

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2  
3 SUSTAINABLE FISHERIES COMMITTEE

4  
5 Webinar

6  
7 OCTOBER 26, 2020

8  
9 **VOTING MEMBERS**

10 Dale Diaz.....Mississippi  
11 Kevin Anson (designee for Scott Bannon).....Alabama  
12 Leann Bosarge.....Mississippi  
13 Roy Crabtree.....NMFS  
14 Dave Donaldson.....GSMFC  
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16 Robin Riechers.....Texas  
17 Chris Schieble (designee for Patrick Banks).....Louisiana  
18 Greg Stunz.....Texas  
19 Ed Swindell.....Louisiana  
20 Troy Williamson.....Texas

21  
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24 Jonathan Dugas.....Louisiana  
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26 Tom Frazer.....Florida  
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31  
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3

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7 Joe Powers.....GMFMC SSC

8 Clay Porch.....SEFSC

9 Joe Spraggins.....MS

10

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TABLE OF CONTENTS

1  
2  
3 Table of Contents.....3  
4  
5 Adoption of Agenda and Approval of Minutes.....4  
6  
7 Action Guide and Next Steps.....4  
8  
9 Finalize Recommendations on Executive Order 13921 from Public  
10 Comments and from the Council.....4  
11  
12 Summary Report from the Joint Section 102 Workgroup.....13  
13  
14 Allocation Review Procedures.....15  
15     Presentation.....15  
16     SSC Recommendations.....22  
17  
18 Adjournment.....24  
19  
20  
21

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1 The Sustainable Fisheries Committee of the Gulf of Mexico  
2 Fishery Management Council convened via webinar on Monday  
3 afternoon, October 26, 2020, and was called to order by Chairman  
4 Dale Diaz.

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

10 **CHAIRMAN DALE DIAZ:** I would like to call the Sustainable  
11 Fisheries Committee to order. The members of the committee are  
12 myself as Chair, Dr. Stunz as Vice Chair, Mr. Schieble, Mr.  
13 Anson, Ms. Bosarge, Dr. Crabtree, Mr. Donaldson, Ms. Guyas, Mr.  
14 Riechers, Mr. Swindell, and Mr. Williamson.

15  
16 The first order of business is Adoption of the Agenda. Do we  
17 have any alterations to the agenda or any other business that  
18 anybody wants to add to the Sustainable Fisheries agenda? Not  
19 hearing any, I will consider the agenda adopted.

20  
21 I know these minutes just went out recently, but, next up, we  
22 have Approval of the September 2020 Minutes. Are there any  
23 additions or corrections to the September 2020 minutes? I am  
24 not seeing anybody's hand go up or any commotion on the cameras,  
25 and I would entertain a motion to accept the September 2020  
26 minutes.

27  
28 **MR. DAVE DONALSON:** So moved.

29  
30 **DR. GREG STUNZ:** Second.

31  
32 **CHAIRMAN DIAZ:** We have a motion and a second. Is there any  
33 opposition to the motion to approve the September 2020 minutes?  
34 Hearing none, the minutes are approved. Item Number III on the  
35 agenda is the Action Guide and Next Steps. Dr. Diagne, can you  
36 take us through the first item in the action guide, on the  
37 action guide and next steps?

38  
39 **FINALIZE RECOMMENDATIONS ON EXECUTIVE ORDER 13921 FROM PUBLIC**  
40 **COMMENTS AND FROM THE COUNCIL**  
41

42 **DR. ASSANE DIAGNE:** Yes, Mr. Chair. Thank you, and good  
43 afternoon. The next agenda item looks at finalizing the  
44 recommendations on the Executive Order 13921 from the public  
45 comments and from the council. Essentially, this is going to be  
46 a presentation, followed by some council feedback and  
47 recommendations before these recommendations can be finalized.  
48 At this point, I will let Dr. Simmons say something about it, if

1 she wants to, before presenting this, because I believe she's  
2 going to lead the discussion for this item. Thank you.

3  
4 **EXECUTIVE DIRECTOR CARRIE SIMMONS:** I don't have anything to  
5 add. Thank you, Mr. Chair.

6  
7 **CHAIRMAN DIAZ:** All right, Dr. Simmons, and so let's move right  
8 on into Item Number IV, and so this is going to be Finalizing  
9 Recommendations on Executive Order 13921 from the Public  
10 Comments and from the Council. Dr. Simmons.

11  
12 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair. Just to  
13 remind everyone, this is our draft list of recommendations. The  
14 council staff took the list from September, the bulleted list  
15 from September, and we tried to flesh out the issue, and you  
16 will see the format, and we have the issue, the action, some  
17 rationale, and an initiation plan. Then we divided them up into  
18 each section which we thought it was applicable to, and then we  
19 tried to give it a priority, by binning it as an A, high  
20 priority; B, medium priority; or C, lower priority.

21  
22 We're looking for feedback on all of those things, including any  
23 additions or deletions from this list. Right after this  
24 meeting, we will need to turn around and write a letter to Mr.  
25 Oliver with this finalized list and submit that by November 2.

26  
27 Just to remind everyone, we're really focusing on Section 4 here  
28 of the Executive Order, removing barriers to American fishing,  
29 and then it lists, under the sub-sections, that we're to  
30 recommend actions, and that can include changes to regulations,  
31 orders, guidance documents, or other similar agency actions.

32  
33 The recommended actions shall be consistent with the  
34 requirements of the Magnuson-Stevens Fishery Conservation and  
35 Management Act, the Endangered Species Act, the Marine Mammal  
36 Protection Act, and other applicable laws. It also needs to be  
37 consistent with Section 302(f) of the Magnuson-Stevens Fishery  
38 Conservation and Management Act and within existing  
39 appropriations, and those two sub-sections are there for you to  
40 look at.

41  
42 Remember that we had a bit of discussion, I think during Full  
43 Council, regarding this Executive Order, and we did have a call  
44 with NMFS Headquarters about this, and they did say that this --  
45 The focus on this should be on the American seafood vibrant and  
46 competitive seafood industry, but it didn't preclude other  
47 burdens and efficiencies for the recreational sector, should the  
48 council choose to include those. We did remind you of this and

1 encouraged the council to think very broadly regarding this  
2 Executive Order.

3  
4 We'll start, and we have the first section, which is to propose  
5 new policies, programs, and regulations. The first one we have  
6 add domestic seafood on public school lunch menus in a real and  
7 meaningful way. We have that a Priority A.

8  
9 The second one was to create a direct consumer online platform  
10 for fishermen and fish houses, to strengthen the supply chain,  
11 and that is also an A, and then a B for support of young  
12 fishermen development programs. I don't know if you want me to  
13 stop there, Mr. Chair, and just take any feedback on these, or  
14 just go through the whole thing.

15  
16 **CHAIRMAN DIAZ:** Well, if somebody has any feedback, if they will  
17 raise their hands, and I will stop you as you go, but I am not  
18 seeing any hands up at this time, and so why don't you proceed?

19  
20 **DR. TOM FRAZER:** Dale, I see Robin has his hand up.

21  
22 **CHAIRMAN DIAZ:** Okay. Mr. Riechers.

23  
24 **MR. ROBIN RIECHERS:** Carrie, and I just may not be recalling,  
25 but did we give these A and B designations, or is this a staff  
26 designation, and, if so, what is the distinction in how you all  
27 made that, or even if we did, if you can remember some of our  
28 rationale, if we had any, when we did it. I'm just not  
29 recalling us doing that at the last meeting.

30  
31 **EXECUTIVE DIRECTOR SIMMONS:** This is just staff's best guess. I  
32 mean, there wasn't a whole lot of discussion about this, and so  
33 we're certainly looking for some feedback.

34  
35 **MR. RIECHERS:** Is there any -- I guess I'm trying to ask then  
36 the criteria that differentiated an A and a B in staff's mind.

37  
38 **EXECUTIVE DIRECTOR SIMMONS:** It was just based on what we  
39 thought was a higher priority from the council's discussion on  
40 those items.

41  
42 **MR. RIECHERS:** Okay. I'm just trying to figure out whether it  
43 was something specifically -- For instance, and why I ask, is  
44 the lunch menu stuff, and, obviously, a supply chain and direct  
45 issue regarding kind of a domestic school program, probably  
46 that's a pretty big change, as opposed to, for instance, the  
47 development of the young fishermen's program, which would pretty  
48 much be under the purview of one agency, and so I was just

1 trying to figure out if there was anything that made up those  
2 differences from you all's mind, such as that sort of  
3 distinction or anything like that, and it sounds like it was  
4 just more of a consensus scoring kind of mechanism by staff  
5 then.

6  
7 **EXECUTIVE DIRECTOR SIMMONS:** Correct, and I think, also, they're  
8 in the works, and there's been several discussions already, and  
9 I think other programs, that have looked into the development of  
10 the young fishermen's programs, and so we were putting that as a  
11 lower category, thinking that there's already some work going on  
12 with this, and we could switch that around, and it's totally up  
13 to the council.

14  
15 **MR. RIECHERS:** No, and, like I said, I was just trying to gain  
16 some understanding is all. Thank you.

17  
18 **CHAIRMAN DIAZ:** Thank you, Mr. Riechers. By all means,  
19 committee, and, if you've all got any suggestions on changing  
20 how this is done, or the prioritization, please feel free.  
21 Proceed, Dr. Simmons.

22  
23 **EXECUTIVE DIRECTOR SIMMONS:** Okay, and the next sub-category we  
24 tried to cast this in was outside of Magnuson authority, and it  
25 affects other agencies, and possibly multiple other agencies.  
26 Increase the speed and distribution of fisheries disaster relief  
27 funds, and that's a Priority A. The next one was require  
28 country-of-origin labeling for seafood on restaurant menus  
29 nationwide. Then increase testing for banned substances in  
30 seafood imported to the United States. Then decrease shark  
31 depredation on fish stocks. That was an A.

32  
33 Then, as a B, review and revise the U.S. Coast Guard safety  
34 compliance programs. Then increase funding for fishery-  
35 independent monitoring. Do not close additional areas to  
36 commercial and recreational fishing unless recommended by the  
37 council in that jurisdiction. The Modernizing Recreational  
38 Fisheries Act of 2018, for clarification, and that was brought  
39 up.

40  
41 Then now to C, and recommend that the council's Scientific and  
42 Statistical Committee review stock assessments for highly  
43 migratory species. Consider measures to reduce agricultural  
44 runoff into the Mississippi River and reduce hypoxia that  
45 creates the Dead Zone in the Gulf of Mexico. Then I will stop  
46 there. Mr. Chair.

47  
48 **CHAIRMAN DIAZ:** Thank you, Dr. Simmons. Any feedback or

1 comments on what's been proposed by the staff in this document?  
2 I am not seeing any feedback or comments. If folks are happy  
3 with what's in the document, Dr. Simmons, do you need a motion  
4 from this committee to draft a letter to submit this?

5  
6 **EXECUTIVE DIRECTOR SIMMONS:** I don't think I necessarily need a  
7 motion, but I have three more items that we need to cover and  
8 give some priority to that we felt were under Magnuson.

9  
10 **CHAIRMAN DIAZ:** Okay. Why don't you go ahead and go over those,  
11 Dr. Simmons?

12  
13 **EXECUTIVE DIRECTOR SIMMONS:** Okay. Those would be the  
14 commercial electronic logbook program, and that's currently a C  
15 on our priorities, primarily because we were waiting for the  
16 results of the pilot program and to get some more information on  
17 the Science Center on what this program would look like.

18  
19 Reduce burdens on the transfer of limited-access permits that  
20 are renewable, but expired. Then the last one is remove the  
21 annual catch limits for spiny lobster.

22  
23 Now, we did have a question about this one, and I believe the  
24 South Atlantic Council has also proposed this in their request  
25 on the Executive Order, but we were unsure if this actually  
26 meets the criteria in the beginning to be consistent with  
27 Magnuson, and so I don't know if Mara or somebody else wanted to  
28 chime in here, but our suggestion would be to exempt spiny  
29 lobster from the Magnuson Act and the National Standard 1  
30 requirements, but, again, we can include it and see what  
31 category, or we could possibly amend what's written here  
32 regarding the beginning of the Executive Order, and then we  
33 should get some priorities for these as well, please.

34  
35 **CHAIRMAN DIAZ:** Thank you, Dr. Simmons. Ms. Guyas.

36  
37 **MS. MARTHA GUYAS:** Thanks. I heard, I guess for this one, that  
38 there was a presentation, I think at the CCC meeting recently,  
39 maybe that Dave Whaley gave, that said that suggestions could  
40 include the MSA, and so even though that wasn't I guess in the  
41 direct guidance, that was a discussion point at a past meeting,  
42 and so I think that was also the basis for the South Atlantic  
43 putting this on their list.

44  
45 **CHAIRMAN DIAZ:** Thank you, Ms. Guyas. Dr. Crabtree.

46  
47 **DR. ROY CRABTREE:** I thought I heard Carrie say exempt spiny  
48 lobster from the Magnuson Act, but I think what you're asking is

1 that it be exempted from the requirements for establishing ACLs.  
2 Is that right?

3

4 **EXECUTIVE DIRECTOR SIMMONS:** That's correct.

5

6 **DR. CRABTREE:** I will just say that I think the rationale for  
7 doing that is extremely weak. There is some localized  
8 recruitment of spiny lobster, and we have all kinds of fisheries  
9 where we have very little control over recruitment, and so you  
10 can ask for this, but it doesn't seem to me to be particularly  
11 consistent with the Executive Order, and I worry that, if you  
12 come in just asking for everything under the sun, it sort of  
13 diminishes the requests. What I am really seeing here is that  
14 you're saying that spiny lobster has no clear spawner-recruit  
15 relationship, and that's true for a high percentage of the  
16 species we manage, really.

17

18 **CHAIRMAN DIAZ:** Thank you, Dr. Crabtree. Any further comments  
19 from the committee? Ms. Guyas.

20

21 **MS. GUYAS:** I guess, just to respond to that, I mean, I hear  
22 what Roy is saying, but, when we've had lobster issues in the  
23 past, this has not only come from the council and the industry,  
24 but I believe also the Lobster SSC recommended this very thing,  
25 and they kind of felt like they were in a box in having to come  
26 up with catch limits for this fishery, and so, based on all  
27 that, I think it's reasonable to keep this on the list.

28

29 **CHAIRMAN DIAZ:** Ms. Levy.

30

31 **MS. MARA LEVY:** I would just say that you might want to reframe  
32 what the action is, and I don't have an opinion about whether  
33 it's on the list, but you can't really take regulatory action to  
34 exempt something from the Magnuson Act, and so it would have to  
35 be a change to the Magnuson Act. Thanks.

36

37 **CHAIRMAN DIAZ:** Thank you, Ms. Levy. Dr. Crabtree.

38

39 **DR. CRABTREE:** Just to respond to Martha's comments, yes, I  
40 think I've heard the AP and some others ask for this, but I have  
41 also heard all kinds of other fishermen ask to be relieved of  
42 the requirement for annual catch limits, and I hear that from  
43 recreational fisheries and all sorts of folks all the time.

44

45 **CHAIRMAN DIAZ:** All right. Dr. Simmons, are you wanting the  
46 committee to specifically add some or all of those last three  
47 items that you just went over to this document? Is that what  
48 you were looking for?

1  
2 **EXECUTIVE DIRECTOR SIMMONS:** We thought that these were under  
3 the Magnuson Act, and the council and NMFS felt that we would  
4 put them in a specific spreadsheet that was requested by  
5 Headquarters, but, if you could provide some feedback on  
6 Priority A, B, or C, that would be helpful. Then those would go  
7 in the spreadsheet and be included in the draft letter with the  
8 other items.

9  
10 **CHAIRMAN DIAZ:** Any feelings from the committee on the  
11 prioritization of those last three items? I would think the  
12 development of an electronic logbook program would be a high  
13 priority, maybe an A, and that's my opinion. Reducing the  
14 burden on the transfer of limited access permits that are  
15 renewable but expired, I would think that would be -- In my  
16 opinion, it would be a B. I will leave it up to someone else to  
17 comment on the spiny lobster, and there's some discussion about  
18 whether it should even be included. Ms. Bosarge.

19  
20 **MS. LEANN BOSARGE:** Thank you. I was just going to speak to the  
21 reducing burdens on the transfer of limited access permits, and  
22 I was going to say an A or a B, and you mentioned a B, and I'm  
23 fine either way. It just seems like fairly low-hanging fruit,  
24 in the big scheme of things, and so maybe it could be an A.

25  
26 **CHAIRMAN DIAZ:** Thank you, Ms. Bosarge. I would be okay with  
27 that. Dr. Frazer.

28  
29 **DR. FRAZER:** Thanks, Dale. I just kind of wanted to maybe a  
30 little discussion with both Martha and Roy with regard to the  
31 spiny lobster issue. Again, I appreciate a general concern, or  
32 understanding, that, within the south Florida ecosystem, that a  
33 lot of the potential recruits are lost, because of transport  
34 processes, but science is evolving in that arena all of the  
35 time, and so I haven't seen the most recent information that  
36 might support whether or not there's a significant amount of  
37 local retention or not.

38  
39 I guess, in the absence of looking at the science, and I don't  
40 know when the last time is that the SSC weighed-in on this, how  
41 you would actually phrase this particular item moving forward,  
42 and so maybe, Martha, you could start and tell me what the  
43 industry is thinking and what the FWC might be thinking, and  
44 even perhaps the South Atlantic.

45  
46 **CHAIRMAN DIAZ:** Ms. Guyas.

47  
48 **MS. GUYAS:** I think the SSC and the council have talked about

1 this, I don't know, maybe three or four years ago was the last  
2 time, when we kept bumping up against the quota and exceeding  
3 the quota, and some of you all may recall -- I think the  
4 accountability measure for that fishery is, when there's an  
5 overage, or maybe there is two overage years in a row, and then  
6 we convene a committee that reviews kind of what's going on in  
7 the fishery, and then the councils go from there, and that  
8 happened.

9  
10 I mean, that last time that this happened, I think that the SSC  
11 was kind of having a hard time with this, the Lobster SSC, and,  
12 really, I think the -- I guess the ask would be -- It's really,  
13 I guess, to amend Magnuson to exempt spiny lobster from the ACL  
14 requirement, and does that answer your question? It's not a  
15 regulatory action, but --

16  
17 **DR. FRAZER:** Maybe, if Roy can put a pointy end on that, that  
18 would be helpful for me.

19  
20 **CHAIRMAN DIAZ:** Dr. Crabtree.

21  
22 **DR. CRABTREE:** I'm sorry. I didn't hear, Tom. What did you  
23 ask?

24  
25 **DR. FRAZER:** I just asked -- I mean, I wanted to make sure that  
26 I understand fully, from your perspective, because the way that  
27 you stated the issue is that there's a lack of a stock-  
28 recruitment relationship, and that in itself is not unique to  
29 the lobster fishery.

30  
31 **DR. CRABTREE:** I mean, essentially, if the recruits are coming  
32 from somewhere else, then you're saying that your spawning stock  
33 biomass doesn't have much effect on recruitment, and we could  
34 look at a large number of reef fish species where we see little  
35 or no evidence that spawning stock biomass has much relationship  
36 to recruitment, and so that's really -- Whether it's because the  
37 recruits are coming from somewhere else, for whatever reason,  
38 and that's essentially what it is, and so it just seems, to me,  
39 the problem is the rationale.

40  
41 If you want to make the rationale that we shouldn't have an  
42 annual catch limit because we can't influence recruitment, it's  
43 kind of opening up a can of worms. I mean, I think a lot of  
44 people would argue that they would like to get rid of annual  
45 catch limits across-the-board, but I just don't see that  
46 rationale as working very well.

47  
48 **DR. FRAZER:** I guess the nuance there is that you're not

1 necessarily influencing recruitment, and this is where I'm  
2 getting to Martha, but it's that the potential recruitment is  
3 lost, and so it's not necessarily contributing to the stock  
4 anywhere, and so there's that issue, but my other concern is the  
5 state of science and whether or not there is in fact local  
6 recruitment, and I'm not sure there's been a lot of recent work  
7 in that area.

8

9 **DR. CRABTREE:** I'm not either.

10

11 **DR. FRAZER:** Okay. I'm good for right now. Thanks, Mr. Chair.

12

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

14

15 **MS. GUYAS:** I mean, I guess I'm good. It was just a few years  
16 ago that this was last discussed, and spiny lobster does have a  
17 unique early life history, and so it is a little bit different  
18 scenario than a lot of the fish that we talk about here, and we  
19 don't need to go into that now, but that was, I think, largely  
20 the rationale that that Special Lobster SSC used when they  
21 discussed this before.

22

23 **CHAIRMAN DIAZ:** Thank you, Ms. Guyas. All right. So where I  
24 believe we're at now is I think we have almost everything  
25 prioritized, and we do not have a prioritization for spiny  
26 lobster, and I am unclear whether that needs to stay in the  
27 document at this time, and so I am hearing mixed things from the  
28 committee. Is there any guidance from the committee on whether  
29 or not to leave the spiny lobster option in or take it out, or  
30 does anybody want to talk on that? Go ahead, Ms. Guyas.

31

32 **MS. GUYAS:** I mean, I realize this is a heavy lift, and it  
33 essentially requires a congressional change, and, if that makes  
34 it a lower priority on the list, then so be it, but I would  
35 support leaving it on the list.

36

37 **CHAIRMAN DIAZ:** Do you recommend a C, Ms. Guyas? Is that what  
38 you said?

39

40 **MS. GUYAS:** Sure.

41

42 **CHAIRMAN DIAZ:** Okay. Any opposition to that line of thought?  
43 Dr. Simmons, you said you did not need a motion to write the  
44 letter and go ahead and submit this, and is that correct?

45

46 **EXECUTIVE DIRECTOR SIMMONS:** No, I don't, but, if there is any  
47 other changes, we would need that by Full Council, please.

48

1 **CHAIRMAN DIAZ:** Okay. I am not seeing any hands up for any  
2 other changes at this time, and, if any other changes do come up  
3 between now and Full Council, we can address those at Full  
4 Council. Thank you, Dr. Simmons.

5  
6 Not seeing any further discussion on this agenda item, I believe  
7 we're ready to proceed to the next agenda item, and so the next  
8 agenda item is Item Number V, and it's a Summary Report from the  
9 Joint Section 102 Workgroup. Mr. Rindone is going to handle  
10 that. Mr. Rindone.

11  
12 **SUMMARY REPORT FROM THE JOINT SECTION 102 WORKGROUP**  
13

14 **MR. RYAN RINDONE:** The Joint Council Workgroup on Section 102 of  
15 the Modernizing Recreational Fisheries Management Act met via  
16 webinar on September 10, and this webinar was used as an  
17 opportunity for them to go through a list of items that they  
18 said they wanted to hear more about at their first webinar,  
19 which was held a few months prior.

20  
21 Some of the things that were covered were the different state  
22 data collection programs in the Gulf, and so the five Gulf  
23 states all talked about their state recreational data collection  
24 programs with the workgroup, and they also reviewed the HMS  
25 angler reports.

26  
27 Mr. Ken Brennan, with NMFS, talked about for-hire reporting and  
28 the SEFHIER program and the Southeast Region Headboat Survey.  
29 We talked about how creel cards are used throughout the nation,  
30 and Mr. Steve Poland with the North Carolina Division Marine of  
31 Marine Fisheries, and he's also a South Atlantic Council member,  
32 talked about the flounder panels that are used in North  
33 Carolina, which are kind of like catch cards.

34  
35 Then MyFishCount, which is a South Atlantic Council app, and  
36 Something's Fishy, the tool that Ms. Muehlstein has gone over  
37 several times with our council, talked about a voluntary angler  
38 reporting application that is used to collect data from the  
39 anglers.

40  
41 Then we skipped over fish tags, in the interest of time, just  
42 because most of the committee members we assumed are pretty  
43 familiar with that particular discussion item.

44  
45 Then we talked about the Gulf of Mexico Headboat Collaborative  
46 Program, which many of you are intimately familiar with, and Dr.  
47 Stephen went through that, with the history of that program, and  
48 we talked about the interim analyses and their use in the

1 southeastern U.S., and you guys just heard about that in greater  
2 detail from Dr. Simmons, and I reviewed with the committee  
3 carryover and phase-in strategies, zone management and how it's  
4 been applied in the Gulf and the South Atlantic, using king  
5 mackerel as an example, and also recreational red snapper.

6  
7 Then we talked a little bit about conditional accountability  
8 measures and about how accountability measures can be used for  
9 good things and bad things and not just when something bad  
10 happens we respond to it, but also, if something bad doesn't  
11 happen, then maybe we fiddle with things and open things up a  
12 little bit more.

13  
14 Importantly, the workgroup established a charge for itself,  
15 which is, quote, to explore alternative management approaches to  
16 suit regional/fishery needs, including data collection  
17 improvements, to improve recreational fishing opportunities.  
18 The action to be taken with respect to this charge by the  
19 workgroup is to provide a report to the councils with a  
20 prioritized list of alternative management approaches, in  
21 consideration of the Modern Fish Act of 2018. That is what I  
22 have, Mr. Chair, unless there's any questions.

23  
24 **CHAIRMAN DIAZ:** My first question, Ryan, and I believe it says  
25 in your report that you all currently do not have another  
26 meeting set up, and is that correct?

27  
28 **MR. RINDONE:** We don't have a hard date scheduled for one, but  
29 we're going to try to hold one in the first-half of 2021. Some  
30 of the things that the committee wants to continue investigating  
31 will require us to task some groups outside of the council with  
32 some work, and so we need to be able to work with those groups  
33 to work within everyone's schedules and workflows, to make sure  
34 that we can get those items accomplished.

35  
36 **CHAIRMAN DIAZ:** Thank you, Ryan. Any questions or feedback for  
37 Ryan on what the committee has done so far? Is there any  
38 direction that you all would like to see this committee go,  
39 beyond the stuff that Ryan has talked about so far? Seeing  
40 none, thank you, Mr. Rindone. I believe that concludes that  
41 agenda item.

42  
43 Next up, we're going to move on to Item Number VI, and it's the  
44 Allocation Review Procedures. Dr. Diagne, will you back up and  
45 handle the Action Guide and Next Steps for this agenda item and  
46 then go ahead and proceed into Agenda Item Number VI? That's  
47 going to be Tab E, Number 6(a), when he gets to the  
48 presentation. Dr. Diagne

1  
2 **ALLOCATION REVIEW PROCEDURES**  
3 **PRESENTATION**  
4

5 **DR. DIAGNE:** Thank you, Mr. Chair. As far as the action guide,  
6 for this agenda item, we are going to give a presentation on the  
7 procedures that you may consider for our allocation reviews, and  
8 we will discuss procedures that the Allocation Review Workgroup  
9 considered, and these were also discussed by the SSC.

10  
11 The committee should review and discuss and give feedback on the  
12 procedures that we are going to present and recommend changes,  
13 as needed. In addition, we would also like for the committee to  
14 suggest extra, or additional, procedures to include in the  
15 review process, and, finally, recommend the next steps, as  
16 warranted. Thank you.

17  
18 **CHAIRMAN DIAZ:** Dr. Diagne, are you going to cover the SSC  
19 recommendations in your presentation, or is that something  
20 separate that Dr. Powers is going to do?  
21

22 **DR. DIAGNE:** I believe that Dr. Powers is going to summarize the  
23 SSC's recommendations.  
24

25 **CHAIRMAN DIAZ:** Thank you.  
26

27 **DR. JOE POWERS:** Yes, and there is no presentation of that, and  
28 I was just going to discuss it verbally.  
29

30 **CHAIRMAN DIAZ:** Okay. Thank you, Dr. Powers. We'll get to it  
31 right after our presentation then.  
32

33 **DR. DIAGNE:** Thank you. We are going to discuss allocation  
34 review procedures, and, before we start, just to make sure that  
35 we are all on the same page, I would like to go over some  
36 definitions, and these were included in the NMFS Allocation  
37 Review Policy. There are essentially three definitions.  
38

39 The first defines the fisheries allocation as a direct and  
40 deliberate distribution of the opportunity to participate in a  
41 fishery among identifiable, discrete user groups or individuals.  
42

43 The second definition deals with fisheries allocation review,  
44 and that is the evaluation that leads to the decision of whether  
45 or not the development and evaluation of allocation options is  
46 warranted, but, by itself, it is not an implicit trigger to  
47 consider alternative allocations.  
48

1 Finally is the evaluation of fisheries allocation options for an  
2 FMP Amendment. This last definition, this is what we typically  
3 do, and that is what we are most familiar with. This is  
4 essentially the development of an FMP amendment, and this  
5 follows a decision after the review. If the council determines  
6 that a reallocation is warranted, then a full analysis, which we  
7 typically conduct in our FMP amendments, would be initiated. In  
8 the process, the goal is that an FMP amendment, or framework  
9 action, if applicable, would be developed to update the  
10 allocation or maintain status quo.

11  
12 That being said, what it is that we are discussing with the  
13 committee today pertains to the second definition, meaning  
14 fishery allocation review.

15  
16 In term of background, just as a reminder, NMFS did develop a  
17 fisheries allocation review policy, which required councils to  
18 establish allocation review triggers. The Gulf Council  
19 established its allocation review triggers and published the  
20 expected dates for the initial reviews.

21  
22 The council also indicated, in its allocation review policy,  
23 that, as warranted, it could initiate an allocation review, as  
24 needed, anytime outside of the set schedule. The council did  
25 also establish an Allocation Review Working Group, and the ideas  
26 that we are discussing with the committee today come from the  
27 discussions that were held by the workgroup.

28  
29 One more item here is that the GAO, the Governmental  
30 Accountability Office, did release, in March, its report on  
31 allocation review in mixed-use fisheries, and that report  
32 provided two recommendations to the councils.

33  
34 In their recommendations, the GAO indicated that NMFS should  
35 work with the South Atlantic and Gulf Councils to develop  
36 documented processes for conducting allocation reviews and to  
37 specify how the council will document their allocation review,  
38 and that specification should include the basis for their  
39 allocation decisions, whether the fishery management plan  
40 objectives are being met, the FMP objectives that is, and,  
41 finally, what are the factors that were considered in the  
42 reviews.

43  
44 Our discussion today begins to fold in these recommendations, if  
45 you would, because we are still in the process of developing  
46 processes for conducting allocation reviews, and these would be  
47 documented and summarized, if you would, in the guidelines that  
48 we will publish at the end of this process.

1  
2 The remainder of the presentation will go through several  
3 specific items, or issues, that we think should be included in  
4 the guidelines, and this stems from the work done by the  
5 Allocation Review Working Group. The first question deals with  
6 who should perform the allocation review, and we have several  
7 alternative courses of action. We could use the typical IPT  
8 process, and the IPT is the interdisciplinary team, and that  
9 typically includes SERO, the Science Center, and council staff,  
10 and these members are usually selected by council staff,  
11 leadership, and NMFS, and potentially following a memo and  
12 consultations between the two

13  
14 The council could also decide that SSC members, with NMFS and  
15 council staff support, should conduct these meetings, and the  
16 specific members would then be selected by the council. An  
17 alternative course of action would be that the council  
18 determines that independent experts are needed to conduct a  
19 particular allocation review, and, finally, we can think about  
20 any number of combinations between these three alternatives.

21  
22 Before an allocation review is conducted, we thought that the  
23 guidelines should explicitly state that the review needs to be  
24 noticed, and now the question is what should be included in the  
25 notice?

26  
27 The notice should include the specific allocations to be  
28 reviewed, as well as indicate the start date of the review, and  
29 a series of questions to be considered are should the notice  
30 include the composition of the review panel, depending on the  
31 alternative composition that the council has selected, or should  
32 this notice also specify a deadline for the completion of the  
33 review, as well as the final submission date to the council? A  
34 question to the committee, and later on to the council, is what  
35 additional information should be included in this notice? A  
36 note here is that IPT meetings are not required to be noticed,  
37 and so, if you were to have reviews conducted by IPT members,  
38 those typically do not need a notice.

39  
40 Another issue that we did discuss has to do with separating the  
41 species and the species groups with allocation into review  
42 tiers, and, so far, we have identified two tiers for the  
43 reviews. The first tier, or Tier 1, would include the species,  
44 or species groups, with allocations that were established simply  
45 to determine the IFQ quotas, the commercial quotas for our IFQ  
46 programs, and these would include the shallow-water grouper, the  
47 deepwater grouper, and the tilefish IFQ aggregate.

48

1 The second tier that we considered, which should require a more  
2 complex review, would include all of the Gulf species or species  
3 groups with an existing allocation. Also, as a notation, if  
4 warranted, species, or species groups, could be moved from one  
5 tier to another based on the council's recommendation in the  
6 future.

7  
8 As far as the organization of the review itself, we have  
9 borrowed loosely from the SEDAR guidelines, and the way we are  
10 looking at it right now would be to have stages, with stage one  
11 being the data review, and stage one would essentially identify  
12 the data sources and gather the available data for the purpose  
13 of conducting the review.

14  
15 The second stage would be the review itself, and so the analysis  
16 and evaluations would be conducted during this second stage, and  
17 the third stage would involve a preliminary drafting of the  
18 review report. The fourth stage, which we term here the review  
19 and recommendations, would include SSC and advisory panel  
20 review, as well as the council discussion of those  
21 recommendations. The final stage, which is not on this slide,  
22 would be, essentially, the council's final decision, following  
23 the re-review, if you would, of the draft review, and that would  
24 be the completion stage.

25  
26 We also discussed the sections that should be included in the  
27 report. The sections that we have identified so far would  
28 include an introduction and background section, which would have  
29 to discuss historical allocations and the basis for the  
30 establishment. It would include a discussion on the data, the  
31 types of data collected, their sources, as well as any data gaps  
32 that we would identify.

33  
34 Then we would proceed with the body of the review itself, and  
35 then we would include the recommendations, including the  
36 recommendations offered by the relevant advisory bodies, the APs  
37 and the SSCs and so forth. We would also include, in this  
38 review, a section on research needs, and that will include a  
39 discussion on research that could improve future reviews, and,  
40 finally, the review would be concluded with the council's  
41 recommendations and conclusions.

42  
43 The working group looked at the issue of resetting the clock, if  
44 you would, and, following the completion of an allocation  
45 review, when do we have to reset the review clock, given the  
46 fact that we have time triggers at regular intervals? Here, we  
47 can consider two scenarios. Number 1 is, if the council  
48 determines that an amendment to consider reallocation is not

1 warranted, then the clock should reset, and the next allocation  
2 review should be scheduled based on the time interval set by the  
3 corresponding time-based trigger. Number 2 is, if the council  
4 decides to pursue and develop an amendment, then the clock  
5 should reset on the implementation date of the amendment itself.

6  
7 Just as a reminder, these are the initial allocation review  
8 starting dates that the council picked, and then we have the  
9 different species and species groups and the starting dates, the  
10 first one being April of 2023 for recreational red snapper ACL  
11 allocation between the for-hire and the private angling  
12 component.

13  
14 That was the last slide in the presentation, but, before I  
15 close, I would like to mention that, in terms of next steps, we  
16 have discussed today, or presented, procedures, meaning how to  
17 conduct the review itself.

18  
19 The working group has already started preliminary discussions,  
20 and they will continue looking at the content of the review  
21 itself, and that part will include the biological,  
22 socioeconomic, and ecological factors that the council would  
23 consider during the course of a particular allocation review.  
24 That is what the Allocation Review Workgroup will discuss at its  
25 next meeting, and we will summarize our suggestions to the  
26 council the next time we bring this before you. That's all I  
27 have, and I will try to answer questions if you have any. Thank  
28 you.

29  
30 **CHAIRMAN DIAZ:** Thank you, Dr. Diagne. Do we have any questions  
31 for Dr. Diagne? I know you all have done a good bit of work on  
32 this, Dr. Diagne, and I appreciate it, and I'm sure the  
33 committee appreciates it also, and do you all have a next  
34 scheduled meeting? You might have said that, but I may have  
35 missed it.

36  
37 **DR. DIAGNE:** Well, we don't have yet a firm date, and we are  
38 going to meet before the January council meeting, and that is  
39 our plan.

40  
41 **CHAIRMAN DIAZ:** Okay. I am not seeing any hands up on the board  
42 right now. Dr. Powers was going to -- Mr. Riechers.

43  
44 **MR. RIECHERS:** Assane, I think the GAO report referenced, for  
45 both the South Atlantic and the Gulf Council, and, I mean, it  
46 basically referenced that both of us had put together a plan for  
47 the allocation reviews, but that we would be working on kind of  
48 what the criteria was, and I believe, if I'm recalling

1 correctly, for the Gulf Council that even indicated that -- As  
2 you suggested in your presentation, we have started the  
3 workgroup, and I want to say met last summer, if I'm recalling  
4 correctly, and you're indicating that, maybe at the next  
5 meeting, you all will bring -- The next time we see this, you  
6 will bring forward some of those criteria.

7  
8 As we work through this, and I realize that we routinely discuss  
9 it with the South Atlantic, and, obviously, our business doesn't  
10 have to be done exactly the same, but is there -- Do we know if  
11 there's going to be some commonalities across councils and  
12 council processes, when we think of criteria and the way we're  
13 going to go about those and the actual composition of the  
14 allocation review? When I say composition, kind of the actual  
15 what we're going to look at and how we're going to look at it.

16  
17 **DR. DIAGNE:** Yes, Mr. Riechers, and the Allocation Review  
18 Working Group has met several times, and we have met actually  
19 three times, and the last meeting was -- I don't remember the  
20 date, but it was not too long ago.

21  
22 As far as the commonalities, I mean, so far, we are following  
23 our council's recommendation, if you would, and discussions to  
24 be able to determine and draft guidelines that would be specific  
25 to the Gulf Council's allocations. It is possible that we will  
26 look at similar criteria, if you think about it in terms of the  
27 ecological and biological and socioeconomic factors, and I'm  
28 sure that there is going to be some overlap, but, at this time,  
29 our primary emphasis is to make sure that the Gulf Council  
30 develops criteria that are specific and suitable for the review  
31 of all allocations.

32  
33 **CHAIRMAN DIAZ:** Thank you, Dr. Diagne. Ms. Levy.

34  
35 **MS. LEVY:** Thank you. I guess this is a question for council  
36 staff. I mean, I'm just wondering what the council is expected  
37 to do at this meeting, because you came with a lot of different  
38 recommendations about who would perform this review and what  
39 types of things would be included and options for notice, and is  
40 the expectation that you get guidance on any of those things  
41 here, or is it that you re-present this and get guidance on  
42 those various options?

43  
44 **DR. DIAGNE:** Thank you, Ms. Levy. I mean, the expectation is  
45 that, if the council elects to do so, that the committee could  
46 provide us guidance. For example, they could suggest additional  
47 procedures. They could also say that, in the notice for the  
48 allocation review, we would like to include this and this and

1 this, or they could subtract from the options, if you would,  
2 that we have presented. Absent that, we are going to take these  
3 points that we develop today and write it as the procedures, if  
4 you would, and the council would have an additional opportunity,  
5 once they see the draft of the preliminary guidelines, to  
6 reevaluate those and make changes as they see fit.

7  
8 We are taking a fairly deliberate approach, to make sure that,  
9 at the end of this process, the guidelines would reflect the  
10 council's intent as far as conducting these allocation reviews,  
11 and so, yes. I mean, the council guidance and suggestions are  
12 absolutely welcome, and, in fact, we are looking for those, but,  
13 if they do not have any at this time, then it is fine. When  
14 they see the draft guidelines, they can still provide  
15 modifications and suggest additions, for example.

16  
17 **CHAIRMAN DIAZ:** Thank you for that, Dr. Diagne. I did have a  
18 comment about the allocation review notice, and it seems to me  
19 like, somewhere in that notice, what triggered the review should  
20 be in that notice, whether it's the council brought up or if  
21 it's a timeline-based trigger or whatever trigger, and it  
22 probably should be in that notice. Are there any other  
23 questions or comments for Dr. Diagne? Dr. Powers was going to  
24 give us a summary of some of the SSC comments. Dr. Powers, are  
25 you ready for that?

26  
27 **DR. POWERS:** Yes, I am. Thank you. The SSC, I think, was --

28  
29 **CHAIRMAN DIAZ:** Hold on just one second, Dr. Powers, before you  
30 start. Mr. Anson.

31  
32 **MR. KEVIN ANSON:** Thank you, Mr. Chair. Just on that point that  
33 you brought up, Dale, and I guess it might be kind of intuitive,  
34 but, similar to that, what you commented on, is more like a  
35 terms of reference, because I know we talked earlier about how  
36 an allocation review process would work, but I'm just wondering  
37 if, for a specific species, that there might be a need, or it  
38 might be beneficial, to the allocation review panel if there was  
39 maybe a terms of reference, and it may not be the appropriate  
40 wording, but maybe some specific things that the council would  
41 like to be analyzed and such, and maybe staff might be able to  
42 include it as part of that initial framing of the task for the  
43 review panel, if that's what is ultimately selected, but that  
44 would be my suggestion.

45  
46 **CHAIRMAN DIAZ:** Thank you, Mr. Anson. Any other comments for  
47 Dr. Diagne? All right. I am not seeing any. Okay, Dr. Powers.  
48 Would you proceed?

1  
2 **SSC RECOMMENDATIONS**  
3

4 **DR. POWERS:** Yes, and thank you. I was just going to mention  
5 that the SSC as a group -- I think we were supportive of this  
6 process, and one of the things that it does is it sets up  
7 periodic times, predictable time periods, for reallocation  
8 reviews, and, also, probably more importantly, the documentation  
9 of criteria to judge those allocations.

10  
11 The SSC -- A number of members were supportive to the extent of  
12 we would wish to be included in the panel, and one of our  
13 members, who has much experience with the Mid-Atlantic Council,  
14 mentioned that he thought that the Mid-Atlantic process was  
15 really enhanced by having external members and SSC members, and  
16 this is not that the SSC would drive the system, but, by having  
17 external members, it's helpful, in terms of defining criteria  
18 and that sort of thing.

19  
20 Dr. Diagne had mentioned that, in the next go-round, some of  
21 these criteria would be vetted through the SSC, which we would  
22 wait for, and we would also -- The timing is -- One other thing  
23 was one of the questions that the SSC asked was is this review  
24 just for stocks with existing allocations, and, from my  
25 understanding from Dr. Diagne, the answer was that is correct,  
26 that new allocations would not necessarily have to go through  
27 this same review, but perhaps he could answer that later.

28  
29 Other than that, I think the SSC was supportive, and it was the  
30 general consensus, I would say, that it might be useful to have  
31 some outside expertise, in terms of how the working groups  
32 function, in terms of defining criteria and so on, but that's  
33 about it. Thank you.

34  
35 **CHAIRMAN DIAZ:** Thank you, Dr. Powers. Tom, I see you hand up a  
36 minute ago. Did you have a comment, Tom?

37  
38 **DR. FRAZER:** I just was trying to, again, seek some  
39 clarification here, and I think it gets to both Robin's point,  
40 and maybe Kevin's, and so it's not clear to me, in this process,  
41 who develops the criteria or those terms of reference.

42  
43 I mean, maybe those terms are somewhat interchangeable, but what  
44 I think is important for this council to consider is what  
45 actually sets the direction and the velocity of what you're  
46 trying to achieve with any allocation scenario, and so I'm just  
47 trying to figure out, again, if we're all comfortable with,  
48 again, where the development of the criteria, or the terms of

1 reference, might be injected into this process.

2  
3 **CHAIRMAN DIAZ:** All right. Any further comments? Dr. Diagne.

4  
5 **DR. DIAGNE:** Thank you, Mr. Chair. So far, given that the  
6 council has set up an allocation review working group, we are  
7 going to potentially start the development of those criteria,  
8 and the workgroup, as you know, includes council staff, Science  
9 Center staff, and SERO staff.

10  
11 We are going to start developing the set of criteria that we  
12 think would be appropriate to conduct an allocation review, and  
13 we will present that to the SSC and get their feedback. As Dr.  
14 Powers mentioned, that they are looking forward to contributing  
15 to that effort. Then we will present that to the council.

16  
17 As far as the terms of reference, given the comments that were  
18 made today, we will include, in the draft guidelines for  
19 allocation reviews, an item that would specify that, prior to  
20 each review, terms of reference would have to be set, and then  
21 perhaps agreed upon by the council.

22  
23 So far, we are going to essentially start that process, if you  
24 would, meaning the members of the Allocation Review Workgroup  
25 should start on that effort, unless the council would prefer for  
26 those terms of reference to be developed by somebody else.

27  
28 **CHAIRMAN DIAZ:** I think that's a good way to proceed, Dr.  
29 Diagne. I am not seeing any other comments, and we'll see this  
30 again, and we'll have another chance to review it at a future  
31 meeting, as the workgroup puts more of this together. I believe  
32 that concludes this agenda item. I am not seeing anybody's  
33 hands up.

34  
35 Dr. Simmons had wanted to circle back to the final  
36 recommendations on the Executive Order and talk about public  
37 comments. Dr. Simmons.

38  
39 **EXECUTIVE DIRECTOR SIMMONS:** Thank you, Mr. Chair. I just  
40 wanted to let the council know that Emily was able to put up the  
41 public comments we've received from the September meeting to  
42 this council meeting, and those are now up on the website for  
43 you review before Full Council. Thank you.

44  
45 **CHAIRMAN DIAZ:** Thank you, Dr. Simmons. Is there any other  
46 business to come before the Sustainable Fisheries Committee?  
47 Hearing none, Mr. Chair, I believe that concludes our committee,  
48 and I will turn it back to you.

1  
2 (Whereupon, the meeting adjourned on October 26, 2020.)  
3  
4 - - -