

1 GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

2
3 ADMINISTRATIVE/BUDGET COMMITTEE

4
5 Hyatt Regency Birmingham Birmingham, Alabama

6
7 April 3, 2017

8
9 **VOTING MEMBERS**

- 10 Kelly Lucas (designee for Jamie Miller).....Mississippi
- 11 Kevin Anson.....Alabama
- 12 Doug Boyd.....Texas
- 13 Campo Matens.....Louisiana
- 14 Lance Robinson (designee for Robin Riechers).....Texas
- 15 Ed Swindell.....Louisiana
- 16 David Walker.....Alabama

17
18 **NON-VOTING MEMBERS**

- 19 Leann Bosarge.....Mississippi
- 20 Roy Crabtree.....NMFS, SERO, St. Petersburg, Florida
- 21 LCDR Leo Danaher.....USCG
- 22 Dale Diaz.....Mississippi
- 23 Dave Donaldson.....GSMFC
- 24 Tom Frazer.....Florida
- 25 John Greene.....Alabama
- 26 Martha Guyas (designee for Nick Wiley).....Florida
- 27 Greg Stunz.....Texas

28
29 **STAFF**

- 30 Steven Atran.....Senior Fishery Biologist
- 31 John Froeschke.....Fishery Biologist-Statistician
- 32 Douglas Gregory.....Executive Director
- 33 Beth Hager.....Administrative Officer
- 34 Karen Hoak.....Administrative & Financial Assistant
- 35 Morgan Kilgour.....Fishery Biologist
- 36 Ava Lasseter.....Anthropologist
- 37 Mara Levy.....NOAA General Counsel
- 38 Emily Muehlstein.....Public Information Officer
- 39 Bernadine Roy.....Office Manager
- 40 Camilla Shireman.....Administrative Assistant
- 41 Carrie Simmons.....Deputy Director

42
43 **OTHER PARTICIPANTS**

- 44 J.P. Brooker.....Ocean Conservancy
- 45 Shane Cantrell.....CFA, Galveston, TX
- 46 Chris Conklin.....SAFMC
- 47 Levi Denham.....USCG
- 48 Tracy Floyd.....MDMR

1 Susan Gerhart.....NMFS
2 Ken Haddad.....ASA, FL
3 Chad Hanson.....Pew
4 Alison Johnson.....Oceana
5 Bill Kelly.....FKCFA
6 Amanda Nimbish.....CLS America
7 Bart Niquet.....Panama City, FL
8 Kirk Patterson.....CCA
9 Rusty Pittman.....MDMR
10 Clay Porch.....SEFSC
11 Bob Zales, II.....Panama City, FL

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[PAGE 8](#): Motion to accept the revised language as stated in the
SOPPs. [The motion carried on page 9.](#)

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1 The Administrative/Budget Committee of the Gulf of Mexico
2 Fishery Management Council convened at the Hyatt Regency
3 Birmingham, Birmingham, Alabama, Monday afternoon, April 3,
4 2017, and was called to order by Chairman Kelly Lucas.

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

10 **CHAIRMAN KELLY LUCAS:** Just a refresher, besides myself, Lance
11 Robinson, Kevin Anson, Doug Boyd, Camp Matens, Ed Swindell, and
12 David Walker are the committee members. We have a quorum. All
13 right. To begin with, just reviewing the agenda, are there any
14 additions or any changes to the agenda? Seeing none, we will
15 adopt the agenda, or make a motion to adopt the agenda.

16
17 **MR. KEVIN ANSON:** So moved.

18
19 **MR. LANCE ROBINSON:** Second.

20
21 **CHAIRMAN LUCAS:** All right. With no objections, the agenda is
22 adopted. Next up is Approval of the Admin and Budget Committee
23 minutes. Do we have a motion to approve the minutes? Thank
24 you, Mr. Boyd. Do we have a second? Second by Mr. Matens. Any
25 objections to adopting the minutes? Moving right along, we will
26 turn it over to Mr. Gregory to go through the Action Guide and
27 Next Steps.

28
29 **EXECUTIVE DIRECTOR DOUG GREGORY:** We have three items to cover
30 today. Agenda Item Number IV is the Review of Grant
31 Expenditures to Date and Anticipated Budget Activities and
32 Funding. This is informational only. No action is needed with
33 regard to the budget approval until we know what our funding
34 will be beyond April 28. The continuing resolution that we're
35 under now ends on April 28, and it's expected that Congress will
36 act before then. Once we find out what our funding will be for
37 the rest of the year, we will bring a budget to the council for
38 approval for 2017.

39
40 We're going to review the first two years of our five-year grant
41 and a preliminary estimate of this year's budget. Once we get
42 clarification from NMFS -- I just said that, and so I will skip
43 that part. The council should identify any needed changes in
44 the proposed 2017 activities that Dr. Simmons will present. Ms.
45 Hager is going to present the budget over the webinar.

46
47 Item Number V is Approval of Changes to Check Writing
48 Procedures. The current policy is to allow electronic

1 signatures for checks only less than \$2,000, and we are
2 requesting the council's approval to let us do electronic
3 signatures on checks less than \$5,000, and Beth will explain
4 that.

5
6 Item Number VI is a review of House Resolution 200, the MSA
7 reauthorization, and its potential impacts. I will lead the
8 committee through that. It has a number of items directly
9 pertinent to the Gulf of Mexico, and staff has drafted a summary
10 of potential impacts directly related to the Gulf for
11 consideration. Acceptance or revisions by the councils are
12 needed in these impacts to the Chair or the Executive Director,
13 in case we are called on by Congress to provide testimony
14 between now and the June meeting.

15
16 The important thing is, in the past, we have always expressed
17 our comments as we support or we don't support an item, and we
18 have been notified by NOAA General Counsel that that is
19 construed as lobbying Congress, and so we can't do that. All we
20 can do is determine what the potential impacts of an action are,
21 and we will go through that later. With that, I will turn it
22 back over to you, Madam Chair.

23
24 **CHAIRMAN LUCAS:** Thank you. Let's begin with reviewing the 2017
25 budget activities and Dr. Simmons.

26
27 **REVIEW OF GRANT EXPENDITURES AND ANTICIPATED BUDGET ACTIVITIES**
28 **AND FUNDING**
29 **REVIEW OF 2017 BUDGETED ACTIVITIES**
30

31 **DR. CARRIE SIMMONS:** Thank you, Madam Chair. This is in Tab G,
32 Number 4(a). This is just a list of activities that we are
33 anticipating in 2017, and the asterisk indicates some of the
34 activities we have already done this year, and we have it
35 divided up into council meetings, Scientific and Statistical
36 Committee meetings, advisory panel meetings, technical
37 committees, and SEDAR meetings. Then, on the second page, is
38 public hearings and our scoping meetings.

39
40 I won't go through every single one of those, but you can see
41 several of those we have already accomplished this year, and
42 these are some of the other meetings we have planned for or are
43 anticipating to happen later this year. Again, this is just
44 staff's idea of what may occur, and so, if you have any
45 questions about that, just let us know.

46
47 I would note that these proposed activities were budgeted for in
48 our five-year budget, and so they are within those activities

1 that we had in that five-year budget, regarding the 2017
2 calendar year, and so I will stop there.

3

4 **CHAIRMAN LUCAS:** Mr. Boyd.

5

6 **MR. DOUG BOYD:** One question. Under advisory panel meetings, is
7 there no provision for the private rec AP?

8

9 **MR. LANCE ROBINSON:** It's on there.

10

11 **MR. BOYD:** Is it on there?

12

13 **EXECUTIVE DIRECTOR GREGORY:** Yes, we have scheduled two meetings
14 of that group.

15

16 **MR. BOYD:** It's red snapper. Okay. Got it. Thank you.

17

18 **CHAIRMAN LUCAS:** Any additional questions on those activities?
19 All right. Let's move on to Item (b) under this tab and looking
20 over the expenditures to date in the 2017 budget and Beth.

21

22 **2015-2016 EXPENDITURES TO DATE & 2017 BUDGET**

23

24 **MS. BETH HAGER:** As Mr. Gregory mentioned, this budget, the
25 proposed column, was originally developed when we thought we
26 might receive about a 3 percent increase. Obviously recent
27 indications are that we will be looking at possibly level
28 funding, and so this isn't something that we're going to ask for
29 action on.

30

31 This is primarily informational for the council, so that you can
32 see where we stand, as far as what has been expended so far to
33 date for 2015 and 2016, and then approximately what we're
34 looking at for a budget for 2017.

35

36 Again, if it's level funding, I think we can draw on a few of
37 these line items and get us down -- Take that extra 1 percent
38 off of the proposed numbers and get us down to where our level
39 funding would be, if that is in fact what happens with Congress
40 when they finally decide everything at the end of April. We
41 will have a final budget figure to the council in June, we hope,
42 and that's all.

43

44 **CHAIRMAN LUCAS:** All right. Thank you. Any questions regarding
45 the expenditures to date and/or the current budget? All right.
46 Seeing no questions, let's go ahead and move on to Number V
47 regarding the changes to the check writing procedures.

48

1 **APPROVAL OF CHANGES TO CHECK WRITING PROCEDURES**

2
3 **MS. HAGER:** Our check writing procedures currently are defined
4 on page 27 of the SOPPs, Section 6.4. What we're looking at is
5 just amending this language slightly so that -- Basically, we
6 are printing more checks manually here in the office that range
7 between \$2,000 and \$5,000. The ability to electronically sign
8 these checks would help us prevent any payment delays, in the
9 event that we have two officers out on travel.

10
11 As you can see, it's going to require two physical signatures
12 right now for checks that are greater than \$2,000, but, if we
13 move that bar up to \$5,000, that should cover most of our
14 regular operating costs, any travel or meeting expenses that we
15 would normally come across, anything like that. The only thing
16 that would be outside of that would be our monthly rent and
17 capital expenditures, which we don't have often, and are very
18 well planned, and so we are looking at trying to amend this
19 verbiage.

20
21 **CHAIRMAN LUCAS:** Thank you. I would assume that we're going to
22 need a motion to amend the verbiage here for the Standard
23 Operating Procedures.

24
25 **MR. CAMPO MATENS:** So moved.

26
27 **MR. BOYD:** Second.

28
29 **CHAIRMAN LUCAS:** We have a motion by Mr. Matens, and a second by
30 Mr. Boyd. Are there any objections to amending the language?

31
32 **MR. BOYD:** I have a question for Mr. Gregory. Do you think we
33 need to ask our auditors at some point, because we've made this
34 change, to review the items between those figures, just to be
35 cautious, or do you feel very comfortable?

36
37 **EXECUTIVE DIRECTOR GREGORY:** I am very comfortable with this.
38 We are getting an audit this year. We do audits every two
39 years, and so we've already talked to the auditors. It's the
40 same auditors we've had in the past, and, beginning in May,
41 they're going to come to the office and initiate the field work
42 and all of that, but we will definitely point this out to them.

43
44 **CHAIRMAN LUCAS:** Mr. Anson.

45
46 **MR. ANSON:** This question is for Doug or for Beth. I have two
47 questions. The first is about what percentage of the checks
48 would this represent then, going to \$5,000, roughly? Is it 80

1 percent of the checks that would be issued that are under \$5,000
2 or 90 percent?

3
4 **MS. HAGER:** Probably closer to 95, really. We have a few
5 regular monthly checks, like I mentioned, for rent. Then it
6 would really be capital expenditures. There is very little that
7 would be outside of that.

8
9 **MR. ANSON:** Not that you have a real deep bank account, but I
10 mean what are the internal procedures, Beth, that you have for
11 doing an inventory or a quality control for these, for checks
12 that are written? I mean, every month, do you kind of reconcile
13 or compare the number of checks on the ledger to what was
14 processed by banks or what is done?

15
16 **MS. HAGER:** Yes, every month, we reconcile the bank statement,
17 and we actually have a sort of extensive internal control
18 procedures, in that, as I write the checks, I am not the person
19 who actually opens the bank statement, and we have a secondary
20 administrator that actually reviews all of the checks, to ensure
21 that anything that is over the limit has manual signatures, and
22 they look at the physical images of the checks every month, so
23 that we can make sure that we haven't accidentally
24 electronically signed something that was outside of the
25 parameters of our internal controls.

26
27 **MR. ANSON:** Thank you.

28
29 **CHAIRMAN LUCAS:** All right. Any additional questions? **Are**
30 **there any objections to the motion? Seeing none, the motion**
31 **passes.** Mr. Gregory, I will turn it back over to you to go
32 through H.R. 200.

33
34 **REVIEW OF H.R. 200 (MSA REAUTHORIZATION) POTENTIAL IMPACTS**

35
36 **EXECUTIVE DIRECTOR GREGORY:** Okay. This is Tab G, Number 6. If
37 it's okay, we do have some time, but there are seven items in
38 this House Resolution 200 that specifically apply to the Gulf of
39 Mexico area. I would like to go through those first, and the
40 reason that we're bringing this to the council is, in years
41 past, when we've been asked to testify, the Chair usually does
42 the testimony, and we haven't had a chance to bring anything to
43 the council, and so staff has been drafting letters, with the
44 Chair reviewing it, before the testimony, because they give you
45 like two weeks' notice when they set up a hearing.

46
47 We wanted to bring this to the council as soon as we could, to
48 get some input, in case we are called to testify, and so that's

1 why I want to start with the Gulf of Mexico items. A lot of the
2 information that is going into these draft regulations for the
3 Magnuson Act are emanating from senators and representatives
4 from the Gulf.

5
6 What I would like to do is start with Section 12 and then move
7 on to 14, 16, 17, 20, 23, 29, and then come back and start at
8 the beginning, if that's okay. Section 12 goes to the red
9 snapper management, and it starts on page 11 of this document.
10 Section 14 talks about the range of management, and this
11 pertains to the relationship between the sanctuaries and the
12 marine monuments and the councils.

13
14 Section 16 is all about recreational data and Section 407.
15 Section 20 has to do with the mortality from oil rig removal,
16 mortality on red snapper. Section 23 is on intersector trading,
17 and Section 29 is on alternate measures of managing the
18 fisheries, and so I will start with Section 12 on page 11, and
19 we will just see how far we get.

20
21 H.R. 200 proposes to strike the entire section of 407. In the
22 past, proposals were to strike 407(d), which required a quota on
23 recreational fishing in red snapper, but this act proposes to
24 strike the entire section of 407, which includes red snapper
25 research, independent peer review, and referendum and catch
26 limits.

27
28 As I have written here, and I will just this quickly, this
29 Section 407 would be replaced with the following requirements,
30 that we see beneath here, updating the research components.
31 This would remove the referendum requirements that apply only to
32 a commercial catch share program for red snapper, making the
33 referendum requirements consistent for all Gulf fisheries or
34 sectors.

35
36 It also removes the requirement for separate red snapper quotas
37 for the commercial and recreational sectors and the
38 corresponding closure requirements when an ACL of each sector is
39 reached. The council could reenact these provisions with
40 regulatory action. This provision would also allow the councils
41 to establish a separate closure provisions for each component of
42 the recreational sector.

43
44 In this section, it says to require the Secretary, in
45 conjunction with the Gulf States, the Gulf of Mexico Council,
46 and the charter and recreational fishing sectors, to develop and
47 implement a real-time reporting and data collection program for
48 the Gulf of Mexico red snapper fishery. The Secretary is

1 required to make this a priority for funding.

2
3 Now, on the right-hand side of this, you see the staff -- This
4 is the staff analysis of the potential impacts, and this is
5 where we want input from the council, if there is things that
6 have been left or could be said in a different way or better.
7 This requires implementation of electronic reporting for all
8 sectors in the red snapper fishery, and this would be a big
9 impetus in that direction.

10
11 The next part of this Section 12 is to require the Secretary, in
12 conjunction with the Gulf States, the Gulf of Mexico and the
13 South Atlantic Councils, and here we have the South Atlantic,
14 and the commercial, charter and recreational fishing sectors, to
15 develop and implement a cooperative research program for
16 fisheries, and particularly giving priority to those fisheries
17 that are considered data poor. The Secretary would be
18 authorized, subject to the availability of appropriations, to
19 make funds received by NOAA from the Saltonstall-Kennedy Act
20 available for the research for this region. This would greatly
21 improve our knowledge of data-poor species, and most of our S-K
22 projects would be directed toward that end.

23
24 The next part of this requires the Secretary, acting through the
25 NMFS Regional Administrator of the Southeast Region, to develop
26 a schedule of stock surveys and stock assessments for the Gulf
27 of Mexico region and the Southeast Region for the five-year
28 period beginning on the date of enactment of this Act and for
29 every five-year period thereafter, giving priority to those
30 stocks that are commercially or recreationally-important and
31 ensuring that each important stock is surveyed at least once
32 every five years. The Secretary is required to direct the
33 Science Center Director of the Southeast Region to implement the
34 schedule of stock surveys and stock assessments.

35
36 Our staff analysis is that this will require a schedule for
37 stock surveys and stock assessments and establish a priority for
38 those deemed most important. Now, stock surveys, I think,
39 typically are done every year, and so I think that's not an
40 issue. The stock assessments, we have been doing approximately
41 five years or less, for the important species, but that's
42 something we would have to look at, as far as the burden on the
43 existing system. Given the changes we're having with SEDAR,
44 this could become an issue in the near future.

45
46 The next part requires that the Science Center Director of the
47 Southeast region ensures that the information gathered from
48 research funded through the RESTORE Act, the Deepwater Horizon

1 funding, be incorporated as soon as possible into any stock
2 assessments conducted after the date of enactment.

3
4 Typically, in the SEDAR process, we do look for whatever data is
5 available, but this would guarantee, pretty much, that any
6 research available through the RESTORE funding would definitely
7 be available for use in the stock assessments, if they're
8 appropriate.

9
10 Then the final section would be to extend state management out
11 to nine nautical miles for the Gulf of Mexico red snapper
12 recreational sector of the fishery. The staff analysis is that
13 this creates consistent state water jurisdiction for all five
14 states for the management of red snapper, but for red snapper
15 only.

16
17 This would create some issues for the public and law
18 enforcement, by having a different state/federal water boundary
19 line for different species, but this would make permanent the
20 current nine-mile extension for the central states that is
21 currently in the appropriations bills. A potential impact is
22 this will continue to shorten federal recreational seasons
23 beyond what it would if the state boundaries were not extended
24 to nine nautical miles, to the extent that state regulations are
25 inconsistent with federal regulations. That is our
26 understanding and potential impacts of Section 12, if there is
27 any modifications or comments on that.

28
29 **CHAIRMAN LUCAS:** Mr. Walker.

30
31 **MR. DAVID WALKER:** I have read the bill, and, in the very first
32 sentence of H.R. 200, it reads "to amend Magnuson-Stevens
33 Fishery Conservation and Management Act to provide flexibility
34 for fishery managers and stability for fishermen and other
35 purposes", whatever those are. Then it reads -- However, when I
36 read into the bill, the language for the commercial sector
37 decreases flexibility and increases instability.

38
39 I am concerned that some sections of H.R. 200 could undermine
40 the science process and that it would overly constrain the Gulf
41 Council. There may be some good sections in the bill that would
42 increase accountability and data collection, which are good
43 things, but, overall, I think this bill would take us in the
44 wrong direction. Now, I had some section-by-section things
45 written down, but I am not able to pull them up on my computer
46 right now, but that's kind of what I have to say, in a short
47 summary.

48

1 **CHAIRMAN LUCAS:** I have a comment, Mr. Gregory. On these, when
2 you are filling out the potential impacts, I am just wondering
3 if we shouldn't change the language -- I mean, will improve our
4 knowledge of data-poor species. Well, it may improve our
5 knowledge of data-poor species, and I guess that depends on the
6 type of information they're collecting, and I'm just wondering
7 if we shouldn't change the language to be a little more -- To
8 possible and not necessary definitive, in some cases. Are there
9 any other comments here about potential impacts?

10
11 I was going to ask one thing about what you all considered in
12 terms of impacts, all the different things you considered of how
13 it would impact the Gulf Council. Did you do it from just like
14 management or did you also do it from staffing levels or
15 economics or things like that? Kind of how did you all look at
16 it when you all went through it?

17
18 **EXECUTIVE DIRECTOR GREGORY:** At this point, we just did section-
19 by-section, paragraph-by-paragraph, like we have here. We
20 haven't made any overarching statements, like Mr. Walker has,
21 about the whole H.R. 200. We figured that would come later.

22
23 We had our Council Coordinating Committee meeting near the end
24 of February, and so we have put this together since then, and,
25 with work from Dave Whaley, the gentleman that we have keeping
26 track of legislation for the councils. He did the section on
27 analysis that you see on the left-hand side, and I took his work
28 and interpreted that, and so we have done it really just
29 section-by-section, paragraph-by-paragraph, without any overall,
30 holistic-type viewpoint at this point.

31
32 **CHAIRMAN LUCAS:** I would just encourage us also, as we go
33 through, if we see anything where it may increase a burden to
34 staff, or you may have to have more staff or more funding to do
35 certain things, that we also be sure to include that as a
36 potential impact.

37
38 **EXECUTIVE DIRECTOR GREGORY:** Right, and we did that in a couple
39 of places that were obvious. I welcome comments at any time,
40 which we will share with the Chair and Vice Chair and work
41 through, and so track changes, or, if you find something later
42 that you want to share with us, that's fine.

43
44 Section 13 does not apply to us. That's the North Pacific.
45 Section 14 is entitled "Ensuring Consistent Management for
46 Fisheries Throughout Their Range". This section clarifies that
47 the Magnuson-Stevens Act would be the controlling fishery
48 management authority in the case of any conflict within a

1 National Marine Sanctuary or an area designated under the
2 Antiquities Act of 1906. That would be the marine monuments.

3
4 The potential impact of that is this provides greater authority
5 to the councils over fisheries within a sanctuary or national
6 monument, so species can be managed consistently throughout
7 their stock range. You may recall, when we got the presentation
8 from the Flower Garden Banks National Marine Sanctuary in June
9 of last year, we were basically told that they could enact
10 whatever fishing regulations they wanted to, but they gave us a
11 chance to provide some recommendations.

12
13 This would give the councils more authority to do that, and it
14 kind of just reverses the roles. I do not envision any, or very
15 many, potential things in the future where the council would not
16 go along with the sanctuaries. We did that with the Tortugas
17 zones that were closed. We made those closed areas under our
18 authority that became -- They later became part of the
19 sanctuary.

20
21 The next section here says require that any restrictions on the
22 management of fish in the EEZ that are required to implement a
23 recovery plan under the Endangered Species Act, the restrictions
24 would be implemented under the authorities, processes, and
25 timelines of the Magnuson-Stevens Act.

26
27 The main thing this would accomplish is that, not only would it
28 give greater authority to the council, but it would provide a
29 more transparent public process for enacting fishery regulations
30 under the Endangered Species Act, and it would also -- The
31 previous one would make the fishing regulations under the
32 national monuments and the sanctuary more of a public process.

33
34 Currently, the sanctuary has a public process, but, once they
35 get to where they want to develop their draft environmental
36 impact statement, like all federal agencies, they bring it in-
37 house, where we don't bring any document in-house. Every
38 version that we work on comes to the council and is available to
39 the public, and so we actually have probably the most public and
40 transparent federal government process in the entire country. I
41 don't think there is another process even close to what the
42 Magnuson Act has provide for fisheries, and that's important to
43 a lot of people, is that transparency. That is Section 14. Are
44 there any questions about that or suggested impacts? I think
45 all the councils pretty much support Section 14.

46
47 Again, Section 15 just pertains to the North Pacific, and so
48 we'll skip that. Section 16 is on recreational fishing data,

1 down the left-hand side. This would require the Secretary to
2 establish partnerships with states to develop best practices for
3 implementing state recreational fisheries programs.

4
5 The staff analysis is that we are currently working to improve
6 collaborations on collecting recreational fisheries data and
7 other research needs. What we're saying is that we're already
8 doing some of that, but, if there is some meaning here or
9 impacts that the state people perceive, it would be good to
10 point it out here. I mean, would this be a burden on the
11 states, or is this something already being done and this is just
12 a continuation of that?

13
14 **CHAIRMAN LUCAS:** Ms. Bosarge.

15
16 **MS. LEANN BOSARGE:** I did have a question about this one, and I
17 guess it kind of continues down, but I don't really know what
18 some of it means, and I'm hoping -- I am worried to death that
19 somebody is going to call upon one of us to go testify, and I
20 really don't understand what this means.

21
22 I know that it was also listed in the letter that went to the
23 Honorable Wilbur Ross, our Secretary of Commerce, and that
24 letter was mainly -- Well, it was signed by all Gulf
25 representatives, and so does anybody have any insight as to what
26 that means when it says "direct NMFS to expand upon existing
27 partnerships with states to develop best practices for
28 implementing state recreational fisheries programs and to
29 develop guidance that detail best practices for administering
30 state programs"? I don't want to look like an idiot if they
31 call upon me, please.

32
33 **CHAIRMAN LUCAS:** Anybody have any thoughts they would like to
34 share? Leann, I will say that the states currently do partner
35 with NMFS and with NOAA to get things done. I think some of
36 that is just expanding upon our partnership, to make sure we're
37 working together and that, whatever we're doing with data
38 collection or whatever it may be, that we are working with NMFS
39 to get those certified and that we are working with them to try
40 and manage most effectively. At least I think that's the way I
41 took it. Somebody else? Dave.

42
43 **MR. DAVE DONALDSON:** Thank you, Madam Chair. I'm not on your
44 committee, but, Leann, I think it's just trying to reinforce
45 that, that working cooperatively with the states has worked well
46 in the past and continue to do that, looking for existing and
47 new opportunities. I think that's all that means.

1 **MS. BOSARGE:** Thank you. That does shed some -- When you put it
2 in that data collection perspective, I can definitely see where
3 that's headed, that train, and to emphasize that. Okay. That
4 clarifies it. I feel a little more knowledgeable now. Thank
5 you.

6
7 **CHAIRMAN LUCAS:** All right, Mr. Gregory.

8
9 **EXECUTIVE DIRECTOR GREGORY:** Okay. We have already covered the
10 second one, which has to do with developing guidance, in
11 cooperation with the states, that detail best practices. That
12 is related to the first one. I will skip that.

13
14 Number 3 is to require the Secretary to submit a biennial report
15 to Congress on the estimated accuracy of the federal
16 recreational registry program, priorities for improving
17 recreational fishing data collection programs, and explain the
18 use of information collected by state programs and by the
19 Secretary.

20
21 This will continue to improve collaboration on the collecting of
22 recreational data and other research needs. The thing that kind
23 of throws me is I don't know what is meant by a "registry
24 program", "registry program priorities", if that meant a federal
25 registry of fishermen. That's true with a lot of things in the
26 Act. It's just not clear-cut what the intent is.

27
28 The next item is to require a grant program to states, and
29 that's pretty clear cut, to improve implementation of state
30 recreational data collection programs and requires the Secretary
31 to prioritize the grants based on the ability of the grant to
32 improve the quality and accuracy of the data collection
33 programs. This is clearly about data collection programs, and
34 this will continue to improve collaboration, or that's what the
35 staff's analysis of that was.

36
37 The next item is to require the Secretary, within sixty days, to
38 enter into an agreement with the National Research Council of
39 the National Academy of Sciences to study the implementation of
40 the existing recreational data collection programs, and I
41 presume that would include state and federal and not just MRIP.
42 The study must provide an updated assessment of recreational
43 survey methods, an evaluation of the extent to which the 2006
44 NRC's recommendations have been implemented, and an examination
45 of any limitations to the previous and current NOAA recreational
46 data collection programs.

47
48 The staff analysis was that this may continue to improve

1 collaborations on collecting recreational fisheries data. The
2 2006 NRC report states that many of this committee's
3 recommendations apply to state surveys as well as to the MRFSS.
4 Therefore, the study should include a review and evaluation of
5 state recreational data collection programs as well as the NMFS
6 program. I will just keep reading. Instead of stopping at each
7 spot, just interrupt me at any time. The last part of this
8 section is --

9
10 **CHAIRMAN LUCAS:** We have a question, Mr. Gregory, from Dr.
11 Frazer.

12
13 **DR. TOM FRAZER:** Just real quick, Doug. If we don't understand
14 something -- For example, I just want to go back to this one of
15 the federal recreational registry program. Do we have an option
16 just to highlight or indicate those areas that are unclear and
17 seek clarity?

18
19 **EXECUTIVE DIRECTOR GREGORY:** Yes, we do.

20
21 **DR. FRAZER:** Okay.

22
23 **CHAIRMAN LUCAS:** Go ahead.

24
25 **EXECUTIVE DIRECTOR GREGORY:** The final part here is to --

26
27 **DR. CRABTREE:** The National Academy review and all is what was
28 just completed, and Dr. Barbieri chaired the meeting, and so
29 some of this stuff has already happened, and I guess it's just
30 carrying over from earlier versions.

31
32 **EXECUTIVE DIRECTOR GREGORY:** Did the current study include state
33 programs? This one would include state programs.

34
35 **DR. CRABTREE:** I know Dr. Barbieri is here, and so he would be
36 the one to ask.

37
38 **CHAIRMAN LUCAS:** Ms. Guyas.

39
40 **MS. MARTHA GUYAS:** Luiz is at the pool, probably. The registry,
41 I think, is the angler registry that is part of MRIP now, or is
42 used to get information for MRIP. I assume that's what we're
43 talking about here, and Dave Donaldson is shaking his head yes.

44
45 **MR. DONALDSON:** That would be my assumption as well.

46
47 **CHAIRMAN LUCAS:** Dr. Frazer.

48

1 **DR. FRAZER:** I agree with both of you that that's probably what
2 it is, but, because we don't know, it's subject to somebody
3 else's interpretation, and it doesn't help us at all.

4
5 **CHAIRMAN LUCAS:** We can always ask the Natural Resources
6 Committee for clarification, if you need to, beforehand. Of
7 course, this bill has just been introduced, and so that's why
8 they're asking for some of this information, so they can improve
9 upon it.

10
11 **EXECUTIVE DIRECTOR GREGORY:** We're just trying to get, at least
12 here in the beginning, a step ahead of the process. These
13 things move so quickly that it's very difficult to stay on top
14 of it, or at least get ahead of it.

15
16 The last part of Section 16 was to require the Secretary to
17 submit a report to Congress on the result of the NRC study
18 within one year of entering into the agreement with the NRC.
19 Now, the council would benefit from this report and the
20 requirement that it be completed in a timely fashion. However,
21 that really makes -- It gives the NRC less than a year to do
22 their report, and so that's something for them to consider.

23
24 The next section is Section 17, Stock Assessments Used for
25 Fisheries Managed under the Gulf of Mexico Council's Reef Fish
26 Management Plan. This only deals with reef fish. It's not just
27 red snapper, but it's just reef fish.

28
29 To create a new section 409 in the Act that the Gulf States
30 Marine Fisheries Commission shall conduct all fishery stock
31 assessments used for management purposes by the Gulf of Mexico
32 Fishery Management Council for fisheries managed under the Reef
33 Fish Plan.

34
35 The staff analysis was that this would shift the agency
36 responsible for completing stock assessments from NMFS to the
37 Fisheries Commission. The commission currently assists in the
38 stock assessments in supplying data for each stock assessment
39 and assisting in improving data collection programs for private
40 anglers and the for-hire industry Gulf-wide. It's anticipated by
41 staff that additional resources would be necessary to conduct
42 this.

43
44 The next part of this, on the left side, is to require that the
45 stock assessments incorporate fisheries survey information
46 collected by university researchers and, to the extent
47 practicable, use state, university, and private assets to
48 conduct fisheries surveys. The staff analysis is that,

1 currently, these data sources are already being considered for
2 inclusion in SEDAR stock assessments, if they are provided and
3 if they're known about, and so this would not change anything,
4 as far as we know.

5
6 The last part of this section is to require that any stock
7 assessments incorporate fisheries surveys and other relevant
8 information collected on and around natural and artificial
9 reefs, emphasize constituent and stakeholder participation,
10 contain all of the raw data used in the assessment and a
11 description of the methods used to collect the data, and employ
12 a transparent process that includes an independent scientific
13 review and review by a panel of independent experts of the data
14 and assessments.

15
16 The staff analysis is that efforts to include data from
17 artificial structures are continuing. Different research is
18 being funded by MARFIN and S-K and others. The current SEDAR
19 process provides the process outlined in this provision. SEDAR
20 would need to continue to improve public participation, but, if
21 this new stock assessment process is conducted by the
22 commission, we don't know if SEDAR would be doing it or if it
23 would be an independent process. It reads here, to me, that
24 this would be an independent process.

25
26 **CHAIRMAN LUCAS:** We have some questions. Ms. Bosarge.

27
28 **MS. BOSARGE:** I know this gets kind of sensitive around the
29 table to have these discussions, but I think it's important that
30 we provide feedback. To me, I don't have a dog in the hunt, as
31 far as who does the stock assessments and carries that out. To
32 me, what is most important is that, regardless of who is doing
33 it, whatever becomes law in this Act, that we have all of our
34 bases covered so that the fishermen don't end up in a pickle
35 because we didn't have something worded correctly.

36
37 I guess what worries me right here is that, in some of these
38 other data collection actions, they say subject to the
39 availability of appropriations. It seems like this is going to
40 be a pretty big dollar hurdle here if you shift it from the
41 Southeast Fisheries Science Center to Gulf States, and I am not
42 in those wheeling and dealing, and you may already have that
43 money covered, but there is nothing in here that says that we're
44 going to create this -- This just says we're going to create
45 this section and that now Gulf States is going to carry out
46 these stock assessments.

47
48 I would hate for something to become law and we have to do it,

1 but we don't have the money and things, and that's what I worry
2 about, and so should we have some feedback here that says
3 something about subject to availability, or where do you stand
4 on that, Dave? How are we looking?

5
6 **CHAIRMAN LUCAS:** Dave, I will let you answer that question, but
7 I did have --

8
9 **MR. DONALDSON:** Doug mentioned that the staff analysis is that
10 additional resources would probably be needed, and you could
11 take the "probably" out of there, because, at the current
12 funding that we have, we would not be able to conduct
13 assessments for the reef fish species, and so additional
14 resources would definitely be needed, and that's something that
15 we have talked with our congressional folks about in the past.

16
17 **CHAIRMAN LUCAS:** I would say this though. This is the council
18 is supposed to analyze this, and I would contend that Gulf
19 States is going to go and say, if you all shift the burden to us
20 doing the stock assessments, that we would need for you to shift
21 those funds, whether it's subtracting those funds from NMFS and
22 sending them to Gulf States or additional funds. I was going to
23 ask the question about, when you say "additional resources would
24 be necessary", what are you meaning by additional resources from
25 the council level, Mr. Gregory?

26
27 **EXECUTIVE DIRECTOR GREGORY:** I don't think that was implying
28 additional resources to the council, but really to the
29 commission, and that would be probably staffing and funding.

30
31 **CHAIRMAN LUCAS:** The question is should we take this from just a
32 council level anyway, or should we go ahead and write in and
33 specify that we're talking about additional resources for Gulf
34 States? They're asking you to comment on how the council is
35 going to be impacted, and, if that's not necessarily impacting
36 you, you probably need to say what it is that it's impacting,
37 would be my thought.

38
39 **EXECUTIVE DIRECTOR GREGORY:** Right, and, naively, I don't know
40 if this something that the commission and the states are pushing
41 to do or not to do, and so one question might be would this be
42 an improvement over the current system, or would this be a step
43 backwards in getting the quality of stock assessments that we
44 need. I guess that cuts to the core of it.

45
46 **CHAIRMAN LUCAS:** I guess the question is how would you know that
47 until you did it? In general, when stock -- The commission is
48 participating in stock assessments, and we've discussed all the

1 different players and people that are participating in stock
2 assessments, and I think, whichever entity does it, it's going
3 to be some of the same players who are all participating in the
4 stock assessment.

5
6 **MS. BOSARGE:** So I guess my feedback would be, as Congress is
7 going through this and revising it, I would hope that they will
8 give a little more verbiage there to maybe spell out how this
9 would transpire. I mean, there is no date certain. Surely this
10 is going to have to be phased in. Surely you couldn't just
11 expect that transition that all those people leave the federal
12 government and go to work for Gulf States.

13
14 I know there is a collaboration though. A lot of this stuff is
15 a collaboration between universities and things like this, and
16 there is scientists all over the place, but I don't know that I
17 would want that to be left that open-ended in the document,
18 because I could see where it could become a problem for our
19 fishermen if we don't spell it out and make sure that we have
20 all of our ducks in a row.

21
22 Like I said, I have no dog in that hunt. It doesn't matter to
23 me who does it, but it's more a question of making sure that we
24 think about it all on the frontend and have it in writing how
25 we're going to do it.

26
27 **CHAIRMAN LUCAS:** I think, in that case, maybe you're asking Mr.
28 Gregory to write in something about uncertainty about how that
29 transition would occur. As an impact, we are uncertain how this
30 would impact and so on and so forth, what you're speaking to.
31 All right, Mr. Gregory. I think that takes us to the next
32 section.

33
34 **EXECUTIVE DIRECTOR GREGORY:** We will skip 18 and 19, for the
35 time being, and Section 20 is the Prohibition on Considering Red
36 Snapper Killed During Removal of Oil Rigs. This is another one
37 that had us scratching our heads.

38
39 This section would prohibit the Secretary from counting red
40 snapper mortality that is a result of the removal of offshore
41 oil rigs against the total allowable catch and prohibits the
42 Secretary from counting those fish toward the quota for U.S.
43 fishermen for the purposes of closing the fishery when the quota
44 has been reached.

45
46 Our staff analysis is that, currently, these fish are not
47 counted toward the quotas. In order to include this fish
48 mortality in the stock assessments, additional information on

1 size or age would be necessary over a time period and strata.
2 Currently, these data are unavailable. The phrase "total
3 allowable catch" should be removed and replaced by "acceptable
4 biological catch". This is not something that we're doing now,
5 and so it's curious why this would be in the Act, or be in the
6 regulations, but our analysis is that it's a non-issue at this
7 point.

8

9 **CHAIRMAN LUCAS:** All right. Next section.

10

11 **EXECUTIVE DIRECTOR GREGORY:** Okay. We're on to Section 21,
12 which is similar. This section would prohibit the Secretary
13 from counting any fish seized from a foreign vessel engaging in
14 illegal fishing in the United States EEZ against the total
15 allowable catch for U.S. fishermen.

16

17 This is a little more realistic, since we've got information in
18 the lanchas coming out of Mexico and fishing off the coast of
19 Texas, but our staff analysis is that this would have no impact
20 because this is the way Gulf stocks are currently handled. The
21 phrase "total allowable catch", again, should be considered an
22 ACL or a quota, but we're not including those catches in the
23 stock assessment as a source of mortality or in the quotas that
24 we are enacting in the EEZ, and so this looks to me like a
25 preemptive strike, in case anybody was thinking of doing that.

26

27 **CHAIRMAN LUCAS:** Ms. Bosarge.

28

29 **MS. BOSARGE:** I know that we have had some discussion about
30 possibly trying to use some of those intercepts, I guess you
31 could call them data intercepts, at some point, and incorporate
32 that into our stock assessment, the fish coming from these
33 Mexican lanchas that are being illegally caught.

34

35 The flip side of that though is then considering that landings
36 too. You are killing fish, and surely you have to consider both
37 sides of it, and maybe the Science Center can -- I am just
38 trying to be fair and make sure that, from a conservation
39 standpoint, we're thinking about both sides. If we were to
40 include it in the stock assessment, do we then need to also
41 think about the mortality side of it?

42

43 **CHAIRMAN LUCAS:** Dr. Porch.

44

45 **DR. CLAY PORCH:** As I recall, it amounted to about a half-a-
46 million pounds. Those were the estimates, which is small
47 compared to the total landings now from the directed fisheries
48 and the shrimp bycatch and the dead discards, and so it wouldn't

1 have a big impact on the advice. We did some preliminary
2 analyses, similar to what we did when we looked at the impact of
3 the rig removal, which was something on a similar scale, and it
4 didn't affect the ABC advice very much.

5
6 **EXECUTIVE DIRECTOR GREGORY:** Skipping down to Section 23,
7 Intersector Trading of Commercial Catch Share Allocations in the
8 Gulf of Mexico, this section would prohibit any commercial quota
9 shares allocated under a catch share program in the Gulf of
10 Mexico from being traded, by sale or lease, for use by the
11 recreational fishing sector, including any charter/for-hire
12 vessel, headboat, or private recreational fisherman.

13
14 The staff analysis is that this would reduce the council's
15 flexibility in the management of catch share programs. However,
16 this prohibition on intersector trading formalizes the council's
17 current position. If there is anything we could add to that, it
18 would be helpful. Basically, we would be saying that that is
19 not the intent of the council at this time.

20
21 Moving on, the last section I want to cover, and it happens to
22 be the last section of the resolution, this is the Authority to
23 Use Alternative Fishery Management Measures. This allows
24 councils to use alternative fishery management measures in a
25 recreational fishery or for the recreational component of a
26 mixed-use fishery, including the use of extraction rates,
27 fishing mortality targets, and harvest control rules in
28 developing FMPs, plan amendments, or proposed regulations.

29
30 The staff analysis is that this provides flexibility to the
31 council in setting harvest limits on the recreational fishery.
32 It will be challenging to establish alternative measures for
33 controlling recreational fishing mortality. I guess the
34 implication here is alternatives to quotas, to hard quotas, but
35 that is the analysis.

36
37 **DR. CRABTREE:** I guess what is not clear to me there is so does
38 that mean then that you aren't required to have annual catch
39 limits in recreational fisheries, or do you -- It's not clear to
40 me what that really does, if you still have to have annual catch
41 limits.

42
43 **EXECUTIVE DIRECTOR GREGORY:** Well, Section 407(d) has been
44 removed.

45
46 **DR. CRABTREE:** Yes, but there is still the general requirement
47 in the statute to have annual catch limits, and is that -- Does
48 this replace that for recreational fisheries? It's not clear to

1 me.

2
3 **EXECUTIVE DIRECTOR GREGORY:** It's my understanding that's what
4 the attempt is, but I don't know how you could establish a
5 fishing mortality target or an extraction rate without it
6 turning into a sort of quota.

7
8 **DR. CRABTREE:** Well, I mean, we have fishing mortality targets
9 now, right? They're expressed as spawning potential ratios and
10 things, and so we do all of that, but then it's converted into a
11 quota, or an annual catch limit, and where we get in trouble
12 with litigation and things is when language goes in the statute
13 that isn't clear what it means, and then we spend an awful lot
14 of time haggling it out in court.

15
16 **EXECUTIVE DIRECTOR GREGORY:** If indeed this is ambiguous, that's
17 something we need to point out, if the council or the committee
18 feels like it's ambiguous.

19
20 **DR. CRABTREE:** I am looking at that, and I don't read it as
21 exempting you from the annual catch limit requirement, and so
22 it's not clear to me what it really does at that point.

23
24 **CHAIRMAN LUCAS:** You could say something about could provide
25 more flexibility to the council if that was clarified. Ms.
26 Bosarge.

27
28 **MS. BOSARGE:** I am trying to read it in tandem with Section 12,
29 and so Section 12 says it removes the requirement for separate
30 red snapper quotas for the commercial and recreational sectors
31 and the corresponding closure requirement when the ACL of each
32 sector is reached.

33
34 If you put that together with what Doug just read, then what
35 does it mean? You have an overall quota and one side is
36 shooting for a fishing mortality rate and the other is -- What
37 does it mean?

38
39 **DR. CRABTREE:** It's not clear to me what it means. This gets
40 rid of Section 407 from the statute, but then there is still the
41 overarching requirement in the statute for annual catch limits.
42 For example greater amberjack, I'm sure we're going to have a
43 lot of controversy this week, and that's not affected by Section
44 407, but we still have annual catch limits and closures
45 occurring, and so there are things in the statute that are
46 redundant, and 407 is redundant with the new annual catch limit
47 requirements. The referendum requirements in 407 are somewhat
48 redundant with the general referendum requirements. It's like

1 they put new things in the statute, but didn't take the old
2 language out of it.

3
4 When you have vague language in the statute that is not clear
5 what it means, a lot of times we end up spending a lot of time
6 trying to sort it all out, and then sometimes courts come in and
7 tell us that we didn't sort it out right, and we spend a lot of
8 time and money to go nowhere.

9
10 **CHAIRMAN LUCAS:** Mara.

11
12 **MS. MARA LEVY:** The table or column method here is useful, but
13 it's also useful to look at what it's actually changing, and so
14 the language in Section 29 that was referring to having the
15 authority to use these alternative management measures for the
16 recreational, that's amending 302(h), and 302(h) specifies the
17 functions of the councils, generally, but 303(a), which is the
18 required elements of an FMP, still has the requirement that you
19 have annual catch limits and accountability measures.

20
21 It's saying that we're amending this to show that this is one of
22 the functions that the council can do, but it's not clear, I
23 guess, how it interacts or whether it has any effect on the
24 303(a) requirement that you have annual catch limits. I mean,
25 clearly it doesn't. It doesn't exempt you from that, but I
26 don't know how they would interplay if the actually amended it
27 like this.

28
29 **CHAIRMAN LUCAS:** All right. Are you done?

30
31 **EXECUTIVE DIRECTOR GREGORY:** Those are all the items that I
32 could identify that specifically relate to the Gulf of Mexico or
33 the Gulf Council. The rest of it -- We can go back to the
34 beginning, if you want. We've got another hour, or fifty
35 minutes. We are scheduled to go until 5:30. I haven't lost my
36 voice yet.

37
38 **CHAIRMAN LUCAS:** Mr. Diaz.

39
40 **MR. DALE DIAZ:** I've got two things. One of them is a comment.
41 I am just sitting here reading this intersector trading thing,
42 and I am trying to figure out if it would impact the dude
43 fishing, or the commercial fishing experience, because it's
44 intersector trading, but it's saying none of those shares should
45 be used for recreational fishermen, including charter/for-hire,
46 headboat, or private recreational fishermen.

47
48 It's unclear to me whether that would impact that or not. I

1 think it might be like Dr. Crabtree was just saying. Sometimes
2 things are vague and they're not real clear, and it's up to
3 interpretation. That's just a comment on that, because it seems
4 like that is not clear.

5
6 I wanted to go back to Section 12 for just a minute and just
7 make a point. Section 12 is where we're talking about extending
8 state management out to nine miles for Gulf of Mexico red
9 snapper recreational fishing sectors of the fishery.

10
11 One thing that is a problem with only doing red snapper and not
12 doing other finfish is it can put the public in a really bad
13 place. Right now, all states have nine miles for reef fish,
14 because it's in the current budget bill, but, if that goes away,
15 we get back to where we were at before, where basically the feds
16 say that the states have three miles and all three of the middle
17 states, the state legislatures, have passed laws saying that
18 they are claiming nine miles.

19
20 I just hate to see fishermen get put in the point where they've
21 got to fish at their own risk, and so I don't know if that needs
22 to go into this document, but, if those goes through like it is,
23 and pick any other fish besides red snapper, and people could be
24 in a situation where they've got to fish at their own risk, and
25 I just think that's a bad place for us to have the public.

26
27 I've seen a lot of press releases go out, whenever seasons are
28 announced, where it has to be said for people to use their own
29 judgment and fish at their own risk, and it's just a bad way to
30 -- It's a bad position to put people in. Thank you.

31
32 **EXECUTIVE DIRECTOR GREGORY:** We could emphasize the confusion
33 that having this measure for one species only creates. I don't
34 know if we would go so far as to -- If it would be considered
35 lobbying Congress to say that we would prefer to have this for
36 all reef fish species or all federally-managed species under the
37 Magnuson Act. It would certainly be less confusing. I am ready
38 to go back to the beginning, Section 4, if that's okay with you,
39 Madam Chair.

40
41 **CHAIRMAN LUCAS:** Go right ahead.

42
43 **EXECUTIVE DIRECTOR GREGORY:** Okay. Section 4 is Flexibility in
44 Rebuilding Fish Stocks. In 1996, the reauthorization required a
45 ten-year rebuilding period, and that's been very problematic,
46 and more problematic in other regions than here. It has a
47 received a lot of the emphasis, particularly in the New England
48 area.

1
2 The first part of this Section 4 is to remove the term
3 "possible" and replace it with "practicable" in the requirement
4 in Section 304 of the Act that a rebuilding period "be as short
5 as possible." It would change that to be "as short as
6 practicable". The staff analysis is that this provides the
7 council with more flexibility.

8
9 The second part is removing the language requiring a ten-year
10 timeframe for rebuilding overfished or depleted fisheries and
11 replace it with a requirement that the rebuilding timeframe be
12 the time it would take for the fishery to rebuild without any
13 fishing occurring plus one mean generation time of that species,
14 except in the case -- There are five exceptions.

15
16 One is the biology of the stock, other environmental conditions,
17 or management measures under an international agreement dictate
18 otherwise. That is pretty broad. Two is that the Secretary
19 determines that the cause of the stock being overfished or
20 depleted is outside the jurisdiction of the council or the
21 rebuilding program cannot be effective only by limiting fishing
22 activities.

23
24 Three is the Secretary determines that one or more components of
25 a mixed-stock fishery is depleted, but cannot be rebuilt within
26 the timeframe without significant economic harm to the fishery
27 overall or cannot be rebuilt without causing another component
28 of the mixed-stock fishery to approach a depleted status.

29
30 Four is the Secretary determines that the recruitment,
31 distribution, or life history of, or fishing activities for, are
32 affected by informal transboundary agreements under which
33 management activities outside the EEZ by another country may
34 hinder conservation and management efforts by the U.S.

35
36 Five is the Secretary determines that the stock has been
37 affected by unusual events that make rebuilding within the
38 specified time period improbable without significant economic
39 harm to fishing communities.

40
41 The staff analysis of this is that removal of the ten-year
42 rebuilding mandate is a major step in restoring the flexibility
43 needed to manage diverse fisheries. The proposed exceptions
44 provide the councils with flexibility for rebuilding overfished
45 or depleted stocks. This was recognized in the establishment of
46 regional councils to address specific regional needs. The
47 increased flexibility in this language will allow the councils
48 to establish rebuilding times commensurate with the biology of

1 the species under management. There is a note that the
2 exceptions of two through five require determination, i.e.,
3 approval, by the Secretary, rather than the scientific bodies at
4 the regional level.

5
6 One of the things that seemed contradictory in the
7 reauthorization of the Act is, when the councils are
8 established, they were established as regional bodies,
9 recognizing the regional differences and the regional
10 approaches, or different approaches, were warranted, but then,
11 in 1996, this national mandate of a ten-year rebuilding period
12 was placed on all the councils.

13
14 Then, in 2006, there was a national mandate to do ACLs, which
15 took away the flexibility of the regional diversity of the
16 councils, and so that is one part that I think is worth
17 addressing, because it does remove flexibility from the
18 councils. It doesn't give the councils that opportunity to
19 overfish or anything, but it gives them more leeway as to what
20 they can do to address an overfished situation.

21
22 The third part in this section is to allow the councils to take
23 into account environmental conditions, including predator/prey
24 relationships, when developing rebuilding plans. The staff
25 analysis is that this encourages the incorporation of water
26 quality and some ecosystem and climate attributes and their
27 potential impacts on rebuilding plans. Note that other
28 ecological interactions besides predator/prey relationships
29 include competition.

30
31 In essence, it should probably more appropriately read "take
32 into account environmental conditions, including ecosystem
33 relationships", rather than just predator/prey, but I think the
34 predator/prey was put in there because of the current emphasis
35 by some groups on forage species.

36
37 The next part is to require that the fishery management plan for
38 any fishery that is considered overfished or depleted must
39 specify a schedule for reviewing the rebuilding targets,
40 evaluating the environmental impacts on rebuilding progress, and
41 evaluating the progress that is being made toward reaching the
42 rebuilding targets.

43
44 Our analysis is that the monitoring of rebuilding plans and
45 specifying a schedule for reviewing rebuilding targets would
46 shift more responsibility from the agency to the councils.
47 Additional resources to the councils may be necessary from NMFS
48 for stock assessment updates and reruns, so that this process

1 can be executed. This language encourages the councils to use
2 adaptive management principles in monitoring and, where needed,
3 adjusting rebuilding plans.

4
5 You could say that, if you look at what we're doing with
6 amberjack, triggerfish, and red snapper, that we are doing that
7 now, but we don't specify a schedule for reviewing these. We
8 just do it as we see the need.

9
10 **CHAIRMAN LUCAS:** Mr. Gregory, hold on. Ms. Bosarge has a
11 comment.

12
13 **MS. BOSARGE:** Do you think that, with this change in the Act,
14 that essentially there is going to be a number put in there,
15 like a certain number of years? Specify a schedule, and so, if
16 you have something in a rebuilding plan, it's going to -- The
17 new reauthorization is going to say that you have to review it
18 every five years?

19
20 I am just wondering, because I am like you. I think that,
21 obviously if something is in a rebuilding plan, you probably
22 have cut your quotas, and so it's going to be something that's
23 going to be a priority to probably reassess as soon as you think
24 you may have some rebuilding going on.

25
26 I think there is that impetus already, and I would hate to see
27 somebody put a number in there though and then you lose some
28 flexibility in your scheduling of your assessments and when
29 you're going to do what.

30
31 **EXECUTIVE DIRECTOR GREGORY:** Right, but the council would be
32 establishing that schedule itself. It wouldn't be imposed on
33 the council from outside.

34
35 **MS. BOSARGE:** Okay.

36
37 **EXECUTIVE DIRECTOR GREGORY:** Because it says the FMP should
38 specify a schedule.

39
40 **CHAIRMAN LUCAS:** All right. Continue.

41
42 **EXECUTIVE DIRECTOR GREGORY:** The next item is to allow a FMP for
43 any fishery that is considered overfished or depleted to use
44 alternative rebuilding strategies, including, again, harvest
45 control rules and fishing mortality rate targets. The council
46 analysis, the staff analysis, is that may provide the councils
47 with the flexibility to incorporate alternative rebuilding
48 schedules, not knowing what that could be.

1
2 The next section or part is to allow a council to terminate any
3 rebuilding plan for a fishery that was initially determined to
4 be overfished or depleted and then found not to be overfished or
5 depleted within two years, or within ninety days after the
6 completion of the next stock assessment.

7
8 Our analysis is this may provide the council with flexibility if
9 the catch levels could be modified quickly through a framework
10 action or an interim rule. Each council would need to have
11 appropriate mechanisms set up to utilize this provision, such as
12 including it in the framework procedure for each FMP. I am not
13 clear -- Mara, I not clear what this really means for us.

14
15 **CHAIRMAN LUCAS:** Mara.

16
17 **MS. LEVY:** Thanks. I am not going to say what it means, but I
18 will just note that there are some things that this language in
19 this particular bill is addressing that have kind of been
20 addressed by the National Standard 1 Guideline revisions, and
21 this one in particular, in the new National Standard 1
22 Guidelines, there is a provision for discontinuing a rebuilding
23 plan based on new scientific information that the stock was not
24 overfished in the year that the overfished determination was
25 made.

26
27 So, I mean, I know that NMFS, in revising the National Standard
28 1 Guidelines, looked back at some of the issues that the
29 councils were raising and tried to address some of these things
30 like this, of what do we do if we have new information that says
31 that it was never overfished.

32
33 I haven't gone through everything on this list and compared it
34 to what was in the National Standard 1 Guidelines, but I just
35 wanted to let you know that I know there are some things that
36 NMFS did try to address in the regulatory context that are being
37 addressed here as well.

38
39 **EXECUTIVE DIRECTOR GREGORY:** We haven't done that either. In
40 fact, at certain points, it gets confusing what's in the
41 Guidelines and what's in the Act. We need to do that, and maybe
42 say this is already being addressed by the Guidelines and that's
43 the more appropriate place for that to occur.

44
45 The last part of this Section 4 is that current law allows the
46 Secretary to implement emergency interim measures for fisheries
47 in which overfishing is taking place. If the action is taken
48 for a fishery under a FMP, the interim measure may only remain

1 in place for 180 days, and it may be extended for an additional
2 186 days. With this extension, this allows the Secretary to
3 implement interim measures for a year and a day.

4
5 This bill would modify this authority to allow the Secretary to
6 implement the interim measures for one year, with the ability to
7 extend it for two years, and so it doubles the time. Current
8 law allows a council to take up to two years to prepare and
9 implement a FMP or plan amendment to address a fishery that is
10 overfished, yet current law only allows interim measures to be
11 implemented for one year, and that is trying to fix that
12 contradiction.

13
14 This provision would allow the interim measure authority to be
15 consistent with the time period allowed for a council to prepare
16 and implement a rebuilding plan for a fishery identified as
17 overfished.

18
19 The staff analysis is that this may provide the council with
20 adequate time to implement an amendment to end overfishing and
21 establish a rebuilding plan prior to the expiration of
22 associated emergency measures. That completes Section 4.

23
24 Section 5 is another long section that pertains to annual catch
25 limits. The first part allows councils to consider changes in
26 the ecosystem and the economic needs of the fishing communities
27 when setting annual catch limits. This allows flexibility, but
28 does not allow councils to set an ACL at a level that allows
29 overfishing. The analysis is that this provides some
30 flexibility to the councils in setting ACLs that prevent
31 overfishing.

32
33 The second part provides an exception for ecosystem component
34 species from the requirement that councils set an ACL for each
35 of its managed fisheries. Ecosystem species are defined in the
36 bill to mean those stocks of fish that are not targeted and are
37 caught incidentally in a fishery, as long as that stock of fish
38 is not subject to overfishing, is not approaching a condition of
39 being overfished, and is not likely to become subject to
40 overfishing in the absence of conservation and management
41 measures.

42
43 The staff analysis is this -- This is a major change from the
44 current National Standard Guidelines. This would provide the
45 councils with more flexibility to potentially classify
46 incidentally-caught species as ecosystem component species.
47 Thus, they wouldn't be required to have an ACL, which is one of
48 the conundrums we have now.

1
2 It is helpful that this bill does not limit species caught
3 incidentally in a fishery from be considered as ecosystem
4 component species. Currently, the advice we've been given is,
5 if something is caught in a fishery and kept, it cannot be an
6 ecosystem component species. It should be noted that additional
7 clarification in the NS 1 Guidelines of this exemption would be
8 helpful. That is just an aside.

9
10 The next part is to provide an exemption to the ACL requirement
11 for those stocks of fish with a life cycle of approximately one
12 year as long, as the Secretary has determined the fishery is not
13 subject to overfishing. It would also provide an exemption to
14 the ACL requirement for a stock for which more than half of a
15 single year class will complete their life cycle in less than
16 eighteen months and for which fishing mortality will have little
17 impact on the stock.

18
19 The first part is current law, or current National Standard
20 Guidelines, and would have no effect. The latter part of this
21 would expand the exemptions to establish ACLs for stocks that
22 complete their life cycle in less than eighteen months and for
23 which fishing mortality will have little impact on the stock.
24 Currently, neither of these would apply to any Gulf stocks.
25 Shrimp are already covered with this, but we do have ACLs for
26 shrimp, I believe.

27
28 The next part of this is to allow the councils, when setting
29 ACLs: 1)to take into account management measures under
30 international agreements in which the U.S. participates; 2)in
31 the case of an ACL developed by a council for a species, may
32 take into account fishing activities for that species outside
33 the U.S. EEZ and the life history characteristics of the species
34 that are not subject to the jurisdiction of the council. Note
35 that this is not an exception to section 302(h)(6).

36
37 The staff analysis is that the council is not currently involved
38 in any international agreements. Thus, there is no effect of
39 this part. The second part is that this could add flexibility
40 to the management of red snapper, which occurs off Mexico, and
41 the same could be said for king mackerel, but it is unclear how
42 fishing activities for red snapper or king mackerel outside the
43 U.S. EEZ could be quantified.

44
45 Further, it is unclear how such information could be
46 incorporated into the stock assessment process, from which
47 status determination criteria are established and ACLs are thus
48 derived from. Consideration for the life history

1 characteristics of a regional species, such as spiny lobster
2 could provide additional management flexibility. However, the
3 same questions remain regarding the stock assessment process.
4

5 The next part is provide an exemption to the ACL requirement if
6 fishery management activities by another country outside the
7 U.S. EEZ may hinder conservation efforts by U.S. fishermen for a
8 fish species for which recruitment, distribution, life history,
9 of fishing activities are transboundary and for which no
10 informal transboundary agreements are in effect. In this case,
11 if an ACL is developed by a council for the species, the ACL
12 shall take into account fishing for the species outside the U.S.
13 EEZ that is not subject to the jurisdiction of the council.
14

15 This part could allow flexibility in setting the ACL, such as
16 for red snapper or spiny lobster, if it is determined that
17 overfishing of the species is occurring in foreign waters.
18 However, allowing an ACL to exceed the recommendations of the
19 SSC could create additional uncertainty in the stock assessment
20 process and in establishing status determination criteria. This
21 could increase the probability of overfishing a stock. Note
22 that this provision does not allow consideration of foreign
23 fishing within the U.S. EEZ, but rather just outside the EEZ.
24

25 The last part of this Section 5 is allow councils to establish
26 ACLs for multi-species stock complexes and allow councils to set
27 ACLs for up to a three-year period. This provision clarifies
28 existing Magnuson language, ensuring flexibility in setting
29 multi-species ACLs. Thus, no effect. The existing wording in
30 the Magnuson Act states to "develop ACLs for each of its managed
31 fisheries", and it does not specify that each species or stock
32 must have its own ACL. The council currently has single ACLs
33 for multi-species complexes, which are managed together and so
34 that wouldn't affect us.
35

36 Just beneath this is the quota from Section 302(h)(6) that was
37 referred to earlier: Annual catch limits for each of its
38 managed fisheries that may not exceed the fishing level
39 recommendations of its SSC or the peer review process
40 established under subsection (g)."
41

42 The next part, Section 6, this seems simplistic, but it's also
43 somewhat confusing. The Magnuson Act has defined overfishing
44 and overfished as being the same thing. We have later -- The
45 National Standard Guidelines have said that overfishing is a
46 rate and overfished is a state of condition.
47

48 Congress never distinguished between the two, and so, in an

1 attempt to get them to define overfished, they came up with the
2 word "depleted", because they were more concerned, apparently,
3 with climatic changes or environmental regime changes that
4 caused the stock to reduce in size and that be recognized as a
5 process different from the effect of fishing. In my mind, it's
6 still not a good solution.

7
8 Section 6 reads to replace the term "overfished" with the term
9 "depleted" throughout the Act and add a definition of
10 "depleted". The new definition recognizes that non-fishing
11 impacts could result in stock biomass declines.

12
13 It also requires the Secretary, when issuing the annual report
14 on the status of fisheries, to note if a stock was depleted as
15 the result of something other than fishing. Our analysis is
16 that this would provide insight into ecosystem or climate
17 impacts on stock status.

18
19 The final part of this is to require that the report state, for
20 each fishery identified as depleted, whether the fishery is a
21 target of directed fishing. Our analysis is this would identify
22 those depleted stocks that are actively fished.

23
24 At this point, it's five o'clock, and I would ask to be excused.
25 Let somebody else start reading, or we'll just pick up the rest
26 of this in June and whatever else comes along between now and
27 June. I could easily go more than thirty more minutes.

28
29 **CHAIRMAN LUCAS:** I will ask Madam Chair what she wishes to do.
30 Mr. Anson, do you have a --

31
32 **MR. ANSON:** While Doug still has a little bit of voice, and we
33 have a little bit of time, I am just wondering if there could be
34 some more elaboration to the impact for Section 18, the
35 estimation of costs of recovery from fishery resource disasters.
36 The statement is just this could benefit the council, in the
37 event of a disaster, and how could it -- Just to elaborate on
38 that further, as has been done with the other responses.

39
40 **CHAIRMAN LUCAS:** Ms. Levy.

41
42 **MS. LEVY:** Thank you. Just backing up a little bit to the
43 ecosystem component stuff, I would just ask that you take a look
44 at what the new National Standard Guideline say with respect to
45 ecosystem component species and see how it matches up with what
46 your impacts are, because they did change that from the old to
47 the new version, and so I would just take a look at that.

48

1 **CHAIRMAN LUCAS:** All right. That's why Mr. Gregory is still
2 thinking of the impact question from Mr. Anson.

3
4 **EXECUTIVE DIRECTOR GREGORY:** I cannot answer Mr. Anson. I mean,
5 I didn't write all of these impacts. This says the section
6 would require the Secretary to publish the estimated costs of
7 recovery from a fishery resource disaster within thirty days. I
8 don't know how it could benefit the council. I presume this
9 would probably speed up the provision or the ability of disaster
10 relief funding for a fishery, much like we did after some of the
11 hurricanes and the oil spill.

12
13 **MR. ANSON:** I appreciate your attempt to try to fill in the
14 blanks, so to speak, but, since you had recommended or suggested
15 bringing this back at June, I didn't really require an answer
16 right now, but just, while you're making some comments or
17 incorporating some comments that were made here at this meeting
18 for the June meeting, is to go ahead and some time on that one.
19 Thank you.

20
21 **EXECUTIVE DIRECTOR GREGORY:** I will go back and look at,
22 actually, the list of things in National Standard 1 about
23 ecosystem species, because that is worth doing, because I don't
24 think it's as clear in National Standard 1 as the Act here
25 proposes to make it clear, and so I will do that.

26
27 **CHAIRMAN LUCAS:** I think a lot of this language in this bill was
28 pulled over from the previous bill, and so certain things have
29 occurred since then, like the National Standards and all of
30 that. That probably will go into changing some of this, and I
31 also suggest, like Ms. Levy suggested, possibly just pulling up
32 MSA to see how certain things change, because it is hard when
33 you're just looking at one small section, and so, for anybody
34 who is looking it over to see what it is, having that
35 information is helpful as well.

36
37 **EXECUTIVE DIRECTOR GREGORY:** I will just mention the remaining
38 sections. Section 7 is Transparency and the Public Process, and
39 that's basically about recordings, which we do. The important
40 part here is a fishery impact statement. This section is
41 proposing that the Magnuson include a fishery impact statement
42 process that is very similar to NEPA, and may substitute for
43 NEPA. That is worth consideration. Section 8 is limitations on
44 future catch share programs. Section 10 is cooperative research
45 and management programs. Those are the three major sections
46 that we are skipping over.

47
48 **CHAIRMAN LUCAS:** All right. Ms. Bosarge has her hand raised.

1
2 **MS. BOSARGE:** I wouldn't say that we're skipping over them.
3 We're going to take them up in June, right, is what you're
4 trying to say? Okay. Just checking. We do have some time
5 left, but I think it's also important that everybody is actually
6 very focused on what is going on, and I think, at this point in
7 the day, we may be losing some focus, and you did have it on the
8 agenda that we were going to continue this discussion in June,
9 and so I think that we probably will, if that's okay with Dr.
10 Lucas, save the rest until June, but, if I may, Madam Chair.

11
12 **CHAIRMAN LUCAS:** Go right ahead.

13
14 **MS. BOSARGE:** I did want to point out though that one of the
15 reasons that this is on the agenda is because we do get these
16 requests sometimes that say, okay, give us your feedback on
17 this, this, and this, and it may just be written feedback that
18 some member of Congress is asking for, or it may be followed up
19 then by, all right, we want you to come and testify.

20
21 We really wanted to have some discussion around the table so
22 that we could get a good feel from the council on what we think
23 some of these impacts are, and I know that some of these are
24 kind of tough to talk about around the table, but I really
25 appreciate everybody giving us some feedback and being willing
26 to talk about them, especially when we're talking about
27 transitions of major processes. I know that's tough, and so I
28 appreciate that.

29
30 Also, we did receive one of these requests from a staffer having
31 to do with sanctuaries and marine monuments, and we did our best
32 to answer those questions that they had to have the answers now,
33 of course, and we did our best to answer those questions based
34 on the conversations that we had around this table as we went
35 through the Flower Gardens expansion and went through that
36 process, and we actually wrote a white paper on the fishing
37 regulations and what we would have them be if we were given the
38 ability to implement those.

39
40 Then they have actually asked possibly to have some testimony
41 from the council at a public hearing, I think at the end of this
42 month at some point that it may be scheduled, tentatively.

43
44 **EXECUTIVE DIRECTOR GREGORY:** If there is a hearing, I was told
45 that it would be April 27.

46
47 **MS. BOSARGE:** We emailed those out to the council, right, our
48 answers?

1
2 **EXECUTIVE DIRECTOR GREGORY:** Right. I sent to the council a PDF
3 package that had the emails from the senator's aide and our
4 response to that and the letters that we attached that were
5 relating to some of the things that the Council Coordinating
6 Committee had done in the past two years.

7
8 **MS. BOSARGE:** We did actually have a lot of documentation to use
9 to answer those questions, which was very helpful, which is why
10 we were going through this today, so that, if we are asked
11 questions, we will have some conversation to go back and look at
12 to try and answer those questions, and so thank you. We will
13 continue this exercise at our next meeting, and so get ready.

14
15 **CHAIRMAN LUCAS:** I am going to officially -- Is there any other
16 business to come before the Administrative/Budget Committee?
17 Seeing no other business, Madam Chair, I will turn it back to
18 you.

19
20 (Whereupon, the meeting adjourned on April 3, 2017.)

21
22 - - -