GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

SUSTAINABLE FISHERIES COMMITTEE

Webinar

SEPTEMBER 28, 2020

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The Sustainable Fisheries Committee of the Gulf of Mexico Fishery Management Council convened via webinar on Monday afternoon, September 28, 2020, and was called to order by Chairman Dale Diaz.

ADOPTION OF AGENDA
APPROVAL OF MINUTES
ACTION GUIDE AND NEXT STEPS

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

The first order of business on the agenda is the Approval of the June 2020 minutes. Are there any additions or changes to the minutes from June? Hearing none, we're going to accept the June 2020 minutes. The second order of business is Adoption of the Agenda. Are there any changes or additions to the agenda? Hearing none, the agenda is adopted.

Item Number III is the Action Guide and Next Steps. Ms. Muehlstein had asked to say a few words when we got to this point of the agenda, and are you ready, Ms. Muehlstein?

MS. EMILY MUEHLSTEIN: Yes, sir. Thank you for giving me a minute. This is just sort of our first opportunity to highlight that we have changed our protocol as we deal with our general public comments that are submitted between council meetings. The first time that that shows up is on this agenda.

What we have decided is that, when we receive general public comment, and so public comment that doesn't necessarily fit into one of the amendments that we're working on, between each council meeting, we will do our best to sort that and put them under the agenda and meeting materials for any issues that we have on the council meeting agenda, and so you will notice, if you look online at our meeting materials, under the presentation on depredation by marine mammals, we have received a number of public comments, and those comments are all put together and put under background materials for that agenda item on the Sustainable Fisheries.

That will also be occurring under Reef Fish, in one instance, and also Full Council, but this was the best time for me to sort of introduce our new protocol, and I would direct each of the council members to take a moment and look at that general public

comment that we received on that agenda item. Thanks.

CHAIRMAN DIAZ: Thank you, Ms. Muehlstein. Next up on the agenda, we have a presentation by Dr. Beck and Dr. Riley from the Office of Aquaculture, and they are going to give us a presentation on the Aquaculture Aspects of the Executive Order, including the role of aquaculture in promoting American seafood and competitiveness and economic growth. Are you ready, Dr. Beck and Dr. Riley?

DR. JESSICA BECK-STIMPERT: Yes, I believe we're ready. Ken, are you there?

DR. KEN RILEY: Yes.

CHAIRMAN DIAZ: Whenever you're ready, please proceed.

AQUACULTURE ASPECTS OF EXECUTIVE ORDER 13921

DR. BECK-STIMPERT: We're going to go ahead and get started, and so thank you all for providing us time to talk today. I am Jess Beck-Stimpert, Senior Aquaculture Coordinator for NOAA Fisheries Southeast Region, and I will be presenting today on the Executive Order 13921, and, specifically, aquaculture opportunity areas.

I also want to introduce Dr. Ken Riley with NOAA's Ocean Service, and Ken and I are going to be tag-teaming today's presentation. I am going to review the first two slides, and then I will hand it off to Ken, and then Ken and I will be available at the end for questions, as well as some of our SERO leadership, and I also wanted to introduce Andrew Richard, who is a new aquaculture coordinator who came onboard in May in the region, and Kristy Beard with the Policy Branch of the Office of Aquaculture in Silver Spring, and so, between all of us, we hope we can answer any questions or concerns that you have.

Before I jump in, I just wanted to thank the council for taking time to discuss aquaculture on today's agenda. As many of you know, there was an Executive Order published in early May of this year that focused on various actions related to aquaculture in the U.S., and I just wanted to mention that the EO has three main bins of activity.

The first is regulatory reform to remove unnecessary barriers to U.S. commercial fisheries, and the second looks at trade aspects of seafood, to ensure that U.S. seafood has a level playing field in the global marketplace, and it also includes a suite of

activities focused on the expansion of sustainable aquaculture production, which Ken and I will be talking about today. As I mentioned, we're going to be talking specifically about aquaculture opportunity areas.

A couple of things to note about the aquaculture sections of the Executive Order, and these sections build on activities and work that have been ongoing for years, regarding developing sustainable aquaculture practices, and, while NOAA plays a role in many of these actions that are outlined in the Executive Order, it's truly an inter-agency effort, and we have been, and continue, to work closely with other agencies, like the Army Corps, EPA, and USDA, to meet the goals outlined in the Executive Order.

We have a limited amount of time with you today, and so I will briefly mention aspects of Sections 6, 8, 9, and 10 of the EO, and hopefully we can use the rest of this presentation to focus on Section 7 of the EO, which I believe the council will probably be most interested in, because that is a section that directs NOAA to lead the development of aquaculture opportunity areas in the ocean. I will be referring to those as AOAs, just for brevity's sake.

In essence, Section 6 of the Executive Order is about removing barriers to aquaculture permitting, and it asks the Corps to evaluate creating nationwide permit programs for finfish and seaweed and multispecies aquaculture, to augment their existing nationwide permit program for shellfish.

On September 16, the Corps published a proposed rule, and it's taking public comment through November 16 on these new nationwide permits for those species, and it also contains draft language -- It would also reauthorize Nationwide Permit 48 for shellfish aquaculture, which many of you at the state level may be aware of.

It also asks NOAA to be the lead agency for NEPA and marine aquaculture, as long as the project triggers the level of environmental impact statement, and they make several other requirements, such as the project must be in federal waters.

Skipping Section 7, and we'll talk about that through the rest of the presentation, Section 8 is about the government being transparent, and this section asks NOAA to describe all the federal regulatory requirements to get aquaculture permits, as well as outline the state and federal agencies involves in the process, and it also asks us to outline federal grant programs

for aquaculture and make sure that information is available and up-to-date.

Section 9 asks the federal agencies with ties to aquaculture to evaluate whether or not we should update the National Aquaculture Development Plan. We have an existing development plan that was created back in 1983, and so it's been quite a long time since this has been updated, and aquaculture has changed dramatically, and so we anticipate working with other partner agencies in the future to develop a new plan and update this plan.

Finally, Section 10 asks the USDA to evaluate whether or not an update to their 2008 National Aquatic Animal Health Plan is needed, and, again, some time has passed since that date, and the USDA is currently working on drafting a new plan, which we expect to be public soon.

Now, on the next slide and the future slides, I'm going to shift to Section 7 of the EO, which speaks specifically to aquaculture opportunity areas, or those AOAs, and Ken and I will spend the rest of our time discussing this piece. If the council would like further information on the other sections of the EO that I mentioned, we would be happy to return and discuss those at a future meeting.

Section 7, aquaculture opportunity areas of the EO, the Secretary of Commerce, in consultation with other federal officials, the regional fishery management councils, and appropriate state and tribal governments, shall, within one year of the date of the EO, identify at least two geographic areas containing locations suitable for commercial aquaculture.

We are in this first year right now in the Gulf of Mexico, and the southern California region and Gulf of Mexico region, federal waters of those regions were selected as the first to host AOAs, based on the fact that there is already available spatial analysis data, and there is industry interest in these areas, and so we are currently within this one year at NOAA of working across different federal and state agencies and with various stakeholders to identify areas within the Gulf that may be suitable for aquaculture opportunity areas.

We expect that process to be completed sometime in May of 2021, and, at that time, that will trigger a two-year process of identifying geographic areas within the Gulf and completing a PEIS, and so we'll have a programmatic environmental impact statement and various alternatives where we would like to look

at aquaculture opportunity areas within the Gulf.

This is a process that's going to be completed year after year, and so this is our first year, or our first round, of AOAs. In the coming years, the next four years, we expect this process to be repeated in other regions, where two areas would be identified in other regions for AOAs, and so these processes would overlap. For instance, in three years, you would expect to see these processes overlapping one another and being at different stages.

It's important to note that, for this round of AOAs, we're looking specifically in federal waters of the Gulf and southern California. The Executive Order is silent whether AOAs would or could be in federal or state waters, and it doesn't mention that it needs to be in either or.

The idea of AOAs in state waters is a possibility in future years, as long as the state is open to development in their state waters. We know there is some interest in state waters by some states in the Gulf of Mexico, and this could be an option in the future, meaning we could come back to the Gulf and look at state waters in future years.

We are looking at the key takeaways slide now, and I know that was a lot to digest in the last slide, and so I'm going to just point out some key takeaways regarding AOAs, to try and make the concept as clear as possible.

I just want to mention that the selection of the Gulf and southern California regions doesn't mean the entire regions are opportunity areas. Rather, we're going to solicit data and input from stakeholders to investigate areas for potential areas in those two regions.

These discrete areas, or locations, will be vetted through a process of data gathering, spatial modeling, and stakeholder input, through meetings such as this with the council and future meetings with the council, as well as meetings with the commission and public comment. We also have a request for information that we'll be publishing soon, with a very generous comment period, where we'll be gathering information from the public on areas in the Gulf that we should be looking at and areas that we shouldn't be looking at.

I also want to mention that federal and state permitting and authorization requirements are the same within AOAs as anywhere else, and folks do not have to site within an aquaculture

opportunity area. They can look outside of aquaculture opportunity areas and go through the normal federal and state permitting and authorization processes, and those folks who do decide to stay within an aquaculture opportunity area, or are interesting in siting in those areas, would still have to go through the same authorization processes and permitting processes at the state and federal level, and so this process does not do anything but -- It doesn't do anything to reduce that permit requirement.

It essentially just provides some proactive steps in identifying which areas may or may not be suitable, which is something that an ordinary applicant who was looking outside of those areas would be doing anyway, and so all the applicable federal and state laws, and that includes the Clean Water Act, Rivers and Harbors Act, essential fish habitat, and provisions under the Magnuson-Stevens Act for consultation purposes, the Marine Mammal Protection Act, as well as consultation under the Endangered Species Act.

Finally, I just wanted to say that AOAs are not huge swaths of ocean. Rather, they would be small areas in the ocean. In reality, we anticipate that an AOA would support three to five aquaculture operations, and these operations could be finfish, shellfish, macroalgae, or a combination of those species. This is the size of the AOA we're looking at in federal waters in both the Gulf and southern California areas during this first round.

How will we identify AOAs? There are multiple processes, and I mentioned that there would be a request for information coming out in the next few weeks, and that will be published in the Federal Register, and we will make sure to include the council on that distribution list. There will be a generous comment period and specific questions we'll be asking about where we should and should not be looking in the Gulf of Mexico for AOAs, as well as for southern California and any future AOAs, because remember we need to start that process within the first half of next year, looking at other areas and beginning the same process that we're going through right now for AOAs, but in different regions.

We have the National Ocean Service and NCOS, who Dr. Riley is with, who will be using siting analysis results and mapping tools, and some of you all are familiar with the Gulf AquaMapper and the Ocean Reports tool. There's been a lot of information that's been gathered, fishing data, whether it's commercial or recreational or data across state lines and federal agencies,

that will be used to populate the tool, to see where there may or may not be suitable habitat or areas, or areas of reduced conflict for these areas.

Again, I mentioned the stakeholder input through the councils and commissions and public comment, and we have interagency coordination, and we have been working for almost eight years now, I believe, with other federal agencies in the region and at the national level on issues in the Gulf and ensuring that we reduce duplication, through permitting regimes, and also exchange information and keep in mind the needs and challenges of other federal agencies in regard to aquaculture and various areas that may be used for aquaculture.

I mentioned, again, the request for information in the Federal Register, and that should be coming out soon, and we plan to come back to the council and update you in future meetings throughout this process, and it may be that the request for information actually overlaps with your next council meeting, and so we can talk about a comment from both the council and the public at that time.

This is the last slide for me, and, for the rest of the presentation, I'm going to hand it over to Dr. Ken Riley with NOAA's Ocean Service, and, again, I will be here at the end, to help answer any questions. Thanks. Over to you, Ken.

DR. RILEY: That sounds great, Jess. Thank you. An aquaculture opportunity area is a defined geographic area that's been evaluated to determine the potential suitability for commercial aquaculture or even a combination of scientific analysis and public engagement to identify areas that are best suited for aquaculture with regard to the environment, the economic, and the coastal communities where they would be sited.

As Jess mentioned, these areas would be able to support multiple aquaculture operations, a few farms, say three to five, in a variety of production formats, possibly including algae or seaweed and bivalve shellfish or finfish. Aquaculture opportunity areas would not exclude any ocean uses. This is a planning exercise. It's in that realm of marine spatial planning and siting work. A very important note is we always look to minimize user conflicts.

With this slide, I would like to review some of the happenings and plans for engagement over the next year. We are working at a feverish pace. We only have like less than a year to complete the work, and we're working on early public and stakeholder

outreach to introduce the AOA concept and describe our site analysis, part of what we're doing today.

Soon, or very soon, like in a week or two, a request for information will be published in the Federal Register, which will request public input on AOAs in the Gulf of Mexico and southern California. We are also requesting input that NOAA, we, should use in considering AOA development over the next four years.

We really want to stay engaged with you all. We want to make ourselves available. We want to be engaged with the councils and the commissions and the stakeholders, the federal and state agencies, throughout the process. We anticipate providing an update at every council meeting and as often as necessary.

We will publish our Aquaculture Opportunity Atlas in May of 2021. The Atlas will highlight potential areas to be considered through the programmatic environmental impact statement. The PEIS will be developed over the next two years.

For the remainder of the talk, I would really like just to introduce you to myself. I'm Ken Riley, and I help lead the Aquaculture Program with NOAA's National Ocean Service and the National Center for Coastal Ocean Science. We lead the nation on planning for aquaculture development, siting aquaculture, and environmental research related to aquaculture development. We've been building this program for over a decade.

We work in every coastal state, helping coastal managers make informed decisions about aquaculture. We want to help the coastal managers make the right decisions about aquaculture. For aquaculture to continue to grow in the coastal landscape, it's very important that we use the best available science that's available for decision-making.

We work every day on the front lines with federal agencies, including the Army Corps, EPA, NOAA Fisheries, the Department of Defense, and even, in the past few weeks, NASA and Space-X. We want to have similar established relationships with the state agencies as well, many of you that are on the call today.

Our scientists include a blended workforce of ecologists, oceanographers, modelers, engineers, and geospatial scientists. Many, or most, of our staff have a lot of experience, practical experience, decades, working in the aquaculture industry.

As I mentioned, our research capitalizes on the need to support

smart planning and siting for growing the aquaculture industry. This means planning for aquaculture at regional and landscape scales, such as the work with aquaculture opportunity areas. We also work on the concept of precision siting, working on siting for individual operations.

Now, we don't work at the request of commercial companies or farms. This work is at the request of a federal agency, an action agency, such as the Army Corps of Engineers. The Corps will come to us and ask us to help an applicant find the right location for developing their business.

We also support an environmental research portfolio that includes farm production modeling, effluent modeling, and studies on interactions with fisheries, habitat, and protected resources. With all this research, we're constantly thinking about how to make our science widely available. This leads to our work to develop tools.

Here's just a sample of the tools and technology that our program has developed in recent years. For example, our AquaData Catalog has over thirty-three-million data layers, where we can use the power of GIS to inform spatial planning and perform this precision siting.

Ocean Reports is a premier automated spatial planning tool that we developed last year, in partnership with BOEM. I encourage you to check out Ocean Reports. At your fingertips, it allows you to do spatial planning to explore your coastal ocean, to identify different ocean neighborhoods, and it's really easy to use, and it provides a lot of infographics and statistics on the ocean and throughout the water column, and it's really easy to find in Google, and so it's an easy Google search for the term "Ocean Reports", and so that's just a little bit of our tools and technologies that we've been developing.

This slide shows our study areas that will be the starting point for the siting analysis. This area was identified by analyzing where industry is currently pursuing research and commercial endeavors. The study area is in federal waters with depths of fifty to 150 meters.

Because the Gulf is so large, we used an ecosystem approach. We broke the area, or the region, into smaller areas defined by their similar ecology and oceanography. We used the Gulf ecoregion to define study area boundaries. You will note that this is just our starting point. We haven't taken out any areas for marine sanctuaries or marine protected areas or oil and gas

development or military activity, and so it's just the starting point for which we'll do all of our studies.

This diagram just demonstrates our workflow for the research that will be completed over the next year. We will start with the project requirements, and this is information the aquaculture industry uses in selecting suitable sites. That might include things like water temperature, wave climate, ocean currents, and the soils and sediments that are required for anchors.

We will then lay a grid over our area of interest and inventory the data available for developing a suitability model. Basically, we'll look to see what data we have available that is within that study area. We will then build a suitability model to assess the compatibility, suitability, and opportunity for aquaculture development across the study area. Finally, we'll use a statistical approach called cluster analysis to begin to identify potential aquaculture opportunity areas.

Let me take you through some visuals for this process. Here, I will just go through some slides that give you kind of the visual perspective. Here is a sample of a study area with a bathymetric profile. To the aquaculture industry, depth is a primary and very important consideration for aquaculture development.

To the right is a grided overlay. For the Gulf of Mexico, we're going to use hexagon grid cells, because it responds really well to our high-resolution data in models. We will use a ten-acre grid cell size for across the study area in the Gulf. This means that each of those grid cells, those ten-acre grid cells, will receive a suitability score from within our model.

After we have identified a study area and laid the grid cells across the study area, we then worked to compile the data sources from a variety of categories: military, navigation, industrial, oceanography, biology, and boundaries.

We have reviewed and vetted this data with federal and state agencies and stakeholders. This process has been occurring over the last three or four months, and it's ongoing. It's continuous until we complete the spatial modeling.

The next step is to build a suitability model using and exploring the data that we have at-hand, and this picture is quite a complex model. Here, for example, is the scoring criteria on the left. You will note the suitability scores

range from zero, meaning an area is not suitable, and aquaculture would not be appropriate for that area, to one, which means it's potentially compatible, and it maybe presents some opportunity.

On the right of the slide is a sample map of some modeling off of southern California. Here, you can see how aquaculture would not be suitable with submarine cables or oil and gas infrastructure. You can also see considerations for some of our fisheries interactions. Like the Gulf, there is a lot of fishing activity off of California, and we have spent many years now assembling data on fishing to help inform all of our spatial models.

Our last step is to use spatial statistics to identify potential sites. We use a process called cluster analysis to look for clusters of the highest scoring grid cells. For aquaculture opportunity areas, we'll look for clusters of grid cells with the highest scores totaling 500 to 2,500 acres. We also identify about ten potential aquaculture opportunities across the entire region, and we may find some areas, some study areas, that do not support any aquaculture opportunity areas. That won't surprise us.

Our final step is to publish our findings in an atlas of potential aquaculture opportunity areas. We have done this for many locations around the country, on the west coast and on the Gulf coast. These atlases can help inform coastal managers about where aquaculture would be most appropriate within the coastal environment. We aim to have a draft complete in late winter for review, and then moving into publication in the spring.

That concludes our presentation, and Jess and I, as we move onto the next slide, we're going to be standing by, and we would be happy to take any questions that you may have. Thank you.

CHAIRMAN DIAZ: Thank you, Dr. Beck, and thank you, Dr. Riley. That was a great presentation. Any questions for Dr. Beck or Dr. Riley? I will wait just a second, to see if anybody has got questions. I do have a couple of comments.

I am hoping this doesn't work for these federal aquaculture areas like the states have I think experienced with trying to site oyster aquaculture in the states. A lot of times, folks support aquaculture, but they don't want it close to them, and the comments tend to seem to try to push the things into areas where they can't be successful, and hopefully the ultimate

zones, with all of the processes that you all have, will hone-in and get these folks in areas where they can be successful, and so hopefully that's the way that will work out. Ms. Bosarge, did you have a question?

MS. LEANN BOSARGE: I am just wondering about the hexagons that you showed us, Dr. Riley, what is the square mileage on the one individual hexagon, and how many hexagons -- What is the total square mileage you're thinking about carving out, on average, or a range, for the aquaculture opportunity areas that you choose?

DR. RILEY: The hexagons are ten-acre hexagons, and I am very quickly going to have to convert that for you, but the analyses that we've been kind of having people look at is that imagine, across the entire Gulf, a few very small dots of space on a map that would become an aquaculture area. The square mileage is 3.9 square miles. That's a maximum size.

MS. BOSARGE: So, in other words, your aquaculture opportunity areas would be one hexagon, and you wouldn't have like two or three put together, and it would be about four square miles?

DR. RILEY: Yes, ma'am. Basically, what we have learned from the aquaculture industry across the country, and so not just in the Gulf of Mexico, but most of the industry is seeking farms in the range of 100 to 800 acres, and so, if our aim is to support three to five operations, we have kind of taken those values and used that to judge the maximum size for an aquaculture opportunity area.

Again, an aquaculture opportunity area should be able to support any type of aquaculture, potentially, in terms of it's not just finfish. There is also the potential for bivalve shellfish or algae and seaweed, but we know, in the Gulf of Mexico, and we're being honest here, most of the interest is focused on finfish operations.

MS. BOSARGE: All right. Thank you. I have one more question, Mr. Chairman, if I may.

CHAIRMAN DIAZ: Yes, ma'am.

MS. BOSARGE: I have looked at your AquaMapper tool before, in the past, and I have to commend you on it. I mean, it's really something to behold. You can put so many different layers on there, and you really have a lot of information at your fingertips.

As you go forward and evaluate, in our case, and we're going to be kind of concerned with fishing effort in those areas, especially for my industry, where we're trawling, I would encourage you not to use a heatmap approach, where you're taking a three or four-square-mile hexagon and color-coding it as to the effort there. I would encourage you to use the actual tracks, the actual shrimp tows that we make, because it's only a sample of the fleet that has those devices on them to track our effort, and so a heatmap, unless you extrapolate it to the whole fleet, you're not getting a true picture.

I would also encourage you, as you said, to come back to the council, and you think you're going to keep us in the loop, and I really appreciate that, because I think we can find a few spots in the Gulf that might work well, but I think it's important to have that dialogue with the council, whose expertise is fishing, so that, as you go forward and choose these areas, before you finalize them --

Sometimes the data, if you know what you're looking at, is pretty easy to understand, but, other times, you can get data, and you're looking at it, but you don't understand the whole picture, and so it's hard to interpret the data, hence the reason we don't just get handed a stock assessment presentation, and we have a man, or a woman, that comes and presents it and explains it to us, explains every slide and what that data looked like and what was wrong with it or what the outliers were. I would encourage you to stay-tuned with us, and bring it back and let us take a look at it and give you some feedback. Thank you, sir.

DR. RILEY: I agree. Thank you so much.

CHAIRMAN DIAZ: Thank you, Ms. Bosarge. Dr. Frazer.

DR. TOM FRAZER: Thank you, Dale. My question is for Dr. Riley. That was a nice presentation, and my question has to do with the slide that was dealing with the site suitability model, and, in that, you have some data layers, and you have essentially a cell score, and what I'm trying to understand is those cell scores range from zero to one, and, in the example that you gave, there's an 0, 1.0, or 0.5, and is that a continuous scale, or is it -- If it's continuous, and you can have values, for example, that might be 0.25, or 0.3, how are those scores derived? How subjective are they?

DR. RILEY: It depends on the type of data. If the data is continuous, then it receives a continuous score. For example,

navigation data, and so fishing data and trawling data, that data would be considered continuous, and so it can receive a linear score, and so we can do that, and then other types of scores, like the danger and restricted zones, it received a 0.5, because it requires a consultation with the Department of Defense.

The Department of Defense, for example, it's a -- They have told us that these areas are completely off limits, and these areas would require detailed consultation, and so we have some scores that are in that three-tier ranking system of 0, 0.5, and 1.0, and some of them are a continuous linear scale.

DR. FRAZER: Great. Thank you.

CHAIRMAN DIAZ: Any other comments or questions for Dr. Beck or Dr. Riley? Seeing none, I have just a question for Dr. Simmons. Dr. Simmons, I agree with Leann and what Dr. Riley said, and I would like to make sure that we have updates, because there is such a quick deadline associated with these aquaculture opportunity zones, and do you need a motion from this committee to regularly schedule them at the meetings, or can we just go forward with our suggestions?

EXECUTIVE DIRECTOR CARRIE SIMMONS: I think we can just go forward with that suggestion. I will note that the October council meeting agenda is set, and it's full, and the Federal Register notice was submitted on Friday, and so the next meeting, that we're going to talk about I think later in the week, is the November council meeting.

CHAIRMAN DIAZ: That would be fine with me, if we brought them back in November and just let them have a regular spot on our agenda, starting with our regularly-scheduled meetings after the first of the year.

EXECUTIVE DIRECTOR SIMMONS: Okay. As long as that timing works for them. Thank you.

CHAIRMAN DIAZ: Any opposition from the committee on that? Hearing none, that's how we will proceed. Thanks again, Dr. Beck and Dr. Riley. We appreciate you being here and your great presentations.

We are going to move on to Agenda Item Number V, and this is dealing with recommendations on the Executive Order. First up is going to be Ms. Muehlstein telling about the public comments from Something's Fishy, and I might ask if Dr. Simmons or Ms.

Muehlstein wants to go over the action guide for this particular agenda item.

RECOMMENDATIONS ON EXECUTIVE ORDER 13921

EXECUTIVE DIRECTOR SIMMONS: I can do that. Thank you, Mr. Chair. That is Tab E, Number 3, and we're on Agenda Item Number V. Staff has put together the public comments that we received on Executive Order 13921, and, as you all know, we've been asked -- There is a letter that is included as background, and that's Tab E, Number 5(c), that outlines what we need to do.

We need to eventually come up with a prioritized list of items that we want to include, and then, after that -- That has to be a deadline of November 2. After that, we need to include a proposal for initiating each of those recommended actions within one year of the order, which is May 2021.

After we present this, I'm going to go through some of the items that came up during Sustainable Fisheries at the June council meeting, but we would really appreciate any feedback from those lists that you would like to see at the next council meeting, so that we can start finalizing those and thinking about prioritizing them and thinking about how we would go about even initiating actions to modify or change those regulations to reduce burden. I will stop there.

CHAIRMAN DIAZ: Thank you, Dr. Simmons. All right, Ms. Muehlstein. I think we're ready for your public comments for Something's Fishy.

MS. MUEHLSTEIN: Okay. Thank you. Just as a reminder, as part of the Executive Order, the councils were requested to submit a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries. That could include changes to regulations, orders, guidance documents, or other similar agency actions.

We, as a council, decided to deploy our Something's Fishy tool to ask our stakeholders two specific questions in response to this Executive Order. The first question that we asked was are there current regulations that may be outdated or unnecessarily burdensome to fishermen, and then we asked them to explain why they create a problem and suggest some actions that the council could consider to modify or remedy the issue.

Then the second question that we asked was are there any other changes to council guidance documents or procedures that could

alleviate barriers to domestic fishing, and, again, we asked them to explain the issue and suggest action that we could take to remedy the issue.

We deployed our Something's Fishy tool between July 7 and August 7, and we collected responses. We got a total of ninety-three comments back from the public, and so -- By sector, about half of the respondents were private recreational anglers. 26 percent identified as commercial anglers, and 21 percent identified as federal for-hire. The remaining respondents identified either as seafood dealers or as an other category, and so sort of an unspecified other category.

Going through these comments, they were sort of general questions, and it was kind of a broad topic, and so they were pretty meaty, and so we've done our best here to sort of sort them into a couple of sections, so that they make a little bit of sense, and what I will do is I will explain what each section is as I go through those comments.

We will start with sort of our first section, which is potential regulations for removal that were suggested, and now these were suggested by sector for specific federal regulations that could be identified and that did not appear to involve tradeoffs with other fishermen in the Gulf region.

For the commercial sector, for this first section, we did hear that we should consider requiring commercial permits to be renewed every five years instead of every year, to remove the burden of annually renewing permits. We were asked to remove the longline seasonal closure in the eastern Gulf. Reef fish vessels should not be forced to go further offshore during hurricane season, especially since turtles are rarely harmed by the longline industry.

We heard that we should remove the requirement to carry observers onboard. It is burdensome to carry observers, as insurance is required and meals must be provided, and it's also dangerous, in some instances.

We were told to remove the requirement for the shrimp automatic identification system, the AIS, which is expensive, and it tells other vessels where shrimpers are trawling, and, finally, from the commercial respondents, we heard that we should remove the requirement for shrimp vessel stability testing, which can lead to shrimpers losing their ability to work for no reason, and it may not accurately reflect safety issues in the Gulf.

From recreational respondents, we heard that we should remove the idle iron policy to designate artificial reef habitats on decommissioned oil rigs as critical marine habitat. We were asked to remove the requirement for dual-permitted vessels, and that's vessels with both commercial and federal for-hire permits, to hail-out when engaging in a for-hire trip.

Regarding gear restrictions, we were asked to remove the restriction on the use of powerheads in stressed areas, as it is unenforceable and ineffective. We were asked to remove the requirement that anglers purchase specific gear promoted by manufacturers, and I think, but I am not sure, that this was in relationship to the turtle release gear.

The second sort of bin of responses that we got is responses that require evaluation of current regulations for potential removal, and so, really, this idea of evaluating a suite of regulations, and then we would follow-up with consideration for removal if portions of those regulations are determined to be of greater burden than they are a benefit to fishermen.

The first one here is assess turtle populations and evaluate current TED requirements for whether goals are being achieved. If goals are not being achieved, remove them. For example, TEDs cause shrimp loss on soft bottom, where turtles are not likely encountered, and this requirement could potentially be removed. Also, it is burdensome to buy new TEDs with the bars closer together.

Then we also heard that we should evaluate turtle gear requirements for reef fish fishermen with regard to vessel type and size and that turtles can be released properly without the specific brands of dog toys, is what was mentioned.

The third sort of bin that we have filed these comments into suggestions that would require substantial changes to management. They could reduce burdens on fishermen, but they are complex, and they are time consuming, and they would probably involve the creation of new regulations to correct or modify the problem.

The first thing we heard was that we should replace trip tickets with electronic logbooks, and this is because trip tickets are burdensome and should be replaced with logbooks that are incorporated into one system for all relevant offices to access. Fishermen can validate their trip tickets upon landing, and the information should populate the account information electronically.

We heard that the logbook program is not currently working. They are not counted accurately, and they must be submitted repeatedly, and that permit renewal is difficult when logbooks are in question, and so, in other words, fishermen were saying that the logbook system is arduous, and it actually prevents them from renewing their permits sometimes.

Then we also heard that foreign imports create too much competition and that we should prohibit seafood imports from other countries that have less stringent environmental, sustainability, and food safety requirements and that we should also restrict imports of grouper and snapper from Mexico.

Next, and I just put it here for reference, we did hear some additional public comments that were not applicable to necessarily reducing burdens on fishing, and I am not going to go over those, just for the sake of time, and what we'll do is actually move to the final page of the report, which moves on to answering the second question, which is when we solicited information on changes to council guidance documents or procedures that could alleviate barriers to domestic fishing.

The responses here were a little bit more straightforward and didn't need to be managed in different sort of bins or sections, and, really, there was just one that we pulled out that was a suggested change to our current document, and that is that the council process for implementing change is too slow. It takes two years for a regulatory change to be implemented.

Also, you will notice, if you look at the report, that we also received some additional public comments in response to this question, but, again, I'm not going to go over those, for the sake of time. That concludes my report on the public comments that we got from the Something's Fishy tool for this Executive Order.

CHAIRMAN DIAZ: Thank you, Ms. Muehlstein. Any questions for Ms. Muehlstein? Seeing none, we're going to move right down the agenda, and I believe Dr. Simmons is going to handle the rest of Agenda Item Number V. Dr. Simmons.

EXECUTIVE DIRECTOR SIMMONS: Thank you, Mr. Chair. This is Tab B, Number 5. These are the items that we just briefly discussed, or you brought up, during the June 2020 Sustainable Fisheries Committee, and you can see the bulleted list that we have included there, and then you may recall that we went through this exercise not too long ago for the regulatory reform

taskforce review process, and that was during the April and June 2018 council meetings.

There was one item that was left over that the council did actually not put forward from those meetings, and that was the gear restricted areas, and so, as part of that, the reef fish stressed area.

I went back through the minutes, and, after reviewing the council minutes from both the April and the June 2018 council meetings, the rationale for not including the recommendation was not clear, but we're including it here again, to see if the council may want to reconsider removing the gear restricted areas, specifically the reef fish stressed areas.

The powerhead suggestion, I think, was included in the public comment, and, currently, it's listed as the powerheads may not be used in the stressed areas to take Gulf reef fish. If you go down a little bit, it shows you the actual stressed area on the map, and then, also, part of that stressed area is the roller trawl may not be used in a stressed area. I will stop there for now, Mr. Chair.

CHAIRMAN DIAZ: Okay. Any comments or questions for Dr. Simmons?

MS. BOSARGE: Dale, can I chime in?

CHAIRMAN DIAZ: Yes, ma'am.

MS. BOSARGE: I am not all that familiar with maybe some of the things that Carrie was pointing out there, but, you know, if we don't hear any big objections -- To me, if you don't hear much feedback on it, then that's probably something that is not really an issue and that could probably be eliminated, and so I will just throw that out there in support of past recommendations, but I have some other recommendations later, when we get to it.

CHAIRMAN DIAZ: Okay. If you will, Leann, we're going to take a few questions right now from other council members, and then remind me, and we'll come back and get your other recommendations. Mr. Riechers.

MR. ROBIN RIECHERS: I realize that all these items came up at the 2020 Sustainable Fisheries Committee meetings, but is it our charge to look at what other agencies can do as well, or are we supposed to be kind of limiting our charge? I mean, I realize

that we don't have to take all of these that we have on the screen here, but like, for instance, the notion of the banned substances and increased testing.

The labeling requirements probably fall under the FDA, would be my assumption, to some degree there, and maybe the Department of Health, or maybe we have those under Magnuson too, and I don't know, but I'm just kind of wondering about that, as well as some of the safety compliance things that might fall under the Coast Guard, for instance.

CHAIRMAN DIAZ: Robin, I will take a stab at it, and, Dr. Simmons, please correct me if I'm wrong, but I believe, the way I understand it from the folks at National Marine Fisheries Service, it's that we can submit ideas that may not necessarily fall underneath the purview of National Marine Fisheries or the council, and those ideas would be treated separately.

Ideas that we submit that actually fall underneath the council's domain, we will have to come up with a schedule where we would initiate those items and start working on those items by May 2 of next year. Is that correct, Dr. Simmons?

EXECUTIVE DIRECTOR SIMMONS: Yes, that's correct. That's the way I understand it as well.

MR. RIECHERS: Okay. Thank you.

CHAIRMAN DIAZ: Next up is Ms. Guyas.

MS. MARTHA GUYAS: Thanks, Dale. Like Leann, I have some other things to suggest, and I can do that at the appropriate time. I am looking at the list from June though, and I think the do not close additional areas to commercial and recreational fishing -- I think that came up in reference to like the National Marine Sanctuaries.

I mean, I have mixed feelings about that one. Our commission, I think we potentially are going to support some of the closed areas for the sanctuary, depending on -- I'm talking about the Florida Keys National Marine Sanctuary, and these have to have a good reason for it, and so I just wanted to say something about that one, but, when the time is right, I have some additional items that I would like to suggest as well, but I will hold off until we, I guess, dispense with what's in front of us right now.

CHAIRMAN DIAZ: Right. Well, I believe, if you would like to

delete something on that list, you can surely recommend that here now, and we could take that up right now.

MS. GUYAS: Well, I would open up the closed areas one for discussion. I mean, I just think that has to be a case-by-case decision. Just, for example, the Madison-Swanson and Steamboat Lumps, I don't think we would ask now that the Secretary not approve that rule, and so let me just put that out there for a discussion.

CHAIRMAN DIAZ: I tend to agree with you on that one, Ms. Guyas. Any discussion on Ms. Guyas' comment? Is there any opposition to striking that comment?

MS. BOSARGE: Martha, what if we -- I think one of the biggest issues that we have a lot of times with the sanctuaries is that we feel like we don't really have much say in what they do. Yes, they come and they present to us, but, ultimately, we are not a -- We are barely even a consulting party on it, and let's put it like that, and so maybe we could amend that to not close additional areas to commercial and recreational fishing without -- I don't know how you want to say it, Martha, but something along the lines of without council -- Unless recommended by the Gulf Council or by the council in that jurisdiction, something like that, Martha, and can we qualify it?

MS. GUYAS: Yes, and I think you're trying to get at like more of a collaborative process, where both -- Not the agency, but both of us are working together, and I'm all for that. That's, I think what we have been trying to advocate for in the Florida Keys National Marine Sanctuary process, and so, if we can qualify it, I can maybe get onboard.

CHAIRMAN DIAZ: Mr. Anson, you had a comment?

MR. KEVIN ANSON: I did, Dale, but it was separate to what Martha has brought up here, and, if I could follow back, I would like to do that.

CHAIRMAN DIAZ: Any other comments on Leann and Martha's concerns? I tend to agree with Leann about editing the way Leann has edited it, and it's a lot more palatable, and I could live with that. That's my two-cents. Hearing no other comments, Kevin, why don't you go ahead, and then we'll go ahead and start working down the list.

MR. ANSON: Thank you. I just am unfamiliar with the powerhead issue, and I read somewhere that it was initiated back in the

early 1980s, and so maybe conditions or what was happening at that time prompted the regulation, but I wonder if anybody on the NOAA staff has some history as to what was the definition of a stressed area, as it relates to the figure in the document that reviewed some of the potential changes, regulatory changes, and just if anybody has some background information, and I would just be curious to know.

EXECUTIVE DIRECTOR SIMMONS: I think it was put in place, Kevin, during the time of fish traps, I believe, when fish traps were actively being used, and there might have been some gear interactions going on there, but maybe Roy and others can chime in and help out with that.

CHAIRMAN DIAZ: Any other comments from folks on the history?

DR. FRAZER: Roy, are you -- Dale, let me just make sure that Roy is not trying to say something here.

DR. ROY CRABTREE: All I can offer is what's in the FMP, and that whole discussion happened quite a while back, and I think those were put in place in the original FMP.

CHAIRMAN DIAZ: Okay. Well, we're going to move on. Is there any other comments related to the list that's on the board? Hearing none, let's move on to folks that wanted to add some new adds. Leann, did you want to go first?

MS. BOSARGE: Yes, sir. Thank you. Let me get to my list of ideas here. All right. I don't think -- If you will keep that list on the board, I would appreciate it, because most of those were mine from last time, and so it will help me scan through my list and see what I said and didn't say last time.

Another thing that I came up with was having seafood on the menu in public schools in a real and meaningful way. I think that that would help to diversify the market that our domestic seafood industry revolves in, and I think it would create a secure and stable platform for that product to move to that maybe doesn't fluctuate and have as much variability in the market.

It also provides an avenue and another direct path for us to get to the end consumer without having to go through restaurants, which we saw was one of the big issues during this pandemic, that, by and large, our seafood was going through restaurants to reach the consumer, not to mention that I have three kids, and it frustrates me to no end that they can have hamburger patties,

and they get seafood maybe once a month, and I think that needs to change.

Here is one that I am really excited about, and I think it would be a great thing either for the seafood trade taskforce to take up, because it would require agencies from different parts of the government to work together, or I hear that MAFAC has like a marketing council that they're thinking about bringing back to life that may take this up, but here's the idea.

It's to create a direct-to-consumer platform, online platform, for fishermen and fish houses to, in order to strengthen the seafood supply chain, and so, here again, it's to diversify our supply chain and the way that we reach consumers, so we're not so dependent on restaurants all the time, and so one way to think about it is sort of like an online farmers' market, but for seafood.

Another example, and I am trying to visualize it for you, is how many -- Of course, I've got a room full of men here, and so I don't know how many of you all are familiar with the Etsy platform, the Etsy website, but Etsy is essentially like the home artisans that create all sorts of different products.

Etsy will take their individual online efforts and, once you put it on Etsy's site, it sort of boosts your brand image to a nationwide consumer base, and everybody associates Etsy with the type of goods that you're trying to sell, and so nobody has to go and find individual little websites for whatever you are making and producing as an artist, or an artisan. They go to Etsy and type in what they're searching for, and you will pop up.

Then, if they like what you have, when you click on it, Etsy takes you from their platform through to the website of that, or the online stormfront or whatever of that individual artisan, and we need something like that for seafood, because we have something -- I know Louisiana has had some efforts with some of their entities, where they are trying to promote the online sale of the seafood direct from the fishermen to the consumer, and we need to support those types of things with a nationwide platform that it doesn't matter what kind of seafood a consumer is looking for, whether they want Alaskan salmon or they want east coast scallops or whatever it may be, or Gulf of Mexico shrimp.

They know that the place for fresh seafood is to go to that website, and then all the other individual websites, like from individual fishermen or from some of those groups in Louisiana,

and across the country, they all plug into that nationwide platform, and so I really think we need to do that, and I think that this Executive Order provides an amazing venue to pursue something like that for our fishermen.

Then this one is kind of specific, and so there's this ten-digit harmonized tariff scheduled of the United States, and the acronym is HTSUS, and so it essentially has codes that breakout all the different products that we import, and we need to amend that code and breakout wild-caught, warm-water shrimp imports from farm-raised warm-water shrimp imports.

The reason for that is this. This will strengthen the tools available to NOAA for implementing their seafood import monitoring program and prevent some seafood that's harvested illegally through IUU fishing, and so I think that's one very specific thing that, if we could get the government to do that, we would really put ourselves a step ahead, for sure, in shrimp. I think that's all I have for right now, Mr. Chairman.

CHAIRMAN DIAZ: Leann, whenever you talk about creating a direct consumer online platform for fishermen and fish houses, are you directing that at NOAA, National Marine Fisheries, or do you want to specify who you're talking about doing that?

MS. BOSARGE: I would like the interagency Seafood Trade Taskforce to take that up. I think that's a great thing for them to look at to strengthen our domestic fisheries and help us compete with imports.

Another great group, and, Dr. Simmons, help me remember the exact name, but MAFAC is actually looking at revising a council that is all about seafood promotion and marketing, and so that would be another group that would be wonderful to take up this type of effort, but I think, if we don't raise this flag here, under this Executive Order on strengthening our seafood industry, then where will it ever be heard, and so I would like to put it there.

CHAIRMAN DIAZ: Okay. Thank you, Ms. Bosarge. Martha, I believe you said you had some ideas that you wanted to add to the list, Ms. Guyas.

MS. GUYAS: Yes, I do. Thank you. So I was looking at the list that the South Atlantic Council generated, say about two weeks ago, and I thought they had some that certainly would apply to our region that we might also want to support.

One of the ones on their list was speeding up fisheries disaster relief, and that's certainly not really within the council purview, but it's kind of a long, involved process that goes through NOAA, and it probably could use some help. It really takes a long time. In Florida right now, we had Hurricane Irma in 2017, and we are, I guess, a year into the payouts and relief for that process, and, I mean, really, it's like two years from the disaster to when the money goes to our agency so that it can be distributed however -- Distributed in a plan. That would be one thing, is just speeding up fisheries disaster relief, to really help people who are impacted by these disasters.

Another one from their list that stuck out to me was increasing funding for fisheries-independent monitoring, things like SEAMAP, and we could always use a little bit more of that, it seems like.

A third thing I will mention from that list is removing the ACL for spiny lobster, and we've talked about this before, but, really, the issue here is that, given that the United States, and certainly not the Gulf Council, we don't have management influence over much of the spawning population, and, really, we're downstream of basically the spawning population, and having an ACL doesn't really control, I guess, our destiny, in terms of that fishery.

Then one other thing I will mention that I saw on their list that we talked about at this council many times is addressing impacts of increasing shark depredation on fish stocks, and so that one is probably a collaborative effort, but, if we're just looking for priorities and things that we would like to see, that might be one that we want to consider, and I will stop there. Thanks.

CHAIRMAN DIAZ: Thank you, Martha. Any questions for Martha on the things she's put forward? Kevin, I think you also indicated you had some things that you wanted to add to the list, and you can proceed.

MR. ANSON: It was just that one item, and I brought it up, and it was a little premature for this particular motion, and sorry.

CHAIRMAN DIAZ: Okay. Thank you. Ms. Beckwith.

MS. ANNA BECKWITH: As Martha was speaking, I was trying to find our list, and I can't put my hands on it, but I'm glad she did bring up some of those. The discussion on spiny lobster, I'm not sure that that one made it to our final list, and I think

Clay could speak to that, but we had quite a bit of discussion on why taking the ACLs from spiny lobster would be problematic.

We did have quite a long list of things that the council had very little control over, but, in terms of our list of things that we felt that we could move forward that the council actually had jurisdiction over, I would really encourage the commercial electronic logbooks that you guys discussed previously, and I think that was really one of the only overlapping issues that we had between our council and your council. The other items that we put forward that we would have jurisdiction over included other things that I am happy to talk about, but I'm not sure that you guys would be as interested in.

CHAIRMAN DIAZ: Thank you, Ms. Beckwith. Any other discussion on the list that we're preparing to finalize at the next meeting? Go ahead, Dr. Simmons.

EXECUTIVE DIRECTOR SIMMONS: We didn't catch the last one, and it was development of a commercial electronic logbook program, and is that what the last item was? Is that correct?

MS. BECKWITH: Yes. That was one of our priority items, was creating -- Instead of the paper logbooks, going to the electronic commercial logbooks.

EXECUTIVE DIRECTOR SIMMONS: I guess, at some point, perhaps by Full Council, we would need to get an idea if there's anything from that list of comments that Emily went through that the committee or council would want to consider before you see this again in October to finalize it. Thank you.

CHAIRMAN DIAZ: One thing that stuck out to me, now that you mention that, Dr. Simmons, is there was one of the comments that asked about changing the frequency of renewing commercial permits to something longer than one year, and I did want to try to get some feedback from some of maybe the National Marine Fisheries staff and see what the pros and cons of that would be, and that was one that stuck out to me. Ms. Bosarge.

MS. BOSARGE: Thank you, Mr. Chairman. I agree with the comments that you just made, by the way, and I would even possibly ask for one other item. Especially where the permits are under a moratorium, and they have additional requirements along with them, either electronic logbooks or VMS or things like that, and I think that, as some of our fishermen are getting older, and they're phasing out of the active involvement in the fishery, it's sometimes difficult to keep that permit in

the fishery if the fisherman has quit fishing, but he hasn't decided that he's ready to get out yet, and so he doesn't have a VMS on the boat anymore, or he sold the VMS, and now it's time for his permit to renew, and he realizes that, uh oh, I should have gone ahead and sold this thing, or transferred it to somebody, because now I can't renew it, because I don't have my VMS up and running anymore.

I think we need to make a provision that, if permits are expired, but within their grace period, they can be transferred to a different owner, so long as that new owner meets the requirements and has the vessel with the VMS or, in the shrimp world, an ELB, if that was a requirement of that permit. If it can meet all the requirements, you ought to allow it to be transferred, if it's within that one-year grace period.

I think that will prevent so much runoff of permits in our fisheries that are under a moratorium on those permits, but that wasn't actually what I was going to say.

I was going to clarify one thing up there with the review and revise USCG safety compliance program. I wanted to be a little more specific, in case somebody does pick that up and run with it one day, and that is that the program that they have now should be replaced by a regional approach, a tailored regional approach, to addressing the drivers of fatality in each region. Anybody from the Coast Guard that reads that I think will understand what I mean. Thank you, Mr. Chairman.

CHAIRMAN DIAZ: Replaced by a regional approach to address the drivers of fatality.

MS. BOSARGE: In each region, yes.

CHAIRMAN DIAZ: Okay, and I don't think we added anything to the bullet, Leann, on what you said a minute ago about the grace period for permits to be transferred, and did you want to add something to the bullet on that, or were you just --

MS. BOSARGE: Down at the bottom, where you were talking about -- So your idea was to not have permits renew every year, but maybe at some longer interval, like two years, and my idea was to allow a permit to be transferred if the permit is currently expired, so long as it's within a twelve-month grace period and has not terminated.

CHAIRMAN DIAZ: Dr. Crabtree, I see you have your hand up.

DR. CRABTREE: I would have to think about Leann's idea, but so remember that compliance for logbooks and VMS and a lot of things hinge on when they come in to renew, because we check, and their logbooks have to be up-to-date, and so, if you made the renewal period even longer, you would probably have poorer compliance with all of those things.

Then, in your documents, when you wanted to know how many active permits are there, versus expired permits, I think all of that would suffer, if you make the renewal periods any longer than one year, plus it would require a rewriting of all the Permits Office code, and that would result in substantial costs and other issues, because we're already trying to transfer the system over to a new platform, and the emphasis has been on allowing more online permit applications. Permits are complicated, and there is a lot of downside, I think, to making changes to the requirements on it, and you would have to really look carefully at those before you did it.

CHAIRMAN DIAZ: Thank you, Dr. Crabtree. Based on those comments, I would withdraw my support for adding the one to renew permits at longer intervals. Thank you, Dr. Crabtree. All right. Any other comments on the list? Dr. Simmons, have we accomplished what you would like to accomplish? Are we moving in that direction here so far?

EXECUTIVE DIRECTOR SIMMONS: Yes, I think so. We'll take this and try to flesh it out and think about what falls under the council's purview and what would be a separate agency and think about what regulations would need to be modified and bring that back to you to try to prioritize in October.

CHAIRMAN DIAZ: Thank you, Dr. Simmons. That sounds good to me. Before we leave this agenda item, did everybody get a chance to speak that wanted to speak? I am not seeing anybody moving around, and so we're going to move to the next agenda item. The next agenda item is Draft Letter on RESTAURANTS Act of 2020, and Dr. Freeman is going to lead us through that agenda item. Dr. Freeman, can you go over the action guide and next steps and then proceed with the next agenda item?

DRAFT LETTER ON RESTAURANTS ACT OF 2020

DR. MATT FREEMAN: Certainly. In the action guide, it says the staff members for the Senate Committee on Commerce, Science, and Transportation contacted Dr. Frazer as the Gulf Council Chair and the other regional fishery management councils to request comments on the RESTAURANTS Act of 2020.

Council staff will present a draft response letter on the RESTAURANTS Act of 2020, which details the impacts of COVID-19 on the Gulf commercial fishing industry and linkages to the restaurant industry. The committee should discuss the letter and provide recommendations on the letter to staff. committee recommendations will be incorporated into the letter before being transmitted to Senator Wicker's office.

If we could pull up first the Tab E, Number 6(c), and so just, again, to provide some background, there was a request sent to all of the fishery management councils asking, initially, for a letter of support on the RESTAURANTS Act, and members of the various fishery management councils let them know that councils are prohibited from commenting directly on legislation, but that they could provide information on the relationship between the restaurant industry and the seafood industry, in this case the Gulf seafood industry.

If we could next open up Tab E, Number 6(a), and so we have drafted a letter that would provide some information to the Senate committee with regard to the impacts on the seafood industry in the Gulf following the COVID-19 pandemic and some of the potential interactions between the domestic fishing industry and the restaurant industry. I will pause there for any questions. Again, at this point, what we're looking for from the committee is any feedback or potential additional input on that letter.

CHAIRMAN DIAZ: All right. Thank you, Dr. Freeman. Any input, edits, or changes? Ms. Bosarge.

MS. BOSARGE: Thank you, Mr. Chairman. I like the letter, and I think it's very well written. One of the ideas that we just had up on the screen, when we were talking about our ideas for the Executive Order, was country of origin labeling on restaurant menus nationwide, and so, as I mentioned earlier, imported seafood, sometimes, and not always, but many times, doesn't -- It doesn't meet the standard that domestic wild-caught seafood does.

A lot of it is farm raised, and a lot of it has a chemical, antibiotics and things of that nature, in it, and it's just not the quality product that ours is here in the United States as a wild-caught seafood product.

This RESTAURANTS Act, it seems to me, is a wonderful avenue to possibly encourage restaurants nationwide to put that country of

origin labeling on their menus. You know, I can't see where putting an additional burden on any restaurant right now would be good for the restaurant industry or the seafood industry, because we depend on them to push our products through to the consumer, but, if the country of origin labeling requirement actually provided some benefits to the restaurants --

In other words, if, in this act, if there was some sort of tax credit for restaurants that can show that they have added country of origin labeling for seafood to the restaurant menus, then it becomes a win-win for the seafood industry in this country and for the restaurant industry.

Although it doesn't say, hey, you need to eat domestic seafood, I think that our seafood-consuming public is educated enough to know that they want domestic seafood, that it is the premier product, but they don't have the information at their fingertips when they sit down at a restaurant to know whether that's in fact what they are ordering or not.

I think this particular legislation that Senator Wicker is putting forward, that there is an opportunity there to get the ball rolling for something like that for our fishermen, and so I would -- I don't know how we would add that to the letter as an idea, but you don't want everybody to have to come up with all their own ideas, and I think that might be an amazing opportunity.

CHAIRMAN DIAZ: All right. Ms. Levy.

MS. MARA LEVY: Thank you. I just want to remind the council that, essentially, you are prohibited from lobbying, which means that you can't respond to a congressional inquiry showing either support or not support for any particular piece of legislation. You can't advocate for any particular piece of federal legislation.

You can provide facts, and you can talk about in response to an inquiry about how a piece of legislation might affect how the council operates, but you can't advocate for any particular language or idea.

CHAIRMAN DIAZ: Thank you, Ms. Levy. Dr. Frazer.

DR. FRAZER: Mara hit on what I was going to talk about, and, Leann, I appreciate what you're saying, and we worked with staff in several iterations of this letter, to try to craft it in a way that was consistent with the guidelines, and it's a tough

line to walk sometimes, but that is the reason that we didn't have that type of language in it.

CHAIRMAN DIAZ: All right. I guess -- Do we need a motion, Dr. Simmons, to send this letter out, or can we just send it if there's no opposition or no other changes to the letter?

EXECUTIVE DIRECTOR SIMMONS: I think that would be fine. In the committee report, we can just note that, and make sure that, if there's any issues, that the council members can bring them up at that time.

CHAIRMAN DIAZ: Okay. We will do that in the committee report, and that's how we'll handle it. I believe that's it for this agenda item. Ms. Bosarge's hand is up. Ms. Bosarge.

MS. BOSARGE: I was just wondering, in that second paragraph at the bottom of the first page, where you point out some caveats to consider, maybe, in that paragraph somewhere, can we say something -- Because you talk about presumed benefits to domestic and commercial fishermen, and it says, for instance, some business entities purchase imported seafood products.

Can you say something there about -- Then you go on to say that not all restaurants serve domestic seafood, and it may be imported, and maybe we can say something about that's why country of origin labeling is important for consumer education, or something like that, and maybe we can just generally say something like that, and we're not advocating for it, but we're just stating why it's important?

DR. FREEMAN: I think Dr. Frazer is going to comment on this possibly as well, but, Leann, I believe you're looking at the older letter, and Ms. Levy provided some additional feedback on Friday, and so the most recent letter is on the website as of Friday afternoon, and so that paragraph that you were referring to is in an older version.

CHAIRMAN DIAZ: Thank you, Dr. Freeman. Dr. Frazer.

DR. FRAZER: I just wanted to follow-up on that, and, Leann, I do think you are -- I apologize for getting that later revision in kind of at the last minute, but it had to do with many of the issues that Mara spoke to, and, again, it's a fine line in making sure that we weren't advocating for any piece of that legislation, or proposed legislation.

CHAIRMAN DIAZ: Thank you, Dr. Frazer. All right. I am not

seeing any other hands up, and we've had quite a bit of discussion on this. If there's any problems with the letter between now and Full Council, we can certainly address them there, and so we're going to move on. Before I call the next agenda item up, I did want to ask Dr. Frazer about how he might want to proceed. I think we've been going for about two hours, roughly, and we've got an hour or so left to go and two agenda items.

DR. FRAZER: I appreciate that. I do think we were scheduled for a break, and I think we should take a ten-minute break at this point.

CHAIRMAN DIAZ: Okay. We'll take a ten-minute break, and so we'll come back at 2:15.

(Whereupon, a brief recess was taken.)

CHAIRMAN DIAZ: We are going to go ahead and get back started with the next agenda item, which is Agenda Item Number VII. National Marine Fisheries Staff, Ms. Laura Engleby and Ms. Kristen Long, will give a presentation on marine mammal interactions with fishing gear in the Gulf of Mexico and National Marine Fisheries Service role in the process.

In addition, the presentation will include the proposed rule containing national guidelines for safety deterring marine mammals, which is currently accepting public comment. The published guidelines will provide options for fishermen to safely deter a marine mammal from their fishing, catch, and private property. The committee may ask questions and direct staff to write a comment letter, if desired. If you all are ready, Ms. Engleby and Ms. Long, you all can take it away.

PRESENTATION ON DEPREDATION BY MARINE MAMMALS

MS. LAURA ENGLEBY: Thank you. Good afternoon, everyone, and thanks for inviting us to your meeting. My name is Laura Engleby, and I'm the Chief of the Marine Mammal Branch for the Protected Resources Division at NOAA Fisheries Southeast Regional Office, and I'm going to share this presentation with Kristy Long, and I'll just speak for a couple of minutes, because I know you all are super interested in the proposed rule.

I think I could probably sum up the first minutes I have here to just say that we really need your help on this challenge. We have been seeing interactions between dolphin and fishermen for

many, many years, over the seventeen years that I've been working here, and it's a very complicated problem, and it's one that seems to be getting worse.

As you all know, the challenge is Gulf-wide, and some areas are more problematic than others. For example, Panama City, geographically, seems to be more problematic than some other areas, but really, at the end of the day, dolphins don't discern between any type of fishery, whether it's recreational or commercial or a recreational boater, or boaters. This problem seems to affect everyone at one time or another.

The challenge is we want to go fishing, and so do dolphins, and so what if we could find a way to coexist out there? How can we find ways to coexist? That really is the main point of this talk. We want to work with you, and all the fishing community, to address these challenges, and so, taking a step back for just a moment, why is this a problem, why does it seem to be getting worse, and, more importantly, what can we do?

I'm sure many of you have either experienced, witnessed, or heard about all these types of interactions that you see on the screen here, and you may have had dolphin take your bait or catch, and this is called depredation, or experienced a dolphin scavenging, which is when a fish is discarded, and it's not uncommon to have dolphins know precisely when to show up and take advantage of your efforts.

Then there's also illegal feeding, and this is when somebody either feeds or attempts to feed a marine mammal, and it doesn't have to be a fish, and it could be anything, and what this does, particularly to fish, is it's reinforcement, through feeding, and that can be intentional or unintentional, but it's reinforcement, and what this does is that it trains or conditions wild dolphins to then spend a lot of their time patrolling or approaching boats and begging for food or looking for handouts, and so inadvertently feeding them conditions them.

I don't need to tell this group how it impacts your fishing. It decreases catch, and it damages gear, and it can cause gear loss, and it causes lost fishing time, and it just impacts the overall fishing experience. It's incredibly frustrating to be enjoying a good day of fishing, only to have dolphins approach and possibly ruin the moment, day, or trip. I also know this personally from my son, who loves to fish here in the Tampa Bay area.

These interactions can also be really deadly to dolphins,

resulting in them ingesting gear or biting off a fish too big for them to swallow, when their eyes are bigger than their stomach, getting hooked, getting entangled, or being hit by vessels, which is more common than you might think, or being killed out of retaliation, like the above-right dolphin, that was shot at close range, and the one below that was killed with an arrow, on the below-right.

Why does this problem seem to be getting worse? Is it because there are more dolphins? The answer is no, and many dolphin populations declined due to the Deepwater Horizon oil spill, and research is showing long-lasting impacts to these animals health and reproduction. These animals are slow to reproduce, and it takes them several years before they are weaned, and they're at the top of the food chain.

For example, in Barataria Bay, dolphins declined by a 51 population reduction, and, in the Mississippi River Delta, the population of dolphins declined by 62 percent, and another northern coastal stock of the population declined by an estimated 38 percent.

Since the Deepwater Horizon oil spill, we have had four mortality events that are significant, and these are die-off events, from Texas to southwest Florida that have collectively impacted over 1,500 dolphins, but those are just the ones that we counted, and it doesn't account for the ones that we don't detect, meaning that this is thousands of thousands of dolphins likely impacted by these events.

Given the long-lasting impacts of Deepwater Horizon, combined with the multiple stressors to the dolphins, and possibly their prey, it's unlikely these populations are increasing.

Is the problem getting worse? Possibly. We don't have any data to measure, other than what we hear, and we too think that it is getting worse, and this is one of the reasons that we initially MRIP approached about twelve years ago, to get a couple of questions added about dolphins. However, at the time, the event was considered too rare, and, understandably, the number of questions needs to be limited, and so we're still working to get these added, and so, hopefully in the future, we can do that.

The one metric we have is strandings, when dolphins wash up on the beach, either alive or dead or injured, and reports of dolphin with rod-and-reel gear attached, and so, from this graph, you will notice that, in the past five to ten years, the numbers of stranded animals with gear interactions has gone up.

Now, of course, there’s some variables with that, but it’s the best data we have, and, if you look at the spike in 2006, the majority of those animals were in Florida, southwest Florida, and associated with a major red tide event that impacted a lot of the fish in the area, and we have noticed that, when we have these red tide events, and these dolphin mortality events as well, we notice that there is more interactions with dolphins and fishermen.

This kind of brings me to some of the whys, why is this an ongoing problem, and we believe there are multiple contributing factors, such as prey decline, which I just mentioned, and we also know that dolphins learn from each other, and they pass down their fishing strategies through generations. If you look at the right-hand box, at the top, the top dorsal fin dolphin is the great-grandmother of the bottom dorsal fin, and that’s sort of her family lineage, and the point of this -- This slide has a lot going on, but the point of it is that dolphins -- Once they learn to associate people with food, and they learn to approach people, or take fish from people as a feeding strategy, they pass that tool in their toolbox down from one generation to the next to the next.

It's kind of like us when we go fishing. If we have our special fishing hole, or our tricks that we use, we will teach our family the same thing, and so there’s a lot of social learning that goes on with dolphins.

Another contributing factor is illegal feeding. It definitely contributes to this challenge, and this is why it’s critically important for everyone to stop feeding dolphins and tell everyone you know to stop feeding dolphins. When you feed that one dolphin, it not only impacts that individual, but they teach everyone else, as I just expressed, and they can learn from each other, and they don’t have to be related, and so this may be a factor in why interactions are spreading.

The quote at the top of the slide isn’t attributable to any one person, and we hear it quite frequently, and the videos are common of anglers teasing dolphins or encouraging them to come close to the boat or staying near the boat, and so there’s a disconnect among these diverse user groups that essentially, when doing this, they are contributing to the problem of training wild dolphins to patrol, seek, and take bait, catch, or discards.

What can you do when dolphins show up? At the moment, there’s

just not a very satisfying answer for this. The best thing you can do is move away or reel your line in, and I know that's not the answer that folks want to hear, and I know it's not very satisfying. One thing you can definitely do is not feed wild dolphins, and I realize there are situations where this is unavoidable, but the amount of intentional feeding occurring is more pervasive than we might think.

Then there's deterrents. Obviously, there is a tremendous interest in deterrents, and that's the next presentation, but a word of tremendous caution here. Bottlenose dolphins are incredibly adaptable and clever, and deterrents are absolutely a potential tool in the toolbox, but there is no one solution cure-all to this problem, and so I think what we need to do is work together with you all, and we really would like an opportunity to talk with you more, in more detail and more substance, about ways that we can move forward towards exploring some solutions that include research and collaboration and co-implementation.

This problem, I can't stress enough, is complex, and it needs a diversity of approaches, including the ones that I have just mentioned and others that we have yet to identify, and so it's a joint problem, and we need to work together to find a joint solution.

As I said, there's a lot more to say about this that we couldn't get into in this timeframe, and so we really hope that there are going to be more opportunities to talk with you all about this and ways forward, but, next, I would like to introduce Kristy Long, who is going to be talking about marine mammals and non-lethal deterrents.

MS. KRISTY LONG: Thanks, Laura. Good afternoon, everyone. As Laura mentioned, I'm Kristy Long, and I work in our Office of Protected Resources, predominantly on marine mammal and sea turtle bycatch.

The Marine Mammal Protection Act includes an exception to the prohibition on take of marine mammals for deterrents. As you're likely aware, the MMPA prohibits all take of marine mammals, and that is defined as to harass, hunt, capture, or kill a marine mammal or intend to do so.

The Marine Mammal Protection Act purposefully was amended to include this exception to that prohibition for owners of fishing gear and catch and private property to deter marine mammals from damaging gear, catch, or private property, as well as to allow

any person to deter a marine mammal that might be in danger and personal safety, and then, also, for government employees to protect public property.

These specified persons are allowed to deter marine mammals in these particular circumstances, so long as those deterrent measures do not result in the mortality or serious injury of the marine mammal.

The Marine Mammal Protection Act also includes several specific provisions related to this exception, and so, first, it tells NMFS that we must publish in the Federal Register a list of guidelines for safely deterring marine mammals, as well as recommend specific measures for deterring marine mammals listed as endangered or threatened under the Endangered Species Act, and, if we determine, using the best scientific information available, the statute gives us the authority to prohibit any deterrents that we determine may have a significant adverse effect on marine mammals, after notice and opportunity for comment.

We have attempted to implement these provisions a couple of times, formally and informally, and we are going down this path once again, and so I'm going to talk about the process that we've been through to develop the proposed rule that is currently out, but, before I get into specifics on that, I just want to be really clear about what this rule provides, in terms of protection from liability.

By following the guidelines or specific measures, it provides the user this protection from liability under the MMPA. Even if a marine mammal were to be killed or seriously injured, if you were deterring that animal according to the guidelines or specific measures, then that would be authorized under the MMPA and would not be a violation of the act.

For this presentation, I am going to focus on the guidelines, because these are what are applicable for deterring bottlenose dolphins, and so, if there are questions on the specific measures for ESA-listed marine mammals, we can follow-up on that separately.

As I mentioned, this process has been ongoing for quite some time, and we started in 2014, by publishing a Federal Register notice asking the public for which deterrents we should evaluate and consider for approval. We convened a technical expert workshop in early 2015, and then we spent the subsequent years going through our analysis and evaluating all of the potential

deterrents that we could include in the guidelines and specific measures. We developed this rulemaking that includes guidelines and recommended specific measures and prohibitions.

I forgot to change that last bullet, and so the rule published a couple of weeks ago, and I had to submit this presentation earlier, and so, as you've seen in your background documents, the rule actually did publish on August 31.

In terms of the scope of this rulemaking, we focused on those marine mammals that are under NMFS' jurisdiction, and so this does not include any of the Fish and Wildlife Service species, such as manatees. We focused on the impact of the deterrents to the marine mammals, because that's what the statute tells us to do, and so we have evaluated whether we think mortality and serious injury would be possible, depending on the various types of deterrents, but we have not considered whether these deterrents are effective.

Just because a deterrent is listed in the guidelines, it does not mean that NMFS is endorsing that deterrent as an effective deterrent against a particular animal. All we're doing is saying that we have proposed these as safe deterrents for marine mammals.

The rule is really getting at what can those specified persons use for everyday deterrents. If we were going to be deterring an animal from say entering a hazard area, like an oil spill, we might be more willing to use some deterrents that would have a risk of injury, to keep the animal from harm's way.

I am going to talk about the two types of deterrents here, and there are acoustic deterrents, and there are non-acoustic deterrents, and these next two slides are focusing on all of those deterrents that we analyzed, and there were over 200 of them, which is part of the reason it has taken us so long to get the rule out.

The acoustic deterrents are broken out into three different categories, depending on the type of acoustic sounds they produce, and so there are impulsive deterrents, acoustic deterrents, and non-impulsive acoustic deterrents. I have just listed here those that we have evaluated.

Not all of these deterrents are applicable for each of the three taxa, and so, when I talk about the three taxa, I am talking about mysticetes, which large whales, odontocetes, which are smaller whales, dolphins, and porpoises, and then pinnipeds, and

so seals and sealions.

These are all the categories of non-acoustic deterrents that we analyzed. There are visual, physical barriers, chemo-sensory, tactile projectiles, tactile manual, and so that would mean by hand, electrical, and then water deterrents. There is a number of different deterrents included in each of these categories, and these could fall under the guidelines, the specific measures, or the prohibitions. Then I will just call your attention to UASs, unmanned aerial systems, and so those are what people typically refer to as drones.

Here, I am showing you, as I mentioned, just the proposed guidelines for cetaceans, and so the little icons down there for large whales and then for smaller whales, dolphins, and porpoises, and so that bottom line is what you will be interested in with respect to bottlenose dolphins, and you will see that we have included several different types of deterrents in these five categories of visual, physical barriers, tactile projectiles, tactile manual, and tactile water.

With each of these particular deterrents, we include additional provisions to ensure the safety of the marine mammal, and so, for instance, if we're looking at UASs, the proposed rule says that we don't want -- Users must aim at the animal's posterior end. Sorry. For UASs, we have that we don't want those to be deployed closer than five meters to an animal. For something like tactile projectiles, we ask that the users aim at the animal's posterior, taking care to avoid the head and blowhole. For each category, there are additional provisions, and those are just a couple of examples.

With respect to acoustic deterrents, there are many, many different types of acoustic deterrents on the market, as I'm sure many of you are well aware. For those impulsive deterrents, they are more likely to cause injury to marine mammals, and so there are minimum distances and silent intervals required, and so, for instance, a banging object -- Oikomi pipes are just essentially metal pipes, and so the provisions that we have included in the proposed rule are that you can use those banging pipes as long as you are three meters from a dolphin and you wait eighteen seconds between striking the pipes.

Then, also, because there are certain categories of marine mammals that have more sensitive hearing, we would only allow those when visibility is greater than a hundred meters, so you could be sure to see if any of those more sensitive species were in the area, and that's all specified in the rule. I don't have

time to go into all of the specific details, but I'm happy to take questions on all that stuff later.

In terms of the non-impulsive acoustic deterrents, anything that's less than 170 dB would be allowed in the guidelines, and, for any of those different acoustic devices, the manufacturer specifications should clearly have that information on the packaging or on their website, and so that would be an easy enough metric to find, and they should all include that information.

Then, as I mentioned, we do include a number of prohibitions in the proposed rule, and these are particularly those deterrents that we have found the risk of mortality or serious injury is too great to allow those particular deterrents, and so we've proposed prohibiting things like vessel chasing, any chemical irritants or taste deterrents, and, again, that's primarily related to the prohibition on feeding, and then, also, any firearm, bow, or speargun is also prohibited, as are sharp objects, impulsive explosives, and then anything louder than that 170 dB for acoustic deterrents, that I mentioned.

I don't want to go into too much detail, but we do have a web tool that is available, in case you do have a device that's louder than 170, and you can put the particular specifications into the web tool and see if that might meet our evaluation criteria, and so we're trying to give as many options as we possibly can for the public to deter marine mammals.

In addition to those specific prohibitions that I just went through for cetaceans, we also have a number of prohibitions that apply to all marine mammals, and so, for instance, targeting a deterrent at a marine mammal calf or pup, striking the animal's head or blowhole, deploying a deterrent in the middle of a group of animals or feeding, or attempting to feed, as I just mentioned, even for the purposes of deterrence.

Then this particular -- This one about when an animal is showing signs of aggression, that's really to ensure human safety around marine mammals, and then this last one is grayed out because we don't have any of those approaches in the Gulf of Mexico, but we could, and so just to keep in mind that these exist as well.

Then, as I mentioned, the proposed rule is open for public comment right now, and we are very interested in your comments. I have seen a few of those public comments that were attached to your agenda, and I would encourage you to read the rule and submit some by the federal rulemaking process as well, and, with

that, I will stop and ask if there are any questions for Laura or for me.

CHAIRMAN DIAZ: All right. Any questions for Ms. Engleby or Ms. Long? Ms. Long, we did -- I'm sure you're all aware of this, and you all are getting it too, and so we're getting a tremendous amount of comments from fishermen in the Gulf of Mexico about the problem seems to be getting worse as time goes on.

I guess my question would be to you that, of the things that's on the horizon that you work on, I mean, what do you think is going to be that you're proposing that is the most practical for recreational and charter fishermen who are trying to deal with, and commercial fishermen too, who are trying to deal with dolphins taking fish off the line and eating discards? I mean, what is the most practical thing that you think is being offered that could be offered to fishermen?

MS. ENGLEBY: I will start, and then you chime in with those deterrents, Kristy. That's the million-dollar question, right? I mean, I think bottlenose dolphins are adaptable, and so the challenge is -- I think there's a couple, and this is why we're sort of reaching out, to say how can we work together with you all to kind of combine what we know about the animal behavior side of things and the animals themselves, and you all know a great deal about your interactions, from your perspective, and we can put our heads together.

I think the challenge is that animals are super adaptable, and so they learn pretty quickly, and so our experience, and maybe your experience too, is that, if you try something that isn't going to result in any kind of injury, or serious injury or anything like that, if you try something simple, they kind of figure it out pretty quickly, and they learn pretty quickly, and so, however, at the same time, I think there is opportunities for us to put our heads together and try to figure out what are some questions we could ask, and maybe techniques or approaches or practices that might help address this, but I think we have to do it together, with our joint expertise.

I personally can't give you a satisfying answer, other than move away. It's really the most effective thing. I realize that's not always practical, or a great answer, and I totally understand that, but, until we kind of figure out some tools to test and potentially try that might help, and I am going to stress, one more time, that your help in helping us address illegal feeding is really important.

I really want to stress that, and I would say that one of the areas that we heard the most about from you all on was in Panama City, and Panama City is one of our hotspots. It's the hotspot in the entire southeast for people illegally feeding bottlenose dolphins, and it has been for quite some time, and it continues to expand.

That is one thing that everyone can help with right away, for sure, and so, with that, I will hand it over to Kristy on the deterrent side, but I just hope that we can work with you all and put our heads together.

MS. LONG: I would just second what Laura said. Unfortunately, through the deterrent rulemaking, as I mentioned, we did not consider what was going to be effective or practical at all, and so the various specified deterrents, but we were really just focused on what's going to be safe for the marine mammals, and so what this allows, once this becomes final, is it allows fishermen to go out there and try some of these deterrents that are included in the guidelines and specific measures and see which ones work and undertake that research that Laura was mentioning, all the while providing that protection from liability under the MMPA.

It has actually opened up the door to research a little bit more than it was previously, and it may make it a little bit easier for folks to undertake those kinds of projects, and, by maybe having a deterrent included on the guidelines, that could potentially open different funding opportunities, and it's like, well, this is included in the guidelines, and I want to see if it works, and that could provide that additional support for obtaining research funding.

CHAIRMAN DIAZ: Thank you. Ms. Bosarge.

MS. BOSARGE: If I had my hand up, it was from a previous presentation. Sorry.

CHAIRMAN DIAZ: Okay. Do we have any other questions for Mr. Engleby or Ms. Long? Seeing none, thank you for your presentation. We really appreciate it, and I think that I, speaking for myself, am interested in the council trying to work with you any kind of way we can to support funding for research or any other opportunity to help with this problem. It's extremely important to our fishermen, and it's important to the council also, and so thank you very much.

Hearing no other questions, and seeing no other hands, we're going to move to the next agenda item, which is Agenda Number VIII, and it's the public hearing draft for Amendment Reef Fish 48/Red Drum 5. Dr. Froeschke is going to lead us through this. Dr. Froeschke.

MS. ROY: Dale, we've got Kevin Anson with a hand up.

CHAIRMAN DIAZ: I'm sorry, Kevin. I jumped too quick. Go ahead, Kevin.

MR. ANSON: No, I was just too slow, Dale. Sorry about that. I am wondering if the presenters are still with us, and I do have a question relative to research. I understand their comments relative to the population of bottlenose dolphins in the Gulf of Mexico, in the recent history at least, appears to be down, but fishermen certainly are seeing a greater incidence of dolphins during their fishing activities, and they would argue the contrary, based on those interactions.

Doesn't NOAA or Protected Resources -- Wasn't there an app that was created for folks to report on sightings and such that could help in trying to identify numbers of dolphins, and, again, to get a better handle as to depredation incidents?

MS. ENGLEBY: I am unfamiliar with an app, just to jump in there, although that's an interesting idea, in terms of -- One of the things we are super interested in working with you and others on is understanding sort of the both scale and frequency and nature of these interactions, and so that's an important question to all of us here.

In terms of dolphin, the other thing that's important to take into account is that we also need to understand what the distribution of dolphins is under density, and so, in other words, they might be in the same area, but denser, or their density might -- They are going to go where the fish go, just like you guys do, and so that's something that isn't necessarily an indicator, and you really have to look at tools that our scientists use for looking at abundance estimates and things like that, where you survey areas, and, over time, you can get counts of the abundance, and you can also look at distribution and density, and so it could be that there are so many factors that could play into why you all are seeing more of this.

Again, we would love to have longer conversations about this, because we would love to hear from you what you're experiencing out there, and it would be super insightful to us, but those are

things that we have to think about, right?

Is it because there is more feeding going on, and the dolphins are teaching other dolphins that that's a tool in the toolbox, and the behavior seems to be spreading, and it's like, oh, this is a cool new easy, cheap way to get a fish, and it's the least amount of effort for the most amount of reward, and that's -- Bottlenose dolphins are sort of notorious for that. It could be a lot of factors engaged in there, and so I hope that helps answer your question. Does that help at all?

MR. ANSON: Yes, it does. Again, I thought that NOAA or someone had created an app that someone could report a sighting.

MS. ENGLEBY: That's right. It's dolphin and whale 911 to report a sick, injured, or stranded dolphin or whale, and that's exactly right, and we also have like just a kind of just like a field guide app, basically, but nothing to your idea, but that's an interesting one, in terms of tracking depredation, and so these are the kinds of ideas that we love to talk to you more about.

MR. ANSON: Thank you.

CHAIRMAN DIAZ: Okay. Seeing no further questions, we're going to move on to the next agenda item. Dr. Froeschke, if you would, cover the action guide and next steps and go ahead and proceed into the next agenda item.

PUBLIC HEARING DRAFT FOR REEF FISH 48/RED DRUM 5: STATUS DETERMINATION CRITERIA AND OPTIMUM YIELD FOR REEF FISH AND RED DRUM

DR. JOHN FROESCHKE: Okay. Item Number VIII, we're going to cover the status determination criteria document, and this is Reef Fish Amendment 48 and Red Drum Amendment 5. We have been working on this document for quite a while, and so we're hoping to make some progress over the next few meetings, and hopefully finish this up, perhaps.

Today, what I would like to do is just go over a brief outline of what has been done in the recent past, go over some recommendations from the SSC, and focus on the action that doesn't have a preferred alternative, and so that's sort of my plan. If you have questions or comments, please just let me know.

This document contains four actions that will establish or

modify status determination criteria for several reef fish stocks and red drum. The actions include Action 1, which would establish an MSY proxy.

At the January meeting, and this is the most recent time that the council has reviewed this document, preferred alternatives were selected for Action 1, the MSY proxy, Action 2, the maximum fishing mortality threshold, and Action 3, the minimum stock size threshold.

The Action 4, we've looked at several times, which would define optimum yield for reef fish stocks and red drum, and we have moved this around and reconfigured it, and we have taken this to the SSC several times. Most recently, in March of 2020, the SSC looked at this, and they provided some comments, and I want to just start there, and the focus of their discussion was based on a recommendation from the Science Center on the OY alternatives in the document.

The way the alternatives are currently set up, they are broken into three categories, essentially, addressing reef fish, the same stocks that are in Action 1, and then Alternative 3 would address the shallow-water grouper, which has their own caveats, and Alternative 4 is specifically to goliath grouper, and then Alternative 5 -- Those are the four alternatives, and red drum is its own sub-action.

The way that this is set up, each of these have options in them, and the a, b, and c, for the alternatives that are applicable, are simply scalars based on the yield at MSY, and we have been through several iterations of this. The original scalars were based on the yield at FMSY, which is consistent with how OY has historically been established in stock assessments and been calculated.

The Science Center recommended, in a presentation to the SSC in March of 2020, that, rather than basing it on a yield at FMSY, to simply establish it as a percentage of MSY, and they gave three reasons why, and I will review those briefly with you.

Number 1 is it's less intuitive to determine how much fishing mortality should be reduced rather than catch. For example, a 25 percent reduction in F usually amounts to about a 10 percent reduction in long-term yield, because the stock grows more with less fishing.

Number 2 is it sometimes occurs that calculated long-term yield at FOY is greater than the calculated long-term yield of the

FMSY proxy, and this is rare, in our experience, but apparently it can happen, and so, for example, the calculated long-term yield at 75 percent of SPR 30, in some cases, might be greater than FSPR 30, and so this is based on an artifact of using proxies for MSY rather than MSY itself, which is typical for Gulf stock assessment species, because we usually don't have good information about the stock-recruitment relationship that is necessary to estimate MSY.

Then sort of a third component is that, just in terms of making the calculations, simply using a scalar is just computationally simpler than using the FMSY, which requires an iterative approach, but it's really the first two points on this that the Science Center made their case about to the SSC, and the SSC discussed this quite a bit, and they did make a motion to this effect, in the SSC summary from that meeting, which is Tab E-8(a).

They made this motion here, using Alternative 2 in Action 4 as a representative, but it would apply to the other alternatives, in this action as well as Alternative 2 in the sub-action for red drum, and, essentially, it says, for reef fish stocks from Action 1 and for hogfish, where long-term OY is undefined, OY, implicitly accounting for relevant economic, social, or ecological factors, and then the Options 2a, 2b, and 2c essentially correspond to the previous values of 50, 75, and 90 percent, based on FMSY.

Essentially, the point is that the yield at 75 percent FMSY would essentially get you 90 percent of MSY on a long-term basis, and so those were mapped one-to-one, with the options that are currently in the document, and so, if this is something the committee is interested in pursuing, this recommendation, I have prepared some draft text to reflect this that you could look at if you're interested in that approach.

Any questions on that? I don't know if Joe Powers from the SSC has any comment that he would like to add as well. I guess I would like some concurrence that that's what they want to do. Maybe I will just have Bernie bring it up and put it on the screen, so we can see what they want to do. Bernie, can you bring up that supplemental document that I gave you?

CHAIRMAN DIAZ: I think one of the issues with the committee not having a lot on this is this document is incredibly complicated, and, for folks that don't deal with stock assessments and work with these types of issues on a regular basis, I mean, it is extremely hard to comprehend.

DR. FROESCHKE: Yes. agreed.

CHAIRMAN DIAZ: Ms. Levy.

MS. LEVY: Thank you. Maybe you talked about this and I missed it, but what is adding -- Where OY long-term is undefined, and what is that getting at?

DR. FROESCHKE: That was recommended from the SSC language at their March meeting in that alternative, and I think that hinges upon the discussion we have always had that OY is in fact a long-term factor, as opposed to something like an annual catch limit.

MS. LEVY: So it wasn't to change some understanding of what OY we're talking about, and it's just to more explicitly note that OY, as defined, is a long-term average?

DR. FROESCHKE: That's my understanding of their intent.

MS. LEVY: Okay.

DR. FROESCHKE: There was some discussion at the SSC meeting, and, without further complicating the issue, the SSC has previously discussed with the Science Center this idea of a global MSY, which would essentially calculate the maximum productivity of a stock if it were fished in the most optimal way possible, and we have done these calculations for red snapper, and I think gray snapper as well, and, given that the MSY that, in practice, applies to fisheries in consideration of the allocation and how the fisheries -- The mixed-use nature of most of ours, that MSY could be considered an OY. That was some of the rationale of how this came about, and the idea that OY, a long-term OY, could be further reduced.

MS. LEVY: Can I follow-up with another question?

CHAIRMAN DIAZ: Go ahead, Ms. Levy.

MS. LEVY: Well, I mean, I'm not going to make a huge deal out of adding "long-term" into the alternative, but it seems redundant and confusing. I mean, OY is defined to include that long-term desired yield, and to then throw it in there again makes it seem like we're talking about something different, and I would be more inclined, if we were also setting an annual OY, to put "annual OY", to distinguish it from what actual OY is, as defined.

I guess my suggestion would be not to have that "long-term" in there, because it's already long-term, and we're not meaning anything different, but I will just leave my comments there. Thanks.

CHAIRMAN DIAZ: Thank you, Ms. Levy. Dr. Porch.

DR. PORCH: Thank you. I agree, and I don't see why "long-term" is in here, and that's redundant. I was assuming that this language -- The fact that it says where OY is undefined, was because it hadn't been defined for -- This only applies to stocks where it hasn't been defined yet, but I guess maybe the intent was somewhat different than that, but I agree that "long-term" is redundant there. OY is a long-term yield.

The other thing, just to make it clear, the discussion that we had before with regards to MSY is, yes, there's a theoretical global MSY, which would require you to sort of pick an optimal age class, but a practical MSY would be the maximum long-term yield that you can obtain with the most efficient fishery in the fishery as a whole, and so the fleet that basically has the most optimal selectivity pattern.

What happens now is, every time you reallocate things, so that the affected selectivity pattern changes, because each of the fleets selects different size classes, every time you do that, you end up changing your MSY definition, because it's really now a conditional MSY, and that was the discussion we had.

Really, what's happening is, when you reallocate and you change the distribution of effort among the different fishing fleets, you are actually decreasing yield from the optimum level, which is actually consistent with the definition of the optimum yield, and it's the maximum sustainable yield as reduced by relevant social and economic factors.

In a sense, what you really have, after you make allocation decisions, is a form of OY, but you might also want to reduce it further for other economic or social reasons, or ecological factors, and that was the point here, and so this sort of like an additional reduction in OY relative to what you really have already done by making allocation decisions, and, as John explained, it really doesn't make a lot of sense to ask you to pick modification factors, these scalars of MSY based on a fishing mortality rate, and it's just not very intuitive.

The idea here is you think about, well, what is it that you

really want to do, and you want to reduce catch, and so roughly how much do you want to reduce catch to accommodate these other economic, social, and ecological factors.

CHAIRMAN DIAZ: Thank you, Dr. Porch. Ms. Beckwith.

MS. BECKWITH: Thanks. Not to confuse matters, but the South Atlantic Council also has spent some time discussing optimum yield, and we also plan on bringing up sort of a comprehensive amendment to consider this, but we had considered a slightly different variation of a definition for optimum yield.

When I'm done reading it out loud, I will go ahead and type it into the little council-only tab, so you guys can look at it, but one of the options, one of the alternatives, we were considering was optimum yield is the long-term average catch, which is not to exceed the total annual catch limit and will fall between the total annual catch limit and the sum of the commercial and recreational annual catch target.

The reason we were considering this is we wanted a way of taking into account that, at times, recreational fisheries -- The optimum yield for the recreational fishery, the intent is going to be different than the commercial. The commercial wants to catch their entire ACL, versus the recreational, that there might be some instances where, for like dolphinfish, that having fish out there that are not caught might actually improve the quality of fishing and have a higher abundance out there, and this was a method for accounting for those sort of different priorities between recreational and commercial fisheries. I will go ahead and type that in, and I'm happy to answer any questions on it, but we have had a bit of discussion, and we were considering taking a slightly different approach than you guys.

CHAIRMAN DIAZ: Thank you, Ms. Beckwith. I am not seeing any other comments or questions. Dr. Froeschke, would you suggest that we proceed to the next action?

DR. FROESCHKE: Well, I guess a question that's relevant to this next action as well is -- It sounds like there might be another alternative that you might want to at least look at, but, at least with respect to the options that are on the board, and, like I said, these were intended to be equivalent to the original FMSY scalars that were presented, and would the committee want to replace the alternatives that are currently in the document with the alternatives that are on the board and/or if you want to remove the "long-term" portion in yellow, and, of

course, that would be your option as well.

CHAIRMAN DIAZ: All right. Any thoughts from the committee? Dr. Crabtree.

DR. CRABTREE: I think we need to replace the language, and we want to take out the "long-term", and we could approve that, and then it seems to me that we need to pick a preferred alternative here, and I think, John, we have preferreds for everything except this.

DR. FROESCHKE: That's correct, yes.

CHAIRMAN DIAZ: Ms. Bosarge.

MS. BOSARGE: The other thing that is on the screen there, the yellow highlights, changes the percentages from what they are in the document, I think, and I must say that I think the percentages on the board are much more realistic than what I see in the document right now. I think we would be hard-pressed to want to get down to 50 percent of MSY or MSY proxy.

You would have to have some really good rationale to go that low, and so I think the percentages that are on the board, 85, 90, and 95, are a little more realistic than what we have in the document now, and so I think I would -- Dr. Crabtree, if you're okay with it, I would simply make a motion that we adopt the language that -- Well, shoot.

I see what you're saying. "Long-term" is highlighted in yellow, and so "long-term" needs to be removed, and then the percentages that are on the board need to replace the percentages that are in the document now. Dr. Crabtree, I'm going to let you make that motion.

DR. CRABTREE: Okay. **Well, I will move that we accept the changes on the board, except not to insert the word "long-term", or remove the word "long-term", if that's easier.** John, here we're accepting the recommended changes, right?

CHAIRMAN DIAZ: They are getting that motion on the board.

DR. FROESCHKE: Yes, that's correct.

DR. CRABTREE: Okay. **To accept the recommended changes on the board, with the exception of the word "long-term" being inserted. With the exception of the word "long-term", and you will just remove that.** However you want to do that, John.

CHAIRMAN DIAZ: All right, and so we have a motion from Dr. Crabtree to accept the changes that are posted underneath the motion, with the exception of the word "long-term", and it's seconded by Ms. Bosarge. Any further discussion? **Hearing none, is there any opposition to the motion? The motion carries.** Mr. Swindell, did you have a question or a comment? Your phone may be on mute. While we're waiting for Mr. Swindell, Dr. Crabtree.

DR. CRABTREE: I guess, John, I was going to ask whether we're at a point where we would choose a preferred now, or do you need -- Because we've made these changes now, do we need to have that analyzed and then come back next time and choose a preferred, or what's your recommendation?

DR. FROESCHKE: Based on our discussions, the values in here correspond to the FMSY options that were included in an earlier version of the document, which is what the analyses are based on, and so, in terms of analyzing the effects and things like that, these should map one-to-one, and there should be no changes, and so it's my opinion that you could select preferreds now, and, if you would, that would be great.

The SSC, many meetings ago, when they reviewed this particular action, they didn't recommend a specific MSY or yield at FMSY. They gave a range, anywhere between 50 percent and 90 percent, based on the yield at FMSY, which corresponds to the 85 to 95 percent range reflected in the Options a through c.

The 90 percent of MSY maps to a 75 percent yield at FMSY, which is fairly consistent with what's done in most reef fish stock assessments. 90 percent of FMSY was what was done for gray snapper in Amendment 51, which was quite recent.

CHAIRMAN DIAZ: All right. We're going to try again and see if we can get Mr. Swindell. Mr. Swindell. Okay. He is waving his hands. Mr. Riechers.

MR. RIECHERS: Based on what John just indicated, in saying that, in recent selections, we had chosen a 90 percent of MSY, then I would move that, in this case, and we can have, in this case, multiple preferreds, right, John, before I make the motion? I just want to make sure that we're really doing it for all these complexes, and is that correct?

DR. FROESCHKE: Yes, and so the alternatives -- You can select preferred options for Alternatives 2, 3, and 4.

MR. RIECHERS: I want to at least try to wrap them in one motion, and then, if there's someone who wants to suggest that there may be a different rationale for a different stock complex, then we can strip them apart and do them one at a time.

I would move that we select, as a preferred alternative, Alternative 2b and a preferred Alternative 3b and a preferred Alternative 4b. I think that's where we stop, because I can't see it on the screen right now, but, looking in the document, I don't think we would choose a 5 then, in that case, and there is none here.

DR. FROESCHKE: That's correct.

CHAIRMAN DIAZ: We have put the motion up on the board. Is there a second for the motion?

DR. STUNZ: I will second it.

CHAIRMAN DIAZ: Thank you, Dr. Stunz. We will wait until they get it on the board. Is there any further discussion on the motion? We'll wait to get it on the board before we vote. All right. We have a motion, and it was seconded. I am not seeing any further discussion. Go ahead, Ms. Levy.

MS. LEVY: For Alternative 4b, goliath grouper, you are proposing to make the optimum yield 90 percent of MSY, but we prohibit harvest of goliath grouper, and I know we've talked about it before, and you have essentially determined that, at this point in time, the optimum yield of goliath grouper is zero, right, because we don't allow harvest.

If you're going to say that the optimum yield is 90 percent of MSY, then I don't know how we justify prohibiting harvest, which is one of the reasons we broke goliath grouper out, right, so that you could consider it separately.

CHAIRMAN DIAZ: Mr. Riechers and then Ms. Bosarge.

MR. RIECHERS: You're right, Mara. In seeing this, I think that causes us some issue, but I don't know how you -- The way the Alternative 1 -- Hold on.

MS. LEVY: You could choose 4d for goliath, because the ACL is zero.

MR. RIECHERS: Okay. **I will alter my motion, and we already had a second, Dale.**

CHAIRMAN DIAZ: Yes, and so is that okay with the seconder, to change the motion from 4b to 4d?

DR. STUNZ: Yes, that is fine.

MR. RIECHERS: Sorry about that. I tripped us up a little bit.

CHAIRMAN DIAZ: That's okay. That was buried at the bottom of the page, I think, on the presentation. Ms. Bosarge.

MS. BOSARGE: I don't know if my point is relevant anymore, but I was just going to say that this whole idea of having an ACL of zero right now on goliath is the short-term, and I will grant you that we've done that year after year, but that's a year-to-year decision, and, if at some point we get a stock assessment that shows us something different, then we would change that, and so, to me, if OY is long term, and ACLs are short term, and it's annual, and it's not all that relevant to me what you current ACL may be, zero or otherwise.

It's what you would want the long-term perspective to look like, and so I was going to advocate for Robin's motion like it was, and it seems, for consistency, if that's how you're managing the others, you would think, that long term, you would manage goliath the same, if and when you decide to fish that species again, but I don't have any strong feelings one way or the other, I guess.

CHAIRMAN DIAZ: Thank you, Ms. Bosarge. Dr. Stunz.

DR. STUNZ: My comment is along those same lines, and goliath might be in a special situation, but why wouldn't that apply to red drum as well, given our ACL for that species?

CHAIRMAN DIAZ: Good point. Dr. Crabtree.

DR. CRABTREE: Well, I would say it's very different than red drum, because, in the case of red drum, there is millions of pounds harvested every year, and we have just made a management decision to have a fishery on juveniles in state waters, but that's not the case with goliath, where it's closed, and I guess you can get into discussions about how long is long-term versus short-term, but I believe goliath grouper has been closed for twenty-plus years now, and I haven't see any real move to consider opening it, and so, in my book, where we appear to be is that we have made a decision not to open goliath grouper.

Now, I have heard lots of discussion that goliath grouper are valuable to the dive industry, and we believe that their main value is to have them in the water, and I'm sure some people would disagree with that, and I don't think there's really any reason why goliath grouper has to be closed.

The trick is figuring out, if you opened it, how would you open it and not have it be fished back down again, and we haven't figured that out, but it is very different than red drum, it seems to me, where we're essentially -- It's one of our largest fisheries in the Gulf of Mexico, but we're keeping the EEZ closed to protect the spawning stock.

CHAIRMAN DIAZ: All right, and so I'm not seeing any more people with their hands up on the screen. We have a motion on the board. Dr. Frazer.

DR. FRAZER: I just want to see if this might be an option for folks. I mean, you could potentially add an Option 4e, which is essentially the OY would be zero if the ACL equals zero, and I don't think there's anything that precludes you from having two preferreds. That way, you could have maybe a 4b and a 4e.

CHAIRMAN DIAZ: Go ahead, Ms. Levy.

MS. LEVY: I guess I don't understand the comment about having two preferreds. We're looking at setting OY here, and so I don't see -- I mean, unless you're going to specify one is an annual OY and one is a long-term OY, but one thing, if you're uncomfortable with saying that the OY is zero if the ACL equals zero, is to have a new alternative that just says the OY is zero right now, and it doesn't have to be equated to the ACL.

I get what you're saying, is that, over the long term, you might want to manage to a higher level, but, right now, we have decided, or you have decided as a council, and the agency has implemented, an actual no harvest, and so, right now, if we say the OY is 90 percent of MSY, but we're not allowing harvest, that's not consistent. We're supposed to be managing now to optimum yield, and so I don't see that as being a consistent way to do things.

CHAIRMAN DIAZ: All right, and so we've had a fair amount of discussion. This is the motion before us now, and so, in Action 4.1, to make Options 2b, 3b, and 4b the preferred. Ms. Bosarge, do you have your hand up?

MS. BOSARGE: No, and I was just thinking of what Mara said,

and, I mean, that kind of applies in Option 4. You've got two things -- It says "or zero if the ACL equals zero". I guess you could almost take that statement out, so that you wouldn't have two different things going on, because, if you put the zero in there, in that formula, I guess you would have come out with zero, and it just seems to me that what Dr. Frazer was suggesting wasn't much different than Option 4d, but let's go ahead and vote on this thing. We've worked on it long enough.

CHAIRMAN DIAZ: Okay. I am not seeing any further discussion. **Is there any opposition to this motion? Seeing none, the motion carries.** Dr. Frazer, just a quick question. We're about thirty minutes over right now, and we have one more action. How do you want us to proceed?

DR. FRAZER: I apologize to folks, and we'll try to keep it quick, but I would like to go ahead and finish up the agenda for today.

CHAIRMAN DIAZ: Thank you, Dr. Frazer. Dr. Froeschke, would you proceed to the next action, please?

DR. FROESCHKE: My pleasure. Action 4.2 addresses OY for red drum, and, as we've discussed, the management of this stock is quite different, and that's why it's broken into its own sub-action, in that the no action alternative is different.

I want to go over the no action alternative, and then we can talk about Alternative 2, and perhaps revisit the discussion we just had in the previous action, but, as I just mentioned, the difference between this action and the prior action for reef fish is that, for red drum, there is a defined OY for this stock, and it was established in Amendment 2 to the Red Drum FMP, all the way back in 1988, and it's based on the escapement rate, essentially allowing a 30 percent escapement rate of the juvenile population.

If you recall, this species is managed with a zero harvest in federal waters, and the MSY preferred in Action 1 is also based on an escapement rate of 30 percent, and so this, essentially, would set the OY equal to the MSY. If you were to do that, it wouldn't change anything from what was specified in Amendment 2.

To be more consistent with the reef fish, how these other stocks are done, where you use the scalar of MSY, Alternative 2 is presented. One change you may want to make is to consider those same percentages that we just dealt with, the 85, 90, and 95 percent, that we just dealt with in the previous action, and so

you may consider making that revision to the text in Alternative 2, and then you could either determine if that was an appropriate OY for red drum or if you preferred to retain the no action, Alternative 1.

CHAIRMAN DIAZ: Any questions or comments on this action? Thank you, Dr. Froeschke. Ms. Bosarge.

MS. BOSARGE: Do we need a motion to change the percentages in Action 2 to be reflective of the changes that we just made in the action before this, or excuse me, in Alternative 2, to match the percentages that we have in the last action, where it's 80, 85, and 90 percent, I think is what it is, or 85, 90, and 95 percent, whatever we just did in the last one, and we need to be consistent, I would think.

DR. FROESCHKE: Yes, that would be good.

MS. BOSARGE: Okay. **I will make that motion, if you'll help me with the language, John.**

DR. FROESCHKE: Essentially, you could just copy the Alternative 2 in red drum now and replace the percentages from 50, 75, and 90 to 85, 90, and 95, if you go back to the main document. 50 would become 85, 75 would become 90, and 95.

CHAIRMAN DIAZ: We have a motion to change the percentages for red drum in Alternative 2. Is there a second to the motion?

DR. FRAZER: Dale, I don't think that Ed is able to speak, but he is signaling that he is seconding that motion, I believe. Is that right, Ed? Can I get a thumbs-up? Yes.

CHAIRMAN DIAZ: All right. Thank you, Mr. Swindell. It's seconded by Mr. Swindell. Any further comments related to the motion? **Seeing nobody waving their hands, is there any opposition to the motion? The motion carries.**

Now I guess the question is do we want to pick a preferred between the options that are before us? Any further comments, Dr. Froeschke?

DR. FROESCHKE: No, and that would be my request, is you wanted to select a preferred. Just as a reminder, the current management for MSY is based on escapement, and so the Alternative 1 would be consistent with that approach.

CHAIRMAN DIAZ: I am not seeing any hands up. When I read

through it, I mean, the thing that comes out to me is we've tried to do stock assessments on this red drum before, and we just don't have the data to even do a data-poor stock assessment, and maybe Dr. Porch could speak to that. I mean, is there hope that we could do some potential work with red drum in the future, Dr. Porch?

DR. PORCH: There's some hope, and I haven't gotten a good catalog of the purse seine data that was collected a few years back. I mean, we would need to take a look at that. My understanding was it wasn't really quite as comprehensive as we need, but I'm not absolutely sure about that. I would say there is some hope if we can get a good snapshot of the age composition of that offshore stock in the northern Gulf of Mexico.

Most of the data that I'm aware of though is some purse seining just off of Tampa Bay and a few other places, and then some of the stuff that I think Sean Powers' group did in the northern Gulf, but I am not sure if we could fairly say it's representative of the whole area, but that's the problem. The last time we had any of that information was in the late 1990s, and so we did a stock assessment back then, but now there has not been anything to compare the age composition to, and so we don't know if basically the fishing mortality rate has obviously gone down enough that the stock is rebuilt.

CHAIRMAN DIAZ: Thank you, Dr. Porch. Mr. Riechers.

MR. RIECHERS: Dale, to move this along, because I kind of look at this as the discussion we had similarly with goliath grouper just a moment ago, and so I'm going to go ahead and move Alternative 1, and I will provide a little more rationale if I get a second.

CHAIRMAN DIAZ: All right, and so we have a motion to move Alternative 1, no action. Is there a second to the motion?

DR. STUNZ: I will second that motion, and I will lower my hand from the list, because that's the motion I was about to make.

CHAIRMAN DIAZ: Thank you, Dr. Stunz. Go ahead with your rationale, Mr. Riechers.

MR. RIECHERS: Dale, you're right that we've been looking at this for -- We have looked at this several times in the past, both looking at ways to collect enough data to re-analyze it, or to decide what we would want to do, but I really look at it as

kind of the combination of similarities to the discussion we just had and that current OY is really what we've selected as Alternative 1, and so, to mirror what the current management strategy is, and our OY definition, by default, and rationally so, at the time.

The management structure is working, and there can be different management structures, but it is working, and so, to mirror that though, we really almost have to select a preferred Alternative 1 here. I mean, to that extent, and then, if we ever receive additional data, we can have a further discussion about that, but, at least in my mind, it's a mirroring of that same discussion that we just had.

CHAIRMAN DIAZ: Mr. Williamson.

MR. TROY WILLIAMSON: I was going to second the motion. I lowered my hand.

CHAIRMAN DIAZ: Okay. Thank you. Any further discussion on the motion? Mr. Swindell.

MR. SWINDELL: I agree that I think we need to stay with the way it is now, and, if we have the option, then we can go forward with it, and, if we ever get a stock assessment -- Right now, we don't have one to go with, and so I don't know of any way to get anything else done, until the full stock assessment that is reliable to say that we do have enough fish is out there to harvest that we can do something. Right now, I think we need to stay where we are. Thank you.

CHAIRMAN DIAZ: Thank you, Mr. Swindell. Mr. Riechers, did you have something else?

MR. RIECHERS: No, sir. If I had my hand up, it's just by mistake.

CHAIRMAN DIAZ: Okay. Ms. Bosarge.

MS. BOSARGE: Thank you, Mr. Chair. I am confused. When I read the Alternative 1, and so we're tasked with defining these parameters and these metrics, and so do we have a definition for OY, or do we not? Alternative 1 leads me to believe there is a definition for red drum OY already, but then, in the conversation, I'm a little confused. Do we have a somewhere document, in a federal document from the council -- Is there an OY definition for red drum already?

CHAIRMAN DIAZ: Dr. Froeschke.

DR. FROESCHKE: Yes, Leann, there is a definition for OY for red drum, and that's why in it's in its own sub-action. The discussion is in the first sentence there, but it was defined in Red Drum Amendment 2 back in 1988.

CHAIRMAN DIAZ: Thank you, Dr. Froeschke. Any further comments? Seeing none, I am going to go ahead and vote on this. **Is there any opposition to the motion? Seeing no opposition, the motion carries.**

Dr. Froeschke, I know, in the action guide, I think it might mention taking this thing out to public comment, and is this thing in good enough shape to send it out and do a virtual public comment?

DR. FROESCHKE: I think that, once the language is updated in the alternatives to reflect this discussion and the analysis is updated, to make sure it's consistent, then we should be able to take it out to public comment.

CHAIRMAN DIAZ: All right, and so I'm going to leave that up to the committee. What is your pleasure on this document? Mr. Anson.

MR. ANSON: I would like to I guess make a motion then to, once staff updates the document, to go to public hearings via webinar.

CHAIRMAN DIAZ: Thank you, Mr. Anson. We have a motion to take this document out to public hearings via webinar. Is there a second?

MR. RIECHERS: I will second that.

CHAIRMAN DIAZ: Second by Mr. Riechers. Mr. Riechers, you had your hand up, and did you have a comment?

MR. RIECHERS: No, and I was just going to speak to what Kevin just moved.

CHAIRMAN DIAZ: Thank you. Dr. Stunz.

DR. STUNZ: The same exact thing for me.

CHAIRMAN DIAZ: Okay. We have a motion to take Draft Amendment Reef Fish 48/Red Drum 5: Status Determination Criteria and

Optimum Yield for Reef Fish and Red Drum out to public comment. It was seconded. Any further discussion on the motion? **Seeing none, is there any opposition to the motion? Seeing no opposition to the motion, the motion carries.** Dr. Frazer, I believe that concludes our committee's work for the day. I am going to turn it back over to you.

DR. FRAZER: Thank you, Mr. Diaz, and I appreciate everybody -- It looks like we might have a hand. Robin, did you have your hand up again?

MR. RIECHERS: No, sir. I was lowering it.

DR. FRAZER: All right. I think, since there is no other business, apparently, Dale. I will make sure that I'm not seeing or hearing any, and we will go ahead and adjourn for the day.

(Whereupon, the meeting adjourned on September 28, 2020.)

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