

Proposed AP Policy Revisions
March 2021
BB Version – Policy Changes Highlighted and Described
Editorial and Organizational changes are not tracked

Guide to this Document and desired outcome:

Document Guide

This document was initially reviewed in December 2020.
Responses to guidance from that review are highlighted here.
New Content is highlighted in green

Discussion addressing these highlighted changes follows the change in *italics*.

Outcome:

Council is asked to review the additional changes and consider approving this policy. If approved, it will replace the existing policy and be included as an appendix in the SAFMC handbook.

A. APPENDIX II – AP POLICY

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

ADVISORY PANEL POLICY

Advisory panels (APs) serve as the fishing industry advisory committee as required by the Magnuson Stevens Act (MSA) and are charged with carrying out the objectives and duties listed below for a specific fishery management plan (FMP) or management problem. The Council may establish, abolish, or modify APs as necessary to meet its needs.

B. Objectives and Duties

1. Advisory panels will offer the Council continuing advice on the assessments and specifications contained in the FMPs and amendments for each fishery managed by the Council, with particular regard to:
 - a) The capacity and the extent to which the fishing vessels of the United States will harvest the resources considered in the FMPs;
 - b) The effect of such FMPs on local economies and social structures
 - c) Potential conflicts between user groups of a given fishery resource; and
 - d) Enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources.
2. Advisory panels will offer advice and prepare comments for the Council on:

- a) FMPs or amendments during preparation of such plans or amendments by the Council;
 - b) FMPs, policies, or regulations prepared by the Secretary, state agencies, or other Councils and transmitted to the Council for review;
 - c) The effectiveness of plans and amendments that have been implemented; and
 - d) Communication and outreach strategies
3. Advisory panel members will keep the Council advised of current trends and developments in fishery, management, law enforcement, data collection, habitat and ecosystem, and communication matters.
 4. Advisory panels will perform such other necessary and appropriate duties as may be requested by the Council to carry out its functions under the MSA. **This includes participating in the SEDAR assessment process.**

Discussion: Suggested addition to clarify this important role of the AP.

C. Membership Composition and Qualifications

1. Advisory panels will be composed of people who are either engaged in the harvest, pursuit, and use of, or are knowledgeable or interested in the conservation and management of, the fishery or group of fisheries that the particular AP is created to address. Advisory panels will also reflect expertise and interest from the standpoint of geographical distribution, industry and other user groups, and the economic and social groups encompassed in the fisheries range.
2. Nominees may not be eligible for appointment if they have had a marine resource violation in the past three years.
3. Each AP will elect a Chair and Vice Chair from among its members who may serve in these roles for a period of three years. Chairs and Vice Chairs may be re-elected to subsequent terms.

D. Appointment Process

All AP appointments are made by the Council and members serve at the pleasure of the Council. Council staff announces AP vacancies and solicits applications for consideration by the Council.

1. Advisory panel vacancies will be announced through the news media, Council distribution lists, and other means necessary to solicit qualified nominees.
2. Persons interested in serving on an AP must complete and submit an application form provided by the Council.
3. **Applicants will be subject to a background check by NOAA Law Enforcement to determine if the applicant has any marine policy violations during the prior 3 years.**

Discussion: Suggested addition to clarify how the check is conducted and what it determines.

4. Some seats are filled by representatives of specific agencies or other Councils. These seats are not advertised, and instead, Council staff contacts the appropriate organization to solicit nominations for the seat. The nominated individuals are officially appointed to the Panel by the Council.
5. The Council will review the qualifications of the nominees and make appointments.

E. Terms of Members

Members will be appointed by the Council for three-year terms and may be reappointed for two additional three-year terms. Except as noted below, AP members cannot be appointed to more than three terms in succession. A member may be reappointed to the same advisory panel after having been off the advisory panel for at least one year and will be eligible to serve 3 additional three-year terms.

Exception to term limits: If the Council determines no qualified persons have applied for an open position held by a member who has reached the limit of 3 three-year terms, the outgoing member may be appointed to an additional one-year term. In such cases, each new term will be viewed as if it were a third term. This term limit policy does not apply to the SEDAR or Citizen Science APs (Pools).

F. Administrative Provisions

1. Members of APs will serve without compensation. In accordance with Council policy, AP members will be reimbursed for travel expenses incurred in the performance of their duties for the Council.
2. Limited Compensation Exception: Advisory panel Chairs will be provided a stipend for time attending and traveling to Council meetings to provide an official report on panel recommendations. The Vice Chair or another AP member will be eligible for the stipend if designated by the Chair to attend a Council meeting and report on behalf of the AP. **Council stipend policies and eligibility requirements will apply.**

Discussion: Suggested addition to clarify that Council policies apply.

3. Within time and budget constraints, AP meetings will be scheduled as often as necessary to fulfill the panel's responsibilities.
4. Each AP will meet at least once **annually**. If there are no FMP amendments or specific actions to be considered by the AP, staff will convene the AP to provide the Council general feedback on fishery conditions and inform the Council of any developing issues **and document these recommendations by preparing a Fishery Performance Report. Unless otherwise directed by the Council, these meetings will alternate annually between webinar and in-person approaches, to ensure that the AP meets in person at least every other year.**

Discussion: Suggested addition to clarify a task of APs during this type of meeting, and to ensure there are regular in-person meetings.

5. The Council Executive Director will provide, within budget limitations, such staff and other support as the Council considers necessary for AP activities.
6. Advisory panels will report to the Council through the AP Chair and Council staff.
7. With approval of the Executive Director and Council Chair, APs may establish such subpanels as they deem necessary to facilitate their duties.

G. Meeting Provisions

1. Advisory panel meetings may be held in-person or via webinar. In-person meetings are preferred when time and budget constraints allow.
2. If an AP meets in-person, members participating remotely can vote. The Council's preference is that all AP members attend in-person but recognize this is not always possible. Remote participation counts as present for attendance requirements.
3. The Council and its Committees will provide guidance on agendas and topics to be discussed at AP meetings.
4. Council Committee Chairs, or their designee, will attend meetings of the APs associated with their Committee and may report to the AP on activities of the Committee.
5. The Council supports public comment to APs on agenda topics.

Written comment:

Written comment on AP meeting agenda topics will be distributed to the AP through the Council office, similar to all other Council briefing materials. The deadline and process for submitting comments to be included in the Administrative Record of the meeting and for consideration by the AP will be the same as that for other Council meetings.

Verbal comment:

Two opportunities for comment on agenda items will be provided at set times during AP meetings. The first will be at the beginning of the meeting, and the second at the end of the meeting. Additional comment opportunities will be provided prior to recessing each day if the meeting runs more than one day. Those wishing to comment should indicate such in the manner requested by the AP Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

H. Inactive Advisory Panels

Council will consider the ongoing need for an AP, and may consider disbanding the AP, if the Council does not identify a need for the AP to meet over a 4-year period. The AP can be reinstated when need arises. Council may consider combining APs as another approach to addressing inactivity.

I. Termination of Membership

An AP member may be removed from the panel before the end of their appointed term if:

1. They change employment.
2. They discontinue participation in the fishery for which they were appointed.
3. They move to another state outside of the Council’s jurisdiction.
4. They are absent from two consecutive meetings without giving adequate notification or reason to the Council Executive Director.
5. The Council determines they should be removed for just cause (“Just Cause” may include, but is not limited to, a violation of marine resource law that has been finally adjudicated by NOAA or other federal or state agencies, or a violation of Council policies.). (“Just Cause” may include, but is not limited to, violation of marine resource law, a felony conviction, or violation of Council policies).

Discussion: Suggested revising language to clarify “just cause”. The highlighted text was provided by NOAA GC.

J. Advisory Panels that Serve as Membership Pools

The Council may create specialized APs that serve as “pools” from which individuals are selected to participate on subpanels for specific projects. Examples, described below, include the SEDAR and Citizen Science AP Pools. Advisory panel pools are governed by the same requirements as those noted above for all other APs, except as specifically noted in the following special provisions or within the description of specific AP pools.

Advisory Panel Pool Provisions:

1. Advisory panel pools will not meet as a panel.
2. Advisory panel pools will not elect chairpersons.
3. There is no limitation on the number of members on an AP pool.
4. Advertising for applicants to a pool may be done as needed for a specific project or as part of a general call for applications on other Council APs.
5. Participation on an AP pool does not prevent appointment to another Council AP.
6. Appointments to AP pools are not subject to length of term limitations.
7. To ensure the accuracy of contact information and the viability of AP pools:
 - Council staff will contact all members who have been individually appointed to an AP pool every 5 (or 3) years years to verify their contact information and intent to remain on the pool.
 - A background check will be conducted at this time of those who indicate they desire to remain on the pool.
 - The Council will be informed of any pool members who cannot be contacted through their last known information, who no longer desire to participate, or who no longer possess a clean record of marine resource violations.

SEDAR AP Pool

The SEDAR AP Pool (also known as the SEDAR Pool or SEDAR AP) is composed of individuals approved by the Council to participate in the SEDAR stock assessment process. Approved participants (panelists and appointed observers) for each SEDAR workshop will only be selected from the SEDAR Pool. All advisory panel members are included in the SEDAR Pool while they are serving on an AP and are eligible to be appointed to participate in a SEDAR workshop as a panelist or observer. Appointments to the SEDAR AP Pool may be made by the Council or the SEDAR Committee.

Citizen Science AP Pool

The Citizen Science AP Pool (also known as the Citizen Science Pool or Citizen Science AP) is composed of individuals approved by the Council to participate in the Citizen Science process. Approved participants for citizen science working groups and subpanels will only be selected from the Citizen Science Advisory Panel Pool. All AP members are included in the Citizen Science Pool while they are serving on an AP and are eligible to be appointed to participate on a Citizen Science group. Appointments to the Citizen Science AP Pool may be made by the Council or the Citizen Science Committee.

DISCUSSION: Both the SEDAR and Citizen Science Pools were created through Council motions. Motions were also passed to include designated groups of individuals in the pools, such as members of other APs, and employees of federal agency offices and states located within the region. This allows the Council to appoint, e.g., an employee of SCDNR-MARMAP to a SEDAR panel without being required to appoint all individual SCDNR-MARMAP employees, at the time of SEDAR panel appointments, to the pool. While those motions were approved and are documented within the Administrative Record, they are not easily accessible or available. Staff has considered how to better document the various groups and designated employees included as pool members and proposes 2 options for Council consideration.

Option 1: List the general groups included in the Pools in the official roster (included in the SAFMC directory) for each pool.

Option 2: List the general groups included in the Pools in this policy document.

Either addresses the documentation need. Option 2 will be more administratively cumbersome, as the policy will need to be updated if Council changes the membership through future motions.

Staff reviewed these options with NOAA GC and recommends Option 1. This will address the documentation and public information needs while not unduly burdening the Council to make changes in this policy text if group approvals change in the future.