

MEMORANDUM OF UNDERSTANDING
AMONG
THE DEPARTMENT OF THE INTERIOR
THE DEPARTMENT OF THE ARMY
THE DEPARTMENT OF COMMERCE
THE ENVIRONMENTAL PROTECTION AGENCY
THE DEPARTMENT OF AGRICULTURE
THE DEPARTMENT OF HOMELAND SECURITY

I. PURPOSE AND OBJECTIVES

WHEREAS the Department of the Interior, the Department of the Army, the Department of Commerce, the Environmental Protection Agency, the Department of Agriculture, and the Department of Homeland Security (collectively, the “Federal Members”) are members of the Gulf Coast Ecosystem Restoration Council (the “Council”) established by section 311(t)(2)(C) of the Federal Water Pollution Control Act (FWPCA), as added by section 1603 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act);

WHEREAS the Council is to expend funds made available from the Gulf Coast Trust Fund to undertake projects and programs, using the best available science, to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast region;

WHEREAS all Federal Members of the Council acknowledge their common interest in sharing information, ideas, and expertise necessary to restore and protect the Gulf Coast region;

WHEREAS, on September 10, 2012, the President signed Executive Order 13626, Gulf Coast Ecosystem Restoration;

WHEREAS each of the Federal Members has statutory responsibilities, as well as expertise and capabilities, that can contribute significantly to the restoration of the Gulf Coast region;

WHEREAS section 311(t)(2)(C)(vi) of the FWPCA, as added by section 1603 of the RESTORE Act, requires an affirmative vote of the Chairperson and a majority of the State members of the Council to (1) approve a Comprehensive Plan and future revisions to a Comprehensive Plan; (2) approve State plans pursuant to section 311(t)(3)(B)(iv) of the FWPCA; (3) approve reports to Congress pursuant to section 311(t)(2)(C)(vii)(VII) of the FWPCA; (4) approve transfers pursuant to section 311(t)(2)(E)(ii)(I); and (5) take other significant actions determined by the Council;

THEREFORE, the Federal Members are executing this Memorandum of Understanding to document their mutual expectations regarding participation on the Council and their commitment to a process for collaboration, transparency, consultation, and dispute resolution prior to a vote taken by the Council pursuant to section 311(t)(2)(C)(vi) of the FWPCA.

II. COMMITMENTS

1. The Federal Members, individually and collectively, commit to coordinate and collaborate with one another to leverage individual and agency-wide statutory authorities and expertise, maximize efficiencies, reduce duplication, and strive for comprehensive ecosystem and economic restoration of the Gulf Coast region.
2. The Federal Members will cooperate to ensure that each Federal Member's views are fully considered and discussed and that decisions are timely made so as not to impede Council action.
3. The Federal Members shall strive to reach agreement within the Council on actions and decisions. The Federal Members commit to communicating with one another as soon as practicable regarding any concerns or differing views about a forthcoming vote by the Council pursuant to section 311(t)(2)(C)(vi) of the FWPCA. To facilitate collaboration and resolution, a Federal Member may request a meeting with the other Federal Members to present positions, concerns, and opinions and discuss differing views prior to a forthcoming vote by the Council.
4. The Federal Members, individually and collectively, commit to resolving disputes as quickly as possible. Federal Members will attempt to resolve any dispute or disagreement first by consultations among the Federal Members. Any Federal Member may raise any matter not resolved by a representative to a higher level.
5. Prior to a vote by the Council pursuant to section 311(t)(2)(C)(vi) of the FWPCA, the Chairperson will consult with the other Federal Members to determine the views of each Federal Member and ensure a reasonable opportunity to present positions, concerns, and opinions on the matter. The Chairperson will facilitate efforts to ensure good faith consideration of all positions and to resolve any disputes.
6. To ensure all positions are considered, the Chairperson will request opinions on a forthcoming vote from the other Federal Members. Within five (5) calendar days of the Chairperson's request, Federal Members will provide their respective positions to the Chairperson.
7. To resolve an outstanding issue, a Federal Member may request that, prior to a forthcoming vote, the Chairperson convene a meeting among the Secretary of the Interior, the Secretary of the Army, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the head of the Department in which the Coast Guard is operating. If such a meeting is requested, the Chairperson will convene the meeting either telephonically or in-person as soon as practicable, but not more than fifteen (15) calendar days from the request. At the meeting, all Federal Members shall be given the opportunity to present their views on the forthcoming vote.

8. After resolution pursuant to paragraphs 6 and 7, the Chairperson will promptly communicate the decision to the Council.

III. MISCELLANEOUS

The Federal Members agree that this Memorandum of Understanding is strictly for internal management purposes, does not expand or alter the scope of the Federal Members' respective authorities, and shall not be construed to create any legal obligation on the part of any agency or any private right or cause of action for or by any person or entity.

IV. TERM OF THE AGREEMENT

This Memorandum of Understanding shall take effect on the date of the last approving signature specified in Section V, below. The Memorandum of Understanding may be modified only upon the written agreement of all Federal Members. Any party to the MOU may terminate their participation in the MOU by providing 60 days advance written notice to all parties to the MOU.

V. SIGNATORIES

/s/ Penny Pritzker
Secretary
Department of Commerce

9/19/2014
Date

/s/ Sally Jewell
Secretary
Department of the Interior

8/14/2014
Date

/s/ Tom Vilsack
Secretary
Department of Agriculture

7/23/2014
Date

/s/ Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
Department of the Army

7/14/2014
Date

/s/ Gina McCarthy
Administrator
Environmental Protection Agency

9/26/2014
Date

/s/ Peter V. Neffenger
Vice Commandant, U.S. Coast Guard
Department of Homeland Security

9/22/2014
Date