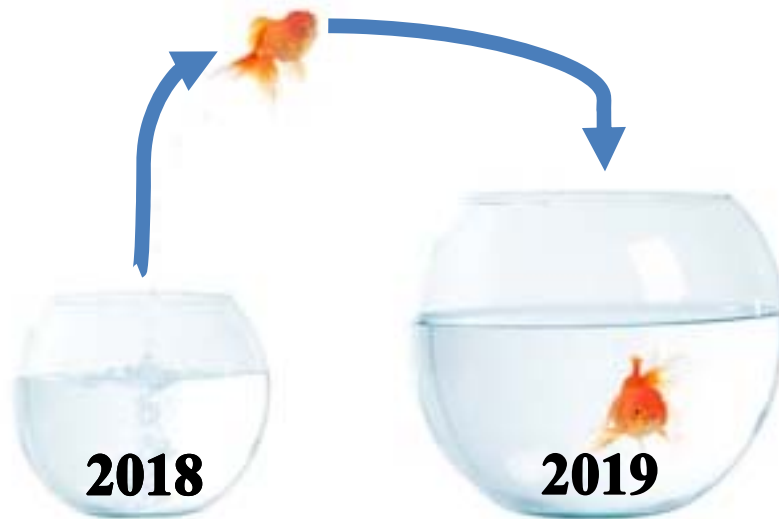


Carryover Provisions and Framework Modifications



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Draft Generic Amendment to the Fishery Management Plans for Reef Fish, Coastal Migratory Pelagics, Coral and Coral Reefs, Spiny Lobster, and Shrimp in the Gulf of Mexico

October 2018



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ENVIRONMENTAL ASSESSMENT COVER SHEET

Name of Action

Draft Generic Amendment to:
Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico;
Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic;
Fishery Management Plan for the Coral Resources of the Gulf of Mexico;
Fishery Management Plan for the Spiny Lobster Resources of the Gulf of Mexico and South Atlantic; and
Fishery Management Plan for the Shrimp Resources of the Gulf of Mexico.

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Type of Action

<input type="checkbox"/> Administrative	<input type="checkbox"/> Legislative
<input checked="" type="checkbox"/> Draft	<input type="checkbox"/> Final

Summary/Abstract

ABBREVIATIONS USED IN THIS DOCUMENT

ABC	acceptable biological catch
ACL	annual catch limit
ACT	annual catch target
AM	accountability measure
Council	Gulf of Mexico Fishery Management Council
CMP	coastal migratory pelagics
CV	coefficient of variation
EA	environmental assessment
ESA	Endangered Species Act
FMP	fishery management plan
GMFMC	Gulf of Mexico Fishery Management Council
Gulf	Gulf of Mexico
IFQ	individual fishing quota
IRFA	initial regulatory flexibility analysis
MFMT	maximum fishing mortality threshold
MSST	minimum stock size threshold
MSY	maximum sustainable yield
NMFS	National Marine Fisheries Service
NS1	National Standard 1 guidelines
OFL	Overfishing limit
OY	optimum yield
P*	probability of overfishing
Q*	qualitative measure of relative risk
PDF	probability density function
RA	Regional Administrator
RIR	regulatory impact review
RFA	regulatory flexibility analysis
SEFSC	Southeast Fisheries Science Center
SPR	spawning potential ratio
SSB	spawning stock biomass
SSBR	spawning stock biomass per recruit
SSC	Science and Statistical Committee
TAC	total allowable catch
TL	total length

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CHAPTER 1. INTRODUCTION

1.1 Background

The acceptable biological catch (ABC) is a level of annual catch that accounts for the scientific uncertainty in the estimate of the overfishing limit (OFL). To maintain landings of a stock at or below the ABC, an annual catch limit (ACL) is established by the Council that must be less than or equal to the ABC. Typically, fishing is prohibited when harvest reaches, or is projected to reach, the annual catch target (ACT) or the ACL, depending on the species. Since these closures are implemented based on preliminary landings data and effort estimates, some amount of the ACT or ACL may ultimately not be harvested in a given fishing year.

The revised National Standard 1 (NS1) guidelines published in October 2016 include guidance on carrying over unused quota (i.e., harvest below the ACL or ACT) from one year to the next. Quota carried over should account for annual natural mortality of the subject species or species complex, and for other affecting factors as appropriate, including episodic mortality and management uncertainty. By creating a carryover provision in the Gulf of Mexico Fishery Management Council's (Council) ABC Control Rule, the foregone yield resulting from a year in which harvest does not reach the ACL may be carried over to the following fishing year.

Currently, only species included in the fishery management unit for the Reef Fish and Coastal Migratory Pelagic (CMP) fishery management plans (FMPs) are being included in the carryover provision considered in this amendment. The CMP FMP is co-managed by the Gulf Council and South Atlantic Fishery Management Council (South Atlantic Council) with separate ABCs for each stock; only the Gulf of Mexico (Gulf) stock is being considered herein.

The Council is not considering a carryover for stocks in the Shrimp, Spiny Lobster, Red Drum, and Coral and Coral Resources FMPs. Corals are not being considered since the only harvest is from permitted aquacultured live rock sites. The ACL for federally managed coral stocks is zero. White, brown, and pink shrimp do not have ACLs because they are annual stocks and not

OFL

Overfishing Threshold is the yield from fishing at maximum fishing mortality threshold. Exceeding over fishing limit in any year is an alternate way to determine if overfishing is occurring.

ABC

Acceptable Biological Catch is a catch level recommended by the Science and Statistical Committee and set at or below over fishing limit to account for scientific uncertainty. This is the highest yield to which annual catch limits can be set.

ACL

Annual Catch Limit is a catch level set by the Council at or below the acceptable biological catch. Exceeding the annual catch limit triggers accountability measures to reduce the likelihood of the annual catch limit being exceeded in future years. For some stocks, particularly those in a rebuilding plan, exceeding the ACL may trigger a payback provision in the following year.

subject to an ACL. Royal red shrimp has an ACL, as does spiny lobster; however, the Council has chosen to only have carryover apply to finfish stocks in this amendment. Spiny lobster are managed cooperatively with the South Atlantic Council under a combined ABC with no apportionment between the Council jurisdictions. Any carryover measure for spiny lobster would require review and approval by the South Atlantic Council, which may slow the application of the carryover provision such that it is not feasible for the following fishing year. Red drum are not being considered because harvest is currently prohibited in federal waters of the Gulf. If red drum harvest is re-opened by a plan amendment in the future, a carryover provision for red drum can be considered at that time.

Gulf of Mexico Fishery Management Council

- Responsible for conservation and management of fish stocks
- Consists of 17 voting members, 11 of whom are appointed by the Secretary of Commerce, the National Marine Fisheries Service Regional Administrator, and 1 representative from each of the 5 Gulf states marine resource agencies
- Responsible for developing fishery management plans and amendments, and for recommending actions to National Marine Fisheries Service for implementation

South Atlantic Fishery Management Council

- Responsible for conservation and management of fish stocks
- Consists of 12 voting members, 8 of whom are appointed by the Secretary of Commerce, the National Marine Fisheries Service Regional Administrator, and 1 representative from each of the 4 South Atlantic states marine resource agencies
- Responsible for developing fishery management plans and amendments, and for recommending actions to National Marine Fisheries Service for implementation

National Marine Fisheries Service

- Responsible for conservation and management of fish stocks
- Responsible for compliance with federal, state, and local laws
- Approves, disapproves, or partially approves Council recommendations
- Implements regulations

The Gulf Council intends that any carryover provision function as autonomously as possible (see minutes from January and April 2017 Gulf Council meetings). As such, the generic framework procedures for the applicable FMPs will need to be modified to allow the National Marine Fisheries Service (NMFS) to adjust the appropriate catch levels in accordance with any new ABC derived from the application of the carryover provision. Therefore, this amendment

proposes to modify the closed framework procedures for the Reef Fish and CMP FMPs to allow the Regional Administrator (RA) to adjust the ABC, ACL, ACT, and quota for a stock or stock component to account for carryover of the unused portion of the ACL (as derived from the ABC set by the ABC Control Rule). The amendment also propose the following two minor modifications to the framework procedures: 1) modify the abbreviated framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, Spiny Lobster, and Shrimp FMPs to allow specification of an ABC recommended by the SSC based on results of a new stock assessment and using the ABC Control Rule; and 2) revise the framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, Spiny Lobster, and Shrimp FMPs to have consistent terminology and format, and to include changes to the standard framework procedure for the Coral and Coral Reefs and Spiny Lobster FMPs regarding accountability measures (AMs).

Table 1.1.1. Examples of stocks with sectors with some portion of the ACL having gone unharvested in 2017. Only stocks with accepted peer-reviewed stock assessments are shown. All landings are in pounds whole weight with the exception of red grouper and gag which are in pounds gutted weight, and king mackerel, which is in reported weight.

Species	Sector	2017 ACL	2017 Landings	% ACL Remaining
Red Snapper	All Sectors	13,610,000	15,841,432	-16%
	Commercial*	7,007,000	6,978,662	<1%
	Private Angling	3,755,094	6,590,221	-75%
	For-hire	2,848,000	2,272,549	20%
	Recreational Total	6,603,094	8,862,770	-34%
Red Grouper	All Sectors	10,360,000	4,160,586	60%
	Commercial*	7,780,000	3,328,271	57%
	Recreational	2,580,000	832,315	68%
Gag	All Sectors	2,842,000	1,357,325	52%
	Commercial*	939,000	492,095	48%
	Recreational	1,903,000	865,230	55%
Greater Amberjack	All Sectors	1,013,041	1,257,328	-24%
	Commercial	464,400	454,439	2%
	Recreational	548,641	802,889	-46%
Gray Triggerfish	All Sectors	113,859	125,619	-10%
	Commercial	64,100	62,888	2%
	Recreational	49,759	62,731	-26%
King Mackerel	All Sectors	8,880,000	4,432,959	50%
	Comm- Western HL	1,136,000	1,114,825	2%
	Comm- Northern HL	511,200	544,516	-7%
	Comm- Southern HL	596,400	861,899	-45%
	Gillnet	596,400	552,775	7%
	Commercial Total	2,840,000	2,754,337	3%
	Recreational**	6,040,000	1,678,622	72%

* Sector for this stock is managed under an individual fishing quota program.

** Landings for king mackerel are tracked from July 1 – June 30.

Source: [NMFS ACL Monitoring webpage](#)

1.2 Purpose and Need

The purpose of this action is to incorporate provisions to allow carryover of portions of ACLs that were uncaught due to landings uncertainty and management limitations, and to modify the framework procedure to allow carryover and other changes to operate in a timely manner.

The need is to increase flexibility in quota management to promote achievement of the optimum yield for reef fish and CMP stocks, as allowed under the October 2016 revisions to the NS1 guidelines, and to streamline the framework procedures.

1.3 History of Management

The following is a history of management as it relates to quota overharvest and underharvest considerations.

Reef Fish Fishery Management Plan

Prior to the 2008, there were no established policies to address quota overharvests or underharvests in the reef fish fishery. Annual catches were incorporated into stock assessments, and the resulting catch limits reflected the effect of past landings.

Amendment 30A, implemented in August 2008, established a season length adjustment for recreational gray triggerfish, and a payback provision for commercial gray triggerfish harvest under the gray triggerfish rebuilding plan. Under the season length adjustment, if recreational gray triggerfish landings exceeded the ACL, then the Assistant Administrator for Fisheries (AA) would reduce the fishing season in the following year to return recreational landings to the target total allowable catch level. If commercial landings exceeded the ACL, the AA would reduce the quota for the following year by the amount of the overage.

Amendment 30B, implemented in May 2009, established overage adjustments for red grouper, gag, and the shallow-water grouper (SWG) complex. If commercial landings for red grouper, gag, or SWG landings exceeded the respective ACL, then the AA would file a notification maintaining the prior year red grouper, gag, or SWG commercial quota in the following fishing year. If recreational landings exceed the recreational red grouper or gag ACLs, the AA would file a notification maintaining the prior year red grouper or gag target catch level. In addition, the AA would reduce the length of the recreational SWG fishing season in the following year by the amount necessary to ensure recreational gag and red grouper landings do not exceed the recreational target catch level for that fishing year.

In April 2010, the *Deepwater Horizon* MC252 deep-sea drilling rig exploded and sank off the coast of Louisiana. Because of the resulting oil spill, approximately one-third of the Gulf was closed to fishing for much of the summer months. The direct loss of fishing opportunities due to the closure, plus the reduction in tourism throughout the Gulf coast, resulted in a much lower catch than projected. An estimated 2.3 million pounds of the 3.4 million pound recreational red snapper quota remained unharvested (NMFS 2010b). The Council responded with a request for an emergency rule to re-open the recreational red snapper season during weekends in October and November 2010. In May 2011, the SSC recommended new ABCs for 2011-2014 based on updated stock assessment projections that incorporated the 2010 underharvest. The Council used those new ABC projections in a **March 2012 Regulatory Amendment** that increased the red snapper commercial and recreational quotas for 2012 and 2013.

An **August 2011 Red Grouper Regulatory Amendment** increased the 2011 TAC to 6.88 million pounds and allowed the TAC to increase each year from 2012 to 2015. However, the increases in TAC were contingent on not exceeding the TAC in previous years. If the TAC was exceeded in a given year, it would remain at that year's level until the effects of the overage could be evaluated by the Scientific and Statistical Committee (SSC).

The Generic ACL/AMs Amendment, implemented in January 2012, established an AMs for the stocks and sectors that did not have AMs. For most stocks, if the ACL is exceeded in a given year, then landings are monitored the following year and fishing is prohibited when the landings reach or are projected to reach the ACL. For vermilion snapper, the AM requires in-season monitoring every year with a closure when the ACL is reached or projected to be reached.

Amendment 32, implemented in March 2012, replaced the AMs for the commercial sector with the IFQ program and revised the recreational AMs by adding both an overage adjustment to be applied when gag or red grouper are considered overfished and an in-season accountability measures to close a season early if ACL is reached or projected to be reached.

Amendment 38, implemented in March 2013, revised the post-season recreational AM that reduces the length of the recreational season for all shallow-water grouper in the year following a year in which the ACL for gag or red grouper is exceeded. The modified AM reduces the recreational season of only the species for which the ACL was exceeded.

Amendment 37, implemented in May 2013 for changes to ACLs and ACTs, and June 10, 2013 for management measures, modified the recreational gray triggerfish AMs by establishing an in-season closure authority based on the recreational ACT, and an overage adjustment to reduce the gray triggerfish ACL and ACT by the amount of the overage. This overage adjustment applies only while gray triggerfish is overfished.

An **October 2014 Framework Action**, implemented in April 2015, permanently established an overage adjustment for recreationally harvested red snapper that is only applied when the red snapper population is classified as overfished (the population is too low). In the event the recreational quota is exceeded, the recreational quota will be reduced in the year following the overage by the amount of the overage. Under this measure, the recreational ACT would be set at 20% below the adjusted quota.

The Council established a federal for-hire and a private angling component within the Gulf recreational sector fishing for red snapper through **Amendment 40** which was implemented by NMFS in May 2015 (GMFMC 2014a). The federal for-hire component is comprised of all for-hire vessels with a valid or renewable federal charter vessel/headboat permit for reef fish and the private angling component is comprised of other for-hire vessels and private recreational anglers. Amendment 40 allocated the red snapper recreational quota and ACT among the federal for-hire (42.3%) and private angling (57.7%) components, and required the AMs to apply by component.

Coastal Migratory Pelagics Fishery Management Plan

Amendment 18, implemented in January 2012, established ACLs and AMs for Gulf and Atlantic migratory groups of king mackerel and cobia.

Framework Amendment 3, implemented in January 2016, implemented changes to commercial regulations on king mackerel harvested by gillnets in the Gulf. The rule implemented an increase in the daily trip limit from 25,000 lbs to 45,000 lbs, added an AM to reduce the ACL in the year following an overage, modified electronic reporting requirements for dealers, and implemented landings requirement to renew a federal gillnet permit.

Coral and Coral Reefs Fishery Management Plan

On July 23, 1984, NMFS issued the final rule to implement the Coral FMP. The rule was prepared jointly by the Council and South Atlantic Council due to the susceptibility of coral and coral reefs to physical and biological degradation, and the need to optimize the benefits from these resources while conserving the coral and coral reefs. In later amendments, the FMP was split into two FMPs (one for the South Atlantic and one for the Gulf), and octocorals were removed from the FMU. The harvest of federally managed live corals is prohibited in the Gulf and South Atlantic.

Spiny Lobster Fishery Management Plan

The Spiny Lobster FMP largely extended Florida's rules regulating the fishery to the EEZ throughout the range of the fishery, i.e., North Carolina to Texas. The original Spiny Lobster FMP regulations were effective on July 2, 1982 (47 FR 29203). Spiny lobster are measured jointly between the Gulf and South Atlantic Councils.

Amendment 6/EA (1998) determined that the overfishing level for spiny lobster was a fishing mortality rate (F) in excess of F at 20% of the spawning potential ratio (developed by the South Atlantic Council).

Amendment 10/EIS (2012) established the ABC, ACL, ACT and AM for Caribbean spiny lobster; removed smoothtail spiny lobster, spotted spiny lobster, Spanish slipper lobster and ridged slipper lobster from the fishery management unit; defined MSY, overfished, and overfishing thresholds; updated the protocol for enhanced cooperative management and the framework procedure; modified the regulations regarding the use of undersized lobster as bait and tailing permit requirements; and addressed the removal of abandoned traps in Florida waters.

Regulatory Amendment 4/EA (2018) increased the ABC to 9.6 million pounds, the ACL to 9.6 million pounds, and the ACT to 8.64 million pounds for Caribbean spiny lobster based on a longer time series of data. Using this same time series, the amendment updated the spiny lobster MSY proxy and Maximum Fishing Mortality Threshold to equal the revised Over Fishing Limit of 10,460,000 pounds. This amendment also establishes a trigger mechanism to convene a review panel if a minimum value of landings is not met for two consecutive years. It also

prohibited the use of traps for recreational harvest of spiny lobster in the South Atlantic federal waters.

Shrimp Fishery Management Plan

The FMP for the Shrimp Fishery of the Gulf, U.S. Waters, supported by an environmental impact statement (EIS), was implemented on May 15, 1981. The FMP defined the shrimp fishery management unit to include brown shrimp, white shrimp, pink shrimp, royal red shrimp, seabobs (*Xiphopenaeus kroyeri*), and brown rock shrimp (*Sicyonia brevirostris*). Seabobs and rock shrimp were subsequently removed from the FMP. The actions implemented through the FMP and its subsequent amendments have addressed the following objectives:

1. Optimize the yield from shrimp recruited to the fishery.
2. Encourage habitat protection measures to prevent undue loss of shrimp habitat.
3. Coordinate the development of shrimp management measures with the shrimp management programs of the several states, when feasible.
4. Promote consistency with the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).
5. Minimize the incidental capture of finfish by shrimpers, when appropriate.
6. Minimize conflict between shrimp and stone crab fishermen.
7. Minimize adverse effects of obstructions to shrimp trawling.
8. Provide for a statistical reporting system.

The purpose of the plan was to enhance yield in volume and value by deferring harvest of small shrimp to provide for growth. The main actions included: 1) establishing a cooperative Tortugas Shrimp Sanctuary with Florida to close a shrimp trawling area where small pink shrimp comprise the majority of the population most of the time; 2) a cooperative 45-day seasonal closure with Texas to protect small brown shrimp emigrating from bay nursery areas; and 3) a seasonal closure of an area east of the Dry Tortugas to avoid gear conflicts with stone crab fishermen.

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1 – Eligibility for a Carryover Provision for Managed Reef Fish and Coastal Migratory Pelagic (CMP) Stocks in the Gulf of Mexico (Gulf)

Alternative 1: No Action – Do not establish a carryover provision to harvest the unused portion of the annual catch limit (ACL) for any managed reef fish or CMP stock in the Gulf. Any unused portion of the ACL remaining at the end of a fishing year will not be carried over to a successive fishing year.

Alternative 2: Establish a carryover provision for managed reef fish and CMP stocks. Carryover provisions apply to stocks and stock complexes with sector allocations. Unused portions of the sector ACLs for species managed under a catch share program are excluded from carryover provisions. Carryover provisions would further exclude the unused portion of the ACL for managed reef fish or CMP stocks/stock complexes:

Option 2a: which are currently under a rebuilding plan.

Option 2b: which are currently overfished.

Option 2c: which did not have their fishing year closed because the ACL or quota was met or projected to be met.

Option 2d: whose catch limits (e.g., acceptable biological catch (ABC), ACLs) were not determined using projections from a peer-reviewed quantitative stock assessment (i.e., catch limits were set using the ABC control rule tier 3 or a data-limited method).

Option 2e: which are managed by apportionment with an adjacent fishery management council.

Discussion:

The concept of crediting unharvested catch from a fishing year when it was not harvested to a subsequent fishing year has been used in fisheries management (see historical management of Pacific groundfish, North Atlantic swordfish, and Atlantic herring) (<https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-hms-fishery-management-plans-and-amendments>). National Standard 1 guidelines refer to this as “carryover” and allow an ABC control rule to include provisions to carry over some unused portion of an ACL from one year to increase the ABC and, by default, the ACL and ACT, the following fishing year. A carryover provision developed through this amendment would be added to the Gulf of Mexico Fishery Management Council’s (Council) ABC Control Rule.

For the carryover method to function while also constraining harvest to prevent overfishing, certain controls would be applied:

1. The unused portion of the ACL considered for carryover would apply to the smallest divisible managed portion (individual fishing sector, component(s), zone(s) or gear) from which the remaining ACL or quota went unharvested.
2. If the combined sector landings *exceed* the sector ACL or the stock ACL, there will be no carryover, even if one sector component did not harvest its quota for that fishing year.
3. The amount to be carried over to the following year, when added to the ABC, cannot result in an ABC which is greater than the OFL.
4. Carryover will only be an underage of the original ACL, not the adjusted ACL.

To the first point mentioned above, applying the carryover only to the smallest divisible managed portion of a sector would ensure that any fish that are allowed to be caught in a successive fishing year are caught under the same assumptions about size and age selectivity by gear and sector component. For instance, 100 lbs of fish carried over to the next fishing year may be equivalent to only eight fish for one sector (or component), which typically harvests larger fish, but may be equivalent to 12 fish for another sector, which typically harvests smaller fish. The effect on the stock of removing larger and, typically, more reproductively influential fish from the population may disproportionately affect the overall health of the stock if the carryover is disproportionately applied. Applying the underage equally to both components may be perceived as inequitable; one component could exceed its quota, yet have its quota increased in the following year due to an underage by another component causing an underage of the total ACL.

To the second point mentioned above, the carryover provision would not be applied in the event the total stock ACL was exceeded in a given fishing year. For example, if the recreational sector did not harvest its ACL, but the commercial harvest exceeded the commercial ACL such that landings for the stock exceeded 100% of the stock ACL, then the recreational sector for that stock would not be eligible for a carryover in the following fishing year, even though that sector had foregone yield in the previous fishing year. This is because the total amount of fish that could be harvested by all sectors had already been removed, and additional fishing mortality beyond what has been prescribed in the approved catch limits would exceed the amount of fishing mortality recommended by the SSC.

Some stocks have only a single stock ACL, while others divide the stock ACL into commercial and recreational sector ACLs. Additionally, some stocks have one sector further divided into components or zones. The red snapper recreational sector is currently divided into for-hire and private angling components (see Amendment 40; GMFMC 2014a), each with its own quota and ACT; only if landings are below the total recreational ACL (and combined commercial and recreational ACLs) would a carryover be allowed, and it would only be applied to the component that remained under its quota. The king mackerel commercial sector is currently divided into several zones for hook-and-line fishermen, each with its own quota; only if landings are below the total commercial hook-and-line ACL (and combined commercial and recreational ACLs) would a carryover be allowed, and it would only be applied to the zone or zones that remained

under their quota. For example, if the Western Zone for commercial king mackerel did not harvest its quota but had its fishing year closed early because the quota was projected to be met, then that unharvested quota (however adjusted) could be carried over to the Western Zone’s quota in the subsequent fishing year. The gillnet component has its own ACL and would have a separate carryover. This action would adjust the stock ABC to account for this (and all other) adjustment, with the carryover harvest applied only to the smallest divisible managed portion of the fishery from whence it came.

The carryover provision can only be applied to the original ACL for the following fishing year. Assume that the hypothetical ACL for the recreational sector for gag of 1,000,000 pounds was projected to be met in 2021, and the season was closed prematurely on November 30th of that year, leaving 30,000 lbs unharvested from the 2021 recreational ACL. In 2022, the 30,000 pounds that went unharvested is added to the 2022 recreational ACL of 950,000 pounds, bringing the 2022 recreational ACL for gag to 980,000. In 2022, the carryover provision would only apply to the original recreational ACL of 950,000 pounds. So, if in 2022 the recreational fishing season for gag is closed and 962,000 pounds has been harvested, there would be no carryover in 2023, since the original recreational ACL of 950,000 pounds had been met.

Harvest step-downs (e.g., a reduction in the commercial trip limit) occur after the fishing season has begun, once the harvest reaches a predetermined level. So, in fisheries with a harvest step-down, the carryover would be added to the ACL for the following year, and then the step-down would occur as it normally would when that percentage of the updated ACL for that fishing year was landed.

Table 2.1.1 shows the stocks for which the carryover provision would not apply, based on the options in **Alternative 2** of Action 1. Table 2.1.2 demonstrates the smallest degree of division for the stock ACL for all stocks currently managed by the Council in the Reef Fish and CMP fishery management plans (FMPs).

Table 2.1.1. Demonstration of stocks in the Council’s Reef Fish and CMP FMPs for which the carryover provision would not apply for options under **Alternative 2**. Stocks without sector allocations have been excluded from all options.

Option	2a	2b	2c	2d	2e
<i>Criterion</i>	<i>Under Rebuilding Plan</i>	<i>Overfished</i>	<i>No ACL Closure: 2012 - 2016</i>	<i>No Peer-Reviewed Stock Assessment</i>	<i>Managed by Apportionment</i>
<i>Stock</i>	Gray Triggerfish	Greater Amberjack	King Mackerel (recreational sector)	Blueline Tilefish	Black Grouper
	Greater Amberjack			Goldface Tilefish	
	Red Snapper				

Table 2.1.2. Demonstration of the smallest degree to which a stock ACL is divided (e.g., a single stock ACL, sector ACLs, sector component/zone ACLs or quotas) for all species in the Council’s Reef Fish and CMP FMPs.

Management Aspect	Stock ACL	Sector ACLs	Sector Components	Closed
Stock	Almaco Jack	Black Grouper	King	Goliath Grouper
	Banded Rudderfish	Blueline Tilefish	Mackerel ¹	Nassau Grouper
	Blackfin Snapper	Gag	Red Snapper ²	
	Cobia	Golden Tilefish		
	Cubera Snapper	Goldface Tilefish		
	Gray Snapper	Gray Triggerfish		
	Hogfish	Greater Amberjack		
	Lane Snapper	Red Grouper		
	Lesser Amberjack	Scamp		
	Mutton Snapper	Snowy Grouper		
	Queen Snapper	Speckled Hind		
	Silk Snapper	Warsaw Grouper		
	Spanish Mackerel	Yellowedge Grouper		
	Vermilion Snapper	Yellowfin Grouper		
	Wenchman	Yellowmouth Grouper		
Yellowtail Snapper				

¹ Commercial sector only

² Recreational sector only

At its June 2018 meeting, the Council discussed the inclusion of stock components managed under a catch share program, such as an individual fishing quota (IFQ) program. The Council thought that these stocks would be best considered separate from other stocks, and removed their consideration from this generic amendment. As such, Action 1 and the other actions in this generic amendment apply only to the stocks and stock components not managed under a catch share program. For example, under Action 1, red snapper would be considered for the recreational sector, but would not be considered for the commercial sector (which is managed under an IFQ program).

Alternative 1 would not apply a carryover provision to harvest the unused portion of the ACL for *any* managed stock in the Gulf. Any unused portion of the ACL remaining at the end of a fishing year will not be carried over to a successive fishing year. **Alternative 1** represents how stocks are currently managed under the Council’s Reef Fish and CMP Fishery Management Plans (FMPs).

Alternative 2 would allow a carryover provision except for stocks which meet certain conditions. If no options are selected, **Alternative 2** would allow a carryover provision for all stocks except those without sector allocations and those commercial stock components managed under a catch share program.

If a carryover provision is established, in accordance with the revised National Standard 1 (NS1) guidelines, the Council should evaluate the appropriateness of applying the carryover provision

for stocks that are overfished and/or rebuilding, as the overriding goal for such stocks is to rebuild them in as short a time as possible. **Option 2a** would exclude stocks under a rebuilding plan from consideration for a carryover, regardless of the size of the unused portion of the ACL remaining at the end of a fishing year. Examples of stocks for which the carryover provision would not apply under this option are shown in Table 2.1.1. Once a stock completes its rebuilding plan, it would be eligible for application of the carryover provision contingent on current regulations (e.g., other options in this action). Currently, there are two stocks, gray triggerfish and red snapper, which are no longer classified as overfished but are continuing to rebuild under established rebuilding plans. Stocks that are rebuilding are generally under increased harvest pressure, and increasing the ACL could negatively impact those stocks. As such, not having a carryover provision apply to a stock until such a time as it is determined to be rebuilt could benefit that stock. **Option 2b** would exclude stocks that are overfished from consideration for a carryover regardless of the size of the unused portion of the ACL remaining at the end of a fishing year. Any unused portion of the ACL remaining at the end of a fishing year for overfished stocks would not be carried over to the next fishing year. Excluding stocks which are overfished increases the likelihood of rebuilding those stocks in the specified timeframe. By allowing any foregone yield to remain in the water, the overfished stock is afforded a *de facto* buffer against recruitment variation, the impact of which is more pronounced when the spawning stock biomass is depressed.

Option 2c would exclude stocks that did not have a closure because the ACL or quota was met or projected to be met. Any unused portion of the ACL remaining at the end of a fishing year for those stocks would not be carried over to a successive fishing year. This option would prevent the continual accrual of carryover harvest to successive fishing years for stocks which are not currently harvested at their ACL on an annual basis. An example of a carryover provision not being applied under Option 2c is for the recreational sector for king mackerel, which has not had its fishing season closed because the ACL was met or estimated to be met in many years. For stocks not excluded by **Option 2c**, if it is determined that a portion of the ACL went unharvested, then that unused portion of the ACL could be carried over contingent on current regulations (e.g., other options in this action).

Option 2d would exclude stocks with catch limits that were not determined using projections from a peer-reviewed quantitative stock assessment. This means that there would be no carryover for stocks where the ABC was set using tier 3a or 3b of the ABC Control rule, or using methods from the NMFS data-limited methods toolkit. This option addresses potential concerns about carrying over the unused portion of an ACL in the absence of catch advice based on a peer-reviewed and accepted stock assessment because this may result in additional uncertainty about the impacts of implementing a carryover provision to the stock. Examples of stocks for which the carryover provision would not apply under this option are shown in Table 2.1.1.

Option 2e would exclude stocks that are managed by apportionment with an adjacent fishery management council. These are single stocks that cross council management boundaries. Any unused portion of the ACL remaining at the end of a fishing year for those stocks will not be carried over to a successive fishing year. Unless otherwise specified in the framework procedures of the applicable FMP, modifying the ABCs and ACLs for these stocks will require action not only by the Gulf Council (and the Gulf Council's SSC), but by the adjacent fishery

management council (and its SSC) which also manages some other apportionment of the subject stock. Examples of stocks for which the carryover provision would not apply under this alternative are shown in Table 2.1.1. Requiring consultation and approval for carryover for applicable stocks will delay the implementation of the resultant regulations, and would thereby not be accomplished automatically at the end of each year, as desired by the Council for this management action (see Council meeting minutes; January and April 2017).

2.2 Action 2 – Adjustment in the Carryover Provision Accounting for Management Uncertainty

Note: Action 2 is only valid if an alternative other than Alternative 1 is chosen in Action 1.

Alternative 1: No Action – Do not limit the carryover provision (as established in Action 1) to account for management uncertainty in the Gulf. The acceptable biological catch (ABC) in a carryover year can be set up to the overfishing limit (OFL) for that year.

Alternative 2: Adjust the amount of the ACL to be carried over into the following fishing year by limiting how much the difference between the ABC and the OFL can be reduced.

Option 2a: The difference between the ABC and the OFL can be reduced by 50%

Option 2b: The difference between the ABC and the OFL can be reduced by 75%

Option 2c: The difference between the ABC and the OFL can be reduced by 90%

Discussion:

Alternative 1 would not establish an adjustment in the carryover provision (if established in Action 1) to account for management uncertainty. Currently, the buffer between the ABC and the OFL for a stock is determined using the Council’s ABC Control Rule, which uses data from the most recent stock assessment. Presently, the only stocks without a peer-reviewed stock assessment are the tilefishes stock complex, for which the difference between the OFL and ABC was determined using Tier 3a of the Gulf Council’s ABC Control Rule. The buffer between the ABC and the OFL varies by stock, is specific to each individual stock, and is influenced by the type and quality of data used in the assessment and by the degree of uncertainty characterized by that assessment. Most of the stocks considered for carryover are managed with an ACL that equals the ABC. Therefore, if there is no adjustment for management uncertainty as proposed in **Alternative 2**, it is possible that a carryover could result in a situation where $ACL = ABC = OFL$. Under this condition, the National Standard 1 guidelines state that the Secretary may presume that the proposal would not prevent overfishing, in the absence of sufficient analysis and justification for the approach. Further, according to the Magnuson-Stevens Act, the ABC cannot be greater than the OFL, in order to prevent overfishing.

During its January 2018 meeting, the Council’s SSC reviewed simulations developed by the Southeast Fisheries Science Center (SEFSC) which demonstrated the effects of a carryover provision on king mackerel and red snapper. The simulations showed that fish not caught in the previous fishing year could be harvested, pound for pound, without causing harm to the subject fish stock. For red snapper, the simulations demonstrated that carrying over fish not caught in the previous fishing year to the following fishing year would not jeopardize the red snapper rebuilding plan. Conceptually, in a year in which the allowable harvest is not caught, “under-fishing” will have occurred; under the proposed carryover provision, this “under-fishing” will be balanced out in the following fishing year by increasing the ABC. Because the ABC cannot exceed the OFL, and so long as the OFL is not exceeded, overfishing will not occur in a carryover year. Further, the catch limits in a fishing year (ACL, ABC, OFL) are calculated under the assumption that all of the fish which were allowed to be caught in the previous fishing year were caught. If some of those fish were not caught, then the catch limits for the following

fishing year would by default be more conservative than necessary to prevent overfishing. Therefore, by maintaining the previous fishing year’s OFL, and only changing the ABC (and ACLs and ACTs, if applicable), an additional degree of protection against overfishing is afforded to the subject fish stock.

If the unused portion of the ACL is carried over to the following fishing year, it would increase the ABC for that fishing year only. Limiting how much the buffer between the ABC and the OFL can be reduced in years when the unused portion of the ACL is carried over would account for management uncertainty and decrease the probability of overfishing in carryover years.

Alternative 2 would allow the buffer between the ABC and the OFL to be reduced by 50% (**Option 2a**), 75% (**Option 2b**), or 90% (**Option 2c**). Table 2.2.1 provides a comparison of the current buffers between the OFL and ABC for stocks affected by this amendment, and excludes those stocks without sector allocations. The buffers shown in Table 2.2.1 are the result of the application of the current ABC Control Rule. These buffers are based on the best scientific information available from the most recent stock assessment or, in the absence of an assessment, on the data available to input into the ABC Control Rule under Tier 3. Because most of the stocks managed under the Reef Fish and CMP FMPs have ACLs that are equal to the ABCs, maintaining some difference between the OFL and ABC is intended to prevent overfishing from occurring. The options presented under **Alternative 2** would permit some amount of carryover for all applicable managed species (based on Action 1). A buffer which is greater than the buffer set by the ABC Control Rule would result in a decrease in the catch limits, which would be counter to the purpose of this amendment. Ultimately, the decision of a buffer between the ABC and OFL should be set with the intention of preventing overfishing from occurring.

Table 2.2.1. Comparison of the percent difference between the OFL and ABC for stocks which would be affected by this amendment. Goliath grouper and Nassau grouper have been excluded, since they are currently closed to harvest.

Stock	Year	OFL	ABC	% Difference	Alternative 2,	Alternative 2,	Alternative 2,
					Option 2a	Option 2b	Option 2c
					50%	75%	90%
Red Snapper	2017+	14.80 mp ww	13.74 mp ww	7.50%	3.75%	1.88%	0.75%
Gray Triggerfish	2017+	1.31 mp ww	0.305 mp ww	76.72%	38.36%	19.18%	7.67%
Greater Amberjack	2018	1.50 mp ww	1.182 mp ww	21.20%	10.60%	5.30%	2.12%
King Mackerel	2018	9.11 mp	8.71 mp	4.21%	2.11%	1.05%	0.42%
Red Grouper	2016+	14.16 mp gw	13.92 mp gw	1.69%	0.84%	0.42%	0.17%
Gag	2015+	3.19 mp gw	3.12 mp gw	2.19%	1.10%	0.55%	0.22%

Similarly, Table 2.2.2 shows the difference between the OFL and the ACL for the same stocks as shown in Table 2.2.1. In a carryover year, if the ABC is increased up to (but not to exceed) the OFL, and the ACL is equal to the ABC, then the effective allowable harvest level for the carryover year would be equal to the OFL. As previously mentioned, even if the OFL were harvested (exactly), due to the previous fishing year’s foregone yield, overfishing will not have

occurred. However, the Council may want to provide for additional management uncertainty by preserving a buffer between the ABC and OFL during a carryover year to ensure that the fishing year can be closed when the ACL is met or projected to be met without exceeding that year's OFL.

Table 2.2.2. Comparison of the percent difference between the OFL and the ACL for stocks which would be affected by this amendment. Goliath grouper and Nassau grouper have been excluded, since they are currently closed to harvest.

Stock	Year	OFL	ACL	% Difference
Red Snapper	2017+	14.80 mp ww	13.74 mp ww	7.50%
Gray Triggerfish	2017+	1.31 mp ww	0.305 mp ww	76.72%
Greater Amberjack	2018	1.50 mp ww	1.182 mp ww	21.20%
King Mackerel	2018	9.11 mp	8.71 mp	4.21%
Red Grouper	2018	14.16 mp gw	10.77 mp gw	23.94%
Gag (Recreational)	2018	3.19 mp gw	2.647 mp gw	17.02%

2.3 Action 3 – Modify the Framework Procedures for Gulf Council FMPs

Alternative 1: No Action – Do not modify the framework procedures.

Alternative 2: Modify the closed framework procedures for the Reef Fish and CMP FMPs to allow the Regional Administrator (RA) to adjust the ABC, ACL, annual catch target (ACT), and quota for a stock or stock component to account for carryover of the unused portion of the ACL (as derived from the ABC set by the ABC control rule). See highlighted sections below.

Closed Framework:

Consistent with existing requirements in the FMP and implementing regulations, the RA is authorized to conduct the following framework actions through appropriate notification in the Federal Register:

1. Close or adjust harvest of any sector of the fishery for a species, sub-species, or species group that has a quota or sub-quota at such time as projected to be necessary to prevent the sector from exceeding its sector-quota for the remainder of the fishing year or sub-quota season;
2. Reopen any sector of the fishery that had been prematurely closed;
3. Implement an in-season AM for a sector that has reached or is projected to reach, or is approaching or is projected to approach its ACL, or implement a post-season AM for a sector that exceeded its ACL in the current year.
4. Adjust the ABC, ACL, ACT, and quota for a species, sub-species, species group, sector, or component of a sector to allow for carryover of unused ACL, as determined by the ABC control rule.

Alternative 3: Modify the abbreviated framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, Spiny Lobster, and Shrimp FMPs to allow specification of an ABC recommended by the SSC based on results of a new stock assessment and using the ABC control rule. See highlighted sections below.

Abbreviated documentation process:

Regulatory changes that may be categorized as routine or insignificant may be proposed in the form of a letter or memo from the Council to the Regional Administrator containing the proposed action, and the relevant biological, social and economic information to support the action. If multiple actions are proposed, a finding that the actions are also routine or insignificant must also be included. If the Regional Administrator concurs with the determination and approves the proposed action, the action will be implemented through publication of appropriate notification in the Federal Register. Actions that may be viewed as routine or insignificant include, among others:

- Specification of ABC, MSY, OY, and associated management parameters (such as overfished and overfishing definitions) where new values are calculated based on previously approved specifications,

Alternative 4: Revise the framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, and Spiny Lobster FMPs to have consistent terminology and format, and to include changes to the standard framework procedure for the Coral and Coral Reefs and Spiny Lobster FMPs regarding accountability measures. See highlighted sections below for additions to the Coral and Coral Reefs and Spiny Lobster FMPs.

Standard documentation process:

Regulatory changes that do not qualify as a routine or insignificant may be proposed in the form of a framework document with supporting analyses. Non-routine or significant actions that may be implemented under a framework action include:

vi. Implementation or changes to in-season accountability measures

1. Closure and closure procedures
2. Trip limit implementation or change
3. Designation of an existing limited access privilege program as the accountability measure for species in the IFQ program
4. Implementation of gear restrictions

vii. Implementation or changes to post-season accountability measures

1. Adjustment of season length
 2. Implementation of closed seasons/time periods
 3. Adjustment or implementation of bag, trip, or possession limit
 4. Reduction of the ACL/ACT to account for the previous year overage
 5. Revoking a scheduled increase in the ACL/ACT if the ACL was exceeded in the previous year
 6. Implementation of gear restrictions
 7. Reporting and monitoring requirements
-

Note: The Council may choose Alternatives 2, 3, and/or 4 as preferred alternatives.

Discussion:

The framework procedures provide standardized procedures for implementing management changes pursuant to the provisions of the FMP. There are two basic processes, the closed framework process and the open framework process. Closed frameworks address specific factual circumstances, where the FMP and implementing regulations identify specific action to be taken in the event of specific facts occurring, such as closing a sector of a fishery after its quota has been harvested. Open frameworks address issues where there is more policy discretion in selecting among various management options developed to address an identified management issue, such as changing a size limit to reduce harvest. Open framework actions may be implemented in either of two ways, abbreviated documentation, or standard documentation process. The abbreviated documentation process is used for regulatory changes that may be categorized as a routine or insignificant; the standard documentation process is used for regulatory changes that do not qualify as a routine or insignificant.

Alternative 1 would not adjust the framework procedures. The current framework procedures for all applicable FMPs would remain in effect. **Alternative 1** would not permit the changes necessary to automate parts of the carryover process, the specification of ABC, or more timely adjustments to in-season and post-season accountability measures.

Alternative 2 would modify the closed framework procedures for the Reef Fish and CMP FMPs to allow the Regional Administrator (RA) to adjust the ABC, ACL, ACT, and quota for a stock or stock component to account for carryover of the unused portion of the ACL (as derived from the ABC set by the ABC control rule). This modification would permit NMFS to make the necessary changes to harvest limits for stocks eligible for a carryover as soon as the necessary data are available. This differs from the current framework procedure, which would require a standard framework action under the open framework procedures to modify harvest limits prior to their implementation. **Alternative 2** increases the timeliness of the application of the carryover provision proposed in Actions 1 and 2, but limits the authority of the RA to make such rapid changes only to the carryover provision. The open framework procedure would still be used for other harvest limit adjustments.

Alternative 3 would modify the abbreviated framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, Spiny Lobster, and Shrimp FMPs to allow specification of an ABC recommended by the SSC based on results of a new stock assessment and using the ABC control rule. This differs from the current framework procedures, which require a standard framework action to modify the ABC and other harvest limits prior to their implementation. Under **Alternative 3**, the Council would send a letter to the RA containing the proposed action (a change to the ABC), and the relevant biological, social and economic information to support the action. If the RA concurs with the Council's determination that the action is routine or insignificant, the RA can then approve the proposed action, which will be implemented through publication of appropriate notification in the Federal Register.

Alternative 4 would revise the framework procedures for the Reef Fish, CMP, Coral and Coral Reefs, and Spiny Lobster FMPs to have consistent terminology and format, and to include changes to the standard framework procedure for the Coral and Coral Reefs and Spiny Lobster FMPs regarding accountability measures (AMs). Specifically for the Coral and Coral Reefs and Spiny Lobster FMPs, **Alternative 4** would permit the implementation of or changes to in-season and post-season AMs through an open framework action, as opposed to a plan amendment. This change would permit the Council to implement or change AMs in a timelier manner than is currently permitted under the existing framework procedures. The modifications in **Alternative 4** have already been completed for the Shrimp FMP.

CHAPTER 3. REFERENCES

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APPENDIX A: REEF FISH FRAMEWORK PROCEDURE

As Approved by the Gulf Council – August 2011 And Modified by Amendment 38 – March 2013

This framework procedure provides standardized procedures for implementing management changes pursuant to the provisions of the above Fishery Management Plans. There are two basic processes, the open framework process and the closed framework process. Open frameworks are further divided into abbreviated or standard documentation processes. Open frameworks address issues where there is more policy discretion in selecting among various management options developed to address an identified management issue, such as changing a size limit to reduce harvest. Closed frameworks address much more specific factual circumstances, where the FMP and implementing regulations identify specific action to be taken in the event of specific facts occurring, such as closing a sector of a fishery after their quota has been harvested.

Open Framework:

1. Situations under which this framework procedure may be used to implement management changes include the following:

- a. A new stock assessment resulting in changes to the overfishing limit, acceptable biological catch, or other associated management parameters.

In such instances the Council may, as part of a proposed framework action, propose an annual catch limit (ACL) or series of ACLs and optionally an annual catch target (ACT) or series of ACTs, as well as any corresponding adjustments to MSY, OY, and related management parameters.

- b. New information or circumstances.

The Council will, as part of a proposed framework action, identify the new information and provide rationale as to why this new information indicates that management measures should be changed.

- c. Changes are required to comply with applicable law such as MSA, ESA, MMPA, or are required as a result of a court order.

In such instances the Regional Administrator will notify the Council in writing of the issue and that action is required. If there is a legal deadline for taking action, the deadline will be included in the notification.

2. Open framework actions may be implemented in either of two ways, abbreviated documentation, or standard documentation process.

- a. **Abbreviated documentation process.** Regulatory changes that may be categorized as a routine or insignificant may be proposed in the form of a letter or memo from the Council to the Regional Administrator containing the proposed action, and the relevant biological, social and economic information to support the action. If multiple actions are proposed, a finding that the actions are also routine or insignificant must also be included. If the Regional Administrator concurs with the determination and approves the proposed action, the action will be implemented through publication of appropriate notification in the Federal Register. Actions that may be viewed as routine or insignificant include, among others:
- i. Reporting and monitoring requirements,
 - ii. Permitting requirements,
 - iii. Gear marking requirements,
 - iv. Vessel marking requirements,
 - v. Restrictions relating to maintaining fish in a specific condition (whole condition, filleting, use as bait, etc.),
 - vi. Bag and possession limit changes of not more than 1 fish,
 - vii. Size limit changes of not more than 10% of the prior size limit,
 - viii. Vessel trip limit changes of not more than 10% of the prior trip limit,
 - ix. Closed seasons of not more than 10% of the overall open fishing season,
 - x. Species complex composition, including species subject to limited access privilege program (LAPP) management, requiring new share specification,
 - xi. Restricted areas (seasonal or year-round) affecting no more than a total of 100 square nautical miles,
 - xii. Respecification of ACL, ACT or quotas that had been previously approved as part of a series of ACLs, ACTs or quotas,
 - xiii. Specification of MSY, OY, and associated management parameters (such as overfished and overfishing definitions) where new values are calculated based on previously approved specifications,
 - xiv. Gear restrictions, except those that result significant changes in the fishery, such as complete prohibitions on gear types,

- xv. Quota changes of not more than 10%, or retention of portion of an annual quota in anticipation of future regulatory changes during the same fishing year.
- b. **Standard documentation process.** Regulatory changes that do not qualify as a routine or insignificant may be proposed in the form of a framework document with supporting analyses. Non routine or significant actions that may be implemented under a framework action include:
- i. Specification of ACTs or sector ACTs, and modifications to ACL/ACT control rule,
 - ii. Specification of ABC and ABC control rules,
 - iii. Rebuilding plans and revisions to approved rebuilding plans,
 - iv. The addition of new species to existing limited access privilege programs (LAPP),
 - v. Changes specified in section 4(a) that exceed the established thresholds.
 - vi. Implementation or changes to in-season accountability measures
 - 1. Closure and closure procedures
 - 2. Trip limit implementation or change
 - 3. Designation of an existing limited access privilege program as the accountability measure for species in the IFQ program
 - 4. Implementation of gear restrictions
 - vii. Implementation or changes to post-season accountability measures
 - 5. Adjustment of season length
 - 6. Implementation of closed seasons/time periods
 - 7. Adjustment or implementation of bag, trip, or possession limit
 - 8. Reduction of the ACL/ACT to account for the previous year overage
 - 9. Revoking a scheduled increase in the ACL/ACT if the ACL was exceeded in the previous year
 - 10. Implementation of gear restrictions
 - 11. Reporting and monitoring requirements
3. The Council will initiate the open framework process to inform the public of the issues and develop potential alternatives to address the issues. The framework process will include the development of documentation and public discussion during at least one council meeting.
4. Prior to taking final action on the proposed framework action, the Council may convene its advisory committees and panels, as appropriate, to provide recommendations on the proposed actions.

5. For all framework actions, the Council will provide the letter, memo, or the completed framework document along with proposed regulations to the Regional Administrator in a timely manner following final action by the Council.
6. For all framework action requests, the Regional Administrator will review the Council's recommendations and supporting information and notify the Council of the determinations, in accordance with the MSA¹ and other applicable law.

Closed Framework:

1. Consistent with existing requirements in the FMP and implementing regulations, the Regional Administrator is authorized to conduct the following framework actions through appropriate notification in the Federal Register:
 - a. Close or adjust harvest any sector of the fishery for a species, sub-species, or species group that has a quota or sub-quota at such time as projected to be necessary to prevent the sector from exceeding its sector-quota for the remainder of the fishing year or sub-quota season,
 - b. Reopen any sector of the fishery that had been prematurely closed,
 - c. Implement accountability measures, either in-season or post-season.

Footnote 1:

SEC. 304. ACTION BY THE SECRETARY 16 U.S.C. 1854

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) Immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) Immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) Take into account the information, views, and comments received from interested persons;

(B) Consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

- (A) The applicable law with which the plan or amendment is inconsistent;
 - (B) The nature of such inconsistencies; and
 - (C) Recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law. If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.
- (4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.
- (5) For purposes of this subsection and subsection (b), the term “immediately” means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.
- (b) REVIEW OF REGULATIONS.—
- (1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—
- (A) If that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or
 - (B) If that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.
- (2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

APPENDIX B: CMP FRAMEWORK PROCEDURE

The framework procedure, as outlined in Coastal Migratory Pelagics Amendment 20B, is provided below.

This framework procedure provides standardized procedures for implementing management changes pursuant to the provisions of the Coastal Migratory Pelagic Fishery Management Plan (FMP) managed jointly between the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). Two basic processes are included: the open framework process and the closed framework process. The open framework process/procedure addresses issues where more policy discretion exists in selecting among various management options developed to address an identified management issue, such as changing a size limit to reduce harvest. The closed framework process addresses much more specific factual circumstances, where the FMP and implementing regulations identify specific action to be taken in the event of specific facts occurring, such as closing a sector of a fishery when the quota is or is projected to be harvested.

Open Framework Procedure:

1. Situations under which this framework procedure may be used to implement management changes include the following:
 - a. A new stock assessment resulting in changes to the overfishing limit, acceptable biological catch, or other associated management parameters. In such instances the Councils may, as part of a proposed framework action, propose an annual catch limit (ACL) or series of ACLs and optionally an annual catch target (ACT) or series of ACTs, as well as any corresponding adjustments to MSY, OY, and related management parameters.
 - b. New information or circumstances. The Councils will, as part of a proposed framework action, identify the new information and provide rationale as to why this new information indicates that management measures should be changed.
 - c. Changes are required to comply with applicable law such as the Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, Marine Mammal Protection Act, or are required as a result of a court order. In such instances the NMFS Regional Administrator (RA) will notify the Councils in writing of the issue and that action is required. If there is a legal deadline for taking action, the deadline will be included in the notification.
2. Open framework actions may be implemented in either of two ways: abbreviated documentation or standard documentation process.
 - a. Abbreviated documentation process: Regulatory changes that may be categorized as a routine or insignificant may be proposed in the form of a letter or memo from the Councils to the RA containing the proposed action, and the relevant biological, social and economic information to support the action. Either Council may initiate the letter or memo, but both Councils must approve it. If multiple actions are proposed, a finding that the actions are also routine or insignificant must also be included. If the RA concurs with the determination and approves the proposed action, the action will be implemented through publication of appropriate notification in the Federal Register. Changes that may be viewed as routine or insignificant include, among others:
 - i. Reporting and monitoring requirements;

- ii. Permitting requirements;
 - iii. Gear marking requirements;
 - iv. Vessel marking requirements;
 - v. Restrictions relating to maintaining fish in a specific condition (whole condition, filleting, use as bait, etc.);
 - vi. Bag and possession limit changes of not more than one fish;
 - vii. Size limit changes of not more than 10% of the prior size limit;
 - viii. Vessel trip limit changes of not more than 10% of the prior trip limit;
 - ix. Closed seasons of not more than 10% of the overall open fishing season,
 - x. Species complex composition;
 - xi. Restricted areas (seasonal or year-round) affecting no more than a total of 100 nautical square miles;
 - xii. Re-specification of ACL, ACT or quotas that had been previously approved as part of a series of ACLs, ACTs or quotas;
 - xiii. Specification of MSY proxy, OY, and associated management parameters (such as overfished and overfishing definitions) where new values are calculated based on previously approved specifications;
 - xiv. Gear restrictions, except those that result significant changes in the fishery, such as complete prohibitions on gear types;
 - xv. Quota changes of not more than 10%, or retention of portion of an annual quota in anticipation of future regulatory changes during the same fishing year.
- b. Standard documentation process: Regulatory changes that do not qualify as a routine or insignificant may be proposed in the form of a framework document with supporting analyses. Non-routine or significant actions that may be implemented under a framework action include:
- i. Specification of ACTs or sector ACTs;
 - ii. Specification of ABC and ABC/ACL control rules;
 - iii. Rebuilding plans and revisions to approved rebuilding plans;
 - iv. The addition of new species to existing limited access privilege programs (LAPP);
 - v. Changes specified in section 2(a) that exceed the established thresholds;
 - vi. Changes to AMs including:

In-season AMs

- 1. Closures and closure procedures
- 2. Trip limit reductions or increases
- 3. Designation of an existing IFQ program as the AM for species in the IFQ program
- 4. Implementation of gear restrictions

Post-season AMs

- 5. Adjustment of season length
- 6. Implementation of closed seasons/time periods
- 7. Adjustment or implementation of bag, trip, or possession limit
- 8. Reduction of the ACL/ACT to account for the previous year overage
- 9. Revoking a scheduled increase in the ACL/ACT if the ACL was exceeded in the previous year
- 10. Implementation of gear restrictions

11. Reporting and monitoring requirements

3. Either Council may initiate the open framework process to inform the public of the issues and develop potential alternatives to address those issues. The framework process will include the development of documentation and public discussion during at least one meeting for each Council.
4. Prior to taking final action on the proposed framework action, each Council may convene their advisory committees and panels, as appropriate, to provide recommendations on the proposed actions.
5. For all framework actions, the initiating Council will provide the letter, memo, or completed framework document along with proposed regulations to the RA in a timely manner following final action by both Councils.
6. For all framework action requests, the RA will review the Councils' recommendations and supporting information and notify the Councils of the determinations, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Section 304) and other applicable law.

Closed Framework Procedure:

Consistent with existing requirements in the FMP and implementing regulations, the RA is authorized to conduct the following framework actions through appropriate notification in the *Federal Register*:

1. Close or adjust harvest any sector of the fishery for a species, sub-species, or species group that has a quota or sub-quota at such time as projected to be necessary to prevent the sector from exceeding its sector-quota for the remainder of the fishing year or sub-quota season;
2. Reopen any sector of the fishery that had been prematurely closed;
3. Implement an in-season AM for a sector that has reached or is projected to reach, or is approaching or is projected to approach its ACL, or implement a post-season AM for a sector that exceeded its ACL in the current year.

Responsibilities of Each Council:

1. Recommendations with respect to the Atlantic migratory groups of king mackerel, Spanish mackerel, and cobia will be the responsibility of the South Atlantic Council, and those for the Gulf migratory groups of king mackerel, Spanish mackerel, and cobia will be the responsibility of the Gulf Council, with the following exceptions:

The South Atlantic Council will have responsibility to set vessel trip limits, closed seasons or areas, or gear restrictions for:

- a. The Eastern Zone - East Coast Subzone for Gulf migratory group king mackerel
 - b. The east coast of Florida including the Atlantic side of the Florida Keys for Gulf migratory group cobia.
2. For stocks where a stock assessment indicates a different boundary between the Gulf and Atlantic migratory groups than the management boundary, a portion of the ACL for one migratory group may be apportioned to the appropriate zone, but management measures for

that zone will be the responsibility of the Council within whose management area that zone is located.

3. Both councils must concur on recommendations that affect both migratory groups.

APPENDIX C: SHRIMP FRAMEWORK PROCEDURE

The framework procedure, as outlined in Shrimp Amendment 15, is provided below. Shrimp Amendment 5 addresses the Texas Closure framework provisions, and Shrimp Amendment 9 addresses the Bycatch Reduction Device framework provisions; however, these framework provisions will not be modified by this document.

This framework procedure provides standardized procedures for implementing management changes pursuant to the provisions of the fishery management plan (FMP). There are two basic processes, the open framework process and the closed framework process. Open frameworks address issues where there is more policy discretion in selecting among various management options developed to address an identified management issue, such as changing a size limit to reduce harvest. Closed frameworks address much more specific factual circumstances, where the FMP and implementing regulations identify specific action to be taken in the event of specific facts occurring, such as closing a sector of a fishery after their quota has been harvested.

Open Framework:

1. Situations under which this framework procedure may be used to implement management changes include the following:
 - a. A new stock assessment resulting in changes to the overfishing limit, acceptable biological catch, or other associated management parameters.

In such instances the Gulf of Mexico Fishery Management Council (Council) may, as part of a proposed framework action, propose an annual catch limit (ACL) or series of ACLs and optionally an annual catch target (ACT) or series of ACTs, as well as any corresponding adjustments to maximum sustainable yield (MSY), optimum yield (OY), and related management parameters.

- b. New information or circumstances.

The Council will, as part of a proposed framework action, identify the new information and provide rationale as to why this new information indicates that management measures should be changed.

- c. Changes are required to comply with applicable law such as Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Endangered Species Act (ESA), Marine Mammal Protection Act, or are required as a result of a court order.

In such instances the Regional Administrator (RA) will notify the Council in writing of the issue and that action is required. If there is a legal deadline for taking action, the deadline will be included in the notification.

2. Open framework actions may be implemented in either of two ways, abbreviated documentation, or standard documentation process.

- a. Abbreviated documentation process. Regulatory changes that may be categorized as a routine or insignificant may be proposed in the form of a letter or memo from the Council to the RA containing the proposed action, and the relevant biological, social and economic information to support the action. If multiple actions are proposed, a finding that the actions are also routine or insignificant must also be included. If the RA concurs with the determination and approves the proposed action, the action will be implemented through publication of appropriate notification in the Federal Register. Actions that may be viewed as routine or insignificant include, among others:
- i. Reporting and monitoring requirements,
 - ii. Permitting requirements,
 - iii. Gear marking requirements,
 - iv. Vessel marking requirements,
 - v. Restrictions relating to maintaining fish in a specific condition (whole condition, filleting, use as bait, etc.),
 - vi. Size limit changes of not more than 10% of the prior size limit,
 - vii. Vessel trip limit changes of not more than 10% of the prior trip limit,
 - viii. Closed seasons of not more than 10% of the overall open fishing season,
 - ix. Restricted areas (seasonal or year-round) affecting no more than a total of 100 square nautical miles,
 - x. Respecification of ACL, ACT or quotas that had been previously approved as part of a series of ACLs, ACTs or quotas,
 - xi. Specification of MSY, OY, and associated management parameters (such as overfished and overfishing definitions) where new values are calculated based on previously approved specifications,
 - xii. Gear restrictions, except those that result significant changes in the fishery, such as complete prohibitions on gear types,
 - xiii. Quota changes of not more than 10%, or retention of portion of an annual quota in anticipation of future regulatory changes during the same fishing year
- c. Standard documentation process. Regulatory changes that do not qualify as a routine or insignificant may be proposed in the form of a framework document with supporting analyses. Non-routine or significant actions that may be implemented under a framework action include:
- i. Specification of ACTs or sector ACTs, and modifications to ACL/ACT control rule,
 - ii. Specification of acceptable biological catch (ABC) and ABC control rules,
 - iii. Rebuilding plans and revisions to approved rebuilding plans,
 - iv. Changes specified in section 4(a) that exceed the established thresholds.
 - v. Changes to AMs including:
 - In-season AMs
 1. Closures and closure procedures
 2. Trip limit changes
 3. Implementation of gear restrictions
 - Post-season AMs
 4. Adjustment of season length

5. Implementation of closed seasons/time periods
 6. Adjustment or implementation of trip or possession limits
 7. Reduction of the ACL/ACT to account for the previous year overage
 8. Revoking a scheduled increase in the ACL/ACT if the ACL was exceeded in the previous year
 9. Implementation of gear restrictions
 10. Reporting and monitoring requirements
3. The Council will initiate the open framework process to inform the public of the issues and develop potential alternatives to address the issues. The framework process will include the development of documentation and public discussion during at least one Council meeting.
 4. Prior to taking final action on the proposed framework action, the Council may convene its advisory committees and panels, as appropriate, to provide recommendations on the proposed actions.
 5. For all framework actions, the Council will provide the letter, memo, or the completed framework document along with proposed regulations to the RA in a timely manner following final action by the Council.
 6. For all framework action requests, the RA will review the Council's recommendations and supporting information and notify the Council of the determinations, in accordance with the Magnuson-Stevens Act and other applicable law.

Closed Framework:

1. Consistent with existing requirements in the FMP and implementing regulations, the RA is authorized to conduct the following framework actions through appropriate notification in the Federal Register:
 - a. Close or adjust harvest any sector of the fishery for a species, sub-species, or species group that has a quota or sub-quota at such time as projected to be necessary to prevent the sector from exceeding its sector-quota for the remainder of the fishing year or sub-quota season,
 - b. Reopen any sector of the fishery that had been prematurely closed,
 - c. Implement AMs, either in-season or post-season.

APPENDIX D: ALTERNATIVES CONSIDERED BUT REJECTED

At the January 2018 Council meeting:

Action 1 – Eligibility for a Carryover Provision for Managed Reef Fish and Coastal Migratory Pelagic Stocks in the Gulf of Mexico (Gulf)

Alternative 4: Apply a carryover provision to harvest the unused portion of the ACL for any managed reef fish or coastal migratory pelagic stock in the Gulf *except* those which are currently managed under a stock ACL, meaning an ACL which is not subdivided by sector allocations. Any unused portion of the ACL remaining at the end of a fishing year for those stocks will not be carried over to a successive fishing year.

*The Council moved **Alternative 4** to the considered, but rejected section at their January 2018 Council meeting. Council members felt that there was not a reason to exempt stocks from a carryover provision simply because there was no allocation among sectors. Furthermore, based on Table 2.1.1, there was a large overlap with **Alternative 3** of affected stocks, making this alternative somewhat redundant. The motion to move **Alternative 4** to Considered but Rejected carried with no opposition. Note: as a result of this move, the subsequent alternatives that were previously numbered **Alternative 5** and **Alternative 6** have been renumbered **Alternative 4** and **Alternative 5**.*

Action 4 – Adjustments to the Carryover Provision

Alternative 1: No Action. Do not reduce the amount of the unused portion of an ACL to be carried over. Any amount of the unused portion of the ACL to be carried over, as specified in Action 1, would be applied in full to the following fishing year, contingent on the alternative selected in Action 3.

Alternative 2: Reduce the amount of the unused portion of an ACL to be carried over by the mean natural mortality rate of the subject species as used in the most recent accepted quantitative stock assessment.

Alternative 3: Reduce the amount of the unused portion of an ACL to be carried over by an amount which accounts for management uncertainty. This amount would apply to any stock for which a carryover is considered.

Option 3a: Reduce the amount of ACL to be carried over by 5%

Option 3b: Reduce the amount of ACL to be carried over by 10%

Option 3c: Reduce the amount of ACL to be carried over by 15%

The Council moved the entire Action 4 to Considered but Rejected. Based on simulation runs presented to the SSC, Council members felt that natural mortality is already accounted for in the

*stock assessment. Consequently, adjusting the carryover amount to account for natural mortality would amount to double-counting the natural mortality. In addition, the Science Center representative at the January Council meeting suggested that there would be no harm over a period of years from allowing the full carryover of unharvested ACL as long as the cumulative catch did not exceed the cumulative ACL. The motion to move **Action 4** to Considered but Rejected carried with no opposition. Note: as a result of this move, the subsequent action previously numbered **Action 5** has been renumbered **Action 4**.*

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Alternative 2: Apply a carryover provision to harvest the unused portion of the ACL for any managed reef fish or CMP stock/stock complex in the Gulf *except* stocks/stock complexes under the following conditions:

Option 2d: Do not allow carryover of unused quota or ACL for stock components managed under an individual fishing quota program.

and

Action 2 – Parameters for Applying the Carryover Provision to Stocks managed under Individual Fishing Quota (IFQ) Programs in the Gulf

Alternative 1: No Action – Do not establish parameters for applying the carryover provision, as outlined in Action 1, to stocks managed under IFQ programs in the Gulf.

Alternative 2: If a species/stock complex managed under an IFQ program is determined to be eligible for a carryover under Action 1, then the unused portion of the commercial ACL for that species will be carried over to the following fishing year, so long as the unused portion of the commercial ACL amounts to less than:

Option 2a: 2% of the total commercial ACL

Option 2b: 5% of the total commercial ACL

Option 2c: 10% of the total commercial ACL

Alternative 3: If a species managed under an IFQ program is determined to be eligible for a carryover under Action 1, then the amount to be carried over to the following fishing year will be equal to:

Option 3a: Either the unused portion of the commercial ACL or 2% of the commercial ACL for that species, whichever is less

Option 3b: Either the unused portion of the commercial ACL or 5% of the commercial ACL for that species, whichever is less

Option 3c: Either the unused portion of the commercial ACL or 10% of the commercial ACL for that species, whichever is less

The Council discussed the inclusion of stock components managed under IFQ programs in the document. The combination of no season restrictions and the ability to lease shares that were not being landed within a fishing year made the IFQ program-managed fisheries unique when compared to non-IFQ fisheries. The Council thought that pulling stock components managed with IFQ programs out of this amendment and addressing them later would be most appropriate.
