GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

ADMINISTRATIVE/BUDGET COMMITTEE

Hyatt Regency Birmingham                                     Birmingham, Alabama

April 3, 2017

VOTING MEMBERS
Kelly Lucas (designee for Jamie Miller).................Mississippi
Kevin Anson......................................................Alabama
Doug Boyd........................................................Texas
Campo Matens..................................................Louisiana
Lance Robinson (designee for Robin Riechers)..............Texas
Ed Swindell.......................................................Louisiana
David Walker..................................................Alabama

NON-VOTING MEMBERS
Leann Bosarge......................................................Mississippi
Roy Crabtree.............................................NMFS, SERO, St. Petersburg, Florida
LCDR Leo Danaher..............................................USCG
Dale Diaz........................................................Mississippi
Dave Donaldson................................................GSMFC
Tom Frazer........................................................Florida
John Greene......................................................Alabama
Martha Guyas (designee for Nick Wiley).....................Florida
Greg Stunz........................................................Texas

STAFF
Steven Atran...................................................Senior Fishery Biologist
John Froeschke........................................Fishery Biologist-Statistician
Douglas Gregory........................................Executive Director
Beth Hager....................................................Administrative Officer
Karen Hoak................................................Administrative & Financial Assistant
Morgan Kilgour........................................Fishery Biologist
Ava Lasseter..................................................Anthropologist
Mara Levy.....................................................NOAA General Counsel
Emily Muehlstein........................................Public Information Officer
Bernadine Roy................................................Office Manager
Camilla Shireman......................................Administrative Assistant
Carrie Simmons.........................................Deputy Director

OTHER PARTICIPANTS
J.P. Brooker...................................................Ocean Conservancy
Shane Cantrell..............................................CFA, Galveston, TX
Chris Conklin................................................SAFMC
Levi Denham..................................................USCG
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
12
13 - - -
TABLE OF CONTENTS

Table of Contents.........................................................3

Table of Motions..........................................................4

Adoption of Agenda and Approval of Minutes.........................5

Action Guide and Next Steps..............................................5

Review of Grant Expenditures and Anticipated Budget Activities and Funding.........................................................6

Review of 2017 Budgeted Activities.....................................6

2015-2016 Expenditures to Date and 2017 Budget....................7

Approval of Changes to Check Writing Procedures..................8

Review of H.R. 200 (MSA Reauthorization) Potential Impacts......9

Adjournment.................................................................37

- - -
TABLE OF MOTIONS

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

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

**ADOPTION OF AGENDA**

**APPROVAL OF MINUTES**

**ACTION GUIDE AND NEXT STEPS**

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

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

**MR. LANCE ROBINSON:** Second.

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

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

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

**Item Number V is Approval of Changes to Check Writing Procedures.** The current policy is to allow electronic
signatures for checks only less than $2,000, and we are requesting the council’s approval to let us do electronic signatures on checks less than $5,000, and Beth will explain that.

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

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

CHAIRMAN LUCAS: Thank you. Let’s begin with reviewing the 2017 budget activities and Dr. Simmons.

REVIEW OF GRANT EXPENDITURES AND ANTICIPATED BUDGET ACTIVITIES AND FUNDING

REVIEW OF 2017 BUDGETED ACTIVITIES

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

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

I would note that these proposed activities were budgeted for in our five-year budget, and so they are within those activities
that we had in that five-year budget, regarding the 2017
calendar year, and so I will stop there.

CHAIRMAN LUCAS: Mr. Boyd.

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

MR. LANCE ROBINSON: It’s on there.

MR. BOYD: Is it on there?

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


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

2015-2016 EXPENDITURES TO DATE & 2017 BUDGET

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

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

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

CHAIRMAN LUCAS: All right. Thank you. Any questions regarding
the expenditures to date and/or the current budget? All right.
Seeing no questions, let’s go ahead and move on to Number V
regarding the changes to the check writing procedures.
APPROVAL OF CHANGES TO CHECK WRITING PROCEDURES

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

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

CHAIRMAN LUCAS: Thank you. I would assume that we’re going to need a motion to amend the verbiage here for the Standard Operating Procedures.

MR. CAMPO MATENS: So moved.

MR. BOYD: Second.

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

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

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

CHAIRMAN LUCAS: Mr. Anson.

MR. ANSON: This question is for Doug or for Beth. I have two questions. The first is about what percentage of the checks would this represent then, going to $5,000, roughly? Is it 80
percent of the checks that would be issued that are under $5,000 or 90 percent?

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

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

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

MR. ANSON: Thank you.

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

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

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

We wanted to bring this to the council as soon as we could, to get some input, in case we are called to testify, and so that’s
why I want to start with the Gulf of Mexico items. A lot of the
information that is going into these draft regulations for the
Magnuson Act are emanating from senators and representatives
from the Gulf.

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

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

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

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

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

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

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

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

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

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

The next part requires that the Science Center Director of the Southeast region ensures that the information gathered from research funded through the RESTORE Act, the Deepwater Horizon
funding, be incorporated as soon as possible into any stock assessments conducted after the date of enactment.

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

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

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

CHAIRMAN LUCAS: Mr. Walker.

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

I am concerned that some sections of H.R. 200 could undermine the science process and that it would overly constrain the Gulf Council. There may be some good sections in the bill that would increase accountability and data collection, which are good things, but, overall, I think this bill would take us in the wrong direction. Now, I had some section-by-section things written down, but I am not able to pull them up on my computer right now, but that’s kind of what I have to say, in a short summary.
CHAIRMAN LUCAS: I have a comment, Mr. Gregory. On these, when you are filling out the potential impacts, I am just wondering if we shouldn’t change the language -- I mean, will improve our knowledge of data-poor species. Well, it may improve our knowledge of data-poor species, and I guess that depends on the type of information they’re collecting, and I’m just wondering if we shouldn’t change the language to be a little more -- To possible and not necessary definitive, in some cases. Are there any other comments here about potential impacts?

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

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

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

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

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

Section 13 does not apply to us. That’s the North Pacific. Section 14 is entitled “Ensuring Consistent Management for Fisheries Throughout Their Range”. This section clarifies that the Magnuson-Stevens Act would be the controlling fishery management authority in the case of any conflict within a
National Marine Sanctuary or an area designated under the Antiquities Act of 1906. That would be the marine monuments.

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

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

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

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

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

Again, Section 15 just pertains to the North Pacific, and so we’ll skip that. Section 16 is on recreational fishing data,
down the left-hand side. This would require the Secretary to establish partnerships with states to develop best practices for implementing state recreational fisheries programs.

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

CHAIRMAN LUCAS: Ms. Bosarge.

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

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

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

MR. DAVE DONALDSON: Thank you, Madam Chair. I’m not on your committee, but, Leann, I think it’s just trying to reinforce that, that working cooperatively with the states has worked well in the past and continue to do that, looking for existing and new opportunities. I think that’s all that means.
MS. BOSARGE: Thank you. That does shed some -- When you put it in that data collection perspective, I can definitely see where that’s headed, that train, and to emphasize that. Okay. That clarifies it. I feel a little more knowledgeable now. Thank you.

CHAIRMAN LUCAS: All right, Mr. Gregory.

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

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

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

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

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

The staff analysis was that this may continue to improve
collaborations on collecting recreational fisheries data. The 2006 NRC report states that many of this committee’s recommendations apply to state surveys as well as to the MRFSS. Therefore, the study should include a review and evaluation of state recreational data collection programs as well as the NMFS program. I will just keep reading. Instead of stopping at each spot, just interrupt me at any time. The last part of this section is --

CHAIRMAN LUCAS: We have a question, Mr. Gregory, from Dr. Frazer.

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

EXECUTIVE DIRECTOR GREGORY: Yes, we do.

DR. FRAZER: Okay.

CHAIRMAN LUCAS: Go ahead.

EXECUTIVE DIRECTOR GREGORY: The final part here is to --

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

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

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

CHAIRMAN LUCAS: Ms. Guyas.

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

MR. DONALDSON: That would be my assumption as well.

CHAIRMAN LUCAS: Dr. Frazer.
DR. FRAZER: I agree with both of you that that’s probably what it is, but, because we don’t know, it’s subject to somebody else’s interpretation, and it doesn’t help us at all.

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

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

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

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

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

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

The next part of this, on the left side, is to require that the stock assessments incorporate fisheries survey information collected by university researchers and, to the extent practicable, use state, university, and private assets to conduct fisheries surveys. The staff analysis is that,
currently, these data sources are already being considered for inclusion in SEDAR stock assessments, if they are provided and if they're known about, and so this would not change anything, as far as we know.

The last part of this section is to require that any stock assessments incorporate fisheries surveys and other relevant information collected on and around natural and artificial reefs, 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, and employ a transparent process that includes an independent scientific review and review by a panel of independent experts of the data and assessments.

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

CHAIRMAN LUCAS: We have some questions. Ms. Bosarge.

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

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

I would hate for something to become law and we have to do it,
but we don’t have the money and things, and that’s what I worry about, and so should we have some feedback here that says something about subject to availability, or where do you stand on that, Dave? How are we looking?

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

MR. DONALDSON: Doug mentioned that the staff analysis is that additional resources would probably be needed, and you could take the “probably” out of there, because, at the current funding that we have, we would not be able to conduct assessments for the reef fish species, and so additional resources would definitely be needed, and that’s something that we have talked with our congressional folks about in the past.

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

EXECUTIVE DIRECTOR GREGORY: I don’t think that was implying additional resources to the council, but really to the commission, and that would be probably staffing and funding.

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

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

CHAIRMAN LUCAS: I guess the question is how would you know that until you did it? In general, when stock -- The commission is participating in stock assessments, and we’ve discussed all the
different players and people that are participating in stock assessments, and I think, whichever entity does it, it’s going to be some of the same players who are all participating in the stock assessment.

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

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

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

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

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

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

Our staff analysis is that, currently, these fish are not counted toward the quotas. In order to include this fish mortality in the stock assessments, additional information on
size or age would be necessary over a time period and strata. Currently, these data are unavailable. The phrase “total allowable catch” should be removed and replaced by “acceptable biological catch”. This is not something that we’re doing now, and so it’s curious why this would be in the Act, or be in the regulations, but our analysis is that it’s a non-issue at this point.

CHAIRMAN LUCAS: All right. Next section.

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

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

CHAIRMAN LUCAS: Ms. Bosarge.

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

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

CHAIRMAN LUCAS: Dr. Porch.

DR. CLAY PORCH: As I recall, it amounted to about a half-a-million pounds. Those were the estimates, which is small compared to the total landings now from the directed fisheries and the shrimp bycatch and the dead discards, and so it wouldn’t
have a big impact on the advice. We did some preliminary analyses, similar to what we did when we looked at the impact of the rig removal, which was something on a similar scale, and it didn’t affect the ABC advice very much.

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

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

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

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

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

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

**DR. CRABTREE:** Yes, but there is still the general requirement in the statute to have annual catch limits, and is that -- Does this replace that for recreational fisheries? It’s not clear to
EXECUTIVE DIRECTOR GREGORY: It’s my understanding that’s what the attempt is, but I don’t know how you could establish a fishing mortality target or an extraction rate without it turning into a sort of quota.

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

EXECUTIVE DIRECTOR GREGORY: If indeed this is ambiguous, that’s something we need to point out, if the council or the committee feels like it’s ambiguous.

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

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

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

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

DR. CRABTREE: It’s not clear to me what it means. This gets rid of Section 407 from the statute, but then there is still the overarching requirement in the statute for annual catch limits. For example greater amberjack, I’m sure we’re going to have a lot of controversy this week, and that’s not affected by Section 407, but we still have annual catch limits and closures occurring, and so there are things in the statute that are redundant, and 407 is redundant with the new annual catch limit requirements. The referendum requirements in 407 are somewhat redundant with the general referendum requirements. It’s like
they put new things in the statute, but didn’t take the old language out of it.

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

CHAIRMAN LUCAS: Mara.

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

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

CHAIRMAN LUCAS: All right. Are you done?

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

CHAIRMAN LUCAS: Mr. Diaz.

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

It’s unclear to me whether that would impact that or not. I
think it might be like Dr. Crabtree was just saying. Sometimes
things are vague and they’re not real clear, and it’s up to
interpretation. That’s just a comment on that, because it seems
like that is not clear.

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

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

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

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

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

CHAIRMAN LUCAS: Go right ahead.

EXECUTIVE DIRECTOR GREGORY: Okay. Section 4 is Flexibility in
Rebuilding Fish Stocks. In 1996, the reauthorization required a
ten-year rebuilding period, and that’s been very problematic,
and more problematic in other regions than here. It has a
received a lot of the emphasis, particularly in the New England
area.
The first part of this Section 4 is to remove the term "possible" and replace it with "practicable" in the requirement in Section 304 of the Act that a rebuilding period "be as short as possible." It would change that to be "as short as practicable". The staff analysis is that this provides the council with more flexibility.

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

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

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

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

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

The staff analysis of this is that removal of the ten-year rebuilding mandate is a major step in restoring the flexibility needed to manage diverse fisheries. The proposed exceptions provide the councils with flexibility for rebuilding overfished or depleted stocks. This was recognized in the establishment of regional councils to address specific regional needs. The increased flexibility in this language will allow the councils to establish rebuilding times commensurate with the biology of
the species under management. There is a note that the exceptions of two through five require determination, i.e., approval, by the Secretary, rather than the scientific bodies at the regional level.

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

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

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

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

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

Our analysis is that the monitoring of rebuilding plans and specifying a schedule for reviewing rebuilding targets would shift more responsibility from the agency to the councils. Additional resources to the councils may be necessary from NMFS for stock assessment updates and reruns, so that this process
can be executed. This language encourages the councils to use adaptive management principles in monitoring and, where needed, adjusting rebuilding plans.

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

CHAIRMAN LUCAS: Mr. Gregory, hold on. Ms. Bosarge has a comment.

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

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

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

EXECUTIVE DIRECTOR GREGORY: Right, but the council would be establishing that schedule itself. It wouldn’t be imposed on the council from outside.

MS. BOSARGE: Okay.

EXECUTIVE DIRECTOR GREGORY: Because it says the FMP should specify a schedule.

CHAIRMAN LUCAS: All right. Continue.

EXECUTIVE DIRECTOR GREGORY: The next item is to allow a FMP for any fishery that is considered overfished or depleted to use alternative rebuilding strategies, including, again, harvest control rules and fishing mortality rate targets. The council analysis, the staff analysis, is that may provide the councils with the flexibility to incorporate alternative rebuilding schedules, not knowing what that could be.
The next section or part is to allow a council to terminate any rebuilding plan for a fishery that was initially determined to be overfished or depleted and then found not to be overfished or depleted within two years, or within ninety days after the completion of the next stock assessment.

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

CHAIRMAN LUCAS: Mara.

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

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

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

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

The last part of this Section 4 is that current law allows the Secretary to implement emergency interim measures for fisheries in which overfishing is taking place. If the action is taken for a fishery under a FMP, the interim measure may only remain
in place for 180 days, and it may be extended for an additional 186 days. With this extension, this allows the Secretary to implement interim measures for a year and a day.

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

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

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

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

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

The staff analysis is this -- This is a major change from the current National Standard Guidelines. This would provide the councils with more flexibility to potentially classify incidentally-caught species as ecosystem component species. Thus, they wouldn’t be required to have an ACL, which is one of the conundrums we have now.
It is helpful that this bill does not limit species caught incidentally in a fishery from being considered as ecosystem component species. Currently, the advice we’ve been given is, if something is caught in a fishery and kept, it cannot be an ecosystem component species. It should be noted that additional clarification in the NS 1 Guidelines of this exemption would be helpful. That is just an aside.

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

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

The next part of this is to allow the councils, when setting ACLs: 1) to take into account management measures under international agreements in which the U.S. participates; 2) in the case of an ACL developed by a council for a species, may take into account fishing activities for that species outside the U.S. EEZ and the life history characteristics of the species that are not subject to the jurisdiction of the council. Note that this is not an exception to section 302(h)(6). The staff analysis is that the council is not currently involved in any international agreements. Thus, there is no effect of this part. The second part is that this could add flexibility to the management of red snapper, which occurs off Mexico, and the same could be said for king mackerel, but it is unclear how fishing activities for red snapper or king mackerel outside the U.S. EEZ could be quantified.

Further, it is unclear how such information could be incorporated into the stock assessment process, from which status determination criteria are established and ACLs are thus derived from. Consideration for the life history
characteristics of a regional species, such as spiny lobster could provide additional management flexibility. However, the same questions remain regarding the stock assessment process.

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

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

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

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

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

Congress never distinguished between the two, and so, in an
attempt to get them to define overfished, they came up with the word “depleted”, because they were more concerned, apparently, with climatic changes or environmental regime changes that caused the stock to reduce in size and that be recognized as a process different from the effect of fishing. In my mind, it’s still not a good solution.

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

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

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

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

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

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

CHAIRMAN LUCAS: Ms. Levy.

MS. LEVY: Thank you. Just backing up a little bit to the ecosystem component stuff, I would just ask that you take a look at what the new National Standard Guideline say with respect to ecosystem component species and see how it matches up with what your impacts are, because they did change that from the old to the new version, and so I would just take a look at that.
CHAIRMAN LUCAS: All right. That’s why Mr. Gregory is still thinking of the impact question from Mr. Anson.

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

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

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

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

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

CHAIRMAN LUCAS: All right. Ms. Bosarge has her hand raised.
MS. BOSARGE: I wouldn’t say that we’re skipping over them. We’re going to take them up in June, right, is what you’re trying to say? Okay. Just checking. We do have some time left, but I think it’s also important that everybody is actually very focused on what is going on, and I think, at this point in the day, we may be losing some focus, and you did have it on the agenda that we were going to continue this discussion in June, and so I think that we probably will, if that’s okay with Dr. Lucas, save the rest until June, but, if I may, Madam Chair.

CHAIRMAN LUCAS: Go right ahead.

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

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

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

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

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

MS. BOSARGE: We emailed those out to the council, right, our answers?
EXECUTIVE DIRECTOR GREGORY: Right. I sent to the council a PDF package that had the emails from the senator’s aide and our response to that and the letters that we attached that were relating to some of the things that the Council Coordinating Committee had done in the past two years.

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

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

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