

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 MACKEREL MANAGEMENT COMMITTEE

4
5 The Driskill

Austin, Texas

6
7 August 16, 2023

8
9 **VOTING MEMBERS**

10 Kevin Anson (designee for Scott Bannon).....Alabama
11 Susan Boggs.....Alabama
12 Billy Broussard.....Louisiana
13 Tom Frazer.....Florida
14 Dakus Geeslin (designee for Robin Riechers).....Texas
15 Bob Gill.....Florida
16 Michael McDermott.....Mississippi
17 Chris Schieble (designee for Patrick Banks).....Louisiana
18 Andy Strelcheck.....NMFS
19 C.J. Sweetman (designee for Jessica McCawley).....Florida
20 Troy Williamson.....Texas

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23 Kesley Banks.....Texas
24 Dale Diaz.....Mississippi
25 Dave Donaldson.....GSMFC
26 Jonathan Dugas.....Louisiana
27 LCDR Lisa Motoi.....USCG
28 Anthony Overton.....Alabama
29 Joe Spraggins.....Mississippi
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32 **STAFF**

33 Assane Diagne.....Economist
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37 Lisa Hollensead.....Fishery Biologist
38 Mary Levy.....NOAA General Counsel
39 Natasha Mendez-Ferrer.....Fishery Biologist
40 Emily Muehlstein.....Public Information Officer
41 Kathy Pereira.....Meeting Planner - Travel Coordinator
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43 Bernadine Roy.....Office Manager
44 Carrie Simmons.....Executive Director
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47 **OTHER PARTICIPANTS**

48 Peter Hood.....NMFS
49 Jennifer Lee.....NOAA

1 Kerry Marhefka.....SAFMC
2 Jim Nance.....SSC
3
4 - - -
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PAGE 9: Motion to direct staff to begin a document to modify the catch limits for Gulf Spanish mackerel in accordance with SEDAR 81 results and SSC recommendations. The motion carried on page 10.

- - -

1 The Mackerel Management Committee of the Gulf of Mexico Fishery
2 Management Council convened at The Driskill in Austin, Texas on
3 Wednesday morning, August 16, 2023, and was called to order by
4 Chairman Kevin Anson.

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

10 **CHAIRMAN KEVIN ANSON:** The Mackerel Management Committee agenda
11 is Tab C, Number 1, and the first order of business is -- Well,
12 the first order of business is to recognize the members, which
13 are myself, Mr. Geeslin, Mr. Schieble, Ms. Boggs, Mr. Broussard,
14 Dr. Frazer, Mr. Gill, Dr. Sweetman, Mr. McDermott, Mr.
15 Strelcheck, and Mr. Williamson.

16
17 Adoption of the Agenda, are there any changes to the agenda?
18 Seeing none, is there any opposition to accepting the agenda as
19 written? Seeing none, the agenda is adopted. Item Number II is
20 Approval of the April 2023 Minutes, Tab C, Number 2. Are there
21 any changes that need to be made to the minutes? Is there any
22 opposition to accepting the minutes as written? Seeing none,
23 the minutes are approved. Item Number III is the Action Guide
24 and Next Steps, Tab C, Number 3. Dr. Mendez-Ferrer.

25
26 **SSC RECOMMENDATIONS ON GULF KING MACKEREL INTERIM ASSESSMENT**
27

28 **DR. NATASHA MENDEZ-FERRER:** Thank you, Mr. Chair, and so, for
29 Agenda Item IV -- If it's okay with you, we'll go one-by-one,
30 since we have quite a bit to discuss, and so, for Agenda Item
31 Number IV, we'll have Dr. Jim Nance summarizing the July 2023
32 SSC discussions and recommendations related to the Gulf king
33 mackerel interim assessment.

34
35 Overall, the SSC determined that the data were not appropriate
36 to modify the current catch levels, and, to remind the
37 committee, we updated the catch levels for king mackerel via
38 Framework Amendment 11, and that went into effect in January of
39 this year, and so the committee should discuss the information
40 presented and consider if any changes to the current management
41 practices are needed.

42
43 **CHAIRMAN ANSON:** All right, and so then that takes us to Item
44 Number V and Dr. Nance and the SSC recommendations on SEDAR 81,
45 the Gulf king mackerel interim assessment. Thank you.

46
47 **DR. JIM NANCE:** Thank you. That's Slide Number 11. I have two
48 presentations, but we'll handle each one of these separately.

1 For the king mackerel interim analysis, we had a presentation
2 from Dr. Forrestal, and she reviewed the king mackerel interim
3 analysis for us.

4
5 The indices of relative abundance include the SEAMAP fall
6 groundfish survey and the SEAMAP fall plankton survey. Dr.
7 Forrestal described both of these for three and five-year moving
8 averages for each index and the effect on the recommended catch
9 advice that that would give. For the plankton survey, catch
10 would be adjusted down almost 50 percent for the three-year
11 average and down a little more than 10 percent for the five-year
12 moving average.

13
14 For the groundfish survey, catch would be adjusted down almost
15 90 percent for the three-year average and almost 50 percent down
16 for the five-year moving average. Dr. Siegfried reminded us
17 that the last king mackerel assessment found the standing stock
18 biomass to be between the minimum stock size threshold value and
19 the standing stock biomass at MSY value, indicating that, while
20 we're not in an overfished situation, the stock is not fully
21 healthy.

22
23 The SSC recognized the shortcomings of both of these indices,
24 the declining the trends that were visible in some years and the
25 very sparse data in recent years. Because of the trends, and
26 the sparsity of data, the SSC did not think there was enough
27 data to recommend revising the current catch limits at this
28 time. We certainly will keep a close eye on the stock, and the
29 indices -- We'll look at those each year and make
30 recommendations, as appropriate. That, Mr. Chair, ends that
31 presentation.

32
33 **CHAIRMAN ANSON:** Thank you, Dr. Nance. Are there any questions
34 for Dr. Nance? Ms. Boggs.

35
36 **MS. SUSAN BOGGS:** Thank you for your presentation, Dr. Nance.
37 What other data is the SSC looking for?

38
39 **DR. NANCE:** They were looking for longer-term -- If it goes down
40 and stays down for a longer period of time, they'll make some
41 recommendations. They have data points, at the very end of the
42 series, that were down, and that drove some of the things down,
43 but, with that one data point, we didn't feel like we had enough
44 data to make recommendations on changing the current catch
45 values for that stock.

46
47 **CHAIRMAN ANSON:** Other questions? Okay, and so that will take
48 us to Item Number V, the SSC Recommendations on SEDAR 81 Gulf

1 Spanish Mackerel Operational Assessment. Dr. Nance, you're up
2 for that one.

3

4 **DR. NANCE:** I am. Do you want to do the --

5

6 **DR. MENDEZ-FERRER:** I can go over the action guide.

7

8 **CHAIRMAN ANSON:** I'm sorry.

9

10 **SSC RECOMMENDATIONS ON SEDAR 81 GULF SPANISH MACKEREL**
11 **OPERATIONAL ASSESSMENT**
12 **JULY 2023 SSC SUMMARY REPORT**
13

14

14 **DR. MENDEZ-FERRER:** Like Dr. Nance said, he will summarize the
15 SSC discussions, the data, the model results, and projections
16 resulting from SEDAR 81, the operational assessment for Gulf
17 Spanish mackerel. The SSC did provide some catch
18 recommendations for the assessment, and, to remind the
19 committee, this assessment is also incorporating MRIP-FES to
20 update the recreational landings data.

21

22 The assessment also determined that the stock is not overfishing
23 or undergoing overfishing, as of 2021, and so we're expecting
24 the committee to review the information and direct staff to
25 initiate appropriate management actions to update catch levels.

26

27 **CHAIRMAN ANSON:** Okay. You're up, Dr. Nance.

28

29 **DR. NANCE:** Thank you. You can go ahead to Slide 14, please,
30 Bernie. This is the presentation on SEDAR 81, Spanish mackerel,
31 the operational assessment for that species. Dr. Lisa Ailloud
32 presented the findings for the SEDAR 81 operational assessment
33 for the Gulf of Mexico migratory group Spanish mackerel.

34

35 SEDAR 81 resolved some of the concerns from the previous model,
36 which was used in SEDAR 28, and that was in 2014, and it
37 incorporates updated recreational landings data calibrated to
38 MRIP-FES values. The model started in 1986, to correspond to
39 the data-rich period of landings, and I think, before, we were
40 using back to 1886, but we cut off those older values to
41 correspond to this data-rich period, with the recreational fleet
42 being split into separate components of private, shore, and for-
43 hire. The adjustment of the model year improved model
44 stability, and the terminal year of the model is 2021.

45

46 Dr. Ailloud described the model diagnostics, which demonstrated
47 relatively well-behaved base model. The SSC noted that there
48 were substantial data limitations for SEDAR 81 and that

1 recommendations should be made with that fact in mind.

2
3 There was a motion made that the SSC accepts the SEDAR 81 Gulf
4 Spanish mackerel operational assessment as consistent with the
5 best scientific information available. Under the current MSY
6 proxy of F 30 percent SPR, the assessment indicates the stock is
7 not overfished and is not undergoing overfishing, as of 2021.
8 That motion carried without opposition.

9
10 For the standard projections, Dr. Ailloud noted that the interim
11 years assume the actual landings for 2022 and a three-year
12 average of 2020 through 2022 for values that would be used for
13 2023 and 2024. She noted that 2002 value was quite low.

14
15 The SSC discussed using -- Because of that fact, the SSC
16 discussed using either a three-year average of 2017 to 2019 for
17 the interim years or a six-year average using the values from
18 2017 through 2022. This would result in a modification of the
19 projected catch limits by increasing the assumed landings in the
20 interim years, and so, in other words, during the projections,
21 we would have a little bit of higher catch during those years.

22
23 We discussed using the three-year period of 2017 through 2019 or
24 the six-year average from 2017 to 2022, and we went back and
25 forth with that, and there was a motion that the SSC recommends
26 using a mean of landings from 2017 through 2019 as the proxy for
27 the interim projection years of 2023 and 2024. That motion
28 carried nine to four with four abstentions and seven absent.

29
30 The new OFL projections, if you look at the data in the
31 projections, it trended down slightly towards the spawning stock
32 biomass MSY target, and the ABC trended up slightly towards the
33 FMSY target. A motion was made that the SSC sets the OFL for
34 Spanish mackerel based on SEDAR 81 and the revised projections,
35 using a constant catch of 12.074 million pounds whole weight for
36 2025 through 2027. That motion carried without opposition and
37 with one abstention.

38
39 The next motion for the ABC was the SSC sets the ABC for Spanish
40 mackerel based on the SEDAR 81 revised projections, using the
41 yield of 75 percent of F 40 percent SPR. The constant catch for
42 2025 through 2027 is 9.630 million pounds whole weight. The
43 motion carried without opposition and one abstention. Mr.
44 Chair, that ends that presentation.

45
46 **CHAIRMAN ANSON:** Thank you for the information. Any questions
47 for Dr. Nance? Mr. Gill.

1 **MR. BOB GILL:** Thank you, Mr. Chairman, and thank you, Dr.
2 Nance, for your presentation. My question is about why the SSC
3 chose only to provide a constant catch OFL and ABC, rather than
4 a yield stream, like it normally does.
5

6 **DR. NANCE:** Good question. We looked at that, and the OFL
7 projection was slightly going down. The OFL was going down
8 slightly, towards the SSC target, and the ABC was going up
9 slightly, trending towards the FMSY target, and, instead of
10 trying to provide what we usually normally do, is a catch for
11 each of those years, is we chose to do just a constant catch, to
12 avoid having changes over those times, and so that's why we
13 looked at it like that, and it was slight changes, and so, with
14 not a lot of difference between those, we felt more comfortable
15 with providing the constant catch.
16

17 **CHAIRMAN ANSON:** Is there any interest on the committee to offer
18 a motion to direct staff to do anything relative to the new
19 information? Mr. Gill.
20

21 **MR. GILL:** I assume you're getting to the question of what we
22 want to do relative to this presentation, and so I move that we
23 direct staff to create a document that updates the Spanish
24 mackerel catch limits.
25

26 **CHAIRMAN ANSON:** Is that your motion, Mr. Gill?
27

28 **MR. GILL:** That will work, Mr. Chairman.
29

30 **CHAIRMAN ANSON:** Is there a second? It's seconded by Mr.
31 Broussard. Any discussion? Ms. Boggs.
32

33 **MS. BOGGS:** So I think I understand why we're doing this, but I
34 hope that, moving forward, we don't do much more with -- I mean,
35 because I was looking at the numbers, and, last year, we only
36 caught 18.3 percent of the quota. The year before that, it was
37 17 percent, and that's commercial and recreational, and so, I
38 mean, I understand why we do this, so that, at some point, maybe
39 we want to increase catch levels, but, here again, we've got a
40 stock that's not overfished and not undergoing overfishing, but
41 we're not catching near the ACL, and so that concerns me a
42 little bit, and so I just put that out there for thought.
43

44 **CHAIRMAN ANSON:** Any other discussion? Dr. Simmons.
45

46 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Mr. Chair, did you want to
47 add in the SEDAR number, because this was an operational
48 assessment that was done, so it's clear?

1
2 **CHAIRMAN ANSON:** Mr. Gill, would you want to reference the SEDAR
3 number?

4
5 **MR. GILL:** Can do, if you would like to add that. So, after
6 "limits", add "in accordance with SEDAR 81 results and SSC
7 recommendations".

8
9 **CHAIRMAN ANSON:** Mr. Broussard, are you okay? Is there any
10 opposition to the motion? Seeing none, the motion carries.

11
12 That will take us to Ms. Muehlstein. Dr. Mendez-Ferrer.

13
14 **DR. MENDEZ-FERRER:** You got it. I was going to flag the
15 Fishermen Feedback presentation.

16
17 **CHAIRMAN ANSON:** I'm still in a little bit of a funk, obviously,
18 this morning. Ms. Muehlstein should have gone before the
19 previous motion, and so that's my fault, but Ms. Muehlstein.

20
21 **FISHERMEN FEEDBACK PRESENTATION**

22
23 **MS. EMILY MUEHLSTEIN:** Okay. I will do it when I have time, and
24 so, if Bernie can pull up the presentation real quick, and so I
25 think this will -- I mean the motion is made, which I think is
26 probably inevitable anyway, but I think this might help inform
27 you guys as to what our stakeholders are thinking about and
28 what's happening with Spanish mackerel.

29
30 We have just a little update on Fishermen Feedback in general,
31 because it's a while since you guys have seen one of these. We
32 stopped doing the Fishermen Feedback tool for a little while,
33 because we did not have PRA clearance, the Paperwork Reduction
34 Act clearance, and so we were kind of trying to slow it down,
35 and we were advised, by General Counsel, that maybe this was not
36 a legal path forward to ask stakeholders about these things, and
37 so a status update on this tool in general, because I see a lot
38 of value in this tool, and I think that, you know, the council
39 has echoed their appreciation for the tool, and it's that we are
40 currently in the clearance process.

41
42 I just got an email this morning updating it on the status, and
43 NOAA is seeking PRA clearance for a number of citizen science
44 tools, and we are sort of riding on their coattails for that,
45 and we expect that they will be ready to make a decision on
46 whether or not to clear this tool sometime in mid-September. It
47 doesn't mean they're going to give us a decision on clearing it,
48 at that time, but they'll be prepared to do so at that time, and

1 so we're sort of waiting, but we were given authority to
2 continue to use the tool while we were seeking that clearance,
3 and so that's good news, and we were waiting for even better
4 news, because hopefully we'll be able to just continue doing
5 this in perpetuity once we seek that clearance.

6
7 For Spanish mackerel specifically, we deployed this tool in mid-
8 April, and we had left it open for a month, and, just so you
9 guys remember, this tool was used to gather information on fish
10 stocks from active fishermen, on trends or unusual occurrences
11 that science and managers might not see, and it helps inform the
12 stock assessment process, and it helps inform the SSC, and it
13 also is being brought to you at this table right now, so it can
14 help you sort of think about where you want to head with this
15 stock when you start making those decisions, and so we did
16 submit this final report to the SSC and to the stock assessment
17 analysts in July of this year.

18
19 We received 117 responses, and what you can see here is, not
20 shockingly, a majority of our respondents are private
21 recreational anglers, followed by for-hire and commercial
22 anglers. Now, if you look at the distribution of responses that
23 we have gotten, a majority of our responses were taken from the
24 sort of Alabama/Florida/Panhandle area, as well as a little blip
25 in the Tampa Bay region of the Gulf of Mexico.

26
27 We do two types of analysis when we get our responses. The
28 first is an overall analysis of the sentiment that was expressed
29 in the comments, and so this an overall, and is it a positive
30 comment, is it a negative comment, is it a neutral comment, and,
31 just for your information, as we do this analysis, if there's
32 like three negative things said in the comment, and two positive
33 things in the comment, that would still be a negative comment,
34 right, and so they kind of cancel each other out.

35
36 You could have one negative thing and one positive thing, and
37 that would come across as a neutral comment, based on the way
38 that we do this analysis, but what you will see is at least
39 about half of the respondents gave us an overall response
40 sentiment that was negative in nature.

41
42 We did break that down by sector, and what you will notice is
43 that each one of the sectors kind of mirrors each other in the
44 way that it's feeling, the majority of negative sentiment that
45 was expressed and then sort of a minority of positive sentiment.

46
47 This overall response sentiment was also spread out through the
48 areas in the Gulf, and we do see a trend that's kind of forming

1 here, where things are most negative in the south
2 Florida/eastern Gulf area, and, as you move over towards the
3 western Gulf, there's sort of this optimistic pocket that is
4 kind of the Alabama/Mississippi area, and then it gets gradually
5 more neutral towards the western Gulf.

6
7 The next analysis that we performed was the analysis on the
8 sentiment as it relates to stock abundance, and so we took all
9 of those comments, and we indicated whether or not those
10 comments were related to abundance specifically, and then we
11 sorted out what they had to say about the abundance of the
12 stock, and so this is not sentiment that includes all things,
13 and this is just indications about the abundance of the stock,
14 and what you will see is we still have about 50 percent of the
15 respondents saying something negative about the stock abundance.

16
17 What you will notice though is that the optimism, or the
18 positive comments, that were -- That we saw were greater in
19 proportion for this analysis, and, if you look over towards how
20 that breaks out by sector, we saw something interesting here,
21 that we don't typically see, which is the private recreational
22 sector expressed the most negative thoughts about stock
23 abundance, and the commercial and for-hire sectors were a little
24 bit more optimistic, and, usually, that's kind of inverse to
25 this, with the other tools that we've done in the other species,
26 and so that's something to sort of think about. I don't really
27 know what conclusion to make from that, but it was something
28 that came across as more interesting than normal.

29
30 We also spread out the sentiment related to abundance on the
31 map, and it's a little bit less of an obvious trend here, but,
32 you know, that is kind of an interesting breakdown to look at.
33 Clearly, sort of the eastern Gulf is still pretty negative about
34 the abundance, and, in the western Gulf, things seem to be a
35 little bit neutral or more positive.

36
37 We also performed an automated analysis that took out the words
38 that contributed most to the negative and positive sentiment,
39 and one thing that you will see, which is not surprising,
40 because this is a trend that we're seeing in all of the tools
41 that we do, is that "shark" is the number-one word contributing
42 to negative sentiment.

43
44 What's interesting here is the proportion of occurrences that
45 the word "shark" came up, and there is a lot more uses of -- The
46 word "shark" is used a lot more frequently to contribute to
47 negative sentiment than we've seen before, and then the positive
48 sentiment contributors were "like", "plentiful", and "increase",

1 right and so those are thought that those are related to stock
2 abundance.

3
4 Also, we manually read all of our comments, and, of the comments
5 that were positive in nature, we mostly heard that the
6 population is healthy and that Spanish mackerel are large and
7 abundant. Of the comments that we heard that were neutral in
8 nature, we heard that there might be a change in migration
9 patterns, and so it was kind of more of an observational comment
10 that we heard, and that current management measures were
11 appropriate. We heard a number of people say that the bag
12 limits are fine, and everything seems to be fine.

13
14 Then the comments that we heard that were negative, most
15 commonly what we heard was that the population was in decline
16 and that shark depredation, commercial netting, pogy fishermen,
17 and overharvest by both commercial and recreational anglers is
18 what is causing our problems with Spanish mackerel, and, with
19 that, I will take any questions you might have.

20
21 **CHAIRMAN ANSON:** Thank you. Any questions for Emily? Emily, I
22 don't have -- Well, I've got one question for you, and then I've
23 got a comment. The question is on page 8 of the report that is
24 provided online, and it could be a typo, or it could be the
25 actual response, but there is mention in there, from
26 respondents, attributing the decline in Spanish mackerel to
27 commercial netting and pogy fishermen, and should that be
28 "pogy" fishermen? It could be pogy, and I just want to make
29 sure that it isn't a typo.

30
31 **MS. MUEHLSTEIN:** I believe it was supposed to be pogy, but the
32 comment itself reflected pogy. It was a comment that came out
33 of the central-northern Gulf, and so, to me, the indicator would
34 have been that, yes, it would have pogy and not pogy, but it
35 was written out, and so I felt like we should keep it the way
36 that it --

37
38 **CHAIRMAN ANSON:** That's fine, yes, and it's accurate, and that's
39 all I'm interested in, and then just my comment was, you know,
40 this is not your first presentation that provides this level of
41 detail, but they seem to get better and better, I guess, and I
42 don't know if that's the coding and the programming and such
43 that you're doing, but I particularly like the graphic where you
44 put the pie charts for each of the regions, into sub-regions, if
45 you will, or areas, statistical zones, that kind of reflect the
46 overall sentiment, and you can see that very quickly, as to, you
47 know, the western Gulf is somewhat positive, and the eastern
48 Gulf is not, and that kind of does track to what we hear about

1 generally, and so that is good to see, and so I appreciate that.

2

3 **DR. JOHN FROESCHKE:** You're welcome.

4

5 **CHAIRMAN ANSON:** Yes, and I was going to give a nod to you,
6 John, and so I appreciate it. Again, any other questions for
7 Emily? All right. Thank you again. That would take us then to
8 Item Number VI. Dr. Simmons.

9

10 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair, and so I
11 failed to mention this before we left the king mackerel interim
12 analysis discussion, but I just wanted to thank the Science
13 Center for working with our staff and trying to come up with a
14 way to look at this, and I think there was a lot of good
15 communication to try to see if something could be done.

16

17 You know, fishermen came to the podium, when we were getting
18 ready to take final action on Framework 11, saying those catches
19 were too high, and, you know, the council had a tough decision,
20 as far as taking final action, and they did, and we followed up
21 with this request, and I think folks really hustled, including
22 the SSC, to try to look at this and see if something could be
23 done. Unfortunately, it couldn't, but I really appreciate the
24 effort, and so thank you.

25

26 **CHAIRMAN ANSON:** Okay, and so that will take us to Item Number
27 VI. Dr. Walter.

28

29 **DR. JOHN WALTER:** Before you move off of the catch, I think
30 there's something that we probably need to follow-up on, on the
31 catch advice and moving forward with using the assessment, and I
32 think it gets to FES, and I think it's something we need to
33 address that follows on from Evan's presentation, and that's --
34 I think the question that people are going to have is can we use
35 this for advice, given the uncertainty in FES.

36

37 I just want to touch on that, because I think what we've been
38 saying is that, if we set the ACL in FES, and monitor in FES,
39 then we're consistent. Even if there's a scale difference in
40 FES, that, yes, we can indeed continue with that, and this is
41 probably a good stock to evaluate that and consider whether we
42 can do that, and maybe in some of the -- As the council staff,
43 and our staff, move forward with adopting this, there might be a
44 few checks that we can do to see whether that is indeed going to
45 still achieve our management objectives.

46

47 One of those checks might be a relatively simple sensitivity run
48 to say is our stock status indeed the same with the change in

1 scale, and so what if we reduced the FES numbers by 40 percent,
2 and do we get the same stock status, and I think that would at
3 least give us some assurance that indeed that stock status is
4 the same, because we've been saying that, but we haven't really
5 shown it, and I think that could be helpful to see that, and the
6 process -- I think our staff can probably do one of those one-
7 off analyses, and I think, as long as we continue to monitor in
8 FES, even if there is uncertainty there -- If it's consistent,
9 then it will probably still meet our objectives, and this is
10 probably a good case study also, because there is not
11 allocations in the advice, and so we don't have that as one of
12 the added complications. Thanks.

13

14 **CHAIRMAN ANSON:** Dr. Frazer.

15

16 **DR. TOM FRAZER:** I would just like to follow-up on Dr. Walter's
17 comments, and I think they're good, and I would agree that this
18 is probably a good test case, to see what we can do. It's not a
19 stock where we're trying to ratchet down the catches,
20 necessarily, and it gets to a point that I made earlier.

21

22 I mean, it would be good to run it back through the assessment,
23 right, and if it's scales, for example, and is a 30 or 40
24 percent reduction in the catch limits, OFLs or ABCs or catch
25 advice, and is that appropriate or not, and I think that would
26 help us, moving forward, as a test case, right, because then,
27 for those stocks where we already have OFL and ABC, and maybe
28 even establish an ACL --

29

30 Again, I think it's within the council's purview to kind of
31 learn from that and perhaps adjust those ACLs accordingly, you
32 know, for other stocks, but we don't know yet, right, and
33 there's a lot to learn here, and I do think this would be a
34 really good example to work with, and so I appreciate you
35 bringing that up and offering that as a suggestion, John.

36

37 **CHAIRMAN ANSON:** Thank you. All right, and so we'll move to
38 Number VI, Proposed Engagement in Mackerel Port Meetings. Dr.
39 Mendez-Ferrer.

40

41 **PROPOSED ENGAGEMENT IN PORT MEETINGS**

42

43 **DR. MENDEZ-FERRER:** Thank you, Mr. Chair. For this agenda item,
44 we have prepared, and this is a group effort, a presentation to
45 go over the mackerel port meetings, and this is an effort
46 initiated by the South Atlantic Council, and so on the line we
47 have Christina Wiegand, kind of backing us up if you have any
48 questions more specific to what the South Atlantic Council wants

1 to do, but, in the presentation, we want to cover some of the
2 background, the rationale, and the goals of these port meetings,
3 and, given that the CMP FMP is jointly managed between both
4 councils, the South Atlantic is asking us if we want to have any
5 -- Like join in or have some sort of complementary efforts with
6 this.

7
8 I will summarize also some of the stakeholder participation that
9 we've seen, where we've gone out and done public hearings for
10 our various CMP amendments, the kind of results that we get
11 through the Fishermen Feedback tool, and then proposing some
12 next steps on how we think we can get some valuable information
13 from our stakeholders in the region, and so what we're looking
14 for from the committee is to see if you agree with the path
15 forward that we're presenting or do you have any additional
16 feedback.

17
18 The first slide, and just to remind the committee that this item
19 was initially presented to you during our April 2023 meeting,
20 but the South Atlantic just discussed further details during
21 their June meeting, and so we're kind of bringing that
22 information to you.

23
24 In April of 2019 and October of 2022, the South Atlantic
25 Mackerel Cobia AP requested a series of port meetings to gather
26 information on king and Spanish mackerel. That was followed, in
27 March of 2023, with the South Atlantic Council deciding to host
28 port meetings to gather information, have that more one-on-one
29 interaction with the fishermen, in gathering how they are
30 perceiving -- You know, is there any changes in species
31 movement, the dynamics of the commercial fleet, what is the role
32 of tournaments, the perceptions in terms of how environmental
33 variables may be affecting the stock, and so on.

34
35 The planning group has not been convened yet, and the idea is to
36 have meetings along the Gulf and Atlantic coast, up to southern
37 Massachusetts, with the support from the Atlantic States Marine
38 Fisheries Commission and state agencies and other regional
39 councils, and so we don't know how many meetings are being
40 planned yet, and that's something that the group will discuss
41 during their meetings.

42
43 The goals, the South Atlantic goals, for these meetings, are
44 they are planning on discussing the CMP FMP objectives, and also
45 looking at achieving the maximum economic and social yield from
46 the fisheries, maintaining long-term sustainability of stocks,
47 as well as the integrity of fishing communities under climate
48 change, achieving the most equitable management structure.

1 Under climate change, identification of underserved communities
2 and EEJ concerns, as well as considering interjurisdictional
3 management between the councils and the Atlantic States
4 Fisheries Commission.

5
6 We go out and collect all the data and then what? The plan,
7 from the council, is to develop a final report that includes
8 notes from all the conducted port meetings, and, in addition to
9 a basic summary, they plan to separate the various concerns into
10 are there any themes, or any specific patterns, that they should
11 be paying attention to, and so Atlantic king mackerel and
12 Spanish mackerel are -- I believe the South Atlantic Council is
13 going to begin a document to update catch levels, based on the
14 stock assessment, but they are not addressing any management
15 measures, and they are hoping to go through these port meetings,
16 and then, based on the results and the concerns that they get,
17 then have a plan amendment, where they could address that.

18
19 Like I mentioned, they also want to go through and update the
20 goals and objectives from the CMP FMP, which we had also been
21 working on via CMP Amendment 33, and then modify any additional
22 management measures for Atlantic king mackerel, as appropriate.

23
24 The next steps are to establish a planning team responsible for
25 discussing how to best structure and facilitate these port
26 meetings, and it's a large region, and identifying key locations
27 and the stakeholders and how to best engage stakeholders and
28 increase participation.

29
30 Right now, we're being requested -- Team members from the Gulf
31 Council, the Atlantic States Marine Fisheries Commission, state
32 agencies, and the Mid-Atlantic and New England Councils may be
33 involved, or consulted, as needed, or as requested, and
34 information on port meetings is being presented to our council
35 and as well as the Atlantic States Marine Fisheries Commission,
36 during their August meeting.

37
38 The next slide kind of shows a timeline on where we are, and
39 this is going to be an effort that's going to take about a year,
40 and so what about us? What can we do? The next few slides, I'm
41 going to go over and summarize the participation that we've had
42 and the kind of feedback that we've been receiving during our
43 meetings.

44
45 It's kind of small, but, if you look at your computers, these
46 are the attendance that we've had during the past three CMP
47 amendments, and, as you can see, we've been having historically
48 very low attendance at these in-person meetings, yet, if you

1 look at the last two rows, written comments and video views, it
2 seems like we're reaching the audience, kind of indirectly, and
3 we've been getting -- Instead of the one-on-one, we've been
4 having more feedback.

5
6 With Emily's awesome Fishermen Feedback tool, we seem to also be
7 getting more responses, and so, for king mackerel, we received
8 forty-seven. For Spanish mackerel, it was 117, and then, on the
9 next slide, which kind of blew my mind, for cobia, we received
10 586 responses, and so, comparing this number of responses from
11 Fishermen Feedback for cobia to the attendance that we received
12 on -- It was fifty-five people attending, when we went to these
13 in-person meetings, and cobia was one of the -- It was my first
14 big amendment, and it had a lot of actions, and so I just wanted
15 to kind of put things in perspective on how people have been
16 responding.

17
18 There is also a few things that -- There is some CMP that may
19 overlap, and we already have the Fishermen Feedback from Spanish
20 mackerel, and we're also working on the FEP, and, as part of
21 that process, we are developing a stakeholder engagement plan,
22 and so that might be another avenue to continue gathering
23 feedback from our stakeholders, as it relates to the mackerel
24 fishery, and so we actually are convening our ETC, our Ecosystem
25 Technical Committee, in September of this year, and so there's a
26 lot of work that we've been trying to incorporate and that we
27 have on our docket right now.

28
29 We had a quick call with the South Atlantic folks, and, right
30 now, we're planning to be part of the planning team for these
31 port meetings, to get a better idea of, you know, how to conduct
32 these, but we're also going to be soliciting feedback from our
33 CMP AP.

34
35 As we just discussed, we're going to have a Spanish mackerel
36 document, and that's going to be presented to our AP, and we can
37 also include, in that agenda, some additional questions related
38 to any concerns that they may have from the fishery in the Gulf,
39 and so we could do virtual hearings, since we see that we're
40 having people participate in our webinars, and so we're getting
41 some feedback, and so we want to hear if the committee kind of
42 like agrees that that's a good path forward, as well as the
43 Fishermen Feedback is also very well received, and we could
44 develop a stand-alone mackerel-focused Fishermen Feedback to
45 target it to get more information from our stakeholders.

46
47 This is my last slide, and, as you can see, we're kind of taking
48 an avenue that, based on the responses and the kind of

1 participation that we've received, it's not so much the in-
2 person meetings, but more like worldwide-web approach, and so we
3 want to see if this is something that the committee thinks is
4 appropriate or if you have any additional feedback on how we
5 should proceed.

6
7 **CHAIRMAN ANSON:** We have some questions from staff. Mr. Gill.

8
9 **MR. GILL:** Thank you, Mr. Chairman, and thank you, Natasha, and
10 so my read is that the next steps that you proposed on the
11 previous slide are spot-on. I agree with those. I think, from
12 my perspective, that I think the AP input, relative to the last
13 two bullets, is vitally important, and I would be guided by
14 that. My personal feeling is that the virtual hearings is the
15 way to go here, given the history and the cost of conducting
16 them otherwise, and, likewise, the input from the AP on the
17 Fishermen Feedback question I think should drive the answer.
18 Thank you.

19
20 **CHAIRMAN ANSON:** Ms. Boggs.

21
22 **MS. BOGGS:** So I'm trying to think a little differently,
23 Natasha, and I kind of looked at the schedule for next year, and
24 I don't know how big of a lift, or burden, this would be on
25 staff, but what if we had a port meeting during a council
26 meeting, and like we do the after-hours with Andy, and we're
27 going to be in Gulf Shores, and we're going to be in New
28 Orleans, and including the webinars and the online and the
29 Fishermen Feedback, but that might be another way to capture it,
30 because you have a captive audience at the council meetings, and
31 I don't know if that's something you could do, but that's a
32 thought.

33
34 **DR. MENDEZ-FERRER:** I guess my -- I mean, that's something we
35 could look into, or we could just advertise it in a way that we
36 have more participation during public testimony, and that's
37 another way to think about it.

38
39 **CHAIRMAN ANSON:** Mr. Schieble.

40
41 **MR. CHRIS SCHIEBLE:** Thank you, Mr. Chair. I was going to
42 suggest the same thing that Susan just suggested, and I don't
43 disagree with Mr. Gill that virtual probably would be helpful,
44 but maybe Emily could help me with this. In the past, we've had
45 port meetings associated with council meetings, kind of after
46 hours, where we went off-site, and I think it had to do with the
47 electronic logbooks for the SEFHIER program, right, and didn't
48 we have those, two years ago?

1
2 **MS. MUEHLSTEIN:** So, yes, and those were always associated with
3 some sort of association, right, and like we did one in Alabama
4 with the Alabama charter association, and I'm sorry I can't --
5 The proper name eludes me at the moment, and so those were
6 really successful, because there was like a club meeting that
7 just happened to be happening.

8
9 When we have them like in the same hotel as a council meeting,
10 we don't actually end up getting a whole lot of extra feedback
11 than the people who might also be here for public testimony,
12 which is why I think Natasha maybe suggested that we find a way
13 to special advertise that we're asking for that feedback during
14 public testimony, but, unless we sort of align it with some sort
15 of club or tournament or something, we don't tend to get great
16 extra feedback.

17
18 **MR. SCHIEBLE:** As a follow-up, I remember there was some shrimp
19 involved, I think, and we sort of had a feast involved to lure
20 people in, which worked pretty well, and so maybe that is the
21 ticket, is to feed people.

22
23 **MS. MUEHLSTEIN:** We could do a mackerel social.

24
25 **CHAIRMAN ANSON:** I thought I saw a hand over there after Chris.
26 Tom.

27
28 **DR. FRAZER:** It's not directly to this point, and so, as soon as
29 this discussion is wrapped up, I will ask another one.

30
31 **CHAIRMAN ANSON:** Any other discussion on the questions at-hand?
32 I mean, I think it's a pretty good plan to go forward with, and,
33 Mr. Gill, I agree that having the AP involved with that, in that
34 discussion, will help kind of clarify that, and so thank you for
35 that. Mr. Strelcheck.

36
37 **MR. ANDY STRELCHECK:** Thanks, Kevin. I had similar thoughts to
38 Chris and Susan. We have a couple of meetings coming up in the
39 northern Gulf, Panama City Beach, as well as I think New Orleans
40 in January, and I agree, obviously, with staff that, you know,
41 how we collect information from participants is really key, and
42 maybe there is some opportunities where we could solicit, you
43 know, through some directed questions in advance, right, input
44 during public testimony, or even have electronic means for
45 people to fill out information that are coming to the meeting
46 and providing comments, but maybe don't want to spend their time
47 directly commenting on mackerel, just because of the limited
48 amount of time, and so let's, I think, think outside the box,

1 but I like the combination of kind of virtual plus in-person
2 input, as well as the Fishermen Feedback.

3

4 **CHAIRMAN ANSON:** Thank you. Ms. Boggs.

5

6 **MS. BOGGS:** Natasha, we don't have a scheduled meeting for the
7 CMP AP at this time, do we, or do we have one coming up?

8

9 **DR. MENDEZ-FERRER:** We will be looking for dates for this fall,
10 and so hopefully we can convene them before the end of the year.
11 That's the goal.

12

13 **MS. BOGGS:** You don't need a motion for that, do you?

14

15 **DR. MENDEZ-FERRER:** No, ma'am.

16

17 **CHAIRMAN ANSON:** All right. I think we had some good discussion
18 and some information for staff. That will take us to Item
19 Number VII. Tom. That's right.

20

21 **DR. FRAZER:** Sorry, and I just -- You know, since we have a
22 couple of minutes, I just am trying to figure out, in the
23 context of climate-ready fisheries for example, how we might
24 think about mackerel, and I know that our South Atlantic liaison
25 had to step out for a meeting, but, in the Gulf, we're seeing
26 declines in landings, right, for both kings and Spanish, and
27 there's a lot of discussion, and I'm sure it would come up in
28 these port meetings, that, well, is this simply a distributional
29 shift, and so there are a couple of pieces of information, you
30 know, that I think would be helpful for this group to think
31 about, and maybe the Science Center can just speak generally to
32 this, and I don't want to put anybody on the spot, necessarily,
33 but, you know, are we seeing reduced catches as well in the
34 South Atlantic Council's kind of range, right, and so that's the
35 first question.

36

37 Then the second and third would be are both of those species in
38 the fisheries management units for the Mid-Atlantic, right, and
39 the Northeast Councils, and what are they seeing, right, and so,
40 again, this is a case where fishes don't recognize council
41 borders, necessarily, and is it enough for us just to think
42 about what we're going to learn from port meetings in the Gulf
43 and South Atlantic without incorporating information from the
44 other two councils, because, you know, anecdotally, I hear, for
45 example, that, you know, they're catching a lot of Spanish,
46 right, and kings off of New York.

47

48 How are we assessing this stock, right, and are we -- Do we have

1 the appropriate data collection programs in place to capture the
2 actual abundance and the health and integrity of the population,
3 and are we managing it correctly, recognizing that we may not
4 have that many fish in the Gulf or the South Atlantic, you know,
5 two years from now, or three years from now, but the other
6 management councils might, and, you know, what type of
7 flexibility might we be afforded, and so there's a lot in that,
8 John, I know, but maybe you can speak to that a little bit.

9
10 **DR. WALTER:** Thanks, and I think that's a really good point.
11 What we do see in the South Atlantic is that there seems to be
12 increased catches in the northern part of the range, as you
13 noted, and I know that Maryland is now seeing a lot of catches
14 of Spanish mackerel, and has increased over time, and
15 potentially that's due to the more favorable habitat in northern
16 areas.

17
18 The South Atlantic assessment is healthy, but they are bumping
19 up -- The commercial fishery is bumping up against their catch
20 limits, which has been one of the main concerns, that maybe
21 we're not accounting for an increased productivity as much as we
22 should, and that's one of the challenges that our assessments
23 have. If the productivity is changing, or if the distribution
24 is changing, it really -- Our assessments struggle to deal with
25 those.

26
27 There's a number of initiatives that the agency is taking on to
28 begin to address this, and one is the climate scenario planning,
29 which is mainly happening on the Atlantic coast, and diving into
30 different scenarios, like what if the range shifts, if it's a
31 range shift, a range contraction, or a range expansion, and can
32 we detect it with the data we've got, and then how do we model
33 it and manage it?

34
35 Right now, in a lot of our assessments, we haven't imposed any
36 kind of a shift in productivity as a result of that, and we're
37 relying mainly on our indices to give us that kind of a signal,
38 and I think that's what we want to be able to use some of this
39 IRA money to develop the indices that are going to be climate
40 ready, and sometimes transformational, in terms of using new
41 methodologies, like maybe eDNA, that might be able to better
42 track something like this that I think that the interim
43 analysis, and I thank our Executive Director for recognizing our
44 staff, but I think the end result is that we struggle to get
45 good indices for coastal migratory pelagics. It's just really
46 challenging to try to get a solid index.

47
48 I think maybe just to end on that, and I don't know that there's

1 a good action element, other than for the Gulf, and I think
2 we're beginning to recognize that the climate impacts that are
3 being seen in other regions are probably going to affect the
4 Gulf, and they may be a little bit more muted, in the sense that
5 it's not going to be as extreme of a change, but the animals
6 also may not have anywhere to go, because they stopped by land,
7 and so, if you were to go to warmer waters, you would not have a
8 place to go, whereas, in the Atlantic, we're actually seeing
9 things like mackerel, cobia, sea bass move north. Maybe, in the
10 Gulf, we've got pay attention to more muted signals that might
11 be not as extreme, but equally as influential on our stocks.

12

13 **DR. FRAZER:** Thanks, John, for that answer.

14

15 **CHAIRMAN ANSON:** Dr. Simmons.

16

17 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair. Dr. Walter,
18 that was great to hear that you're saying that some of the
19 climate-ready IRA money is going to be used during that, I
20 assume that data acquisition pot in the Southeast, to improve
21 and try to expand upon improving those surveys, even though that
22 money is short-term, particularly as it relates to king
23 mackerel, and you saw the gaps, and so that's really great news
24 to hear, that that funding is put forward to try to fill in some
25 of those gaps in the life history information we have,
26 particularly for coastal migratory pelagics.

27

28 **CHAIRMAN ANSON:** Dr. Walter, did you want to --

29

30 **DR. WALTER:** I can't specifically say what is going to come to
31 the Southeast from those national initiatives, and I know that
32 they're developing a number of things, like eDNA advanced
33 technology, that should have applications for us. How they get
34 applied to each region I can't speculate right now, but,
35 ideally, if the agency develops some new technique to be able to
36 monitor things, then it would be applicable in any region that
37 it's available.

38

39 **CHAIRMAN ANSON:** Okay, and so, moving on to Item Number VII, the
40 Amendment to the 2015 Biological Opinion for Coastal Migratory
41 Resources in the Gulf of Mexico and Atlantic Region.

42

43 **AMENDMENT TO THE 2015 BIOLOGICAL OPINION FOR COASTAL MIGRATORY**
44 **RESOURCES IN THE GULF OF MEXICO AND ATLANTIC REGION**

45

46 **DR. MENDEZ-FERRER:** So we're going to have Ms. Jennifer Lee
47 presenting this amendment to the bi-op, which addresses giant
48 manta rays and oceanic whitetip sharks, which were listed as

1 threatened under the Endangered Species Act in 2018, and so it
2 concluded that the operation and management of the CMP fishery
3 is not likely to jeopardize the continued existence of oceanic
4 whitetip sharks and manta rays, and so the group can ask any
5 questions, as appropriate, and so I will switch seats with
6 Jenny.

7
8 **MS. JENNIFER LEE:** All right. Good morning, and, yes, you got
9 the punch line before the story. Carrie asked me also, or Dr.
10 Simmons asked me, to make sure that you -- That I gave a little
11 background, or a little education, on biological opinions as I
12 went along today, just because I know we have some new council
13 members and different degrees of familiarity with when we talk
14 about what a bi-op and not likely jeopardy, et cetera, and so I
15 hope that I can give you a little clarity here as I share about
16 this amendment.

17
18 It's not as long as it looks, but I'm going to give you just a
19 quick background on the Section 7 consultation, what is a
20 biological opinion, and why we must reinitiate. Then I will get
21 into the biological opinion, as amended, and so probably you're
22 not familiar with the opinion that we actually amended, and I
23 will try to make sure that you understand the ensure opinion, as
24 amended, as opposed to just the new amendment with the two new
25 species, and so we'll talk about the consultation, effects and
26 determinations, jeopardy analyses and conclusions, and then the
27 incidental take statement, what that is and our anticipated
28 take, reasonable and prudent measures and terms and conditions,
29 and conservation recommendations.

30
31 What is the Section 7 consultation? In the simplest form, it's
32 a document that is an exchange of information about the impacts
33 of a proposed action on listed species, and federal agencies,
34 all federal agencies, must ensure the actions they fund,
35 authorize, or carry out are not likely to jeopardize the
36 continued existence of listed species or destroy or adversely
37 modify critical habitat, and so we shouldn't be making things
38 worse off and making them -- You know, going faster to decline.

39
40 We do this by all federal agencies must consult with NOAA
41 Fisheries or the U.S. Fish and Wildlife Service when any action
42 that they carry out, fund, or authorize may affect, and that's
43 the key word, either species listed as threatened or endangered
44 or any designated critical habitat. NOAA Fisheries has dual
45 responsibilities here, of course, as the action agency under the
46 Magnuson-Stevens Act, and then the consulting agency under the
47 Endangered Species Act, and so our Southeast Regional Office
48 Sustainable Fisheries Division -- They serve as the action

1 agency, and the Protected Resources Division, where I work,
2 serves as the consulting agency.

3
4 We do recognize the unique role of councils, and so, while
5 you're not the federal action agency, you are our partners, and
6 the information that's in your documents, and the actions that
7 you take, are what we're consulting on, and so there is a policy
8 directive, if you're familiar, that outlines, a little bit more,
9 your role in that process.

10
11 What is a biological opinion? Sometimes we use "consultation"
12 and "biological opinion" it seems, you know, as interchangeable,
13 and the biological opinion is the end product, an analytical end
14 product, of a formal Section 7 consultation, and a formal
15 consultation is when there may be adverse effects on one or more
16 species, and that's where we trigger the formal consultation.

17
18 A biological opinion summarizes the effects of that federal
19 action on ESA-listed species or designated critical habitat that
20 may be affected, and then it identifies the conclusion of
21 whether or not it's likely to jeopardize or result in the
22 destruction or adverse modification, and it represents the
23 opinion of NOAA Fisheries and considers technical, legal, and
24 policy issues related to proposed actions, and so there's a
25 reason why it's called an opinion. It's based on the best
26 available scientific and commercial information, and it kind of
27 puts it all together.

28
29 In terms of why we're talking about amendments in this case, we
30 do have certain reasons why we must reinitiate a consultation or
31 redo a biological opinion after we've done one on a fishery, for
32 example, and so it's either the amount or extent that take is
33 exceeded, and that's where we were talking about the giant manta
34 ray issue yesterday.

35
36 New information reveals effects of the action, or new
37 information -- You know, something that we analyze now needs to
38 be rethought, for example, and then the action is modified in a
39 manner that causes an effect to listed species or critical
40 habitat, and that's where the council action, for example, comes
41 in. If you're doing something that is going to change how we
42 analyze things, then we need to reinitiate, and then the
43 external reinitiation trigger if we have a new listed species,
44 as we talked about.

45
46 In the case of -- This is the Mackerel Committee, and so, in the
47 case of your coastal migratory pelagic biological opinion, we
48 had a complete comprehensive biological opinion back in 2015

1 that covered all the listed species and critical habitat at that
2 time, but, as you know, we've had a lot of listings over the
3 last five to seven years, and so, in 2017, we had an amendment
4 that focused on three of newly-listed species, the green sea
5 turtle North Atlantic DPS, or distinct population segment, the
6 South Atlantic one, and then Nassau grouper, and, again, if we
7 don't meet all of those -- In this case, since it was specific
8 to the species, we just did an amendment, rather than redo the
9 entire biological opinion, because our other sea turtle
10 sections, you know, were still valid, and so we didn't
11 reinitiate, and, you know, we didn't redo everything.

12
13 Then we just had that happen again, in terms of our May 2023
14 amendment, and that is where we addressed endangered Rice's
15 whales, threatened giant manta rays, and oceanic sharks.

16
17 These are the components of the biological opinion, and so this
18 just outlines the biological opinion components. All biological
19 opinions have these same basic sections, and they're kind of
20 like a good novel, or I think they are, and, you know, they
21 start with a little background, and they introduce the setting,
22 you know, the action, the action area, and then we introduce the
23 characters, and that's the species and the critical habitat, and
24 explain them.

25
26 The environmental baseline is looking at other things that are
27 happening around you, and then we get into the actions, the
28 effect of the actions, and we talk again a little bit about
29 other effects, and then we get, I guess, to the climax of the
30 novel, with the jeopardy or adverse modifications analysis, and
31 then we start wrapping up with, you know, what the anticipated
32 take is and then sort of the outcomes, which are essentially our
33 requirements.

34
35 In the case of your biological opinion on coastal pelagics,
36 these are all the status of the species in the action area. The
37 action area is defined as within -- It's authorized to operate
38 in the Mid-Atlantic, South Atlantic, and Gulf of Mexico EEZ, and
39 so this a joint amendment, and so it's a little wider action
40 area than usual, and I highlighted, in the red, the species
41 we're adding on with this 2023 amendment, as far as Rice's
42 whales, giant manta rays, and oceanic whitetip sharks. You can
43 see that Rice's are endangered and the other two are threatened.

44
45 The first thing we do is we don't have a lot of -- We don't go
46 into detail on all of the species in the biological opinion if
47 they're not likely to be adversely affected, because that's not
48 really the trigger for the consultation, and so the species that

1 are not likely to be adversely affected include all of the
2 whales, Nassau grouper, Gulf sturgeon, and corals, and so we
3 explain how those are not likely to be adversely affected, and,
4 on this table, I just put a really brief rationale, and so, in
5 the case of Rice's whales, because, again, this was our first
6 time, they were not expected to be present or near areas where
7 most of the coastal migratory pelagic resource fishing occurs,
8 and there's not an overlap with gillnet, and there was limited
9 overlap with hook-and-line, and also baleen whales -- You know,
10 hooking and depredation is not an issue, and we didn't have any
11 records of interaction. That's not always our strongest point,
12 because, you know, our data is always poor, but we did conclude
13 that that species was not likely to be adversely affected.

14
15 Then, just to be aware, since we've been talking about -- Just
16 so you're aware, there is critical habitat in the action area
17 for North Atlantic right whales, elkhorn and staghorn coral, and
18 the Northwest Atlantic loggerhead DPS, but we don't have any
19 that is adversely affected, and so you can see it's the no
20 impact in the physical or biological features needed for
21 conservation. Probably the council is familiar now, and I know
22 we've had a lot of critical habitat at this council, and it is
23 unlikely to have a meaningful impact, again, on those features
24 that are needed.

25
26 Then we start moving into, okay, well, what are the effects
27 determinations for the species that are likely to be adversely
28 affected, and we do this organized by gear type, and so that's a
29 nice, clean way to do it, and so cast nets, spearguns, and run-
30 around gillnets -- We actually found that all listed species
31 were not likely to be adversely affected. It's a relatively
32 small net area detected, and so that's kind of the end of
33 looking at those gears.

34
35 Sink gillnet, we did have a finding that it may adversely affect
36 the sea turtles, smalltooth sawfish, Atlantic sturgeon, and
37 giant manta rays, and so there's our new amended species
38 analysis, and that was based on we did have an observed
39 entanglement in a gillnet targeting Spanish mackerel, and then
40 there was no data to support oceanic whitetip shark interactions
41 with gillnets, and so, for those, that gear was not likely to
42 adversely affect.

43
44 Then, for hook-and-line, the sea turtles, smalltooth sawfish,
45 and Atlantic sturgeon are not likely to be adversely affected by
46 hook-and-line fishing, and, basically, it's just extremely
47 unlikely to catch these species, mainly because of the trolling
48 method, and that's the big difference between say reef fish,

1 and, again, we didn't have any documented interactions.
2
3 The oceanic whitetip sharks and giant manta rays may be
4 adversely affected, because we did have a small number of
5 commercial and recreational captures documented.
6
7 I'm getting into now a little bit of just an overview for
8 oceanic whitetip effects, as the amendment specifically dealt
9 with. When we did our adjustments, we relied on 2010 to 2020
10 data, and that's because it was the best predictor of future
11 landings, or levels, and it's post when the ACL was put in, and
12 our data sources are the discard data logbook program, and
13 that's your self-reported bycatch information, and that's only
14 20 percent of fishermen that are selected, and then MRIP and the
15 Southeast Regional Headboat Survey.
16
17 With commercial, we did find, again, six discard records over
18 the ten years, and we just factor in that it's 20 percent
19 coverage, and so, essentially, it basically comes out to about a
20 three-per-year average, and then, if we're looking at post-
21 release mortality, there was a paper there, and basically it's
22 just looking at proxies, because we don't have any direct, or
23 specific, data on post-release for oceanic whitetips, and we
24 came up with about six mortalities every ten years.
25
26 Then, for the recreational information, we had some headboat
27 survey records, and so we used that, which came up to, I guess,
28 four over ten years, and those all showed being lethal
29 interactions.
30
31 For giant manta rays, the same data, the same sources. For
32 commercial, we had one discard record only, and in parentheses I
33 put the details, and so, for example, if you're looking back at
34 the slide, it was in 2017, and it was the South Atlantic, and it
35 was released alive, and then we had only 20 percent coverage,
36 again, and so we estimated five over ten years.
37
38 For recreational, we only had records of discard from MRIP, and
39 I know you guys are familiar with how sometimes estimates are
40 expanded, when you have only a little bit of a data, and so it
41 is highly uncertain, and the average is 235 per year, and then
42 we -- In 2022, SERO did an analysis, and, again, it's related to
43 proxies, and it came up with an 8.5 percent post-release
44 mortality.
45
46 For gillnets, we did have a couple of observed targeting Spanish
47 mackerel, and the extrapolated estimate was seventeen in ten
48 years, on average, and so you can't have 1.7 animals, but that's

1 what came out of it, and, again, the mortality in gillnets --
2 There is a higher post-release mortality estimate of 35.9.

3
4 This is, as I said, when we put it all together, we assess
5 things at the population-level response, and so everything that
6 I was talking up to now was estimated in the numbers of
7 interactions, and then we put it together and look at what we
8 think in terms of population-wide, and it considers all of those
9 other parts of the story that I mentioned at the beginning, as
10 far as the effects and baseline, and, in the end, we did, as you
11 know, conclude that it's not likely to jeopardize any of the
12 amended -- The conclusion was not likely to jeopardize for
13 oceanic whitetips and giant manta rays, as well as those other
14 species.

15
16 Now we move on to the incidental take statements, which, a lot
17 of times, is the first place that people look when they get a
18 new biological opinion, because it does specify the amount of
19 take, or the extent of the take, which I just basically
20 summarized for you, and it defines reasonable and prudent
21 measures. In this case, since it's a not likely to jeopardize
22 biological opinion, there is no RPA, and I do want to make that
23 clear, and people get RPA and RPM confused a lot.

24
25 Reasonable and prudent alternative is only found in a jeopardy
26 opinion, and that's where you have to take some, you know,
27 action that is going to be different from the initial proposal,
28 because you need to do something to address that adverse impact
29 that has been found likely to jeopardize.

30
31 Reasonable and prudent measures are actions necessary to
32 minimize the impact of incidental take that you are authorizing
33 through that opinion and that has been found not likely to
34 jeopardize, and so they can't require major modifications to
35 project design. A lot of times they're, you know, working on
36 release impacts and monitoring, to make sure we're following the
37 ITS, and the terms and conditions are just the specifics,
38 basically how you're implementing those reasonable and prudent
39 measures, and so they're kind of, you know, the more detailed
40 things that you're doing.

41
42 Compliance with the terms and conditions of an ITS exempts the
43 federal agency from take prohibitions. Now, we do, of course,
44 have threatened species, like the giant manta ray and oceanic
45 whitetip, and both don't have prohibition, and they don't have
46 something called a 4d rule, but they are still included in the
47 incidental take statements, because it's still important that we
48 track their take and make sure we know when we've exceeded it,

1 and, also, we still want to minimize the impacts of that take.

2
3 Here is the full incidental take associated with the bi-op, and,
4 again, you can see -- You know, it's pretty small, but where you
5 see that basically giant manta rays -- The lethal take was
6 sixty-three, was the estimate, and oceanic whitetips is just
7 three.

8
9 Here we go with the reasonable and prudent measure, which is we
10 must ensure that any listed species are handled in such a way as
11 to minimize stress to the animal and increase its survival
12 rates, and I put "listed species" in there just to recognize
13 that, in the amendment, the giant manta ray and oceanic whitetip
14 sharks, you know, are added to what we were already doing,
15 essentially, since the old bi-op is still a thing, but it's just
16 now these additional species considered.

17
18 In terms of how we implement it, Sustainable Fisheries works
19 with other divisions and the Science Center to maintain and
20 distribute and update, when needed, handling and resuscitation
21 and release procedures and requirements and guidance for fishers
22 and observers and online, and so that's where, you know, it's
23 important to us that we're making sure to minimize post-release
24 mortality and we're making sure to identify a species correctly
25 and things like that.

26
27 Here we have our second reasonable and prudent measure, which
28 gets at monitoring and reporting. Essentially, you know, we
29 want to make sure that what we just said were the effects, that
30 we're monitoring to detect if, for some reason, we have greater
31 effects than we thought, or we have take more than we thought,
32 and we want to get improved data from our individual encounters,
33 and so, again, it's basically maintaining and using our current
34 data sources, having protocols for our data collection, for
35 observers, getting information when an animal is observed, so
36 that we can collect actually that information from the caught
37 animal and reporting requirements.

38
39 The last part of a bi-op is conservation measures, and these are
40 discretionary. They are not required, but they are ways that we
41 can further minimize, or avoid, adverse effects, and the
42 amendment added seven additional recommendations that were
43 specific to developing better giant manta ray and oceanic
44 whitetip shark data. It looks like I forgot to put a final,
45 basically questions and a thank you, and so sorry about that,
46 but that concludes my presentation.

47
48 **CHAIRMAN ANSON:** Thank you, Ms. Lee. Any questions? I have one

1 question, I guess, and you may not be able to answer it, but it
2 relates, I guess, to if a new data source were implemented, and
3 you mentioned the MRIP earlier, and so, if the new data source
4 were to come in, and it, through the information that was
5 provided, specific to oceanic whitetip let's say, that new
6 estimate was shown to have much fewer takes than what previous
7 data sources, or data streams, for recreational fishing, let's
8 say, and I would --

9
10 I don't get the sense that it requires a reinitiation of
11 consultation, because it's not exceeding, and it's a lower
12 amount than what the previous biological opinion had, but,
13 inasmuch as all of those takes are cumulative, relative to what
14 the assessment, or the science, that shows how many takes
15 overall can be taken, cumulatively, and that would then catch
16 up, if you will, to the next biological opinion, if there was a
17 trigger for the biological opinion that's on the books, if it
18 showed, for another survey, another fishery, or another
19 activity, that they had higher takes.

20
21 Then you would go and take that new information that showed the
22 higher takes, but then you would also incorporate the
23 information from all the other data sources and redo, if you
24 will all the fisheries, and is that correct, and then that would
25 then be the chance to go ahead and input the new data stream for
26 the recreational fishing that showed a lower take rate for the
27 whitetip?

28
29 **MS. LEE:** I don't think we have -- So I guess we can -- We can
30 amend the biological opinion and reinitiate consultation, you
31 know, for a -- If we think effects are different than we
32 thought, and so it's not that we can't address if effects are
33 less than we thought, and we could reinitiate and address and
34 revise that information in that for this biological opinion.

35
36 I mean, honestly, in terms of, to be honest, workload and things
37 like that, I mean, when, you know, it's not on the top of the
38 list, if that's why you're reinitiating, but, I mean, it's still
39 a change, and, if it's different, then we can reinitiate and
40 amend biological opinions, and, yes, in general, in terms of the
41 connection of how -- You know, I mentioned the environmental
42 baseline section of biological opinions, and so that's an area
43 where, you know, if this is the CMP bi-op, in the environmental
44 baseline, we're talking about other things that occur there, and
45 so the impact of the reef fish fishery and, you know, the shrimp
46 fishery, and those are factored into the baseline opinion, and
47 so, every time we do an opinion, we're -- It's always based on
48 the best available information, and we're factoring in whatever

1 we have on those other fisheries as well.

2

3 **CHAIRMAN ANSON:** No other questions? Thank you very much, and
4 so that will bring us to the last item, which is Other Business,
5 and there was no other business that was mentioned at the
6 beginning of the meeting. Is there still no other business?
7 All right. Mr. Chair, that concludes the Mackerel Committee.

8

9 (Whereupon, the meeting adjourned on August 16, 2023.)

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