

FINAL
SUMMARY REPORT
SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
Full Council Session I (Closed Session)
March 6, 2023

Litigation Update

Monica Smit-Brunello, NOAA GC, briefed the Council on two recent lawsuits involving GMFMC actions. The first was directed to the Gulf Reef Fish FMP Amendment 53 addressing Red Grouper and challenged allocation changes incorporating the MRIP FES estimates. Concerns were raised regarding BSIA, fairness and equitability, and bycatch minimization. The initial ruling in favor of NMFS is under appeal.

The second suit addressed the SEFHIER program in the Gulf of Mexico and challenged VMS and economic data collection. The case was initially ruled in favor of NMFS by district court, then on appeal the circuit court found in favor of the plaintiffs. The Court cited a number of procedural issues with the rule and questioned NMFS' authority under MSA to take the required actions, ultimately setting aside the entire rule and effectively removing the SEFHIER reporting and VMS requirements for Gulf-permitted fishermen. The ruling does not impact the South Atlantic reporting requirements. Charter vessel operators with both South Atlantic and Gulf permits, who were previously reporting under the more stringent Gulf requirements, must now report under the South Atlantic requirements.

Advisory Panel (AP) Policy

The Council reviewed modifications to the AP policy incorporating discussion from the December 2022 meeting. In addition to several clarifying edits, changes address meeting frequency for APs, require new members to participate in orientation, clarify that AP members follow Council policies, and specify an effective date for future appointments.

Administrative Handbook

The Council reviewed the draft Administrative Handbook, which was previously reviewed by the Executive Committee and NOAA GC. Changes were made in employment policies to reflect current Council practices and HR laws. Travel policies were updated for consistency with current practices and Council guidance. Language addressing conduct was strengthened and clarified, and NMFS policies on preventing harassment included as appendices. Council committee definitions were updated to reflect committee revisions made in 2020. Significant format and document ordering changes were made to improve organization and readability.

Additional modifications based on Council review during the meeting:

- Inserted into section II. Code of Conduct a new item (g) "Public Hearings" stating:
Voting Council and Committee members are discouraged from providing public comment during formal Council public comment sessions (those noticed in the Federal Register) on actions that will come before the group on which they have voting privileges, in order to allow sufficient time for each member of the interested public the opportunity to verbally comment on Council actions.
- Deleted text specifying that staff phone allowance is \$50, to allow flexibility in establishing the allowance amount based on budget and need.
- Clarified that the employment requirement for FMLA allowance is based on Council employment.
- Approved allowing full per diem reimbursement when travel days exceed 12 hours of meeting and travel time.

MOTION 1: MOVE TO APPROVE THE AP POLICY AS MODIFIED.
APPROVED BY COUNCIL

MOTION 2: APPROVE THE ADMINISTRATIVE HANDBOOK AS MODIFIED.
APPROVED BY COUNCIL

Appoint Blueline and Tilefish participants to topical working groups

Two subjects (recreational landings and discards as well as inclusion of a new deepwater longline survey) were identified for topical working groups for SEDAR 92 and one subject (life history) for a topical working group for SEDAR 89. Staff recommended combining the topics and using one working group to address both subjects for SEDAR 92. The Council recommended participants and observers in Table 1 for SEDAR 89 and Table 2 for SEDAR 92.

MOTION 3: MOVE TO APPROVE TABLE 1 AND TABLE 2 AS TOPICAL WORKING GROUP MEMBER PARTICIPANTS, DATA PROVIDERS, AND OBSERVERS FOR SEDAR 89 AND 92.
APPROVED BY COUNCIL

Table 1. SEDAR 89 South Atlantic Tilefish Topical Working Group participants and observers.

| Name | Affiliation | Function | Travel funds needed |
|--------------------------------------|--------------------|-----------------|----------------------------|
| Technical Appointees | | | |
| Mike Rinaldi | ACCSP | TWG | No |
| Kevin Spanik | SCDNR | TWG | No |
| Jeff Moore | NCDMF | TWG | No |
| Michael Thompson | NCDMF | TWG | No |
| Kevin Thompson | FLFWC | TWG | No |
| Eric Hiltz | SCDNR | D | No |
| Elizabeth Gooding | SCDNR | D | No |
| Amy Dukes | SCDNR | D | No |
| Chris Bradshaw | FLFWC | D | No |
| Bev Sauls | FLFWC | D | No |
| Bridget Cermek | FLFWC | D | No |
| COUNT | | 5 | 0 |
| SSC | | | |
| Marcel Reichert | SCC | TWG | No |
| Wally Bubley | SCC | TWG | No |
| COUNT | | 2 | 0 |
| Stakeholders | | | |
| Vincent Bonura | SGAP | TWG | No |
| Mike Freeman | LEAP/Industry Rep | TWG | No |
| COUNT | | 2 | 0 |
| Council & Staff Observers | | | |
| Tim Griner & Laurilee Thompson | Council Rep | 0 | No |
| Chip Collier | Council Staff | 0 | No |
| COUNT | | 3 | 0 |

Table 2. SEDAR 92 Blueline Tilefish Topical working group members participants and observers

| Name | Affiliation | Function | Travel funds needed |
|--------------------------------------|--------------|------------|---------------------|
| Technical Appointees | | | |
| Wally Bublely | SCDNR | TWG | No |
| Kevin Spanik | SCDNR | TWG | No |
| Mike Rinaldi | ACCSP | TWG | No |
| Meredith Whitten | NCDMF | TWG | No |
| Bev Sauls | FLFWC | TWG | No |
| Michelle Willis | SCDNR | D | No |
| Chris Bradshaw | FLFWC | D | No |
| Bridget Cermack | FLFWC | D | No |
| COUNT | | 5 | 0 |
| SSC | | | |
| Scott Crosson | SSC | TWG | No |
| George Sedberry | SSC | TWG | No |
| COUNT | | 2 | 0 |
| Stakeholders | | | |
| Byron Shults | Industry Rep | TWG | No |
| Dewey Hemilright | Industry Rep | TWG | No |
| COUNT | | 2 | 0 |
| Council & Staff Observers | | | |
| Trish Murphey | SAFMC Rep | O | No |
| Hannah Hart | MAFMC Staff | O | No |
| Judd Curtis | SAFMC Staff | O | No |
| COUNT | | 2 | 0 |

SEDAR and SSC Appointments

SEDAR Pool

Byron Shults was recommended to the SEDAR Pool so that he could participate in the topical working group for SEDAR 92. The Council recommended Byron Shults to the SEDAR Pool contingent on the background check finding no fishery violations.

Scientific and Statistical Committee

Due to a change in employment at North Carolina Division of Marine Fisheries (NCDMF), NCDMF recommended changing their agency representative on the Scientific and Statistical Committee to Anne Markwith. The Council recommended Anne Markwith as a member.

**MOTION 4: MOVE TO APPOINT BYRON SHULTS TO THE SEDAR POOL AP EFFECTIVE APRIL 1, 2023 AND MOVE TO APPOINT ANNE MARKWITH TO THE NC DMF SEAT ON THE SSC EFFECTIVE APRIL 1, 2023 THROUGH JUNE 30, 2024.
APPROVED BY COUNCIL**