

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 SPINY LOBSTER MANAGEMENT COMMITTEE

4
5 Hyatt Centric New Orleans, Louisiana

6
7 January 29, 2018

8
9 **VOTING MEMBERS**

10 Martha Guyas (designee for Jessica McCawley).....Florida
11 Doug Boyd.....Texas
12 Roy Crabtree.....NMFS
13 Dave Donaldson.....GSMFC
14 Phil Dyskow.....Florida
15 John Sanchez.....Florida
16 Bob Shipp.....Alabama

17
18 **NON-VOTING MEMBERS**

19 Kevin Anson (designee for Scott Bannon).....Alabama
20 Leann Bosarge.....Mississippi
21 Glenn Constant.....USFWS
22 Dale Diaz.....Mississippi
23 Tom Frazer.....Florida
24 Johnny Greene.....Alabama
25 Campo Matens.....Louisiana
26 Paul Mickle (designee for Joe Spraggins).....Mississippi
27 Robin Riechers.....Texas
28 Chris Schieble (designee for Patrick Banks).....Louisiana
29 Greg Stunz.....Texas
30 Ed Swindell.....Louisiana
31 LT Mark Zanowicz.....USCG

32
33 **STAFF**

34 Steven Atran.....Senior Fishery Biologist
35 Assane Diagne.....Economist
36 Douglas Gregory.....Executive Director
37 Karen Hoak.....Administrative & Financial Assistant
38 Morgan Kilgour.....Fishery Biologist
39 Mary Levy.....NOAA General Counsel
40 Bernadine Roy.....Office Manager
41 Carrie Simmons.....Deputy Director

42
43 **OTHER PARTICIPANTS**

44 Lucas Bissett.....New Orleans, LA
45 Ryan Bradley.....Mississippi Commercial Fisheries United, MS
46 Eric Brazer.....Reef Fish Shareholders Alliance
47 J.P. Brooker.....Ocean Conservancy, St. Petersburg, FL
48 Traci Floyd.....MDMR, Biloxi, MS

1 Troy Frady.....AL
2 Susan Gerhart.....NMFS
3 Joelle Godwin.....NMFS
4 Ken Haddad.....ASA, FL
5 Chad Hanson.....Pew Charitable Trusts
6 Scott Hickman.....Galveston, TX
7 Dylan Hubbard.....FL
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9 Alison Johnson.....Oceana
10 Bill Kelly.....FKCFA
11 Franklin Parker.....Biloxi, MS
12 Charlie Phillips.....SAFMC
13 Clay Porch.....SEFSC
14 Ashford Rosenberg.....Reef Fish Shareholders Alliance
15 Ruth White.....Pew Charitable Trusts
16 Jim Zurbrick.....Steinhatchee, FL

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19

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TABLE OF CONTENTS

1
2
3 Table of Contents.....3
4
5 Adoption of Agenda and Approval of Minutes.....4
6
7 Action Guide and Next Steps.....4
8
9 2016/2017 Spiny Lobster Landings.....4
10
11 Draft Options Spiny Lobster 13.....5
12 LETC Comments.....17
13
14 Adjournment.....18
15
16 - - -
17

1 The Spiny Lobster Management Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Hyatt Centric, New
3 Orleans, Louisiana, Monday morning, January 29, 2018, and was
4 called to order by Chairman Martha Guyas.

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

10 **CHAIRMAN MARTHA GUYAS:** Let's convene the Spiny Lobster
11 Committee. Our agenda is Tab K-1, and it looks like our
12 membership is more or less the same as before. It's myself,
13 John Sanchez, Doug Boyd, Roy Crabtree, Dave Donaldson, and Camp
14 Matens. Are there any changes or additions to the agenda?
15 Seeing none, let's approve the agenda as written. Are there any
16 changes or additions to the minutes? Seeing none, I will take
17 it that the minutes are approved.

18
19 We have got two things that we need to handle today, that Morgan
20 is going to walk us through, and the first is the report on the
21 spiny lobster landings from this past year, and then we will go
22 through a spiny lobster options paper for Amendment 13, and I
23 guess we'll start with the landings. Morgan, are you ready?

24
25 **2016/2017 SPINY LOBSTER LANDINGS**
26

27 **DR. MORGAN KILGOUR:** I am ready. Tab K-4 has the spiny lobster
28 landings that were given to us by FWC, and we exceeded the ACT,
29 but we did not exceed the ACL for total landings in the
30 2016/2017 year.

31
32 We received a letter from NMFS stating that we do not need to
33 convene a review panel, as the Regulatory Amendment 4 will
34 increase that ACT has not been implemented yet, and so we're
35 covered there, but, when that Regulatory Amendment 4 goes into
36 effect, we would not have exceeded the ACT. It's significantly
37 higher, and I have the actual numbers in the action guide, but
38 it would increase the existing ACT of 6.59 million pounds to
39 8.64 million pounds. Are there any questions?

40
41 **CHAIRMAN GUYAS:** If there is no questions, it looks like we're
42 good to go. We're just waiting for the amendment to go through,
43 and let's go ahead and start with the options paper then.

44
45 **DRAFT OPTIONS SPINY LOBSTER 13**
46

47 **DR. KILGOUR:** All right, and so the options paper has -- We have
48 now added the three actions that were added at the October

1 council meeting. The South Atlantic Council also made that
2 motion to add those three actions, and we changed the outline of
3 the paper just a little bit, to have the procedure to add to the
4 protocol to the end, but it's still there, but I would like to
5 just walk through the actions and ask if there is any comments
6 or edits or anything that you would like to add to the document,
7 and now is the time. This should go to the South Atlantic
8 Council at its March meeting, but, so far, they have been in
9 agreement with all of the Gulf Council motions.

10
11 Action 1 is on page 7, and it is establish an endorsement,
12 marking requirements, and gear prohibitions for bully net gear
13 in the Exclusive Economic Zone off of Florida. No action would
14 do nothing, and there would not be any specific bully net gear
15 regulations, and Action 2 would establish an endorsement for
16 bully nets and align federal regulations to be consistent with
17 Florida regulations for spiny lobster commercial harvest using
18 bully net gear by implementing the following.

19
20 It would require commercial bully nets in the EEZ off Florida to
21 have a bully net endorsement from Florida. It would require
22 that the vessel be marked with the harvester's Florida bully net
23 endorsement number, using reflective paint or other reflective
24 material. It would prohibit commercial bully net vessels from
25 having trap pullers onboard, and it would prohibit the
26 simultaneous possession of bully net gear and any underwater
27 breathing apparatus, not including dive masks or snorkels,
28 onboard a vessel used to harvest or transport spiny lobster for
29 commercial purposes. Are there any questions with this action?

30
31 **CHAIRMAN GUYAS:** Mara.

32
33 **MS. MARA LEVY:** Thank you. Just reading this again, Alternative
34 2 says establish an endorsement for bully nets, which reads, to
35 me, like we're going to create some federal endorsement, but
36 then, when you read down, it was more to require the Florida
37 endorsement, and so I would just suggest that that alternative
38 be more clear about that distinction.

39
40 **CHAIRMAN GUYAS:** That seems pretty reasonable to me. I had a
41 similar note on my notes as well, because we're not creating
42 something new. We are just requiring a state endorsement.

43
44 **DR. KILGOUR:** Okay, and so I don't think I need a motion, but I
45 will make sure that we make that clear, that it's to not
46 establish a new federal endorsement, but to require the Florida
47 bully net endorsement, and I think that was the intent, but,
48 with the committee's approval, I will make sure that we make

1 that more clear in the wording of the alternative.

2
3 **CHAIRMAN GUYAS:** Anybody have objections to that? No? Okay. I
4 think we're good then. Anything else on Action 1, any other
5 questions or comments for Morgan? Okay. Let's keep going then
6 on to Action 2.

7
8 **DR. KILGOUR:** Action 2, again, is bully-net-gear-centric, but
9 there is also -- The State of Florida identified that there were
10 several inconsistencies between state and federal regulations,
11 and this is another one.

12
13 When they established the bully net gear prohibitions, they also
14 established a commercial bully net bag limit of 250 lobster per
15 day per vessel, and they also found that there were specific bag
16 limit restrictions for certain counties off of Florida, and so
17 that's what this action is attempting to address, is to make
18 things consistent.

19
20 Action 2 would be commercial spiny lobster bully net and dive
21 gear trip limits in the EEZ off of Florida. Alternative 1 would
22 be no action, do not establish commercial day vessel harvest and
23 possession limits for spiny lobster harvested by bully net gear
24 or dive gear in the EEZ off of Florida.

25
26 Alternative 2 would establish a commercial daily vessel harvest
27 and possession limit of 250 per day per vessel for spiny
28 lobsters harvested by bully net in or from the entire EEZ off
29 Florida, and that is the existing Florida regulation.

30
31 Then Alternative 3 would establish a commercial daily vessel
32 harvest and possession limit of 250 per day per vessel for spiny
33 lobsters harvested by diving in or from only the EEZ off
34 Broward, Dade, Monroe, Collier, and Lee Counties in Florida, and
35 it can be noted that both Alternative 2 and 3 can be the
36 preferred alternatives, but, again, this was identified as
37 inconsistent between the state and federal regulations. I am
38 happy to take any questions.

39
40 **CHAIRMAN GUYAS:** I am not seeing any hands -- There we go. Doug
41 Boyd.

42
43 **MR. DOUG BOYD:** Martha, a question for you. What is the daily
44 limit now? Is there one?

45
46 **CHAIRMAN GUYAS:** Yes, and so it is 250 for the bully nets and
47 then 250 for diving, and so this would just match up with the
48 existing FWC rules. Is everybody good with this? All right.

1 Let's move on to Action 3.

2
3 **DR. KILGOUR:** Action 3 is the specification of degradable panels
4 in spiny lobster traps in the EEZ off of Florida, and so, again,
5 this was another inconsistent regulation, and I know it's in the
6 discussion, but this would be specific to spiny lobster traps.

7
8 Alternative 1 would be no action. In the EEZ off Florida, a
9 spiny lobster trap constructed of material other than wood must
10 have a panel constructed of wood, cotton, or other material that
11 will degrade at the same rate as a wooden trap. Such panel must
12 be located in the upper half of the sides or on top of the trap,
13 so that, when removed, there will be an opening in the trap no
14 smaller than the diameter found at the throat or entrance of the
15 trap.

16
17 FWC regulations are slightly different, and so Alternative 2
18 would match the federal regulations to the state regulations,
19 and Alternative 2 is, in the EEZ off Florida, a spiny lobster
20 trap constructed of material other than wood is required to have
21 a degradable panel no smaller than six inches by four inches or
22 no smaller than the dimensions of the throat or entrance of the
23 trap, whichever is larger, and shall be constructed of cypress
24 or untreated pine slats no thicker than three-quarters-inch
25 thick. This degradable panel must be located on the top
26 horizontal section of the trap.

27
28 **CHAIRMAN GUYAS:** Mr. Swindell.

29
30 **MR. ED SWINDELL:** How long will it take the wood to deteriorate
31 in the trap? Do we know?

32
33 **DR. KILGOUR:** I don't have that answer for you. I can look, but
34 I think the -- What my understanding is, it would be the same as
35 what is existing in the federal regulations, but it's specific
36 on the types of materials that you can use for the degradable
37 panel, whereas the federal regulations allow cotton or other
38 material that will degrade as fast as wood.

39
40 **CHAIRMAN GUYAS:** Mr. Gregory.

41
42 **EXECUTIVE DIRECTOR DOUG GREGORY:** It probably depends on the
43 bottom type the trap is put in. In Florida Bay, in the Gulf,
44 there is a lot of worms and boring organisms, and traps don't
45 last as long, and so maybe a year-and-a-half. On the reef, they
46 might last two years, or maybe three. It depends on if the trap
47 is just left alone and not serviced or cleaned on a regular
48 basis, like a lost trap. It will deteriorate faster than a trap

1 that is regularly picked up and cleaned by the fishermen.

2
3 **CHAIRMAN GUYAS:** Mr. Swindell.

4
5 **MR. SWINDELL:** Are we satisfied that we're going to allow this
6 degradable panel to be there for that long of a time? I mean,
7 are we just trying to find something that's going to deteriorate
8 over a certain time of two years or a year or six months? I
9 don't know.

10
11 **EXECUTIVE DIRECTOR GREGORY:** I guess the concern here would be
12 the degradable panel would be effective if the trap is lost, and
13 so probably a year is how long it would last before it
14 deteriorated.

15
16 **CHAIRMAN GUYAS:** Are there other questions on this one? Seeing
17 none, I think it sounds like we're ready to move on to Action 4.

18
19 **DR. KILGOUR:** Action 4 is harvesting restrictions near
20 artificial habitat in the EEZ off of Florida. Currently, in the
21 spiny lobster regulations for Florida, there are specific
22 regulations on how far you must be from artificial habitat to
23 collect spiny lobster, and so this, again, would try and align
24 state and federal regulations.

25
26 Alternative 1, no action, federal regulations have no formal
27 definition developed for artificial habitat, and there are no
28 restrictions for harvest and possession of spiny lobster in the
29 EEZ off an artificial habitat as defined by Florida
30 Administrative Code.

31
32 Alternative 2 would be no person shall harvest any spiny lobster
33 from artificial habitat. The harvest and possession in the
34 water of spiny lobster in excess of the recreational bag limit
35 is hereby prohibited within ten yards of artificial habitat, as
36 is consistent with the Florida Administrative Code. For spiny
37 lobster, "artificial habitat" means any material placed in the
38 waters of the state that is reasonably suited to providing cover
39 and habitat for spiny lobster. Such material may be constructed
40 of, but is not limited to, wood, metal, fiberglass, concrete, or
41 plastic, or any combination thereof, and may be fabricated for
42 this specific purpose or for some other purpose. The term does
43 not include fishing gear allowed by rule of the Florida FWC,
44 legally permitted structures, or artificial reef sites
45 constructed pursuant to permits issued by the U.S. Army Corps of
46 Engineers or by the state regulatory agency.

47
48 **CHAIRMAN GUYAS:** Questions or comments on this action? Mara.

1
2 **MS. LEVY:** Thank you. This is the one action in here that seems
3 a little bit different from the others, in terms of the need for
4 it, and so the purpose and need is to make things consistent and
5 to aid enforcement and such, but, here, we're talking about an
6 in-water restriction, like prohibiting within ten yards of an
7 artificial reef, and so it's not clear to me why we would need
8 to do that in federal waters for enforcement consistency.

9
10 Meaning, if you're in the water, you're in the water. You're
11 either in the EEZ or not, and I have a little bit of concern,
12 just because it's so broad. The definition of artificial
13 habitat is so broad, and so I just think it would be good to
14 have some discussion about the purpose we're doing this in
15 federal waters.

16
17 **CHAIRMAN GUYAS:** John.

18
19 **MR. JOHN SANCHEZ:** I don't know if this answers your concern,
20 but, in the Keys, what was happening was a lot of people were
21 throwing out their own structures to create habitat, so that
22 they could turn around and go fish them within season, and that
23 was inconsistent with the intent of the sanctuary, et cetera, et
24 cetera, just having people go out and, at will, throw all manner
25 of structure all over the federal waters around the Keys. I
26 guess this is an attempt at trying to dissuade that from being
27 able to happen.

28
29 **MS. LEVY:** So I guess then, to me -- Like I said, it's a little
30 bit different than needing consistency for enforcement purposes,
31 and is this really a problem in the EEZ, and I don't know what
32 the Law Enforcement Committee or law enforcement will have to
33 say about it, but it seems fairly hard to enforce.

34
35 I mean, we're talking about possession within ten yards of an
36 artificial habitat in the water, and so those are just some
37 concerns that I think you all might need to talk about and hear
38 some feedback on.

39
40 **CHAIRMAN GUYAS:** With this fishery, I can tell you that I think
41 there have been cases where we have divers in the water, law
42 enforcement, that are monitoring things that are happening.
43 This has been, as John mentioned, an issue in the past, with,
44 again, people dumping refrigerators or concrete blocks or
45 whatever, but just potential habitat that there could be for
46 lobster. They like structure. They like to be under things.

47
48 I think there is the potential for law enforcement to enforce

1 this, even though it sounds a little far-fetched, perhaps, and
2 this has definitely been a known issue in the Keys in the past,
3 and so I saw Roy about to put his hand up. Go ahead.

4
5 **DR. ROY CRABTREE:** It does concern me as well, because it's so
6 broad, and then, some parts of it, it's not clear to me -- I
7 mean, reasonable suited to providing cover and habitat for spiny
8 lobster, and it seems, to me, virtually anything you put out
9 would meet that.

10
11 Then we have big areas where we have all kinds of artificial
12 reef material being put out, chicken coops and a whole host of
13 things, and, at least to a lot of people, they are perceived as
14 positives and good things, and I am not so sure that I agree
15 with that, but what is it about this case that what we often say
16 is a positive and here we're saying it's a negative? It's just
17 not clear to me.

18
19 I guess this would -- I mean, since this is a Keys problem and
20 related to the Sanctuary, could we -- Is the intent of this to
21 make this definition throughout the EEZ, or just in the EEZ off
22 of Florida, or is it specific like that?

23
24 **CHAIRMAN GUYAS:** Can you speak to that, Morgan? It looks like,
25 from the way the alternative is written, it's not specific to
26 Florida.

27
28 **DR. KILGOUR:** It's in the action title, and so it is for the EEZ
29 off of Florida. It's not for the entire EEZ, but it's near
30 artificial habitat in the EEZ off of Florida.

31
32 **CHAIRMAN GUYAS:** Right. Okay. So it is off of Florida, and
33 there is a note in here that it would exclude legally-permitted
34 structures, and so artificial reefs that go through the right
35 process, and this does apply specifically to spiny lobster.
36 John.

37
38 **MR. SANCHEZ:** It does mention that it's in excess of the
39 recreational bag limit, and so it's kind of addressing intent to
40 throw out what is called in the Keys a casita, some fabricated
41 structure for the purpose of aggregating lobster for commercial
42 harvest.

43
44 **CHAIRMAN GUYAS:** Kevin, go ahead, and then Tom.

45
46 **MR. KEVIN ANSON:** Thank you, Madam Chair. I'm not on your
47 committee, but, Martha, obviously there is Marine Pollution Act
48 consequences for folks that are caught putting material in the

1 water that they are not permitted to do, but did the state
2 recently increase any fines associated with illegal dumping,
3 particularly in the Keys?
4

5 Then the second question is I know there have been some efforts
6 by the state to clean up those casitas and some of that
7 illegally-dumped material, and can you give an idea as to how
8 successful that's been?
9

10 **CHAIRMAN GUYAS:** I will have to check about the penalties. I
11 don't think anything has changed recently. I will tell you that
12 the regulatory, I guess -- Regulations about dumping structures
13 like this are somewhat complicated. There is a lot of different
14 agencies that have some kind of jurisdiction here, particularly
15 in the Keys, where you have the Sanctuary and you have our
16 Department of Environmental Protection and you have this FWC
17 rule. You have the Army Corps, and there is a lot of agencies
18 that are involved with this.
19

20 Yes, we do have clean-ups from time to time, not only for this,
21 but for traps as well. Traps is an annual thing, and I will
22 have to look and see the last time that we made a concerted
23 effort to clean up these kind of structures, at least our
24 agency, and there may be other agencies that are working on that
25 more frequently. Tom, go ahead.
26

27 **DR. TOM FRAZER:** Thanks, Martha. I am not on your committee
28 either, but I was looking -- I wanted to follow up on Mara's
29 point, actually. The action relates to harvest restrictions
30 near artificial habitat in the EEZ, but the third sentence in
31 that Alternative 2 defines artificial habitats as those habitats
32 being in the state, waters of the state, and so I don't think it
33 captures the full breadth.
34

35 **CHAIRMAN GUYAS:** Good catch. All right. We have had some good
36 discussion on this one. Is there anything else?
37

38 **DR. CRABTREE:** Kevin, I don't know if it would be an issue, but
39 it seems to me that, off of Alabama, there probably isn't
40 anywhere that is not within ten yards of an artificial reef, and
41 so would it prohibit spiny lobster harvest?
42

43 **MR. ANSON:** Well, if I heard correctly, this would be outside of
44 or above the bag limit that this would apply.
45

46 **DR. CRABTREE:** I guess it's just off of Florida, and so --
47

48 **MR. ANSON:** It is off of Florida, and I would like to meet the

1 person who would meet their bag limit off of Alabama, or exceed
2 it, have a chance to exceed it.

3
4 **CHAIRMAN GUYAS:** Okay, and so it sounds like, if we keep this
5 off of Florida, we're probably okay, and, again, the intent here
6 is lobster and not to mess with things that are going on in
7 other states. Anything else on this action? If not, I think we
8 have one more to walk through. Morgan, go ahead.

9
10 **DR. KILGOUR:** Just for clarification and to have it on the
11 record, I have taken it, for this discussion, for that third
12 sentence, or third line down, fourth line down, that, for spiny
13 lobster artificial habitat, it means any material placed in the
14 waters of state or federal waters off of Florida, and that's
15 what I will change that to, so that it's consistent with this
16 discussion. Again, I apologize for that. I pulled that
17 definition straight from the FAC, and so I didn't want to change
18 that too much, but I will make that change.

19
20 **CHAIRMAN GUYAS:** Okay. I was going to ask if you need a motion,
21 but I saw Mara's hand go up really quick, and maybe that's what
22 she was about to say.

23
24 **MS. LEVY:** I don't think you need a motion, but I would just
25 say, and we can talk about this more, Morgan and I, but I would
26 just leave it in the EEZ off of Florida, meaning we don't want
27 to include the state in our federal definition, necessarily, but
28 we can work that out.

29
30 **CHAIRMAN GUYAS:** Okay. Let's move on to Action 5.

31
32 **DR. KILGOUR:** Action 5 is to establish an enhanced cooperative
33 management procedure for federal and Florida state agencies for
34 the management of spiny lobster. Just to refresh your memory,
35 we are having this particular amendment because there was a
36 protocol in place for this council to do a framework action for
37 any of these changes, but there was no procedure for Florida to
38 go directly to the National Marine Fisheries Service and say,
39 hey, we have these regulations, and can we implement them at the
40 federal level.

41
42 This will have the procedure in place, where Florida can
43 directly recommend specific regulations, and so Alternative 1
44 would be no action, and do not establish an enhanced cooperative
45 management procedure for the management of spiny lobster. The
46 councils must develop an amendment to the Fishery Management
47 Plan for the Spiny Lobster Fishery of the Gulf of Mexico and
48 South Atlantic to establish new federal regulations consistent

1 with new Florida regulations.
2
3 Alternative 2 would be establish an enhanced cooperative
4 management procedure that allows Florida to request changes to
5 the spiny lobster federal regulations through NMFS rulemaking.
6 Following is the proposed language, which has been adapted and
7 updated from Amendment 2, which had the original procedure, for
8 the procedure to be added to the existing protocol, which was
9 established in Amendment 10 to the Spiny Lobster FMP and is also
10 included in Appendix C. I can read through the whole entire
11 procedure, or how do you want me to handle the procedure?
12

13 **CHAIRMAN GUYAS:** What is your pleasure, everybody? Do you want
14 to know the details of this or read it on your own time? I am
15 seeing head shakes no to no movement at all, and so I think that
16 was you don't want her to read it. Okay. Is there questions or
17 discussion on this? Go ahead, Doug.
18

19 **MR. BOYD:** I am looking at it, just perusing the language, and
20 is our attorney okay with the language?
21

22 **MS. LEVY:** Of the procedure? I am fine with the proposed
23 procedure. I think, last time, we had a discussion about
24 Florida taking a look at the process, like how the process does
25 is described and their obligations and making sure that FWC is
26 okay with the way their obligations and procedures are
27 described, and I don't know if you've done that.
28

29 **CHAIRMAN GUYAS:** Yes, we've talked about this some, and we have
30 coordinated with Morgan, and so I think this is okay. We
31 probably will need to, and maybe we need to talk offline about
32 step-two and exactly what we would need to do, what FWC would
33 need to do, for analyzing things more like the council does
34 ahead of our meetings.
35

36 We may just need to coordinate on that, and one other kind of
37 thing that I noticed here is we're starting off with the based
38 on the best available scientific information, and, a lot of
39 times in this fishery, we're dealing more with user conflicts
40 more than a resource issue, and so, how we handle those kinds of
41 situations, we probably would maybe need to talk about that
42 here.
43

44 Then I had one question about the timeline that we have in here,
45 and I know we've talked about this before, but FWC would need to
46 complete -- Hand over the package to NMFS before February 1, and
47 then it would get implemented by the August 6 opening of the
48 season, and is this process one of those processes that the

1 Regional Office works through, or does it go through
2 Headquarters at all? I am just wondering if this is a realistic
3 timeline or if there are ways that it could be seriously
4 delayed.

5
6 **DR. CRABTREE:** Well, if there is a rule, it goes to
7 Headquarters, and they have to send it to the Federal Register,
8 and it will have to go through various clearance processes up
9 there, and so Sue would be better to comment on is the timeline
10 realistic.

11
12 **MS. LEVY:** It's just that it also anticipates the councils
13 looking at it too and having like a veto type of process, and
14 so, if you think February 1 -- We're looking at a March South
15 Atlantic meeting and an April Gulf meeting, and so I don't know.
16 I think NMFS would have to speak to the timeline, but then you
17 have to do the rulemaking, and so it seems like it, to me, might
18 be a bit tight.

19
20 **CHAIRMAN GUYAS:** I will defer to what you guys think, but,
21 presumably, FWC would have done the bulk of the stakeholder
22 work, and hopefully, if we've got everything tight and together
23 when we do the state rule -- Hopefully it's a clean handoff to
24 the federal system, but I know that you guys have a number of
25 courses of action that you have to take when you're implementing
26 your rulemaking, and some of them are out of your control, and
27 so this is still okay, the February 1 and August 6?

28
29 **MS. SUSAN GERHART:** Maybe we can reevaluate that. Generally, it
30 takes about six months to get the rulemaking process, which that
31 incorporates, but, if it also has to go to the councils and the
32 SSCs before that, then maybe we need to extend that timeline.

33
34 **CHAIRMAN GUYAS:** Any other discussion on this? Morgan.

35
36 **DR. KILGOUR:** I guess I will talk with NMFS and figure out what
37 we need to do for the dates, or perhaps we take those dates out
38 completely, so that nobody is tied to those. I know that
39 Regulatory Amendment 4 was submitted in June, or July, and it
40 hasn't -- We don't even have a proposed rule yet.

41
42 **CHAIRMAN GUYAS:** I think the dates could be helpful, because I
43 do think the reminder that the fishing season starts on August 6
44 and we need to get all of these things done well in advance is
45 somewhat important.

46
47 This is a fishery where, if we're going to make rule changes, we
48 want to have them done well in advance of the start of that

1 season, so that everybody can get ready, especially if it deals
2 with people having to change how they're doing their traps or
3 tags or anything like that, and so that is somewhat helpful, and
4 it gives us at least something to shoot for and be mindful of,
5 but, if it's an unrealistic timeline, then that doesn't really
6 help us. Anything else on this one? Mara.

7
8 **MS. LEVY:** Just a question. Does FWC normally develop
9 alternative rules? I mean, when you do your rulemakings, do you
10 do an alternatives analysis, like it talks about here in Number
11 2, or is that not the normal process?

12
13 **CHAIRMAN GUYAS:** I would say we often do something like that,
14 but not nearly as formally as we would at the council, and it's
15 not always that way. If the commission sees a path forward,
16 they may say, okay, staff, we think that, based on everything
17 we've heard from so-and-so-and-so-and-so, this is what we need
18 to do, and then we'll develop a rule package based on that.

19
20 Yes, I think we probably need to talk more about what we would
21 need to do to satisfy what you all need to move forward with the
22 federal rulemaking side, because I think our processes are
23 different enough that we -- I don't know, but we need to
24 understand how they're different and, if there are things that
25 we need to do differently, we need to know that from the get-go.

26
27 Maybe what we need to do is look at how we've implemented our
28 process the last few times that we've made lobster rules and
29 have you guys look at it and see if you think that that would be
30 enough to move forward in the future and like, if we did that in
31 the future, what would we need to do differently? I don't know,
32 but what are your thoughts on that? We can do that offline, and
33 we don't need to do that right now, but --

34
35 **MS. LEVY:** Yes, that might be helpful. I mean, it also refers
36 to the Florida Administrative Procedure Act, and I don't know
37 how -- I haven't looked at how similar that is to the federal
38 act, and do you all -- Is the FWC generally bound by following
39 the Florida Administrative Procedure Act?

40
41 **CHAIRMAN GUYAS:** Yes, and that's something that our commission
42 would be following in our meetings. There are some things, and
43 I will have to look to see exactly how it may apply to our
44 agency. Since our agency is constitutional, there are some
45 things that we don't necessarily have to follow, but we do, just
46 in good governance, but I don't know that this is one of them,
47 and I will have to check.

48

1 We can coordinate on that, I think, offline. Anything else on
2 Action 5? If not, is there anything else that we need to cover
3 in this amendment, Morgan, and can you tell us kind of where
4 we're going from here? I know the South Atlantic is going to
5 look at it in March, but is this coming back to us for final
6 action in June, when we're in Key West?

7
8 **DR. KILGOUR:** One last thing about Action 5. I will be adding
9 the protocol and procedure together, so it's all in one place
10 for Appendix C. Right now, they're still separated, and, I
11 believe, at the October council meeting, and also in the
12 December South Atlantic Council meeting, they wanted them
13 combined all in one place, so that they can't be separated
14 again, and so I just wanted to alert you that it will all be
15 combined in one place in the appendix for future reference.

16
17 The South Atlantic is going to look at this document and look at
18 the Gulf Council motions at their March meeting, and I am not
19 sure if we will have enough time to bring a public hearing draft
20 back to you in April. We'll try, but it just depends on what
21 the motions of the South Atlantic Council are.

22
23 If we are, we would have a public hearing draft either in April
24 or June, and that's one thing that I would like to discuss right
25 now, if possible, on if the committee feels like this needs to
26 go out to formal public hearings or if the webinar would be
27 sufficient, and so if the committee could discuss that.

28
29 **CHAIRMAN GUYAS:** I will chime in here. I think the webinar and
30 the fact that our June meeting is in Key West is probably good
31 enough here. We have already been through the process, at least
32 with the actual changes that we're making and not the procedure.

33
34 We've gone through that at the state level, and I think the
35 South Atlantic has had some webinars already on this as well,
36 and so I think we'll be just fine with, even if it's not at the
37 public hearing stage, just having the discussion in June in Key
38 West will be helpful, and we'll have -- We will be in the right
39 place to get feedback from people on this, and I don't know if
40 there is other thoughts. John.

41
42 **MR. SANCHEZ:** Just a question. Has the South Atlantic picked
43 preferreds on this at all, or do we not have to?

44
45 **DR. KILGOUR:** We are still at the options stage, and so we don't
46 need to pick preferreds, unless you would really like to, and
47 the Gulf Council sees the draft before the South Atlantic. We
48 are the lead council on this. The South Atlantic did have two

1 scoping hearings in January, which was a little bit after when
2 we would normally have a scoping hearing, and those were both by
3 webinar.

4
5 **CHAIRMAN GUYAS:** Okay. I think we're done with this amendment.
6 Let me flip back to my agenda here. Go ahead.

7
8 **DR. KILGOUR:** I just wanted to make sure that everyone knew that
9 we'll be bringing this with the new three actions that weren't
10 in the document in October to the Law Enforcement Technical
11 Committee at the March meeting as well.

12
13 **CHAIRMAN GUYAS:** Okay. Great. Is there any other business to
14 come before the Spiny Lobster Committee today? Seeing none, the
15 committee is adjourned.

16
17 **LT. MARK ZANOWICZ:** The LETC comments, are we going to talk
18 about that?

19
20 **CHAIRMAN GUYAS:** Sure.

21
22 **LT. MARK ZANOWICZ:** It was on there, and so --

23
24 **CHAIRMAN GUYAS:** I wasn't sure if that was the comment, if
25 they're just going to discuss it in March.

26
27 **DR. KILGOUR:** They did see Action 1 and the new Action 5, which
28 is the bully net regulations and the procedures and protocol
29 after the October council meeting, and so, if you would like to
30 hear what they had to say about those, and then they will be
31 seeing the three new actions at the next Law Enforcement
32 Technical Committee. Let me pull them up.

33
34 **EXECUTIVE DIRECTOR GREGORY:** While Morgan is looking for that,
35 when we set up the tables, we put all the microphones around the
36 edge of the table, but there is plenty of room, and you can pull
37 the microphones closer to you, so you don't have to lean so far
38 over.

39
40 **LETC COMMENTS**

41
42 **DR. KILGOUR:** We reviewed Action 1 and informed the Law
43 Enforcement Technical Committee that there would be three
44 additional actions, and the committee basically felt that
45 consistency between state and federal waters was beneficial, and
46 that's about all they had to say about it.

47
48 **CHAIRMAN GUYAS:** Okay. Awesome, and so we'll look forward to

1 the rest of the feedback from them the next time we pick up this
2 amendment. Now, is there any other business for the committee,
3 and did I miss anything on the agenda? It looks like no, but --
4 In that case, the committee is adjourned.

5

6 (Whereupon, the meeting adjourned on January 29, 2018.)

7

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