

Agenda
Joint Administrative Policy & Budget/Personnel Committees
Gulf of Mexico Fishery Management Council

Hilton Galveston Island Resort
Galveston, Texas

Monday, October 5, 2015
9:30 a.m. – 11:30 a.m.

- I. Adoption of Agenda **(Tab G, No. 1)** – Boyd/Riechers
- II. Approval of August 2015 Joint Administrative & Budget/Personnel Committee Minutes
(Tab G, No. 2) – Boyd/Riechers
- III. Action Guide and Next Steps **(Tab G, No. 3)** - Gregory
- IV. Review of AP Staggered Terms **(Tab G, No. 4)** - Gregory
- V. Review of SOPPs Update Regarding AP Appointments and Administrative Committee Structure - **(Tab G, No. 5)** - Gregory
- VI. Review of House & Senate Red Snapper Related MSA Bills **(Tab G, No. 6)**
Gregory
 - a. HR 3094, Gulf States Red Snapper Management Authority Act
(Tab G, No. 6a)
 - (1) Summary
 - (2) Section Analysis
 - b. HR 981, Red Snapper Regulatory Reform Act **(Tab G, No. 6b)**
 - (1) Summary
 - (2) Section Analysis
 - c. H.R. 3521, The Gulf Red Snapper Data Improvement Act
(Tab G, No. 6c)
 - (1) Summary
 - (2) Section Analysis
 - d. S 105 The Red Snapper Management Improvement Act
(Tab G, No. 6d)
 - (1) Summary
 - (2) Section Analysis
- VIII. Other Business – Boyd/Riechers

Administrative Policy Members:

Doug Boyd, Chair

Pam Dana, V. Chair

John Greene

Camp Matens

David Walker

Nick Wiley/Martha Bademan

Staff: Gregory/Readinger

Budget/Personnel Members:

Robin Riechers, Chair

Vacant, V. Chair

Leann Bosarge

Doug Boyd

Camp Matens

David Walker

Roy Williams

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GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

JOINT ADMINISTRATIVE POLICY AND BUDGET/PERSONNEL COMMITTEES

Hilton Riverside Hotel New Orleans, Louisiana

August 10, 2015

ADMINISTRATIVE POLICY COMMITTEE VOTING MEMBERS

- Martha Bademan (designee for Nick Wiley).....Florida
- Doug Boyd.....Texas
- Pamela Dana.....Florida
- John Greene.....Alabama
- Campo Matens.....Louisiana
- David Walker.....Alabama

BUDGET/PERSONNEL COMMITTEE VOTING MEMBERS

- Robin Riechers.....Texas
- Leann Bosarge.....Mississippi
- Doug Boyd.....Texas
- Campo Matens.....Louisiana
- David Walker.....Alabama
- Roy Williams.....Florida

NON-VOTING MEMBERS

- Kevin Anson.....Alabama
- Roy Crabtree.....NMFS, SERO, St. Petersburg, Florida
- Dale Diaz.....Mississippi
- Dave Donaldson.....GSMFC
- Myron Fischer (designee for Randy Pausina).....Louisiana
- Kelly Lucas (designee for Jamie Miller).....Mississippi
- John Sanchez.....Florida
- Greg Stunz.....Texas
- Ed Swindell.....Louisiana

STAFF

- Assane Diagne.....Economist
- John Froeschke.....Fishery Biologist/Statistician
- Doug Gregory.....Executive Director
- Beth Hager.....Financial Assistant/IT Coordinator
- Karen Hoak.....Administrative and Financial Assistant
- Ava Lasseter.....Anthropologist
- Mara Levy.....NOAA General Counsel
- Emily Muehlstein.....Fisheries Outreach Specialist
- Ryan Rindone.....Fishery Biologist/SEDAR Liaison
- Bernadine Roy.....Office Manager
- Charlotte Schiaffo.....Research & Human Resource Librarian
- Carrie Simmons.....Deputy Director

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2 **OTHER PARTICIPANTS**

3 Anna Beckwith.....SAFMC

4 Theo Brainerd.....SEFSC

5 Steve Branstetter.....NMFS

6 Eric Brazer.....Reef Fish Shareholder's Alliance

7 J.P. Brooker.....Ocean Conservancy

8 Shane Cantrell.....Galveston, TX

9 Eden Davis.....Louisiana Wildlife Federation, Baton Rouge, LA

10 Michael Drexler.....Ocean Conservancy, St. Petersburg, FL

11 Julie Falgout.....Louisiana Sea Grant, Houma, LA

12 Chad Hanson.....Pew

13 Matt Hill.....MS DMR, Biloxi, MS

14 Scott Hickman.....Galveston, TX

15 Peter Hood.....NMFS

16 Joe Jewell.....MS DMR, Biloxi, MS

17 Mark Kinsey.....NOAA OLE, Galveston, TX

18 Paul Mickle.....Biloxi, MS

19 Ashford Rosenberg.....Audubon Nature Institute

20 Bill Tucker.....Dunedin, FL

21 Jim Zurbrick.....Steinhatchee, FL

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25 The Joint Administrative Policy and Budget/Personnel Committees

26 of the Gulf of Mexico Fishery Management Council convened at the

27 Hilton Riverside Hotel, New Orleans, Louisiana, Monday morning,

28 August 10, 2015, and was called to order at 8:30 a.m. by

29 Chairman Robin Riechers.

30

31 **ADOPTION OF AGENDA**

32 **APPROVAL OF MINUTES**

33 **ACTION GUIDE AND NEXT STEPS**

34

35 **CHAIRMAN ROBIN RIECHERS:** You should have an agenda in front of

36 you or by email, depending on how you chose to look at it. Any

37 changes or additions to the agenda? Hearing none, the agenda is

38 adopted as written.

39

40 Next will be the approval of Tab G-2, which was the last

41 approval of minutes for the Joint Budget and Personnel

42 Committee. Any corrections or additions or deletions or changes

43 to those minutes? Seeing no hands, the minutes will be adopted

44 as written.

45

46 Next, for your review, is Tab G-3. Again, this is the Action

47 Guide and Next Steps as prepared by staff regarding some of the

48 things they might like us to finish today, basically giving you

1 a timeline status and a background and a possible next step of
2 any of those agenda items and so I will just proffer that for
3 your review. Then we go on to Discussion of Combining
4 Administrative Policy and Budget/Personnel Committees, Tab G-4.
5 Everybody may want to get to G-4 and with that, we will turn
6 that over to Mr. Gregory.

7
8 **DISCUSSION OF COMBINING ADMINISTRATIVE POLICY AND**
9 **BUDGET/PERSONNEL COMMITTEES**

10
11 **EXECUTIVE DIRECTOR DOUGLAS GREGORY:** Thank you, Mr. Riechers.
12 Tab G-4 is a suggestion to combine the Administrative Policy and
13 the Budget/Personnel Committees. We have met jointly a couple
14 of times in this last year and since we're appointing new
15 committees after the August meeting, now is the time to consider
16 what to do if you want to add or combine some of the management
17 committees that the council has.

18
19 I have in this document the current charge of each committee
20 that is in our SOPPs now. The Administrative Policy Committee
21 is to address policy matters and Magnuson Act and other matters
22 that the council believes is pertinent to policies or
23 operations.

24
25 The Budget/Personnel Committee develops the budget and fiscal
26 policy and prepares the budget and helps develop personnel
27 policy. In the past, the Personnel Committee had a very active
28 role with personnel, to the point of even reviewing and
29 approving individual staff evaluations.

30
31 About four or five years ago, that was changed and most of the
32 administrative responsibility for personnel was turned over to
33 the Executive Director. Most, but I would say all. Those older
34 functions of the Personnel Committee really aren't pertinent
35 anymore.

36
37 In preparation, I went to the other councils to find out how
38 they handle such matters and a couple of councils have what they
39 call an Executive Committee. It's not really made up of just
40 the Chairs of different committees, but it's just one committee
41 that deals with all of these functions at one time,
42 administrative policy, personnel, and budget.

43
44 Some councils have separate committees and some have separate
45 personnel and executive/finance committees and some have
46 separate budget and legislative committees and some are combined
47 and so we have four councils out of the eight that basically
48 have one committee, similar to what I am suggesting here.

1
2 I am asking the council to make a decision to combine these
3 committees into a single Administrative/Finance Committee or
4 call it an Executive Committee, if you will. What I envision
5 would be the committee being made up of the Council Chair, the
6 Vice Chair, and then three other people that are interested in
7 helping with this.

8
9 There may be instances in the future where the council may want
10 to get involved in some sensitive issues pertaining to personnel
11 that wouldn't properly come before the full council, but at the
12 same time may be too big of an issue to be handled directly by
13 the ED and the Chair and so I would suggest, if we combine this,
14 to try to keep it in a small committee that can function in that
15 manner.

16
17 That's a proposal from me, just trying, again, to streamline
18 things and if the council decides not to combine these
19 committees, then coming to meetings like this, I will no longer
20 combine them into a single committee going forward. What is
21 your pleasure?

22
23 **CHAIRMAN RIECHERS:** Anybody else have questions? I have at
24 least one. Doug, because I've at least had a little bit of
25 preview of this from you, as I hear you discuss that executive
26 committee though, I want to understand more of how you would see
27 that operating.

28
29 I mean I am assuming, whether you call it an Executive Committee
30 or whether you call it a Joint Budget/Administrative Policy/Et
31 Cetera Committee, I mean it's still a committee of the council
32 that any true decisions by that committee that would affect
33 either budget or the business that we do, it's behaving just
34 like a regular council committee, is it not?

35
36 **EXECUTIVE DIRECTOR GREGORY:** Correct, but I would envision, like
37 when we are looking at our biennial audit, that committee would
38 meet with the auditors to go over the audit, but not necessarily
39 have the audit come to the full council. There may be instances
40 like that, but yes, it would be a committee of the council and
41 the committee itself would report back to the council, either in
42 open session or closed session, depending on what may -- Now, I
43 don't know if it's a delicate situation, but you know in the
44 past, the way the Executive Director and the council operated
45 has run the gamut from leaving all personnel decisions up to the
46 council to not having the council involved in any personnel
47 decisions.

48

1 I am trying to walk the middle ground there. I am a
2 collaborative type of person and I believe in collaborating with
3 people before making major decisions and so I'm looking for that
4 middle ground. That's what I am looking for.

5
6 **CHAIRMAN RIECHERS:** I would say that in some respects those
7 personnel issues -- They are handled a little bit differently
8 than other budget and administrative issues and to the extent
9 that they might require closed sessions and if you're doing
10 hiring and firing and you want to talk to that Executive
11 Committee beforehand, obviously those are things you may want to
12 discuss with a group that -- Actions may have to be taken in
13 between council meetings even and so I understand that part. I
14 am just trying to get a notion of the functioning of the group
15 within the context of the budget and the other admin kind of
16 functions that's been done before. It sounds like that's not
17 really changing and you're just wanting a merged committee.

18
19 **EXECUTIVE DIRECTOR GREGORY:** A merged committee, plus, I guess,
20 for particular instances, to have say a conference call without
21 a formal meeting to get advice and not for the council to make a
22 decision, but for me to get advice on issues.

23
24 Of course, with the concurrence of the Chair, whoever the Chair
25 is -- I always go to the Chair first and sometimes the Vice
26 Chair with anything and this would just simply be another step
27 for getting broader advice from the council from people that are
28 interested in these subjects.

29
30 **CHAIRMAN RIECHERS:** We have kind of heard what Doug is
31 requesting here or at least throwing out for a topic of
32 discussion and does any members of both committees have thoughts
33 or want to move forward with this? If so, I think we would need
34 a motion to combine the committees or to create this.

35
36 Doug, I am trying not to get this confused, this Executive
37 Committee. What you're really just saying is a small combined
38 committee and does that make -- Does that solve that, so that we
39 don't get into, quote, unquote, an Executive Committee
40 discussion here?

41
42 **EXECUTIVE DIRECTOR GREGORY:** Correct, but then what do you want
43 to call the committee? The suggestion I have in the document is
44 Administrative/Finance Committee.

45
46 **CHAIRMAN RIECHERS:** I mean it's Administrative Policy and Budget
47 now and so I think that would -- Certainly either of those two
48 names would work fine, if we have a belief that we want to do

1 this. Doug.

2
3 **MR. DOUG BOYD:** I don't have any problem combining Budget and
4 Admin. I think that can work fine. I have a little problem
5 with the Personnel Committee kind of going away. I think it's
6 important that any organization have what I would call a board-
7 level policy creation and review process for personnel. Any
8 corporation you go to or any business that you go to that has a
9 board function has kind of a supreme court for that
10 organization's personnel issues.

11
12 The issues, from an EO standpoint and from a labor law
13 standpoint, I think are very important and need to be at the
14 forefront of any organization's process and so I think I would
15 speak against merging the Personnel Committee in. I think that
16 needs to be separate, but I have no problem with the Budget
17 being a part of Admin. I think that's appropriate. Thank you.

18
19 **CHAIRMAN RIECHERS:** Mr. Matens.

20
21 **MR. CAMPO MATENS:** Thank you, sir. Of course, this is our last
22 meeting with this format and, coincidentally, I am on both of
23 these. Doug, how would you propose to format that? I agree
24 with you, but how would you propose to do it?

25
26 **EXECUTIVE DIRECTOR GREGORY:** I am not sure I understand what you
27 mean by format, but -- Oh, sorry.

28
29 **MR. BOYD:** How would I format the two committees?

30
31 **MR. MATENS:** Yes, how would you solve the problem of the
32 personnel issues? You said you could combine Budget and
33 Administrative, but Personnel you feel like should be a little
34 different and how would you do that?

35
36 **MR. BOYD:** I would leave the personnel decisions delegated to
37 the Executive Director and the Chairman, like we've got it now.
38 I think that a Personnel Committee could review things and could
39 help establish policy. I think that when any board delegates
40 100 percent of something that is this important that you could
41 get into trouble later.

42
43 **MR. MATENS:** I agree with you and so are you saying that there
44 would be an Administrative/Budget Committee and, in addition, a
45 Personnel Committee?

46
47 **MR. BOYD:** That's what I am saying, yes. There would be an
48 Administrative/Budget Committee and there would be a separate

1 Personnel Committee. I am not saying that that committee would
2 be there to dictate how the daily operations go or to review
3 everything that the Executive Director or his staff does, but it
4 would be there to give him cover, if you want to talk about it
5 like that, or it would be there to give him assistance and
6 guidance and it would be there to kind of be a supreme court for
7 the whole process of personnel issues and personnel decisions.

8

9 **MR. MATENS:** Is that in the form of a motion?

10

11 **MR. BOYD:** No, I haven't made a motion, but I will if the
12 Chairman wants me to or do you have someone who wanted to speak?

13

14 **CHAIRMAN RIECHERS:** We had John.

15

16 **MR. JOHN SANCHEZ:** I guess then that the regular council could
17 give whatever feedback they would want to the Chair and Vice
18 Chair under this setup? Then that brings up the question of
19 when is Doug up for reevaluation?

20

21 **MR. BOYD:** On a daily basis.

22

23 **CHAIRMAN RIECHERS:** So the alternative then, Doug, or both
24 Doug's in this case, is to not actually have a net loss in
25 committees, but just have a restructuring of the two committees
26 as they have been outlined here and so if that's the will of the
27 two committees, then I would -- If we could get that in the form
28 of a motion.

29

30 **MR. BOYD:** All right. I will make a motion to merge the budget
31 process that we currently have into the Administrative Committee
32 and to leave the Personnel Committee as a stand-alone committee
33 of the council.

34

35 **MR. MATENS:** Second.

36

37 **MR. BOYD:** We haven't heard from the Chairman. I mean he is
38 closest to this and having been Chairman for two years, I know
39 how close he is and so I would like to hear what Kevin has to
40 say.

41

42 **CHAIRMAN RIECHERS:** Go ahead, Kevin.

43

44 **MR. KEVIN ANSON:** I don't have a problem with it, per se. You
45 know we had put a lot of emphasis on the last hiring for the
46 Executive Director of, as Doug put it, taking a lot of the day-
47 to-day decisions and making them and to the extent that an
48 Executive Director in the future may make some decisions that

1 aren't probably in the best interest of the council and such, it
2 probably would be good to have a backstop of some folks.

3
4 I guess I am just a little -- It's not clear to me yet as to
5 what the trigger would be as to what level of decision would the
6 Executive Director, I guess, be compelled or feel like they were
7 obligated to go to the Personnel Committee. Is it just for
8 disciplinary actions or is it for promotions or is it -- I mean
9 when is that Executive Director supposed to be going to the
10 Personnel Committee, I guess? For some clarification, just for
11 the Executive Director at least, to make sure they aren't
12 walking a line or they're walking the line and that it's clear
13 what the responsibilities of the Personnel Committee would be
14 and what the expectations are of the council and that
15 relationship?

16
17 **MR. BOYD:** Is that a question for me?

18
19 **MR. ANSON:** It's a question to anyone at the table.

20
21 **MR. BOYD:** Well then I will respond and then let somebody else
22 respond. I think, and I have not reread what we approved and
23 delegated for operations on a daily or weekly basis for the
24 Executive Director and I would want to do that before I really
25 answer the question, but my opinion would be that the Executive
26 Director would go to the Personnel Committee with any what I
27 would consider serious issues.

28
29 If we had sexual harassment complaints or if we had other types
30 of personnel issues or if we had problems that the Executive
31 Director just wanted advice with, that is a body, a smaller
32 body, that is delegated that -- It's at the board level that has
33 that authority to discuss all that with him, as opposed to
34 calling together seventeen people to have to talk about it and
35 debate it. We have an interim group before we get to the full
36 board, if you want to call it that, to the full committee. Does
37 that help?

38
39 **MR. ANSON:** Yes, it does. So it's basically for those you might
40 consider negative decisions that they would have to make and not
41 a positive one, like a promotion and such.

42
43 **MR. BOYD:** Exactly. I think that we have delegated a lot of the
44 authority for personnel to the Executive Director and until that
45 changes, I think the Executive Director ought to still operate
46 under that.

47
48 **CHAIRMAN RIECHERS:** Any other comments or questions or

1 discussion? Hearing none, we've got a big committee here. Just
2 as a reminder, if you're not on one of these two committees, we
3 shouldn't be voting. **I am not going to go through the whole**
4 **list, but all those in favor of the motion then say aye; all**
5 **those opposed same sign. The motion carries.** With that, we now
6 turn to Tab G-6 and, again, that's Mr. Gregory.

7
8 **EXECUTIVE DIRECTOR GREGORY:** Actually, it's G-5.

9
10 **CHAIRMAN RIECHERS:** Yes, I skipped one. It's Emily. You are
11 correct and it's G-5 and I think Emily is taking the lead on
12 this one or you are?

13
14 **DISCUSS HISTORICAL PERFORMANCE OF COUNCIL SCOPING MEETINGS**

15
16 **EXECUTIVE DIRECTOR GREGORY:** No, I will do it. She is my
17 backstop, in case I flub things up. This is on the historical
18 performance of scoping hearings. Since I have been here, it
19 seems like, for a lot of issues, one of the first things the
20 council wants to do is go out for scoping.

21
22 I have tried to research, and I am going to rely on Mara's
23 ultimate advice here, after I finish, as to what direction the
24 council should go, but when we do a set of scoping hearings or
25 public hearings and we go to nine places or more, it takes two
26 people three weeks to conduct.

27
28 Public hearings are the same thing. We have reviewed the past
29 five years of scoping and public hearings and now the number of
30 runs we've gone on, I don't have the numbers here, but if you
31 figure there is eight to nine hearings per run, per amendment,
32 we have done forty-eight scoping hearings for six amendments and
33 seventy-five public hearings for eight amendments.

34
35 The participation at our scoping meetings is about half of what
36 we see at our public hearings. The thing we haven't been doing
37 in the past few years is having more advisory panel meetings and
38 I am surmising that, given the energy and the time and the
39 resources it takes to do all of this, we would be better off, I
40 think, putting more energy into having more AP meetings than
41 having these so-called scoping hearing runs.

42
43 I am proposing that because my read of the manual I have for
44 NEPA indicates that everything the council does is part of the
45 scoping process.

46
47 The National Marine Fisheries Service is responsible for NEPA
48 and not the council and so when they decide to do an

1 environmental impact statement and they publish a Notice of
2 Intent and they have a formal scoping process, but they use our
3 administrative record to support their decisions and our
4 administrative record is made up of our advisory panel meetings,
5 our SSC meetings, our council meetings, the public testimony we
6 get at the council meetings.

7
8 We take at least a year or more to do an amendment and so that
9 means the entire Gulf area, for the most part -- Each state has
10 had an opportunity to participate in a council meeting that's in
11 their state and so we seem to have an extensive administrative
12 record for most of the actions we do, with the exception of
13 framework actions.

14
15 I am not asking for a motion. I am asking for the council to
16 consider this and consider the time requirements for going on
17 these hearing runs.

18
19 An interesting thing related to both scoping and public hearings
20 that's kind of a tangential issue here is half of all of our
21 hearings have five or less people at them and so after this,
22 depending on which way the council goes, I want to go back and
23 look at those and look at the locations we've been having
24 hearings and try to find out if there's a pattern as to where we
25 consistently get low turnout.

26
27 If we're consistently getting low turnout of five or less
28 people, I would argue to the council at a future date that let's
29 not go there anymore, whether it's a scoping hearing or a public
30 hearing, but that's a different issue and I just wanted to plant
31 that seed.

32
33 So the thing to consider is that we have approximately eight
34 weeks between council meetings and our technical staff are
35 involved in IPT meetings, the Interagency Program Team. They
36 immediately, after a council meeting, set a date for their first
37 meeting to review what the council does and to make writing
38 assignments. That takes at least a week or more to do those
39 writing assignments and review them and then they have another
40 IPT meeting to try to consolidate things before our briefing
41 book. Our briefing book is two weeks before the council meeting
42 and so that means staff has six weeks to do everything it has to
43 do between two council meetings.

44
45 We typically have been having an SSC meeting between each
46 council meeting and if we have more AP meetings, you can see
47 that time is really limited, because you've got to prepare for
48 all of these meetings, scoping meetings, public hearings, or

1 APs.

2
3 We are having a difficult time balancing all of that and so I
4 would encourage the council, in the future, when we start new
5 amendments and stuff, not to just automatically say, well, let's
6 go on a scoping run, but rather let's see how we can use our
7 advisory panels and SSCs more effectively.

8
9 There is nothing -- It's kind of embarrassing when we reappoint
10 people on an SSC -- It used to be every two years and now we're
11 going to every three years, but to have people say, well, it
12 would have been nice, but we never had a meeting --

13
14 **UNIDENTIFIED:** On an AP or SSC?

15
16 **EXECUTIVE DIRECTOR GREGORY:** On an AP. Did I say SSC? I am
17 sorry. So we want to try to have more advisory panel meetings
18 and not just more of Reef Fish, but more of all of our advisory
19 panel meetings and we also have a new sort of unwritten policy
20 that we have worked out between staff and the Chair and Vice
21 Chair and that is when we have an advisory panel meeting, we are
22 going to invite the chair of the advisory panel to the council
23 to answer questions about the meeting.

24
25 Staff will continue to give the meeting report, but the chairman
26 will be here to participate in the discussion and be available
27 to answer questions by the council. That's the way we're going
28 to work with the APs going forward.

29
30 I simply ask you all to consider this. I am not really asking
31 for a motion at this time on anything, but when we start new
32 amendments, think about how best to get input and to develop
33 that record. Again, I will defer to Mara. If what I am
34 proposing is out of line for what she needs from the NEPA
35 process -- But we normally do not wait for NMFS to decide
36 there's an EIS that's going to be developed before we do any
37 sort of hearings and I think our public hearings also can be
38 considered part of the NEPA process. Thank you.

39
40 **CHAIRMAN RIECHERS:** Mara, do you want to weigh in here?

41
42 **MS. MARA LEVY:** I don't really have anything that needs
43 clarification. I mean I think that the NEPA process is a joint
44 sort of council/agency process, but I think that it can be --
45 What we consider scoping is very varied under NEPA. It doesn't
46 have to be a particular thing and so as long as you're involving
47 the public commenting on public hearing drafts and the public
48 comments at meetings -- You know all those things can be

1 considered part of NEPA scoping.

2
3 I think it's really up to the council as to how many physical
4 scoping meetings you want to have on things throughout the Gulf
5 when you are developing those amendments.
6

7 **CHAIRMAN RIECHERS:** Thank you, Mara. Any other comments? I
8 have one. Mr. Walker.

9
10 **MR. DAVID WALKER:** I was just going to say I have noticed over
11 the years that you see a lot of people that attend the scoping
12 meetings that I never see at the council meetings and I just
13 want to make sure -- Sometimes you worry about the membership
14 coverage on the APs and so I just think the scoping meetings --
15 Maybe it's because it's a smaller amount of people there that
16 people attend. Maybe they're less intimidated and I have no
17 idea, but I do notice people that attend the meetings that don't
18 normally attend the council meetings.

19
20 **CHAIRMAN RIECHERS:** Ms. Dana.

21
22 **DR. PAMELA DANA:** Thank you, Chairman. What I have seen is --
23 We have addressed this as a council several years ago and the
24 same discussion came up as to whether going out to scoping or
25 these public hearings really had a value-added benefit. We came
26 to the conclusion that even though sometimes they do produce
27 very few participants going to it, we agreed to continue going
28 forward with them, but I do agree with Doug Gregory's comment
29 that if there are consistently -- If there are locations that
30 consistently do not produce participants, then we need to
31 rethink visiting that particular location again.

32
33 I do believe that these public sessions or scoping meetings --
34 You know it's case sensitive and it's depending on what the
35 issue is. I know in Destin sometimes we can get a few folks and
36 then the next issue we will get hundreds and it's standing room
37 only and I know that has happened in other places that I've been
38 to.

39
40 I would hate to limit the ability of the public to have input,
41 particularly, as David said, when you're bringing in folks that
42 would normally not show up to this council meeting for public
43 testimony, but I think that we could do some reasonable
44 downsizing of the effort or more strategic work out there to
45 save costs and to make more productive and also to enable more
46 of the AP coming together.

47
48 **CHAIRMAN RIECHERS:** Doug, you weren't asking for a motion and I

1 think there has obviously been a sense here, at least, that we
2 are sometimes getting more people or different people than we
3 might get on APs and, of course, that was the whole notion of
4 the scoping meetings early on and why in a recent discussion of
5 this, or in the last couple of years, we maintained them.

6
7 I think the question is yes, absolutely anytime we can look for
8 efficiencies or anytime we can look back at past history of
9 certain locations, but I think you're right. I think when we go
10 out with technical guidance documents where we're changing
11 thresholds, we get nobody, because they don't really understand
12 those things or they don't want to weigh in very much.

13
14 We get the same people we will see in the audience show up at
15 those meetings and you won't get regular commercial,
16 recreational, charter-for-hire anglers that you might see
17 otherwise, with rare exception. Like I said, it's probably
18 people we get here, but when you go out with an item that's
19 going to deal specifically with a season or a bag limit or
20 something like that, you will get folks.

21
22 Now, part of that is, and I think we've talked about this in the
23 past, Pam, as well, which is can we tag scoping meetings onto
24 other meetings that we're already having, so that you don't end
25 up making a special run.

26
27 Obviously timing of those are hard and what you're asking us to
28 do, I think, is just pause before we say go to scoping meetings
29 immediately and let's think about that scheduling and let's
30 think about the way we go about that each time, depending on the
31 amendment or the issue at hand. Roy, I think you may have been
32 about to say something, Roy Williams, or Anna.

33
34 **MS. ANNA BECKWITH:** On the South Atlantic, one of the ways that
35 we're working around the same problem is we're doing more
36 webinars and sort of question-and-answer type of things, where
37 the staff is actually going online and giving presentations and
38 accepting comments that way.

39
40 We've also been doing what we're calling listening stations,
41 where we will have one or two council members from the local
42 area present and we'll do a webinar, where the staff is giving
43 the presentation from the office and then we're there to fuel
44 questions and the staff is actually recording it, so they have a
45 record. That has been very helpful and much more economical.
46 The only persons that are actually attending the meeting are the
47 local council members.

48

1 **CHAIRMAN RIECHERS:** Doug and then Kevin.
2
3 **EXECUTIVE DIRECTOR GREGORY:** Do you want to go first?
4
5 **MR. ANSON:** Thank you, Doug. Anna, just to follow up on your
6 comments, did you find that the participation, as far as numbers
7 of folks, was it the same or did it go up or did it drop,
8 compared to going out and actually face-to-face?
9
10 **MS. BECKWITH:** We've had great participation. Because they know
11 the council members are going to be there and because it's much
12 more of an informal deal, we have had the local folks come out
13 more and, of course, it's always topic-dependent, but at least
14 for our visioning process, we've had some great input and it's
15 been much more personable.
16
17 **MR. ANSON:** With the online webinars and all of that, the
18 listening sessions and all of that, correct? It's been more
19 productive?
20
21 **MS. BECKWITH:** It's two different things. Some of the scoping
22 stuff that we're doing and some of the amendments, we'll do a
23 webinar that is strictly a question-and-answer and we also, for
24 different issues, and we're doing it for the visioning right
25 now, and we expect to do it more as we go out for scoping for
26 more sensitive topics, we are doing the listening stations.
27 It's two different formats.
28
29 **CHAIRMAN RIECHERS:** Doug Gregory.
30
31 **EXECUTIVE DIRECTOR GREGORY:** The South Atlantic Council also
32 combines, I think, all their public hearings and scopings into
33 two meetings or two runs a year. They do one in the fall and
34 one in the spring.
35
36 Part of the problem we're having, and I'm here to tell the
37 council today that although we can do it, it's extremely
38 difficult, is if you make a decision to do a scoping run or a
39 public hearing at this meeting, for us to have it done before
40 the next meeting is extremely difficult.
41
42 We need actually two meetings to organize it and that was partly
43 true in June. I think in 39 you wanted to go out to a second
44 set of public hearings. After our June meeting, we were hosting
45 the National SSC Meeting and the entire staff was involved in
46 that, or 90 percent of our staff, and so we couldn't have done
47 it then.
48

1 We could have scheduled it then between this meeting and
2 October, but I asked the council if we could put it off until
3 November, because I knew we had two full months, two-and-a-half
4 months, between the October meeting and the January meeting and
5 so we had plenty of time to schedule them and conduct them and
6 the council agreed to that.

7
8 We have been doing things on a spontaneous basis and that's
9 disruptive also and so we would like to look at maybe some
10 methods of doing things in a less spontaneous manner and so if
11 we can have say two or three months to conduct a public hearing
12 run or a scoping run, it would be easier on our workflow than if
13 we have to do it from one meeting to the next without advance
14 notice.

15
16 **CHAIRMAN RIECHERS:** Doug Boyd.

17
18 **MR. BOYD:** Doug, a question. Have we had staff or has staff
19 looked and had discussions about the root causes for non-
20 participation? I know that's a tough subject, but do we have
21 some feeling as to why we don't have participation? For
22 instance, is it the topic or is it a lack of interest or is it a
23 frustration on the part of probable participants? Has the
24 outreach group looked at that or at least discussed it, to see
25 if they know what the causes are?

26
27 **EXECUTIVE DIRECTOR GREGORY:** Yes and Emily is going to present
28 more detail on that when we get to the private angler discussion
29 in reef fish, but the answer is all the above. There are people
30 that have said they're not listening to us and we're not going
31 to waste our time. A number of people get involved in the
32 council process for four or five years and then drop out out of
33 frustration.

34
35 The two scoping meetings where we did have numbers and that
36 boosted all these averages was the days-at-sea meeting and the
37 original scoping meeting for Amendment 39. They had large
38 participation and other than that, it was like miniscule
39 participation on any subject.

40
41 The public hearings, like I said, half of them have less than
42 five people and so I think it's a little bit of all the above
43 and I think the people that are active in management tend to
44 come to our meetings, particularly when we're in their area.

45
46 Here in the northern Gulf, if you're not in south Texas or south
47 Florida, it's relatively easy to drive between Alabama and New
48 Orleans. Say if you're in the Houston or the Galveston area and

1 come to New Orleans, it's not that bad. If you're in
2 Brownsville, it's a very difficult task to come to New Orleans
3 and the same thing with south Florida.

4
5 We try to have our council meetings so that other people have
6 reasonable access to the council and the public hearings is a
7 way to go into the coastal towns more directly, but even when we
8 do that, people just are not participating on all the issues and
9 it certainly does depend on the issue, but Emily will talk more
10 about that when we get to Reef Fish, but the answer is all of
11 the above.

12
13 **CHAIRMAN RIECHERS:** It sounds like we are not trying to seek a
14 motion here or really a resolution and so let's just continue to
15 think about the efficiencies and let's continue to, as we think
16 about sending things to scoping -- Doug, we're going to ask you
17 to slow us up in that respect and ask us for the purview of
18 timing and thinking about how you can group it. With that, I
19 think it's just a continued effort at being more efficient about
20 how we go about our business, while still getting the level of
21 input that we need.

22
23 With that, let's move on to the next item, which is Tab G-6, and
24 Mr. Gregory again is going to lead us through that. It's a
25 Review of AP Staggered Terms.

26
27 **REVIEW OF AP STAGGERED TERMS**

28
29 **EXECUTIVE DIRECTOR GREGORY:** This is simply for your
30 information. Earlier this year, the council decided to stagger
31 the terms for the APs so that all AP members will now serve a
32 three-year term instead of a two-year term, but a third of them
33 will be reappointed every year.

34
35 To get that started, a third had to be given one-year
36 appointments, two-year appointments, and three-year
37 appointments. What you have before you in G-6 are the
38 committees that staff has decided would go where and we have
39 notified all the advisory panels as to their term and the reason
40 we're doing this and we have received no negative feedback at
41 all.

42
43 We advised the APs of this after the March council meeting and
44 so this is just for your information of how we've done it. Now
45 when you go to form the Ad Hoc Private Recreational Advisory
46 Committee, you will need to decide whether that's going to be a
47 one-year appointment or a two-year or three-year appointment and
48 just fit it into the schedule. It doesn't matter, because we

1 have already got things divided up pretty much equally.

2
3 **CHAIRMAN RIECHERS:** Doug, you said this is done and we did this.
4 I thought the whole rationale behind our discussion regarding
5 staggered terms was to keep members on APs -- To stagger the
6 terms within the AP to keep members on the AP so that we would
7 always have some history of those staggered terms and it seems
8 to me the result now is just we've decided to stagger different
9 committees so we have less of a workload, which was part of the
10 discussion, but it certainly wasn't I would say the crux of that
11 whole issue.

12
13 It wasn't about staggering that workload of reappointment as
14 much as it was about keeping someone on committees and
15 staggering the terms within the committee.

16
17 **EXECUTIVE DIRECTOR GREGORY:** Yes, we discussed both approaches
18 and I don't think we had a resolution and we talked about the
19 potential complications and the potential complication, the big
20 complication, with the staggered terms was a number of people
21 have a difficult time keeping up with some of the nuances and we
22 were afraid that if a person can serve on two advisory panels
23 and also as many ad hoc as you want to appoint them to.

24
25 If they're on two or three committees and they happen to have
26 different staggered terms and they are reappointed this year for
27 that committee and the following year for the other committee,
28 we would be inundated and everybody would remain confused as to
29 what their appointment process is. We figured this was the
30 easiest way to do it.

31
32 **CHAIRMAN RIECHERS:** When you say "we", was it between you and
33 the Chairman and the Vice Chair or was this a full council level
34 discussion?

35
36 **EXECUTIVE DIRECTOR GREGORY:** This was I think primarily with
37 staff. I discussed it with the Chair, but I think I just said
38 this is the way we think it should go.

39
40 **CHAIRMAN RIECHERS:** I mean I am -- I understand the confusion on
41 an individual's part to not know whether or not they are on two
42 standing committees and three ad hoc and which one comes up
43 when, but every time we go to appoint, won't we have -- We would
44 have that list in front of us.

45
46 I mean it's a spreadsheet kind of thing and you could tell Joe
47 Smith that yes, you're available for appointment if you would
48 like to. The other part to that is we could just say, if you're

1 interested, send your name in and we will determine whether or
2 not you're eligible. I don't know, but it just seems like we
3 went away from our original -- What I thought the crux of the
4 larger conversation was in terms of these APs.

5
6 Now, obviously from a staff level perspective, maybe it was the
7 notion of having all those come up at one time, but there may be
8 a way you could actually do both here in this context to help
9 solve your problem in some respects, I don't know.

10
11 **EXECUTIVE DIRECTOR GREGORY:** In our mind, it was either/or. We
12 certainly don't want to create more confusion. You know we're
13 trying to create less confusion and I would suggest let's get
14 through this initial three years and revisit it. Once we get
15 everybody on a three-year schedule, then we could revisit how we
16 want the APs to be structured.

17
18 From what you're saying, the advantage of that is you don't run
19 the chance of having a large turnover on an AP all at once. Our
20 history is we don't do that. We tend to reappoint people that
21 are already on and so continuity has not been a problem, but
22 that would be the potential problem that would be resolved if
23 you staggered individual people's terms.

24
25 **CHAIRMAN RIECHERS:** Okay. I am going to -- Maybe I am the only
26 one that has curiosity here, but why would we have any ad hoc
27 with more than a year's worth of term, since an ad hoc is put
28 together specifically at the will of the council and then when
29 its job is over, it goes away? None of those are necessarily
30 long-term appointments. They may be one meeting or they may be
31 six meeting or they could be three years or they could be, like
32 I said, one meeting. I mean I've got some questions about how
33 it's currently structured.

34
35 **EXECUTIVE DIRECTOR GREGORY:** Okay. Yes and in January, I
36 brought before the council and the council agreed to reevaluate
37 each ad hoc committee every January and make a decision in
38 January whether that committee is to continue or not to
39 continue.

40
41 In my mind, that's an independent decision and the people on the
42 ad hoc -- Let's say the Ad Hoc Red Snapper Charter-for-Hire
43 Committee that is listed as a three-year appointment and if in
44 January the council decides we no longer need that committee,
45 that's fine and they know that.

46
47 I mean we discussed that in January and they have been informed
48 of that and so everybody has been informed that ad hoc are

1 reevaluated every year, but in order to get this system started,
2 we tried to divide up the committees so that we had -- I will
3 have to admit the lesser important committees at one-year and
4 then two-year and three-year. We just were trying to break it
5 up evenly.

6
7 **CHAIRMAN RIECHERS:** So this is -- So everyone has a three-year
8 appointment, except as we start you are basically giving some
9 one and two years.

10
11 **EXECUTIVE DIRECTOR GREGORY:** Right.

12
13 **CHAIRMAN RIECHERS:** Like I said, maybe I'm the only one with
14 questions, but I would think all ad hoc should be in the one-
15 year category or treated separately than our standing
16 committees, because they are just a different breed.

17
18 **EXECUTIVE DIRECTOR GREGORY:** I understand that, but that would
19 only be the case for this first year, because after this one-
20 year appointment, for what is now listed as Ad Hoc Artificial
21 Substrate, Red Snapper IFQ, and Data Collection, they will next
22 year, in 2016, when you evaluate them, they will be going into a
23 three-year appointment. Their appointment really has nothing to
24 do with the council's decision whether to continue an ad hoc
25 committee or not.

26
27 **CHAIRMAN RIECHERS:** It does in their mind if you send them a
28 notion of a three-year appointment. I think we need to, as a
29 group and a body, come to grips with how we want to do that. If
30 everyone is fine with how Doug has set it up, then we go on down
31 the road. I personally think we should treat them differently.
32 Kevin.

33
34 **MR. ANSON:** I tend to agree with you, Robin, at least in as much
35 as the ad hoc are concerned, particularly if we're going to be
36 reviewing them every January and then seeing what their utility
37 is and whether or not they should continue.

38
39 At that point, maybe it would be you re-up, basically, and send
40 your application in or if new people want to get on, then we
41 talk about how the makeup of that would be, but I agree in this
42 particular scheme that I don't think ad hoc should be included
43 in this distribution.

44
45 I also tend to agree with your comments regarding the staggering
46 of the terms and that it was discussed, and people might think
47 differently now, but certainly there was lots of discussion
48 relative to the importance of having consistency, or as much as

1 possible, on each of the advisory committees as to -- If one-
2 third would kind of be staggered in and such and so you have
3 some history there that could be carried from year to year, but
4 anyway, those are my comments.

5
6 **CHAIRMAN RIECHERS:** I think from a joint committee perspective
7 here, do we want to have a motion to give Mr. Gregory some
8 guidance or does Mr. Gregory believe he has some guidance here?

9
10 **EXECUTIVE DIRECTOR GREGORY:** Well, if we make all the ad hoc a
11 one-year appointment for every year, then we have messed up the
12 idea of spreading the workload, because that's going to be a
13 third of the people reevaluated every year and then we have to
14 go back and -- Because then everybody else is going to be on --

15
16 **CHAIRMAN RIECHERS:** Three, two, and one-year cycles.

17
18 **EXECUTIVE DIRECTOR GREGORY:** A two or a --

19
20 **CHAIRMAN RIECHERS:** Two-thirds of the committees would rotate
21 through each year. One-third of the committee would rotate
22 through each year, along with ad hoc being evaluated each year.

23
24 **EXECUTIVE DIRECTOR GREGORY:** Right and so really haven't
25 accomplished a lot.

26
27 **CHAIRMAN RIECHERS:** You have reduced your workload by one-half,
28 if your percentages are correct.

29
30 **EXECUTIVE DIRECTOR GREGORY:** Maybe a third.

31
32 **CHAIRMAN RIECHERS:** Well, if your percentages are correct, it's
33 by one-half. Roy.

34
35 **MR. ROY WILLIAMS:** Robin, why are we reviewing ad hoc at all,
36 other than to find out if people are coming to the meetings or
37 not? Why would you have an annual review on that? They're only
38 for a few years, typically. Once you appoint them, why not just
39 let them finish their term?

40
41 **CHAIRMAN RIECHERS:** I think in the past, Roy, there has been a -
42 - Others can speak up, but we seem to let ad hoc just continue
43 on, even after their kind of initial work has been done or what
44 we appointed them to do has been done.

45
46 Sometimes we just kind of end up in this kind of -- They are out
47 there and they're continuing on and they are available if you
48 need them, but I think our goal was to start looking at those.

1 Obviously the decision was made at the last meeting to look at
2 these on an annual basis and so the goal was let's look at them
3 and decide whether we still need them or not and I think that's
4 probably a thing we should do and so I don't think -- In that
5 sense, that workload is going on every time anyhow, because as
6 you review them, you are going to decide whether you need them
7 and then you're going to decide whether or not their population
8 needs to be changed or shifted or, if people haven't been
9 attending, you need to get some other members in there.

10
11 **MR. WILLIAMS:** But typically something like Amendment 41 and 42,
12 with the charter boat and headboat management proposals, however
13 they are going to form, I mean that group is going to be done in
14 a year, probably. I mean why do we need to look at them each
15 year? I don't think we do. They are going to be done in a year
16 and then they'll just go away.

17
18 **CHAIRMAN RIECHERS:** I think the review process is so that we
19 actually formally take it up and have them go away. I don't
20 think we've had a process to really do that, Roy. Doug Gregory.

21
22 **EXECUTIVE DIRECTOR GREGORY:** Right and that's why in January I
23 proposed that we formally review the utility of each ad hoc
24 committee and that's a lot easier for this council to do than to
25 ask every member to reapply every year and to go through the
26 background checks every year that we'll be talking about later
27 and to go through that reappointment process every year.

28
29 That's much more time consuming than just saying we want to
30 continue this committee for another year or not and so I think
31 the appointment process is easily divorced from the decision of
32 whether a committee should continue for another year or not and
33 we've made that clear to those people that are appointed to the
34 ad hoc committees.

35
36 **CHAIRMAN RIECHERS:** Doug, I am willing to make this in a motion
37 if we need to or I am willing to suggest to you that if you want
38 to come back to the full council and offer up a possible
39 different alternative here, because I think you've heard enough,
40 at least from those who have weighed in, that we're not in
41 complete lockstep with what we thought we were going to do by
42 staggering terms here. Doug Boyd.

43
44 **MR. BOYD:** I think I ought to weigh in on this, Mr. Gregory,
45 since I started the initial discussion on staggered terms, back
46 when I was Chairman. My feeling is that our initial discussion
47 was that we wanted staggered terms within a committee, like
48 Robin was saying, in order to have continuity and to also reduce

1 the workload by at least a third for the staff.

2
3 That's what I thought we were doing initially and not staggering
4 entire committees, but staggering terms of persons that are on
5 the committees.

6
7 **EXECUTIVE DIRECTOR GREGORY:** I will certainly come back to the
8 council with the minutes. My memory is we discussed it and one
9 of the issues that was concerned -- Wait a minute. Most of the
10 discussion I think was in closed session and so there may not be
11 minutes, but the concern was voiced by one of the members of who
12 gets the one-year appointment and who gets the two-year and who
13 gets the three-year initially and nervousness that some people
14 may think they were being picked on. That was part of the
15 discussion.

16
17 I brought it to the council, recognizing that staggering terms
18 within the committee was confusing, potentially confusing, and I
19 don't think we ever had clear guidance as to which way to go and
20 if we have any minutes, I will certainly bring them back, but we
21 may not.

22
23 **CHAIRMAN RIECHERS:** Well, the whole notion of picked on -- Any
24 time this is done in any body that you typically draw randomly
25 who gets a one, two, or three-year appointment, I don't think
26 that's an issue that staff or anyone needs to spend a lot of
27 time having grave concern over. That is pretty simply handled,
28 in some respects.

29
30 I think the bigger issue here is -- Again, I will go ahead and
31 make a motion. **I move that we ask staff to return Tab G-6 in a**
32 **form that treats ad hoc on an annual basis of review with one-**
33 **year appointments and a staggered set of terms for the other**
34 **committees.** If I get a second, then we will hear any further
35 discussion. We've already had a lot of discussion.

36
37 **MR. BOYD:** A question, Robin. When you say a staggered term for
38 committees, you mean for each committee or the persons in the
39 committees?

40
41 **CHAIRMAN RIECHERS:** I am really thinking Doug is trying to
42 address a workload issue and so I am willing to go with what he
43 is trying to address, which is a workload issue. I think the
44 problem we've had on all of these committees is we don't have
45 enough people wanting to go in a rotational system, typically.

46
47 You know we end up, for a lot of committees, selecting all of
48 the members who have applied and so I don't know that that whole

1 notion of staggered term will ever work for us. I would love if
2 it would and it will for certain committees, but I don't know
3 that it would ever work for all of our committees, but that's
4 just my -- I am trying to address his workload issue, but also
5 recognize that there is at least some will to change the APs and
6 still try to address his workload issue.

7
8 Apparently we are having trouble with the motion. **Ask staff to**
9 **come back with a Tab G-6 on assignment of staggered terms that**
10 **reviews ad hoc every year, as previously discussed, with one-**
11 **year terms and then the other committees treated as staggered**
12 **committee terms.**

13
14 **EXECUTIVE DIRECTOR GREGORY:** I understand that motion. Now,
15 what we'll be doing then is every year reviewing all the ad hoc
16 appointments and asking everybody on that ad hoc to reapply
17 every year. No?

18
19 **CHAIRMAN RIECHERS:** You are reviewing whether you want the
20 committee in January and then if you do want the committee, then
21 either the committee membership stands or you then have a
22 subsequent decision about that, but you probably wouldn't change
23 your committee unless there has been poor attendance by a group
24 or something like that. We are trying to help you with the
25 workload here, Doug. We are not trying to make more.

26
27 **EXECUTIVE DIRECTOR GREGORY:** Okay and so then the ad hoc people
28 really have no term? You review the committee every year and if
29 for five straight years you conclude there is no need to change
30 the membership of that committee, that committee will go on for
31 five years? In January, you make a decision whether you want to
32 re-advertise for that committee or not? Okay.

33
34 **CHAIRMAN RIECHERS:** Roy.

35
36 **MR. WILLIAMS:** Robin, under what you're proposing, Mackerel
37 appointments would come up every three years and is that right?
38 You wouldn't do a third of them every year, but every three
39 years you would reappoint the Mackerel Committee?

40
41 **CHAIRMAN RIECHERS:** I would love to have that issue of the
42 staggered terms within the committee, because I think there is
43 still value to that. I am willing to -- First of all, we
44 haven't gotten a second, number one, and, secondly, we really
45 haven't gotten the motion up on the board.

46
47 Then I would love to have an amendment that might deal with
48 that. I just don't know that we get enough membership turnover

1 and I think it's just per committee, Roy, but I still think
2 there is value in that, if we could get it. You bring new
3 people on and you give people a chance and you allow other folks
4 to just leave gracefully as well after their term is up.

5
6 **MR. WILLIAMS:** If you could get that motion up there, I might
7 second it. I am not sure what it looks like yet.

8
9 **CHAIRMAN RIECHERS:** Everyone can grab a cup of coffee while
10 we're trying to get the motion and then we'll see if we get a
11 second and if we don't, we're going to move on to the next
12 agenda item pretty quickly here.

13
14 **EXECUTIVE DIRECTOR GREGORY:** Please wordsmith this. With a
15 review in January to decide whether to continue the committee --

16
17 **CHAIRMAN RIECHERS:** Right.

18
19 **EXECUTIVE DIRECTOR GREGORY:** To continue the ad hoc committee
20 and/or reappoint members --

21
22 **CHAIRMAN RIECHERS:** Yes, reappoint would be fine.

23
24 **EXECUTIVE DIRECTOR GREGORY:** Then keep staggered terms for the
25 other committees.

26
27 **CHAIRMAN RIECHERS:** It's staggered committees at this point is
28 the way I left them. Now, Roy Williams was wanting to I think
29 see this and possibly offer that alternative and so in our
30 typical loose fashion of Roberts Rules of Order, if you want to
31 do that as a friendly amendment right now, I will put it in
32 there.

33
34 **EXECUTIVE DIRECTOR GREGORY:** Now, if the other committees are
35 having a three-year staggered term, the one -- That leaves one
36 committee left for a one-year appointment and so that means
37 we're going to have to reshuffle the deck of the other
38 committees.

39
40 **CHAIRMAN RIECHERS:** That's exactly right, Doug. You are going
41 to have to reshuffle the deck. I think what you're hearing here
42 is we didn't quite hit the mark of what people thought and so
43 yes, I understand you're going to have to go rethink this. We
44 are being fairly deliberative here because we have kind of
45 missed the mark, at least it seems with what's on paper here, at
46 least by some of the council members around the table in this
47 committee.

48

1 This may not pass at full council and so I don't know what will
2 happen. It may not pass here. We don't have a second yet.
3 Roy, are you going to second this or not?

4
5 **MR. WILLIAMS:** Yes, I will second it for discussion, but I would
6 like to ask a question then too. Where it says "and keep
7 staggered committee terms for the other committees", I will go
8 back to my question. Does that mean a third of the Mackerel
9 Committee people every year or the Mackerel Committee every
10 third year?

11
12 **CHAIRMAN RIECHERS:** The way G-6 is structured now, it would be
13 the Mackerel Committee -- Every three years a committee gets
14 redone is the way G-6 is structured now. I think there seemed
15 to be some discussion around the table that still wanted the
16 notion of staggered terms within committee and then you don't
17 have to stagger the committees and you just stagger the terms
18 within committee.

19
20 I think we still need to decide on that. I kept the -- The way
21 I tried to do the motion was I kept part of G-6. If you all
22 really want the staggered terms within committee, we should
23 change it here now so we don't have to do it in full council.

24
25 **MR. WILLIAMS:** Well, if we're trying to reduce -- If I may, if
26 we're trying to reduce staff load, it seems to me that just
27 having the Mackerel Committee come up every three years is an
28 easier way to do that than to have to put out an advertisement
29 for every committee announcing that we're accepting applications
30 for every committee.

31
32 I would think we would just do the committee every three years,
33 but we would do Mackerel -- You know the big ones we would
34 stagger out, Mackerel, Shrimp, Reef Fish. You would want to
35 make sure those perhaps weren't in the same years and then the
36 more minor committees, tag them on with those. That's the way I
37 would think it would reduce staff load. I don't think the other
38 way is going to.

39
40 **CHAIRMAN RIECHERS:** Like I said, it's a decision about staff
41 load versus the turnover in committees and what you were really
42 trying to achieve. We have had quite a bit of discussion on
43 this. Doug, are you okay knowing what we're trying to achieve
44 here?

45
46 **EXECUTIVE DIRECTOR GREGORY:** Yes.

47
48 **CHAIRMAN RIECHERS:** Any further discussion? **Hearing none, all**

1 those in favor of the motion say aye; all those opposed same
2 sign. The motion carries.

3
4 With that, I think we've got staggered terms and now we go to AP
5 Appointments with Respect to the Council's Fishing Violation
6 Policy, Tab G-7.

7
8 **DISCUSS PROCEDURES FOR AP APPOINTMENTS WITH RESPECT TO THE**
9 **COUNCIL'S FISHING VIOLATION POLICY**

10
11 **EXECUTIVE DIRECTOR GREGORY:** Okay. A brief history. Beginning
12 in about 2011, the council decided not to do background checks
13 on advisory panel members, I think at the recommendation of
14 staff, because it was very time consuming and it was difficult
15 compiling and reconciling reports from the states.

16
17 We were asking the state law enforcement divisions to review
18 names and provide us with anyone with violations. I wasn't here
19 at the time and so I am not that familiar with what the
20 confusion was, but my understanding is it's something to do with
21 some people may have a duck hunting violation and they're on our
22 AP, but the report didn't specify what the violation actually
23 was. It just said there was a violation.

24
25 Something at the time resulted in us not doing background checks
26 until last year. Last year, it was brought to our attention
27 that an individual had a violation and one of the council
28 members argued that it was serious and probably shouldn't be
29 representing or providing advice to the council in that
30 circumstance.

31
32 At the time, the council decided to reinstate background checks
33 and we tried to go through -- We decided to go through NOAA,
34 thinking at the time that the NOAA background checks would also
35 pick up the state checks, but it did not. It only picks up the
36 federal violations.

37
38 We have been applying that ever since the -- I think the first
39 time was an ad hoc committee last year, but this year was the
40 first time we really did background checks on all the AP
41 appointments at the federal level and we ended up including --
42 We ended up having some existing AP members that were owners of
43 vessels and not the captains of the vessels having violations on
44 their record.

45
46 I guess, because of the hiatus in doing this and the lack of
47 continuity, another thing that changed this year was in the past
48 the council had decided, going back into the 1980s, because I

1 was with the council at the time and I do recall that, not to
2 hold boat owners responsible for violations that are conducted
3 by their captains.

4
5 At the reappointment process this year, the council decided to
6 hold the boat owners responsible for violations of their
7 captains and so that resulted in us removing somebody that had
8 been on an AP for thirteen years and another person asking when
9 can I get reappointed, because the earlier policy did have a
10 five-year time limit. The council has not put a time limit.
11 When we redid the SOPPS, it did not put a time limit on
12 violations at this point.

13
14 The other issue that came up at the last council meeting is the
15 apparent discriminatory nature of only looking at federal
16 violations, in that most federal violations will be commercial
17 fishing boats and so recreational violations would be not
18 noticed, except at the state level. There was a question about
19 reinstating the state-level background checks and so we've got
20 three questions that we need clarification on.

21
22 One is do we incorporate -- Then we need to put this in our
23 SOPPs and not just have an unwritten policy. Should boat owners
24 be held responsible for violations by the crew when the owner is
25 not present? That would be helpful.

26
27 Two, what historical time period is appropriate for considering
28 a violation in an AP appointment? Should it be based on the
29 date of the initial violation, if there is a time period, the
30 date of the notice of violation assessment, which can be four
31 years later, or the date of actual settlement date, which could
32 be another two or three years? It's potentially, if you go to
33 the latter part, you could hold somebody responsible for a
34 violation for ten or more years.

35
36 Number three is should we conduct background checks for
37 violations by AP members and current members with state marine
38 agencies in addition to NOAA? The staff is seeking guidance on
39 those three issues and a motion one way or the other on those
40 three topics would be helpful.

41
42 **CHAIRMAN RIECHERS:** Okay. Council staff has asked for some
43 clarification regarding the intent on these three questions. I
44 will kind of open it up for discussion and then we'll try to get
45 to motions fairly quickly, assuming that's what we're going to
46 do. Mr. Matens.

47
48 **MR. MATENS:** Thank you, Mr. Riechers. Let me go out on a limb

1 here. I certainly understand all the issues around this.
2 Should boat owners be responsible for violations by a crew?
3 Well, I am pretty sure the boat owner didn't instruct the crew
4 to commit a violation, but if a violation resulted in increased
5 profit to the boat owner, then I think that's a consideration.
6 I don't really want to go on record right now one way or the
7 other on this one. These are tough calls for me.

8
9 In terms of the historical timeframe, I don't think you're
10 guilty until you're guilty and so I don't think any timeframe
11 should start running until there is a settlement of guilt and so
12 the time period between the notice of the violation and any
13 settlement, whatever that is, I don't think should be
14 considered.

15
16 In terms of background checks for violations of fisheries
17 policies, what fisheries policies? Violations of a federal
18 nature, whether that violation was written up by a state guy or
19 a federal guy, yes, I think that's the case. What about
20 freshwater? What about purely state violations? I think that's
21 out of the purview of this body and so I think the violations
22 should be federal violations, notwithstanding who wrote them up,
23 because, as we all know, our state guys, particularly in
24 Louisiana, patrol federal waters and write violations. Thank
25 you for your time.

26
27 **CHAIRMAN RIECHERS:** Camp, can I ask you a question there, just
28 so that I understand? Are you trying to make the distinction of
29 whether the individual was in federal waters or in state waters
30 with that violation?

31
32 The only reason I ask that is under the context of law
33 enforcement with the federal agencies, they typically only take
34 cases when they reach certain levels of what they deem needs to
35 go through their system as opposed to a state system and so I am
36 just trying to figure out what that distinction you're trying to
37 make is, so that I know how to weigh in with my thoughts here as
38 well.

39
40 **MR. MATENS:** Well, I guess I would ask right now if somebody
41 with an enforcement background -- I keep looking at my friend
42 Mr. Diaz over there. In my mind, somebody that gets written up
43 in Matagorda Bay for having too many speckled trout would not be
44 considered a violation with this body, but a violator in
45 Louisiana that's fifty miles offshore and gets written up by our
46 taskforce for too many red snapper would be a violation
47 considered by this board. Thank you.

48

1 **CHAIRMAN RIECHERS:** Dale.

2
3 **MR. DALE DIAZ:** I think the only thing I can add to that is in
4 Mississippi a couple of years ago there was a law passed that
5 allowed for the smaller federal violations to run through state
6 courts and there is some procedures to where the commission can
7 also handle some administrative penalty on smaller federal
8 violations.

9
10 It's not just -- Some of these federal things would run through
11 state courts now and so that might complicate things just a
12 little bit.

13
14 While I have the mic, I am going to weigh in on something. Me
15 and Camp have had several conversations about how we should
16 treat people that have had past violations and, over time, I
17 think my opinion on that has changed. I used to think our APs -
18 - We've got to really try to guard our APs and make sure -- Now,
19 bear in mind, I am not on your committee, but make sure our APs
20 don't have a lot of scrutiny and I think that's important, but,
21 at the same time, I also think -- You know I do believe in
22 second chances and I think having some timeframe of which maybe
23 we don't consider a violation is a good way to do that, because
24 I think people make mistakes, but that don't mean over the
25 course of their fishing lifetime they wouldn't have a lot of
26 valuable input to an AP.

27
28 I did recently have a conversation with a gentleman who is an
29 older gentleman and while I was having the conversation with
30 him, he did tell me that when he was younger that he did
31 something that was foolish and he has a violation on his record.
32 Anyway, he's an older gentleman and he's a very experienced
33 fisherman and he has a lot of good input and I'm sure there is a
34 lot of people like that that we eliminate with really old
35 violations. Anyway, that's my two-cents. Thank you, Mr.
36 Chairman.

37
38 **MR. MATENS:** To that point, if you don't mind. Dale, I agree
39 that there needs to be some time period and I don't know if five
40 years is the right time period or not, but I am willing to think
41 about that, but there certainly should be a time period and once
42 that period is over, you should be eligible for reinstatement or
43 instatement, in the case you're a new guy. I think we're still
44 in lockstep on this.

45
46 How do you capture the State of Louisiana processing a federal
47 violation? How do you make sure that you capture that in a
48 background check? I really don't know the answer to that, but I

1 am starting to think that just because there might be an issue,
2 it doesn't mean we should abandon the whole concept. Thank you.

3

4 **CHAIRMAN RIECHERS:** Martha.

5

6 **MS. MARTHA BADEMAN:** Thanks, Robin. I will weigh in here. I
7 talked about this with our law enforcement folks, just to see
8 what they're capable of in terms of pulling violations and
9 timelines.

10

11 To the timeline discussion, we put together -- We don't call
12 them APs at the state level, but we have similar kinds of groups
13 and we will check them for violations and typically we do a
14 three-year window and that window would be from the date of the
15 settlement or the disposition and so until they have actually
16 had something against them and not just a warning or something
17 or even just something pending, that's when that three years
18 would start.

19

20 We are certainly capable of conducting background checks at the
21 state level for different individuals and they are willing to do
22 that. It would be helpful, if we do go that road, to have NOAA
23 Law Enforcement request those background checks rather than the
24 council, but that is something that we are willing to do and it
25 would also be helpful to actually run the appointments rather
26 than the applicants, since there would be so many applicants. I
27 think that would be an easier administrative burden. Thanks.

28

29 **CHAIRMAN RIECHERS:** I have got Doug Boyd, but I will speak up
30 here just for a second. Following Martha's question, I think --
31 Because I was here I think one of the times we asked the states
32 to run it and what the issue was, it was the directions to the
33 states were somewhat vague and so each law enforcement group
34 kind of make their runs a little bit differently.

35

36 I think if we can decide what we're asking those law enforcement
37 groups for that we can probably get some common ground there. I
38 would also just -- Go ahead, Martha.

39

40 **MS. BADEMAN:** The question, I guess, of what kinds of violations
41 they should be looking for. You know if we have the states run
42 them, I would say marine fisheries violations. I mean if they
43 have a hunting thing or they got a boating safety violation
44 because they didn't have a whistle on their boat or something,
45 do we care about that? I don't know. It seems to me more
46 marine fisheries issues are more pertinent.

47

48 **CHAIRMAN RIECHERS:** Doug Boyd.

1
2 **MR. BOYD:** Thank you, Mr. Chairman. There are a lot of moving
3 parts in this whole discussion and I would just like to throw
4 out for the council's thought that maybe we ought to refer this
5 to the Law Enforcement Committee and let the Law Enforcement
6 Committee put together a smaller group of staff, law
7 enforcement, and maybe some states and come together with a
8 joint recommendation that then will have a little more fleshed-
9 out detail on how they should operate. Then we could maybe make
10 a more sound decision at that point.

11
12 **CHAIRMAN RIECHERS:** Doug, what is the timing we are looking for
13 here? If we were to send it to the LEAP or the LEC or the joint
14 Gulf States committee that we have, when would we need to get
15 those folks together and -- I think the duration question is one
16 we should answer and I think the boat owner question is one we
17 should answer, but as far as what they can bring forward and
18 their capability in doing that, it certainly would fall in their
19 hands and they could give us some good information, I think.

20
21 **EXECUTIVE DIRECTOR GREGORY:** Clearly before next April or June,
22 when we start the new appointment thing, but anytime is fine. I
23 think the commission is meeting in the fall and we usually meet
24 with them in the fall and spring, but this fall, the commission
25 is meeting with the Atlantic States Commission and we have
26 decided not to have our AP meeting in the fall, because of their
27 involvement with the Atlantic States and other stuff. Right
28 now, this is the only issue that has come up that would be
29 pertinent for them to talk about.

30
31 **CHAIRMAN RIECHERS:** I think Dave can weigh in here too.

32
33 **MR. DAVE DONALDSON:** Initially, we were not going to have an LEC
34 meeting, but the Atlantic Commission has expressed an interest
35 in getting that group together and so our commission law
36 enforcement folks will be getting together and we can at least
37 initially talk about it, but I would imagine that at our March
38 meeting we could have a joint LEC/LEAP meeting to fully flesh it
39 out.

40
41 **CHAIRMAN RIECHERS:** Leann.

42
43 **MS. LEANN BOSARGE:** I think probably we do need to let law
44 enforcement take a look and see what's going to be involved
45 logistically for possibly pulling some of those from the state
46 record and it may be that we want to go that route and it may
47 not.

48

1 It's kind of a negative route to go down, but we had some issues
2 during that closed session and, personally, I felt like there
3 was a bias against the commercial nominees for these APs because
4 we were pulling violations that were, for the most part, going
5 to be commercial violations. Federal violations, for the most
6 part, are going to be -- They're going to trend towards
7 commercial fishermen.

8
9 We weren't pulling anything at the state level, which, for the
10 most part, are going to be trending towards the recreational
11 sector, because a lot of that enforcement is landings-based,
12 versus at-sea boardings, where you get your violations in a
13 federal sense.

14
15 Now, I don't know that that's really the path I want to go down,
16 where we just keep pulling more and more violations. It's just
17 not a happy road to go down, but, on the same token, I feel like
18 something does need to be done about this bias against the
19 commercial sector in throwing out possible nominees for these
20 APs.

21
22 That's not to say that a violation is okay. It's not and I
23 think, as I read through this document, I found where my
24 personal problem was and it was with people that had been
25 nominated or had applied that had a violation that was not
26 theirs. In other words, they were not aboard the vessel and it
27 was not them violating the law and yet, they were precluded from
28 being on an AP. They were thrown out of consideration.

29
30 I know, especially if the commercial industry is not where you
31 hail from, that seems like it's a tough pill to swallow. Well,
32 no, it's their boat and they're responsible for it and it's
33 their captains and their crew and they are ultimately
34 responsible.

35
36 The only way that I can put that in the perspective for someone
37 that's not from the commercial industry is it would be the
38 equivalent of, from a recreational side, if you did the same
39 type of policy on the recreational side, of you have a boat and
40 you have some kids and you are just as much responsible for the
41 actions of your children as a commercial boat owner is for the
42 actions of his captain and crew.

43
44 You let your son take your boat out with a couple of his friends
45 and your son and his friends keep over the bag limit on red
46 snapper and come in and get caught and we throw you off an AP
47 because of something that your son or his friends did and we say
48 you are no longer qualified to sit on that AP because someone on

1 your vessel that you were ultimately responsible for, your
2 child, got a violation.

3
4 In other words, you can only control, even with the best of
5 intentions, you can only control so much of what other people do
6 and I don't think it's fair to punish a man or woman that was
7 not aboard the vessel that did not do anything wrong personally
8 that is trying his best to control what goes on out there. I
9 don't think it's right to take that expertise off of our APs for
10 something that they didn't do.

11
12 I guess my qualm is more with disqualifying someone as an
13 applicant for a violation that he or she was not physically
14 aboard the vessel or involved in.

15
16 **CHAIRMAN RIECHERS:** John, I will come back in just a second, but
17 where we stand today though -- Let's just make sure we all
18 understand this. At the last council meeting, the decision was
19 made and we have given directive to Doug and so at this point,
20 those members that you just discussed, Leann, are being held
21 responsible and so we're trying to have a discussion about how
22 we move forward and the length and tenure of that time.

23
24 Let me ask this to Dave before we go much further, because you
25 said your meeting would be in March. It seems to me that if
26 we're having to make decisions in April that March is too late.
27 Is there a chance we could have a conference call with those
28 members? I don't think this necessarily has to be a face-to-
29 face meeting with that group, but a conference call, where you
30 get that group together and have a conversation about these
31 critical issues, so that maybe at our October meeting we could
32 have some answers to how they would handle these violations
33 coming forward? Whoever wants to try to take it and then it's
34 back to John.

35
36 **MR. DONALDSON:** Yes, I don't think that would be an issue in
37 getting those guys together prior to October. Doug.

38
39 **EXECUTIVE DIRECTOR GREGORY:** Right and I was going to suggest to
40 the council that we do our appointments in June instead of April
41 of each year, because we also have council appointments in
42 August and in the last year, we've started developing a paper
43 booklet of everybody's names and addresses on the APs and SSCs
44 and if we can kind of do the appointments in a similar timeframe
45 of the year, our booklets will not be out of date for
46 significant parts of the year.

47
48 I was going to suggest that we do appointments in June going

1 forward, instead of April, like we've been doing, particularly
2 if you're going to be doing them almost every year. This coming
3 year I was going to suggest June and so I don't see the April as
4 that critical of a time period, but we can certainly start
5 communicating with our members and getting feedback and get
6 information back to you in October and in January.

7
8 **CHAIRMAN RIECHERS:** Well, I mean one of the things we have to
9 consider is the length of time to make these runs and so I would
10 still say we need to target a decision point on this by October.
11 I mean while it's a tough issue to deal with, as a council we
12 have gone through this conversation many times and all I will
13 say, from my perspective, is whatever we define, we need to
14 define and then we need to stick with it, because the whole
15 problem is in the past we've defined things and then we've
16 wanted to make exceptions as we went through it and then we find
17 ourselves making too many exceptions and we did away with it.

18
19 I think we just need to make a decision here and then we have to
20 live by whatever those decisions are until we choose to change
21 those and I would recommend we not change those very often, but
22 that's just my two-cents worth. John.

23
24 **MR. SANCHEZ:** I am not on this committee, but I would like to
25 bring up that while we're discussing or considering timeframe
26 for violations and all this that we also give great
27 consideration to the legal outcome of some of these things,
28 because most violations are going to end up in court and then
29 they're going to be decided on by a judge and you might have a
30 case dismissed or adjudication withheld, et cetera, et cetera.

31
32 In my mind, if a court of law looks at it and dismisses it, then
33 we shouldn't double-jeopardize these people and say, well, you
34 had a violation, but if it's resolved legally, then maybe it's a
35 non-issue.

36
37 **CHAIRMAN RIECHERS:** I can't remember who it was, but I do
38 believe -- I think until it's resolved that you don't take that
39 action against that person. Just because there has been a
40 ticket, it doesn't mean that there's been a violation and so
41 until the court decides or until the person says okay, I agree,
42 whatever that is, until there is a settlement, I think that's
43 when the time starts ticking and that's whatever that time is
44 that we decide. Roy.

45
46 **MR. WILLIAMS:** I concur with that and that's what Camp said
47 earlier, that it shouldn't be -- I mean you have a violation and
48 then finally a NOVA will be issued on it and then it will

1 eventually be adjudicated and so the time really should be when
2 it's adjudicated, when the person says all right, I will pay the
3 fine. That's the time period, I would think, because up until
4 then, it's just an accusation, right?

5
6 **MR. MATENS:** I agree with you and there is a lot of different
7 ways that things get adjudicated. They can be no processed or a
8 whole bunch of things can happen. They can be reduced to a
9 misdemeanor. The bottom line is my opinion is until there is a
10 felony that has been pled guilty to or found guilty by the
11 court, this person remains eligible.

12
13 **MR. WILLIAMS:** I mean I concur with that too and not necessarily
14 with the word "felony", but with whatever the violation is.
15 Really, we have answered number two. I mean if most people --
16 It seems to me that's the logical way to treat that.

17
18 Doug posed three different time periods, I think, when the
19 violation occurred, when the NOVA was issued, and when it was
20 finally settled and so it seems to me, and I am betting the
21 council would agree, that it's when it's finally settled is
22 whatever time period -- That's when we would count from.

23
24 **CHAIRMAN RIECHERS:** If we want to go ahead and solve that issue
25 -- I mean if we wanted to solve the year issue, I think we can
26 do that. I think Mara wants to weigh in though, Roy.

27
28 **MS. LEVY:** Thank you. I wasn't really going to weigh in, except
29 just to say that I'm not sure when you -- When you ask law
30 enforcement to give you the information about fisheries
31 violations, I thought that what they were giving you is those
32 that had been adjudicated, meaning I don't know that they're
33 telling you that someone has been accused of something but
34 nothing has been finalized. I think what they're giving you is
35 those final, but we could confirm that, that that's the
36 information you're getting.

37
38 **CHAIRMAN RIECHERS:** Roy.

39
40 **MR. WILLIAMS:** Then the other thing is Martha sort of, in my
41 mind, settled the background check. Florida can do the
42 background checks and she has suggested that NOAA Law
43 Enforcement request the state, or at least her state, Florida,
44 after these appointments are made.

45
46 We should have on our form have you been found guilty of any of
47 these, which I think we do already. We had at least one guy a
48 year or two ago that didn't answer it honestly and we later

1 found out and so it seems to me that that process would work and
2 I don't know that we need any more on that.

3
4 Once we appoint them, we ask NOAA Law Enforcement to go through
5 the list or to ask the states to go through the list. I assume
6 these are all computerized nowadays in every state and it's just
7 a matter of running the name.

8
9 **CHAIRMAN RIECHERS:** I think they are mostly computerized or all
10 computerized. I don't think that's the issue. I think the
11 issue may be what gets recorded in the state system and so I am
12 going to suggest that if we can answer years and -- Well, if we
13 can answer years and whether we want the captain responsible or
14 not, which we've already answered last -- I mean right now, we
15 have an answer to that. We may change that answer, but right
16 now we have that answer.

17
18 I think what we then need is to maybe just talk to them about --
19 So that when we go to ask or when NOAA Law Enforcement goes to
20 ask, we're asking the appropriate questions. That would be all
21 I would say, Roy. Leann.

22
23 **MS. BOSARGE:** Some of these are low-hanging fruit, one, two, and
24 three, that maybe we can dispense of and then send the rest on
25 to the law enforcement to take a look at. **I would like to make**
26 **a motion that boat owners not be held responsible for violations**
27 **by a crew when the owner is not present relative to our AP**
28 **appointment process.**

29
30 You heard my rationale for that before. You heard me give the
31 example of what would be the equivalent, from the recreational
32 perspective, of the same type of action. I don't think that's a
33 fair thing.

34
35 I know that it almost assumes guilt. That's essentially what it
36 assumes, that whoever the boat owner was intentionally told his
37 crew or captain to go out there and violate the law because it
38 would make him more money and this is -- That's not the way that
39 our society operates in this country. We don't assume guilt.
40 In fact, in one of the cases that we've looked at, that
41 particular individual, when he found out what happened, fired
42 the entire crew. He said no, we're not going to have that here
43 and fired the entire crew. I think this will help to alleviate
44 some of the bias against appointing long-term commercial
45 representatives to our AP.

46
47 **CHAIRMAN RIECHERS:** Roy.

48

1 **MR. WILLIAMS:** I am going to second, at least for discussion
2 here, but I have a question then for Leann, if I might, too.

3

4 **CHAIRMAN RIECHERS:** We are now into discussion.

5

6 **MR. WILLIAMS:** Okay. So how would you deal with a case where
7 say a red snapper fisherman who is not the permit holder calls
8 the permit holder and he's coming in and he calls the permit
9 holder and says I will be in in twelve hours and is there like a
10 -- Have you got to call within six or something like that?

11

12 So he says you call them and tell them that I will be at the
13 dock at such and such a date and then the permit holder forgets
14 and doesn't do it and only gives like two hours' notice instead
15 of the six or whatever it is that he's supposed to give. Who do
16 we hold responsible in that case, because there is a case I know
17 of that exactly fits that one and so that's -- It's kind of a
18 technical -- It wasn't a willful violation by anybody and nobody
19 meant to break the law, but it was simply the guy went to bed
20 and didn't get up and make the call and forgot about it and by
21 the time he got up the next morning, he made it too late. How
22 do we handle stuff like that? Do we have some discretion on
23 that one or is he off the committee, off the AP?

24

25 **MS. BOSARGE:** Well, I mean I guess at that point you would have
26 to have a discussion about it and figure out is it black or
27 white or is there gray area, but in my mind, what this motion is
28 speaking to is -- That violation would be against the boat
29 owner, I guess. You would have to see whose name is actually on
30 the violation, but he wasn't present on the boat.

31

32 We would have to go outside of this policy and probably remove
33 him. My goal with this is so that we don't go to the opposite
34 extreme, which we're doing right now, where anytime there is a
35 violation associated with that boat, the man that owns that boat
36 is automatically disqualified.

37

38 He wasn't on the boat and he wasn't present and he didn't do it
39 and we're automatically disqualifying him. Now, may there may a
40 few cases where you will see it at the other end of the spectrum
41 when we implement this, where he wasn't on the boat and he
42 wasn't present and so therefore he is still eligible, but maybe
43 it was his fault? Okay, that's a valid point, but I think they
44 will be few and far between.

45

46 I think this is the way to go and then if some of those come up,
47 a handful of those come up in the future, you can deal with it,
48 but we are excluding the bulk of these men and women with this

1 long-term experience and expertise by having this stipulation in
2 there.

3

4 **CHAIRMAN RIECHERS:** Johnny.

5

6 **MR. JOHNNY GREENE:** Well, I have labored over this one a bunch,
7 because as I'm sitting here at this table right now, my boat is
8 out fishing and so am I going to be held liable because a
9 captain who I hired to run the boat chose to break the law?
10 That's where I really struggle with this deal.

11

12 Now, I understand the situation that Roy and them were having,
13 but in that particular deal, if you have a situation where an
14 owner was supposed to uphold an obligation and didn't do it,
15 then I would assume it would go to court and the judge would
16 rule on it and at that point, we would have all the information
17 we need to make the decision from that point forward, but to
18 hold an individual responsible for something when they are not
19 present is one of those things.

20

21 For me to release my boat and have a captain run it, he is
22 assuming responsibility of the crew, the passengers, and the
23 vessel, knowing the laws and everything that goes along with it,
24 for me to turn him loose to do that. I support this motion and
25 I think it's a step in the right direction.

26

27 **CHAIRMAN RIECHERS:** Can I ask a question of those who are --
28 Doug, we took an action at the last meeting. There was an
29 action taken and now we are basically considering a different
30 motion and so what happens to the last action?

31

32 **EXECUTIVE DIRECTOR GREGORY:** It will stand until the next
33 appointment process. This is for going forward.

34

35 **CHAIRMAN RIECHERS:** It seems to me what I am hearing though,
36 Leann, the way your motion is made, it's made in a way that we
37 would not be holding them responsible, but I am also hearing
38 some discussion about looking at it on a case-by-case basis and
39 so one of the things we need to do here is whatever we end up
40 deciding, we need to match some -- Either an addendum to the
41 SOPPs, and we probably need to make this one an addendum,
42 because we have a real urge to want to go change it all the
43 time, every appointment process, and so we may want to think
44 about how we're going to frame this up in SOPPs so that we have
45 clear direction.

46

47 Like I said, it's really this question and it's the question of
48 years and then it's the question of how much discretion we're

1 going to give ourselves as a body and we need to be at least
2 transparent in that.

3

4 If it's going to be a case-by-case decision, then that's what we
5 need to say, so that each individual who is applying will know
6 whether or not my case is going to be looked at. If I think I
7 have circumstantial evidence to suggest that I wouldn't be
8 really -- Someone wouldn't maybe not make the case for that,
9 then I need to go ahead and apply. I will go to Martha and then
10 I will go back to Doug.

11

12 **MS. BADEMAN:** Just a question. It seemed, and maybe this is
13 just what I am remembering, but the last time when we were doing
14 the appointments and we got the information that there were some
15 violations from some of the applicants, it seems to me the
16 information that we got was pretty vague and it was just here is
17 this person's name and here is the violation that was associated
18 with that permit.

19

20 It wasn't this person did this and that person did that and I
21 feel like that information we got was just I heard this and this
22 and so I guess my question is if we go down this road or the
23 case-by-case basis road, are we going to have the information
24 that we need to be able to make that call?

25

26 **CHAIRMAN RIECHERS:** I think that's why we need law enforcement
27 or the LEAP and LEC involved in this conversation. That's my
28 personal opinion. Doug.

29

30 **EXECUTIVE DIRECTOR GREGORY:** In all the appointments, it's very
31 clear that the council can appoint or remove people without
32 cause and so you can consider anything you want when you're
33 doing an appointment and if there is some egregious behavior,
34 let's say this -- This looks like a cut-and-dried statement, but
35 let's say that there's knowledge of -- Somebody on the council
36 has knowledge of a boat owner who has let their crew repeatedly
37 violate let's say TED regulations and hasn't done anything about
38 it. This would not stop you from not appointing that person.

39

40 **CHAIRMAN RIECHERS:** If that were the question -- I mean if
41 that's the case, Doug, then why are we even going down this
42 road? All you need to know is -- Then we don't even have to
43 answer this question. All we have to answer is the years of
44 duration and what type of violations and have that come forward
45 every time and we don't need to get bogged down in Number 2. I
46 mean you were acting like it could hold someone up for ten or
47 fifteen years and I don't think anybody around the table has
48 ever thought that. Leann.

1
2 **MS. BOSARGE:** I think we do still need to answer this question,
3 because, as you said, we already have an answer, based on what
4 we did last time, and, to me, that answer, which was that boat
5 owners are responsible for something, a violation, on a boat,
6 even though they weren't there and they weren't present and they
7 didn't do it.

8
9 To me, that assumes guilt and, to me, that's unacceptable,
10 because right now, that is our answer and so this will remedy
11 that situation so that those individuals are not automatically
12 precluded from being considered on our AP.

13
14 **CHAIRMAN RIECHERS:** If I may, what Doug said though, Leann, was
15 that no, we didn't automatically do it and we won't ever
16 automatically do it. We will consider them on a case-by-case
17 basis or we always have that right and so I think we're trying
18 to figure out -- Maybe you and I are arguing semantics here, but
19 I think, in some respects, we may be arguing over a big thing,
20 where if we're going to always come and look at the facts on
21 each individual case, then we don't need to get into the
22 discussion of whether we think this is the appropriate thing to
23 do or not. We're going to look at it on a case-by-case basis.
24 Mara.

25
26 **MS. LEVY:** I think this is coming from the discussion at the
27 last meeting where the decision at that time was made, you could
28 say at least for that appointment process, that it was sort of
29 an across-the-board thing and so for the last time you all did
30 this, it was like if there is anybody that has a violation,
31 whether they're the owner or the person who actually was the
32 person who committed the violation, that they're not going to be
33 on the AP.

34
35 You sort of applied it across the board. You could add to this
36 motion to recommend that boat owners not automatically be held
37 responsible, which is what you just said, Leann, and then it's
38 just clarifying for people, and maybe for yourselves for the
39 future, that it's not automatically going to happen during every
40 appointment process. I don't know that you meant that last
41 time, but that's sort of how it got applied.

42
43 **CHAIRMAN RIECHERS:** Roy.

44
45 **MR. WILLIAMS:** Leann, would you mind adding that "automatically"
46 then, that the boat owners not be automatically held
47 responsible?
48

1 **MS. BOSARGE:** Yes, I think that that's definitely something we
2 **can add in there.** That way, we have it in writing somewhere, so
3 that we don't go down the road that we went last time. That is
4 my ultimate goal. Let's have this in writing somewhere that it
5 is our policy not to automatically cull these people,
6 essentially, from the applicant pool because of a violation.

7
8 Last time, it ended up being it's black or it's white and
9 there's a violation and it doesn't matter if they're aboard the
10 vessel or not, they cannot be considered and so yes,
11 automatically, I am definitely good with.

12
13 **CHAIRMAN RIECHERS:** Okay. That's been added to the motion and
14 we've had considerable discussion, but I don't want to cut it
15 off. David.

16
17 **MR. WALKER:** I would speak in favor of Leann's motion. You know
18 there is a lot of times that there could be a clerical violation
19 or a VMS issue of some type, where it's not working and they
20 need to call in. I mean there is so many things.

21
22 I know captains who own five boats and they could have -- That
23 captain particularly may want to be on an AP and they could
24 bring a lot of things of value to this council and I would hate
25 to see him not be allowed to serve on an AP because of some
26 violation that a captain did and I'm sure he didn't advocate
27 that and so I don't think it's a -- I am speaking in support of
28 this.

29
30 **CHAIRMAN RIECHERS:** Any other discussion? Hearing none, the
31 motion is on the board. **All those in favor say aye; all those**
32 **opposed same sign. The motion carries.** I am going to look at
33 the Chair. Mr. Chair, can we take a ten-minute or fifteen-
34 minute break here?

35
36 **MR. ANSON:** Yes.

37
38 **CHAIRMAN RIECHERS:** Yes, he says and so let's take a -- It's
39 10:13 and let's try to get settled back in by 10:25.

40
41 (Whereupon, a brief recess was taken.)

42
43 **CHAIRMAN RIECHERS:** We really have two other decisions in
44 answering the questions, if we believe we have the ability to go
45 ahead and make those decisions, and that is -- I think everyone
46 was in agreement, and I don't exactly know the wording on it,
47 but basically it's upon final resolution of the case is what we
48 all seemed to suggest that we wanted as far as Number 2a goes

1 and then we would need to determine what that year timeframe is
2 that you would want to hold someone basically in account for
3 their violation, so that they couldn't serve within three years
4 of that end date of the violation or five or whatever it may be.
5
6 I think we could possibly wrap both of those up in one motion,
7 to give council staff the intent there. I will entertain a
8 motion, if someone would like to make one. Roy.
9
10 **MR. WILLIAMS:** What you're asking for is both the time period
11 and what was the other thing?
12
13 **CHAIRMAN RIECHERS:** Well, some way of referencing that it's
14 really after the final resolution to the case has occurred.
15
16 **MR. WILLIAMS:** Okay. So I would move then that a person not be
17 eligible to serve on an AP within three years of the time that
18 the violation was settled or adjudicated. Is that good enough?
19
20 **CHAIRMAN RIECHERS:** I think that gets the intent. Do I hear a
21 second for that? I heard a second. Any further discussion?
22 Obviously it's three years here. Mr. Boyd.
23
24 **MR. BOYD:** Just a question. Are there other timeframes that may
25 be at play here, like with council members or any other kind of
26 appointments, that we need to know? Is there a five-year rule
27 someplace else we're not looking at or a two-year rule, Doug
28 Gregory?
29
30 **EXECUTIVE DIRECTOR GREGORY:** The past policy was based on a
31 five-year rule, but this only applies to APs and SSCs and none
32 of this applies to council members at all.
33
34 **CHAIRMAN RIECHERS:** Does NMFS use this in council member
35 selection?
36
37 **DR. ROY CRABTREE:** Nominees are screened for violations, but
38 there is no hard and fast rule. It's a case-by-case decision by
39 the Secretary.
40
41 **CHAIRMAN RIECHERS:** Any other discussion? **Hearing none then,**
42 **all those in favor of the motion say aye; all those opposed same**
43 **sign. The motion carries.** Roy.
44
45 **MR. WILLIAMS:** Just a couple other things. We wanted discussion
46 -- Over behind your table during the break, we talked about that
47 these violations really should be either federal violations or
48 federally-managed species and so if we're not interested if a

1 guy has caught too many seatrout in Louisiana or Florida, but we
2 are interested if he has caught too many king mackerel or too
3 many red drum, right? Is there a way that we can -- Is that
4 understood? Is that already part of the policy or do we need to
5 make that clear, if that's the intent of the joint committee?
6

7 **CHAIRMAN RIECHERS:** I don't think we have anything on the books
8 regarding the policy now, as I recall, Doug, and so I think we
9 would need to make that clear as we move -- Certainly as we move
10 forward and remember I think we are going to have the law
11 enforcement group go ahead and have a call and talk about what
12 they can bring to us. They could maybe try to address that
13 issue some as well. I don't know that they are the appropriate
14 person to address it and maybe we should give some guidance now,
15 if you want.
16

17 I think Martha hit it trying to not bring in boating violations
18 and other things like that and so you may want to make --
19 Obviously we can review this, but you may want to make a motion
20 with that intent, if you want to do that.
21

22 **MR. WILLIAMS:** I would just quickly move that the violations
23 would be federal fishery violations or state violations of
24 federally-managed species.
25

26 **CHAIRMAN RIECHERS:** Do I hear a second for that? Mr. Walker, do
27 you second? Okay. Mr. Boyd.
28

29 **MR. BOYD:** Again, we get into details. I know of a case in
30 Texas where there was a violation on red drum, a state violation
31 on red drum in state waters, and in that particular case, the
32 person that violated the law wouldn't say he did and so they go
33 to the captain of the boat, who was the boat owner, and he had
34 the violation filed on him rather than the person that actually
35 did the violation and so there are some problems with that, I
36 think, and I know that's an individual case, but still it's an
37 issue and it's much like Leann's issue, where the crew may cause
38 a violation and the owner ends up having it on them and they
39 didn't do anything and so we've got to be cautious.
40

41 **MR. WILLIAMS:** Would we have discretion on that? I mean if he
42 had been issued a violation, would we have discretion if he, in
43 his application, said, well, it was issued to me, but it was
44 really somebody else on my boat and they just gave it to me
45 because I was the boat owner?
46

47 **MR. BOYD:** Well, according to Mr. Gregory we would, but still
48 the state violation and the conviction would be for the captain

1 of the boat in that particular case and so I am just pointing
2 out that there are some issues with this that we will run into.

3
4 **CHAIRMAN RIECHERS:** Leann.

5
6 **MS. BOSARGE:** Yes and I think the motion, the last motion that
7 we -- Not the last one, but the motion I made, I think that
8 should apply both commercially and recreationally, where we
9 don't automatically preclude someone for a violation that was
10 not theirs, that they did not physically commit. I mean that
11 goes both ways, recreationally and commercially.

12
13 **CHAIRMAN RIECHERS:** I will say we're going to go back down the
14 same road we were down in regards to violations in the past,
15 because this is going to have staff calling members up or
16 calling potential members up, after we get here and we hear a
17 story about someone who had something like that happen, and then
18 staff is doing private investigative work again, which is kind
19 of the way we -- We went away from this whole notion because of
20 that. We may be coming back around to it and that's okay, but,
21 just like I said, this is what it leads to.

22
23 **MR. WILLIAMS:** After this is settled, I would be prepared to
24 offer a motion that, as Martha suggested, that we ask NOAA to
25 ask the state agencies, after we have appointed AP members, to
26 see if there are any violations. We would, of course, ask those
27 questions on their application. Most of them are going to be
28 honest. We did have one person a year or two ago though that
29 was not and so we would find out eventually and they would be
30 gone.

31
32 **CHAIRMAN RIECHERS:** No, it narrows the field, certainly, because
33 you're doing it after appointment and so that's helpful. Any
34 further discussions about this motion? **Seeing no hands, all**
35 **those in favor of the motion say aye; all those opposed same**
36 **sign. The motion carries.** Mr. Williams, I think you're going
37 to offer another motion?

38
39 **MR. WILLIAMS:** Yes and I think hopefully we can settle it. That
40 would simply be that we ask NOAA Law -- Let me back up. **After**
41 **appointment of AP members, that we request NOAA Law Enforcement**
42 **to ask the state law enforcement agencies if those appointees**
43 **have violations of federally-managed species.**

44
45 **CHAIRMAN RIECHERS:** Do I have a second? Mr. Greene seconds.
46 Leanne.

47
48 **MS. BOSARGE:** Remind me, what was the rationale behind doing it

1 after they're appointed? Was that just because of the sheer
2 volume of work on the states that were trying to get it all done
3 between the time we get our nominations and the time we actually
4 make these appointments the burden would be too great?

5
6 **MS. BADEMAN:** I think that's a big part of it. I mean if it's a
7 big AP appointment cycle, where we've got reef fish and we've
8 got all these ad hoc, I mean we could be talking hundreds of
9 people. I think that's also how we ended up doing it last time,
10 at least with the federal violations. I think those were pulled
11 after we had chosen our field, so to speak.

12
13 **CHAIRMAN RIECHERS:** The notion is we would make decisions and
14 send it to them for review and then come back to the next
15 council meeting and if there were violations that were
16 discovered, then we would actually make our final decisions on
17 those and so it's really -- In some respects, it's your
18 tentative list of individuals that you forward and so we really
19 wouldn't be making final decisions then for a period after that
20 or you make it very clear that we're only going to bring back
21 those with violations.

22
23 **MR. WILLIAMS:** If I may, your appointment letter will just say,
24 Mr. So and So, you are appointed to the Reef Fish Committee,
25 provided that your background check -- Reef Fish Advisory Panel,
26 provided that your background check does not show any violations
27 of federally-managed species in the last three years.

28
29 **CHAIRMAN RIECHERS:** I would choose not to even send them a
30 letter until we have made that check is how I would handle it,
31 but I will let Doug Gregory speak to how he intends to handle
32 it.

33
34 **EXECUTIVE DIRECTOR GREGORY:** This year, we tried to do the
35 background checks with NOAA Law Enforcement before the council
36 considered the appointments and it was a large number of people,
37 two-hundred-and-some, I believe, and this is the first -- This
38 motion would be the first time we've gotten any guidance as to
39 whether to do it before the appointment or afterward.

40
41 Granted, if you wait until after the appointment, then what we
42 would do is I guess come back to a subsequent council meeting,
43 in closed session, and notify you of the violations and let you
44 decide whether to un-appoint those individuals and then I would
45 notify them that they are being removed and why.

46
47 It does make it a two-step process. This year, we tried to do
48 everything upfront. Going to all the states prior to the

1 appointment, I think in getting the information back from all
2 five states plus NOAA Law Enforcement, could be problematic
3 time-wise.

4
5 **CHAIRMAN RIECHERS:** I would just remind everyone that, Doug, at
6 this point we're not going to go through with this until the
7 spring. I think we still should, at least in my mind, and I
8 would -- I am going to turn to Dave and you. If you're still
9 going to have a call, I think some of these issues about the
10 logistical issues about how we would go forward with this and
11 the length of the time it takes them to make those runs, et
12 cetera, ought to be things we hear back from the LEAP and LEC
13 on, so that we can maybe adjust some of our notions based on
14 that.

15
16 It seems like what we're saying here is let's narrow the field
17 so that they're not running lists of 300 people, some of which
18 would drop out for other reasons anyhow. That certainly makes
19 sense from their workload in getting quicker turnaround from
20 them if we have narrowed that list already. Leann.

21
22 **MS. BOSARGE:** I agree. I mean I think our state and federal
23 agencies have plenty on their plate as it is and we don't need
24 to -- We need to make this as efficient as possible for them.
25 We don't need them spinning their wheels on something that maybe
26 they didn't even need to pull anyway and I think maybe the same
27 could be said for the federal violations as well.

28
29 I mean that process would be a lot more efficient and
30 streamlined if we worked it the same way as we're working these
31 state violations and so it may be that maybe we will do it on
32 both the federal and state level. We will do our appointment in
33 closed session and we'll figure out who we want on there and
34 then see if there's anything that would force us to preclude
35 them from being on that particular AP after we've come to that
36 decision and streamline the applicants to that point.

37
38 **CHAIRMAN RIECHERS:** Yes, I just think it's going to put a
39 premium on closed session discussions and our ability to keep
40 closed session discussions closed. Martha.

41
42 **MS. BADEMAN:** I think I'm okay. I guess if people have
43 heartburn about this that we could always ask that the Law
44 Enforcement AP to chew on this, if people are indecisive.

45
46 **CHAIRMAN RIECHERS:** Doug.

47
48 **EXECUTIVE DIRECTOR GREGORY:** Okay. Going back to the staggered

1 terms, the reason we are staggering is to reduce the workload at
2 any one time and so the way I see this, I think going forward
3 for this next year that we don't do the background checks until
4 after the appointments and we'll see how that gets involved and
5 we'll see how many applications we get and then after this
6 upcoming year, say for 2017, reevaluate which is the best
7 approach to go, but from now until our appointment in next April
8 or June, we will wait and do the background checks after the
9 appointments.

10
11 **CHAIRMAN RIECHERS:** Any other discussion on this item? Mr.
12 Walker.

13
14 **MR. WALKER:** I was just going to speak in favor of it. I
15 believe that if you find out that someone is in violation and if
16 they're held accountable, then they should not be able to vote
17 and serve on the AP panel.

18
19 **CHAIRMAN RIECHERS:** Okay. **Seeing no further hands, all those in**
20 **favor of the motion say aye; all those opposed same sign. The**
21 **motion carries.** I think that dispenses us of this agenda item,
22 unless someone else has something else to bring up under it.
23 That carries us now to SOPPs Revision, Tab G, Number 8. Again,
24 it's Mr. Gregory.

25
26 **REVIEW OF SOPPS REVISIONS**

27
28 **EXECUTIVE DIRECTOR GREGORY:** Okay. I am going to skip two
29 pages. The entire SOPPs are here for your review and these
30 revised SOPPs include comments that the council's ad hoc review
31 committee proposed to the council I think back in January.

32
33 It includes the comments made by National Marine Fisheries
34 Service on our SOPPs that was reviewed by the council and
35 approved and those are in the SOPPs without track changes. What
36 you have before you in track changes are changes that are the
37 result of the AP discussions that we've had and some other
38 things that have gone on.

39
40 Now, what I will do is refer you to the page numbers that are in
41 the PDF, which is not the same as the page number in the
42 document. For example, the next item is on page number 10 of
43 the PDF, but it's page 5 of the document and so I'm going to
44 give you the page numbers.

45
46 On page 10, under SSC, based on the discussion about the
47 structure of the SSC, we are now adding to the SOPPs that the
48 Standing SSC will consist of eighteen individuals that include

1 at least seven stock assessment or quantitative
2 biologists/ecologists, three ecosystem scientists, three
3 economists, three quantitative anthropologists or sociologists,
4 and two other scientists.

5
6 The Special SSCs will consist of no more than five members for
7 each special SSC. The Special Socioeconomic SSC will be
8 comprised of two economists and two
9 anthropologists/sociologists. This was a decision that was made
10 in I believe April or June for the appointment for the SSCs.

11
12 The next item is on page 11 of the SOPPs, the PDF page. Under
13 Members and Chair, it says members and officers of the SSC shall
14 be appointed for a term of three years instead of two years. At
15 the bottom of that paragraph -- That's under Section 2.5.2. At
16 the bottom of that paragraph, we are striking the line
17 "reappointments shall be made at the council meeting falling on
18 a date nearest to April 1".

19
20 For one, there is no reason, I don't think, to specify a date
21 and, two, I wanted to have you all consider doing those
22 appointments in June every three years.

23
24 The next item is on page 13, PDF page 13, or page 8 of the SOPPs
25 itself, under 2.6.2, Members and Chairs of the APs. Again, we
26 are changing the appointment period from two years to three
27 years and then the last paragraph is being deleted. The last
28 paragraph read: Reappointments shall be made at the council
29 meeting falling on the date nearest to April 1. Appointment of
30 new members may be made at any council session. The terms of
31 such appointments to end on April 1 on odd years.

32
33 Now, one thing this deletion does, it would prevent the council
34 from considering appointing new members to an AP in the interim
35 of their schedule. The next item goes all the way to page 25,
36 PDF page 25, and I apologize for not having a more --

37
38 **CHAIRMAN RIECHERS:** What's the page in the regular version?

39
40 **EXECUTIVE DIRECTOR GREGORY:** The regular version is page 20,
41 under Section 4.10, Leave. We simply added some verbiage under
42 leave that employment practices follow 50 CFR 600.120. Details
43 of all the council's leave policies are located in the
44 administrative handbook and a copy can be obtained by calling
45 the council office or accessed on the web at -- Then we give the
46 web address.

47
48 The next item is two pages later, on page 22 of the SOPPs page

1 and 27 of the PDF page. This is under Holiday Schedule. We are
2 adding that, under Other National Holidays, "and related leave
3 granted to federal employees" and so whenever the federal
4 government gets a leave for whatever reason, and the most common
5 thing that we've run into is the federal government grants
6 employees two hours early leave on the day before a holiday.

7
8 Let's say Christmas is on Friday and this is on a case-by-case
9 basis, but all the federal employees normally get an email by
10 about noontime that says you can leave two hours early today the
11 day before Christmas. We have been following that policy, but
12 it was never written down anywhere and so we are just trying to
13 follow the -- Make that explicit.

14
15 Then the last change is on the same page, the second to the
16 bottom paragraph. It says travel authorizations are issued by
17 the Executive Director with delegated authority for approval to
18 the Travel Coordinator instead of the Administrative Officer.
19 That was a change we made a year ago and you will notice that
20 Kathy Pereira signs all the meeting authorizations and not Cathy
21 Readinger. That was something we did to kind of streamline
22 things.

23
24 **CHAIRMAN RIECHERS:** Doug, before you get too far away, let me
25 just ask -- Under the other national holidays, that has been
26 going on. Is there another clause, and forgive me, because I am
27 completely -- I don't remember, but doesn't the Executive
28 Director have that authority to grant that. I mean when you
29 said you've been doing it, you had the authority to do it as
30 well, I hope, number one, and, number two, do you want to have -
31 - Because now it's mandatory, the way we're setting it up, and
32 so do you want to still preserve the discretion, and let's just
33 say you're on a tight deadline and something you're trying to
34 get out the day before Christmas or New Year's or whatever it
35 may be, of holding three members of your staff in to finish that
36 up, as opposed to being an automatic granted holiday?

37
38 **EXECUTIVE DIRECTOR GREGORY:** Well, I have the authority to grant
39 administrative leave and that's usually dictated more by
40 emergency type of situations, like the flooding we had in Tampa.
41 It was so severe that it was dangerous getting to work and so I
42 told everybody they could work at home if they weren't already
43 on their way to the office and that sort of thing. I don't see
44 it as a constraint.

45
46 **MR. BOYD:** Doug Gregory, in 2.6.2, where you had reappointments,
47 you struck out "reappointments shall be made at the council
48 meeting" and blah, blah, blah. This would only be made at

1 specific times rather than interim times, correct?

2

3 **EXECUTIVE DIRECTOR GREGORY:** Right.

4

5 **MR. BOYD:** A hypothetical case. What if you have a small
6 committee, let's say it's Octocoral and there is only three or
7 four people on it and something happens and half of those people
8 resign or all of them resign or if you have an SSC where
9 something happens and a majority of your people are not there
10 anymore? Do you not want some mechanism to reappoint in the
11 interim when that kind of thing happens?

12

13 **EXECUTIVE DIRECTOR GREGORY:** I don't know if it's necessary. It
14 hasn't happened before. The Coral Committee you are pointing
15 out, they are all small. Both the SSC and the AP are small in
16 number, but we can reserve that if you want. It's nothing that
17 concerns me.

18

19 **MR. BOYD:** Well, a follow-up. I just think we need some
20 backdoor mechanism to get in or some front-door -- Not backdoor,
21 but front-door mechanism to solve a problem if a problem comes
22 up. I am not saying we ought to make it a normal practice, but
23 if we have an issue that's going to affect the outcome of some
24 science or some recommendation that we need, we ought to have
25 the ability. That's my comment.

26

27 **EXECUTIVE DIRECTOR GREGORY:** If that's the will of the
28 committee, I am fine with that.

29

30 **CHAIRMAN RIECHERS:** I think a question that I had jotted down is
31 when you are switching to the June appointments -- I mean I
32 think we can maybe -- You have deleted April in here and so are
33 you going to put June in here or are we just going to assume
34 that?

35

36 I am fine either way, Doug, but I think what Doug is suggesting
37 -- You are trying to close us considering applicants out of
38 phase and so I think all he's suggesting is if the SOPPs doesn't
39 say it, then we shouldn't be doing it, number one, and so he is
40 trying to give you a backdoor way where if we need to -- All you
41 have to write in here is if for some reason a committee were to
42 be disbanded or were to have enough resignations that the
43 council is at liberty to adjust that or to reappoint out of
44 phase.

45

46 **EXECUTIVE DIRECTOR GREGORY:** Yes and that's fine with me.
47 Lately, we have been forming working groups, where we invite
48 certain AP and certain SSC members and people outside that group

1 that have been identified by staff or others as experts to work
2 in a working group environment to provide advice to the council.
3 We have that flexibility, but I have no problem keeping the
4 interim appointments in place at all and I think not having a
5 date just gives the council the flexibility to do it when it's
6 most appropriate for them and we have normally stuck to a
7 schedule.

8
9 **CHAIRMAN RIECHERS:** I mean you've mentioned that several times
10 and so once we finish the SOPPs discussion here, where you have
11 deleted the April 1 notion, we probably ought to have
12 discussion, if there is anyone who objects to June 1. We need
13 to hear some of that discussion and the rationale of why and we
14 would need to give you some guidance, if there are folks who for
15 some reason don't want that.

16
17 I don't know that there are any, but we at least need to have
18 that opportunity and so let's pick it back up. I think Mr.
19 Boyd's point -- You seem to be receptive of it and so you can
20 create some wording to help get us there.

21
22 **EXECUTIVE DIRECTOR GREGORY:** I just won't delete that particular
23 sentence.

24
25 **CHAIRMAN RIECHERS:** Do you want to pick up where you left off
26 then?

27
28 **EXECUTIVE DIRECTOR GREGORY:** Okay. The last item is on page 28
29 of the PDF page and page 23, under Section 4.12, the same
30 section as the delegation thing. I bring this to your attention
31 because the National Marine Fisheries Service, in their
32 recommendations on our SOPPs earlier this year, had this phrase
33 and the council accepted it, this last sentence of the first
34 paragraph or the second-to-last paragraph, right before the
35 foreign travel discussion.

36
37 It talks about following GSA reimbursement rates and it says --
38 In some instances, we will have a meeting where the lodging or
39 the per diem should be warranted to be higher than maybe the GSA
40 rate and we are granted a certain amount of flexibility.

41
42 In the current SOPPs or in the handbook, we say that the Council
43 Chair or the council or the Vice Chair can authorize such
44 leeway. The language presented to us by National Marine
45 Fisheries Service gave that to the Executive Director. It says
46 that we'll following GSA's current M&IE and lodging rates unless
47 prior approval is granted by the Executive Director for the
48 costs above the limit for the area.

1
2 NMFS recommended that and I just wanted to bring it to your
3 attention, because it's contrary to what we have normally done
4 and I did not pick up on this and neither did the council in
5 January when we accepted that language. Currently, that's
6 what's in the SOPPs, but in our handbook, we continued the old
7 language that gave that authorization to the Council Chair or
8 the council itself.

9
10 We have never come to the council for that discussion or that
11 decision. We have always gone to the Council Chair and said, do
12 you grant approval for us to pay more than the regular M&IE and
13 I think we did that one time in Mississippi or can we go to this
14 hotel that's more expensive than the GSA rate.

15
16 We usually in the past have been deferring to the Council Chair
17 and so I wanted to get your clarification of if you want to
18 continue to keep that with the Council Chair or let that go with
19 myself. I certainly would take out the phrase "coming to the
20 full council" for that kind of decision.

21
22 Now, we tend not to do that, because when -- We don't do that,
23 because that puts the NOAA people that participate in our
24 meeting at a disadvantage. My understanding is they don't have
25 that same flexibility and so if we were to stay at a hotel that
26 was above the GSA rate, they may have to stay at a different
27 hotel that met the GSA rate and so we wouldn't do something like
28 that. We don't do that on a regular basis. Now, you all could
29 clarify that for us, if that really puts you all at a
30 disadvantage. If not, we will find fancier digs.

31
32 **DR. CRABTREE:** No, if we have justification, we could stay at
33 above the rate.

34
35 **EXECUTIVE DIRECTOR GREGORY:** Good. I was afraid we were putting
36 you guys at a disadvantage. Do you want that decision to sit
37 with the Council Chair or with the Executive Director?
38 Basically that's the question.

39
40 **CHAIRMAN RIECHERS:** I am looking to the two people who will have
41 that decision and what is your pleasure? I think it's been at
42 the Council Chair level in the past and I think there is
43 obviously budgetary implications for the council and so in some
44 respects, I think the Council Chair and/or Vice Chair are
45 probably the more appropriate place, but I will certainly look
46 for any other discussion in that respect.

47
48 **EXECUTIVE DIRECTOR GREGORY:** Again, just to be clear, I have no

1 preference.

2
3 **MR. ANSON:** In the instance that I was involved with, the recent
4 one, I mean there was communication between myself and Doug and
5 the very question was asked and I would hope that the next
6 Chairs or the following Chairs would do the same thing and have
7 that kind of conversation, just to make sure.

8
9 **CHAIRMAN RIECHERS:** Is that enough guidance, Doug, to keep it at
10 the Council Chair or Vice Chair level, as appropriate? That was
11 your last --

12
13 **EXECUTIVE DIRECTOR GREGORY:** Yes, that concludes the suggested
14 changes we had before you for the SOPPs and we won't be bringing
15 these back to you unless more changes arise. I have no idea --
16 We will resubmit these to NMFS and see what they do with it.
17 They still have not finalized approval of the SOPPs we sent to
18 them in 2012 and so my inquiry into how this all operates is
19 what SOPPs are we supposed to follow, the ones that have been
20 approved or the ones that the council has approved? The advice
21 that was given to us by Bill Chappell, who is our liaison to
22 National Marine Fisheries Service, was you follow the SOPPs that
23 the council approved. If we waited for NMFS and followed the
24 SOPPs that NMFS approved, then it would take a long time for
25 that, but we will submit these changes to NMFS for their review.

26
27 **CHAIRMAN RIECHERS:** That takes us to a point here and so now
28 basically any timeframe for reappointments have been removed
29 from our SOPPs, which basically were recurring every April.
30 Doug has made a suggestion that we move to June and I haven't
31 seen anyone raise their eyebrows or question that as he did it
32 here today, but I wanted to at least stop and make sure that
33 everyone is in concurrence with that notion and doesn't see some
34 pitfall in that notion that he wasn't aware of as he has tried
35 to come to grips with maybe when the best time for appointment
36 is.

37
38 Doug, you might want to reiterate real quickly your rationale
39 for doing that, just because some folks might have missed it
40 earlier here in the conversation.

41
42 **EXECUTIVE DIRECTOR GREGORY:** At the request of one of our
43 stakeholders, and it's because the South Atlantic Council does
44 this and we used to do it years ago, we were asked to put
45 together a paper booklet that listed all the AP and SSC
46 appointments and the council appointments with contact
47 information.

48

1 We started that last year, but then things quickly get out of
2 sync and out of date. Since we have council member appointments
3 in August, we figured if we could do the AP and SSC appointments
4 in June that's both close enough together in the year that we
5 could do the booklet no more than once a year, update it and
6 print it. It's simply for that reason alone.

7
8 **CHAIRMAN RIECHERS:** So you're trying to do it after the new
9 council appointments and by having the June appointments a
10 little bit closer to that, it helps in those being current.
11 Doug.

12
13 **MR. BOYD:** I don't have a problem with the June date, but aren't
14 we trying to move to less paper? I would think that we have
15 this on the website where people could download it and print it
16 themselves if they wanted to. I am not sure why we have to
17 print a list for everybody when it's on the website. That's
18 just a comment. Thank you.

19
20 **EXECUTIVE DIRECTOR GREGORY:** We could certainly put it on the
21 website as a PDF. I don't think we've done that. Right now,
22 our appointments are in different places on the website. We've
23 got APs over here and SSCs there and council members somewhere
24 else, but we can put them together as a PDF and have people
25 download it if they like, yes, and keep that up to date, for
26 sure.

27
28 **CHAIRMAN RIECHERS:** Okay. Hearing no further comments regarding
29 this, we assume he's going to then go to June of next year for
30 appointments and that will help streamline his process and he
31 can make them real time on the web either way, whether he goes
32 to June or not, but now we don't have a reference to them and so
33 we're not tied to any particular time. With that, I am going to
34 assume we then move to Tab G-9 and that's back to Mr. Gregory
35 again.

36 37 **REVIEW OF MSA REAUTHORIZATION BILLS**

38
39 **EXECUTIVE DIRECTOR GREGORY:** Okay. I will refer you to Tab G-
40 9(a). There has been a lot of activity going on with the
41 reauthorization, particularly last year and now it's heating up
42 this year.

43
44 At our CCC, Council Coordination Committee, Meeting that we had
45 in June, NOAA General Counsel from D.C. advised all the fishery
46 councils that they would prefer that the councils not write any
47 letters and not make any statements when they testify about us
48 supporting a particular section or a particular proposal,

1 because that could be construed as lobbying.

2
3 What they are telling the councils to do is simply comment how
4 this particular sector would affect us and what's the potential
5 impact of a section. This is dramatically different advice than
6 what the councils have been following. In fact, some council
7 Executive Directors pointed out that in the past Congress even
8 asked the councils to draft the legislation for them and so
9 there was some pushback from the Executive Directors on that
10 strict interpretation of what is lobbying or not lobbying, but
11 we want to try to get ahead of the curve.

12
13 Things are happening at sporadic times with Congress. Last
14 year, we ended up, the Chair and others, providing testimony
15 without full council discussion and so I am hoping to get some
16 stuff before you all before any testimony has to be done.

17
18 What I've got before you today is simply the two Magnuson Act
19 reauthorization bills that seem to be the most significant.
20 There is a number of other bills that pertain largely to red
21 snapper and Gulf of Mexico issues and, in fact, most of the
22 reauthorization activity that's going on is coming out of the
23 Gulf.

24
25 Given that our region is doing that and that we also hosted the
26 CCC meeting, I am pursuing getting some outside help and a small
27 contract to help us keep up with things, but right now, what
28 I've got before you is the House Bill 1335 and the Senate Bill
29 that for some reason is called the Florida Fisheries Improvement
30 Act.

31
32 They're the two major authorization bills that have been
33 submitted. The House Bill has actually been approved by the
34 House. I think the Senate Bill is still in committee.

35
36 Now, what this section does, to try to keep things simple, is
37 we're not listing in this document, but in document 9(b), we
38 have the full list of all the proposed changes in those two
39 bills. What we have here in 9(a) are simply changes that were
40 not reviewed by the council last year and so it might be a
41 little confusing.

42
43 This page I've got before you and in 9(b), I have highlighted
44 the text that the House Bill proposes to delete and I put in red
45 the text that the House Bill proposes to include. Almost all
46 the changes by the Senate Bill are additions and so I've put
47 those in blue and so as we start this, and I have included the
48 section numbers here of the Magnuson Act.

1
2 Section 301, under National Standards for Fishery Conservation
3 and Management, the House Bill proposes to limit the trading of
4 catch share allocations to within the same commercial sector.
5 In other words, to prohibit what we were calling intersector
6 trading and so that's the House Bill proposal and the Senate did
7 not address that.

8
9 If we have pros and cons of this -- This could be a lengthy
10 discussion, but I want to -- I don't know if we've got time to
11 go into all of the discussion, but let me run through these and
12 at some point, if we could find the time to set aside almost a
13 whole day just to go through Congressional acts and legislation,
14 it might be beneficial.

15
16 One of the confusing parts is the Senate and the House might
17 address the same issue, but they do it under different sections
18 of the Magnuson Act and so I will highlight those as we go
19 through them.

20
21 Under Section 302, the Regional Fishery Management Councils, the
22 functions, the Senate says that the councils have the authority
23 to use alternative fishery management measures in a recreational
24 fishery, including extraction rates, mortality, and harvest
25 control rules, to the extent they are in accordance with the
26 requirements of the Act. The intent there, I think, is to give
27 the councils more flexibility in managing the recreational
28 fishery, I assume than just having a quota.

29
30 Under Section 303, Contents of Fishery Management Plans, this is
31 one of the areas where we had the same thing addressed by the
32 two bodies of Congress in different places. The Senate is
33 proposing to allow the councils to have an exception to ACLs if
34 the fishery has all spawning and recruitment occurring beyond
35 state waters and beyond the Exclusive Economic Zone unless the
36 Secretary has determined the fishery is subject to overfishing
37 of that species.

38
39 I believe that this addresses the issue we have with spiny
40 lobster and it may be that this is intended to try to relieve
41 that. Roy.

42
43 **DR. CRABTREE:** Well, I have wondered about that, but it doesn't
44 -- I don't know how in the world you could say that all spawning
45 and recruitment occurs beyond state waters and the EEZ. Clearly
46 that doesn't apply and so regardless of what their thinking was,
47 it seems to me this -- I can't think of anything we manage that
48 this would apply to.

1
2 **EXECUTIVE DIRECTOR GREGORY:** I agree. There is a lot of
3 confused logic in some of these proposals.
4

5 **CHAIRMAN RIECHERS:** Before we talk about congressmen's confused
6 logic anymore, I would suggest -- What is our end goal here,
7 Doug, because you just reading this to us and talking about the
8 changes, and you have already suggested we should only be
9 commenting if it's truly going to impact the council business or
10 an activity of the council -- I am trying to figure out where
11 we're headed here so that we don't spend the rest of our
12 committee time on something that we may not be doing anything on
13 anyhow.
14

15 **EXECUTIVE DIRECTOR GREGORY:** Well, I wanted specifically to
16 bring this to your attention. It's in the briefing book and we
17 have highlighted sections, but we have really had difficulty
18 grasping how to handle these bills and how to present them to
19 the council in a constructive way.
20

21 We have had a difficult time figuring out how to summarize this
22 for you and to present it to you to get feedback so that if the
23 Chair does get called to testify or the council does, either I
24 or the Chair, that we have some basis for providing written
25 testimony and verbal testimony to Congress and I welcome any
26 suggestions as to how to do this in a -- If there is an
27 efficient manner or effective way, but yes, I could see us
28 spending a lot of time discussing the various proposals and I am
29 sorry, but I don't have an effective way of addressing them all,
30 other than just bringing them to your attention and going from
31 there.
32

33 **CHAIRMAN RIECHERS:** Well, I mean I will offer a possible
34 solution, which is kind of a side-by-side analysis of the two
35 bills, where we put them section-by-section, House and Senate.
36 If the sections differ or refers to a different section in the
37 other bill, then it would be noted right there and so the Senate
38 addresses it here and the House addresses it there.
39

40 Then in another column, that would suggest if you really have
41 something that is going to change our business, in that it
42 changes our landings system or it changes something that we
43 actually do, as opposed to just our pros and cons and did it hit
44 the mark we hit they were trying to hit, because that's
45 speculation on our part, in some respects, and so that would be
46 one offer that I might have, just so that we don't necessarily
47 go through it kind of one-by-one and section-by-section without
48 any real focus on the sections that we might really need to

1 weigh in on.

2
3 **EXECUTIVE DIRECTOR GREGORY:** Then I think the best approach
4 would be for staff to draft an analysis paper of the bill and
5 present that to you and then if you have read parts of it that
6 are not included in the analysis or there is a difference in
7 interpretation, we can address it at the time.

8
9 The problem we had last year and this year is that the Senate
10 and House Bills are so radically different that you can't really
11 put them side-by-side. We have tried to do some of that here,
12 but last year they were just two totally different approaches
13 and this year the Senate hasn't done as much as the House has
14 and the strange thing with House Bill 1335 is the administration
15 has come out with a policy statement saying they're going to
16 veto it even if it did pass the Senate.

17
18 Everything is in flux quite a bit. Now, I know we've got at
19 least three or four House and Senate Bills dealing just with red
20 snapper in the Gulf of Mexico and so I was going to address that
21 in October, but in light of what you're saying, let me just
22 scroll down here and skip over the stuff like depleted and the
23 rebuilding period.

24
25 Both are trying to provide us with more flexibility in the
26 rebuilding periods and in setting ACLs and so, for the most
27 part, that's pretty positive. They are both trying to get a
28 handle on making sure we do timely stock assessments and we
29 collect better data.

30
31 Now we get to Section 407, Gulf of Mexico Red Snapper Research,
32 the House proposes to eliminate that entire section. The Senate
33 proposes only to eliminate Section (d), which requires a
34 separate quota for the recreational fishery. The Senate only
35 proposes to eliminate that one paragraph (d), but the House
36 proposes to eliminate the entire section.

37
38 Then we've got Section 409 that's been added by the House, Stock
39 Assessments Used for Fisheries Managed Under the Gulf of Mexico
40 Council's Reef Fish Management Plan, this section says that all
41 reef fish stock assessments will be conducted by the Gulf States
42 Marine Fisheries Commission. That's pretty significant and it
43 only pertains to reef fish. That's completely new.

44
45 **MS. BOSARGE:** So I am assuming, and I don't remember if you said
46 it was the House or the Senate, but whichever one was going to
47 completely remove the red snapper research section, that then
48 they were turning that over to the Gulf States as well, because

1 it falls under the reef fish? Was that the goal there?

2
3 **EXECUTIVE DIRECTOR GREGORY:** Right. This is the House side.
4 The Senate side doesn't address this at all.

5
6 **MS. BOSARGE:** Dave, do you feel good about that? Maybe that's a
7 loaded question for Dave, but I mean I don't know what you all
8 have in the works and what you have set up to handle that.

9
10 **MR. DONALDSON:** Currently, we are not set up to handle that and
11 if this task was to be given to us, we would certainly need
12 additional resources so we could adequately address it.

13
14 **MS. BOSARGE:** So is there any language in there that sets up
15 some sort of timeframe for developing those adequate resources
16 before it's turned over or is it just kind of a -- Maybe even a
17 timeframe where both run in tandem with each other, so that
18 results from the way we've been doing things can be compared
19 against results that come from a possible new way of doing
20 things?

21
22 **EXECUTIVE DIRECTOR GREGORY:** The bill itself doesn't address
23 that. Now, how NMFS implementing regulations go into effect
24 could probably address some of that. It depends on how much
25 NMFS's hands are tied by an action by Congress.

26
27 Now, there is two sections that the Senate has added. Section
28 313(a), Gulf of Mexico Fisheries Conservation and Management,
29 says at least once every five years the councils shall review
30 any allocation of fishery privileges among commercial,
31 recreational, and charter components of the fishery managed
32 under the fishery management plan prepared by the council,
33 except that the council may delay action for not more than three
34 additional one-year periods.

35
36 The other section the Senate has added is Section 108, Study of
37 Allocation in Mixed-Use Fisheries. Not later than sixty days
38 after the date of enactment of the Act, the Secretary shall
39 enter into an agreement with the National Academy of Sciences to
40 conduct a study to provide guidance on the criteria that could
41 be used for allocating fishery privileges. It has more wording
42 there.

43
44 Those are specific things that relate to what we've been talking
45 about and working on. Now, there is also sections about data
46 collection that do have timeframes like you're talking about.
47 There is one that says that the recreational data collection
48 program needs to be reevaluated by the National Research Council

1 again, based on the recommendations that were done in 2006 and
2 the changes that have been made since then.

3
4 Some of the data in the stock assessment reviews have timeframes
5 on them in here and as far as I know, those are the major things
6 that the bills do that are different than what we presented to
7 you last year, but I encourage everyone to review G-9(b) and, of
8 course, I have both bills in here too, but 9(b) has this plus
9 the other items that we reviewed last year in the context of the
10 Act. I cut and pasted them in the Act, but then took out all
11 the sections that weren't being amended, so you didn't have to
12 deal with a hundred-page document.

13
14 At any time, I will be glad to discuss any aspect or work with
15 anybody and we're always looking for input from the council that
16 could provide us with guidance as to what we could tell
17 Congress, if asked, what are the potential impacts of these
18 items on the council.

19
20 **CHAIRMAN RIECHERS:** Leann.

21
22 **MS. BOSARGE:** We are not under a horrible time crunch on this,
23 right? We can look at it again at the next meeting? I ask
24 because I kind of, along with what Robin said, I think if we --
25 If I could personally see it in more of a chart format, with
26 columns.

27
28 You can even highlight the things that have changed since the
29 last time we looked at it and that would help me focus in on,
30 okay, what's new and then if you have columns lined up of this
31 is what the House is saying and this is what the Senate is
32 saying and if they don't line up, if they're not both saying
33 something about it, just one column or the other and then maybe
34 a column that says how it may affect or relate to the council,
35 if it increases flexibility, which a lot of these recreational
36 fishery management measures look to do, we might could put that
37 or if it possibly decreases flexibility, put that in there, so
38 that we can hone in and focus.

39
40 I think a chart format may be a little easier for me to look at
41 at a glance and that way, I can put more time and effort into
42 thinking about it rather than picking it out and finding what's
43 different.

44
45 **EXECUTIVE DIRECTOR GREGORY:** I will certainly try. I don't
46 think a page is wide enough for those three columns, but we will
47 continue to work on coming up with better ways to provide this
48 information to the council.

1
2 **CHAIRMAN RIECHERS:** Camp.

3
4 **MR. MATENS:** I want to commend Doug Gregory for putting this
5 together. This, for anybody that fools with this, this is not a
6 simple issue and it's not going to be a simple issue. Doug,
7 thank you very much for putting this together and my personal
8 opinion is that we have plenty of time here. Magnuson-Stevens
9 is not going to be reauthorized this year.

10
11 **CHAIRMAN RIECHERS:** Doug.

12
13 **EXECUTIVE DIRECTOR GREGORY:** No, it's not. I think that's a
14 given, but the problem we have is we will get a letter tomorrow
15 telling us there is going to be a hearing in two weeks and we
16 have to get our paperwork and everything in by next week and we
17 barely have time to consult with the Chairman and we worked with
18 Mr. Boyd and Mr. Anson last year and they gave testimony and I
19 think we did okay, but it's -- Given the controversy of some of
20 these, we're getting a little nervous with staff generating
21 these documents with just limited review.

22
23 **CHAIRMAN RIECHERS:** Well, I certainly understand that it's hard
24 for any one individual to have the full scope of the council
25 deliberation that would go into that testimony, but I think part
26 of that, Doug, will be honing in on what truly are the impacts
27 that the bill would cause, meaning what does it do in your
28 council day-to-day business and not whether you agree with it
29 from a policy perspective or not, but what changes would it
30 make?

31
32 Does it change the way we have to collect our landings data?
33 Does it change the way we are going to have to construct our
34 meetings? Those are the things we have to focus on and not
35 whether we agree with it or don't agree with it, because that's
36 not what the question is.

37
38 If we can hone it down to those critical elements, then I think
39 you very likely, in either the testimony you have to circulate
40 quickly or in the deliberation the next time the council is
41 together, we could probably get that down to a small number of
42 things fairly quickly. If there is no further questions on this
43 one, we will move on to Tab G-10.

44
45 **DISCUSS RECENT NOAA EFH FIVE-YEAR REVIEW BUDGET ENHANCEMENT**

46
47 **EXECUTIVE DIRECTOR GREGORY:** Okay. What we have here is a copy
48 of the scope of work that we developed for National Marine

1 Fisheries Service. They approached us shortly after the last
2 council meeting, telling us that if we wanted to we could get an
3 extra \$100,000 to help us do the five-year review of our
4 essential fish habitat efforts.

5
6 We were scheduled to do that by the end of 2016 anyway and so we
7 wrote the scope of work and submitted it and we've got the
8 \$100,000 and part of our scope is to hire somebody on a
9 temporary basis to help us do the literature search and to
10 develop essential fish habitat information for the various
11 amendments that we have. I just wanted to bring that to your
12 attention, that we will have another person onboard for a couple
13 of years to help with this. That's all.

14
15 **CHAIRMAN RIECHERS:** You may have just said it and I just may
16 have missed it, but it's due when? I mean they're going to be
17 onboard for a couple of years and so I assume at the end of that
18 timeframe is when we have to hand it in or have the review
19 completed?

20
21 **EXECUTIVE DIRECTOR GREGORY:** Right. Everything is supposed to
22 be on a five-year review schedule. I mean that's not a fixed
23 date, but that's our goal, is to finish it by the end of 2016.

24
25 **OTHER BUSINESS**

26
27 **CHAIRMAN RIECHERS:** Any other questions of Doug regarding that?
28 That takes us to Other Business and as far as I know, I am not
29 certain that we have any other business, but I would certainly
30 open it up to any committee members who might have something
31 that would fall under this Other Business topic. Hearing none,
32 Mr. Chair, Mr. Boyd and I will turn this committee back over to
33 you or this committee is concluded and you get to decide what
34 you want to do with your thirty minutes.

35
36 (Whereupon, the meeting adjourned at 11:29 a.m., August 10,
37 2015.)

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41

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3 PAGE 7: Motion to merge the budget process into the
4 Administrative Committee and to leave the Personnel Committee as
5 a stand-alone committee of the council. The motion carried on
6 page 9.

7
8 PAGE 22: Motion to have staff return with Tab G-6 with an ad
9 hoc one-year review in January to decide whether to continue an
10 ad hoc Committee and/or to reappoint members and keep staggered
11 committee terms for the other committees. The motion carried on
12 page 26.

13
14 PAGE 36: Motion that boat owners not automatically be held
15 responsible for violations by a crew when the owner is not
16 present relative to our AP appointment process. The motion
17 carried on page 41.

18
19 PAGE 42: Motion that a person not be eligible to serve on an AP
20 within three years of the time that the violation was settled or
21 adjudicated. The motion carried on page 42.

22
23 PAGE 43: Motion that the violations would be federal fishery
24 violations or state violations of federally-managed species.
25 The motion carried on page 44.

26
27 PAGE 44: Motion to request NOAA Law Enforcement to ask the
28 state law enforcement agencies if appointees have violations of
29 federally-managed species. The motion carried on page 47.

30
31 - - -

Administrative Policy & Budget/Personnel Committee:
Action Schedule & Next Steps for Tab G
October 2015

Agenda Item VI: Review of AP Staggered Terms (Tab G, No. 4)

Timeline Status: Initial Review

Background: The Council decided to create 3-year staggered terms for AP members in March and, in June, decided to consider appointments to Ad Hoc APs yearly at the Council's January meeting.

The Next Step: To approve staff's movement of the spiny lobster and coral APs to be reconsidered for appointments in 2016 instead of 2017 and 2018, respectively, to make the three year staggered terms going forward more equal in number (approximately 31-36 appointments per year, excluding the Ad Hoc APs).

Agenda Item VIII: Review of SOPPs Revisions (Tab G, No. 5)

Timeline Status: Ongoing review.

Background: Staff has updated the SOPPs based the Council's changes in June and some minor editorial modifications. The SOPPs now contain guidance on AP appointments relative to fishery violations, designation of the Chair and Vice-Chair as having the authority to exceed standard GSA lodging rates, designating the Administrative Officer rather than the Executive Director as the one to maintain personnel files, the combining of Administrative Policy and Budget functions into a single committee and the creation of a Personnel Committee.

The Next Step: To review and approve existing track changes.

Agenda Item IX: Review of Red Snapper Related MSA Reauthorization Bills (Tab G, No. 6)

Timeline Status: Initial Review

Background: Both the House and Senate have offered various MSA reauthorization bills that staff will review in preparation for the possibility that the Council may be asked to testify at a future hearing. NOAA General Counsel, at the Council Coordination Committee meeting in June, advised the Councils they could no longer provide testimony or letters supporting or opposing any action proposed by Congress, but rather, the Council can only describe the potential impacts of proposed actions. In June the Council reviewed HR 1335 and S 1403, the major reauthorization bills. At this meeting we are reviewing bills specifically addressing red snapper management in the Gulf of Mexico.

The Next Step: To review the Congressional bills regarding red snapper management.

Revised Staggered Terms for Gulf Council Advisory Panels

The Gulf Council, in April, decided to establish three-year terms for advisory panel (AP) membership with no term limits. The Council also established a staggered system for appointments whereby a third of the total membership will be reconsidered by the Council each year. In August, the Council determined that Ad Hoc APs would be reviewed annually at the January Council meeting and evaluated as to whether the Ad Hoc AP would continue for another year and if the AP membership is to be re-advertised for appointments.

In order to accomplish staggered terms for the advisory panels it was necessary to assign, on a one-time basis, one, two, and three-year terms to the various advisory panels. Thereafter, the appointments will be made every three years. With this new process, the Council will make appointments to one-third of the AP seats on an annual basis rather than making appointments to all the advisory panel seats every two years. Given that people can serve on multiple panels it was deemed too confusing to stagger membership terms within each panel so the panels as a whole were used to establish staggered terms.

Below is a list of the Council Advisory Panels, along with the number of years each panel will serve **initially** and the future reconsideration schedule.

1 Year Appointment (Review years: 2016, 2019 . . .) No. of Members

Data Collection	19
Coral	6
Spiny Lobster	<u>6</u>
Total	31

2 Year Appointment (Review years: 2017, 2020 . . .)

Coastal Migratory Pelagics	18
Red Drum	<u>17</u>
Total	35

3 Year Appointment (Review years: 2018, 2021 . . .)

Shrimp	13
Reef Fish	<u>23</u>
Total	36

<u>Ad Hoc Advisory Panels Reviewed Annually</u>	<u>No. of Members</u>	<u>Date Created</u>
Ad Hoc Private Recreational (To be created)	?	TBD
Ad Hoc Artificial Substrate	16	October 2012
Ad Hoc Red Snapper Charter For-Hire	19	March 2015
Ad Hoc Red Snapper IFQ	17	August 2013
Ad Hoc Reef Fish Headboat	<u>14</u>	March 2015
Total	66	

GULF OF MEXICO FISHERY
MANAGEMENT COUNCIL
STATEMENT OF ORGANIZATION
PRACTICES AND PROCEDURES

October 2015--Draft



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GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

Pursuant to Section 302(f)(6) of the Magnuson-Stevens Fishery Conservation and Management Act (hereinafter referred to as the Act) (18 U.S.C. § 1801 *et seq.*, Public Law 94-265, as amended) each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce (Secretary). Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the Gulf of Mexico Fishery Management Council (Council) has prepared and is hereby publishing its revised Statement of Organization, Practices, and Procedures, originally published September 13, 1977 (42 FR, No. 177). The revised document is available at the Council Headquarters: 2203 North Lois Avenue, Suite 1100, Tampa, Florida, 33607 and on the Council's web site at www.gulfcouncil.org.

1.0 Council Functions and Responsibilities

In accordance with the requirements of the Act, the Council shall:

- A. Prepare and submit to the Secretary or their delegate a fishery management plan with respect to each fishery requiring conservation and management within the Council's geographic area of authority and such plan amendments as are necessary.
- B. Review and comment on applications for foreign fishing transmitted to the Council under a governing international fishery agreement by the Secretary of State under the terms of the Act.
- C. Prepare comments on any fishery management plan or amendments prepared by the Secretary which are transmitted to the Council under Section 304(c)(4) of the Act.
- D. Conduct public hearings at appropriate times and locations in the Council's membership area, to allow interested persons an opportunity to be heard in the development of fishery management plans and amendments, and with respect to the administration and implementation of the provisions of the Act. When conducting a hearing outside Council's usual jurisdiction, the Council will first consult with the Council in that area.
- E. Submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary.
- F. Review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to:
 - (1) The present and probable future condition of the fishery;

- (2) The maximum sustainable yield from the fishery;
 - (3) The optimum yield from the fishery;
 - (4) The capacity and the extent to which fishing vessels of the United States will harvest the optimum yield on an annual basis;
 - (5) The portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.
- G. Develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations established by mechanisms and processes under the Act.
- H. Develop multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, in the manner prescribed in the Act.
- I. Conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters, including the allocation of fishery resources to other nations within its area of authority.

2.0 Council Organization

2.1 Council Composition and Jurisdiction

The Council shall have a total of 17 voting members, and four nonvoting members, appointed pursuant to provisions of the Act.

The geographical area of authority of the Council includes the federal waters off of the states of Texas, Louisiana, Mississippi, Alabama, and Florida; and the Council has authority over the fisheries in the exclusive economic zone (EEZ) of the Gulf of Mexico seaward of such states.

2.1.1 Voting Members

Eleven of the voting members (at least one of whom shall be appointed from each state) shall be appointed by the Secretary from a list of qualified individuals submitted by the governor of each applicable constituent state.

The remaining six voting Council members shall be the principal state official, who must be a full-time employee of the state agency, with marine fishery management responsibility and expertise in each of the five constituent states, as designated by the governors of the states or the designee of such official; and the Regional Administrator, Southeast Region, National Marine

Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), or their designee.

2.1.2 Non-Voting Members

The non-voting members of the Council shall be:

- (a) The Regional Director of the United States Fish and Wildlife Service (USFWS) for the Council's geographical area or their designee;
- (b) The Commander or designee of the Coast Guard Districts as designated by the Commandant of the Coast Guard;
- (c) The Executive Director of the Gulf States Marine Fisheries Commission (GSMFC) or their designee;
- (d) One representative of the Department of State designated for such purpose by the Secretary of State, or their designee.

Non-voting members of the Council may serve on committees of the Council and may serve as chairpersons of committees and, as members of the committee, may initiate and second motions, as well as vote on matters that pertain to the committee. At meetings of the Council, non-voting members may neither initiate or second motions, nor vote on matters that may be classified as business of the Council. They may, however, participate fully in discussions of such matters.

2.2 Oath of Office

As trustees of the nation's fishery resources, all at-large and obligatory voting members appointed to the Council must take the following oath of office: "I, [name of the person taking oath], as a duly appointed member of a Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act, hereby promise to conserve and manage the living marine resources of the United States of America by carrying out the business of the Council for the greatest overall benefit of the Nation. I recognize my responsibility to serve as a knowledgeable and experienced trustee of the Nation's marine fisheries resources, being careful to balance competing private or regional interests, and always aware and protective of the public interest in those resources. I commit myself to uphold the provisions, standards, and requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, and shall conduct myself at all times according to the rules of conduct prescribed by the Secretary of Commerce. This oath is given freely and without mental reservation or purpose of evasion."

2.3 Terms of Council Members, Removal, and Council Officers

2.3.1 Term of Appointment -- Voting Members

Voting members shall be appointed for a term of three years. Vacancy appointments shall be for the remainder of the unexpired term of the vacancy. No member may serve more than three

consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

2.3.2 Removal

Council members appointed by the Secretary may be removed from office in accordance with Section 302(b)(6) of the Act (see 50 CFR § 600.230 for the details of this process).

2.3.3 Officers

The Council elects during the first meeting each year after the date upon which Council members are appointed from among the voting members, by majority vote of the voting members present and voting, a Council Chair who shall serve a term not to exceed one year unless sooner replaced, and a Council Vice Chair who shall serve for a one-year term ending when a successor has been duly elected, unless sooner replaced. Such election shall usually be the last order of business at said meeting. The Chair and the Vice Chair can serve no more than two consecutive terms.

The Chair, or in the Chair's absence the Vice Chair, of the Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, to attend meetings and public hearings. The Chair will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its advisory bodies as members of committees and working groups. The Chair or Vice Chair may, in order to create a quorum, serve as an ex-officio voting member of any of the Council's committees of which he/she is not already a member.

It shall be the policy that in the absence of any Committee's Chair and Vice Chair, the Council Chair shall either preside and exercise the duties of that office as herein provided or appoint a member of the Committee to serve as interim Chair. If the Council Chair is also absent, then the Council Vice-Chair will preside and exercise the duties of that office as herein provided. Individuals are elected or appointed to the offices of the Council Chair and Council Vice-Chair even though they may be state officials. Alternate representatives (designee or principal) do not assume these offices, but may participate as members of the committees.

2.4 Designees

The Act authorizes only the principal state officials, the Regional Administrator, and the nonvoting members to designate individuals to attend Council meetings in their absence. The Chair of the Council and NMFS Regional Administrator must be notified in writing who will serve as designee at least 48 hours before the individual may vote on any issue before the Council. The written appointment must include, the name, address, and position of the individual designated. A designee may not name another designee. However, such officials may submit to the Chair, in advance, a list of several individuals who may act as designee, provided that the list designates who would serve if more than one designee is in attendance. Such designees must be a resident of the state, and be knowledgeable and experienced in the fishery resources of the geographic area of concern to the Council.

2.5 Scientific and Statistical Committee (SSC)

The Council has established a Standing SSC and Special SSCs for individual management units to provide expert scientific and technical advice to the Council. The SSC shall review and comment on the scientific adequacy of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

The Standing SSC will consist of 18 individuals that include at least 7 stock assessment or quantitative biologists/ecologists; 3 ecosystem scientists; 3 economists; 3 quantitative anthropologists/sociologists; and 2 other scientists. The Special SSCs will consist of no more than 5 members for each Special SSC. The Special Socioeconomic SSC will be comprised of 2 economists and 2 Anthropologists/Sociologists.

2.5.1 Objectives and Duties

The SSC shall provide the Council ongoing scientific advice for fishery management decisions, including recommendations for preventing overfishing and achieving rebuilding targets, and reviews of reports on stock status and health, by-catch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. The SSC may also recommend priorities for future research needs.

The Standing SSC and one or more Special SSCs may meet as a single body (SSC) to deliberate and advise on appropriate fishery management units. For each managed stock or assemblage of stocks, they shall recommend an acceptable biological catch (ABC) and overfishing level (OFL) that takes into account scientific uncertainty. The SSC may also comment on the scientific appropriateness and socioeconomic consequences of various alternatives for accountability measures (AMs) to be implemented if annual catch limits (ACLs) are exceeded.

Multi-Year Research Priorities

The SSC shall develop multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall: (a) establish priorities for 5-year periods, and (b) be updated as necessary. The Council may revise the plan and will submit it to the Secretary and the regional science centers of NMFS for their consideration in developing research priorities and budgets for the region of the Council.

Review of FMPs, Amendments, and Framework Procedure Actions

The SSC will advise the Council on the adequacy of scientific information and supporting analyses for proposed management measures and alternatives in FMPs and amendments, including environmental impact statement (EIS) or environmental assessment (EA), regulatory impact review (RIR), and initial regulatory flexibility analysis (IRFA). The SSC will also provide a determination of whether these are based on the best scientific information available, and may provide advice as to the effectiveness of the measures in achieving the objectives of the FMP or amendment. The emphasis of the SSC will be upon evaluating scientific data and logic on which the management measures are based rather than selecting management measures. They

will assess the appropriateness of the problem statements and adequacy of the objectives in solving the problems and may suggest additional or revised problems, objectives, and management measures and may indicate which of the measures are most effective in achieving the objectives.

The SSC will also advise the Council on the adequacy of scientific information and supporting analyses in the stock assessment update, whether these are based on the best scientific information available, related scientific documents, and the content of the stock assessment reports. This advice from the SSC will be the basis for the Council to set annual catch limits (ACL), and accountability measures (AM) in the stock assessment. The Council may also set annual catch targets below ACL to further account for uncertainty.

2.5.2 Members and Chair

Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials, and experience.

Members and officers of the SSC shall be appointed for a period of three years without term limits and may be reappointed at the pleasure of the Council. Membership on an SSC is determined by the Council during a closed session of its Council meetings and is based on the application provided by the applicant as well as the Council members' knowledge of the applicant. Consideration for appointment may include the appropriate interest, experience, and past performance as well as other factors such as a record of fishery violations. SSC members serve at the pleasure of the Council and may be removed at any time without cause. Appointment of new members may be made during any Council session.

Each member of the SSC shall be treated as an affected individual for purposes of financial interest disclosure and recusal provisions for SSC members as specified in the Act. Statements of Financial Interest (SOFI) disclosures for SSC members will be reviewed annually by the Council prior to appointment, and when updated by an SSC member reporting any substantial changes in financial interest. Statement of Financial Interest disclosures will be kept on file by the Regional Administrator.

A Chair and Vice Chair for the Standing SSC shall be elected by its members or may be designated by the Council at its discretion from the membership of the Standing SSC. The Chair or Vice Chair shall preside when the SSC is convened and will be responsible for summarizing committee consensus when advice is requested by the Council.

2.5.3 Administrative Provisions

The SSC Chair or their designee will, at the request of the Council Chair, attend the Council meeting to report on the SSC recommendations and rationale. (The SSC should attend and meet with the Council to the extent practicable.)

The procedural guidelines of Section 302(i)(2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, advisory panels (APs), and SSCs. The Council's SSCs will meet with the approval of the Executive Director.

2.5.4 Subcommittees/Working Groups

The Council may form subcommittees of the SSC or working groups that include SSC participation, as needed, to provide recommendations for management consistent with the Act and other applicable federal laws and regulations.

The Council has formed the Southeast Data Assessment and Review (SEDAR) Technical Committee to provide a pool of expertise in addition to the membership of the SSC and APs. These panels may also be called upon to review other relevant information and provide recommendations to the SSC or Council, as requested.

2.6 Advisory Panels (APs)/Fishing Industry Advisory Committees (FIACs)

The Council has established APs, which serve as fishing industry advisory committees, and will form such panels as it deems necessary or appropriate to assist in carrying out assigned functions under the law. An AP shall normally be established for each fishery management unit identified by the Council.

2.6.1 Objectives and Duties

For each FMP or amendment under consideration, the APs provide advice concerning the recommended optimum yield (OY), the management measures and allocations under consideration, the supporting documentation to any regulatory action, management objectives, and any other advice the APs deem appropriate or as required by the Council.

2.6.2 Members and Chair

The APs shall generally be composed of members who are residents of the five state geographical area. Each AP shall be selected so as to provide for geographical, commercial, recreational, marketing, or other interests in accordance with functions and purposes of the panel with such membership established in a manner that provides fair representation to commercial and recreational fishing interests. Membership on an AP is determined by the Council during a closed session of its Council meetings and is based on the application provided by the applicant as well as the Council members' knowledge of the applicant. Consideration for appointment may include the appropriate interest, experience, and past performance as well as other factors such as a record of fishery violations. AP members serve at the pleasure of the Council and may be removed at any time without cause. No person may serve on more than two APs at any one time, however, service on any Ad Hoc or Special AP, as designated by the Council, will not be counted in the limitation to serving on more than two APs at the same time. Each AP shall be limited to a membership of ~~1820~~ persons unless otherwise specified by the Council. Only federal and state members of the Law Enforcement AP, as designated by the Council, may have designees represent them at meetings.

A Chair and Vice Chair for each AP shall be elected by members of the AP or may be designated by the Council at its discretion. The Chair or Vice Chair shall preside at each AP meeting. The Council may designate one or more members to meet with each AP.

Members and officers of the APs shall be appointed by the Council for a period of three years without term limits and may be removed or reappointed at the pleasure of the Council.

Appointment of new members may be made during any Council session.

The presence of a fishing violation is an important aspect in consideration of an AP appointment. The Council has determined: 1) Applicable fishing violations include only violations of federally managed species in either State or Federal waters; 2) Individuals are ineligible to serve on an AP within three years of the time that the violation was adjudicated; and, 3) Vessel owners shall not automatically be held responsible for violations by a crew member when the owner is not present.

2.6.3 Administrative Provisions

The procedural guidelines of Section 302(I) (2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, APs, and SSCs. The Council's APs will meet with the approval of the Council Chair.

2.7 Committees

Members and officers of the committees are appointed by the Council from nominations by the Council Chair.

Committees will report to the Council and the convened Council will take action on the committee recommendations. No action of any committee is final without the approval of the Council, except as provided for under 2.7.4.d.

While certain Council members are nonvoting members of the Council, they may vote when participating as members of a standing committee in making non-binding recommendations to the Council.

The Council Chair may designate one or more members to meet with the SSC as needed.

The Council Chair may appoint such ad hoc or special committees, with concurrence of the Council, as are needed to conduct the orderly business of the Council. Such ad hoc committees cease to exist after having completed the business assigned to them.

2.7.1 Council Appointments to Outside Committees

The Chair, with Council approval, shall appoint members as needed to the following committees:

- International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee

- Southeast Data, Assessment, and Review (SEDAR) Workshop Panelists (In conjunction with the Executive Director)
- National Marine Fisheries Service (NMFS) Highly Migratory Species (HMS) Advisory Panel
- Southeast Aquatic Resources Partnership (SARP)
- Coral Reef Task Force (Working Committees)
- Artificial Reef Subcommittee of the Technical Coordinating Committee (TCC)

The Chair, with Council approval, shall also appoint members to other committees or advisory groups as necessary and add the names to this list.

2.7.2 Standing Committees

The following listed committees, and other committees which the Council may appoint, are considered the standing committees of the Council:

Administrative Committees:

Administrative Policy ~~& Budget~~ ~~Committee~~
 Artificial Reef ~~Committee~~
~~Budget/Personnel~~ ~~Committee~~
 Data Collection ~~Committee~~
 Gulf SEDAR
 Habitat Protection ~~Committee~~
 Law Enforcement ~~Committee~~
 Outreach and Education ~~Committee~~
Personnel

Fishery Management Committees:

Coastal Migratory Pelagics (Mackerel)
 Coral
 Marine Reserves
 Migratory Species (Billfish, Swordfish, Shark, Tuna)
 Red Drum
 Reef Fish
 Shrimp
 Spiny Lobster
 Sustainable Fisheries/Ecosystem
 Other Management Committees Approved by the Council

2.7.3 Committee Composition

Lists of committee members are available on the Council website and from the Council office.

2.7.4 Committee Functions

(a) Administrative Policy & Budget:

~~Functions of the~~The Administrative Policy & Budget Committee, with assistance from- the Executive Director and Administrative Officer, are to addressdevelops administrative and fiscal policy matters and provides oversight regarding ~~revision and amendments to~~ the annual and 5-year budgets, the Council's Statement of Organization, Practices and Procedures (SOPPs), the Administrative Handbook, amendments to the Magnuson-Stevens Act and other matters relevant to Council policies and operational procedures.

(b) Artificial Reef:

The Artificial Reef Committee develops general and site specific guidelines for the Council in reviewing placement of artificial reefs. The Committee reviews such projects and makes recommendations to the Council for comment to federal and state regulatory agencies. Projects are reviewed to minimize adverse effects on trawling fisheries, insure against adverse impacts on adjacent natural fishery habitat, and optimize use of available artificial reef material and sites.

~~(c) — Budget/Personnel:~~

~~The Budget/Personnel Committee, with the assistance of the Executive Director and Administrative Officer, develops budget and fiscal policy, prepares the Council budget, monitors budget and fiscal activities, and, as appropriate, makes recommendations to the Council. With the assistance of the Executive Director, the Committee develops personnel policy and other appropriate personnel matters.~~

~~(d)~~ Habitat Protection:

The Habitat Protection Committee (HPC) assures in each fishery management plan that habitat significant to the fishery is adequately defined and that recommendations are included in the plan for changes in habitat policies of responsible agencies. The Committee may make recommendations concerning any activity undertaken, or proposed to be undertaken, by any state or federal agency that may affect the habitat of a fishery resource under its jurisdiction, and shall make recommendations concerning any such activity that is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction. The Committee also monitors activities throughout the geographical area of the Council to determine if any such activity has significant impacts on essential fish habitat (EFH) or on a fishery which is subject to management under a plan, and recommends comment to the Council when deemed appropriate.

If time or meeting constraints do not allow the Council to develop a letter of comments on a project, the HPC shall develop comments by meeting or conference call meeting. If time constraints would not allow such a meeting, the staff, in consultation with the HPC Chair, Council Chair, and Executive Director, will develop a draft letter of Council comments and provide copies to the HPC and all Council members for review. The final letter that states the committee is acting on behalf of the Council will be signed by the Council Chair and

communicated to the appropriate agency, with copies concurrently provided to Council members, NMFS, and appropriate Habitat AP(s).

(ed) Data Collection:

The Data Collection Committee reviews and advises the Council on the data requirements for managing each fishery, the statistical methodology needed, and on all issues related to data and data collection.

(fe) Gulf SEDAR

The Gulf SEDAR Committee is comprised of the Council Chair and the Coastal Migratory Pelagics, Red Drum and Reef Fish Management Committee Chairs. This committee reviews and advises on SEDAR stock assessment priorities.

(gf) Law Enforcement:

The Law Enforcement Committee reviews, monitors, and makes recommendations on law enforcement requirements of plans and regulations. It also reviews the policy recommendations of the Law Enforcement AP and other law enforcement issues.

(hg) Outreach and Education:

To help further the Council communications goal by aiding in the long-term planning of communications projects, which includes outreach and education, and setting the strategic direction, priorities, and focus of the communication efforts undertaken by the Council.

(ih) Fishery Management:

Each fishery management committee provides liaison and reviews results of the appropriate APs between the respective fisheries AP, SSC, and the Council; assists panels in assigned tasks; monitors work of each panel; and monitors work of the contractors and staff in the development and drafting of fishery management plans.

(i) Personnel:

The Personnel Committee, with the assistance of the Executive Director, develops personnel policy and assists with other personnel matters.

3.0 Council Meetings

The Council will meet at the call of the Council Chair or upon request of a majority of its voting members. Meetings will ordinarily be held in plenary sessions, but may be in subgroups or in individual sessions.

The presiding officer at any Council meeting will be the Council Chair, Council Vice Chair, or in their absences, a member of the Council elected by the voting members present to serve as temporary Chair.

All participants are to keep electronic devices on silent or vibrating mode during Council meetings.

The procedural guidelines of Section 302(i)(2) of the Act (as amended) shall apply to the conduct of business at the meetings of the Council, APs, and SSCs.

3.1 Notice – Regular and Emergency Meetings

Timely public notice of each regular and each emergency meeting of the Council, SSC and AP, including time, place, and agenda of the meeting, shall be published in the Federal Register, and appropriate news media notice given to local newspapers in the major fishing ports of the Council region (and in other major fishing ports having a direct interest in the affected fishery). Such notice may be given by other means which will result in wide publicity. Notice of each emergency meeting must be promptly announced through the appropriate news media. If notice of an emergency meeting is not published prior to the meeting, it should be published in the Federal Register as soon as possible after the meeting, including notification of NMFS (*50 CFR § 600.135.*)

Requests for disability-related accommodations should be processed in accordance with DAO 215-10.

3.1.1 Agendas

A suggested agenda will be prepared for each Council meeting by the Executive Director with the approval of the Council Chair. Agenda items may be recommended to the Executive Director by other Council members and by staff members. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under Section 305(c), in which case public notice shall be given immediately.

3.2 Conduct of Meetings

3.2.1 Written Statement and Oral Testimony

Meetings will be conducted in a manner to permit the greatest possible participation by all Council members and the public. As per MSA Section 302(i)(2)(D), “Interested persons shall be permitted to present oral or written statements regarding matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.” The Council follows this policy at all of its publicly noticed meetings, including those of its advisory committees.

Oral or written communications provided to the Council, its members, or its staff that relate to matters within the Council's purview are public in nature. All written comments will be posted on the Council's website for viewing by Council members and the public. Knowingly and willfully submitting false information to the Council is a violation of Federal Law (MSA § 307(1)(I)).

Materials submitted to Council members or staff for distribution prior to or during a Council meeting will be treated as all other written comments and will be posted to the website and will be maintained by the Council as part of the permanent record.

3.2.2 Quorum and Roll Call Voting

A majority of voting members constitutes a quorum (*MSA § 302(e)(1)*).

Decisions of the Council are by majority vote of the voting members present and voting (except for proposed removal of Council members which requires an affirmative vote by two-thirds of the members). An abstention does not affect the unanimity of a vote.

A roll call vote will be held on any motion before the Council at the request of any voting member. Votes for the approval of management plans or plan amendments and other roll call votes are recorded by name of Council member and how they voted. A vote may not be taken until the motion before the Council is recorded in written form visible to each Council member and the public present in the meeting room.

Decisions by consensus are permitted except where the issue is Council approval of a/an:

- (a) FMP;
- (b) Amendment to a FMP;
- (c) Proposed regulation;
- (d) Secretarial FMP or amendment; and
- (e) Council finding that an emergency exists involving any fishery.

3.2.3 Approval or Amendment of Fishery Management Plan and Finding of Fishery Emergency

A vote is required for Council approval or amendment of a fishery management plan (including any proposed regulations), a Council finding that an emergency exists involving any fishery, or Council comments to the Secretary on fishery management plans developed by the Secretary. A final vote may not be taken until the motion before the Council is recorded in written form, visible to each Council member present and the public. The written motion, as voted on, must be preserved as part of the record or minutes of the meeting. For a vote on a Council finding that an emergency exists in a fishery, the exact number of votes (for, against, and abstaining) must be preserved as part of the record of the meeting.

3.2.4 Procedure for Proposed Regulations

The Council shall prepare any proposed regulations which it deems necessary to carry out any FMP or any amendment to an FMP, which is prepared by it. Such proposed regulations shall be

submitted to the Secretary together with such plan or amendment, for action by the Secretary pursuant to Sections 304 and 305 of the Act. The Council delegates the authority to the Chair of the Council to review any editorial changes to the regulations between now and the time they are submitted to the Secretary and deem those changes as necessary and appropriate.

3.2.5 Parliamentary Procedure; Consensus

Meetings will generally be conducted in accordance with Roberts Rules of Order, Newly Revised unless otherwise specified in the SOPPs.

3.2.6 Dissenting Votes; Minority Written Statement

Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal state officials raising federalism issues, may submit a written statement (minority report) of their reasons for dissent. If any Council member elects to file a minority report, it should be submitted to NMFS at the same time as that of the majority.

3.2.7 Consideration of Information from Interested Parties

Interested persons shall be permitted to present oral or written statements regarding matters on the agenda at all publicly noticed meetings of the Council or any of its advisory bodies. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral, written, or email statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.

It is the policy of the Council to afford interested parties an opportunity to review and respond to new data or other information which may be used by the Council as a basis for its management decisions. For purposes of this policy, this new information includes the technical data and analyses developed and compiled in printed, unpublished form by NMFS, state agencies or universities, Council staff, or other entities associated with the Council, which has not previously been distributed to the public, and which is used in the decision-making process. The Council will, through its news releases, notify the public of the availability of new information. Examples of such new information include, but are not to be limited to, stock assessments, scientific assessment group reports, and staff analyses of alternative management strategies. Copies of such documents will be distributed, as soon as available, to Sea Grant extension agents and affected fishery associations for distribution to the public. Members of the public may, by contacting the Council Executive Director, be included on a mailing list to receive such documents for a specific fishery.

Under circumstances beyond the Council's control, new information developed by NMFS, state agencies or universities, Council staff, or other entities associated with the Council may not be available in time for distribution before the Council meeting, and may be presented to the appropriate management committee at the meeting where final action is to be taken. In this situation, the public shall be advised at the earliest possible time to attend the committee session to receive this information. In addition, the relevant committee session shall be scheduled at the earliest available time during the committee meetings. The Council's consideration and final

action on that item shall be scheduled as late as possible on the Council agenda in order to allow the maximum time for review and response by all interested parties.

It is also the policy of the Council to consider, and to allow other interested members of the public to consider, new information prepared and offered by interested members of the public before it takes final action, if this new information is provided to the Council as specified herein. For purposes of this policy, this new information consists of data and analyses developed by or for that person which has not been submitted previously to the Council.

Responses to the new information by interested members of the public may be through testimony at public hearings or at the Council session where final action will be taken, or by submitting written statements at the public hearings or to the Council office. Summaries of oral testimony from hearings and the written statements, if received in the Council office at least seven days before the first day of the Council meeting, will be posted on the Council's web site.

New information prepared by the public may be provided to the Council in the same manner as responses to any other new information. However, members of the public are encouraged to provide their new information either by submitting documents at a public hearing or by mail to the Council office at least fourteen days in advance of the Council meeting so that it can be included in the briefing book. New information submitted by NMFS, state agencies or universities, Council staff, or other entities associated with the Council at least fourteen days in advance of the Council meeting will also be included in the briefing book. This assures that the appropriate committee and Council members will have an opportunity to read the new information. New information received in the Council office between five and fourteen days before the meeting will be duplicated by staff and handed out at the meeting.

Members of the public should bring at least 40 copies of any new information, not previously submitted, to the meeting to be passed out to Council members and members of the public at or before the time testimony before the Council is scheduled on the agenda item to which the new information relates. However, such persons should be aware that under the Council's policy on public testimony the Council Chair may limit the time allowed for each presentation consistent with the total time available and the number of persons registered to testify.

If a resource problem warrants consideration of emergency action or the most expedient action possible, then the Council's distribution of new information under the policy shall be consistent with the urgency of the action. New information will not, however, be accepted after the close of public testimony.

3.3 Council and Committee Meeting Records

Detailed minutes, except for any closed session, will be kept of each meeting. The minutes, records and other documents which were made available to or prepared for or by the Council, a committee, or panel incident to the meeting shall be available on the Council's web site or for public inspection and copying at the office of the Council, except for minutes and records of closed sessions. Such available minutes and records will be on the Council website (50 CFR § 600.150(b)) and, upon request, distributed to the public.

Minutes include a record of persons present and their organizational affiliations when available; a complete and accurate description of matters discussed and conclusions reached; and certification of accuracy by the Chairperson of the Council, SSC, or AP as appropriate.

3.4 Closed Meetings

The Council shall close its meeting, or portion thereof, and the meetings, or portion thereof, of the SSCs or APs which concern matters or information that bears a national security classification and may close such meetings, or portion thereof, that concerns matters, or information pertaining to national security, employment (personnel) matters including appointment of members of scientific or fishery advisory groups, briefings on litigation, the public decorum, or medical condition of members of the Council or members of the advisory groups, taking into consideration the privacy interests of individuals that will be discussed. Actions that affect the public, although based on discussions in closed meetings, must be taken in public. Notice of such closed meeting, or portion thereof, shall be provided for as per MSA Section 302(i)(3)(A) & (B) and 50 CFR § 600.135, except that any brief closure of a portion of a meeting may be held, not to exceed 2 hours, with the concurrence of the NOAA General Counsel, without such notice to discuss employment (personnel) matters or other internal administrative matters.

3.5 Frequency and Duration

The Council will meet in plenary session at least four times per calendar year. The duration of each meeting will vary according to need.

3.6 Location

The Council meetings will ordinarily be held within the five state geographical area. However, if the Council determines that the best interests of the work of the Council, its committees, advisory groups or panels, in joint management actions with other Councils, will be better served, meetings may be held outside of the five state area, particularly in any of the constituent states affected by a joint management plan. Public access will be given primary consideration in meeting plans. The Council Chair with input from staff will select the meeting sites for the Council with the understanding that members are given adequate advance notice.

3.7 Public Hearings/Scoping Meetings

3.7.1 Public Participation/Location

The Council shall conduct public hearings at appropriate times and in appropriate geographic locations as determined by the Council so as to allow all interested persons an opportunity to be heard in the development of FMPs and amendments thereto, and to receive input with regard to other matters of concern to the Council with respect to its mission and the administration and implementation of the provisions of the Act. Interested parties may appear in person and/or submit comments in electronic or written form to the Council.

3.7.2 Hearing Notices

Hearing notices will be prepared and issued in the same manner as meeting notices. In addition, local media will be used to publicize meetings so as to maximize public awareness.

3.7.3 Council Hearing Officers

When it is determined by the Council that a hearing is appropriate, the Council Chair will designate at least one member of the Council to officiate. The designated official in charge will provide for maximum participation and expression of viewpoints by all those present. All meetings will be conducted in an orderly and professional manner.

3.7.4 Records of Participants/Views

Records of the participants and their views, whether orally or written, will be made available to the Council and retained as official Council records.

3.8 Council Member Compensation

Council members whose eligibility for compensation has been established in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Act) and NOAA guidelines will be paid on a contract basis without deductions being made for Social Security or federal and state income taxes. The level of compensation for authorized Council members shall be as established in accordance with Section 302(d) of the Act and the Federal rule (50 CFR § 600.245).

Compensation will be paid to eligible Council members for time spent in the performance of official duties for the Council and as authorized by the Council or the Council Chair. Payment will be made for a full day's pay whether the duties performed are in excess of or less than eight hours a day for physical attendance at authorized meetings. Payment for authorized participation in conference calls, webinars, or any other electronic meeting that does not require the member to be physically present to participate will be paid at the half-day rate if the electronic meeting is less than four hours. Payment for participation in an electronic meeting that has a duration of four hours or more will be paid at the full day's pay rate. The time is compensable where the individual member is required to expend a significant private effort which substantially disrupts the daily routine to the extent that a work day is lost to the member. "Homework" time in preparation for formal Council meetings is not compensable. Non-government Council members receive compensation for:

- A. Days spent in actual attendance at a meeting of the Council or jointly with another Council.
- B. Travel on the day preceding or following a scheduled meeting that precluded the member from conducting their normal business on the day in question.
- C. Meetings of standing committees of the Council if approved in advance by the Chair.

- D. Individual member meeting with scientific and technical advisors when approved in advance by the Chair and a substantial portion of any day is needed.
- E. Conducting or attending hearings when authorized in advance by the Chair.
- F. Other meetings involving Council business when approved in advance by the Chair.

3.9 Stipends

Subject to the availability of appropriations, the Secretary of Commerce will pay a stipend per meeting day attended to members of the SSC who are not state marine fisheries employees or federal employees. Payment will be made for a full day's pay whether the duties performed are in excess of or less than eight hours a day for physical attendance at authorized meetings. Payment for authorized participation in conference calls, webinars, or any other electronic meeting that does not require the member to be physically present to participate will be paid at the half-day rate if the electronic meeting is less than four hours. Payment for participation in an electronic meeting that has a duration of four hours or more will be paid at the full day's pay rate. Stipends will be paid to eligible members for attendance at meetings of the SSC, SEDAR, and other meetings to represent the Council SSC, and to give presentations to the Council on behalf of the SSC.

4.0 Employment Practices

4.1 Staffing

Subject to the Council's practices and procedures and according to personnel authority provided by the Secretary, the Council may establish positions, recruit, hire, compensate, and dismiss staff deemed necessary to carrying out the decisions and desires of the Council. Each position must be justified during the budget process described in 2 CFR § 215, or prior to filling a new position established during the course of the cooperative agreement year. The Council Executive Director has the responsibility to prepare lists of eligible candidates, as appropriate, for each position. The Council has authorized the Executive Director to recruit, hire, compensate, and dismiss all permanent, probationary, and temporary personnel. In the absence of the Executive Director, routine daily activities will be handled by the Deputy Executive Director, and in the absence of both the Executive Director and the Deputy Executive Director, routine daily activities will be handled by the Administrative Officer. The Council, when it deems appropriate and after notification to NOAA Office of General Counsel, may employ on a temporary basis a legal counsel to advise it on matters of importance to the Council consistent with 50 CFR § 600.120.

A file for each employee containing appointment information, security information, biographical data and other official documentation will be maintained by the ~~Executive Director~~ Administrative Officer under security and safeguard conditions required of files subject to the Privacy Act. Except as otherwise provided for by law, each employee may have access to their individual file; but files are otherwise available to others only pursuant to the Privacy Act and Freedom of Information Act in consultation with NOAA legal counsel.

Staff Functions

Staff positions and functions are listed in Appendix A of the Council's Administrative Handbook. Other positions may be authorized as deemed necessary by the Council. Experts, consultants, and temporary personnel may be employed to provide additional Council staff support as required. Position descriptions for the Executive Director and for each staff member are available at the Council Headquarters in Tampa, Florida.

4.2 Experts and Consultants

Experts, consultants, and temporary personnel may be employed to provide additional Council staff support as required.

4.3 Detail of Government Employees

Authority is provided for the temporary transfer of state, local, and federal government employees to the Council staff. The Council may authorize requests for such personnel.

4.4 Personnel Actions

Dismissal for permanent employees will be made for misconduct, unsatisfactory performance, and/or lack of funds. Dismissal for probationary employees may be for any cause. In the event of dismissal for lack of funds, a reasonable notice will be given to the permanent employee. New employees shall be subject to a probationary period of a minimum of six months, which may be extended up to 12 (twelve) months, during which the individual's fitness for continued employment shall be evaluated. Annual pay rates for staff positions shall be based on 5 U.S.C. § 5332.

4.5 Salary and Wages

In setting rates of pay for Council staff, the principle of equal pay for equal work shall be followed. Variations in basic rates of pay shall be in proportion to substantial differences in the difficulty and responsibilities of the work performed.

4.6 Council Member and Staff Legal Protections

In conducting official Council business, Council members and staff generally have the same protection from individual tort liability as Federal employees on official actions, and are protected by the Federal workmen's compensation statute, by the minimum wage/maximum hour provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (FLSA), and by the rights of access and confidentiality provisions of the Privacy Act. Council staff is also eligible for unemployment compensation in the same manner as Federal employees. Overtime payments shall be made in accordance with the provisions of the FLSA.

4.7 Recruitment and Anti-Discrimination Policy

All activities supported in whole or in part by federal funds shall be operated under a policy of equal employment opportunity. Council staff positions shall be filled solely on the basis of merit, fitness for duty, competence, and qualifications. The Council is an Equal Employment Opportunity Employer. All employment actions will be free from discrimination based on race, religion, color, national origin, sex, age, disability, sexual orientation, status as a parent, and reprisal. See 50 CFR § 600.120.

Except for complaints alleging discrimination based on sexual orientation and status as a parent, complaints by employees alleging discrimination on any basis listed above will be processed in accordance with 29 CFR § 1614. Employees alleging discrimination on the basis of sexual orientation and status as a parent will have their complaints processed in accordance with Department Administrative Order (DAO) 215-11. Employees must contact an EEO Counselor at NOAA's Office of Civil Rights, 301-713-050 or 800-452-6728 (voice), 301-713-0982 TDD, within 45 days of the date of the alleged discrimination.

4.8 General Harassment Policy

The Council has a zero-tolerance policy for harassment on the basis of race, religion, color, national origin, sex, age, disability, sexual orientation, and reprisal. Any employee who believes he or she has been harassed or believes he or she has witnessed harassment is encouraged to report the harassment to a supervisor or manager. The supervisor or manager should then follow the steps set forth in DAO 202-955. Any complaints of harassment on the basis of sexual orientation should be handled in accordance with DAO 215-11. The provisions of these DAOs are entirely separate from the EEO complaint process, and must be followed whether or not an employee has filed an EEO complaint. The Council's Harassment Policy is intended to ensure that staff members work in an environment free of harassment in all their interactions, including interactions with Council members, other staff members, and the public during the course of official Council meetings, advisory body meetings, or committee meetings.

4.9 Whistleblower Protection

It is the intent of the Council to adhere to all applicable laws and regulations. The underlying purpose of this Employee Protection Policy is to encourage the organization's goal of full legal compliance. The support of all employees is necessary to achieving this result. To this end, any employee who reasonably believes that a policy, practice, or activity of the Council is in violation of law has a right to file a complaint with the U.S. Department of Commerce's Office of Inspector General. This right notwithstanding, any employee with such concerns is encouraged to report those concerns to the Council for review and any necessary correction.

The Council will not retaliate against employees who disclose or threaten to disclose to the Department, any activity, policy, or practice of the Council that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate of public policy concerning the health, safety, welfare, or protection of the environment.

4.10 Leave

Employment practices follows *50 CFR 600.120*. Details of all of the Council's leave policies are located in the Administrative Handbook. A copy can be obtained by calling the Council office or accessed on the web at:

<http://www.gulfcouncil.org/Beta/GMFMWeb/downloads/Administrative%20Handbook.pdf>

4.10.1 Leave Accounting

One account shall be maintained to pay for unused sick or annual leave as authorized, and will be funded from the Council's annual operating allowances. Funds may be deposited into this account at the end of the budget period if unobligated balances remain. Interest earned on this account will be maintained in the account, along with the principal, for the purpose of payment of unused annual and sick leave only. This account, including interest, may be carried over from year to year. Budgeting for accrued leave will be identified in the "Other" object class categories section of the SF-424A.

4.10.2 Annual Leave

Full-time staff members earn annual leave of 13 to 26 days per year, prorated per biweekly pay periods, based upon the collective number of years of creditable service with the Council. Annual leave is accrued incrementally based on a corresponding number of hours per pay period and is granted as follows:

<u>Years of Service</u>	<u>Working Days of Leave per Year (Hours per Pay-Period)</u>	
Under 3	13 days	(4 hours)
3 to 15	20 days	(6 hours)
15 and over	26 days	(8 hours)

4.10.3 Sick Leave

Council full-time employees are granted 13 days of paid sick leave annually, prorated per biweekly pay period. Sick leave accrues and is available immediately upon hiring. Sick leave accrual is cumulative throughout an employee's tenure with the Council.

4.10.4 Advanced Leave

An advance of sick leave of no more than six weeks may be granted to an employee upon approval by the Executive Director only after the employee has exhausted all sick, annual, and compensatory leave, and the employee has not received sufficient leave donations to cover a medical need. Advanced sick leave shall be repaid using sick, annual, and/or compensatory leave as it is accrued. If the employee is still unable to return to work after this extended leave period, the employee may be granted extended leave without pay or terminated, except in the event of a qualified Family and Medical Leave Act situation. A signed promise of repayment must be executed prior to receiving advanced sick leave.

4.10.5 Family Medical Leave Act of 1993

The FMLA requires employers to provide up to 12 weeks of unpaid, job-protected leave during a 12-month period to eligible employees for certain family and medical reasons. Care for a covered service member may be up to 26 weeks under FMLA. The FMLA also permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances. ~~provided both the employer and employee agree.~~ The Council maintains a notice that summarizes FMLA provisions on its information bulletin board in a public work area. Employees should review the FMLA notice or consult with the Administrative Officer for further details. More information on the Council's FMLA policy can be found in the Council's Administrative Handbook and s-Specific details are available from the United States Department of Labor can also be accessed via the web at [http:// \(www.dol.gov\)](http://www.dol.gov).

4.10.6 Holidays

The Council generally recognizes holidays as observed for federal employees and employees are granted the day off with pay as shown in the following:

- New Year's Day, January 1
- Martin Luther King's Birthday, Third Monday in January
- President's Day, Third Monday in February
- Memorial Day, Last Monday in May
- Independence Day, July 4
- Labor Day, First Monday in September
- Columbus Day, Second Monday in October
- Veterans' Day, November 11
- Thanksgiving, Fourth Thursday and Friday in November
- Christmas Day, December 25
- Other national holidays and related leave granted to federal employees

4.11 Employee Benefits

The Council provides medical insurance for full-time permanent employees and their families. The Council may also provide life insurance, disability, dental, and a retirement program for all full-time probationary/permanent employees within the budget limitations authorized by the Council.

4.12 Travel Reimbursement for Non-Federal Travelers

All travel must be authorized and approved in advance by the Executive Director, the Council Chair, Vice Chair, or by Council vote.

Travel performed by Council members, staff or others for the Council is classified into special travel requiring Council Chair or Vice Chair approval or routine travel requiring approval by the Executive Director. Special travel includes approval of Council members to attend any meeting

that is not a meeting of the Council, or other Council committee meeting. Routine travel in support of Council business includes the approval of staff, SSC members, AP members, and consultants.

Meeting authorizations will be issued prior to the performance of travel. These will be numbered sequentially and maintained in a file pending payment of the travel vouchers. Travel authorization documents are issued by the Executive Director with delegated authority for approval to the Travel Coordinator.

Completed travel vouchers will be audited for conformance to current policies and compliance with existing travel allowances. Vouchers will be certified for payment by the Administrative Officer or the Executive Director. Travel policies are specified in the Council's Administrative Handbook.

The Council generally observes the General Service Administration (GSA) reimbursement rates for mileage, commercial transportation, and per diem rates for lodging and meals, and incidental expenses (M&IE) as the per se accounting of actual expenses; additional information may be found in 41 CFR § 301 and will be provided by the Council office upon request. M&IE and lodging will be reimbursed in accordance with GSA's current M&IE and lodging rates unless prior approval is granted by the ~~Executive Director~~ Council Chair or Vice Chair for reimbursement amounts that exceed GSA limits.

4.13 Foreign Travel

Foreign travel includes travel outside Canada, Mexico, the United States, and any United States territories and possessions. All foreign travel must be approved in advance by the National Ocean and Atmospheric Administration. The Council shall comply with the Fly America Act (<http://www.gsa.gov/portal/content/103191>).

4.14 Training

Council members appointed after January 12, 2007, shall complete a NMFS training course that will cover a variety of topics relevant to matters before the Council. Such training shall be available as well to existing Council members, staff from regional offices, and regional science centers of NMFS, and may be made available to committee or advisory panel members as resources allow.

4.15 Invitational Travel

The Executive Director of the Gulf of Mexico Regional Fishery Management Council may accept in-kind and/or actual invitational funds for Council staff travel, only after (1) notifying the NMFS Regional Administrator of the origin and purpose of such funding, and (2) directing such gifts to the Administrator. 50 CFR § 600.125(c).

5.0 Standards of Conduct

5.1 Federal Criminal Statutes

Applicable Statutes:

Council members, as Federal officeholders, and Council employees are subject to most Federal criminal statutes covering bribery, conflict-of-interest, disclosure of confidential information, and lobbying with appropriated funds. Among other statutes, the following provisions apply:

- A. 18 U.S.C. § 201 - prohibits offer or acceptance of anything of value to influence any official act;
- B. 18 U.S.C. §§ 203, 205 - prohibits officials from contacting any Federal agency or Federal court on behalf of others concerning a particular matter involving specific parties with the intent to influence Government action if they participated personally and substantially in the matter as a Council member. Furthermore, officials may not receive compensation for the representational activities of others regarding such matters.
- C. 18 U.S.C. § 207 - prohibits a former official permanently from representing others before a Federal agency or Federal court concerning a particular matter involving specific parties in which the official participated personally and substantially as a Federal official or for two years concerning a matter which was under the person's official responsibility during their last year of Government service.
- D. 18 U.S.C. § 208 - prohibits official acts in a matter in which the official has a personal financial interest. This prohibition does not apply to a financial interest of a Council voting member or Executive Director if the official obtains a waiver under 18 U.S.C. § 208(b), or if the disclosure of financial interest in a report has been filed under Section 302(j) of the Act and that individual is in compliance with regulations promulgated under that section.
- E. 18 U.S.C. § 209 - prohibits an official from receiving compensation for performing Federal duties from a source other than the United States Government. This restriction does not apply to an official who has served for 130 days or less in a 365-day period.
- F. 18 U.S.C. §§ 210, 211 - prohibits offer or acceptance of value to procure appointment to public office.
- G. 18 U.S.C. § 1905 - prohibits disclosure of trade secrets or confidential commercial information except as provided by law.
- H. 18 U.S.C. § 1913 - prohibits use of appropriated funds to influence a member of Congress to favor or oppose any legislation or appropriation. However, this prohibition does not apply when responding to a request from a member of Congress or a Congressional Committee. Personal communications of a Council member or employee at their own expense that are identified as such are not prohibited.

5.2 General Standards of Conduct

The Council is responsible for maintaining high standards of ethical conduct. In addition to abiding by the applicable Federal conflict of interest statutes, both members and employees of the Councils must comply with the following standards of conduct:

- A. No employee of the Council shall use their official authority or influence derived from their position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county or municipal election.
- B. No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of their political affiliation.
- C. No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.
- D. No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of their Council duties.
- E. No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with their Council employment which has not been made available to the general public.
- F. No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.
- G. No Council member or employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.
- H. Except as provided in 18 U.S.C. § 208, no Council member may participate:
 - (1) Personally and substantially as a member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter primarily of individual concern, such as a contract, in which he or she has a financial interest; or
 - (2) In any particular matter that is likely to have a direct and predictable effect on a member's financial interest unless that interest is in harvesting, processing, lobbying, advocacy, or marketing activities and has been disclosed in a report filed pursuant to Section 302(j)(5) of the Act.

For purposes of this subsection, the member's financial interest includes that of the member's spouse, minor child, partner, organization in which the member is serving as officer, director, trustee, partner or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment.

- I. Employment of relatives is discouraged and will be approved only on a case-by-case basis at the discretion of the Executive Director provided that such employment does not fall under the line of supervision of an incumbent employee.

5.3 Financial Disclosures

5.3.1 General

The Act and 50 CFR § 600.235 require the disclosure by Council members and members of a Scientific and Statistical Committee of any financial interest of the reporting individual in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery under the jurisdiction of the individual's Council, or of any such financial interest of the reporting individual's spouse, minor child, partner, or any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee. Individuals must update the form at any time a reportable financial interest is acquired or the financial interests are otherwise substantially changed. The information will be kept on file and made available for public inspection at reasonable hours at the Council office, at Council meetings, and on the Council's web site.

5.3.2 Recusal

As provided for in the regulations promulgated under Section 302(j) of the Act, i.e., 50 CFR §§ 600.225 and 600.235, as amended, an affected individual who is required to disclose a financial interest shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph 2 within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

If the Council makes a decision before the Secretary has reviewed a determination under subparagraph 3, the eventual ruling may not be treated as cause for the invalidation of reconsideration by the Secretary of such decision.

An affected individual is prohibited from voting in accordance with 50 CFR § 600.235, which provides for the making of determinations.

Section 208 of Title 18, United States Code, does not apply to an affected individual during any time in which that individual is in compliance with the regulations prescribed under Section 302(j) of the Act.

5.3.3 Security Investigations

Security assurances are issued by the Office of Investigation and Security of the Department of Commerce. Security assurances are required for all Council members and are valid for five years. Other staff and advisory group members may be required to obtain clearances at the Council's discretion. Those who have not been cleared may not participate in meetings, closed for reasons of national security, or have access to any classified information. Council staff should maintain adequate records to determine when to initiate renewal requests as clearances expire and to request initial and renewal security clearances.

6.0 Financial Management

The budget and financial management system of the Gulf of Mexico Fishery Management Council provides procedures for and controls over the elements of: budget formulation and execution, fiscal management, procurement, and property management. The management of this system is the responsibility of the Administrative Officer. The following describe the existing Budget and Financial Management System.

6.1 Governing Statutes

The Council's cooperative agreement activities are governed by 2 CFR § 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 2 CFR § 215 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), 2 CFR § 230 (Cost Principles for Non-Profit Organizations), 48 CFR § 31 (Contract Cost Principles and Procedures), and OMB Circular A-133 (Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations), as applicable, and the terms and conditions of the cooperative agreement. (See 5 CFR § 1310.3 for availability of OMB Circulars.)

6.2 Cooperative Agreements and Contracts

The Council may enter into cooperative agreements with federal agencies, state, and private institutions on matters of mutual interest which further the objectives of the Act. Approval from the Secretary must be obtained prior to entering into such arrangements, and each agreement must specify the nature and extent of Council participation.

6.3 Procurement

The cost and financial management principles outlined in 2 CFR § 200, 2 CFR § 230 and 48 CFR § 31, as applicable, apply to all Council procurement actions.

6.4 Check Signatures

All checks issued will bear two authorizing signatures, these signatures being two of either: the Administrative Officer, the Executive Director, or the Deputy Executive Director. All checks for amounts greater than \$2,000 must be manually signed.

6.5 Property Management

All durable or capitalized equipment will be accounted for by an inventory system. A physical inventory of all property and equipment will be made at least once every two years.

A property number will be assigned to all capitalized equipment and property inventory records maintained on all such equipment.

The Council shall comply with the property management standards as stipulated in the applicable uniform administrative requirements.

6.6 Real Property

The leasing, renting, and acquisition of real property and space will be performed in a manner consistent with 2 CFR § 200 or 2 CFR § 230, as applicable.

6.7 Accounting System

Adherence will be made, as a minimum, to the principles in the accounting system accepted by the Council (a Cash Receipts and Disbursement Journal with a monthly Summary of Accounts).

Fiscal controls will be accomplished through a source document supported cash accounting system capable of providing modified accrued expenditures as needed.

6.8 Audits

An independent audit will be conducted at least biennially by DOC Office of Inspector General auditors or an independent public accountant (IPA). The scope of the audit may include: conduct of financial operations; compliance with applicable laws and regulations; economy and

efficiency of administrative procedures; and achievement of results. The audit will be conducted in accordance with OMB Circular A-133 or 2 CFR §200, as applicable. The following NOAA personnel will be invited to participate in the audit exit conference: the Grants Officer and a representative of the NMFS, Southeast Regional Office (SERO).

6.9 Financial Reporting

The Federal Cash Flow Financial Report will be submitted to the Grants Officer through the Grants Online web site and in accordance with the reporting procedures contained in the terms and conditions of the award and 2 CFR § 215 or 2 CFR § 200, as applicable. A final report will be submitted within 90 days after expiration of the grant.

Semi-annual financial reports are provided to NOAA, as a condition of the grant process and quarterly budget reports are provided to the Council.

7.0 Recordkeeping

Councils, NMFS Headquarters, Regions, and Science Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments within their geographic area of authority. The disposition of such records must be handled in accordance with NAO 205-1, NOAA Records Management Program and DAO 205-1, Department of Commerce Program for Records Management. In the event of litigation, compilation of an administrative record for a court case will be under the direction of NOAA General Counsel.

7.1 Definitions

Records: Documentary items that are made or received by an agency of the United States in connection with the transaction of public business. Agencies are legally required to keep these records as evidence of their actions, and they must be maintained in accordance with your agency's records retention schedule or one of the government's general records retention schedules. They can be in any format (i.e. text documents, photos, computer codes, electronic files, CD-ROMS, disks, USB keys, magnetic tapes).

Non-records: Items made or acquired solely for reference, extra copies of documents kept for reference/personal convenience (even if it's a copy of something that is a record – only the original is the record), notes taken during a meeting which aren't shared with others, drafts.

Personal papers: Materials pertaining solely to your private affairs, for example the telephone bill that you brought in to pay during your lunch break or your personal appointment calendar.

7.2 Availability of Records

In accordance with 50 CFR § 600.150(b), the Council will maintain documents generally available to the public on its Internet site. Documents for posting must include: fishery management plans and their amendments for the fisheries for which the Council is responsible; drafts of fishery management plan amendments under consideration; analysis of actions the Council has under review; minutes or official records of past meetings of the Council and its

committees; materials provided to Council members in preparation for meetings; and other Council documents of interest to the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, the Council will provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents through the mail.

7.3 Administrative Records for Fishery Management Plans

The Council and NMFS Headquarters, Regions and Centers collectively are responsible for maintaining records pertaining to the development of FMPs and amendments. In the event of litigation, compilation of an administrative record for a court case will be under the direction of NOAA General Counsel.

7.4 Disposition of Records

Council records must be handled in accordance with Department of Commerce and NOAA records management office procedures. The Council will abide by the terms of the NOAA Records Management Guide; the NOAA Records Disposition Handbook; and the following records management authorities: NAO 205-1 NOAA Records Management Program; DAO 205-1 Program for Records Management; Federal Records Act of 1950; 44 U.S.C. Chapter 31 Records Management by Agency Heads; 44 U.S.C. Chapter 33 Disposal of Records; and 44 U.S.C. § 101 Federal Management and Promotion of Electronic Government Services

All records and documents created or received by Council employees, while in active duty status, belong to the Federal government. When employees leave the Council, they may not take the original or file copies of records with them. Before any records are disposed of, Council members and employees will coordinate with the NOAA records management office.

7.5 Permanent Records

The designation of a file as “permanent” means that the records are appropriate for offer to the National Archives once the records are 20 years old, unless otherwise specified. Destruction of permanent records is not authorized. Examples of permanent records are Environmental Impact Statements (EIS), Environmental Assessments (EA), annual reports, meeting files that include agendas, minutes, reports, studies, and related correspondence.

7.6 Privacy Act Records

The Council will maintain in its office, under appropriate safeguards in accordance with the Privacy Act (PA), personnel files on employees, experts and consultants under contract, and advisory group members. Maintenance, protection, handling of request for information, and disclosure and disposition of PA records will be provided for in the Secretarial guidelines and regulations.

7.7 Freedom of Information Act (FOIA)

FOIA requests received by the Council should be coordinated promptly with the appropriate NMFS Regional Office. The Region will forward the request to the NMFS FOIA official to secure a FOIA number and log into the FOIA system. The NMFS Regional Office will obtain clearance from the NOAA General Counsel's Office concerning the initial determination for denial of requested information. FOIA requests will be controlled and documented in the Region.

7.8 Confidentiality of Statistics

In accordance with Section 302(i)(4) of the Act and in compliance with 50 CFR §§ 600.130, 600.405, 600.425, and NAO 216-100, the Council may establish policies and procedures applicable to it, its committees, and advisory groups to ensure confidentiality of statistics submitted to the Council by federal or state authorities, and information that may be voluntarily submitted to the Council by private persons, including but not limited to procedures that restrict Council employee access and prevent conflicts of interest. In the case of statistics submitted by a state or federal entity, policies and procedures must be consistent with the laws and regulations of the federal or state entity submitting the statistics.

7.9 Information Quality

The Council agrees to abide by the NOAA Information Quality Guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information which it disseminates. The NOAA guidelines also establish an administrative mechanism allowing affected persons to seek and obtain correction of information that does not comply with Office of Management and Budget or NOAA applicable guidelines.

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114TH CONGRESS
1ST SESSION

H. R. 3094

To amend the Magnuson-Stevens Fishery Conservation and Management Act to transfer to States the authority to manage red snapper fisheries in the Gulf of Mexico.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2015

Mr. GRAVES of Louisiana (for himself, Mr. MILLER of Florida, Mr. RICHMOND, Mr. AUSTIN SCOTT of Georgia, Mr. THOMPSON of Mississippi, Mr. BOUSTANY, Mr. ABRAHAM, Mr. PALAZZO, Mr. WITTMAN, Mr. OLSON, Mr. GENE GREEN of Texas, Mr. WESTMORELAND, Mr. DUNCAN of South Carolina, Mr. BENISHEK, Mr. JODY B. HICE of Georgia, Mr. LONG, Mr. BABIN, Mr. COOK, Mr. WALZ, Mr. LAMALFA, Mr. LATTA, and Mr. CARTER of Georgia) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to transfer to States the authority to manage red snapper fisheries in the Gulf of Mexico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gulf States Red Snap-
5 per Management Authority Act”.

1 **SEC. 2. TRANSFER TO STATES OF MANAGEMENT OF RED**
2 **SNAPPER FISHERIES IN THE GULF OF MEX-**
3 **ICO.**

4 (a) IN GENERAL.—The Magnuson-Stevens Fishery
5 Conservation and Management Act (16 U.S.C. 1801 et
6 seq.) is amended by adding at the end the following:

7 **“TITLE V—TRANSFER TO STATES**
8 **OF MANAGEMENT OF RED**
9 **SNAPPER FISHERIES IN THE**
10 **GULF OF MEXICO**

11 **“SEC. 501. DEFINITIONS.**

12 “In this title:

13 “(1) COASTAL WATERS.—The term ‘coastal
14 waters’ means all waters of the Gulf of Mexico—

15 “(A) shoreward of the baseline from which
16 the territorial sea of the United States is meas-
17 ured; and

18 “(B) seaward from the baseline described
19 in subparagraph (A) to the outer boundary of
20 the exclusive economic zone.

21 “(2) GULF COASTAL STATE.—The term ‘Gulf
22 coastal State’ means each of the following States:

23 “(A) Alabama.

24 “(B) Florida.

25 “(C) Louisiana.

26 “(D) Mississippi.

1 “(E) Texas.

2 “(3) GULF OF MEXICO FISHERY MANAGEMENT
3 COUNCIL.—The term ‘Gulf of Mexico Fishery Man-
4 agement Council’ means the Gulf of Mexico Fishery
5 Management Council established under section
6 302(a).

7 “(4) GULF OF MEXICO RED SNAPPER.—The
8 term ‘Gulf of Mexico red snapper’ means members
9 of stocks or populations of the species *Lutjanus*
10 *campechanus*, which ordinarily are found within the
11 waters of the exclusive economic zone and adjacent
12 territorial waters of the Gulf of Mexico.

13 “(5) GULF STATES RED SNAPPER MANAGE-
14 MENT AUTHORITY.—The term ‘Gulf States Red
15 Snapper Management Authority’ and ‘GSRMSA’,
16 means the Gulf States Red Snapper Management
17 Authority established under section 502(a).

18 “(6) RED SNAPPER FISHERY MANAGEMENT
19 PLAN.—The term ‘red snapper fishery management
20 plan’ means a plan created by one or more Gulf
21 coastal States to manage Gulf of Mexico red snapper
22 in the coastal waters adjacent to such State or
23 States, respectively.

24 “(7) REEF FISH FEDERAL FISHERY MANAGE-
25 MENT PLAN.—The term ‘Reef Fish Federal fishery

1 management plan' means the Fishery Management
2 Plan for the Reef Fish Resources of the Gulf of
3 Mexico, as amended, prepared by the Gulf of Mexico
4 Fishery Management Council pursuant to title III
5 and implemented under part 622 of title 50, Code
6 of Federal Regulations (or similar successor regula-
7 tion).

8 “(8) STATE TERRITORIAL WATERS.—The term
9 ‘State territorial waters’, with respect to a Gulf
10 coastal State, means the waters adjacent to such
11 State seaward to the line three marine leagues sea-
12 ward from the baseline from which of the territorial
13 sea of the United States is measured.

14 **“SEC. 502. MANAGEMENT OF GULF OF MEXICO RED SNAP-**
15 **PER.**

16 “(a) GULF STATES RED SNAPPER MANAGEMENT
17 AUTHORITY.—

18 “(1) REQUIREMENT TO ESTABLISH.—Not later
19 than 60 days after the date of the enactment of this
20 title, the Secretary shall establish a Gulf States Red
21 Snapper Management Authority that consists of the
22 principal fisheries manager of each of the Gulf
23 coastal States.

24 “(2) DUTIES.—The duties of the GSRMSA are
25 as follows:

1 “(A) To review and approve red snapper
2 fishery management plans, as set out in the
3 Act.

4 “(B) To provide standards for each Gulf
5 coastal State to use in developing fishery man-
6 agement measures to sustainably manage Gulf
7 of Mexico red snapper in the coastal waters ad-
8 jacent to such State.

9 “(C) To the maximum extent practicable,
10 make scientific data, stock assessments and
11 other scientific information upon which fishery
12 management plans are based available to the
13 public for inspection prior to meetings described
14 in paragraph (c)(2).

15 “(b) REQUIREMENT FOR PLANS.—

16 “(1) DEADLINE FOR SUBMISSION OF PLANS.—

17 The GSRMSA shall establish a deadline for each
18 Gulf coastal State to submit to the GSRMSA a red
19 snapper fishery management plan for such State.

20 “(2) CONSISTENCY WITH FEDERAL FISHERY
21 MANAGEMENT PLANS.—To the extent practicable,

22 the Gulf Coastal States fishery management plans
23 shall be consistent with the requirements in section
24 303(a) of the Fishery Conservation and Manage-
25 ment Act of 1976 (16 U.S.C. 1853(a)).

1 “(c) REVIEW AND APPROVAL OF PLANS.—

2 “(1) IN GENERAL.—Not later than 1 year after
3 the date of the enactment of this title and not more
4 than 60 days after one or more Gulf coastal States
5 submits a red snapper fishery management plan and
6 annually thereafter, the GRSMA shall review and
7 approve by majority vote the red snapper fishery
8 management plan if such plan meets the require-
9 ments of this title.

10 “(2) PUBLIC PARTICIPATION.—Prior to approv-
11 ing a red snapper fishery management plan sub-
12 mitted by one or more Gulf coastal States, the
13 GRSMA shall provide an adequate opportunity for
14 public participation, including—

15 “(A) at least 1 public hearing held in each
16 respective Gulf coastal State; and

17 “(B) procedures for submitting written
18 comments to GRSMA on the fishery manage-
19 ment plan.

20 “(3) PLAN REQUIREMENTS.—A red snapper
21 fishery management plan submitted by one or more
22 Gulf coastal States shall—

23 “(A) contain standards and procedures for
24 the long-term sustainability of Gulf of Mexico
25 red snapper based on the best available science;

1 “(B) comply with the standards described
2 in subsection (a)(2)(B); and

3 “(C) determine quotas for the red snapper
4 fishery in the coastal waters adjacent to such
5 Gulf coastal State or States, respectively, based
6 on stock assessments, and—

7 “(i) any recommendation by the
8 GSRMSA to reduce quota apportioned to
9 the commercial sector by more than 10
10 percent shall be reviewed and approved by
11 the Gulf of Mexico Fishery Management
12 Council;

13 “(ii) during the 3-year period begin-
14 ning on the date of enactment of this title
15 and consistent with subsection (d), the
16 GSRMSA shall not determine a quota ap-
17 portioned to the commercial sector; and

18 “(iii) nothing in this Act shall be con-
19 strued to change the individual quota
20 shares currently in place in the commercial
21 sector of the Gulf of Mexico red snapper
22 fishery.

23 “(4) REVIEW AND APPROVAL.—Not later than
24 60 days after the date the GSRMSA receives a red
25 snapper fishery management plan from one or more

1 Gulf coastal State or States, the GSRMSA shall re-
2 view and approve such plan if such plan satisfies the
3 requirements of subsection (b).

4 “(d) CONTINUED MANAGEMENT BY THE SEC-
5 RETARY.—During the 3-year period beginning on the date
6 of the enactment of this title, the Secretary, in coordina-
7 tion with the Gulf of Mexico Fishery Management Council,
8 shall continue to manage the commercial sector of the Gulf
9 of Mexico red snapper fishery.

10 “(e) REPORTING REQUIREMENTS.—

11 “(1) REPORTS BY GULF COASTAL STATES.—

12 Each Gulf coastal State shall submit to the
13 GSRMSA an annual report on the status of the Gulf
14 of Mexico red snapper fishery in coastal waters adja-
15 cent to such State.

16 “(2) REPORT BY THE GSRMSA.—Not less often
17 than once every 5 years, the GSRMSA shall use the
18 information submitted in the annual reports re-
19 quired by paragraph (1) to prepare and submit to
20 the Secretary a report on the status of the Gulf of
21 Mexico red snapper fishery.

22 “(3) ANNUAL REPORT BY NATIONAL OCEANIC
23 AND ATMOSPHERIC ADMINISTRATION.—The Admin-
24 istrator of the National Oceanic and Atmospheric

1 Administration shall submit to Congress an annual
2 report on the implementation of this title.

3 **“SEC. 503. STATE IMPLEMENTATION OF THE RED SNAPPER**
4 **FISHERY MANAGEMENT PLANS.**

5 “(a) ALLOCATION OF MANAGEMENT TO THE GULF
6 STATES.—

7 “(1) CERTIFICATION OF APPROVED PLANS.—

8 The GSRSMA shall certify to the Secretary that a
9 red snapper fishery management plan is approved
10 under section 502 for each of the Gulf coastal
11 States.

12 “(2) TRANSFER OF MANAGEMENT.—Upon re-

13 ceipt of the certification described in paragraph (1)
14 and subject to section 502(d), the Secretary shall—

15 “(A) publish a notice in the Federal Reg-
16 ister revoking the regulations and portions of

17 the Reef Fish Federal fishery management plan

18 that are in conflict with any red snapper fishery

19 management plan approved by the GSRSMA;

20 and

21 “(B) transfer management of Gulf of Mex-
22 ico red snapper to the GSRSMA.

23 “(b) IMPLEMENTATION.—

24 “(1) IN GENERAL.—Upon the transfer of man-
25 agement described in subsection (a)(2)(B) and sub-

1 ject to section 502(d), each Gulf coastal State shall
2 implement and enforce the red snapper fishery man-
3 agement plans approved under section 502 for the
4 Gulf of Mexico red snapper fishery in the coastal
5 waters adjacent to each Gulf coastal State.

6 “(2) FAILURE TO TRANSFER MANAGEMENT.—If
7 the certification described in subsection (a)(1) is not
8 made the transfer of management described in sub-
9 section (a)(2)(B) may not be accomplished and the
10 Secretary shall remain responsible for management
11 of the Gulf of Mexico red snapper.

12 **“SEC. 504. OVERSIGHT OF GULF OF MEXICO RED SNAPPER**
13 **MANAGEMENT.**

14 “(a) IMPLEMENTATION AND ENFORCEMENT OF
15 FISHERY MANAGEMENT PLANS.—Not later than Decem-
16 ber 1 of the year following the transfer of management
17 described in section 503(a)(2), and at any other time the
18 GSRMSA considers appropriate after that date, the
19 GSRMSA shall determine if—

20 “(1) each Gulf coastal State has fully adopted
21 and implemented the red snapper fishery manage-
22 ment plan approved under section 502 for such
23 State;

1 “(2) each such plan continues to be in compli-
2 ance with the standards for sustainability provided
3 by the GSRMSA pursuant to section 502(a)(2); and

4 “(3) the enforcement of the plan by each Gulf
5 coastal State is satisfactory to maintain the long-
6 term sustainability and abundance of Gulf of Mexico
7 red snapper.

8 “(b) OVERFISHING AND REBUILDING PLANS.—

9 “(1) CERTIFICATION.—If the Gulf of Mexico
10 red snapper in the coastal waters adjacent to a Gulf
11 coastal State is experiencing overfishing or is subject
12 to a rebuilding plan, such Gulf coastal State shall
13 submit a certification to the GSRMSA showing that
14 such State—

15 “(A) has implemented the necessary meas-
16 ures to end overfishing or rebuild the fishery;
17 and

18 “(B) in consultation with the National
19 Oceanic and Atmospheric Administration, has
20 implemented a program to provide for data col-
21 lection adequate to monitor the harvest of Gulf
22 of Mexico red snapper by such State.

23 “(2) NOTIFICATION TO SECRETARY.—If, after
24 such time as determined by the GSRMSA, a Gulf
25 coastal State that submitted a certification under

1 paragraph (1) has not implemented the measures
2 and requirements described in subparagraphs (A)
3 and (B) of such paragraph, the GSRSMA shall vote
4 on whether to notify the Secretary of a recommenda-
5 tion of closure of the red snapper fishery in the
6 waters adjacent to the State territorial waters of the
7 Gulf coastal State.

8 “(c) CLOSURE OF THE GULF OF MEXICO RED SNAP-
9 PER FISHERY.—

10 “(1) CONDITIONS FOR CLOSURE.—Not later
11 than 60 days after the receipt of a notice under sub-
12 section (b)(2) for a Gulf coastal State, the Secretary
13 may declare a closure of the Gulf of Mexico red
14 snapper fishery within the waters adjacent to the
15 State territorial waters of the Gulf coastal State.

16 “(2) CONSIDERATIONS.—Prior to making a
17 declaration under paragraph (2), the Secretary shall
18 consider the comments of such Gulf coastal State
19 and the GSRSMA.

20 “(3) ACTIONS PROHIBITED DURING CLO-
21 SURE.—During a closure of the Gulf of Mexico red
22 snapper fishery under paragraph (1), it is unlawful
23 for any person—

24 “(A) to engage in fishing for Gulf of Mex-
25 ico red snapper within the waters adjacent to

1 the State territorial waters of the Gulf coastal
2 State covered by the closure;

3 “(B) to land, or attempt to land, the Gulf
4 of Mexico red snapper in the area of the clo-
5 sure; or

6 “(C) to fail to return to the water any Gulf
7 of Mexico red snapper caught in the area of the
8 closure that are incidental to commercial har-
9 vest or in the recreational fisheries.

10 “(4) CONSTRUCTION.—Nothing in this sub-
11 section shall be construed to allow the Secretary to
12 close the red snapper fishery in the State territorial
13 waters of a Gulf coastal State.

14 **“SEC. 505. GULF STATES MARINE FISHERIES COMMISSION.**

15 “(a) FUNDING TO THE GULF STATES MARINE FISH-
16 ERIES COMMISSION.—The Secretary shall provide all Fed-
17 eral funding to the Gulf States Marine Fisheries Commis-
18 sion for all necessary stock assessments, research, and
19 management for the red snapper fishery.

20 “(b) FUNDING TO THE GULF COASTAL STATES.—
21 The Gulf States Marine Fisheries Commission shall be re-
22 sponsible for administering the Federal funds referred to
23 in paragraph (1) to each of the Gulf coastal States for
24 proper management of the red snapper fishery.

1 “(c) NO ADDITIONAL APPROPRIATIONS AUTHOR-
 2 IZED.—Nothing in this section may be construed to in-
 3 crease the amount of Federal funds authorized to be ap-
 4 propriated for Gulf of Mexico red snapper fishery manage-
 5 ment.

6 **“SEC. 506. NO EFFECT ON MANAGEMENT OF SHRIMP FISH-**
 7 **ERIES IN FEDERAL WATERS.**

8 “(a) BYCATCH REDUCTION DEVICES.—Nothing in
 9 this title may be construed to effect any requirement re-
 10 lated to the use of Gulf of Mexico red snapper bycatch
 11 reduction devices in the course of shrimp trawl fishing ac-
 12 tivity.

13 “(b) BYCATCH OF RED SNAPPER.—Nothing in this
 14 title shall be construed to apply to or affect in any manner
 15 the Federal management of commercial shrimp fisheries
 16 in the Gulf of Mexico, including any incidental catch of
 17 red snapper”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) DATA COLLECTION.—Section 401(g)(3)(C)
 20 of the Magnuson-Stevens Fishery Conservation and
 21 Management Act (16 U.S.C. 1881(g)(3)(G)) is
 22 amended by striking “and” after the semicolon at
 23 the end of clause (iv), by striking the period at the
 24 end of clause (v) and inserting “; and”, and by add-
 25 ing at the end the following:

1 “(vi) in the case of each fishery in the
2 Gulf of Mexico, taking into consideration
3 all data collection activities related to fish-
4 ery effort that are undertaken by the ma-
5 rine resources division of each relevant
6 State of the Gulf of Mexico Fishery Man-
7 agement Council.”.

8 (2) GULF STATE TERRITORIAL WATERS.—Sec-
9 tion 306(b) of the Magnuson-Stevens Fishery Con-
10 servation and Management Act (16 U.S.C. 1856(b))
11 is amended by adding at the end the following:

12 “(4) Notwithstanding section 3(11) and sub-
13 section (a) of this section, for purposes of managing
14 fisheries in the Gulf of Mexico, the seaward bound-
15 ary of a coastal State in the Gulf of Mexico is a line
16 three marine leagues seaward from the baseline from
17 which the territorial sea of the United States is
18 measured.”.

19 (c) CLERICAL AMENDMENT.—The table of contents
20 in the first section of such Act is amended by adding at
21 the end the following:

“TITLE V—TRANSFER TO STATES OF MANAGEMENT OF RED
SNAPPER FISHERIES IN THE GULF OF MEXICO

“Sec. 501. Definitions.

“Sec. 502. Management of Gulf of Mexico red snapper.

“Sec. 503. State implementation of the red snapper fishery management plans.

“Sec. 504. Oversight of Gulf of Mexico red snapper management.

“Sec. 505. Gulf States Marine Fisheries Commission.

“Sec. 506. No effect on management of shrimp fisheries in Federal waters.”.

○

H.R. 3094, the Gulf States Red Snapper Management Authority Act Sponsor – Congressman Graves (R- Louisiana)

Introduced on July 16, 2015

Referred to the House Natural Resources Committee

Section 1 – Short Title.

Section 2 – Transfer to States of Management of Red Snapper Fisheries in the Gulf of Mexico. The bill would create a new **Title V – Transfer to States of Management of Red Snapper Fisheries in the Gulf of Mexico** within the Magnuson-Stevens Fishery Conservation and Management Act.

Section 501- Definitions.

Section 501 of the new title would add new definitions for the title for “coastal waters”, “Gulf coastal state”, “Gulf of Mexico Fishery Management Council”, “Gulf of Mexico red snapper”, “Gulf of Mexico Red Snapper Management Authority”, “Red snapper fishery management plan”, “Reef Fish Federal fishery management plan”, and “State territorial waters”.

Section 502 – Management of Gulf of Mexico Red Snapper.

The new title would require the Secretary of Commerce, within 60 days, to establish a Gulf States Red Snapper Management Authority (GSRMSA) that consists of the principal fisheries managers of each of the Gulf coastal states.

The GSRMSA’s duties would include: reviewing and approving red snapper management plans; providing standards for each Gulf coastal State to use in developing fishery management measures to sustainably manage Gulf of Mexico red snapper in the coastal waters adjacent to the State; and making scientific data, stock assessments and other scientific information available to the public prior to the information being used during the approval of the red snapper management plan or plans.

The bill would require the GSRMSA to establish a deadline for each Gulf coastal State to submit a red snapper management plan for the State to the GSRMSA. To the extent practicable, the plans would be required to be consistent with requirements for a fishery management plan under section 303(a) of the Magnuson-Stevens Fishery Conservation and Management Act.

The bill would require that the GSRMSA, within one year and not more than 60 days after the submission of a management plan, review and approve (by majority vote) the red snapper management plan submitted by one or more Gulf coastal State. The GSRMSA would be required to review and approve any management plans annually.

The bill would require that one or more Gulf coastal States prior to submitting a management plan, provide for public participation including holding at least one public hearing in each respective Gulf coastal State and providing procedures for the public to submit written comments on the management plan.

The bill would require that a management plan submitted by one or more Gulf coastal States: contain standards and procedures for the long-term sustainability of Gulf of Mexico red snapper based on the best available science; comply with the standards that are consistent with the requirements in section 303(a) of the Magnuson-Stevens Act; and determine quotas for the red snapper fishery in the coastal waters adjacent to the Gulf coastal State or States that are based on stock assessments.

The bill would require the GRSMA to get the Gulf of Mexico Fishery Management Council to review and approve any reduction of more than 10 percent in the quota allocated to the commercial sector of the Gulf red snapper fishery.

The bill would require the Secretary of Commerce, in coordination with the Gulf of Mexico Fishery Management Council, to continue to manage the commercial sector of the Gulf red snapper fishery for three years following the enactment of this legislation and would prohibit the GRSMA from making an allocation to the commercial sector during this three-year period.

The bill would clarify that nothing in the legislation would change the individual quota shares currently in place in the commercial sector of the Gulf red snapper fishery.

The bill would require that the GRSMA review and approve a fishery management plan submitted by one or more Gulf coastal State within 60 days of the receipt of the plan if the plan is considered to be consistent with the requirements of section 303(a) of the Magnuson-Stevens Act.

The bill would require that each Gulf coastal State submit an annual report to the GRSMA on the status of the Gulf red snapper fishery in the coastal waters adjacent to that State.

The bill would require the GRSMA to prepare and submit a report to the Secretary of Commerce on the status of the Gulf red snapper fishery based on information submitted in the annual reports of each Gulf coastal State. The report to the Secretary would be required at least once every five years.

The bill would require the Administrator of NOAA to submit an annual report to Congress on the implementation of this title.

Section 503 – State Implementation of the Red Snapper Fishery Management Plans.

The bill would require that the GRSMA certify to the Secretary of Commerce that a red snapper fishery management plan is approved for each Gulf coastal State.

The bill would require the Secretary, upon receipt of a certification by the GRSMA, to publish a notice in the Federal Register revoking any regulations and portions of the Reef Fish Federal fishery management plan that are in conflict with the red snapper fishery management plan approved by the GRSMA and to transfer management of Gulf red snapper to the GSRAMA.

The bill would require, upon transfer of management authority from the Secretary to the GRSMA, each Gulf coastal State to implement and enforce the red snapper management plan approved by the GRSMA in the coastal waters adjacent to that State.

The bill clarifies that if GRSMA does not certify a State-submitted plan, the Secretary of Commerce will maintain management authority for the Gulf red snapper fishery.

Section 504 – Oversight of Gulf of Mexico Red Snapper Management.

The bill would require that no later than December 1 of the year following the transfer of management to the GRSMA, the GRSMA to: determine if each Gulf coastal State has fully adopted and implemented the GRSMA-approved management plan; to determine if each management plan (assuming there is more than one approved plan) continues to be in compliance with the standards for sustainability developed by the GRSMA; to determine if the plan by each Gulf coastal State is satisfactory to maintain the long-term sustainability and abundance of Gulf red snapper.

In the event that the Gulf red snapper fishery is determined to be experiencing overfishing in the coastal waters adjacent to the State or is subject to a rebuilding plan in those waters, the bill would require each Gulf coastal State to submit a certification to GRSMA showing that the State has implemented the necessary measures to end overfishing or rebuild the fishery and, in consultation with NOAA, has implemented a program to provide for data collection adequate to monitor the harvest of Gulf red snapper by that State.

The bill would require the GRSMA, in the event that a Gulf coastal State submits a certification that it has implemented the necessary measures to end overfishing and rebuild the fishery, but has not done so, to vote on whether to notify the Secretary of Commerce of a recommendation for the closure of the red snapper fishery in the waters adjacent to the State territorial waters of that State.

The bill would allow (but not require) the Secretary, within 60 days of a notice that a State has not implemented the necessary measures to end overfishing and rebuild the red snapper fishery, to declare a closure of the Gulf red snapper fishery within the waters adjacent to the State territorial waters of that State.

The bill would require the Secretary, prior to declaring the closure, to consider the comments of the State and the GRSMA.

The bill would prohibit any person from engaging in fishing for, landing or attempting to land, or failing to return to the water any incidentally-caught Gulf red snapper in the closed area during a closure declared by the Secretary.

The bill would clarify that the bill does not give the Secretary of Commerce the authority to close the Gulf red snapper fishing within the Gulf coastal States' territorial waters.

Section 505 – Gulf States Marine Fisheries Commission.

The bill would require the Secretary of Commerce to provide all of the funding necessary for stock assessments, research, and management of the red snapper fishery to the Gulf States Marine Fisheries Commission (Commission).

The bill would require the Commission to be responsible for administering the funds provided by the Secretary to each of the Gulf coastal States for the proper management of the red snapper fishery.

The bill would clarify that nothing in this section of the bill would be construed to increase the amount of Federal funds authorized to be appropriated for the management of the Gulf red snapper fishery.

Section 506 – No Effect on Management of Shrimp Fisheries in Federal Waters.

The bill would clarify that nothing in the new title may be construed to effect any requirement relating to the use of red snapper bycatch devices in shrimp trawling fishing activities in the Gulf of Mexico.

The bill would clarify that nothing in the new title may be construed to apply to or affect the Federal management of commercial shrimp fisheries in the Gulf of Mexico including any incidental catch of red snapper.

The bill would add a provision to the Recreational Fisheries Data Collection program in section 401 of the Act to require that the program take into consideration all data collection activities related to fishery efforts that are undertaken by each relevant State marine resources division for each Gulf State.

The bill would further amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the seaward boundary for all Gulf coastal States to 3 marine leagues (9 nautical miles).

HR 3094 – Gulf States Red Snapper Management Authority Act Sponsor – Congressman Graves (R-Louisiana) Note – information in bold indicates a provision that would affect Council operations or affect Gulf fisheries.			
Section	Summary	Impacts	Relation to Other Bills
Transfer to States of Management of Red Snapper Fisheries in the Gulf of Mexico	Would create a new Title V – Transfer to States of Management of Red Snapper Fisheries in the Gulf of Mexico within the Magnuson-Stevens Fishery Conservation and Management Act.		
Multiple subsections: Sec 501. Definitions	Would add new definitions for the title for “coastal waters”, “Gulf coastal state”, “Gulf of Mexico Fishery Management Council”, “Gulf of Mexico red snapper”, “Gulf of Mexico Red Snapper Management Authority”, “Red snapper fishery management plan”, “Reef Fish Federal fishery management plan”, and “State territorial waters”.		
Sec. 502 Management of Gulf of Mexico Red Snapper	<p>Would create a new title to require the Secretary of Commerce, within 60 days, to establish a Gulf States Red Snapper Management Authority (GSR SMA) that consists of the principal fisheries managers of each of the Gulf coastal states.</p> <p>The GSR SMA’s duties would include: reviewing and approving red snapper management plans; providing standards for each Gulf coastal State to use in developing fishery management measures to sustainably manage Gulf of Mexico red snapper in the coastal waters adjacent to the State; and making scientific data, stock assessments and other scientific information available to the public prior to the information being used during the approval of the red snapper management plan or plans.</p> <p>Would require the GSR SMA to establish a deadline for each Gulf coastal State to submit a red snapper management plan for the State to the GSR SMA. To the extent practicable, the plans would be required to be consistent with requirements for a fishery management plan under section 303(a) of the Magnuson-Stevens Fishery Conservation and Management Act.</p> <p>Would require that the GSR SMA, within one year and not more than 60 days after the submission of a management plan, review and approve (by</p>		S. 55 and S. 105 would require the Secretary to transfer exclusive authority for management of the Gulf red snapper fishery to the Gulf States following the development and approval of a fishery management plan by the States.

	<p>majority vote) the red snapper management plan submitted by one or more Gulf coastal State.</p> <p>Would require the GRSMA require to review and approve any management plans annually.</p> <p>Would require that one or more Gulf coastal States prior to submitting a management plan, provide for public participation including holding at least one public hearing in each respective Gulf coastal State and providing procedures for the public to submit written comments on the management plan.</p> <p>Would require that a management plan submitted by one or more Gulf coastal States: contain standards and procedures for the long-term sustainability of Gulf of Mexico red snapper based on the best available science; comply with the standards that are consistent with the requirements in section 303(a) of the Magnuson-Stevens Act; and determine quotas for the red snapper fishery in the coastal waters adjacent to the Gulf coastal State or States that are based on stock assessments.</p> <p>Would require the GRSMA to get the Gulf of Mexico Fishery Management Council to review and approve any reduction of more than 10 percent in the quota allocated to the commercial sector of the Gulf red snapper fishery.</p> <p>Would require the Secretary of Commerce, in coordination with the Gulf of Mexico Fishery Management Council, to continue to manage the commercial sector of the Gulf red snapper fishery for three years following the enactment of this legislation and would prohibit the GRSMA from making an allocation to the commercial sector during this three-year period.</p> <p>Would clarify that nothing in the legislation would change the individual quota shares currently in place in the commercial sector of the Gulf red snapper fishery.</p> <p>Would require that the GRSMA review and approve a fishery management plan submitted by one or more Gulf coastal State within 60 days of</p>		
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	<p>the receipt of the plan if the plan is considered to be consistent with the requirements of section 303(a) of the Magnuson-Stevens Act.</p> <p>Would require that each Gulf coastal State submit an annual report to the GRSMA on the status of the Gulf red snapper fishery in the coastal waters adjacent to that State.</p> <p>Would require the GRSMA to prepare and submit a report to the Secretary of Commerce on the status of the Gulf red snapper fishery based on information submitted in the annual reports of each Gulf coastal State. The report to the Secretary would be required at least once every five years.</p> <p>Would require the Administrator of NOAA to submit an annual report to Congress on the implementation of this title.</p>		
<p>Sec. 503 State Implementation of State Fishery Management Plans</p>	<p>Would require that the GRSMA certify to the Secretary of Commerce that a red snapper fishery management plan is approved for each Gulf coastal State.</p> <p>Would require the Secretary, upon receipt of a certification by the GRSMA, to publish a notice in the Federal Register revoking any regulations and portions of the Reef Fish Federal fishery management plan that are in conflict with the red snapper fishery management plan approved by the GRSMA and to transfer management of Gulf red snapper to the GSRAMA.</p> <p>Would require, upon transfer of management authority from the Secretary to the GRSMA, each Gulf coastal State to implement and enforce the red snapper management plan approved by the GRSMA in the coastal waters adjacent to that State.</p> <p>Clarifies that if GRSMA does not certify a State-submitted plan, the Secretary of Commerce will maintain management authority for the Gulf red snapper fishery.</p>		
<p>Sec. 504 Oversight of Gulf of Mexico Red</p>	<p>Would require that no later than December 1 of the year following the transfer of management to the GRSMA, the GRSMA to: determine if each Gulf coastal State has fully adopted and implemented</p>		

<p>Snapper Management</p>	<p>the GRSMA-approved management plan; to determine if each management plan (assuming there is more than one approved plan) continues to be in compliance with the standards for sustainability developed by the GRSMA; to determine if the plan by each Gulf coastal State is satisfactory to maintain the long-term sustainability and abundance of Gulf red snapper. In the event that the Gulf red snapper fishery is determined to be experiencing overfishing in the coastal waters adjacent to the State or is subject to a rebuilding plan in those waters, the bill would require each Gulf coastal State to submit a certification to GRSMA showing that the State has implemented the necessary measures to end overfishing or rebuild the fishery and, in consultation with NOAA, has implemented a program to provide for data collection adequate to monitor the harvest of Gulf red snapper by that State.</p> <p>Would require the GRSMA, in the event that a Gulf coastal State submits a certification that it has implemented the necessary measures to end overfishing and rebuild the fishery, but has not done so, to vote on whether to notify the Secretary of Commerce of a recommendation for the closure of the red snapper fishery in the waters adjacent to the State territorial waters of that State.</p> <p>Would allow (but not require) the Secretary, within 60 days of a notice that a State has not implemented the necessary measures to end overfishing and rebuild the red snapper fishery, to declare a closure of the Gulf red snapper fishery within the waters adjacent to the State territorial waters of that State.</p> <p>Would require the Secretary, prior to declaring the closure, to consider the comments of the State and the GRSMA.</p> <p>Would prohibit any person from engaging in fishing for, landing or attempting to land, or failing to return to the water any incidentally-caught Gulf red snapper in the closed area during a closure declared by the Secretary.</p>		
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	<p>Would clarify that the bill does not give the Secretary of Commerce the authority to close the Gulf red snapper fishing within the Gulf coastal States' territorial waters.</p>		
<p>Sec. 505 Gulf States Marine Fisheries Commission</p>	<p>Would require the Secretary of Commerce to provide all of the funding necessary for stock assessments, research, and management of the red snapper fishery to the Gulf States Marine Fisheries Commission (Commission).</p> <p>Would require the Commission to be responsible for administering the funds provided by the Secretary to each of the Gulf coastal States for the proper management of the red snapper fishery.</p> <p>Would clarify that nothing in this section of the bill would be construed to increase the amount of Federal funds authorized to be appropriated for the management of the Gulf red snapper fishery.</p>		<p>Similar language is included in H.R. 981 and H.R. 1335.</p>
<p>Sec. 506 No effect on management of shrimp fisheries in federal waters</p>	<p>Would clarify that nothing in the new title may be construed to effect any requirement relating to the use of red snapper bycatch devices in shrimp trawling fishing activities in the Gulf of Mexico.</p> <p>Would clarify that nothing in the new title may be construed to apply to or affect the Federal management of commercial shrimp fisheries in the Gulf of Mexico including any incidental catch of red snapper.</p> <p>Would add a provision to the Recreational Fisheries Data Collection program in section 401 of the Act to require that the program take into consideration all data collection activities related to fishery efforts that are undertaken by each relevant State marine resources division for each Gulf State.</p> <p>The bill would further amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the seaward boundary for all Gulf coastal States to 3 marine leagues (9 nautical miles).</p>		<p>Similar data collection language requiring better recreational data collection is included in H.R. 981, H.R. 1335, H.R. 1826, and S. 1403.</p> <p>Language extending state jurisdiction if included in H.R. 981, H.R. 1335, S. 55, and S. 105.</p>

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114TH CONGRESS
1ST SESSION

H. R. 981

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve the Gulf of Mexico Red Snapper fishery by providing flexibility for fishing managers and stability for fisherman, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2015

Mr. BYRNE (for himself, Mr. ROGERS of Alabama, Mrs. ROBY, and Mr. PALMER) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve the Gulf of Mexico Red Snapper fishery by providing flexibility for fishing managers and stability for fisherman, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Red Snapper Regu-
5 latory Reform Act”.

1 **SEC. 2. REPEAL OF CATCH LIMITS REQUIREMENT FOR**
2 **GULF OF MEXICO RED SNAPPER FISHERY.**

3 Subsection (d) of section 407 of the Magnuson-Ste-
4 vens Fishery Conservation and Management Act (16
5 U.S.C. 1883) is repealed.

6 **SEC. 3. STATE JURISDICTION OVER FISHERIES IN THE**
7 **GULF OF MEXICO.**

8 Section 306(b) of the Magnuson-Stevens Fishery
9 Conservation and Management Act (16 U.S.C. 1856(b))
10 is amended by adding at the end the following:

11 “(3) Notwithstanding section 3(11) and subsection
12 (a) of this section, for purposes of managing fisheries in
13 the Gulf of Mexico, the seaward boundary of a coastal
14 State in the Gulf of Mexico is a line 9 nautical miles sea-
15 ward from the baseline from which the territorial sea of
16 the United States is measured.”.

17 **SEC. 4. STOCK ASSESSMENTS USED FOR FISHERIES MAN-**
18 **AGED UNDER GULF OF MEXICO COUNCIL'S**
19 **REEF FISH MANAGEMENT PLAN.**

20 (a) IN GENERAL.—Title IV of the Magnuson-Stevens
21 Fishery Conservation and Management Act (16 U.S.C.
22 1884) is amended by adding at the end the following:

1 **“SEC. 409. STOCK ASSESSMENTS USED FOR FISHERIES**
2 **MANAGED UNDER GULF OF MEXICO COUN-**
3 **CIL’S REEF FISH MANAGEMENT PLAN.**

4 “(a) IN GENERAL.—The Gulf States Marine Fish-
5 eries Commission shall conduct all fishery stock assess-
6 ments used for management purposes by the Gulf of Mex-
7 ico Fishery Management Council for the fisheries man-
8 aged under the Council’s Reef Fish Management Plan.

9 “(b) USE OF OTHER INFORMATION AND ASSETS.—

10 “(1) IN GENERAL.—Such fishery assessments
11 shall—

12 “(A) incorporate fisheries survey informa-
13 tion collected by university researchers; and

14 “(B) to the extent practicable, use State,
15 university, and private assets to conduct fish-
16 eries surveys.

17 “(2) SURVEYS AT ARTIFICIAL REEFS.—Any
18 such fishery stock assessment conducted after the
19 date of the enactment of the Strengthening Fishing
20 Communities and Increasing Flexibility in Fisheries
21 Management Act shall incorporate fishery surveys
22 conducted, and other relevant fisheries information
23 collected, on and around natural and artificial reefs.

24 “(c) CONSTITUENT AND STAKEHOLDER PARTICIPA-
25 TION.—Each such fishery assessment shall—

1 “(1) emphasize constituent and stakeholder
2 participation in the development of the assessment;

3 “(2) contain all of the raw data used in the as-
4 sessment and a description of the methods used to
5 collect that data; and

6 “(3) employ an assessment process that is
7 transparent and includes—

8 “(A) both dependent and independent data
9 collection methods;

10 “(B) a rigorous and independent scientific
11 review of the completed fishery stock assess-
12 ment; and

13 “(C) a panel of independent experts to re-
14 view the data and assessment and make rec-
15 ommendations on the most appropriate values
16 of critical population and management quan-
17 tities.

18 “(d) FUNDING.—

19 “(1) IN GENERAL.—The Secretary, subject to
20 the availability of appropriations, shall provide to the
21 Gulf of Mexico Marine Fisheries Commission appro-
22 priate funding for all necessary stock assessments
23 concerning the Gulf of Mexico red snapper fishery.

24 “(2) NO ADDITIONAL APPROPRIATIONS AU-
25 THORIZED.—This subsection shall not be construed

1 to increase the amount that is authorized to be ap-
2 propriated for any fiscal year.”.

3 **SEC. 5. DATA COLLECTION.**

4 Section 401(g)(3)(C) of the Magnuson-Stevens Fish-
5 ery Conservation and Management Act (16 U.S.C.
6 1881(g)(3)(G)) is amended by striking “and” after the
7 semicolon at the end of clause (iv), by striking the period
8 at the end of clause (v) and inserting “; and”, and by
9 adding at the end the following:

10 “(vi) in the case of each fishery in the
11 Gulf of Mexico, taking into consideration
12 all data collection activities related to fish-
13 ery effort that are undertaken by the ma-
14 rine resources division of each relevant
15 State of the Gulf of Mexico Fishery Man-
16 agement Council.”.

17 **SEC. 6. MEMBERSHIP OF GULF OF MEXICO FISHERY MAN-**
18 **AGEMENT COUNCIL.**

19 Section 302 of the Magnuson-Stevens Fishery Con-
20 servation and Management Act (16 U.S.C. 1852) is
21 amended—

22 (1) in subsection (a)(1), by striking subpara-
23 graph (E) and inserting the following:

24 “(E) GULF OF MEXICO COUNCIL.—

1 “(i) The Gulf of Mexico Fishery Man-
2 agement Council shall consist of the States
3 of Texas, Louisiana, Mississippi, Alabama,
4 and Florida and shall have authority over
5 the fisheries in the Gulf of Mexico seaward
6 of such States (except as provided in para-
7 graph (3)). The Gulf Council shall have 16
8 voting members, including—

9 “(I) 2 members appointed by the
10 Governor of each such State in ac-
11 cordance with the requirements that
12 apply under subsection (b)(2) with re-
13 spect to appointments by the Sec-
14 retary;

15 “(II) the principal State official
16 of each such State with marine fishery
17 management responsibility and exper-
18 tise in such State;

19 “(III) the regional director of the
20 National Marine Fisheries Service for
21 the Gulf of Mexico geographic area, or
22 the regional director’s designee; and

23 “(IV) 1 at-large member who
24 shall be appointed, on a rotating
25 basis, by the Governor of a State on

1 the Council, except that no governor
2 may make consecutive appointments
3 under this subclause.

4 “(ii) Except as provided in clauses
5 (iii), (iv), (v), and (vi), a governor shall
6 make appointments under this subpara-
7 graph in accordance with the requirements
8 that apply under subparagraph (C) of this
9 paragraph, paragraphs (2) and (3) of this
10 subsection, and subsection (b) with respect
11 to appointments by the Secretary.

12 “(iii) The following provisions of sub-
13 section (b)(2) shall not apply with respect
14 to appointments under this subparagraph:

15 “(I) The last sentence of sub-
16 paragraph (A).

17 “(II) Subparagraphs (C) and
18 (E), but a governor may not appoint
19 an individual who would not be eligi-
20 ble to be included in a list submitted
21 to the Secretary under those subpara-
22 graphs.

23 “(iv)(I) In making appointments
24 under this subparagraph, each Governor
25 must consider—

1 “(aa) at least 1 nominee each
2 from the commercial, recreational,
3 and charter fishing sectors; and

4 “(bb) at least 1 other individual
5 who is knowledgeable regarding the
6 conservation and management of fish-
7 eries resources in the jurisdiction of
8 the Gulf of Mexico Fishery Manage-
9 ment Council.

10 “(II) For purposes of clause (i) an in-
11 dividual who owns or operates a fish farm
12 outside of the United States shall not be
13 considered to be a representative of the
14 commercial or recreational fishing sector.

15 “(v) A governor shall notify the Sec-
16 retary before making each appointment
17 under this subparagraph. The Secretary
18 shall publish notice of such appointment by
19 not later than 45 days before the first day
20 on which the appointee takes office as a
21 member of the Council.

22 “(vi) Subsection (b)(3) shall be ap-
23 plied with respect to the Gulf of Mexico
24 Fishery Management Council by sub-
25 stituting ‘a Governor in accordance with

1 subsection (a)(1)(E) for ‘the Secretary in
2 accordance with paragraphs (2) and (5)’.”;

3 and

4 (2) in subsection (b)(2)—

5 (A) in subparagraph (B)(iii), by inserting
6 “(other than the Gulf of Mexico Fishery Man-
7 agement Council)” after “each Council”; and

8 (B) in subparagraph (C), in the first sen-
9 tence, by inserting “(other than the Gulf of
10 Mexico Fishery Management Council)” after
11 “each Council”.

○

H.R. 981, The Red Snapper Regulatory Reform Act Sponsor – Congressman Byrne (R-Alabama)

Introduced February 13, 2015
Referred to the House Natural Resources Committee

Section 1 – Short Title.

Section 2 – Repeal of Catch Limit Requirement for Gulf of Mexico Red Snapper Fishery. The bill would repeal section 407(d) of the Act.

Section 3 – State Jurisdiction Over Fisheries in the Gulf of Mexico. The bill would expand the seaward boundary of coastal States in the Gulf of Mexico out to 9 nautical miles for the purposes of managing fisheries in the Gulf of Mexico.

Section 4 – Stock Assessments Used for Fisheries Managed Under Gulf of Mexico Council’s Reef Fish Management Plan. The bill would require the Gulf States Marine Fisheries Commission (Commission) to conduct all stock assessments used for management purposes by the Gulf of Mexico Fisheries Management Council for fisheries managed under the Council’s Reef Fish Management Plan.

The bill would require the Commission to incorporate fisheries survey information collected by universities researchers and, to the extent practicable, use State, university, and private assets to conduct fisheries surveys when conducting fishery stock assessments.

The bill would require any future stock assessments after the date of enactment to incorporate fishery surveys conducted around natural and artificial reefs, and to incorporate other relevant fisheries information collected on or around natural and artificial reefs.

The bill would require that each stock assessment: emphasize constituent and stakeholder participation; contain all of the raw data used in the assessment and a description of the methods used to collect the data; employ a process that is transparent and includes both dependent and independent data collection methods, includes a rigorous and independent scientific review of the completed assessment, and include a panel of independent experts to review the data and the assessment and make recommendations on the most appropriate values of critical population and management quantities.

The bill would require the Secretary of Commerce, subject to the availability of appropriations, to provide appropriate funding for all necessary stock assessments of the red snapper fishery to the Commission.

Section 5 – Data Collection. The bill would add a provision to the Recreational Fisheries Data Collection program in section 401 of the Act to require that the program take into consideration all data collection activities related to fishery efforts that are undertaken by each relevant State marine resources division for each Gulf State.

Section 6 – Membership of Gulf of Mexico Fishery Management Council. The bill would replace the section of the Act describing the Gulf of Mexico Fishery Management Council. The bill would require

that the Council consist of 16 voting members (rather than 17 under current law). Each of the Gulf States (Texas, Louisiana, Mississippi, Alabama, and Florida) shall have 2 voting members who are appointed by the Governor of the State using the same criteria for eligibility currently used by the Secretary (rather than nominated by the Governor and appointed by the Secretary under current law). In addition, each Gulf State's principle official responsible for marine fisheries management shall be a voting member. The regional director of NMFS or his designee shall also be a voting member. One at-large member shall be appointed by a Gulf State Governor and this seat shall rotate among the States as long as no Governor makes consecutive appointments. (This adds up to 17 although the legislation specifies 16 voting seats. Presumably the legislation intended 17 voting members.)

The bill would require the Governors to use the same review process to determine whether an individual is qualified to serve on the Council.

The bill would require the Governor of each Gulf State, in making the appointment, to consider at least one nominee from each of the commercial, recreational, and charter fishing sectors and at least one other knowledgeable individual. The bill would also clarify that a person who owns or operates a fish farm outside of the United States could not be considered to be a representative of the commercial or recreational fishing sector.

The bill would require the Governor to notify the Secretary before making the appointments and would require the Secretary to publish a notice of the appointments at least 45 days prior to that individual taking office. The bill would clarify that individuals appointed to the Gulf Council by a Governor would serve a three-year term.

H.R. 981, the Red Snapper Regulatory Reform Act Sponsor – Congressman Byrne (R-Alabama) <i>Note – information in bold indicates a provision that would affect Council operations or affect Gulf fisheries.</i>			
Section	Summary	Impacts	Relation to Other Bills
Repeal of Catch Limit Requirement for Gulf of Mexico Red Snapper Fishery	Would repeal section 407(d) of the Magnuson-Stevens Act.		Similar to language included in H.R. 1335 and similar to language in S. 1403 – both of which repeal all of section 407
Section 3 – State Jurisdiction Over Fisheries in the Gulf of Mexico	Would extend State jurisdiction for the management of all fisheries in the Gulf of Mexico out to 9 nautical miles.		Similar to H.R. 1335 which would only extend State jurisdiction for the recreational sector of the red snapper fishery. Similar to H.R. 3094 which would extend state management for all fisheries out to 9 nautical miles, the bill would also extend state jurisdiction for Gulf red snapper management under a new plan approved by the GRSMA out to 200 miles. Similar to S. 55 which would convey submerged lands to the Gulf States out to 3 marine leagues (approximately 9 nautical miles) and would authorize the Gulf coastal States’ plan to manage out to 200 miles for Gulf red snapper. Similar to S. 105 which would allow the Gulf coastal States’ plan to be the exclusive management authority for Gulf red snapper out to 200 miles.
Stock Assessments Used for Fisheries Managed Under Gulf of Mexico Council’s Reef Fish Management Plan	Would require the Gulf States Marine Fisheries Commission (Commission) to conduct all stock assessments used for management purposes by the Gulf of Mexico Fisheries Management		Similar authority to transfer of stock assessment authority to the Commission is also in H.R. 3094. Similar language requiring additional transparency is

	<p>Council for fisheries managed under the Council's Reef Fish Management Plan and would require the Secretary of Commerce to provide appropriate funding.</p> <p>Would require the Commission to incorporate fisheries survey information collected by universities researchers and, to the extent practicable, use State, university, and private assets to conduct fisheries surveys when conducting fishery stock assessments.</p> <p>Would require any future stock assessments after the date of enactment to incorporate fishery surveys conducted around natural and artificial reefs, and to incorporate other relevant fisheries information collected on or around natural and artificial reefs.</p> <p>Would require increased transparency and public participation in stock assessments.</p>		<p>included in H.R. 1335, H.R. 1826, H.R. 3521, and in S. 1403.</p>
<p>Data Collection</p>	<p>Would require the Secretary to take into consideration all data collection activities related to fishery efforts that are undertaken by each relevant State marine resources division.</p>		
<p>Membership of Gulf of Mexico Fishery</p>	<p>Would change the appointment process for the Gulf Council by</p>	<p>Could be a Constitutional issue dealing</p>	<p>Language changing the appointment process for Gulf</p>

Management Council	allowing each Gulf State Governor to appoint 2 voting members (rather than nominate and the Secretary appoint) in addition to each State's marine resources representative and NMFS and would require the final seat to be appointed on a rotating basis by the Gulf State Governors.	with the Appointment Clause.	and South Atlantic Council is found in S. 1403.
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I

114TH CONGRESS
1ST SESSION

H. R. 3521

To authorize grants for data collection for use in stock assessments of red snapper and other reef fish species in the Gulf of Mexico, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2015

Mr. JOLLY introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize grants for data collection for use in stock assessments of red snapper and other reef fish species in the Gulf of Mexico, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gulf Red Snapper
5 Data Improvement Act”.

6 **SEC. 2. GULF OF MEXICO RED SNAPPER AND OTHER REEF**
7 **FISH SPECIES DATA COLLECTION GRANTS.**

8 (a) GRANTS AUTHORIZED.—The Secretary of Com-
9 merce, acting through the National Marine Fisheries Serv-

1 ice Southeast Regional Office, shall award competitive
2 grants for fishery-dependent and fishery-independent data
3 collection for use in stock assessments for red snapper and
4 other reef fish species in the Gulf of Mexico.

5 (b) INNOVATIVE APPROACHES.—In awarding grants
6 under this section, the Secretary shall seek to improve red
7 snapper and other reef fish species stock assessments
8 through innovative approaches to data collection that in-
9 corporates data from cooperative peer-reviewed research
10 involving academia, fishermen, and other fisheries sources.

11 (c) GRANT PERIOD.—Grants under this section may
12 be for one or more fiscal years.

13 **SEC. 3. COMMUNICATION WITH STAKEHOLDERS.**

14 (a) IN GENERAL.—The Secretary of Commerce shall
15 seek to improve communications by the National Marine
16 Fisheries Service with stakeholders regarding the Gulf of
17 Mexico red snapper and other reef fish species stock as-
18 sessment processes and outcomes of such processes.

19 (b) REPORT.—The Secretary shall—

20 (1) by not later than 180 days after the date
21 of the enactment of this Act, report to Congress on
22 actions taken under this section and the results of
23 such actions; and

24 (2) update such report every 180 days there-
25 after.

1 **SEC. 4. PROCESS FOR USING GULF OF MEXICO RED SNAP-**
2 **PER AND OTHER REEF FISH SPECIES COOP-**
3 **ERATIVE RESEARCH DATA.**

4 The Secretary of Commerce shall—

5 (1) by not later than 180 days after the date
6 of the enactment of this Act, develop and report to
7 the Congress on a process for using data collected
8 through cooperative research activities for Gulf of
9 Mexico red snapper and other reef fish species stock
10 assessments; and

11 (2) update such report every 180 days there-
12 after.

13 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated to the Sec-
15 retary of Commerce \$10,000,000 for grants, personnel,
16 operations, and data collection under this Act to improve
17 Gulf of Mexico red snapper and other reef fish species
18 stock assessments.

○

H.R. 3521, the Gulf Red Snapper Data Improvement Act Sponsor – Congressman Jolly (R- Florida)

Introduced on September 16, 2015

Referred to the House Natural Resources Committee

Section 1 – Short Title.

Section 2 – Gulf of Mexico Red Snapper and Other Reef Fish Species Data Collection Grants. This section would require the Secretary of Commerce, acting through the NMFS Southeast Regional Office, to award competitive grants for fishery-dependent and fishery-independent data collection for use in stock assessments for red snapper and other reef fish in the Gulf of Mexico.

This section would require the Secretary to seek to improve the stock assessment for red snapper and other Gulf reef fish through innovative approaches to data collection that incorporate data from cooperative peer reviewed research involving academia, fishermen, and other fishery sources.

This section would allow grants to be for one or more fiscal years.

Section 3 – Communication with Stakeholders. This section would require the Secretary of Commerce to seek to improve communications by NMFS with stakeholders regarding stock assessment processes and the result of the processes for red snapper and other reef fish species in the Gulf of Mexico.

The bill would require the Secretary of Commerce, within 180 days, to report to Congress on actions taken to improve communications with stakeholders and the results of these actions. The Secretary would be required to update the report every 180 days.

Section 4 – Process for Using Gulf of Mexico Red Snapper and Other Reef Fish Species Cooperative Research Data. The bill would require the Secretary of Commerce, within 180 days, report to Congress on the process for using data collected through cooperative research activities for the red snapper and other reef fish species in the Gulf of Mexico. The Secretary would be required to update the report every 180 days.

Section 5 – Authorization of Appropriations. The bill would authorize \$10 million to the Secretary of Commerce for grants, personnel, operations, and data collection to improve stock assessments of red snapper and other reef fish species.

H.R. 3521, the Gulf Red Snapper Data Improvement Act Sponsor – Congressman Jolly (R- Florida) Note – information in bold indicates a provision that would affect Council operations or affect Gulf fisheries.			
Section	Summary	Impacts	Relation to Other Bills
Sec 2 - Gulf of Mexico Red Snapper and Other Reef Fish Species Data Collection Grants.	Would create a new competitive grant program for data collection purposes for Gulf red snapper and other Gulf reef fish.		Similar provisions regarding increase data collection for the Gulf are included in H.R. 981, H.R. 1207, H.R. 1335, H.R. 1826, H.R. 3094 and S. 1403.
Sec 3 – Communication with Stakeholders	Would require the Secretary of Commerce to seek to improve communications by NMFS with stakeholders regarding stock assessment processes and the result of the processes for red snapper and other reef fish species in the Gulf. Would require the Secretary of Commerce, within 180 days, to report to Congress on actions taken to improve communications with stakeholders and the results of these actions. Would require the Secretary to update the report every 180 days.		Similar provisions dealing with increased transparency and public participation are included in H.R. 1335, H.R. 1826, and S. 1403.
Section 4 – Process for Using Gulf of Mexico Red Snapper and Other Reef Fish Species Cooperative Research Data	Would require the Secretary of Commerce, within 180 days, to report to Congress on the process for using data collected through cooperative research activities for the red snapper and other reef fish species in the Gulf. Would require the Secretary to update the report every 180 days.		Similar provisions dealing with cooperative research are included in H.R. 1335, and H.R. 1826.

Section 5 – Authorization of Appropriations	Would authorize \$10 million to the Secretary of Commerce for grants, personnel, operations, and data collection to improve stock assessments of red snapper and other reef fish species.		
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II

114TH CONGRESS
1ST SESSION

S. 105

To permit management of the red snapper by Gulf Coast States and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2015

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To permit management of the red snapper by Gulf Coast States and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Red Snapper Manage-
5 ment Improvement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **EXCLUSIVE ECONOMIC ZONE.**—The term
9 “exclusive economic zone” has the meaning given
10 that term in section 3 of the Magnuson-Stevens



1 Fishery Conservation and Management Act (16
2 U.S.C. 1802).

3 (2) FISHERY MANAGEMENT PLAN.—The term
4 “fishery management plan” means a plan for the
5 sustainability of the red snapper in the Gulf of Mex-
6 ico and the economic and community benefits of
7 each of the Gulf coastal States.

8 (3) GULF COASTAL STATE.—The term “Gulf
9 coastal State” means—

- 10 (A) Alabama;
- 11 (B) Florida;
- 12 (C) Louisiana;
- 13 (D) Mississippi; or
- 14 (E) Texas.

15 **SEC. 3. MANAGEMENT OF RED SNAPPER IN THE GULF OF**
16 **MEXICO.**

17 Notwithstanding any provision of the Magnuson-Ste-
18 vens Fishery Conservation and Management Act (16
19 U.S.C. 1801 et seq.), if each of the Gulf coastal States
20 agrees to a fishery management plan, the Gulf coastal
21 States shall have exclusive authority to manage and con-
22 serve the red snapper in the waters of each Gulf coastal
23 State and the exclusive economic zone in the Gulf of Mex-
24 ico.

1 **SEC. 4. FUNDING.**

2 If each of the Gulf coastal States agrees to a fishery
3 management plan, the Secretary of Commerce shall pro-
4 vide appropriate funding to the Gulf coastal States to
5 carry out necessary stock assessments and data collection
6 related to the red snapper fishery in the Gulf of Mexico.

○

S. 105, The Red Snapper Management Improvement Act
Sponsor – Senator Vitter (R- Louisiana)

Introduced on January 7, 2015

Referred to the Senate Commerce, Science, and Transportation Committee

Section 1 – Short Title.

Section 2 – Definitions. The bill includes definitions of the Exclusive Economic Zone (the same definition as used in the Magnuson-Stevens Act), fishery management plan (means a plan for the sustainability of red snapper in the Gulf of Mexico and the economic and community benefits to each of the Gulf coastal states), and Gulf coastal state (means the States of Alabama, Florida, Louisiana, Mississippi, or Texas).

Section 3 – Management of Red Snapper in the Gulf of Mexico. This section would allow the Gulf coastal states to have exclusive authority to manage the red snapper fishery within their State waters and throughout the EEZ in the Gulf of Mexico if each of the Gulf coastal states agrees to a fishery management plan. The bill would waive the provisions of the Magnuson-Stevens Fishery Conservation and Management Act.

Section 4 – Funding. This provision would require the Secretary of Commerce to provide appropriate funding to carry out necessary stock assessments and data collection for the red snapper fishery if each of the Gulf coastal states agrees to a fishery management plan.

<p>S. 105, The Red Snapper Management Improvement Act Sponsor – Senator Vitter (R- Louisiana) Note – information in bold indicates a provision that would affect Council operations or affect Gulf fisheries.</p>			
Section	Summary	Impacts	Relation to Other Bills
Sec 2 – Definitions	Defines Exclusive Economic Zone, fishery management plan and Gulf coastal state		
<p>Sec 3 – Management of Red Snapper in the Gulf of Mexico</p>	<p>Would allow the Gulf coastal states to have exclusive authority to manage the red snapper fishery within their State waters and throughout the EEZ in the Gulf of Mexico if each of the Gulf coastal states agrees to a fishery management plan.</p> <p>Would waive the provisions of the Magnuson-Stevens Fishery Conservation and Management Act.</p>	<p>The bill does not detail any requirements for conservation or management of the red snapper fishery.</p> <p>The bill is unclear on whether the fishery management plan would cover both State waters and the EEZ or whether States would continue to manage within their own waters consistent with the new management plan.</p> <p>The bill is unclear how management within the EEZ and outside State waters would be accomplished.</p> <p>The bill would waive all provisions of the Magnuson-Stevens Act including National Standards dealing with safety of life at sea, that allocations between States be fair and equitable, that bycatch be minimized, that overfished fisheries be rebuilt, that adverse impacts to communities be minimized, etc.</p>	<p>Similar language to transfer management of the Gulf red snapper fishery is included in H.R. 3094 and S. 55.</p>
<p>Section 4 – Funding</p>	<p>Would require the Secretary of Commerce to fund all Gulf red snapper stock assessments and data collection if each of the</p>		<p>Similar language regarding the Secretary providing</p>

	Gulf coastal states agrees to a fishery management plan.		funding for other entities to conduct stock assessments is included in H.R. 981, H.R. 1335, H.R. 3094, and S. 55.
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