

Sustainable Fisheries Committee Report
September 28, 2020
Mr. Dale Diaz, Chair

The Committee adopted the agenda (**Tab E, No. 1**) and approved the minutes (**Tab E, No. 2**) of the June 2020 meeting as written. Ms. Emily Muehlstein discussed the new protocol implemented to handle public comments received between Council meetings. Ms. Muehlstein indicated that comments that do not pertain to an ongoing regulatory action are collected and presented with the relevant agenda item at the first opportunity; others will be added to general comments under full Council.

Aquaculture Aspects of Executive Order 13921 (Tab E, No. 4)

Drs. Jess Beck and Ken Riley of NOAA Fisheries gave a presentation on the aquaculture aspects of Executive Order 13921. Dr. Beck noted that the presentation focuses on Section 7 of the executive order which addresses aquaculture opportunity areas. She noted that based on available data and industry interest, southern California and the Gulf of Mexico were selected as the first regions to host aquaculture opportunity areas. She further indicated that the determination of aquaculture opportunity areas is a proactive process to identify areas that would be potentially suitable for aquaculture. Aquaculture operations within aquaculture opportunity areas would be subject to all applicable federal and state laws and regulations. Dr. Beck discussed the steps included in the process to identify aquaculture opportunity areas and stressed the importance of stakeholder input and collaboration between NOAA and the Council throughout the process.

Dr. Ken Riley stated that aquaculture opportunity areas will be identified using a science and community-based approach to expand sustainable domestic seafood production. The process aims to minimize interference with other enterprises, protect the ecosystem, account for fishing patterns and, minimize user conflict. Dr. Riley discussed the steps planned during the first year of the process to identify aquaculture opportunity areas and noted that the publication of an Aquaculture Opportunity Atlas is expected by May 2021. A programmatic environmental impact statement would be developed subsequently. Dr. Riley discussed the diverse range of tools and technology available to NOAA's National Centers for Coastal Ocean Science to assist in the identification of aquaculture opportunity areas including, the AquaData catalog, the Gulf AquaMapper, the Marine Cadastre and, environmental models. Dr. Riley presented starting points for Gulf of Mexico study areas and discussed the workflow for siting analyses. He further noted that military, boundaries, industrial, biological, navigation, and oceanographic data will be used in site suitability models.

Committee members noted that Gulf states have experience in the siting of aquaculture operations and could provide valuable insights. The Committee inquired about the size of aquaculture opportunity areas. Dr. Riley noted that each area could include 3 to 5 aquaculture operations and that the maximum size per area would be approximately 4 square miles. The Committee noted that the use of heat maps for fishing activity should be limited. For example, for the shrimp industry in the Gulf of Mexico, the use of the actual effort tracks would be more

informative. The Committee asked whether the cell scores used in the site suitability model were based on continuous scales. Dr. Riley answered that if the data available were continuous, a continuous linear scale was used but a discrete scale was used if the source data were discrete. The Committee expressed its appreciation for NOAA's efforts to keep the Council in the loop and for the agency's willingness to provide updates to the Council. Dr. Simmons noted that a *Federal Register* notice for the Council's October meeting has already been sent but staff will make sure to include an aquaculture agenda item at the next Council meeting which was scheduled for November 30-December 1st.

Recommendations on Executive Order 13921 (Tab E, No. 5)

Ms. Muehlstein described the process for using the Something's Fishy tool to solicit suggestions from stakeholders on ways to reduce burdens on domestic fishing. She summarized the 93 comments received from recreational and commercial fishermen, and broken down by degree of complexity.

Dr. Simmons provided the Committee with a list of the regulations suggested for possible removal discussed during the June 2020 Sustainable Fisheries Committee meeting. She reminded the Committee of a remaining regulation discussed by the Council in 2018 for possible removal: the restriction on the use of powerheads and roller trawls within the stressed area for reef fish. The Committee requested additional background information about the regulation for further discussion.

The following information on Reef Fish Stressed Area is included for the Committees information. The original Reef Fish FMP (1980) implemented this regulation to restrict the use of some fishing gears and identified an area where there was evidence of overfishing including a reduction in catch rate and size of harvested fish. Harvest limits are now in place for all federally managed species to prevent or end overfishing on an annual basis. The Reef Fish Stressed Area may no longer be necessary to prevent or reduce overfishing as other, more comprehensive management measures are in place (see Section 8.3.1.1 of the Reef Fish FMP).

Within the Reef Fish Stressed Area, the use of power heads, roller trawls, and fish traps was prohibited. The gear restrictions were enacted to reduce fishing effort within the stressed area and to reduce the potential for user conflicts. Prohibiting the use of power heads for taking reef fish was expected to reduce harvest in the areas by fishermen using spear guns and targeting larger more fecund female reef fish. Roller trawls, which are otter trawls equipped with very large rollers allowing operation over rough bottoms, were prohibited due to their potential to damage coral reef habitat (see Section 8.3.1.2). Most recently, Reef Fish Amendment 43 (implemented in 2017) added hogfish to the list of species for which the use of powerheads is prohibited in the Reef Fish Stressed Area, as hogfish was the only managed species of reef fish not included in the prohibition on powerheads.

The Committee discussed the list of potential regulations to recommend for removal that were identified during the June 2020 meeting. The Committee retained all items on the list with two suggested revisions highlighted below.

- Do not close additional areas to commercial and recreational fishing unless recommended by the Council in that jurisdiction [added September].
- Increase testing for banned substances in seafood imported to the U.S.
- Require country of origin labelling for seafood on restaurant menus nationwide.
- Support young fishermen development programs.
- Recommend that the Council's Scientific and Statistical Committee review stock assessments for Highly Migratory Species.
- Review and revise U.S.C.G. safety compliance programs (such that they are replaced by tailored regional approaches that address the drivers of fatalities in each region [added September]).
- Consider measures to reduce agriculture run-off into the Mississippi River and reduce hypoxia that creates the Dead Zone in the Gulf of Mexico.

The Committee proposed additional regulations that could potentially be included to reduce burdens on domestic fishing, creating the following list:

- Add seafood to public school menus in a real and meaningful way.
- Create a direct to consumer online platform for fishermen and fish houses to strengthen the supply chain (Etsy-like platform for seafood, that connects buyers with dealers anywhere in the country).
- Amend the Harmonized Tariff Schedule of the US (HTSUS) code to break out wild caught warm water shrimp imports from farm-raised warm water shrimp imports.
- Increase the speed of distribution for fisheries disaster relief funds.
- Increase funding for fisheries independent monitoring.
- Remove the ACL for spiny lobster.
- Decrease shark depredation on fish stock.
- Development of a commercial electronic log book program.
- Allow a permit to be transferred if the permit is currently expired but within the 12-month grace period (i.e., renewable status). Allow permits that have expired but are renewable to be transferred without requiring the permit holder to have signed and notarized the permit before its expiration date or requiring the permit to be renewed (with attending vessel requirements) before being transferred.

Draft Letter on RESTAURANTS Act of 2020 (S.4012) (Tab E, No. 6)

Staff explained that all of the Regional Fishery Management Councils had been contacted by the Senate Committee on Commerce, Science, and Technology for a response on the RESTAURANTS Act. Staff reviewed the draft response letter and asked for feedback from the Committee.

The Committee discussed country of origin labeling on restaurant menus and noted that the RESTAURANTS Act could provide additional incentives, such as tax reliefs, if restaurants incorporated country of origin labeling. Ms. Levy noted that Councils are prohibited from advocating for legislation, but could provide information on how proposed legislation would

impact the management of fisheries. Dr. Simmons noted that Council members could address any additional feedback on the draft letter during Full Council.

Presentation on Depredation by Marine Mammals (Tab E, No. 7)

Ms. Laura Engleby, NMFS Marine Mammal Branch Chief, discussed the challenges related to interactions between marine mammals and fishing activities.

The Marine Mammal Protection Act prohibits all take of marine mammals, which includes harassment and injury to the animals. Ms. Long summarized the guidelines, specific measures, and prohibitions of marine mammal deterrents included in the proposed rule, which was published on August 31, 2020 and is accepting public comments. The proposed rule provides guidelines for allowable deterrence methods so long the measures do not pose harm to marine mammals. NMFS is interested in hearing from the Council and its constituents to figure out the best way to reduce harmful interactions with marine mammals. The guidelines proposed in the rule open the door to research projects that could look at the effectiveness of the applications of the deterrents, and associated behaviors of the marine mammal.

The Committee inquired about the best method to reduce marine mammal interactions with fishing practices. Although there is no one way to reduce interactions, one of the issues that should be address is reducing illegal feeding of marine mammals to limit learning the behavior of associating boats with food.

The Committee reiterated that fishermen continue to report an increase in dolphin sightings and interactions, and asked if there was an app to report such events. Ms. Engleby answered that at the moment the available apps are used to report sick, injured, or stranded dolphins and whales. Developing an app to monitor fishing interactions could be something to be explored with feedback from the Council and fishing community.

Public Hearing Draft Amendment Reef Fish 48/Red Drum 5: Status Determination Criteria and Optimum Yield for Reef Fish and Red Drum (Tab E, No. 8)

Staff reviewed the draft amendment focusing on Action 4 that includes alternatives to define optimum yield (OY) for several reef fish species and red drum. Council staff also presented the Scientific and Statistical Committee (SSC) recommendations from the March 2020 meeting. The SSC recommended that OY should be a scalar of maximum sustainable yield (MSY) instead of as a function of yield at F_{MSY} . This recommendation was made because a scalar of MSY is more intuitive to interpret as opposed to modifying fishing mortality that doesn't correspond directly to change in allowable harvest. For Action 4.1, the SSC also recommended inserting 'long-term' before OY in the alternative text to explicitly define OY as a more static determination criterion. NOAA staff indicated that the inclusion of the added language was redundant, could cause confusion, and recommended that while the adjusted scalar of MSY be retained, the words 'long-term' should be removed. Ms. Anna Beckwith, representing the South Atlantic Fishery Management Council (SAFMC), provided a draft definition for OY developed by the SAFMC which acknowledges the differing long-term goals of the commercial and recreational sectors. The Committee decided to include the revised Action 4.1 alternatives

recommended by the SSC and presented by the Science Center in the document but removed the 'long-term' descriptor of OY.

The Committee recommends, and I so move, **In Action 4.1, to accept the recommended changes below.**

Alternative 1: No Action. Do not define optimum yield (OY) for stocks and stock complexes in Action 1. Do not define an OY for hogfish.

Alternative 2: For reef fish stocks from Action 1 and for hogfish, where OY is undefined, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 2a. 85% of MSY or MSY_{proxy} .

Option 2b. 90% of MSY or MSY_{proxy} .

Option 2c. 95% of MSY or MSY_{proxy} .

Option 2d. $(ACL/OFL) * MSY$ or MSY_{proxy} ; or zero if the ACL equals zero.

Alternative 3: For shallow-water grouper, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 3a. 85% of MSY or MSY_{Proxy} .

Option 3b. 90% of MSY or MSY_{Proxy} .

Option 3c. 95% of MSY or MSY_{Proxy} .

Alternative 4: For goliath grouper, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 4a. 85% of MSY or MSY_{Proxy} .

Option 4b. 90% of MSY or MSY_{Proxy} .

Option 4c. 95% of MSY or MSY_{Proxy} .

Option 4d. $(ACL/OFL) * MSY$ or MSY_{Proxy} ; or zero if the ACL equals zero.

Motion carried with no opposition.

Staff indicated that the scalar adjustment of MSY used for the action alternatives was directly analogous to the yield at MSY that was previously presented. Therefore, all analyses appearing in the document were robust to the adjustment and preferred alternatives could be selected. The Committee acknowledged that OY had previously been set equivalent to 90% of MSY for several reef fish species. However, goliath grouper posed a unique case since harvest has been prohibited since 1990 and defining OY as a scalar of MSY would not be consistent with current management. For goliath grouper, Option 4d was selected as preferred instead that would set OY at zero given that harvest is currently prohibited for this species. The Committee selected the following Action 4.1 alternatives as preferred:

The Committee recommends, and I so move, **In Action 4.1, to make Options 2b, 3b, and 4d the preferred.**

Alternative 2: For reef fish stocks from Action 1 and for hogfish, where OY is undefined, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 2b. 90% of MSY or MSY_{proxy} .

Alternative 3: For shallow-water grouper, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 3b. 90% of MSY or MSY_{Proxy} .

Alternative 4: For goliath grouper, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 4d. $(ACL/OFL) * MSY$ or MSY_{Proxy} ; or zero if the ACL equals zero.

Motion carried with no opposition.

When considering Action 4.2 for defining OY for red drum, the Committee agreed that the SSC's suggestion for adjusting the OY definitions as a scalar of MSY should be incorporated into the document as was similarly done for reef fish in Action 4.1:

The Committee recommends, and I so move, **In Action 4.2, accept the recommended changes below.**

Alternative 2: For red drum, OY, implicitly accounting for relevant economic, social, or ecological factors, would be:

Option 2a: 85% of MSY or MSY_{Proxy} .

Option 2b: 90% of MSY or MSY_{Proxy} .

Option 2c: 95% of MSY or MSY_{Proxy} .

Motion carried with no opposition.

When considering the Action 4.2 alternatives, red drum differs slightly from the managed reef fish species because an OY for red drum was defined in Amendment 2 to the red drum fishery management plan. The OY definition red drum is based on a 30% juvenile escapement rate of juveniles. The Committee agreed that until a stock assessment is made available for red drum, that the definition of OY should remain unchanged.

The Committee recommends, and I so move, **In Action 4.2, to make Alternative 1 the preferred.**

Alternative 1: No action. Maintain the red drum optimum yield (OY) for red drum:

- All red drum recreationally and commercially harvested from state waters landed consistent with state laws and regulations under a goal of allowing 30 percent escapement of the juvenile population.
- All red drum commercially or recreationally harvested from the Primary Area of the exclusive economic zone (EEZ) under the total allowable catch (TAC) level and allocations specified under the provisions of the FMP, and a zero-retention level from the Secondary Areas of the EEZ. (Note: TAC for the EEZ has been set at zero since 1988.)

Motion carried with no opposition.

The Committee asked staff to update Actions 4.1 and 4.2 and approved the draft amendment for public hearing.

The Committee recommends, and I so move, **To take Draft Amendment Reef Fish 48/Red Drum 5: Status Determination Criteria and Optimum Yield for Reef Fish and Red Drum out for public hearing via webinar.**

Motion carried with no opposition.

Mr. Chair, this concludes my report.