GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

CORAL COMMITTEE

Key West Marriott Beachside Hotel Key West, Florida

June 18, 2018

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The Coral Committee of the Gulf of Mexico Fishery Management Council convened at the Key West Marriott Beachside Hotel, Key West, Florida, Monday morning, June 18, 2018, and was called to order by Chairman Tom Frazer.

ADOPITION OF AGENDA
APPROVAL OF MINUTES
ACTION GUIDE AND NEXT STEPS

CHAIRMAN TOM FRAZER: Good morning, everybody. I guess I will call to order the Coral Committee. We will start with the Adoption of the Agenda, which is Tab N, Number 1 in your briefing materials, and so if I can get a motion to approve the agenda.

MR. DAVE DONALDSON: So moved.

CHAIRMAN FRAZER: There is a motion to approve by Dave Donaldson and a second by John Sanchez. All right. The next item on the agenda then would be Approval of the April 2018 Coral Committee Minutes, and if I could get -- Mara.

MS. MARA LEVY: I just have a very important correction. Page 1, Line 40, my name should be “Mara” and not “Mary”, but it’s right everywhere else, and I am going to make the same motion in every committee. Thank you.

CHAIRMAN FRAZER: Duly noted. Can I get an approval for the minutes?

MS. MARTHA GUYAS: I will make a motion to approve with Mara’s edit.

CHAIRMAN FRAZER: Thank you. We have a second by John Sanchez. Is there any opposition to the motion? Seeing no opposition, the motion carries. What we’re going to do is we’re going to have Dr. Kilgour walk us through the Action Guide and Next Steps at this point. Morgan.

DR. MORGAN KILGOUR: Thank you, Mr. Chair. Good morning. Today, the only item really on the agenda is Coral Amendment 9, which is the coral habitat areas considered for management in the Gulf of Mexico. Emily will go over the public comments, and then I will go through the amendment and the codified text. If the committee feels like this document is ready to go final, then you may make that motion at the end.

CHAIRMAN FRAZER: Thank you very much, and so, Emily, do you...
want to go ahead and start with the review of the public comments?

**FINAL ACTION AMENDMENT 9: CORAL HABITAT AREAS CONSIDERED FOR MANAGEMENT IN THE GULF OF MEXICO**

**SUMMARY OF PUBLIC COMMENTS RECEIVED**

**Ms. Emily Muehlstein:** Absolutely, Mr. Chair. I am going to start with a summary of the public hearings that we went to and hosted via webinar, and then I will move on to the written comments that we received. We hosted eight in-person meetings and one webinar, and I am going to review them in the order in which we went and did them, and so by date order.

We started in Brownsville, Texas, and we had two members of the public attend. In Brownsville, they supported the preferred alternatives, and they asked the council to make an effort to protect whatever can be protected. In Palacios, Texas, we did not have any attendees.

In League City, we had seventeen members of the public attend. They indicated that there may be bandit rig fishing on the Harte Bank and that there was a need to protect corals, but they would like to see evidence that fishing activity is actually affecting the areas before we protect them. Oil drilling is prevented in sensitive areas already and that the industry does not willingly drill in any important habitat areas. There was a question of how the regulations would impact non-IFQ, non-reef fish fishermen.

Then we hosted a webinar on May 22, with two members of the public that spoke, and twelve people did attend that webinar. There was support expressed for coral protections, with concern that there is a lack of quantifiable evidence showing the impacts of commercial fishing on the areas that are being considered.

Moving on to Key West, we had three members of the public attend, and two of them spoke, and they said that the deep-sea coral protections in the Magnuson Act are more appropriate than HAPC designations that the council is considering and that the council should add a new mechanism to add and remove areas in the future.

It was also said that the council should freeze fishing with bottom-tending gear until the areas are surveyed for coral and for damage. Then there is not adequate science to support the alternative, because it’s not clear that commercial fishing
affects the areas.

Moving on to Grand Isle, Louisiana, we had four members of the public attend, and all four of them spoke. In Grand Isle, people mentioned that corals are vital, but fishermen already avoid them, and so it’s unnecessary to create closures without the data that shows it’s necessary. There was also support for putting restrictions on the areas so that they aren’t damaged in the future.

Then we moved to Madeira Beach, Florida, and we had thirteen people attend that meeting, and eight members spoke. They said that the data shows that the areas are still pristine, and so there is no reason to place protections on them at this point. There was support for creating HAPCs without fishing regulations.

It was mentioned that there should be an exemption for bottom longlines in the Pulley Ridge area, and it was also said that there needs to be more analysis on how this will economically impact the commercial fishing industry, and it was said that the industry is already heavily regulated, and that corals should be protected, because they face many threats, and they also have medical benefits, and we shouldn’t take that for granted.

It was said that the councils have a duty to protect the corals, and it was said that the corals should be protected preemptively, and the regulatory framework should be strengthened. It was mentioned that habitat protection is the best way to conserve our natural resource. It was also said that the areas are too sticky to fish on already, and they need protections, but they don’t need protections from fishermen, because fishermen are not actively harming them. It was also said that fishing regulations should be added to the Southern Bank off of Texas.

Then we moved to D’Iberville, and there was eight members of the public that attended, and all eight spoke. There was support for expansion of Pulley Ridge with regulations, and that is Action 1, Alternative 2. There was also support for adding fishing regulations to both of the HAPCs off of Texas, and that is Action 5, Alternatives 2b and 3b.

There was support for all of the preferred alternatives and conservation-based approach to habitat management, and there was also a request for a review of regulations, to see if it’s acceptable to anchor outside of the areas, but drift over them to fish, and so, in other words, to not limit fishing entirely,
so that you can anchor in those sandy areas outside of the coral protections. There was also support for the most aggressive conservation measures within each action.

Then we moved to Mobile, Alabama, and there was nine people that attended, and two of them spoke, and there was support for the amendment and all the preferred alternatives, and there was a request that protections be placed in all twenty-three sites. That is a summary of the meetings that we have, and I think it’s a good time for us to pause and see if there are any questions before we move on to the written comment.

CHAIRMAN FRAZER: Does anybody have any questions? All right. Seeing none, carry on, Emily.

MS. MUEHLSTEIN: Okay. Moving to the written comments, we received quite a number of comments. We personally, at the council inbox, received 1,665 comments on this amendment. There was also two campaigns that were conducted by different NGOs. Pew conducted one of those campaigns, and they received 16,379 comments, and then the Gulf Restoration Network also put out a call to action, and they received 907 comments, and so, in sort of recent history, I think this is one of the largest bodies of comment that we have received on any of our amendments, and so I think that’s important to note as we move forward.

I am going to do my best to summarize all 18,000 comments that we got, and so bear with me. As it pertains to Action 1, there was support for Preferred Alternative 4, and there was also support expressed for Alternative 2, to ensure that the area is protected from future exploitation.

Moving to Action 2, Alternative 4 makes a good compromise. However, there is concern that corals are a seed source and that it will be diminished by allowing bottom longlines in adjacent areas, and so Alternative 5 might be the most appropriate. Now, this is that West Florida Shelf one, and Alternative 5 is sort of the large area that protects the shelf.

We received support for that alternative, Alternative 5, Option b, that the West Florida Shelf should be protected entirely. Bottom gear should be prohibited on the West Florida Shelf, while fishing grounds in non-coral areas should be maintained. Trolling should still be permitted in that area. Bottom longlines should be prohibited in that area, and fishing gear should be kept away from the important coral areas. It was also noted that patch reefs have relationships to one another, and so it’s good to protect the entire Florida Wall.
Moving to Action 3, we received support for the preferred alternatives, and those are Alternatives 2, 3, 4, 5, 6, and 7, all Option b. Moving to Action 4, we received support for the Preferred Alternatives 2, 3, and 4, Option b. Moving to Action 5, we received support for Preferred Alternatives 2 and 3, Option a. We also received support for Alternatives 2 and 3, Option b, which would add regulations to both Harte Bank and Southern Bank. They are known coral areas, and so the South Bank boundaries have already been reduced, and the Harte Bank boundaries show little evidence of fishing, and so adding fishing regulations would allow for more protections now without conflicting fishermen.

Moving to Action 6, the areas considered in the action should have fishing regulations to protect them from potential future exploitation. We should add fishing regulations now, because new fisheries emerge faster than regulations can be put in place. There was also support expressed for the Preferred Alternatives 2, 3, 4, 5, 6, 7, 8, and 9.

Then, moving to Action 7, there was support for Preferred Alternative 2. Even if bottom dredging is not currently being used, it makes good sense to consider future protection and conservation of coral found in those areas.

Now I will move on to some of our more general comments that we received on the document. I will start with the general support that we heard and the rationale that was given, and then we will move on to the general opposition that we had to the amendment.

The general support that we received for this amendment includes support for designating the areas as HAPCs is fully appropriate, according to the council’s authority and responsibility under the MSA. The consultation requirement associated with the designation ensures that the council will have a role in reviewing and commenting on activity authorized, funded, or undertaken by any federal or state agency that could adversely affect the EFH, and it allows the council to recommend measures to avoid, mitigate, or offset any of those impacts.

The MSA requires the council to designate EFH and minimize harmful fishing impacts on EFH and actively protect and enhance it. In 1996, the Sustainable Fisheries Act encouraged the councils to take a proactive approach to limiting gear types that may harm fisheries or essential fish habitat. The fifteen new HAPCs should have associated regulations that prohibit fishing-related activities that damage coral.
The use of bottom-tending gear should be restricted in all twenty-three sites being considered. Protection should be expanded to all twenty-three sites in the document. Include regulations on fishing gear that interact with the ocean floor and could damage fragile corals at all twenty-three sites.

Protect corals now rather than waiting for evidence of destruction before acting. Bottom-tending gear should be restricted in all HAPCs. This amendment would still allow historical levels of fishing for valuable commercial species while protecting deep-sea coral communities. Corals need to be protected from the oil and gas industry.

Then we heard that corals should be protected from fishing-related damages from numerous folks, and some of the rationale that they provided was that damage to deep-sea corals due to bottom-contacting gear is well documented and that bottom trawls are particularly damaging to corals, and so their use around coral areas should be minimized.

Trawling gear should be banned outright. Longlines should not be allowed. All gear that interacts with the ocean floor and could damage corals should be banned. We should be able to come up with a more sophisticated, less damaging gear type that allows us to fish without harming corals. Damage from fishing gear leaves coral areas vulnerable to disease. Fishing practices damage all sorts of corals and sea fans. Bycatch from commercial fishing is devastating.

We also heard that the council should consider whether allowing historical levels of fishing is possible without risking the collapse of fish populations and the habitats on which they depend. Octocorals should be incorporated into the fisheries management unit of the fishery management plan for coral. Wildlife and global biodiversity should be protected.

Then we also heard from numerous people that were concerned about damages to corals in general, and they all stated that corals needed to be protected for the following reasons: because they are fragile, because they take such a long time to recover, because little is known about the ecosystem and so it should be protected, because corals have thrived for centuries, but are now threatened by man’s interference, corals are an integral part of the ecosystem, they provide feeding and breeding areas for numerous species, they are the basis of life in the oceans and destroying corals would destroy human life, all ecosystems are related to coral and death will impact the food chain, we
need to maintain the vitality of our oceans, the ancient and beautiful organisms should be honored for future generations, healthy fisheries and oceans drive the success of coastal economics, researchers are just beginning to realize the potential for deepwater corals to solve human medical issues such as cancer, deepwater sponges provide antibiotics and cancer drugs and bone grafts and dental implants.

Sea fans contain powerful anti-inflammatory chemicals and soft corals have anti-viral properties, it is important to protect them for our future utility, corals provide complex and diverse habitats for a variety of marine life including economically-important species, rising ocean temperatures and pollution are already taking their toll and so we need to do what we can to protect them, corals offer nursery grounds and protection from predators and contribute to the reproduction and feeding of many species, and corals act as a canary in the coal mine and their health is indicative of the well-being entire system.

Ocean acidification is already causing corals to die, ocean plastics are already killing corals and so we need to save them when we can, coral reefs are endangered, deep-sea corals play a role in seeding the growth of shallow-water corals, corals provide refuge for crustaceans, and healthy corals are habitat for fish and provide more fishing opportunities.

It was also noted that protecting corals would be the most significant action ever taken by the council to safeguard this fragile ecosystem and that we are destroying our environment for commercial, for-profit reasons and through recreational carelessness.

Ultimately, fishermen will benefit from protecting corals, because they will encourage healthy fisheries. As ocean waters warm, fish will move deeper, and so will fishermen, and so it’s important to protect the corals preemptively. All corals are in danger, and so we need to protect what we have.

Amendment 9 is a good start, but we need to do even more to protect our corals. We need to do what we can to protect corals, because there are so many other threats, including oil spills, chemicals, acidification, mining, and a rise in ocean temperatures.

The Mid-Atlantic Council has protected corals, and so the Gulf ought to do the same. We are already losing species that we don’t know about because of oil drilling and spilling. Protecting corals is a long-term way to protect our Gulf and its
fisheries, while allowing degradation from fishing practices is short-sighted.

Finally, killing corals with fishing gear is no different than clear-cutting old-growth forests, like California’s Sequoia National Park and the Sherwood Forest in Nottingham Shire was leveled to allow hunting for a few deer.

Now we will conclude with the general opposition we heard to the amendment and to protecting our corals. We heard that no new HAPCs should be established at all, that no new gear restrictions should be made, that the Gulf of Mexico is a vital environmental resource for the nation and a critical economic engine.

Descriptions of the areas being considered for HAPC status should not be qualitative and that the areas should not be considered for such status without explicit scientific evidence that shows each area meets the criteria for habitat designations defined in the CFRs.

The council should include alternatives beyond the two choices of no action or identification of a HAPC when they are considering action for deep-sea coral zone designations. The comprehensive cost-benefit analysis for all potentially impacted industries should be included for each alternative. The council should consider and describe how the alternatives integrate and/or overlap with existing regulations of other federal agencies to avoid unnecessary confusion and potentially conflicting regulatory requirements.

The council should clearly articulate what the short and long-term management strategies are for our coral resources, including how the strategy integrates with other proposed actions by other federal agencies and that opposition to any area closures to the bottom longline fishery, because there is no real evidence of damage due to the bottom longlines.

Scientists even state that they have seen rapid new coral growth in areas that are bottom longline heavy, and the coral colonies in Pulley Ridge have declined since it was closed to longlining vessels. That concludes my report.

CHAIRMAN FRAZER: Thank you, Emily. I think you did a really nice job of summarizing 10,000 or more comments, and so good job. Before we move on, I was wondering if anybody on the council had any items that they wanted to weigh-in on. Susan.
MS. SUSAN GERHART: I think this is just a good time to remind you that this was an environmental impact statement we did, and so we have the draft EIS out for public comment at this time as well. So far, we have only received four comments through the process, but the comment period is still open, and, in fact, it was scheduled to end on July 5, but we have decided to extend the comment period to July 20, because of the holiday being right there when it ended, and so I just wanted to let the council know that. The comments that we have gotten so far, the issues were encompassed in what Emily brought up, and so I won’t go through those in detail.

CHAIRMAN FRAZER: Great. Thank you. Are there any more comments at this point? Seeing none, I’m going to go ahead and ask Morgan to carry on.

REVIEW OF AMENDMENT

DR. KILGOUR: Thank you, Mr. Chair. If it’s okay with the committee, we’ll just delve right into Action 1 and go over the council’s current preferred alternatives, and stop me at any time.

Action 1 is to modify the existing HAPC boundary for regulations to Pulley Ridge, and so, right now, the no action alternative is to keep the Pulley Ridge HAPC as it is, which is that pie-shaped portion at the bottom with the circles.

Alternative 2 would expand the HAPC with regulations to that entire large box, which is currently an HAPC with no regulations, with the exception of that pie-shaped box down at the bottom.

Alternative 3 would expand the regulations for Pulley Ridge to the entire red box, and so, in that area outlined in red, there would be no bottom-tending gear, and I will go through what that is real quickly. Bottom-tending gear would be fishing with bottom longline, bottom trawl, buoy gear, pot or trap, or bottom anchoring by fishing vessels, and that would be prohibited year-round.

Then Alternative 4 is slightly different, in that it would extend fishing regulations to the hatched area that is within the red boundary, but not the circle part of the pie-shape, and that would allow bottom longlining to continue in that area, but it would prohibit fishing with all other types of bottom-tending gear, which is bottom trawl, buoy gear, pot or trap, and bottom anchoring by fishing vessels. That is the current preferred...
alternative. Are there any questions? Okay.

Moving to Action 2, Action 2 would establish new areas for HAPC status in the southeastern Gulf. Alternative 1 is no action, do not establish any new HAPCs in the southeastern Gulf. Alternative 2 would establish a new HAPC named Long Mound, and there is two options, to not establish fishing regulations or to prohibit fishing with bottom-tending gear. Unless I specifically say, bottom-tending gear is defined as bottom longline, bottom trawl, buoy gear, dredge, pot or trap, and bottom anchoring by fishing vessels.

Alternative 3 would establish a new HAPC named Many Mounds, and, again, there is Option a, no fishing regulations, or Option b, establish fishing regulations. Alternative 4 is establish a new HAPC named North Reed. Option a would not establish fishing regulations, and Option b would prohibit fishing with bottom-tending gear.

The Preferred Alternative 5 would establish a new HAPC named West Florida Wall, and the preferred option is to prohibit fishing with bottom-tending gear. If we go to the first map, which is on Figure 2.2.1, that will show you all -- Alternative 2 is Long Mound, Alternative 3 is the North Reed site, Alternative 4 is Many Mounds, and then the Preferred Alternative 5 is that purple box, the West Florida Wall, which combines all three of those in the 400 to 600-meter depth range.

CHAIRMAN FRAZER: Chairman Bosarge.

MS. LEANN BOSARGE: I think we talked about this last time, but what did we say the transit provision would be?

DR. KILGOUR: Mara, would you like to take that question?

MS. LEVY: Like we talked about last time, there is no transit provision, because it’s fishing with the gear that’s prohibited. It’s not having it onboard that is prohibited. It’s you can’t actually fish with the gears listed.

MS. BOSARGE: Okay, and so what are we going to consider fishing? If I am transiting, do all my lines have to be out of the water, or -- Do you see what I am saying? What is the definition?

MS. LEVY: Well, the definition of “fishing” is in the Act and in the regulations, and it’s very broad. I think, if your lines are in the water, there would be a case for you fishing. I
think it means your gear is out of the water.

MS. BOSARGE: Okay, and so, for the trawl fleet, if we happen to be transiting in that area, which definition applies, the new definition that we created in Shrimp Amendment 17B or the old definition, which is in some state waters, where you actually have to deck your doors?

MS. LEVY: I think that transit provision was for something else, right, specifically about transiting -- I will look up exactly what it applied to, but it wasn’t to closed HAPC areas. It had nothing to do with HAPCs. In the regulations that deal with all these HAPCs, there are no transit provisions in the Gulf. It’s all prohibited fishing with these gears.

CHAIRMAN FRAZER: Morgan, to that point?

DR. KILGOUR: That transit provision was for state-licensed vessels to transit through federal waters with shrimp onboard, and so it was specific to having shrimp on your vessel and transiting through federal waters with shrimp onboard when you don’t have a federal shrimp permit, if that jogs your memory.

MS. BOSARGE: Okay, and so, for transiting in these areas, we’re going to need to deck our doors or we’re going to need to remove our bag straps? That is what I am trying to figure out.

CHAIRMAN FRAZER: Ms. Levy.

MS. LEVY: I don’t know that I have an exact answer to that question. It’s what can be interpreted as fishing, right, and so fishing is the catching, taking, or harvesting of fish, the attempted catching, taking, or harvesting of fish, any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish or any operations in support of all of these activities.

I mean, it’s a matter of what the agency and what law enforcement is going to determine that fishing means in those areas. If you have gear in the water that is capable of taking fish, then, technically, I think you would be fishing, but I don’t know enough about shrimp trawls and what’s in the water and what is not in the water to be able to tell you, right here and right now, whether it would be considered fishing under the circumstances, I guess.

CHAIRMAN FRAZER: Chairman Bosarge, I have a quick question. I know that there was a lot of discussion with the Shrimp SSC
about this particular issue, and so it’s not clear to me that there was a lot of effort in this newly created Wall, and is that true?

MS. BOSARGE: No, we don’t have any shrimping effort there, and that’s why I was just asking about how do we transit? If we happen to be transiting -- Because it is a wall, right? It’s a long, cylindrical box that kind of parallels the coast, and so, if you have to transit across it -- I don’t think you would want to run all the way down one side of it to go around it or something, and that’s why I was just trying to get clarification of which transit provision are we going to live by there, so that we don’t get fined.

CHAIRMAN FRAZER: Sure. I appreciate that. Mr. Atran.

MR. STEVEN ATRAN: I am trying to look it up right now. I know, for Madison-Swanson and Steamboat Lumps -- Now, we’re not talking about shrimping and we’re just talking about finfish fishing. Where fishing is prohibited, transiting is allowed, and there are specifications that state that the gear has to be stowed aboard the vessel. That is not the exact wording, and I was trying to find the exact wording, but there is a provision for those closed areas, as far as transiting goes.

CHAIRMAN FRAZER: Thank you. Morgan.

DR. KILGOUR: In this document, the alternatives and the prohibition on fishing are consistent with the other HAPCs with fishing regulations, and so the terminology is exactly what is already in the CFRs for fishing regulations, if that makes you more or less confused, or if that clarifies anything, but this is exactly what is currently in the CFRs for other HAPCs with fishing regulations.

CHAIRMAN FRAZER: Okay. Patrick.

MR. PATRICK BANKS: I hate to put him on the spot, but maybe Scott could help us with some idea of -- When he is working with federal law enforcement and he is dealing with the shrimp fishery, if you guys are dealing with a shrimper that is supposed to not be fishing versus fishing, how do you guys determine it? Is it as long as the door are out of the water? Is that how you guys would determine whether a shrimper is fishing?

CAPTAIN DAVID DUPREE: Good morning, everyone. Captain Pearce is not here yet, and I’m Captain David Dupree. I’m the Regional
Captain for FWC down here in Monroe County. If the doors are in the water, there is an intent to fish. You are attempting to fish or you are finishing fishing. If the doors are out of the water, there is no question that you’re not fishing at that time.

At least what we would do, if the doors are in the water, is begin a questioning process to find out are you beginning or are you finishing, but it definitely shows an intent of either finishing the job at the time or beginning the job, and it would require further questioning. Did I answer the question?

CHAIRMAN FRAZER: Yes, and thank you very much. Chairman Bosarge, any follow-up on that? Are you good? Thank you. Mr. Atran.

MR. ATRAN: If you are finished with that, I will pass, but I found the exact wording for Madison-Swanson, if you’re interested.

CHAIRMAN FRAZER: Very interested.

MR. ATRAN: Okay. It does prohibit trawling, among other things, and transiting means moving non-stop progression through the area with fishing gear appropriately stowed, and, with regard to a trawl net, it says a trawl net may remain on deck, but the trawl doors must be disconnected from the trawl gear and must be secured.

CHAIRMAN FRAZER: Thank you. We’ll do a little homework before Full Council, and we will circle back on this, but, in the interest of time, I think, Morgan, go ahead and move forward. Excuse me. Captain Greene.

MR. JOHNNY GREENE: Good morning. Before we leave this particular action, and knowing that we’re fixing to move into Action 3, but, in Action 3, there is a Sub-Option c. When you look at Option b, it prohibits bottom-tending gear and longline and bottom trawl and everything, but, in Action 3, there is an Option c that is the same deal, but it excludes bottom anchoring, and I can’t remember why it is not in Action 2, and would you please remind me, Morgan?

DR. KILGOUR: Sure. In Action 3, there are three areas, Alabama Alps, L&W Pinnacles, and Scamp Reef and Roughtongue Reef, that all have significant bandit rig fishery VMS points, and so that is why there is the exemption option of allowing anchoring, because those areas are used by bandit rig gears, and, when I
look at the VMS data for all the other areas, those are either bottom longlines or bottom trawls, as appropriate, and so I was given the direction by the council to look at each area and see what type of gear is used and to provide you with alternatives that would allow that historically-used gear.

CHAIRMAN FRAZER: Captain Greene.

MR. GREENE: With that being said, I understand that point, and I appreciate that point, but the thing that sticks out to me is that we are going a little further offshore, and we are fishing areas we normally -- I am fishing areas that I haven’t ever fished, and I don’t know if excluding anchoring in this area is a good way to go or not, because these fishermen may not be anchoring there now, but they may be one day in the future, and so we may need to look at some point that if we need to come back and do that that we will, because, if you’ve got boats that are trying to anchor and use different types of gear, when the weather is rough and those guys are trying to fish and they’re trying to hole up on a spot where they could traditionally anchor, they may be drifting around and drifting their gear all over the place, and it would probably do more damage than if they were just anchored in one place, and so just bear that in mind as you move forward with this, because it may not be anything that’s a big deal right now, but, the way things are changing offshore and the water temperature rise that I am seeing offshore, it may be a tool that we need to put in the toolbox.

CHAIRMAN FRAZER: Thank you, Johnny. Ms. Levy.

MS. LEVY: Just to clarify, were you speaking to what is currently in Action 3, or were you suggesting that -- Maybe not to do it now, but, at some point, something like Action 2 should have the option to allow anchoring, and is that what you were speaking to?

MR. GREENE: Yes, ma’am. That’s it exactly. I mean, it may -- I don’t know how easy it’s going to be to come back down the road and do it, because it’s one of those things that we’re pretty dynamic individuals as fishermen, and I know we’re trying to do the good for the coral and stuff, and I don’t know that we shouldn’t put it in there, but I don’t know that, at this point in the process, it’s appropriate, but it’s certainly something to consider.

CHAIRMAN FRAZER: Thank you, Johnny. Is there any more questions? Dale.
MR. DALE DIAZ: Just going back to the shrimp thing, I thought we had it settled until Steven brought up that comment from Madison-Swanson. I don’t know how we proceed from here, but my intention would be for folks to be able to transit this area without having to disconnect their nets from the doors. That’s just not reasonable, and this is extremely deep water. If their doors are out of the water, that is perfectly clear. Anything that -- I just do not want us to leave this where they have to disconnect the nets from the door. That is not reasonable.

CHAIRMAN FRAZER: Thank you, Dale. Ms. Levy.

MS. LEVY: Well, so that definition that Steve read is not in the regulations related to these habitat areas of particular concern. It’s in the reef fish part of the regulations, and it allows transit through that area, because, essentially, you are not allowed to fish or possess Gulf reef fish in those areas unless you are transiting. That is even a bigger restriction. You can’t even possess fish on your vessel unless you are just transiting, and so then it has a definition of what transit means, but this definition of what transit means for this purpose does not carry over into the HAPC regulations. That is just a prohibition on fishing, and so, as long as you’re not fishing, then you don’t need a transit provision, and does that make sense?

CHAIRMAN FRAZER: I think that makes sense, and I really do appreciate all the comments around the table. I don’t think the intent here is to unnecessarily regulate anybody that is trying to actually move through those areas, and, over the next couple of days, we’ll make sure that’s the case, before we bring it back to Full Council. Are there any additional comments? All right. Seeing none, Morgan, go ahead and move on.

DR. KILGOUR: Thank you, Mr. Chair. We’re moving to Action 3. Action 3 is new areas for HAPC status in the northeastern Gulf. These are the areas that I just briefly touched on that they have some slightly different options available, based on historic fishing practices.

Alternative 1 would be no action, do not establish any new HAPCs. Preferred Alternative 2 would establish a new HAPC named Alabama Alps, and the current preferred option is to prohibit fishing with bottom-tending gear, and, as Johnny noted earlier, there is Option c available, which prohibits bottom-tending gear with the exception of bottom anchoring by fishing vessels.
Preferred Alternative 3 would establish a new HAPC named L&W Pinnacles and Scamp Reef. Option a is do not establish fishing regulations. Option b is prohibit fishing with bottom-tending gear. Option c would prohibit fishing with bottom-tending gear with the exception of bottom anchoring by fishing vessels.

Preferred Alternative 4 would establish a new HAPC named Mississippi Canyon 118. Option a would not establish fishing regulations, and Preferred Option b would prohibit fishing with bottom-tending gear.

Preferred Alternative 5 would establish a new HAPC named Roughtongue Reef. Option a would not establish fishing regulations. Preferred Option b would prohibit fishing with bottom-tending gear and, again, Option c would prohibit fishing with bottom-tending gear with the exception of bottom anchoring by fishing vessels.

Preferred Alternative 6 would establish a new HAPC named Viosca Knoll 826. Option a would not establish fishing regulations, and Preferred Option b would prohibit fishing with bottom-tending gear.

Preferred Alternative 7 is establish a new HAPC named Viosca Knoll 862/906. Option a would not establish fishing regulations. Option b would prohibit fishing with bottom-tending gear, and Preferred Option c would prohibit fishing with bottom-tending gear, but provide an exemption to the prohibition on fishing for fishermen that possess a royal red shrimp endorsement and are fishing with royal red shrimp fishing gear.

If you go to Figure 2.3.2, I will explain the rationale for that last preferred alternative.

If you see that deep purple that goes right through the Viosca Knoll 862/906, and that’s the box on almost the bottom left, and there is a purple that goes through it, and so this is one of the two prime areas for royal red shrimp fishing in the Gulf of Mexico.

If you go back up to 2.3.1, this is the VMS data under the outlines of those areas, and, if you will see Alabama Alps, L&W Pinnacles, Scamp Reef, and Roughtongue Reef, those are all areas that have bandit rig fishing gear. All of the other HAPCs in this area don’t have a lot of VMS points in them. I am happy to take any questions on this action.

CHAIRMAN FRAZER: Are there any questions for Morgan? Dale.
MR. DIAZ: I don’t have a question, but I just want to clarify on the record, for people that are listening to the webinar that may have heard this for the first time, it exempts trawlers in those areas, but they have to have the trawl gear off the bottom. Just for people that are listening, so they will understand that, that the gear does have to be off the bottom. Thank you.

CHAIRMAN FRAZER: Mr. Banks.

MR. BANKS: I have a question, and maybe Morgan can clear this up. I have heard a lot about how this is a compromise type of document, and there was a lot of input from the fishing community in some of these areas, but what were some of the -- I just find it hard that the fishing industry would compromise on a place like Roughtongue and Pinnacle and Scamp and Alabama, when they are such heavily fished.

Can you remind us at all about some of the comments from those industries about those particular areas? It seems like we’re taking some areas that historically folks have made their living in, and we’re about to now kick them out, but then I hear a lot about this being a compromise, and so was this a compromise for those communities?

DR. KILGOUR: This document was provided to the Reef Fish AP, the Shrimp AP, and the Coral AP, and so, for the two areas that the biggest compromise happened, it would be Pulley Ridge area for the Preferred Alternative 4, with the bottom longline exemption, and this Viosca Knoll 862/906 for the royal red exemption.

The council added those Option c for those areas for bandit rig fishermen, but I couldn’t say that we’ve had a lot of comments specifically towards those areas, nor did I go out to every single bandit rig fisherman and ask them for their input on those areas, and so we have reached out to the advisory panels for the reef fish for those areas.

CHAIRMAN FRAZER: Any more questions or comments? Mr. Gregory.

EXECUTIVE DIRECTOR DOUG GREGORY: Excuse me, Morgan, but, for this graph, how many years of data are accumulated here? Is this one year, or is it an average of the number of years, or is the total over a series of years, because that might help explain some of this.
DR. KILGOUR: This is the total over a series of years, and so these are two-and-a-half-nautical-mile-by-two-and-a-half-nautical-mile grids, and it’s the sum of VMS points from March of 2007 to July of 2015, and I wanted -- That’s a good point to bring up.

VMS points do not necessarily indicate active fishing, but, when you see kind of a concentration like this, you can infer that these are probably heavily-fished areas, in contrast to the shrimp ELB data, which is also a sum of points over a long period of time, but those points have been filtered for active fishing, and I want to qualify that. They are going at a speed at which they can be fishing, and so it’s inferred that they are actively fishing, and that’s algorithm has been calibrated by LGL Ecological Associates and is now used by NMFS.

Additionally, the VMS data -- VMS are on all boats that have reef fish permits, whereas the ELB data are only on a third of the fleet, and so VMS gives the whole picture, and the ELB data only gives you a third of what we have federally permitted.

CHAIRMAN FRAZER: Thank you, Morgan. We’re going to keep moving along, to keep us on schedule, unless there is any additional questions or comments.

DR. KILGOUR: Okay. Action 4 would be new areas for HAPC status in the northwestern Gulf. Alternative 1, no action, is do not establish any new HAPCs. Preferred Alternative 2 would establish a new HAPC at AT 047. Option a would not establish fishing regulations, and Preferred Option b would prohibit fishing with bottom-tending gear.

Preferred Alternative 3 would establish a new HAPC named AT 357. Option a would not establish fishing regulations, and Preferred Option b would prohibit fishing with bottom-tending gear. Preferred Alternative 4 would establish a new HAPC named Green Canyon 852. Option a would not establish fishing regulations, and Preferred Option b would prohibit fishing with bottom-tending gear. I would like to note that this area has three of the deepest HAPCs that would have fishing regulations in depths of about 2,600 to almost 5,000 feet.

CHAIRMAN FRAZER: Are there any questions about this action item? Seeing none, Morgan, carry on.

DR. KILGOUR: All right. Action 5 are new areas for HAPC status in the southwestern Gulf. Alternative 1, no action, is do not establish any new HAPCs. Preferred Alternative 2 would
establish a new HAPC named Harte Bank, and the Preferred Option a is do not establish fishing regulations, and Option b would prohibit fishing with bottom-tending gear.

Preferred Alternative 3 would establish a new HAPC named Southern Bank, and Preferred Option a would not establish fishing regulations, and Option b would prohibit fishing with bottom-tending gear.

If we go to Figure 2.5.1, that is the -- Those are the areas with the VMS underlaid on them. When I looked at the data on that Harte Bank, it looked like those were VMS on vessels that have shrimp permits, but this was an area that -- In public comment at the public hearings, I learned that maybe vessels with shrimp permits go back and use bandit gear when they are not shrimping, legally and not illegally, but it was something that wouldn’t show up, necessarily, because they had shrimp permits, and, if you look at the shrimp ELB data, which is Figure 2.5.1, you can see that neither one of those areas is an area that is shrimped.

CHAIRMAN FRAZER: Are there any comments or questions on this action item? All right. Seeing none, Morgan.

DR. KILGOUR: Action 6 would add new deepwater coral areas for HAPC status, but none of these are recommended to have fishing regulations. Alternative 1 would be no action, do not establish any new HAPCs.


CHAIRMAN FRAZER: Are there any comments or questions on this action item? Just for clarification, all of these eight HAPCs, or potential HAPCs, are without fishing regulations. Okay. Carry on.

DR. KILGOUR: Okay, and the last action is Action 7, which would prohibit dredge fishing in all existing HAPCs that have fishing regulations, and so, currently, there are three HAPCs that have
fishing regulations that don’t specifically prohibit dredge fishing, while the others do, and so this would just maintain consistency for the CFRs for HAPCs with fishing regulations. Alternative 1 is no action, and Preferred Alternative 2 would prohibit dredge fishing in all HAPCs that have fishing regulations. That would specifically apply to the Pulley Ridge HAPC, Stetson Bank, and McGrail Bank.

CHAIRMAN FRAZER: Okay. Any comments or questions on this final action item? Okay. I expect that we’re going to have a lot of public comment on this particular amendment, and so we’ll hold off for the time being, and if we could go ahead and move on to the review of the codified text.

REVIEW OF CODIFIED TEXT

DR. KILGOUR: The codified text is Tab N-4(c), and, if Sue doesn’t want to take the reins, then I can go through it.

CHAIRMAN FRAZER: Ms. Levy.

MS. LEVY: I mean, it’s in your briefing book. I think the thing to note is that, if you look at it and compare it to the current regs, the order of things is a bit different, because we tried to organize it by area, and so we added these new things, and so the things that are already in the regulations are still there, but they may just not be in the same place, because we added the new stuff and tried to put it in the logical order, and the ones with fishing regulations have those in there consistent with what is already in there for the other HAPCs. You can look at it. If you have any questions at Full Council, we can address it before you decide whether to submit to the Secretary.

CHAIRMAN FRAZER: All right. Thank you very much. I think we will take the next couple of days to review -- Mara.

MS. LEVY: I had one other thing that I wanted to bring up, if this is the appropriate time. I think, in the last couple of weeks, or a couple of weeks ago, council staff and Sustainable Fisheries staff got some comments from HMS folks about their potential permit holders, a dozen or so, that may or may not use bottom longline gear in some of the areas where we are looking at prohibiting fishing with bottom longlines.

I looked back in past amendments, where the council has done these HAPC-type regulations and fishing with bottom longline, and there has usually been at least a very brief statement about
it not including HMS gears, and then what the council has done
is asked HMS to do parallel rulemaking, so that their regs in
their section of the regulations mirrors the council regs in our
622s.

I guess my suggestion here would be to give staff some
discretion to address the HMS issue in the document, and I would
suggest just saying that it’s not including HMS gear, but then
asking HMS to do the parallel rulemaking again, so that it’s
very clear in their regs what applies. Not that we change our
regs, but just that we say that in the document, and then the
Sustainable Fisheries Division can work with HMS to actually get
that rulemaking done, so that they’re consistent, if you do
decide to actually take final action at Full Council.

CHAIRMAN FRAZER: Thank you. Mr. Gregory.

EXECUTIVE DIRECTOR GREGORY: A question, Mara. Does HMS use
both bottom longline and mid-water longlines, or do they just
use mid-water longlines? You referred to it as bottom, and I’m
just not clear.

CHAIRMAN FRAZER: Jack.

DR. JACK MCGOVERN: They use bottom longline for sharks, and
they also use pelagic longlines for swordfish and other species.

CHAIRMAN FRAZER: Chairman Bosarge.

MS. BOSARGE: I was just wondering. I guess you’re inferring
that, yes, they will prohibit bottom longlines, because, when
you started that conversation, it almost sounded like they have
some fishermen that are using bottom longlines and maybe they
would want an exemption, and I guess will there be a whole
process of deciding, through the HMS side of the house, whether
that is going to be prohibited or not with their stakeholders?

MS. LEVY: I mean, in the past, when the council has done these
type of regulations, HMS has done the parallel rulemaking to
have the same -- They basically cross-reference the Gulf
regulations and say fishing with bottom longline or for these
permit holders for this gear is prohibited in these areas and
look at the 622 regs.

My assumption would be that they would be willing to do the same
thing here. I think that we still have some lack of information
about how much fishing they think occurs or doesn’t occur there.
Like I said, this sort of came up at the last minute, and I’m
not sure why.

We had engaged HMS on this before, and they were part of our process, but I think maybe it wasn’t on their radar until the last minute, and so I don’t have all the information, but I think, consistent with what we’ve done before, if the council just asks HMS to do the parallel rulemaking, then hopefully we could go back and do it together, because we’ve done that in the past with the Dry Tortugas stuff, and we did one rulemaking, HMS and Gulf. The agency did one rulemaking for both and we got it implemented, but I can’t say exactly what’s going to happen in the future. I just suggest that we try to follow the same process here.

CHAIRMAN FRAZER: Okay. I appreciate that. Real quick question. Well, I’m going to let Martha go, and then I have a question.

MS. GUYAS: Along those lines, my question was, where this has happened in the past, either the Gulf Council or another council has had regulations that impact HMS, and have we ended up in a situation where HMS didn’t go along with it? That would be my concern here, is if we’re prohibiting bottom longlines for one group of fishermen but not another and we kind of had a screwy situation.

CHAIRMAN FRAZER: Ms. Levy.

MS. LEVY: As far as I know, in recent history, no, but maybe Jack has some other information. I know in the South Atlantic they did the same thing and HMS did the parallel rulemaking, and, like I said, in the past, with the ones we have on the books now, HMS has the compatible regs that mirror the Gulf stuff, but I don’t know if Jack has more information.

CHAIRMAN FRAZER: Jack.

DR. MCGOVERN: I am not aware of any situation where HMS did not go along. When the South Atlantic did their MPA amendment a few years ago, there was compatible rulemaking at the same time, and so there were no problems.

CHAIRMAN FRAZER: Thank you. Chairman Bosarge.

MS. BOSARGE: Yes, but on the South Atlantic, they have some liaisons that sit at that table that actually participate in some of those fisheries, and so it is a -- I mean, I am with you that they probably went along, but I would venture to guess that
they probably had some conversations along the way, with people like Dewey sitting at the table, that participates in some of those fisheries and goes to all the HMS meetings and things like that.

CHAIRMAN FRAZER: Jack.

DR. MCGOVERN: I actually think that pre-dated Dewey, but we did have HMS involved during the development of the amendment.

CHAIRMAN FRAZER: Thank you. Mr. Gregory, real quick, I guess what will happen at this point is that staff will work with the HMS folks to try to move this along in parallel, and you will make that request?

EXECUTIVE DIRECTOR GREGORY: Most definitely and inform the council immediately if HMS in any way does not want to go along with the prohibition on bottom longline, because that defeats the purpose of trying to protect the corals.

CHAIRMAN FRAZER: Absolutely. All right. Thank you very much. Morgan, is there anything else over there?

DR. KILGOUR: No, I’m good here.

CHAIRMAN FRAZER: Okay. Are there any additional comments or questions about the review of the amendment? Seeing none, I think this will end this particular session. Thank you.

(Whereupon, the meeting adjourned on June 18, 2018.)