fish that usually holds about 1,000 pounds of fish, and so what happens
is, if you don’t catch them all at one time, you’ve got to ice
the fish down. That box holds fish and ice, but, generally
speaking, there will be about 1,000 pounds of fish when you fill
that box up with fish and ice, but you catch a little here and a
little there.

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

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

CHAIRMAN GUYAS: Patrick and then Roy.

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

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

CHAIRMAN GUYAS: Roy.

DR. CRABTREE: I suspect, Doug, that this is more complicated
than you might think at first blush, and say you’re a grouper
longline vessel that’s out on a ten-day trip, and you catch some
red snapper somewhere along the way over a period of days, and
you have moved around a good bit, and so the sizes aren’t
consistent, and now they’re packed in the ice with mostly
grouper, and I think you’re going to require that they have to
come in with their estimate of red snapper, their estimate of
shallow-water grouper, their estimate of red grouper -- It’s
quite a few things, and I’m not sure that it doesn’t get a lot
more complicated in some cases in doing that.

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

CHAIRMAN GUYAS: All right. We’ve got time maybe for one more
comment. Otherwise, we’re going to vote on this thing. Go
ahead.

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

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

CHAIRMAN GUYAS: All right, Ed. Make it quick.

MR. SWINDELL: Thank you, Madam Chair. I just am sitting here
as a commercial representative, and I’m wondering just how in
the world do we manage this. I want the commercial people to be
honest and for us to have a good handle on just what they’re
doing and what they’re catching, and I’m certain that the
majority of the commercial industry wants it that way, and we
are -- On the other hand, we have regulations of two fish per
person for the recreational side, and also for the headboat side
and for the charter boat people, and I can’t see just getting
away totally from having a way for law enforcement -- Law
enforcement are checking all these other people, but yet we’re
going to just do away with the total law enforcement effort of
helping us keep track on the commercial catch, which is a significant part of the resource being taken.

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

CHAIRMAN GUYAS: Okay. Roy.

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

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

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

MR. ANSON: I will second it.

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

MR. DIAZ: Yes.

CHAIRMAN GUYAS: Okay.

MR. DIAZ: I want to speak to something that is slightly off the motion while they’re getting that straight, if that’s okay with you, Madam Chair. I would like to see us clean this document up, and this might take another motion, but the main concern is
if people underreport, and so I would hate to see people get a
violation if, for some reason or another, they were on the lower
side of what they reported, and so I don’t know if we could
handle that, if it’s agreeable through consensus, and just get
staff to clean it up before we see the document again or if that
requires a motion, but that is a concern of mine, and Leann’s
example made me think of that. I think it would be a better
document if we only had it where they were penalized in the one
direction.

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

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

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

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

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

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: I am kind of like John. I had hoped that we could
make the percentages higher. Essentially, what we’re seeing is
the bad apple is going to put a very minimal number down and
land three-times more than that, right, and so I want to get up
there in those percentages where those bad apples are. When you
go from 20 percent to 25 percent, if it’s a bycatch species that
you’ve got 500 pounds of, that you’ve been catching over a
several-day period, that gives you twenty-five pounds of wiggle room, when you go up by 5 percent. Do you see what I’m saying?

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

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

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

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

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

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

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

CHAIRMAN GUYAS: Bob.

DR. SHIPP: Just a matter of cleaning it up. Since we’ve agreed
that we’re not going to choose preferred alternatives now, let’s leave it up to staff, because that really requires three alternatives there, the 20, 25, and 30, and, if we go to 750, that’s going to require another motion, and so my suggestion is let the staff clean it up, and we’ve agreed not to go to preferred alternatives, and have it presented properly the next meeting.

CHAIRMAN GUYAS: Roy.

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

MR. DIAZ: If that’s a friendly amendment, suggestion, I’m okay with adding the 750 also, if the seconder agrees.

MR. ANSON: I will agree.

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

DR. FRAZER: It’s lunchtime, and so we will reconvene at 1:30.

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

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June 4, 2019

TUESDAY AFTERNOON SESSION

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

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

I think Ava has prepared information to discuss Action Items 2 and 3, but we’re going to have to carry those over to the August
meeting, to be honest with you, to follow-up that discussion, because I don’t feel good about moving into Full Council without having discussed either one of those actions in detail in committee, but we also need to keep on schedule, and we’ve got final action slated for the greater amberjack commercial trip limits, and so we’re just going to go ahead and move into that particular topic, and so, Martha.

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

FINAL ACTION: FRAMEWORK ACTION TO MODIFY GREATER AMBERJACK TRIP LIMITS

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

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

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

Also, in April, there was some discussion of perhaps if this new
commercial trip limit could be implemented by January 1, 2020. In doing so, final action would have to be taken at this meeting. Thanks to the hard work of the folks at the IPT, this document, codified text, the public comment summaries and those things are now available for you all for this meeting, and so, should the council decide to take final action, that avenue is now open for you to do so.

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

CHAIRMAN GUYAS: Sounds great.

PUBLIC COMMENTS SUMMARY

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

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

REEF FISH ADVISORY PANEL SUMMARY

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

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

CHAIRMAN GUYAS: Roy.

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

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

CHAIRMAN GUYAS: I’ve got Dale and then Sue.

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

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

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

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

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

CHAIRMAN GUYAS: Okay. Well, we have this motion.

DR. HOLLENSEAD: Yes, certainly, and it was just mostly my
intent to bring it to your attention, that that was what had
come out, as it was requested by the council to have the Reef
Fish AP meet, and this was the outcome of that meeting, and so I
just wanted to bring it to everyone’s attention.

CHAIRMAN GUYAS: Dale.

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

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

CHAIRMAN GUYAS: Mara.

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

CHAIRMAN GUYAS: I’ve got Patrick, and then I’ve got Roy.

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

CHAIRMAN GUYAS: Roy.

DR. CRABTREE: Okay. Well, that’s fine, but I do see problems
with it. Let’s say, for example, we got to -- What’s the
fishing year? Is it August now, or for commercial it’s still --
What if we got to November 15 and we hit 50 percent of the quota, fishing was slow or whatever, and there is no way that they’re even going to catch the quota? Then we would go to 250, drop the trip limit in half, even though there would be no apparent reason to, and that’s one of the problems with these step-downs, if there’s not a time component to it. You could actually end up having to do a step-down when it was unlikely that you were going to face a closure at all, and so I think that’s something you ought to think about.

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

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

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

If you assume that a lot of those are day boats -- In Mississippi, we’ve got a lot of boats that go out in the morning and come back in the evenings, and that’s a directed amberjack trip right there, and I talked to some of them, and they said, well, you know, lately, it has been mainly bycatch, but, yes, we do make directed amberjack trips, and we would need 1,000 pounds, minimum, to do a directed amberjack trip. If you change
it to 500, it’s not going to be worth our while.

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

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

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

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

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

REVIEW OF DOCUMENT

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

As you can see, here is the list of the alternatives. There is
now language in there for the preferred, Number 4, which is the
establish a commercial trip limit for greater amberjack of 500
pounds, and that’s what happened last time, but I also just want
to direct your attention to Alternative 6, and so that was the
requested additional alternative, which is reduce the commercial
trip limit for greater amberjack to 250 pounds when 75 percent
of the ACT is projected to be met, and then you will notice that
italicized language underneath that, and so this says the Gulf
Council may choose any one of these alternatives, and so 1
through 4, in conjunction with Alternative 6, and so what you
would do is you would say we prefer, for January 1, that this
would be the start of the trip limit, and then we would have
that step-down in conjunction with Number 6.

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

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

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

What this figure is going to show is that, in that gray, shaded
area, that’s the maximum pounds per trip that have been observed
since 2000, and then the blue and red lines indicate the
commercial trip limit that has been implemented, but what’s
interesting is that line at the bottom, that little black line, is the average pounds per trip since 2000, and so before there
was a commercial trip limit and then since, and there is no real
trend in that value Gulf-wide, and so just looking at it from a
broad scale.
Like I said, when you look at this figure, it seems like that pounds per trip has remained generally constant since 2000, and so just to throw that out there and just highlight that for the committee to consider in their discussions. If we continue on down, specifically sort of the meat and potatoes of the document -- I’m sorry. There is questions.

CHAIRMAN GUYAS: Leann.

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

CHAIRMAN GUYAS: Dr. Froeschke.

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

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

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

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: John, a follow-up to that. Before we put in that 2,000-pound trip limit, whatever year that is, how long was the season before that? Was it miniscule?
DR. FROESCHKE: I would have to check, but, I mean, this was the problem that we were trying to fix, is that the commercial guys were closing very early in the season, and we were trying to extend it out, and so we did the 2,000 pounds, and then that, presumably, did extend it, but not enough, and so we did 1,500, and that extended it, but not enough, and so here we are.

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

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

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

DR. FRAZER: Okay. Thanks.

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

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

Then the next column is the estimated closure dates for each one of those alternatives or alternative combinations, so that you can see that there for your review. Alternative 5 and the Preferred Alternative 4, in conjunction with Alternative 6, are there two alternatives that would extend the season throughout
the calendar year, and then the percent of the ACT that is
predicted to be harvested in that time period is there in
parentheses, and that’s really just what I wanted to highlight
about the document, and so, if anybody has any questions about
any part of the document, I’m happy to answer those questions.

CHAIRMAN GUYAS: Leann.

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

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

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

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

MS. BOSARGE: Thank you. I am just looking at the board, and it
says Alternative 6, but, yes. What I’m talking about is the
1,000-pound limit, until 75 percent of the ACT is harvested, and
then it will step down to 250, which is a bycatch-only fishery
for sure, and that will get you all the way out to September 20,
and it’s 170 days, but I would like to hear some discussion on it before I throw a motion out.

**CHAIRMAN GUYAS:** Dale.

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

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

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

**CHAIRMAN GUYAS:** Kevin.

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

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

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

That will then take us to the Draft Framework Action to Modify the Recreational For-Hire Red Snapper Annual Catch Target Buffer.
DRAFT FRAMEWORK ACTION TO MODIFY THE RECREATIONAL FOR-HIRE RED SNAPPER ANNUAL CATCH TARGET BUFFER

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

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

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

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

We just have this one action here, and that’s to modify the red snapper recreational for-hire component’s annual catch target, and no action would leave it where it is, which there is the annual catch target is 9 percent below the annual catch limit for 2019. In 2020 and in subsequent years, it will go back to 20 percent, and that’s our current situation.
Alternative 2 would repeat what we did in the previous framework action and set it at 9 percent, except that there would be no sunset on that. It would just be changed to 9 percent, based on the data from 2014 to 2017, and then Alternative 3 would again apply the council’s ACL/ACT control rule, just like Alternative 2, except it would use the most recent four years, 2015 to 2018, which results in a 5 percent buffer between the ACT and the ACL.

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

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

CHAIRMAN GUYAS: Mara.

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

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

CHAIRMAN GUYAS: Dale.

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

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

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

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

MR. DIAZ: Sure, and one of the reasons I’m picking Alternative 2, and I know it’s a little bit more conservative, but their
numbers did edge up this year, and I feel strongly that letting
them go back to 20 percent would not be fair to the charter
fleet, and I think at least letting them maintain status quo is
a decent compromise. I think 2018 landings are not 100 percent
finalized yet too, and so I’m a little bit reluctant to choose
Alternative 3, for that reason. Thank you.

CHAIRMAN GUYAS: Doug.

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

CHAIRMAN GUYAS: Yes, and this is Action 1.

MR. BOYD: Thank you.

CHAIRMAN GUYAS: Yes. Patrick.

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

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

MR. RINDONE: That’s the plan.

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

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

DR. FROESCHKE: Good afternoon, everyone. This is Tab B, Number
9, if you want to pull that up. The plan today is I’m going to
update you on what we’ve done since the last meeting, the last
time we looked at this document, I guess, and hopefully you guys
can pick some preferreds, and we can get this teed-up to take
final action at the next meeting.

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

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

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

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

Action 5, and I’m just going to skip, and we can come back to
this, but it essentially has alternatives to establish the ACLs,
and we were able to update the catch projections from 2019
through 2021 based on this 26 percent SPR proxy, and so we can
take a look at those, and so it kind of depends on how you want
to do this, whether you want to start with the landings and work
backwards to the SDC, which is probably not quite correct, but
you might want to do that, or, if you want to go through and try
to pick some preferreds on the proxies.
CHAIRMAN GUYAS: Does anybody have a preference for how we move through this?

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

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

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

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

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

That being said, the difference between Alternatives 2, 3, and 4, those noted, are based on the MSY proxy, and so Alternative 2 is based off the F 26 percent SPR proxy, Alternative 3 is on the 30 percent SPR proxy, and Alternative 4 is on the 40 percent. In general, the lower the SPR proxy, the higher the retained yields can be, and so, not surprisingly, and you have to compare option to option, and so, in 2a, the landings are the highest and then 3a and then 4a. 2a is the only one of all of these
that’s actually a little bit higher than the current ACL that we have now, the 2.42 million pounds.

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

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

CHAIRMAN GUYAS: All right. Kevin.

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

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

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

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

CHAIRMAN GUYAS: Yes, I was thinking the same thing. John, can you remind us -- What is the accountability measure for this
fishery? I am kind of wondering, with some of these options, if we would be bumping up against the quota, and I’m wondering if we close in-season or post-season.

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

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

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

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

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

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

DR. FROESCHKE: Action 1, again, this is the maximum sustainable yield proxy, and we currently don’t have a defined value for this. We’re using a proxy, because there is not a defined stock-recruitment relationship for this, based on the
assessment, which is typical of our species that we manage in
the Gulf.

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

CHAIRMAN GUYAS: Kevin.

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

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

DR. CRABTREE: A question. John, if we choose 30 percent, and
then the MFMT is F 30 percent, then we’re overfishing, and is
that correct?

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

DR. CRABTREE: Again I guess the only question is why would you
choose to set it more conservatively than you’ve done with red
snapper?

CHAIRMAN GUYAS: Bob.

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

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

CHAIRMAN GUYAS: Dr. Shipp.

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

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

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

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

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

On page 8, in the bottom, there is some text that kind of describes this, but, essentially, it would allow us to change the MSY proxy through a streamlined process, and we could note
it in a plan amendment, but it wouldn’t require us to bring you
back a document with a range of alternatives that sort of, by
definition, were not the scientifically best information that we
have, and so you could select that as preferred in addition to
Alternative 2 that you just did, if you were open to that.

CHAIRMAN GUYAS: Leann.

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

CHAIRMAN GUYAS: All right. Is there a second for this motion?
It’s seconded by Dale. Is there discussion on this motion?
Roy.

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

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

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

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

DR. CRABTREE: Okay. I think that covers it.

CHAIRMAN GUYAS: All right. Mr. Swindell.

MR. SWINDELL: I agree, because, if you look further up at the
page, right above the Alternative 1, in the last sentence, the
paragraph says that, ultimately, the SSC recognized that 26
percent SPR is scientifically acceptable as a proxy for MSY. They maintained their previous recommendation of the more risk-averse proxy using 30 percent, and so I think the SSC is still fine with the 26 percent. Thank you.

CHAIRMAN GUYAS: Kevin.

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

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

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

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

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

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

DR. SHIPP: I move that Alternative 2 be the preferred alternative.

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

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

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

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

CHAIRMAN GUYAS: Well, there you have it.

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

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

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

The way that we have done these in the past, in several documents, is to allow the biomass to fall some specified amount below the biomass at MSY without declaring an overfished status and requiring a rebuilding plan, and so, thinking about it, the
closer that threshold is to MSY, you are likely to -- It’s
easier to rebuild, if necessary, because you’re already fairly
close. However, you may have some false positives, where you’re
doing all the work of rebuilding plans for perhaps no reason,
and it may have solved itself faster than we could do our
process.

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

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

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

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

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

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

DR. FROESCHKE: Then let’s go back to Action 5. Again, Action
5, the Alternatives 2, 3, and 4 are the action alternatives, and
the alternative that would correspond to Actions 1 and 2 that
you selected, the alternatives in that, would be Alternative 2,
and so, again, there are two options.

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

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

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

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

DR. SHIPP: I don’t have an opinion on that. I haven’t thought
about it.

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

DR. FROESCHKE: You had to make it complicated.

CHAIRMAN GUYAS: Sorry.

DR. FROESCHKE: Table 1.1.1 is the assessment values which were
done in MRIP calibrated backwards into MRFSS units. The
original generic ACL/ACT were set in MRFSS units, and so that’s
what the quota is. These values in the action before you are in
the MRIP and not the FES units, but the MRIP APAIS, and so it comes out the same units, and so there is the difference between the MRFSS and the MRIP. In this case, in this stock, it wasn’t a large difference, but there is a little bit of a difference in there, less than 10 percent.

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

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

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

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

**CHAIRMAN GUYAS:** Clay.

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

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

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

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

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

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

CHAIRMAN GUYAS: Leann.

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

Now, having said that, I don’t usually like to be more liberal, and so I think I would be okay with this, and the whole point was to get more pounds out there for the fishermen, because we feel like the fish are really there, but I would be much more comfortable supporting this in Action 5, to not have an ACT, if we were to go back and revisit Action 3, where we established the MSST and we set that at the maximum allowable by the law, which is 50 percent of BMSY, and if we looked at maybe doing 75 percent of BMSY on that one.
That would mean that, yes, we’ll set these catch limits pretty
much as high as we can, but, if we overshoot them, and we fish
this thing real hard, we won’t fish it as far down before we
say, you know what, that’s too far and it’s overfished. We’ll
have a little bit more conservative estimate of what is
overfished, but it still won’t be overfished right now, even if
we change it, and so I’m going to vote in favor of this, hoping
that, when we finish this and dispense with this motion, we’ll
go back and look at Action 3.

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

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

CHAIRMAN GUYAS: Roy.

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

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

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

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

MR. SANCHEZ: I don’t know if somebody could help me explain
this, but, in Action 1, when we picked Alternative 2, and we
kind of paired it with Alternative 5, didn’t the inclusion of
Alternative 5 in that provide some more streamlined ability, if
the MSY proxies change and all of that, to address some of these
concerns?

CHAIRMAN GUYAS: Roy.

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

CHAIRMAN GUYAS: All right. Is there a second for Roy’s motion?
It’s seconded by Dale for discussion.

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

CHAIRMAN GUYAS: All right. Mara.

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

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

DR. FROESCHKE: That is the end of this, and so we plan --
Emily, tell me if I’m wrong, but we were going to do a webinar
public hearing for this document and notice it and bring it back
for final action in August?

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

CHAIRMAN GUYAS: Leann.

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

CHAIRMAN GUYAS: Was that Action 3?

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

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

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

DR. FROESCHKE: We are just looking at that. Bernie, can you bring up Table 2.3.1? We are lucky that Peter Hood wrote this action, and he’s in the audience, and so, if I go astray, he can rein me in. I am looking at the first column on Table 2.3.1, which has essentially the SSB over SSB at 26 percent, and so my interpretation of that is that, so long as you’re above the 0.75, in this case for the alternative that you’re talking about, we would be fine. In this case, it projects that we would be at 1.04 in 2019, and so that wouldn’t be problematic.
MS. BOSARGE: Okay, and so it’s not going to change our designation, and we would still have some wiggle room to go down a decent amount and still not be overfished. I would like to make a motion that, in Action 3, to make Alternative 3 the preferred alternative.

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

DR. FROESCHKE: Thank you, all.

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

(Whereupon, a brief recess was taken.)

DR. FRAZER: Okay, and so we’re going to carry on. Martha.

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

**DISCUSSION OF COMMERCIAL CREW SIZE REQUIREMENTS**

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

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

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

Now, we have Amendment 34 provided for you at Tab B, Number 10,
and that was the last time we addressed this, in 2012. At that
time, the council increased that maximum crew size on those
dual-permitted vessels from three to four. Prior to that, this
restriction has been in place since Amendment 1.

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

**CHAIRMAN GUYAS:** Patrick.

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

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

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

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

Law enforcement would be able to tell, if you were capped to
only three, and, okay, you’re commercial fishing. If you have
more than three, okay, you’re charter fishing. That would mean
that, if you were commercial fishing with only a maximum of
three, then you were excluded from, exempt from, the
recreational bag limits. That was how commercial fishing was
defined.
That stayed in place until Amendment 34, and the council evaluated -- If we have that action up, where we can look at the alternatives, and it’s Action 2, actually. There were three alternatives, and Alternative 1 was no action, keeping it at three. Alternative 2 was to eliminate the crew size requirement completely, and then the council’s preferred alternative was 3, which was to increase the crew size to four.

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

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

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

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

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

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

**DR. CRABTREE:** Bear in mind too that this doesn’t apply just to red snapper or IFQ species. This applies -- I think it’s even broader than -- Well, I guess it is reef fish, but it does apply
to other species, and bear in mind that, even now, there is some
gray about this, because we have had instances where folks go
out for the IFQ experience type trips, and then they buy the
fish at the end of the trip, and so there still is some gray
here about how this works a little bit, but I think it plays
into it, and I’m not saying that we shouldn’t change this, but
it would apply, for example, to someone who is on an amberjack
trip or a vermilion snapper trip, where we don’t have the IFQ
programs, although I think we would have the hail-out for
everything.

CHAIRMAN GUYAS: Dale.

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

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

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

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

MR. BANKS: My only response to that is it seems like, to me,
there’s a perceived inequity at the dock already. I mean, if
I’ve got a dually-permitted boat, then I have myself and three
crew members that are paying for the commercial experience, and
we come back with 2,000 pounds of snapper, and I pull up beside
J.D.’s boat, and he’s got six paying customers, and they have
twelve fish. I mean, there’s already a perception there that is
a problem, and so I don’t know that we’re keeping the perception
at bay by being inefficient here.

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

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

CHAIRMAN GUYAS: Mara.

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

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

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

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

CHAIRMAN GUYAS: Leann.

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

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

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

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

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

CHAIRMAN GUYAS: Mr. Dyskow.

MR. DYSKOW: Thank you, Madam Chair. I’m going to ask you a question, because I don’t really know the answer. Looking at the number of dual-permitted boats, the vast majority of them
are in Florida, and I would also presume that this issue with
the IFQ experience takes place primarily in the Panhandle, I’m
guessing, and what does your commission feel about this, because
I’m guessing that it’s a Florida issue, and have they gotten
involved at all, or have they taken a position?

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

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

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

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

CHAIRMAN GUYAS: Go ahead, Kevin.

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

As to whether or not those fish that are showing up as a result
of that fishing trip would be available exclusively to those
anglers who went on the fishing trip, are they also available to
other people just walking in off the street, and I guess, if
other people who are walking in off the street don’t have access
to those 100 pounds, or 200 pounds, of fish that were caught on
that trip, and they’re just exclusively reserved for those
fishermen, then I would consider that to be kind of a barter
arrangement, and could possibly fall towards the charter side of
the definition, and that’s all I guess I was going at.

CHAIRMAN GUYAS: John.

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

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

CHAIRMAN GUYAS: Doug.

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

MS. LEVY: Well, I think that’s the point. Right now, they are
limited by the crew size limitation in the definition. The
point is, if you increase that, or you take it away, then there
is the opportunity to have more people and it still be, quote, a
commercial trip. Right now, they are limited by that
limitation.
MR. BOYD: Okay. Let me come at it a different way. I understand that some of those experience trips have been six or eight people, and so does that mean that, if they took one of those trips with six or eight people, that would have been illegal?

CHAIRMAN GUYAS: I think Ava can help with this one.

DR. LASSETER: They have taken the charter permit off the boat, and so a dual-permitted boat would be capped to that, and so they would take the charter permit off, and you’ve only got a commercial permit on that boat. With only a commercial permit on the boat, you don’t have a maximum crew size, but, if we remove that requirement, if you remove that requirement completely, they could put the charter permit back on there, and, when you have more people -- You could decide then what kind of trip, what kind of charter trip, you want to do.

If it’s considered a commercial charter trip, then you’re using your IFQ allocation, or, if you’re just doing straight charter, you would charge that way. To reiterate, the maximum crew size only applies when you have both of those permits on there. If you have only your commercial permit on there, there is no maximum crew size.

CHAIRMAN GUYAS: Kevin.

MR. ANSON: This is refreshing my memory. I had a conversation with a person who has a dually-permitted vessel, and their point of contention with the way it’s currently set up is that they would prefer to not have to have two vessels, because you can take the permit off, but you’re only able to do that one time in a year, and, actually, I think we’ve recently -- Roy could probably comment on this, but I think, in 2017, they -- Basically, if the vessel was permitted as a charter vessel, and you took the permit off, for the remainder of that year, it’s still considered to be a charter vessel, even though you don’t physically have the permit on there, and so that’s, I think, where some of the discussion came toward me from a person in Alabama who is in that situation that wanted that restriction taken off, because it limited them and their business, or it required them to have the additional vessel in order to do those trips.

CHAIRMAN GUYAS: Doug.

MR. BOYD: Kind of back to my original question a while ago. So
this brings us back to a discussion we had, and I don’t know that we ever came to a conclusion on it, but we have had instances in Texas where a charter operator, because of the availability of red snapper, he will take the permit off at some time during the year and put the permit back on again. Is that what is happening with these experience trips, is that they’re removing their permit for X number of months and then putting it back on again?

DR. LASSETER: I do not believe so. I believe that that is -- Because they cannot put it back on, and we did some kind of an analysis about this at some point, how frequently were the permits being transferred on and off. Johnny Greene asked for that.

MR. BOYD: I thought he said it was like one year, that you had to --

DR. LASSETER: Right, and so let me let Mara respond to this.

MS. LEVY: I think we’re mixing up two things. We’re mixing up private angling and for-hire and the fact that you’re not allowed to, if you have a vessel with a for-hire permit anytime during the fishing year, you can’t take it off and fish under the private angling ACL and ACT in that season.

That’s different than having a for-hire permit and a commercial permit. There is nothing that prohibits you from removing a for-hire permit and just having a commercial vessel permit and then somehow putting that back on again. Those are two different issues, I think.

DR. LASSETER: I feel we may -- Kevin has the same expression that I do, and I feel like we did have a presentation, and, actually, Jessica Stephen, did you perhaps provide us this information on the permits being transferred on and off? I thought that, once you take the for-hire permit off for that year, you’re not allowed to use that vessel for for-hire fishing for the rest of the year.

DR. CRABTREE: That had to do with which quota you’re fishing under, the for-hire quota versus the private sector quota, and not to the crew size issue, or at least that’s the context that I recall that coming up.

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: Roy, I think that’s kind of the same question we
have here. Are they fishing under the for-hire quota, or are they fishing under the commercial quota?

DR. CRABTREE: Well, in this case, assuming we’re talking about red snapper, they’re fishing their IFQ, and so that’s clearly under the commercial quota.

CHAIRMAN GUYAS: Doug.

MR. BOYD: Just one comment in follow-up. It seems to me like what we have is a pseudo intersector trading between commercial and recreational fishing.

CHAIRMAN GUYAS: Patrick.

MR. BANKS: Well, it doesn’t really matter what context we’re talking about. What we’re asking is, if you take your charter permit off, is there any kind of time limit that would restrict you from putting it back on that boat the very next day? Is there any restriction, whether you’re doing it for the purpose of getting to the recreational side or to the commercial side? Is there any kind of restriction on reestablishing the permit on that charter vessel?

DR. CRABTREE: No, except that, as a practical matter, things don’t work that way. When you take the permit off of your vessel, you have to transfer it to another vessel, generally speaking, and then you have to transfer it back, and those things take weeks to do and not one day, but there’s not anything that keeps people from transferring permits. We have never put limits on how many times you could transfer a permit.

MR. BANKS: So the controlling factor is the processing time of transferring it, and so it sounds like a dually-permitted vessel could remove their charter permit and operate with an unlimited crew for a certain amount of time and then immediately apply to have it re-transferred, and then it would take several weeks to get it back on the boat, and, for those several weeks, they could operate with an unlimited crew size, it sounds like to me.

CHAIRMAN GUYAS: John and then Kevin.

MR. SANCHEZ: Yes, but under that scenario, Patrick, for that to have any consequence, or any motivation to do it, that respective individual would have had to have made an investment in enough shares to pursue that, and, I mean, I don’t know, but who am I to tell this person that you shouldn’t have made that investment?
It’s a lawful investment, and they did it, and maybe others didn’t, and maybe they are jealous, and I don’t know, but it seems to me that they’re declaring what kind of trip they are going on, and then there’s these safeguards put in with the number of crew or not, if they are dually-permitted, or what have you, but, whatever the scenario is how they approach this thing, it’s lawful, and so they have made the investment, and I don’t have a problem with it.

CHAIRMAN GUYAS: Kevin.

MR. ANSON: When you transfer the permit, Roy, the vessel that the for-hire permit has to go onto is just a registered vessel, correct, and it has to be another vessel that is shown to have a valid registration, whether it be state or Coast Guard documentation, and is that correct?

DR. CRABTREE: I believe that’s right.

CHAIRMAN GUYAS: Susan.

MS. BOGGS: Let’s look at this another way. I think a lot of this is revolving around the six-pack boats, and they want to be able to carry six passengers. What if you have a multi-passenger boat and you do away with these limits and you’ve got a twelve, twenty-four, or sixty-four-passenger boat now with a commercial reef fish permit, and they’re going out there and they’re buying up all the allocation? What about these commercial fishermen that you all are sitting here today talking about trying to give access to this fishery, and now, ultimately, you’re giving a way to take it away again. That’s just a thought.

CHAIRMAN GUYAS: John.

MR. SANCHEZ: To that, I would say good luck buying enough allocation.

CHAIRMAN GUYAS: Sue.

MS. GERHART: To kind of get back to what Kevin just said about transferring it to any registered vessel, remember that we’re putting in place these for-hire reporting requirements, which include having to have some sort of GPS tracking and doing all this logging and all those sorts of things, hail-outs and such, and so there will be, in the future, further requirements for having that vessel, and you can’t just park it on another vessel
right now.

**CHAIRMAN GUYAS:** Leann.

**MS. BOSARGE:** Mara, is there a definition of crew? No? I was just wondering, on these trips, are there some people that are getting paid one way and some people that are paying, and a crew has got to be crew, right, and, in my mind, the crew gets paid for being on the boat and fishing. If there is a captain and two deckhands and some other people, are the two deckhands getting paid to be on the boat, or are they having to buy fish at the end of the trip, too?

**DR. CRABTREE:** I mean, if I was an eighteen-year-old kid, and I knew a commercial fisherman who was going fishing, and he said, hey, do you want to come crew for me, and I won’t pay you anything, but you can come out if you just want to go, there is nothing that would stop that from happening, and I’m sure that kind of thing has happened in the past, and so we can check the regulations, but I’m not sure there is a definition for -- There is no definition for that, and then there’s certainly no requirement that you have to pay the crew on a commercial fishing vessel.

**CHAIRMAN GUYAS:** I feel like one of the things that has kind of bubbled up around crew, when we’ve talked about this before, and this is not my bailiwick, and so I’m just remembering like Pam and Johnny talking about this, but that is that, if you’re running commercial, you have different requirements than charter or for-hire, in terms of safety requirements, as a condition of Coast Guard regulations, and some of those differences are pretty significant, in terms of drug cards and that kind of stuff, and so that’s another thing I think we’ve talked about around this issue as well.

**MR. DIAZ:** MR. Boyd is making me think. I mean, we’ve talked about intersector trading around this table, and it’s never got any traction, but I think you are correct that it’s roundabout way for intersector trading, and so it’s something the council has never been able to pass anything on, or never took a serious look at, but it is indeed a roundabout way of doing that.

**CHAIRMAN GUYAS:** Greg.

**DR. STUNZ:** To add to that, maybe I will just say it. I mean, if we’re looking at triggers for reallocation, should something like this be getting more and more popular, I mean, that’s justification that perhaps things aren’t allocated the way they
should be.

CHAIRMAN GUYAS: Roy.

DR. CRABTREE: Or you could make the argument that the market is
addressing the problem and the fish are being allocated to those
who want them in ways that are legal and consistent with the
regulations, and so I would be careful of somehow deciding that
something is necessarily bad just because it’s different.
Frankly, I have never understood the reluctance to incorporate
some aspects of intersector trading into what we do, and I think
there are a lot of reasons why that might make sense.

CHAIRMAN GUYAS: All right. The can of worms is open, and
things are starting to get quiet, and so, unless there is any
other comments or discussion on this, then I think we can move
into Other Business. All right. We’ve got three items, and
let’s start with the item about the grouper fishery. Roy, do
you want to talk about that, since that was your suggestion?

OTHER BUSINESS
GROUPER DISCUSSION

DR. CRABTREE: Yes, and so I spoke to some longliners in the
grouper fishery, and, of course, their target species has
traditionally been red grouper, and the red grouper fishery has
not done well, and we have reduced the quotas, and they have
expressed concerns to me, one about that the red grouper fishing
is not doing well, but also about the numbers of red snapper
that they are encountering on grouper longline trips.

There are concerns that they are, through discards, killing more
fish than they are comfortable with, and leasing prices make it
difficult for them to go too far down that path, and we have a
red grouper assessment going on now, and we’re going to be
revisiting red grouper quotas, I think at our fall meeting, and
so there were -- I think there is a number of them who are here
at this meeting, and we’re probably, in the Q&A afterwards,
going to talk about some of this.

The question that came is, is there any way to get some more red
snapper quota into their hands, to allow them to land some of
the fish that they believe they’re already killing now as dead
discards, and so I wanted to just try to get this issue on your
radar screen and thinking about it, because it does seem to me
that there could be ways to get at that, even though, like most
things, the complications are all in the details, but, if you
think about it, if these guys are having a substantial amount of
discard mortality on the vessels, if you could figure out a way to let them land the fish that they’re killing anyway on their trips without having them catch any additional fish, it would be a sort of a mortality-neutral kind of situation.

The thing that I’ve had some discussions about is if we could figure out a way to make the fishery go to a total retention fishery and nothing goes over the side, with the exception, obviously, of exceptional species, like turtles and things like that.

You could then, in theory, add in the red snapper that they’re killing through discards into their IFQ accounts and let them fish those and land them, but you would have to have some sort of way of monitoring, to make sure that nothing is being discarded, which would mean either observers or camera arrays, and then they would have to agree that, when they’ve caught the quota that they had, they are done fishing for the year, and they’re tied up to the dock.

I think, in theory, there might be a way to accomplish this, although, in practice, I don’t know. There would be a lot of decisions and steps along the way. At any rate, I thought I would bring up some of the ideas, because my understanding is they’re probably going to talk about some of these at the Q&A, and I believe we’re going to hear some of these concerns in public testimony tomorrow, and I know that it’s something we’ve talked about quite a bit, and it had to do with discard issues in the longline fishery in particular, because the mortality rates are high there, because they are fishing in deep water and the quota allocations and how some of those work. I thought I would just bring the issue to you and give you some familiarity with it, because I think you will hear something about it.

CHAIRMAN GUYAS: Tom.

DR. FRAZER: I think we’ve brought it up before, and I think it’s worth discussing, and I realize that discard mortality is probably the single biggest issue that we’re dealing with in the red snapper fishery at the moment, and there’s lots of different chunks of it that we need to attack, and we don’t necessarily need to do it all at one time, but, thinking about how to do that, I guess I’m thinking about the type of information that we would need.

There’s some assumptions, for example, about what that discard mortality might be, and so we would have to lean on Clay’s shop to provide, I believe, some of that information, to make sure in
fact that, if you’re retaining red snapper, and it’s a full-
retention fishery, that you don’t have any discards at all, and
that offsets the loss, right, and so we would have to go through
that math to do that, and I guess what I would ask Clay here, in
advance of these discussions, is are we prepared, moving
forward, to provide that information?

DR. PORCH:  I mean, we certainly could. One of the keys, of
course, is demonstrating that they aren’t still going over the
side, and so that would require either observers on boats or
video monitoring, really good video monitoring, so there’s not
blind spots and things like that.

I mean, that’s the only way that I can see making this work, but
we certainly could do the analysis looking at historically what
we’ve been discarding from longline boats and figuring out how
much would be offset by the fraction that would have died
anyway, which is somewhere I think almost certainly above 50 or
60 percent for the longline fishery, because they’re fishing in
the deepest water for red snapper, compared to recreational, and
so it’s certainly a high mortality rate.

We can figure out how much more of the quota would have to go to
that to make up for the difference between those that would have
died from release mortality and those that are landed and kept.
I mean, we could do all those sorts of analyses and find out
what sort of a -- What allowance could be made.

DR. FRAZER:  Just, again, trying to see if we can attack this,
perhaps, in an efficient manner moving forward, and so what --
With regard to some type of a rule or amendment or a framework
action, how might we do this, Roy?

DR. CRABTREE:  Well, I think it would likely take a plan
amendment, because I don’t believe these are things that you
could change in a framework, and I also think it would require
the Science Center’s analysis, and that would have to go before
the SSC, because, to make this work, you would need to get an
increase in the ABC for red snapper that would allow you to land
the fish that are being killed as dead discards.

Let’s just say, hypothetically, you decided the longline fleet
is killing 300,000 pounds of red snapper a year as dead
discards, and so now we’re no longer going to kill those, and we
have convinced that we’re not going to kill any additional red
snapper, and so we’re going to land those, and so, in theory,
the ABC could be increased by 300,000 pounds.
You would then have to offset that 300,000 pounds from the normal quotas, and that is then going to be allocated to those longline vessels, and you would have to decide who gets how much among those vessels, what are the rules that they have to do with it, in terms of trading it or whatever, and you would have to require the various types of equipment onboard to monitor the quotas, and they would have to demonstrate that they’re in compliance of all of this, and so there are a number of steps that you would have to go through with this, and probably a number of decisions that I haven’t even thought of about these things, and so I think it would take a plan amendment to get there.

CHAIRMAN GUYAS: I am going to go to Kevin, but, first, I’m going to ask a question about something you said, Roy, because I’ve been thinking about this and how it seems to me that you would have an allocation question, but I think you just said that this would somehow come off the commercial quota.

DR. CRABTREE: It wouldn’t come off the commercial quota. This would be an additional amount of fish that is now going to be available, because we have reduced discards, and so that would kind of be a set-aside, is how I’m thinking about it, whatever you want to call it, but if it was, hypothetically, that 300,000 fish, it is technically part of the commercial quota, but it would be set aside from that that’s allocated out to the normal shareholders.

CHAIRMAN GUYAS: Yes, and so I guess it seems to me that we would have to -- We would have to do a plan amendment to change allocations too, as part of this.

DR. CRABTREE: In my view, yes, this would take a plan amendment, and then you have a set number of vessels that have longline permits, and you would have to decide, of those guys, and of the fish you have available, how do you allocate that among them, and does everybody get the same, or do you look at who actually fishes and who doesn’t and that kind of thing, and so there are a lot of those types of decisions that would have to be made to get you there.

The benefit of it would be, if it worked, you would have a more efficient fishery, and you would be producing more seafood and more benefits for the nation, and you would have gone further towards your obligation to reduce bycatch, to the extent practical, and, in theory, if it’s mortality neutral, it would have no negative impacts on the stock recovery.

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CHAIRMAN GUYAS: Tom.

DR. FRAZER: I mean, to that point, the potential rewards are high, but the process of working through a plan amendment is long, and the key phrase there is "if it works", and so is there an opportunity, perhaps, and I’m just thinking of options moving forward, is could we work through a proof of concept with an EFP, for example, to demonstrate that in fact you can have a full-retention fishery with no discards, and you could generate or evaluate the cost, for example, of the observers, to make sure that it’s an economically-viable option?

DR. CRABTREE: Well, I think we would have to have a discussion with Mara about is this possible to do under that. Normally, with an EFP, you’re exempting people from regulations. In this case, I’m not sure that’s all you’re doing. You are actually requiring -- It might be possible, but I wouldn’t be prepared to say without knowing the particulars of what we’re doing and a long conversation with our attorneys.

CHAIRMAN GUYAS: Kevin.

MR. ANSON: I’m kind of with Tom that that would be something interesting to look at, is through an EFP. I mean, we’ve kind of had some requirements, the states have had some requirements, as far as data collection and anglers have to do some things, and so I don’t see that necessarily as a hurdle.

Something else that we might want to consider as an alternative way going forward is we’ll have a SEDAR for red snapper coming up, and I think now it’s been pushed back, because of red grouper, but that will be coming up, and there’s the potential there for maybe setting aside or taking any additions that might be coming, increases in ACL, or ABC, to just take some of those and put them aside to those grouper fishermen, because they are having the negative impacts of an improved fishery and having to deal with it, and so that might be an opportunity too, is to try, as we go through a document, to have an alternative through an assessment and any increases in assessment, that there might be some set-aside there.

CHAIRMAN GUYAS: I think Ryan is going to speak to the assessment schedule.

MR. RINDONE: Thank you, Madam Chair. If I were you guys, I would not expect to take any action on the results of the red snapper research track and operational assessment until 2023, and that will be discussed more during the SEDAR Committee
tomorrow.

CHAIRMAN GUYAS: Leann.

MS. BOSARGE: I like the idea of pursuing this and looking into it, and I think it solves another problem that we’ve had with the other options that we’ve been trying to look at, even that three-to-one trade, and you heard in that quota bank discussion, and how do we make sure that they don’t take and go make a directed snapper trip.

This is going to disincentivize that, I would imagine, because, if you’ve got a full-retention fishery, that’s going to be your choke species now, is red snapper, and so, if you took that amount, that set-aside, and you go try and direct at it, well, then, when you want to go grouper fishing later in the year, you’re going to have to lease red snapper allocation so that you don’t have any snapper discards, and so there is an incentive there not to go and be a directed fishery at snapper and to truly use it for bycatch, because it’s going to be a choke species, and so I think this sounds good.

CHAIRMAN GUYAS: All right. Well, it sounds like this will be continued, I guess, this discussion with the fishermen at the round table, more or less, and maybe at public comment tomorrow. Do you have anything else, Roy, on this one?

DR. CRABTREE: No, that’s it, and I think we’ll just see what discussion and what we hear in public testimony tomorrow and go from there.

RECREATIONAL AMBERJACK DISCUSSION

CHAIRMAN GUYAS: Okay. Let’s jump back to the first item on our Other Business, and that was recreational amberjack. This was — I put this on the list. I wanted to talk about a couple of things. First, at our recent FWC meeting, there was a pretty substantial discussion about the May season being cancelled this year for the recreational fishery, and a lot of consternation about that.

I think you all have seen emails from folks about this and how this has been pretty disruptive towards people, at least in the Panhandle and the eastern Gulf, and so our commission is interested in finding ways to bring that May season back, and I also wanted to ask Dylan to come up here, Dylan Hubbard, because I think the Reef Fish AP also discussed this topic and had a motion in that report from that committee that we didn’t
discuss, because it didn’t pertain to the commercial action that we were working on, but there was a motion relative to recreational. Can you talk about that discussion, Dylan, and what the motion was and all that?

**MR. DYLON HUBBARD:** At the Reef Fish AP meeting recently, when we discussed amberjack trip limits, we also discussed that very issue that Martha just brought up, and I was at the FWC meeting recently, where it was also discussed, and the goal is to have some sort of May season, or May access, something that we could count on reliably.

What was discussed in the Reef Fish AP, the motion I made was evaluating a split quota, whether it’s 70/30 or 60/40, to ensure that the May season has some quota available, but, in discussions with council staff and other anglers, it seems like an easier solution, due to accountability measures and overages not being able to be paid back to certain seasons. Like, for example, if you overfished in May, there is no way to pay that back to just May, and so a simpler solution is just changing the fishing year start date back to January, in my opinion.

Martha’s question of what was discussed in the Reef Fish AP was moving to split quotas, and so a 60/40 or a 70/30, whatever the council would decide, but, in further discussions, I think making it easier would be changing that fishing year start date back to January 1, guaranteeing a May season.

The issue is, if you look at the numbers, there is no way to guarantee four months of amberjack season, and so, in my opinion, to try to make everybody happy, start the fishing year on January 1, but maybe perhaps shorten the May season to twenty days, and so, that way, we have twenty days of access guaranteed in May, and it won’t affect the fall fishery, hopefully, at all, and, if it does, it would be very little impact, but that was the goal of trying to get some May access for the Panhandle and western Florida in the spring, Florida amberjack, when it’s really needed to preserve the businesses and access for private recreational anglers who come fishing with us. Thank you.

**CHAIRMAN GUYAS:** Okay, and so I suspect we’ll hear more about this tomorrow, and I don’t know if we want to talk about it more now, but I suspect there will be people that come over at least from Panama City to talk about it, and probably from in town, over in Destin, but some of the requests that we have heard specifically were changing the fishing year, as Dylan mentioned, looking at fractional bag limits, and potentially a trip limit.
I mean, we’ve talked about all of these things before, and none of these things are new, and these are the ideas that we’ve been getting from captains and anglers who need something to fish for in May, especially since triggerfish has been closing, and I guess this year it closed on May 11, and so they didn’t have much of a May fishing activity, since grouper is still closed at that point, and so I’m just putting that out there, and I may throw something out there at Full Council, but that’s what I’ve got. Any other discussion on that item? Patrick.

**MR. BANKS:** I just wanted to make a comment that I appreciate the issue that Dylan brought up. The problem is, if you switch it back to January, then the guys in the western Gulf have the same issue, except in the fall, and, I mean, it’s tough for our guys to get out in January, February, March, and April to go fishing, and so we were cut out of the fishery altogether, because it was closing before our guys would ever have the weather to get out there, and so, once we shifted the season to start in August, it brought our guys back into the fishery again, and that was a wonderful thing to them, and, of course, it brought us all back in too well to the fishery, such that we didn’t have a season to reopen in May, and so then that hurt our guys as well.

I don’t know that I could support changing the fishing year, but I do appreciate Dylan’s problem with not having fish to go in May, but I do want to bring up another issue that we have, at least in Louisiana, and that’s our recreational red snapper season.

Typically, and I know this year we didn’t have a May season, but, typically, we don’t have amberjack at the same time we have red snapper, and these guys are catching red snapper, and, if you want to catch a big red snapper, where do you go? You go deeper with bigger baits, and we’re catching a lot of amberjack, and possibly killing a lot of amberjack, and so I don’t think a May season is going to solve that issue for us either, because our recreational red snapper season usually is in June and July, and so, anyway, I don’t know how to solve it, but I am just pointing out some issues. Thank you.

**CHAIRMAN GUYAS:** Roy.

**DR. CRABTREE:** If I am understanding what Dylan is talking about, even though the fishing year would switch back to January, it still would not open up until May 1. It would be closed until May 1, and then I think I heard him say open up for twenty days and then close back down and then reopen in August
and finish the rest of the quota out there, and so maybe there is still some compromise that could be reached to try and balance this.

**ALMACO JACK SIZE LIMIT DISCUSSION**

**CHAIRMAN GUYAS:** Yes. Okay. Any other comments or thoughts on this one for now? All right. The last item on Other Business, from our list this morning, was almaco jack size limits, and so this is another item that came out of our commission meeting, and let me give a little bit of background.

On the South Atlantic Council recently, I think they took some action to set a commercial minimum size limit for almaco jack, and our commission was considering and approved consistency with that minimum size limit on our Atlantic coast, and, during that discussion, some of the comments that we got were from Gulf fishermen who wanted to have a similar minimum size limit in the Gulf, and it was unclear to me whether that request was for recreational or commercial, but I just wanted to put that out here again at this meeting, so that people -- It’s out there, and, if folks want to comment on it tomorrow, then they could. Bob, go ahead.

**DR. SHIPP:** A couple of things about that species. First of all, as you heard, it’s being considered for mariculture, but, beyond that, it’s becoming more and more popular. I just did a -- I judged a tournament at the Flora-Bama last weekend, and almaco jack is now a category, and we probably had twenty or thirty of them come in over a two-day period, and so I think it’s something that we do need to discuss.

**CHAIRMAN GUYAS:** Kevin.

**MR. ANSON:** What was the minimum size that the South Atlantic put in?

**CHAIRMAN GUYAS:** I think it’s a twenty-inch fork, but it’s only on the commercial side and not for recreational, at least at this time, and so they’ve gone through this process where they -- They call it visioning, and so they basically evaluated their snapper grouper fishery and said where do we want to go, and they ended up with some commercial and some recreational amendments, and so this came out of the commercial amendment. I guess it’s possible in a subsequent recreational amendment that they’re going to consider it, and I do know the -- Is that on the table for recreational? No? Okay. That’s what I thought.
All right, and so that’s the end of our list. Is there any other business to come before the Reef Fish Committee? If not, I will pass it back to Mr. Chairman.

DR. FRAZER: All right. You guys can leave early today. Leann, this never happened under your watch. Have a nice evening.

(Whereupon, the meeting adjourned on June 4, 2019.)

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