

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 SUSTAINABLE FISHERIES COMMITTEE

4
5 The Driskill

Austin, Texas

6
7 August 14, 2023

8
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4
5 - - -
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1 The Sustainable Fisheries Committee of the Gulf of Mexico
2 Fishery Management Council convened at The Driskill in Austin,
3 Texas on Monday afternoon, August 14, 2023, and was called to
4 order by Chairman C.J. Sweetman.

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

10 **CHAIRMAN C. J. SWEETMAN:** I am going to bring the Sustainable
11 Fisheries Committee to order, please. Okay. We've got a heavy
12 agenda here in this committee, and we're slightly behind
13 schedule, and so we'll try and make some progress here. The
14 very first item here is -- Well, I'll first at least state the
15 people that are on the Sustainable Fisheries Committee, and that
16 is myself as Chair, Mr. Diaz as Vice Chair, Ms. Boggs, Mr.
17 Anson, Mr. Broussard, Mr. Dugas, Dr. Frazer, Mr. Gill, Mr.
18 McDermott, General Spraggins, and Mr. Strelcheck.

19
20 The first item that we have on the agenda is Adoption of the
21 Agenda. Are there any suggested modifications to the agenda?
22 Seeing none, do I have a motion to approve the agenda?

23
24 **GENERAL JOE SPRAGGINS:** So moved.

25
26 **MS. SUSAN BOGGS:** Motion to approve the agenda as written.

27
28 **CHAIRMAN SWEETMAN:** Okay. We have a first from General
29 Spraggins and a second from Ms. Boggs. The agenda is approved.
30 The next agenda item is Approval of the Minutes from our June
31 2023 Meeting. Are there any suggested modifications? Yes, sir,
32 Dr. Walter.

33
34 **DR. JOHN WALTER:** Sorry. I'm not on your committee, and I have
35 one minor addition to page 55, line 23, from Steve Saul, and it
36 says "it's funded", and this refers to a shrimp management
37 strategy evaluation, and it should be "it's not funded".

38
39 **CHAIRMAN SWEETMAN:** That is a good correction, Dr. Walter, and
40 we will be sure to make that. Thank you. I appreciate that.
41 Okay.

42
43 **DR. TOM FRAZER:** Bingo. You get a point, John.

44
45 **CHAIRMAN SWEETMAN:** Yes, indeed. All right. Are there any
46 other substantial modifications there? Not seeing any, okay.
47 With that modification in place, can I have a modification to
48 approve?

1
2 **MR. BOB GILL:** Move to approve the June 2023 minutes.
3

4 **MS. BOGGS:** Okay.
5

6 **CHAIRMAN SWEETMAN:** Okay. We have a first and a second. The
7 2023 minutes are approved. Okay, and so the next agenda item is
8 the Action Guide and Next Steps, and I will turn it over to Dr.
9 Diagne.

10
11 **RICE'S WHALE HABITAT PROPOSED RULE**
12

13 **DR. ASSANE DIAGNE:** Thank you, Mr. Chair, and good afternoon.
14 The first item on the agenda today is going to be a discussion,
15 or a presentation rather, on Rice's whale critical habitat
16 proposed rule. Mr. Baysinger, who is sitting there at the
17 table, from SERO, will give a presentation on the proposed rule
18 to designate critical habitat for Rice's whales.
19

20 Some of the elements that he will cover in his presentation
21 would include providing background information on the
22 distribution of Rice's whale and discuss the proposed critical
23 habitat area. He will also talk about a timeline for the
24 critical habitat designation, and he will conclude by discussing
25 next steps. The committee should review the information
26 presented, ask questions as needed, of course, and, finally,
27 determine whether they want to provide a letter with comments on
28 the proposed rule. Thank you.
29

30 **CHAIRMAN SWEETMAN:** Okay. Thank you, Dr. Diagne. Mr.
31 Baysinger, I will turn it over to you.
32

33 **MR. GRANT BAYSINGER:** Great. Thank you. I appreciate being
34 here. I presented a couple of months ago, but it was virtually,
35 and so I'm glad to be here in-person, and, with that, we'll pull
36 up the slides.
37

38 As mentioned, my name is Grant Baysinger, and I'm with the
39 Marine Mammal Branch of the Protected Resources Division in the
40 Southeast Regional Office, and I'm here to talk to you today
41 about the proposed rule that we have out to designate critical
42 habitat for the Rice's whale.
43

44 Here is a little outline of what I plan to talk about today.
45 There is background information on the revised name from the
46 Gulf of Mexico Bryde's whale subspecies to Rice's whale,
47 distribution of the species, the best available science and the
48 peer-review process involved in this critical habitat

1 designation, and then leading into, you know, what is critical
2 habitat, the timeline we're working on, and then kind of the
3 heart of the critical habitat designation, the proposed
4 essential feature and the proposed critical habitat area, and
5 then I will briefly talk about what this means for fisheries and
6 the next steps moving forward.

7
8 As you see there on the right side, that's a picture of a Rice's
9 whale, and I guess I would just start by saying that it is an
10 endangered species, and it's also protected under the MMPA.

11
12 Going back a few years, in 2020, scientists in the Southeast
13 Fisheries Science Center determined that, based on morphological
14 and genetic data, that the subspecies known as the Gulf of
15 Mexico Bryde's whale represents a whole new species, and they
16 named it the Rice's whale after Dr. Rice, who first discovered
17 the species in the late 1960s in the Gulf of Mexico.

18
19 During 2020 and 2021, the branch worked on revising the name to
20 Rice's whale, to reflect the changes in the scientifically-
21 accepted taxonomy and nomenclature of the species, which
22 resulted in a direct final rule to change the name under the
23 ESA.

24
25 This slide has an image of habitat modeling, showing predicted
26 average Rice's whale density in the Gulf of Mexico and down
27 further south into Mexico, and so it talks a little about Rice's
28 whale distribution, that the species is endemic to the Gulf of
29 Mexico, though most of the sightings and acoustic detections
30 that we have have occurred in what we call the core distribution
31 area off of Florida, and so, if you look kind of in the upper-
32 right, off of Alabama and Florida there, we call it the gummy
33 bear, or it's that black outlined area with the red in the
34 middle.

35
36 As I will mention on the next couple of slides, we have
37 confirmed and suspected sightings and acoustic detections in
38 other areas of the north, central, and northwestern Gulf of
39 Mexico, which kind of fall in line with those other kind of red
40 and orange areas you see off of Texas and Louisiana, and, as you
41 can see on this map here, suitable habitat extends into Mexican
42 waters, but we don't have much information from that area, and
43 it is important to note that we can only designate critical
44 habitat in the United States waters, and so that's why the
45 Texas-Mexico - The EEZ that is shown here, to show where it
46 comes into the Texas-Mexico border.

47
48 One of the challenges we have with this species is it's very

1 rare, and it's difficult to confirm visually, because you have
2 to see the ridges on the top of the rostrum, which is very
3 challenging in the water, and you really have to be pretty close
4 up to them to be able to identify them.

5
6 Leading up to a critical habitat designation, it needs to be
7 based on the best available science that has undergone a peer
8 review process, and so I put here the five papers that represent
9 the best available science, and these have come out - In 2019,
10 we listed the species as endangered under the Endangered Species
11 Act, and we've learned quite a bit about the species since that
12 time, and so these are the latest papers that have come out of
13 the Science Center.

14
15 The first was in 2021, and this was the paper that identified it
16 as a new species, and it had some information about the
17 distribution of the whale, and that was the paper that led us to
18 revising the name, in late 2021, and, since that time, we've
19 worked on designating critical habitat for this species, based
20 on these next four papers, the first of which Dr. Soldevilla,
21 down at the Science Center, characterizes Rice's whale calls,
22 and so one of the first things we need to do is make sure that
23 what we're hearing on acoustic recording packages is in fact
24 Rice's whales. We're able to do this with the recorders, as
25 well as concurrent visual sightings of the species at the same
26 time to identify them.

27
28 With that information then, we could analyze the data on the
29 recording packages in the rest of the Gulf, and that led to the
30 next paper there from Dr. Soldevilla that describes Rice's
31 whales in the northwestern Gulf of Mexico, and so, on that slide
32 I showed earlier with kind of the density areas, we have
33 identified them in some of those red areas around the Flower
34 Garden Banks on acoustic recorders.

35
36 The next paper to come out was earlier this year, from Dr.
37 Kiszka down at FIU, and there's a little graphic over there on
38 the right identifying the preferred prey species, based on
39 stable isotope analysis of whale tissue samples as well as
40 Southeast Fisheries Science Center small pelagic trawl data. Of
41 those, we identified four species that are likely the preferred
42 prey for Rice's whales, but that needs to be caveated with the
43 fact that this is all based on stable isotope analysis, and we
44 don't have stomach content analysis, and we don't have fecal
45 samples, and we haven't observed actual feeding by Rice's whales
46 on prey.

47
48 Then, finally, the habitat modeling paper is undergoing peer

1 review right now, and I believe we're submitting comments back
2 to the journal article, before it gets published, but the
3 modeling results are out in the public, and that was that heat
4 map that I showed on an earlier slide, and so those five
5 publications, as well as the critical habitat report that's
6 associated with the proposed rule, have all underwent
7 independent peer review, and so this represents the best
8 available science, as required under the Endangered Species Act,
9 to designate critical habitat for the whale.

10
11 I think it's important to talk a little bit about, you know,
12 what is critical habitat and why are we proposing it for the
13 Rice's whale now, and I have the definition up here, and I won't
14 read it, in the interest of time, but, like I said, this
15 designation is based on the best available scientific data, and
16 we have also taken into consideration economic national security
17 and other relevant impacts, and, as I mentioned, the Endangered
18 Species Act requires that we designate critical habitat to the
19 maximum extent prudent and determinable when a species is listed
20 under the ESA, and so that should have been done in 2019.

21
22 This shows that, in 2019, we listed the Gulf of Mexico Bryde's
23 whale subspecies as endangered under the ESA. At that time,
24 critical habitat was not determinable. In 2020, approximately a
25 year after, a complaint was filed by a group of environmental
26 nonprofits seeking an order to compel us to designate critical
27 habitat for the whale, due to the statutory timeline running
28 out.

29
30 Over the course of 2020, 2021, and 2022, we were negotiating
31 settlement agreement terms with the plaintiffs, and we reached
32 an agreement that stipulates that NMFS will submit to the
33 Federal Register a determination, and, if critical habitat is
34 proposed, a proposed rule by July 15 of this year, and a final
35 rule by June 15 of next year.

36
37 As of this year, we did meet that proposed rule timeline, and we
38 published a proposed rule to designate critical habitat for the
39 Rice's whale, and comments are due September 22, which is why I
40 wanted to come and present to you today, to try and get as much
41 word out there and information out as possible.

42
43 As I mentioned earlier, kind of the heart of a critical habitat
44 designation is the proposed essential feature. In this case,
45 it's a little long, and I won't read it all, but it's the
46 continental shelf and slope-associated waters between 100 and
47 400 meters between the Texas-Mexico border and the Dry Tortugas
48 off of Florida.

1
2 There is three attributes of that, and so we wanted to give a
3 little more specificity to the essential feature, so that groups
4 that are impacted by it will have an understanding of what we're
5 looking at with the essential feature and critical habitat.

6
7 The one probably most applicable to you would be that first one,
8 on the demersal and vertically-migrating prey fish species, and
9 we included four orders of prey species here, and, like I said,
10 we don't have a lot of information, and so, in the interest of
11 capturing those four that were included in the paper that came
12 out this year, we wanted to go a little higher than that and see
13 if anyone has any other information out there, as we collect
14 public comments moving forward. The other two attributes are
15 related to water quality and quiet conditions for the whales.

16
17 You will see here a map, and the gray is the area we're
18 proposing as critical habitat for the whale, and it's
19 approximately 73,000 square kilometers, and kind of the shallow-
20 side boundary is the 100-meter isobath, and then the offshore
21 deeper boundary there is the 400-meter, and you can see we cut
22 it off in the east, at the fishery management council boundary,
23 and then in the west at the Texas-Mexico border, because we
24 can't designate critical habitat outside of the U.S.

25
26 What does this mean for fisheries? Well, it doesn't directly
27 affect citizens engaged in recreational activities, such as
28 boating and fishing, or limit access to the critical habitat
29 area, and it does not create new regulations or restrictions on
30 fisheries, but it does require federal agencies directly to
31 consult with us during Section 7 analysis if the activities
32 involve federal funding, permitting, or authorization.

33
34 However, that said, federal agencies already consult with us on
35 the whale, and so it's separate. Because the whale was listed
36 in endangered in 2019, there's a separate process for the
37 critical habitat, and so we're already consulting on the whale,
38 and the critical habitat is just an incremental step there.

39
40 The consultation would evaluate whether a proposed federal
41 action would adversely affect the designated continental shelf
42 and slope-associated waters or any of the attributes, and I give
43 an example down there of, you know, bycatch, catching prey that
44 may negatively impact the essential feature and the ability of
45 feeding areas to support conservation of the whale.

46
47 These are the next steps in the critical habitat designation
48 process, and we have two virtual public hearings scheduled for

1 later this month, and the information is there on the screen.
2 It's the 24th and the 30th. We tried to propose them at different
3 times, so we could capture anybody that may have working hours
4 that wouldn't allow them to attend one or the other.

5
6 More information can be found on our website, that I give there,
7 and it's easier maybe to Google, you know, "Rice's whale", and
8 go to the NOAA site, and you can see it under the Conservation
9 Management tab on our webpage. Like I said earlier, public
10 comments are due on midnight, September 22, and, following the
11 public comment period, we'll review and incorporate the data
12 that we receive, and the information that we receive, as we move
13 forward towards a final rule by June 15, 2024.

14
15 This slide I won't go into too much, but, you know, this is kind
16 of the things we're looking for during that public comment
17 period, and what we're seeking public comments on, and, like I
18 said, the essential feature, the area we're proposing, estimates
19 of impacts or benefits, projects that may be affected or delayed
20 by the designation, the assumptions we've made about
21 consultations not resulting in project modifications, the
22 geographic area occupied by the species, getting information
23 that would help us characterize environmental parameters that
24 we've included in the essential feature, any additional
25 sightings or areas that may support Rice's whales that we did
26 not include in our report, and then, finally, information about
27 strandings or historical records of Bryde's whales in the Gulf
28 of Mexico or the Atlantic Ocean. With that, I will take
29 questions or comments.

30
31 **CHAIRMAN SWEETMAN:** Okay. Thank you for that presentation, Mr.
32 Baysinger. Any comments or questions? Captain Walker.

33
34 **MR. ED WALKER:** So I think what concerns a lot of people is the
35 suggestion of a speed zone, and that's not mentioned here, and
36 that's being presented as a separate, but not so separate - Can
37 you tell us the difference of why one has been put out already
38 and then this one is behind it, the order?

39
40 **MR. BAYSINGER:** Sure. I expected this to come up, and so these
41 are separate efforts. In 2020, we were petitioned by the same
42 group of environmental nonprofits to propose a vessel slow-down
43 zone, to establish a vessel speed restriction, and other vessel-
44 related measures in the Gulf, and the area that they proposed is
45 similar to that core distribution area that I showed you
46 earlier, kind of in the Florida/Alabama area.

47
48 We decided, at the time, that we needed to seek more information

1 from the public, beyond what was provided in the petition that
2 we received, and we opened a ninety-day public comment period,
3 which was what I presented on back in June to this group, and,
4 as part of that, that public comment period closed on July 6,
5 and we received over 75,000 public comments, and I think this
6 council submitted a public comment as well.

7
8 That leads us to kind of the next steps for that effort, and we
9 will decide either to, you know, reject the petition or proceed
10 with rulemaking. If we reject, we'll send the petitioners a
11 letter notifying them of the reasoning behind that decision.
12 Alternatively, if we decide to initiate rulemaking, we'll notify
13 the petitioners, and we'll publish a notice of our decision in
14 the Federal Register. That would then open up another public
15 comment period on the proposed rule at that time.

16
17 Currently, we don't have a timeline for when we'll make a
18 decision on this. We're working under the Administrative
19 Procedures Act here, which has the standard is a reasonable
20 amount of time, and so there's no given timeline that we're
21 working under right now, and we're trying to work on it as we
22 work on other priorities, like the critical habitat designation
23 for this species.

24
25 Alternatively, critical habitat is a requirement under the ESA,
26 and so, you know, that's something we have to do, whereas the
27 vessel speed petition is just a petition that we received, and
28 so there's a little difference there, and I hope that clarifies
29 your question.

30
31 **MR. WALKER:** Yes, and I wasn't here in June, but could you
32 explain -- So the critical habitat is 28,000 square miles, give
33 or take, and would this just flow right into critical habitat,
34 and we have a vessel restriction for 28,000 square miles, or
35 what is the area that the vessel speed restrictions sought
36 originally?

37
38 **MR. BAYSINGER:** Sure, and that was that black outlined area, the
39 gummy bear in the Gulf of Mexico there in Florida and Alabama.
40 That was the area that the petitioners requested the speed
41 restrictions and vessel-related measures. That's a separate
42 effort than critical habitat, and we do not have to take that
43 area as the petitioners defined it. You know, we take all this
44 information that we're still going through, and the 75,000
45 public comments, and we take that into consideration in making
46 our decision, and it's not an all-or-nothing. It's, you know,
47 what do we think, based on the best information out there.

48

1 **MR. WALKER:** Thank you.
2
3 **CHAIRMAN SWEETMAN:** To that point?
4
5 **DR. JOHN FROESCHKE:** Yes, and, as a follow-up, now that you've
6 released the critical habitat, is it possible that they would
7 amend their request, and it just seems odd that they would only
8 want part of the area designated in this way.
9
10 **MR. BAYSINGER:** That's a good question, and so quite a bit has
11 changed since they petitioned us back in 2020, like I said, and
12 there's been a lot of new information learned, and that's what
13 we've used to designate this area we're proposing now for
14 critical habitat, and so it's completely possible that they
15 will, in fact, have submitted a public comment seeking a larger
16 area, based on this new data, but we're still early in the
17 process of sorting through these public comments. There was
18 quite a few, and we weren't anticipating that many, and so we're
19 coming up with a process of how to, you know, put them into
20 different buckets and then sort them and synthesize them.
21
22 **CHAIRMAN SWEETMAN:** Ms. Boggs.
23
24 **MS. BOGGS:** Thank you, Dr. Baysinger, for being here, and
25 Captain Walker asked one of my questions, but, in your
26 presentation on the critical habitat designation, and I know we
27 deal with the fisheries, and all of this is the impact to the
28 fisheries, but are there other impacts that we're not seeing
29 here that might be of interest to us, to other industries maybe?
30
31 **MR. BAYSINGER:** I think kind of the two things that we were
32 thinking, you know, as far as fisheries are concerned, that may
33 be of interest to you are, like I mentioned, the bycatch of prey
34 that's important to the whale, and then I think, with that
35 attribute that includes sound, you know, that would just be
36 vessel noise associated, potentially, with fishing operations.
37
38 **MS. BOGGS:** But are there other industries, and maybe that's a
39 better way to say it, that are going to be affected by this
40 critical habitat designation, and the reason I ask, and I
41 mentioned it earlier today, is sometimes we make decisions, and
42 we base it on this, and we should have known this, and I know
43 this isn't a decision, and you're just giving us an update, but
44 it may be something that we want to comment to, again, another
45 unintended consequence that no one thought about, and so that's
46 why I'm asking. This seems to be directed to the fisheries, and
47 so is there other industries that is going to be affected by
48 this?

1
2 **MR. BAYSINGER:** Sure, and other industries that would be
3 potentially consulting with NMFS on Section 7 actions, you know,
4 federal agencies, are the oil and gas industry, for example, and
5 the Navy has had comments, and shipping potentially has
6 comments, and those would be the big kind of players and
7 stakeholders involved in this.

8
9 **MS. BOGGS:** Okay. Shipping. What impact is this going to have
10 on shipping? That's what I am trying to get to. I understand
11 there's other industry, and I am just trying to find out what
12 are those impacts, because, again, it may be something that
13 would be impactful to us that maybe we didn't foresee, and I'm
14 sorry that I'm being pushy, but I'm trying to -- I mean, I think
15 we need to understand the whole designation and not just what's
16 it going to do to us, because, again, we might find ourselves
17 in, well, if we had known that, we might have made comment not
18 to do that, or made a suggestion.

19
20 **MR. BAYSINGER:** Sure, and we don't expect it to have any other
21 than incremental impacts of conducting an additional Section 7
22 consultation beyond what we already do for the whale, and so
23 we're not anticipating impacts beyond that. I think that's the
24 best that I can do to answer that right now, if that's helpful.

25
26 **CHAIRMAN SWEETMAN:** Mara, to that point?

27
28 **MS. MARA LEVY:** Maybe to explain it a little differently, and so
29 the idea is that a federal agency has an action that may affect
30 the species, right, and then they have to do a consultation, and
31 so I think what we're saying here is that you would then need to
32 add onto those, potentially, consultation with respect to the
33 critical habitat, but, as I understand what you said, the agency
34 doesn't really expect to propose any modifications to proposed
35 actions, right, based on the additional consultation for
36 critical habitat, and so the burden is really on the agency,
37 right, and it's a funding and a time burden on the agencies to
38 do the consultation, but NMFS doesn't expect that they would
39 have to change their funding, permitting, or anything like that,
40 right, but they have to consult on the effects of their action,
41 and does that help?

42
43 **MR. BAYSINGER:** Yes, that's right, and thanks, Mara. We don't
44 expect any additional modifications.

45
46 **CHAIRMAN SWEETMAN:** Okay. Are we clear? Okay. Dr. Walter.

47
48 **DR. WALTER:** I just want to highlight that the science that went

1 into this -- While we say we don't know that much about this, we
2 actually know a fair bit, and this could have been a whole lot
3 larger critical habitat area, but for the science that's
4 actually informing it to the 100 to 400-meter contour.

5
6 As you can see, that's actually pretty precise, and it's based
7 on some pretty sound data, a number of studies of both the prey,
8 observations of the animal, and some long-term studies, using
9 the GOMAPS data, to provide the habitat modeling, and that has
10 really allowed us to do fairly precision critical habitat
11 siting, and I just wanted to highlight how much worse for a
12 forty-foot whale, where, absent that information, we could have
13 said that it could have been anywhere in the Gulf, but,
14 actually, this animal is confined to a pretty narrow area, and I
15 think that -- While it looks large, it's quite narrow in a lot
16 of areas, and I think, in terms of its potential impact, it's
17 far less than what the effect could be if we didn't have that
18 information, and I think that's been key information, both in
19 siting offshore wind as well as any of the activity that we're
20 going to do in the marine environment, and so I think we do have
21 to say the science is helping us there, and it's the value of
22 that information for us. Thanks.

23
24 **CHAIRMAN SWEETMAN:** J.D.

25
26 **MR. J.D. DUGAS:** Thank you, Mr. Chair. Thank you for your
27 presentation. Two questions. I am trying to recall our last
28 meeting, and the number, in my mind, is thirty-three whales were
29 spotted in the Gulf, and maybe now it's fifty-one, and I am lost
30 there. Could you help me with that number? Then, number two,
31 whichever number it is, is there even a possibility of
32 rebuilding the stock?

33
34 **MR. BAYSINGER:** The best number we have right now is fifty-one
35 whales. I think that answers your first question, and then the
36 next question kind of gets a little -- I am going to go off a
37 little here, and so we have not yet come up with a recovery plan
38 for the species, and that's another effort that we have to work
39 on, moving forward. Like I said, we're under a lawsuit here to
40 designate critical habitat, but we're also concurrently working
41 on a recovery plan for the species, and so we don't yet know
42 what that looks like for the whale, and so I think it's a little
43 too early to answer your second question there, but John may
44 have something that he wants to add to that.

45
46 **CHAIRMAN SWEETMAN:** To that point, John?

47
48 **DR. FROESCHKE:** I mean, is there any evidence to suggest that

1 it's depleted relative to historical levels, or is it possible
2 that the population size has always been critically small, given
3 that narrow habitat that they occupy?
4

5 **MR. BAYSINGER:** I think that's information that we'll need to be
6 reviewing during the recovery planning efforts, moving forward,
7 and it's just too early right now to tell.
8

9 **CHAIRMAN SWEETMAN:** Captain Walker.
10

11 **MR. WALKER:** To John's comments about it could have been a much
12 bigger area, I just was in San Diego on a fishing trip, and
13 there were eighty or a hundred guys in all manner of tuna
14 fishing boats in an area, and there were aircraft carriers, and
15 there were submarines, and there were helicopters, and there's
16 whales all over the place, some of them endangered, like blue
17 whales, and Risso's dolphins, and everything -- To my knowledge,
18 there were no negative interactions, and all of this is allowed
19 to take place in the same area, with, I'm sure, certain
20 reasonable restrictions.
21

22 Commerce continues, and feasible boating continues, and access
23 to offshore fisheries that, at ten miles an hour, are not going
24 to be effective anymore, and so, you know, it seemed, to me,
25 that you can do your duty to protect the endangered species
26 while not essentially eliminating offshore fishing and commerce
27 in that part of the Gulf of Mexico.
28

29 **CHAIRMAN SWEETMAN:** Go ahead, Mara.
30

31 **MS. LEVY:** Well, so, just to reiterate, that's not what
32 designating critical habitat would do, right, and designating
33 critical habitat does not automatically eliminate anything, and
34 what it really does is it puts a consultation burden on federal
35 agencies that are proposing actions that may affect that
36 critical habitat, but then that's a consultation requirement,
37 right, and, under very limited circumstances -- If there is
38 going to be, you know, adverse modification or destruction of
39 the critical habitat, then there might need to be modifications
40 to those proposed actions.
41

42 As Grant stated, and the rule states, the agency doesn't
43 anticipate that anything will rise to the level of requiring
44 modifications, and so the only adverse -- I'm going to call them
45 adverse effects, but economic effects that they're expecting are
46 the effects from the additional resources needed to conduct the
47 consultations.
48

1 I mean, I just want to make really clear that designating the
2 habitat doesn't automatically eliminate anything anywhere,
3 essentially, but, here especially, the agency is not
4 anticipating that that would happen.

5

6 **CHAIRMAN SWEETMAN:** Go ahead, Captain Walker.

7

8 **MR. WALKER:** So, through that, that's why I asked my original
9 question of what are the chances that the speed zone gets
10 incorporated directly into the habitat zone, and that's my fear,
11 and I can tell you the fear of many fishermen in the Gulf of
12 Mexico, that these two are going to be lumped together. I
13 understand what you're saying, but that's just what I'm asking.

14

15 **CHAIRMAN SWEETMAN:** To that point, I think the council provided
16 comments on specifically the slow speed zone that everyone is
17 really talking about here, for the most part, and I think, you
18 know, if the agency decides to move forward on something like
19 that, which is not within this process here, and I just want to
20 make that clear, that designating critical habitat is a standard
21 process for an endangered species here, and that does not mean
22 that they're going to push forward with what the previous
23 petition was, or that they'll even more forward at all with
24 that.

25

26 Theoretically, they could, if they ultimately decided to choose
27 that, and, at that time, that's probably when we would probably
28 address that particular instance a little bit more closely here.
29 Okay. Ms. Boggs.

30

31 **MS. BOGGS:** Thank you, Dr. Sweetman, and, Dr. Froeschke touched
32 on -- He said it probably a lot more eloquently than I'm going
33 to, but, in 2019, the Bryde's whale was listed as endangered,
34 and then, a year later, you say, no, this species incorporated
35 with the Bryde's whale, and so I guess my question would be is
36 how long has the Bryde's whale been out there, and we haven't
37 had any issues, and then, all of a sudden, oh, this is a new --
38 It just seems like we've got this abrupt identification of the
39 species, and now the whole world has got to stop, and, I mean,
40 I'm not -- I don't want the last whale to die, okay, but it just
41 seems like, for years -- Well, of course, we didn't hear about
42 the Bryde's whale until a few years ago, and I didn't know it
43 existed, and maybe other people at the table did, and now we're
44 saying, okay, well, now we're going to carve that down and make
45 it smaller, and so are we going to come back in two years and
46 say, oh, well, the Rice's whale is a subset of this, and, I
47 mean, it just seems like we keep dwindling these species down.

48

1 **MR. BAYSINGER:** Sure, and thanks for the question. I think, you
2 know, a lot has been learned about this species since the
3 Deepwater Horizon oil spill. That's really where funding came
4 about to go do research on this whale. It was one of the most
5 impacted whales due to the Deepwater Horizon oil spill. You
6 know, it takes years to collect data.

7
8 **MS. BOGGS:** I am going to clarify. The Bryde's whale or the
9 Rice's whale?

10
11 **MR. BAYSINGER:** The Gulf of Mexico Bryde's whale at the time,
12 and so, in 2010, the oil spill happens, and we start, you know,
13 researching the whale and collecting data on it. We realized
14 that the Gulf of Mexico Bryde's whale should be listed as
15 endangered. That then listing it as endangered opens it up to
16 more, you know, research and wanting to learn more about the
17 species, and so that, really, I think was the impetus to learn
18 more about it, and that gave us some funding opportunities to
19 collect the biopsy samples, and the fish samples, to do stable
20 isotope analysis.

21
22 That data then that we learned, kind of between 2019 and 2020
23 and 2021, is really what led us to realize that, hey, this
24 stable isotope analysis shows that this is in fact a separate
25 whale species, and so that's what brought it about.

26
27 **MS. BOGGS:** I am trying to get a lesson now, and so I apologize,
28 and so are the Bryde's whale and the Rice's whale so identical
29 that you have to do a genetic test to tell them apart?

30
31 **MR. BAYSINGER:** So Bryde's whales are found worldwide. They are
32 a larger group of whale. They are very close, in morphology and
33 taxonomy, which is what led to that paper in 2020, and it's very
34 difficult to identify them in the wild, and we don't have many
35 examples of it, and, like I said, getting a photo of their
36 rostrum is very difficult in the open ocean.

37
38 The other thing that brought more data was that, in 2019, after
39 we listed it as endangered, we had a stranding down in the
40 Florida Everglades, which provided the first full stranding
41 sample that we had, which is, later in the year, going to be
42 shown at the Smithsonian, and that was the whale that allowed us
43 to identify the morphology, and so, really, after that April
44 2019 designation, we learned quite a bit.

45
46 **CHAIRMAN SWEETMAN:** Okay. I have -- Mara, one second, and then
47 I will go to you. This is a proposed rule, and I will ask the
48 committee, and do we want to write a comment letter specifically

1 for this designation of critical habitat here? Mara, I will go
2 over to you, while we think about that.

3
4 **MS. LEVY:** Well, just to -- Grant, you can correct me if I'm
5 wrong, but just Bryde's whale, worldwide, and Gulf of Mexico
6 Bryde's whale subspecies, in the Gulf of Mexico only, that's
7 what was listed. Then, come to find out, it's really not a
8 subspecies of Bryde's whale, and it's its own species, Rice's
9 whale, and so the name changed, but that Gulf of Mexico
10 population -- It's the same thing. Gulf of Mexico Bryde's whale
11 and Rice's whale are equal. They're exactly the same.

12
13 **CHAIRMAN SWEETMAN:** Go ahead, Ms. Boggs.

14
15 **MS. BOGGS:** So you're telling me that the Gulf of Mexico Bryde's
16 whale was misidentified and it's the Rice's whale, and so it's
17 not two different -- Okay.

18
19 **CHAIRMAN SWEETMAN:** Dr. Frazer.

20
21 **DR. TOM FRAZER:** So I'm just trying to reconstruct some history
22 here, and so, I mean, it was heavily -- The Rice's whale was
23 heavily impacted, presumably, by the oil spill, right, and so
24 first a couple of questions, and so what was the magnitude of
25 the --

26
27 **MR. BAYSINGER:** Off the top of my head, I think 22 percent of
28 the population was estimated to be impacted during the spill.

29
30 **DR. FRAZER:** So 22 percent, and so ten whales or so, and so then
31 I guess my other question is -- I am not trying to be critical,
32 and I am just trying to wrap my head around critical habitat,
33 essential habitat, habitat that is occupied and supports a
34 population, right, and so does the area where you've currently
35 delineated -- Where were those 22 percent of the animals -- Were
36 they killed in that area, is what I'm getting to, and that's my
37 first question.

38
39 **MR. BAYSINGER:** Yes, and so they would have been in the area
40 where the spill occurred.

41
42 **DR. FRAZER:** Okay, and so then, historically, we know that the
43 previously-recognized Bryde's whale, right, which is now Rice's
44 whale, occupied a much broader area, and presumably the
45 population was a little larger, or maybe a lot larger, and I
46 don't know, right, but I guess what I'm asking, and I'm trying
47 to think about critically and objectively, is do we have a bit
48 of survivor bias in our remnant population, right, and what I'm

1 saying is that those animals that are here now -- That they're
2 not occupying the full suite of the habitat, right, that they
3 might have enjoyed historically, presumably, or potentially,
4 because the threats in the other parts of the unoccupied areas
5 are much worse.

6
7 I am just trying to -- I want to start thinking about whales,
8 and they're not a species, or it's not a group of animals, that
9 I typically work with, but these are the types of questions that
10 I would be asking myself.

11
12 **MR. BAYSINGER:** Sure, and so the -- In that definition of
13 critical habitat, it says in there that occupied at the time of
14 listing, and so our critical habitat designation here is what we
15 believe the whales occupied at the time of listing. That said,
16 we didn't have, you know, all the data we've since collected,
17 but we do have historic whaling records, going back to the 1800s
18 and things, that have examples of whales that we believe to now
19 be Rice's whales, and then there's a 2017 sighting where we did
20 collect a biopsy sample off of Corpus Christi, and then the
21 acoustic recordings in the past few years that we've collected
22 in the Flower Gardens and those areas, and so we do believe that
23 this occupied area that the whale inhabits.

24
25 **DR. FRAZER:** I guess that's my point, is it's occupied area, but
26 I guess I'm trying to figure out is it essential or critical,
27 right, and, I mean, the other parts of the Gulf of Mexico
28 conceivably are suitable, right, but there are other threats,
29 potentially, in that part of the world that makes their
30 existence more difficult, right?

31
32 **MR. BAYSINGER:** Sure, and, in our 2019 listing of the species,
33 we mentioned that, that, you know, there's a lot of threats out
34 there, like oil and gas, vessel strikes, these kind of things,
35 that may have, you know, curtailed their range, as we see it
36 now, but we believe they can still occupy those areas, and they
37 still use them, and I think the data on the acoustic recorders
38 finds that, over 16 percent of days out in the western Gulf, the
39 whales were present and calling.

40
41 **DR. FRAZER:** I appreciate that, and I'm just trying to learn a
42 little bit more about whales.

43
44 **CHAIRMAN SWEETMAN:** Okay. We've had a lot of good discussion
45 here on this topic, and so I guess I will pose it to the
46 committee. You know, given what we've talked about here, is
47 there a desire to write a comment letter about this particular
48 proposed rule?

1
2 My thought is maybe no, but, having heard what everyone said
3 about, you know, concerns about how this critical habitat
4 designation and future impacts on potential, maybe, proposed
5 vessel slow speed zones, and I'm considerate of that, from what
6 the committee has been talking about here, and so I guess I will
7 pose the question to the committee, if this is something that
8 the committee wants the council to write a letter about. Ms.
9 Boggs.

10
11 **MS. BOGGS:** I have a question about that. I don't know what we
12 can comment to, other than we just say we don't like it, because
13 I think the speed zones and all of that, as I read it, would be
14 considered in another action. I mean, looking at this, and
15 reading it, and I did read it, and, I mean, it doesn't seem like
16 it's really impactful, the way it is, and so my question would
17 be -- I think if there's something to comment to, I would say
18 yes, but I'm not sure what it would be that we would comment to.

19
20 **CHAIRMAN SWEETMAN:** I'm in agreement with you, Susan. I believe
21 it would be simply based on the science that has been conducted
22 in order to evaluate this critical habitat that has been
23 designated as a proposed rule, and so, from my perspective, and,
24 Mr. Baysinger, feel free to correct me, that would be probably
25 the lane that we would operate, in terms of a comment letter,
26 along those lines.

27
28 **MS. BOGGS:** I think we wait and see what Full Council says. I
29 mean, I was confused on the whale itself until just now, and so
30 --

31
32 **MR. BAYSINGER:** I don't know if it's helpful to pull up that
33 slide with kind of what we're looking for in the comments, but,
34 yes, I think your point as well, that, you know, the science,
35 the area we've chosen, the depths, the range, the essential
36 feature components, that any of those things would be open for
37 comment.

38
39 **CHAIRMAN SWEETMAN:** That would be great. Bernie, if we could
40 potentially pull that slide up, where it was asking about
41 specifically what is being looked at in the comments, and then
42 Mr. Dugas.

43
44 **MR. DUGAS:** Thank you, Mr. Chair. Just a comment, and it may be
45 best to wait until Full Council. That way, it's not on this
46 committee, you know, if they have some suggestions.

47
48 **CHAIRMAN SWEETMAN:** Okay. That sounds good to me. We can

1 certainly hold off on further discussions for Full Council.
2 Okay. Slide 12 is what it would be for that. There's a lot in
3 there, and so, in the sake of time, maybe committee members, and
4 council members, can look at that separately, and then perhaps
5 we can move on to the next topic here, unless there's other
6 further discussion. Mr. Geeslin.

7
8 **MR. DAKUS GEESLIN:** Thanks, Dr. Sweetman. Just one last
9 question. Activities that are currently ongoing in this area,
10 are they also -- Are they required to get incidental take
11 permits for their activities that may harass, harm, cause the
12 whales to move in a --

13
14 **CHAIRMAN SWEETMAN:** Yes, they would, but that's under the
15 species requirements, separate from the critical habitat. Ms.
16 Boggs.

17
18 **MS. BOGGS:** I want to ask this question, so that I can be
19 pondering it between now and Full Council, but I believe it's
20 the third bullet item, specific probable benefits and impacts
21 stemming from this designation, and, Grant, can you give us some
22 probable benefits? I mean, this is just probable benefits to
23 the whale, I'm guessing, and not to anyone else, and, if that's
24 answer -- I mean, if that's the question, I know the answer, and
25 I just -- I guess, the way it reads, I'm --

26
27 **MR. BAYSINGER:** Some of the examples of benefits would be like
28 states wanting to promote conservation of this whale and say,
29 you know, here's the critical habitat area, and you can learn
30 more about this whale that's in your backyard, and what can you
31 do to help, and those kinds of things.

32
33 **MS. BOGGS:** We can promote whaling trips, right?

34
35 **MR. BAYSINGER:** Potentially, yes.

36
37 **CHAIRMAN SWEETMAN:** Okay. Thank you very much for your time,
38 Mr. Baysinger. I really appreciate the information and the
39 presentation and for staying around for questions. All right.
40 We're going to move on to the next agenda item, and I will turn
41 it over to Dr. Diagne for describing the action guide and next
42 steps here.

43
44 **SSC RECOMMENDATIONS ON DISCUSSION ON MRIP CUMULATIVE ESTIMATE**
45 **REPORTING**

46
47 **DR. DIAGNE:** All right, Mr. Chair. The next item on the agenda
48 is SSC Recommendations on the Discussion on MRIP Cumulative

1 Estimate Reporting. For this agenda item, Dr. Jim Nance will
2 present the SSC's discussions regarding MRIP's transition to
3 cumulative and fishing year reporting, which is currently
4 implemented and can be queried under NOAA's Office of Science
5 and Technology's website.

6
7 Specific recreational landing data may still be requested from
8 NOAA OST, but will no longer be made immediately available to
9 the public. The committee should consider the information
10 presented and make recommendations, as appropriate. Dr. Nance.

11
12 **CHAIRMAN SWEETMAN:** Dr. Nance, it's all you.

13
14 **DR. JIM NANCE:** Thank you, and, as you see on the agenda for
15 this committee, I have three different presentations, and, Mr.
16 Chair, if it's okay, I will do each presentation with a pause at
17 the end, and we can have questions and then go on to the next
18 one.

19
20 **CHAIRMAN SWEETMAN:** Sounds great.

21
22 **DR. NANCE:** Okay. Thank you. This first presentation is a
23 discussion on the MRIP cumulative estimate reporting, and we had
24 our meeting in September, and so this relates to that meeting
25 that we had, but we had a presentation from Dr. Cody, from the
26 Office of Science and Technology, and he outlined the cumulative
27 approach to reporting private recreational landing estimates.

28
29 To align with standardized best practices, the Office of Science
30 and Technology is cumulatively adding landings data every two
31 months to improve estimate precision. This will result in an
32 annual, or fishing-year-only, estimate that is presented. Wave-
33 specific recreational landings data may still be requested from
34 the Office of Science and Technology, but will no longer be
35 immediately available to the public.

36
37 At the end of that presentation, the SSC noted that masking the
38 imprecise estimates by aggregating landings was not an optimal
39 approach. The SSC encouraged the Office of Science and
40 Technology to investigate how the MRIP survey design may be
41 contributing to the uncertainty of the estimates.

42
43 The SSC certainly supported the Office of Science and
44 Technology's proposed next step to work with the Southeast
45 Fisheries Science Center and the Southeast Regional Office staff
46 to develop a protocol for addressing survey outliers. Dr. Cody
47 indicated that the Gulf state agencies have expressed interest
48 in helping review situations where outliers were identified.

1 Mr. Chair, that ends that presentation on that topic.
2
3 **CHAIRMAN SWEETMAN:** Thank you, Dr. Nance. Any questions for Dr.
4 Nance? Mr. Gill.
5
6 **MR. GILL:** Thank you, Mr. Chairman, and thank you, Dr. Nance,
7 and I'm not sure that my question is for you, but it may be for
8 Evan, and it confuses me as to why we would go from bimonthly
9 data being available to a different approach, and it's not
10 available anymore, even on a cumulative basis, and it seems a
11 whole lot less transparent, and I guess I don't understand why
12 this information could not still be available cumulatively on a
13 bimonthly basis.
14
15 **CHAIRMAN SWEETMAN:** Was that directed to Dr. Nance or to someone
16 from NMFS?
17
18 **MR. GILL:** Well, if Jim can answer it, that's great. If not, I
19 would address it to Evan.
20
21 **DR. NANCE:** Certainly, during our discussion with Richard, we
22 talked about that very issue, and what they're trying to do, as
23 he outlined, is align with their standardized best practices,
24 they're cumulatively adding these data together to get this
25 annual summary. The data won't be available on the website as
26 it is right now, in a monthly fashion, but certainly it's
27 available if you request it, and so that monthly data will still
28 be there if requested, but it will be presented as a cumulative
29 for the entire year.
30
31 **CHAIRMAN SWEETMAN:** General Spraggins.
32
33 **GENERAL JOE SPRAGGINS:** Dr. Nance, just looking at the part
34 where you talk about the states, you know, wanting to help you
35 with the outliers, can you give any kind of an idea of what
36 we're talking about with the outliers? I know, in Mississippi,
37 we've looked at a lot of things, like the number of days, where
38 you're open for two days and you get counted the whole two
39 months for it, and that type of stuff, and is that the same
40 thing?
41
42 **DR. NANCE:** It is, General. It's the fact that there are those
43 spikes that we see, and we're trying to get a handle on why
44 those are appearing and what we can do and those types of
45 things. Sometimes it's we have very few data points, and
46 sometimes there's a lot of data points, and so we want to see
47 what's causing that spike in the data, and so I think certainly
48 each state is interested in those, and, as I've said, the states

1 are interested in working with the Office of Science and
2 Technology to identify those and work in helping to understand
3 them.

4

5 **CHAIRMAN SWEETMAN:** Go ahead, General.

6

7 **GENERAL SPRAGGINS:** Do you have a timeframe that you all are
8 looking at?

9

10 **DR. NANCE:** What he was talking about -- He just said that the
11 states were interested in working with that office in
12 identifying those outliers and being able to work forward with
13 those, and there wasn't any timeframe that was given
14 specifically.

15

16 **CHAIRMAN SWEETMAN:** Just for an example for how that has worked
17 with the State of Florida in the past, there was one year where
18 there was what we would call, with the State Reef Fish Survey,
19 an anomalous weight, an average weight of red snapper, versus
20 what the State Reef Fish Survey told us, and we were able to
21 work with OST, John Foster and people along those lines, and we
22 were able to work to something that everyone was agreeable to,
23 and so that was kind of a nice process, even though there was
24 differing opinions, or perspectives, on what the data was
25 showing, but to actually work through a process and deal with
26 these outliers.

27

28 **GENERAL SPRAGGINS:** Yes, and it's the same -- I mean, I don't
29 want to keep bringing up the subject, but, as Dale has talked
30 about several time here, you know, about Mississippi, and, if
31 you go back and look at a couple of years there, we were only
32 open like two days in September, which cost us a tremendous
33 amount, and, if the numbers had -- If those days had been
34 counted as just the numbers that they should have been, then the
35 Mississippi quota would have been a whole lot different.

36

37 **CHAIRMAN SWEETMAN:** Okay. Any other questions for Dr. Nance on
38 this particular topic? Seeing none, Dr. Diagne, maybe we can
39 move on to the action guide for the next presentation from Dr.
40 Nance here.

41

42 **SSC RECOMMENDATIONS ON TECHNICAL GUIDANCE FOR NATIONAL STANDARD**
43 **1 REFERENCE POINTS AND STATUS DETERMINATIONS AND JULY 2023 SSC**
44 **SUMMARY REPORT**

45

46 **DR. DIAGNE:** Yes, Mr. Chair. Thank you. The next item on the
47 agenda is SSC Recommendations on Technical Guidance for National
48 Standard 1 Reference Points and Status Determinations. Dr.

1 Nance will summarize the SSC's discussion on updated technical
2 guidance from NOAA for National Standard 1 on reference points
3 and stock status determinations under the Magnuson-Stevens Act.
4

5 Dr. Nance will review some of the approaches recommended by NOAA
6 and discuss pros and cons of alternatives where definitive
7 advice is not available or feasible. The committee should
8 consider the information presented and make any recommendations,
9 as appropriate. Thank you.

10
11 **CHAIRMAN SWEETMAN:** Dr. Nance.

12
13 **DR. NANCE:** Thank you. As was mentioned, we had Dr. Rick
14 Methot, who was there virtually to present this, and we had
15 technical guidance on National Standard 1 reference points and
16 status determination, and that's a report that has come out that
17 we're looking at, which kind of updates the old report, and I
18 think it's about twenty-five years old now, that we have as some
19 of our reference.
20

21 Dr. Rick Methot provided updated technical guidance for National
22 Standard 1, with regard to reference point and stock status
23 determination, and, obviously, there has been substantial
24 research, over the past twenty-five years, on the scientific
25 basis for reference points and their performance during stock
26 assessment implementation.
27

28 Some of those research efforts included methods regarding
29 management strategy evaluation, the evolution of integrated
30 analysis assessment methods, developments of methods to advise
31 data-limited stocks, the development of additional ecosystem-
32 based fishery management tools, and, lastly, investigation of
33 changes in productivity due to regime shifts and climate change,
34 and all of those have been research efforts over the last
35 twenty-five years.
36

37 We had a pretty good discussion at the end of his presentation,
38 and one of the items we discussed was the discussion about
39 setting catch advice for stocks where recent recruitment had
40 been observed to decline, which pointed to a possible regime
41 shift.
42

43 It's important to remember that determination of a regime shift,
44 based on a few years of recent recruitment, should be approached
45 cautiously, because, once there is a decreased shift in a
46 biomass benchmark, the stock may present a robustness to current
47 fishing levels that is not in fact sustainable. Dr. Methot,
48 during that discussion, recommended focusing on long-term

1 effects when considering a possible regime shift.

2
3 We also had a discussion about consideration of percent SPR
4 values, and, during that discussion, Dr. Methot stated that,
5 while an MSE approach could help to address this issue, they
6 tend to be broad and not focused on reference points. We also
7 highlighted the difficulty in separating the effects on the
8 reference points and on management targets.

9
10 Similarly, he noted that there are challenges when considering
11 only biological yields of the stock with OY, which incorporates
12 ecosystem, social, and economic values. Mr. Chair, that is the
13 end of that presentation.

14
15 **CHAIRMAN SWEETMAN:** Okay. Thank you, Dr. Nance. Any questions
16 for Dr. Nance on technical guidance for National Standard 1
17 reference points and status determination? Seeing none -- Dr.
18 Simmons.

19
20 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** Thank you, Mr. Chair, and so
21 we just briefly talked about this, and I missed this section of
22 the SSC discussion on the technical memo, and so this was
23 presented to the Council Coordination Committee in May, and I
24 think most councils will probably submit a comment letter, and
25 so I guess this is another one that we need to think about
26 between now and Full Council, if that warrants a comment on
27 these particular items that the SSC discussed and brought up in
28 their report.

29
30 **DR. NANCE:** What the agency has done is really updated the
31 guidance for National Standard 1, and I think the Restrepo --
32 John, correct me if I'm wrong, but the Restrepo report probably
33 is the last entity for this, and so Victor Restrepo, that report
34 that we've all kind of used as a bible through time, and it was
35 the first one to talk about that, National Standard 1, and this
36 is an update to that, and so we looked at it, and these were the
37 comments that we had from that, and I think Dr. Methot did a
38 great job in reviewing some of that, and, Dr. Simmons, I can't
39 think of anything, from the SSC perspective, that we want to
40 highlight, but certainly I think it provides good guidance for
41 us going forward.

42
43 **CHAIRMAN SWEETMAN:** Peter.

44
45 **MR. PETER HOOD:** Could you call on Andy, please?

46
47 **CHAIRMAN SWEETMAN:** The name just went up, and you can't blame
48 me. Mr. Strelcheck.

1
2 **MR. ANDY STRELCHECK:** Thanks, Peter, for the assist. More of a
3 comment than a question for Dr. Nance. In the South Atlantic,
4 we've had a recent assessment completed for scamp, and one of
5 the issues that's arising is that overfishing is not occurring,
6 but recruitment is continuing to decline, and we may or may not
7 be able to estimate the timeframe for rebuilding, given what's
8 occurring with regard to recruitment.

9
10 Dr. Nance mentioned, obviously, with this presentation, about
11 this issue of a regime shift and how we address that when you
12 have changes in recruitment occurring. We are starting some
13 conversations, in the South Atlantic, with regard to dynamic
14 reference points, and that's a relatively new concept, but it's
15 something that's used in other areas, and, because it has direct
16 applications on the Gulf as well, we do want to bring the Gulf
17 SSC into conversations going forward, as that progresses with
18 the South Atlantic, and so I just wanted to give a heads-up on
19 this, that those discussions are starting, and, given the
20 falloff in recruitment we're seeing for some species, we want
21 to, obviously, make sure that we have consistent approaches if
22 we're going to change any sort of management advice going
23 forward.

24
25 **DR. NANCE:** Thank you, and I think that's very pertinent. As we
26 discussed, if you look at it as a regime shift, and then you set
27 a biomass benchmark that's lower, while it may be robust for
28 current fishing levels, it in fact may cause the stock to be --
29 That's something we need to look at as we look into the future
30 on what happens.

31
32 **CHAIRMAN SWEETMAN:** Okay. Dr. Simmons.

33
34 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair, and so, on
35 the regime shift, I think this came up when we were talking
36 about greater amberjack, and I believe we had a lot of
37 limitations, as far as having a fishery-independent recruitment
38 index, recruitment as in, you know, age-zero and age-one fish
39 and not recruitment to the fishery, but recruitment of the
40 larvae to a habitat.

41
42 I think there was a lot of questions about having a model-
43 derived recruitment, and the assumptions that were having to be
44 made about that, and so I don't know if there's anything that we
45 could do as we look forward with some of these IRA funds, to
46 maybe perhaps use this technical memo and think about some
47 additional analysis that we might do moving forward, but, when
48 those are model-derived, and we're making assumptions on

1 recruitment and other things, I think it's very difficult to
2 know if there's a real effect or if that's all being driven by
3 our fishery management changes, where we're ratcheting down the
4 fishing mortality so much that we don't know if it's actually
5 recruitment shift or it's just that we've changed the catches
6 and dynamics of the fishery so much.

7
8 **CHAIRMAN SWEETMAN:** Okay. Any other further questions or
9 comments? Seeing none, okay. Dr. Diagne, the next agenda item,
10 please, in the action guide.

11
12 **SSC RECOMMENDATIONS ON EVALUATION OF INTERIM ANALYSIS PROCESS**

13
14 **DR. DIAGNE:** For the third presentation that we will receive
15 from Dr. Nance, this is about SSC recommendations on the
16 evaluation of the interim analysis process. Dr. Nance will
17 review the SSC's discussions on the interim analysis process.

18
19 The SSC did begin this discussion in May of 2023, and, for the
20 latest iteration, for their last meeting, the Science Center
21 provided recommendations for consideration by the SSC. The
22 committee should consider the information presented and make
23 recommendations, as appropriate.

24
25 **CHAIRMAN SWEETMAN:** Back to you, Dr. Nance.

26
27 **DR. NANCE:** Thank you very much. This is -- We had a good, very
28 good, discussion, I think, on evaluation of the interim analysis
29 process, and I guess I'm my own worst enemy. Sometimes I stand
30 up here and I use the term "interim assessment", things like
31 that, and we, and I, need to be consistent in my language. This
32 is an interim analysis that provides interim advice between
33 assessments, and so I think that's what I will plan to use each
34 time, and I may foul up sometimes and say "interim assessment"
35 or something, but it's evaluation of the interim analysis
36 process.

37
38 We had Dr. Katie Siegfried give us an updated presentation on
39 the interim analysis process. With respect to using buffers, or
40 the numbers of years, to average an index, the Southeast
41 Fisheries Science Center recommends considering index noise and
42 the life history of a species before deciding on those things.
43 If stable catch is the goal, we need to choose longer averages
44 and larger buffers to be able to reach that goal. If quicker
45 response to change in episodic mortality is a management goal,
46 smaller buffers and shorter averages may be more nimble.

47
48 Dr. Siegfried noted the number of years a trend continues up or

1 down should be investigated, especially if a decline is
2 observed, to avoid an overfished condition. She added that the
3 level of conservationism should be considered, and it should
4 also consider whether the species is in a rebuilding plan.

5
6 When considering multiple indices for use in the interim
7 analysis, the Southeast Fisheries Science Center would ideally
8 like to test each index in an MSE to determine which is
9 appropriate, but that effort is resource intensive, for sure.
10 Dr. Siegfried indicated that OFL and ABC for a stock can be
11 updated in an interim analysis, assuming that FMSY, or its
12 proxy, is steady and that only the biomass has changed over
13 time.

14
15 The Southeast Fisheries Science Center is working towards
16 automating many of the interim analyses that we're currently
17 looking at, once the representative index is identified and the
18 analytical methodology has been set for that species.

19
20 Dr. Siegfried noted that fixing other parameters that normally
21 require more composition data, in other words selectivity and
22 retention -- When she asked about that, the SSC did not see an
23 issue with fixing those parameters to complete such an analysis,
24 but with the caveat that so long as the previous management
25 measures had not changed in such a way that the result about
26 those assumptions about those parameters may be violated. The
27 SSC thought this approach was more defensible for modifying
28 catch advice compared to the current interim analysis approach.

29
30 Some species may be well represented by a single index, while
31 others may require more information to be present before making
32 recommendations about catch limit modifications. We debated, at
33 our meeting, the future use of interim analyses against the need
34 for informing management advice and the availability of the
35 data.

36
37 If a health check, and sometimes we just say health check, but
38 that is an interim analysis without catch advice, and we just
39 say maybe interim analysis without catch advice, but, if a
40 health check is all that's required, then the SSC might consider
41 assessing changes in trend in the index, as opposed to a
42 complete interim analysis. If a trend is moving one way or
43 another, the SSC could advise the council on as much, and the
44 council could take proactive steps ahead of a stock assessment,
45 and that, Mr. Chair, ends that presentation.

46
47 **CHAIRMAN SWEETMAN:** Thank you, Dr. Nance. Interim analyses, any
48 questions for Dr. Nance? We've, obviously, talked --

1
2 **DR. NANCE:** I will add this, that they have been a valuable tool
3 for us, and sometimes we have several years between assessments,
4 but I think it gives us a good snapshot of what is happening,
5 and sometimes we need to look at what those are advising us to
6 do, but I think they have been a great tool.

7
8 **CHAIRMAN SWEETMAN:** Yes, and I totally agree with you, Dr.
9 Nance. Any questions for Dr. Nance along these lines? Mr.
10 Gill.

11
12 **MR. GILL:** Thank you, Mr. Chairman, and thank you, Dr. Nance,
13 and so one of the issues with trends is they're very sensitive
14 to what you choose as the time period that you're looking at.
15 In this discussion, did you have any discussion about that and
16 how you would determine what was reasonable and what was not?

17
18 **DR. NANCE:** We didn't have a discussion on that particular
19 point. As we'll see with mackerel in a couple of days, we see a
20 single point, and does that cause us to pause? We need to take
21 into fact the life history of the species and things like that,
22 and it's certainly something we're aware of. If we see that
23 trend, we need to look at this each year, and, if that trend
24 continues, then we may have to do something about that.

25
26 A single point, with all the variability around the data, causes
27 us to look at it, but it may not cause management advice to be
28 prudent at that time. If you see a long trend in that, if you
29 see a downward trend that stays down for several years, that's
30 something that is more appropriate to start to look at.

31
32 **CHAIRMAN SWEETMAN:** Ms. Boggs.

33
34 **MS. BOGGS:** I am going to ask a very deep question, and it may
35 have to be a sidebar, but I'm going to ask it while I'm thinking
36 about it. When we did -- I participated in one of the SEDAR
37 workshops for red snapper, and one of the biggest conversations
38 that came up was looking at the history, and I understand
39 history is relevant, and, when we sit here and we have
40 conversations about the different species, and I understood what
41 you just said, but I guess the question, to me, is there is no
42 standard, but it would seem, to me, like you would look at
43 trends back in history, right, if you had ups and downs, ebbs
44 and flows, and so, when you're dealing with a species in today's
45 world, with the climate and everything that we're experiencing,
46 it would seem, to me, like we would look at the -- I am just
47 picking a number out, but the past ten years, but, when we look
48 at different species, it's like, okay, we're going to use 1999

1 to 2015, and then it seems like, if we don't like that answer,
2 well, let's pick 2000 to --

3
4 That may be a side question, but I think it's important to have
5 that discussion, so we understand -- I understand, but I don't
6 understand, and it seems like we pick and choose what we want to
7 fit the needs that we want or the outcome that we want.

8
9 **DR. NANCE:** As I mentioned, I think in the very first part of
10 the presentation, if the goal is stable catch through time, then
11 we may want to look at a longer average, and maybe a larger
12 buffer around that. If our goal is changes quickly, then we
13 need to look at a shorter period of time. If we see three years
14 that are down, we may want to make management advice based on
15 those three years, as opposed to a ten-year average, and so I
16 guess it depends on the goal of management for that species.

17
18 **MS. BOGGS:** Thank you, and I heard all of that, but I guess now,
19 asking the question, you putting it into perspective helps.
20 Thank you.

21
22 **DR. NANCE:** You're welcome.

23
24 **CHAIRMAN SWEETMAN:** Mr. Anson.

25
26 **MR. KEVIN ANSON:** Thank you, Dr. Nance, for the information.
27 This question is for Dr. Walter, and it may have been addressed
28 by Dr. Porch in previous meetings, but there is the bullet in
29 here that the Science Center is working towards automating many
30 of the interim analyses, once a representative index is
31 identified, and an analytical method, and is that -- Is there an
32 ETA on that? Is that relatively high in the priorities? I know
33 a lot of things are coming at the Science Center, and you've got
34 your normal stuff to do, but I'm just curious as to when that
35 process might come to an end.

36
37 **DR. WALTER:** Process coming to the end, probably -- Well, we
38 didn't have anything to do, and we were pretty not busy, but
39 then something got on our agenda, and so that could occupy a
40 little time. We're working on it mostly on a species-by-
41 species, like as needed, and like mackerel was specifically
42 requested, and largely this is as it's asked for or as the need
43 arises.

44
45 In terms of automating a lot of the indices, that's what our
46 survey working group is doing, so that they can provide those
47 updates, whether they're used in interim or not, almost as soon
48 as they're available, and so we can actually publish those, and

1 so that's one of the automated processes, because our fishery-
2 independent indices should just be available for anyone as soon
3 as we get them done.

4
5 In terms of identifying some of that analytical method, which is
6 sort of the how responsive you make that, and there's a couple
7 of intricacies in that, that's kind of a thing that we would
8 like to be able to have the time to do the simulations, and
9 let's say do you build in a one-to-one correlation index, and
10 the ABC goes up, or do you build in some buffer that might have
11 some greater stability, so that you don't ride those ups and
12 downs as much, and that does require a little more simulation.

13
14 I could follow-up to that and make my point right now, while I
15 have the floor, and I think that, looking at the whole of what
16 was presented, the SSC was really exploring across the sort of
17 options for providing management advice, going from the NS 1
18 Guidelines, as we may wind up having to entertain and
19 specifically account for regime shifts, and there is a rubric
20 that the Klaer et al. paper has a set of criteria for when you
21 might declare a regime shift, and then how you might deal with
22 that within Magnuson, and the NS 1 Guidelines talk about
23 management reference points.

24
25 Then I think incorporating those, simulating testing them, in an
26 MSE, which might allow us, as we've talked about, trying to
27 better address things like optimal yield, which might be
28 something that this council might want to explore through the
29 fishery ecosystem ideas, and then another tool would just be the
30 interim approach is one tool for providing advice in between
31 stock assessments that is a little more adaptive, and I think
32 it's getting to the challenges we're facing with climate change
33 or the environmental variability that we're going to have to
34 bring different solutions to the table for different problems on
35 different time scales, but I think it's all good science that's
36 going into trying to address those things that we know we're
37 seeing on the water. Thanks.

38
39 **CHAIRMAN SWEETMAN:** Thank you, Dr. Walter. Okay. We're up
40 against the break here, but I've got Andy, and then I'm going to
41 try to wrap this discussion up.

42
43 **MR. STRELCHECK:** My hand is down.

44
45 **CHAIRMAN SWEETMAN:** Never mind. Peter, do you have something?

46
47 **MR. HOOD:** Sorry. That was my bad. I heard a ding on my
48 computer, and I thought it was Andy trying to get my attention.

1 Sort of in the vein of, you know, what are interim analyses, and
2 why should we care, I just wanted to mention that, through
3 interim analyses, we're going to be getting a lot of advice,
4 and, in some cases, it could be health checks, and, in other
5 cases, it's going to somehow change the ACL, and this is going
6 to be, I think, a key thing as you go on in your discussions
7 about regulatory streamlining, because these are one of these
8 things where we're going to get a recommendation, and then, you
9 know, we're going to want to get into the rulemaking phase as
10 quickly as we can and get something put in place.

11
12 I just, you know, ask you to sort of, you know, put a checkmark
13 by this idea, and, when we get to regulatory streamlining, you
14 know, kind of think about how the two can go together, because I
15 think it will be an important aspect to that topic. Thanks.

16
17 **CHAIRMAN SWEETMAN:** Okay. Last go-round for any questions or
18 comments for Dr. Nance here. Not seeing any, Dr. Nance, as
19 always, thank you for your leadership, and we appreciate your
20 time here.

21
22 **DR. NANCE:** Thank you all for having me, and I appreciate the
23 input.

24
25 **CHAIRMAN SWEETMAN:** I will turn it back over to Mr. Vice Chair.

26
27 **DR. FRAZER:** We will go ahead and take our scheduled fifteen-
28 minute break and come back at 3:20.

29
30 (Whereupon, a brief recess was taken.)

31
32 **CHAIRMAN SWEETMAN:** Okay, and so the next item that we have is
33 Agenda Item Number VIII, Presentation on Allocation Reviews.
34 Dr. Diagne will be giving that presentation, and so I will turn
35 it over to you for the action guide and then to just move
36 straight into the presentation, Dr. Diagne.

37
38 **PRESENTATION ON ALLOCATION REVIEWS**

39
40 **DR. DIAGNE:** Thank you, Mr. Chair. For this agenda item, we
41 will discuss allocation reviews and reallocation amendments.
42 Essentially, we'll talk about the decisions that you've made
43 recently, when it comes to reallocation, and we'll also look at
44 review timelines and discuss some upcoming, or expected,
45 reallocation actions, and we will also discuss the
46 interdependence between the red snapper allocation, and this
47 essentially shows linkages between those allocations.

48

1 The committee is expected to review the information presented,
2 make suggestions, and recommend next steps, as appropriate.
3 That is for the action guide, and so we'll switch to the
4 presentation.

5
6 For this introductory slide, we have, I guess, some reminders,
7 as well as some of the things that we are going to be talking
8 about today. The council did establish its allocation review
9 triggers, and the council expected then, following that, of
10 course, timelines for reviews, and you have start dates and so
11 forth, and we will talk about that, but one of the points that
12 the council did make, when the guidelines were approved, was to
13 say that we could initiate reviews at any point in time, as
14 needed, for example once the council receives new information.

15
16 Based on recent amendments that included allocation reviews
17 within those amendments, the council has either elected to do
18 nothing, meaning go with status quo, or has decided to change,
19 or modify, if you would, the allocation between sectors, and
20 we'll cover those cases. There is a pending, quote, unquote,
21 allocation review, for which we've done some preliminary work,
22 but we will discuss that.

23
24 The council recently, I mean in a previous council meeting,
25 approved a motion relative to look at a reallocation amendment
26 in particular, and we will also discuss that, and, as mentioned
27 early on, we will talk about the linkages, if you would, between
28 the three red snapper allocations that we have on the books.

29
30 This slide, I will just mention that it is here, just for
31 reference, to be sure that, when we say "fisheries allocations",
32 this is what we mean, and also make the distinction between an
33 allocation review and a reallocation amendment. The review is
34 just a preliminary look, and, depending on the decision that is
35 made there, the council would proceed and have a reallocation
36 amendment or not.

37
38 These are the initial allocation reviews, at least the starting
39 dates, that I mentioned early on, and the council did decide to
40 select various time intervals for different allocations and
41 different species, the first being that one in April of 2023,
42 which I am going to talk about in a second, and we have a series
43 of these, and we will see that some of the species, red snapper,
44 greater amberjack, to name two here, are in both, and it is
45 because, during today's presentation, those will come up, and
46 the council has made decisions, I mean in recent history,
47 relative to those species, and that's the reason why we
48 highlight them here to talk about.

1
2 We will start with the decisions that the council made in recent
3 history, and, first off, the reallocation amendments that were
4 developed and completed, either became effective or are in the
5 process, and the first one would be Reef Fish Amendment 63,
6 which looked at the allocation of resources between the
7 commercial and the recreational sectors for red grouper, and, of
8 course, these amendments did include other actions, but our
9 emphasis here is only on the reallocation, or allocation,
10 action, if you would.

11
12 For reference, we provide the current allocation, which is
13 allocation that Amendment 53 did implement, and also the
14 previous allocation, the allocation that was status quo before
15 Amendment 53, and one thing that I would highlight here is that,
16 in Amendment 53, we did move, quote, unquote, from MRFSS to FES,
17 and so perhaps I guess the previous discussion here would come
18 to mind when we consider this. Anyway, this has been done, and
19 the final rule was effective on June 1, 2022, and, based on our
20 calendar, the table that we just showed briefly, then, if you
21 add seven years to this, then presumably the next review should
22 be in June of 2029, following our schedule.

23
24 Similarly, Reef Fish Amendment 54 looked at the commercial and
25 recreational allocation for greater amberjack, and, for all of
26 these reallocation amendments, the allocation review, meaning
27 the first step, is fully included in the amendment, and some of
28 you may recall that, typically, when we discuss these
29 amendments, we highlight all of the relevant elements of the
30 review within the amendment, the social, economic, biological,
31 and ecological factors, as they would apply.

32
33 Again, here we have the current allocation implemented by Reef
34 Fish 54, as well as well the previous allocation that was in the
35 books, and here, again, this amendment, in 54, we did move from
36 MRFSS to MRIP-FES, in looking at the new allocation. I mean,
37 the years here changed also, but, in red grouper, it was
38 essentially the timing involved, but it was just different data
39 schemes.

40
41 The final rule was effective on July 17 of this year.
42 Therefore, if we add six years to that, then presumably the next
43 allocation review/amendment, if that's what the council decides
44 to do at the time, would be in 2029.

45
46 Reef Fish Amendment 56 is similar to the two that we just
47 discussed, in the sense that this amendment looked at the
48 allocation between the commercial and the recreational sector

1 for gag, and we have our status quo allocation, the previous
2 one, and, here, it is -- The current allocation that this
3 amendment will implement is called an expected allocation,
4 because, essentially, the final rule has not been published for
5 this. This amendment is in the process of rulemaking, and I
6 understand that NMFS is working on the proposed rule for this.

7
8 Assuming that the process goes to term, and then, essentially,
9 the amendment is approved, whenever the final rule becomes
10 effective, that date, plus seven years, should presumably be the
11 data for our following review/reallocation amendment.

12
13 We also have CMP Amendment 33, which looked at the recreational
14 and commercial allocation of the Gulf group king mackerel, and
15 the current allocation is given here for reference, but, in this
16 instance here, following the allocation review and the
17 consideration of a suite of alternatives, the council decided to
18 maintain, quote, status quo, if you would, and maintain the
19 allocation on the books. The motion that decided to maintain
20 status quo was approved in October of last year, and so,
21 therefore, according to our schedule, then the next allocation
22 review/amendment should be in 2028.

23
24 Now, in terms of allocation amendments and reviews under
25 development, we do currently have a joint amendment between us
26 and the South Atlantic, and that would be South Atlantic
27 Amendment 44 and Gulf Reef Fish 55, and this amendment would
28 look at an allocation review/reallocation for yellowtail
29 snapper, and this is, of course, an allocation between the two
30 councils.

31
32 We do have the current allocation as a reference here, and, for
33 the time being, what we could say, in terms of timeline, is that
34 this is an ongoing action. The IPT is meeting, and progress is
35 being made towards essentially further development of this
36 amendment.

37
38 We also have a reef fish amendment here that is in development,
39 and this follows, I guess, a recent stock assessment for scamp,
40 amongst other species, and this here would look at the
41 commercial and recreational allocation and allocation review for
42 other shallow-water grouper. We saw "other shallow-water
43 grouper" because we borrowed the term from, I guess, the IFQ
44 language, quote, unquote, because we have a category here that
45 is called other shallow-water grouper, or SWG for short, and the
46 acronym is the three letters.

47
48 We do have the current allocation here, in terms of timeline

1 also, what we could say is that this is an action in
2 development, and it is ongoing, and this is one of the actions,
3 I believe that, Mr. Rindone will be talking about during the
4 Reef Fish Committee.

5
6 In terms of allocation review, if we go back and look at the
7 schedule, meaning the timelines, the sector separation
8 allocation essentially, meaning the allocation of red snapper
9 between the private angling component and the federal for-hire
10 component, that allocation review -- The starting date is April
11 2023, and, obviously, we are a few months reviewed from that,
12 and we have started doing preliminary work, meaning thinking
13 about the data stream that would be used, what would be the
14 important social metrics and indices that would be available and
15 the like, but the future progress for this allocation review is
16 really conditional upon the availability of updated recreational
17 data for red snapper.

18
19 Obviously, we don't have that, as we are speaking right now, for
20 I guess a variety of reasons, but one of which being that there
21 is an ongoing red snapper data stock assessment going on, or a
22 red snapper stock assessment going on, and presumably there is
23 going to be a switch, and we need to know more about that.

24
25 Based on that stock assessment, the council may decide to
26 initiate an amendment to consider reallocation alternatives
27 already, as we've done in recent history, for example for red
28 grouper, greater amberjack, and gag.

29
30 In April of last year, the council did pass this motion to
31 direct staff to begin work on a plan amendment to look at the
32 allocation between the five states for red snapper, and we have
33 here, for reference, the current allocation, and one thing that
34 we have to remember is that the allocation between the five
35 states was the result of a negotiated agreement between the five
36 states, and so, to the extent that is how we arrived at the
37 existing allocation, it may seem that a similar process, or a
38 similar path, would be the one that would have the higher
39 likelihood of success going forward.

40
41 Before we finish, we wanted to just discuss this graph a little
42 bit and to look at, I guess, the linkages between the allocation
43 of the red snapper resources. Not only do we have an allocation
44 between the two sectors, the recreational and the commercial
45 sectors, but the recreational portion of the ACL is first
46 divided in two components, one for the private anglers and one
47 for the federal for-hire operators, and so that was, quote,
48 unquote, sector separation.

1
2 Then the private angling component of the ACL for red snapper is
3 subdivided into five portions, if you would, for the five Gulf
4 states, and that is the negotiated agreement that I just
5 mentioned, and so, essentially, I mean, to the extent that one
6 would want to know, quote, unquote, how much let's say a
7 particular group would get -- Now, to pick an example here, and
8 I guess we are in Texas right now, and so I will pick that as an
9 example, and so, if Texas wanted to know, let's say in absolute
10 poundage, how much is it that we are going to get when it comes
11 to red snapper, then everything upstream would have to be
12 defined before we get there.

13
14 That is not the same thing as a percentage, of course, and, I
15 mean, any given state would say, could say, well, I will get --
16 It may be 20 percent of the five angling components, but 20
17 percent of a million, versus I guess 20 percent of five, that
18 would be, I guess, you know, different, and so just to keep that
19 mind as you perhaps consider those allocations.

20
21 For red snapper, again, there is an ongoing stock assessment,
22 and the results of that assessment would presumably affect all
23 three of those allocations that we just talked about. For the
24 recreational sector, updated data streams would be expected for
25 the private angling component, as well as for the charter/for-
26 hire, and certainly data streams by states would be critical to
27 this, and those also we expect we'll have updated data streams
28 by the time the stock assessment gets completed.

29
30 The status of the stock, as well as the projections, and the
31 projections will give us, I guess, the ACLs, or at least
32 inclinations, following council action, and, based on that, the
33 different parties, or groups, would know how much their share is
34 going to be.

35
36 Some of the things that we don't know, at least, would be the
37 timeline for getting the assessment results, and then the
38 following let's say SSC review, and then the council's action
39 following that, and then, also, again, the council could decide
40 to essentially fold the allocation reviews into a reallocation
41 amendment, or several reallocation amendments, as the case may
42 be, for red snapper. I think this is my last slide. Yes, and
43 that would be it. Thank you, and I will try to answer
44 questions, if you have any.

45
46 **CHAIRMAN SWEETMAN:** Any questions for Dr. Diagne about the
47 allocation review process? Mr. Gill.

48

1 **MR. GILL:** Thank you, Mr. Chairman, and thank you, Assane. I am
2 a little bit confused on, and I think it's four slides ago,
3 where you talked about the allocation between private
4 recreational angling and the for-hire component. You indicated,
5 in that third bullet, that it's conditional upon availability of
6 updated red snapper recreational data, and I would argue that,
7 since sector separation originally created this situation, we do
8 have updated data, multiple years of it.

9
10 Secondly, you refer, in the fourth bullet, to ongoing stock
11 assessments, and, on the first few slides, where you've
12 demonstrated some of the things that we've talked about in terms
13 of changing allocation, there has been considerable discussion
14 about not doing allocation changes during assessment catch limit
15 changes, and so the thrust of that, at least as I took it, and,
16 admittedly, I am biased, was that the preference amongst the
17 council, at that time, was to do reallocation separate from
18 assessment reviews and catch limit changes. This slide, and I
19 guess the one or two subsequent slides, seem to suggest that you
20 are suggesting otherwise, and could you clarify my thinking on
21 that?

22
23 **DR. DIAGNE:** Yes, and we will stay here, and, if we go and read
24 the last bullet, it says the council may, and emphasis on "may",
25 right, include the allocation review in an amendment considering
26 reallocation alternatives, meaning that -- I mean, at least what
27 this bullet point is conveying is that is, in fact, the
28 council's prerogative to do either one, either do the review
29 separate or fold it into the amendment.

30
31 The point is, when we talk about updated data streams, it is by
32 looking at our recent history, and so, Bernie, please go back to
33 the slide that shows Reef Fish Amendment 53, red grouper, and
34 it's the third slide of the presentation, or the fourth. The
35 fact of the matter is what the council has passed under recent
36 history, and this is an example, and I am picking this because
37 we have the final rule, and it's implemented and so forth, is
38 that the stock assessment preceding the Amendment 53 switched
39 from using MRFSS to MRIP-FES.

40
41 If we go back to Reef Fish Amendment 53, status quo will tell us
42 that the MRFSS is no longer available, or is no longer a viable
43 alternative, if I recall the language of the alternative.
44 Therefore, we cannot help but use the MRIP-FES. To the extent
45 that -- I mean, I may be wrong, but the ongoing red snapper
46 assessment -- I cannot tell you what they are going to use,
47 obviously, but, if I have one inkling of, I guess, you know,
48 certainty, it's that it is not going to be traditional, meaning

1 that there is going to be a switch to something else, in terms
2 of the data, and that's what I am alluding to when I say
3 "updated data stream".

4
5 In this amendment here, if you look, the previous allocation was
6 1986 to 2005, but using recreational data for MRFSS, and you see
7 that, in this amendment, you use the same time series, but the
8 change that you've made was to say, okay, we are going to use
9 the updated data stream, as in MRIP-FES, and so that is what I
10 am referring to when we say "updated data stream", knowing that
11 something is coming, and we may not know what it is, but
12 something is coming, and so it would be, quite frankly, you
13 know, perhaps not the most economical use of resources to say,
14 well, what I know today is this, and we can complete it, knowing
15 full well that, the minute the stock assessment hits, we will
16 have new data streams, and so that's --

17
18 **MR. GILL:** Thank you, sir, but I could counterargue that that's
19 almost always true, right, and we've got ongoing fisheries, and
20 we've got ongoing development, and change is the name of the
21 game, and so, in some sense, that smacks of procrastination for
22 procrastination's sake.

23
24 The other comment that I would make is that you recall that,
25 during those previous conversations about whether we should do
26 allocations within the catch limit recommendation changes, that
27 the argument was made that projections of landings depended on
28 what the allocation was, right, and so we were in the soup,
29 because we were in the midst of both, but my recollection of the
30 prevalence of the thought of the council was that not mixing
31 those two was preferred, which says that deciding on what the
32 allocation should be is preferred prior to determining
33 projections, so that the projections can be made with the will
34 of the council and not conditional upon the council then making
35 a decision on some kind of basis. It seems, to me, that we're
36 mixing where we're going here.

37
38 **DR. DIAGNE:** Yes, Mr. Gill, and, quite frankly, what it is that
39 you consider procrastination, I will call it being proactive,
40 and it's perhaps, I guess -- We could -- It's easy to go ahead
41 and take existing red snapper data streams and complete an
42 allocation review, knowing full well that, the minute the stock
43 assessment gets completed, those data streams would be
44 meaningless, and I do understand the name of the game is that we
45 are in an ongoing, changing, you know, environment.

46
47 If we did not have a stock assessment that is ongoing, we would
48 proceed and say, okay, well, we don't know what tomorrow brings,

1 and we are going to continue and do this, and, initially, we
2 started looking at this, and the red snapper assessment is, I
3 guess, involved, and it takes a lot of time, but it is ongoing,
4 and we cannot preempt that, but if it, I guess, the will of the
5 council, we can take existing data streams and present an
6 allocation review.

7
8 The minute we finish that, we get updated data streams, because
9 we know there is an assessment, and then, well -- We would say,
10 well, perhaps this was a nice exercise, and let's do it again,
11 but that would be the thing.

12
13 **CHAIRMAN SWEETMAN:** Okay. Dr. Froeschke has been waiting
14 patiently, and then we'll go back to you, Bob.

15
16 **DR. FROESCHKE:** Just to weigh-in on this, so the numbers -- The
17 recreational data that we would need to have a meaningful
18 conversation, meaning consistent with BSIA and FES for example,
19 we don't have that. We don't have anything close to that, and
20 the calibrations are likely to be so different from what we're
21 discussing now that I don't know how we would make use of it,
22 and so, with respect to the red grouper and how that was done,
23 there are two parts.

24
25 There are two moving parts, and there was one that was the
26 changes in selectivity, and that piece -- You got OFL and ABC
27 values conditional on the allocation, and so that part -- We
28 have discussed that, and the SSC has discussed that, and the
29 Science Center is going away from that.

30
31 However, there is still this portion of the changes in the
32 estimates of historical current productivity that manifests from
33 raising the catch from CHTS to FES, and so, when you double the
34 productivity of the recreational, if you then split that based
35 on the other part, you're going to --

36
37 You're going to double, essentially, the estimated catch rate of
38 the FES, but, if you don't move some fish over there, then, in
39 theory, you're going to run short, and so, with the red snapper,
40 you would have that issue, but you also have the further
41 complication of creating a common currency from the state
42 currencies, the individual state currencies, to presumably FES,
43 some of which are calibrated to CHTS and some of which are to
44 FES, either FES and then back to CHTS or FES, and we, the
45 greater we, have not seen those, but I am thinking they would be
46 quite different. I don't know what we would discuss with you at
47 the council now that would be meaningful later, once all of that
48 is sorted out.

1
2 **CHAIRMAN SWEETMAN:** Good discussion. Any questions or further
3 comments about this? We've, obviously, debated a lot about
4 allocation over the last year or so here, and so any questions
5 for Dr. Diagne, or comments? Dr. Diagne, have you got a
6 question for yourself?
7

8 **DR. DIAGNE:** In a perfect world, that would be super. The only
9 thing that I wanted to perhaps ask about is that you recall that
10 the council requested that we start evaluating, or considering,
11 options for allocations between the states, and we actually --
12 Dr. Froeschke and Peter already started looking at members of
13 the IPT and things like that, a planning group, and my question
14 is, I mean, given the, quote, unquote, state of affairs, with
15 new data series, or streams, excuse me, deliberation between the
16 states and so forth, would it be more beneficial, perhaps, for
17 us to just continue thinking about alternative methods, but slow
18 down the future development of this, or what it is that this
19 committee would recommend.
20

21 **CHAIRMAN SWEETMAN:** Go ahead, Dr. Simmons.
22

23 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair, and so, just
24 to remind folks, I think that motion passed in April of 2023, to
25 look at the state-by-state recreational apportionments, and I
26 believe there was a typo on that slide, and so I believe the
27 General -- It's unfortunate that he left, but he asked us to
28 kind of speed up that process, and he wanted to know if we could
29 start talking about it, and so staff said we think we can have a
30 presentation together by October, and that's what we're planning
31 to do, and that's what we've tried to lay out here, but then we
32 got a great piece of information last Monday, and so we're all
33 just trying to sort through that, as you all know, at this
34 meeting.
35

36 Is that still the direction, I guess, that this committee wants
37 staff to go? That's what we're trying to ask, or, you know,
38 could we push that back some, or will there be some other method
39 besides historical landings that you want to look at to start
40 that discussion?
41

42 **CHAIRMAN SWEETMAN:** That's a good question, Carrie. October,
43 for the October meeting, considering some of these discussions
44 with the state directors have not happened yet, and it's a
45 little challenging for me to project how those discussions will
46 go, leading up to the October meeting, to have something to
47 present, and so I think maybe the best course of action here is
48 perhaps we revisit this at Full Council, after maybe the

1 different state agencies are able to have some discussion
2 points, and maybe try and figure out a more timeline, and is
3 that okay with you, Carrie?
4

5 **EXECUTIVE DIRECTOR SIMMONS:** Sounds great. Thank you.
6

7 **CHAIRMAN SWEETMAN:** Of course, I said that without talking to my
8 state partners here. Okay. I am getting thumbs-up. All right.
9 I appreciate it. Okay. Any further questions or discussion on
10 the allocation review? Okay. Not seeing any, thank you, Dr.
11 Diagne. We are going to move into the next agenda item here,
12 and I will turn it back over to you, Dr. Diagne, for the action
13 guide for the Draft Letter on NOAA Fisheries Request for
14 Comments on Advance Notice of Proposed Rulemaking for National
15 Standards 4, 8, and 9 Guidelines.
16

17 **DRAFT LETTER ON NOAA FISHERIES REQUEST FOR COMMENTS ON THE**
18 **ADVANCE NOTICE OF PROPOSED RULEMAKING FOR NATIONAL STANDARDS 4,**
19 **8 AND 9 GUIDELINES**
20

21 **DR. DIAGNE:** Thank you. The committee will review a draft
22 letter prepared in response to the advance notice of proposed
23 rulemaking, to determine whether updates to the guidelines for
24 National Standards 4, 8, and 9 are needed to improve federal
25 fisheries management.
26

27 Dr. Simmons here is going to give the presentation and discuss
28 that, or discuss the letter, and one note here is that the
29 public comment period will close on September 12, and this
30 committee should provide input on the draft letter discussed
31 today, and, if appropriate, recommend approval of the letter by
32 the council. Thank you.
33

34 **CHAIRMAN SWEETMAN:** Dr. Simmons.
35

36 **EXECUTIVE DIRECTOR SIMMONS:** All right. Thank you, Mr. Chair,
37 and so this is Tab E, Number 9, and staff -- This is our draft
38 for you all to review, and this is in response to I think
39 Marianne Macpherson gave an overview at the June council meeting
40 regarding this notice, and we were also provided a presentation
41 during the May Council Coordination Committee, the CCC meeting.
42

43 We have some general comments that I will start with, and I will
44 try to highlight some specifics in each of the National
45 Standards they're looking at revisiting.
46

47 The council supports the review and consideration of updating
48 these existing guidelines to address changes in environmental

1 conditions and address equity and environmental justice
2 considerations, which is one of the main reasons they are
3 reopening these National Standards, and many of them haven't
4 been updated, or considered, I think in over fifteen years,
5 while still providing the council sufficient flexibility in the
6 management process. The council also supports increased
7 resources that are necessary to support these activities,
8 specifically at a regional level, the Southeast Region.

9
10 A couple of the specific comments we had, and I will start with
11 National Standard 4, and we talk about that, you know, the
12 existing allocations the council considers is largely based on
13 historical landings, based on specific time periods, and
14 basically the changing baselines that the council is dealing
15 with currently, and we also talk about, you know, the council
16 has attempted to maintain this historical access for both
17 sectors.

18
19 However, there is perhaps impacts to new commercial fishermen
20 that are attempting to enter the fishery, and those could
21 include underserved or marginalized community members that we
22 really largely do not have any information on, and we can't
23 quantify, and it largely unknown. Any information, such as
24 perhaps modifying any type of logbook or crew information that
25 wouldn't be too invasive, and meet all the laws, could perhaps
26 ameliorate some of those issues.

27
28 We also know the council has recently embarked on modifying the
29 commercial IFQ quota program goals and objectives, and we will
30 discuss how to operationalize these objectives in future
31 meetings, and it's anticipated that these changes could ease
32 some of the barriers for new entrants or replacement commercial
33 fishermen in these programs, and so this is kind of a biggie,
34 and I will stop here and see if there's maybe specific comments
35 or concerns about what we've drafted here, because I know this
36 is a big-ticket item for most folks.

37
38 **CHAIRMAN SWEETMAN:** There's a lot going on here. National
39 Standards 4, 8, and 9 are pretty important for a lot of the
40 stuff that we're working on, but I see -- Bob, have you got
41 something?

42
43 **MR. GILL:** Thank you, Mr. Chairman, and so, I guess, number one,
44 I would like to compliment you and staff for putting this in the
45 order of the standards, whereas the FRN was in the order of
46 subject matter that they wanted to discuss and subcategorize in
47 the standards, and I found that confusing and more difficult to
48 work with.

1
2 I think your comment is generally well taken. I would suggest,
3 getting back on my old soapbox, that we also include a
4 suggestion that the guidelines should point the way to the
5 inclusion of the socioeconomic factors in the allocation
6 process, above and beyond historical landings, which we don't
7 do, and not many folks do.

8
9 That better complies with Magnuson's objective to maximize net
10 benefits, and it also supports a more fair and equitable
11 decision, and so I think that's a point that we could make that
12 would be helpful to future guidelines. Thank you.

13
14 **CHAIRMAN SWEETMAN:** Thanks, Bob. Good point. Anything else
15 that the committee would like to discuss about this draft
16 letter? Dr. Simmons.

17
18 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair, and so
19 nothing else on National Standard 4 then? Okay. National
20 Standard 8, and so we're down our social scientist, but we did
21 come up with some comments here regarding changing the
22 definition for "fishing community". I think we said here it
23 would be helpful if there was more information about what was
24 driving that change, or behind that consideration, when they
25 look at this again, and to provide more information on the term
26 "engagement" and "dependence".

27
28 There's a suggestion in the advance notice of proposed
29 rulemaking regarding how communities can increase their
30 resilience by decreasing their dependence on one or more
31 particular stocks or fisheries, and they give the example of
32 diversifying fisheries that can be accessed, and we kind of
33 think that's more easily said than done here, and we've provided
34 some additional rationale for why we think that statement is too
35 broad-brush, and so, again, take a close look at that, and, if
36 you don't agree with how that's written, provide us feedback
37 there, or if you're uncomfortable with how we're worded that,
38 and we provided some examples on why, you know, we thought that
39 that could be better defined. I will stop there, again.

40
41 **CHAIRMAN SWEETMAN:** Okay. Comments about our comments for
42 National Standard 8? Mr. Gill.

43
44 **MR. GILL:** Thank you, Mr. Chairman, and I think what you have in
45 there is fine. My reaction to what they were asking for is
46 they're working on what I consider an old definition of
47 "community", and their thought is it's the old shoreside
48 fisheries-focused, like those of old New England, and certainly

1 it's less true in the Gulf than it was with New England, but,
2 even so, in the context of today, that's less and less true, and
3 I would also argue that the concept of community is, and I'm not
4 an anthropologist by any stretch, but is larger than just a
5 village.

6
7 There is many, and there is the longline community, and there is
8 the charter community, and there is the tournament community,
9 and so the context of what constitutes a community I think has
10 moved on from the old definition, and I don't think that the
11 proposed guidelines take that into consideration, and, as part
12 of that, that says that the geographic tag on this term should
13 not be -- It should be eliminated, and it should not be
14 continued.

15
16 The other point that I would make is that, if the concept of
17 community is broader than the village version, the term
18 "substantial" may not be appropriate anymore, because it's more
19 about participation in, at whatever level you do it, and so I
20 think some suggestions there would be helpful in morphing, if
21 that's possible, the agency's thinking. Thank you.

22
23 **CHAIRMAN SWEETMAN:** Ms. Levy.

24
25 **MS. LEVY:** Thank you. I just wanted to note, and it is in the
26 advance notice of proposed rulemaking, that there's kind of two
27 parts to the definition of "fishing community" in the
28 guidelines, and so the first comes directly from the Magnuson
29 Act, and that talks about substantially dependent on or
30 substantially engaged in, and then the second piece has that
31 language about geographic area, which is what you were talking
32 about, and so the agency -- I mean, they're proposing, or
33 suggesting, that maybe they should eliminate the, because of
34 what you said, right, that it's broader than -- In certain areas
35 of the country, it's broader than specific location, and so I
36 just wanted to point out that -- I mean, you can write whatever
37 you want, but that the "substantially" is really from the Act.

38
39 **CHAIRMAN SWEETMAN:** Okay. Back to you, Dr. Simmons.

40
41 **EXECUTIVE DIRECTOR SIMMONS:** Okay. Thank you, Mr. Chair, and so
42 the final section is National Standard 9, and here we're
43 suggesting, during the review process for this section, that the
44 inclusion of unobserved fishing mortality as bycatch and
45 assessing the efficacy of many of the management measures both
46 be revisited, and then just maybe better -- When it is
47 revisited, really have more consideration of whether sufficient
48 data exists in many of these regions to adequately assess the

1 effects on the amount and type of bycatch and bycatch mortality
2 in a particular fishery.

3
4 I think we went through this process recently with Dan Luers at
5 the Regional Office, and, for many of the FMPs, we had little to
6 no information to complete that exercise, and so, again, just
7 taking a look at that, and maybe there's different tiers for
8 different regions, on how we would go about addressing that in
9 our FMPs, and so that was a suggestion.

10
11 Then just reminding everyone that we continue to support best
12 practices for releasing fish, and there's been substantial
13 resources and effort working to minimize bycatch and reducing
14 discard mortality, to the extent practicable, and there's one
15 final section in the advance notice, and that's on reducing
16 waste, and so I think we're supportive, cautiously supportive,
17 of this, and we would like to see more information, and so, Mr.
18 Chair, that's our draft letter.

19
20 **CHAIRMAN SWEETMAN:** Thank you, Dr. Simmons. I think it's well
21 drafted. Mr. Gill.

22
23 **MR. GILL:** Thank you, Mr. Chair, and so I agree that, relative
24 to unobserved fishing mortality, there's probably not enough
25 data to do anything with, and we don't know how to measure it,
26 and we don't know how much it is, et cetera, but I read that
27 first sentence of the letter as suggesting that we do not
28 include unobserved fishing mortality as bycatch, and I would
29 argue that unobserved fishing mortality is one of the biggest
30 issues we have in the Gulf, and however we can best bring
31 attention to that, and focus on it, and we don't have any
32 solutions for it at the moment, or at least none that I'm aware
33 of, but we need to pay attention to it and recognize it and
34 address it as best we can.

35
36 If doing that, by including bycatch as part of that, then I
37 think that's what we ought to say and not exclude it, and so, if
38 I've interpreted it correctly, I would disagree with that first
39 sentence.

40
41 **EXECUTIVE DIRECTOR SIMMONS:** Mr. Chair, I don't think we meant
42 that, what Mr. Gill is suggesting, and I think we said be
43 revisited, not meaning that it would be excluded, but we can
44 certainly try to reword it, and, if you have specific
45 suggestions, shoot them over, and that would be great.

46
47 **CHAIRMAN SWEETMAN:** I think that's a good suggestion. I've
48 heard a little bit of confusion about that word "revisited", and

1 so, yes, I think that will be helpful. Mr. Gill, if maybe you
2 could draft some language there to help out, so we're crystal
3 clear.

4

5 **MR. GILL:** Then again maybe not.

6

7 **CHAIRMAN SWEETMAN:** Maybe not. That's true. Okay. National
8 Standard 9, any further comments or questions for Dr. Simmons?
9 All right. I am not seeing any. Thank you, Carrie. I think
10 the letter is well written. All right. Let's see. That was
11 it. Okay. We're into Other Business, and I didn't hear any
12 other business at the beginning, but we're a little bit ahead of
13 schedule here, but, not seeing any, I will turn it back over to
14 you, Mr. Vice Chair.

15

16 (Whereupon, the meeting adjourned on August 14, 2023.)

17

18

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