Carry-over Provisions and Framework Modifications

Draft

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

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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 Red Drum Resources of the Gulf of Mexico;
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

( ) Administrative
(X) Draft
( ) Legislative
( ) 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 species 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. Fishing is prohibited when harvest reaches, or is projected to reach, the ACL. With the exception of species managed under an individual fishing quota system, it can be difficult for fisheries managers to prohibit fishing at the exact moment when the ACL is met or projected to be met. An early closure can result in some portion of the allowable catch going unharvested in a given fishing year.

New National Standard 1 (NS1) guidelines were published in October 2016. Management methods allowed through the new NS1 guidelines include carrying over unused quota 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. These may include episodic mortality, management uncertainty, or other factors. By creating a carry-over provision in the Gulf of Mexico Fishery Management Council's (Council) ABC control rule, the foregone yield resulting from these early fishery closures can be carried over to the following fishing year, thereby increasing social and economic opportunities without causing undue harm to the subject fish stock.

OFL

Overfishing Threshold is the yield from fishing at MFMT. Exceeding OFL in any year is an alternate way to determine if overfishing is occurring.

ABC

Acceptable Biological Catch is a catch level recommended by the SSC and set at or below OFL 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 ABC. Exceeding the ACL triggers accountability measures to reduce the likelihood of the ACL 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.

Currently, only species included in the fishery management unit for the Reef Fish, Red Drum, and Coastal Migratory Pelagic (CMP) fishery management plans (FMPs) are being considered in this amendment. With respect to the joint CMP FMP, only the portion of the stocks which occur in the Gulf of Mexico (Gulf) are being considered herein. Corals are not being considered since the preponderance of corals managed in the Gulf are not open to any form of anthropogenic removal. Shrimp are largely annual and variable fisheries, with most shrimp not living much longer than one year, making the application of the carry-over provision potentially precarious to the health of shrimp stocks. Spiny lobster are managed cooperatively with the South Atlantic Fishery Management Council (South Atlantic Council), which would need to review and approve any modifications to the ABC for spiny lobster. The necessity for the review of any annual catch level modifications by both Councils may slow the carry-over process to a point where its utility is compromised.

It is the intent of the Gulf Council that any carry-over 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 modify appropriate catch levels in accordance with the carry-over provision through the closed framework process.

Table 1.1.1. Examples of species with some portion of the ACL having gone unused in 2016. Only species with accepted peer-reviewed stock assessments are shown. All landings are in pounds, and are preliminary.

Species	Sector	2016 ACL	2016 Landings	% ACL Remaining
Red Snapper	Commercial*	6,097,297	6,057,498	0.65%
	Private Angler	4,150,000	5,187,901	-25.01%
	For-hire	3,042,000	2,134,005	29.85%
Red Grouper	Commercial*	7,780,000	4,497,582	42.19%
	Recreational	2,580,000	1,365,939	47.06%
Gag	Commercial*	939,000	910,996	2.98%
	Recreational	1,903,000	785,637	58.72%
Greater Amberjack	Commercial	464,400	440,297	5.19%
	Recreational	1,225,600	1,092,372	10.87%
Gray Triggerfish	Commercial	64,100	58,832	8.22%
	Recreational	201,223	442,670	-119.99%
King Mackerel**	Comm- Western HL	1,180,000	1,114,654	5.54%
	Comm- Northern HL	531,000	294,347	44.57%
	Comm- Southern HL	619,500	624,882	-0.87%
	Gillnet	619,500	534,892	13.66%
	Recreational	7,344,000	1,377,188	81.25%
Cobia	Combined	1,660,000	937,453	43.53%
Gray Snapper	Combined	2,420,000	2,240,286	7.43%

* Sector for this species is managed under an individual fishing quota program
** Landings for king mackerel are tracked from July 1 – June 30; data are not complete.
Source: NMFS ACL Monitoring webpage

1.2 Purpose and Need

The purpose of this action is to consider incorporating provisions to allow carry-over of uncaught ACLs, appropriate adjustments to any quota carried over, and to modify the framework procedure to make any such provision operate in a timely manner.

The need is to incorporate the flexibility allowed under the October 2016 revisions to the NS1 guidelines.

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

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

1.3 History of Management

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

Reef Fish Fishery Management Plan

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

Amendment 30A, implemented in August 2008, established an overage adjustment for recreational gray triggerfish, and a payback provision for commercial gray triggerfish harvest under the gray triggerfish rebuilding plan. This provision stated that if recreational gray triggerfish landings exceed the three-year running average total allowable catch (TAC), then the fishing season in the following year would be reduced to return recreational landings to the target annual TAC level If commercial landings exceed the applicable accountability measure trigger, the Regional Administrator (RA) will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the quota for that following year by the amount the prior year accountability measure trigger was exceeded.

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 exceed the respective annual catch limits (ACL), then the Assistant Administrator for Fisheries (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 notification 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 of Mexico 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 had been projected. An estimated 2.3 million pounds of the 3.4 million pound recreational quota remained unharvested (NMFS 2010b). The Council responded with an emergency action to re-open the recreational red snapper season during weekends in October and November 2010. In May 2011, the SSC re-ran its OFL and ABC projections incorporating the 2010 underharvest, and recommended new ABCs for 2011-2014. Based on the new ABC projections, a **March 2012 Regulatory Amendment** increased the red snapper commercial and recreational quotas for 2012 and 2013. This was not a one-year underharvest adjustment, but rather a new yield stream based on the rebuilding plan's target recovery in 2032.

An **August 2011 Red Grouper Regulatory Amendment** increased the 2011 total allowable catch to 6.88 million pounds and allowed the total allowable catch to increase each year from 2012 to 2015. However, the increases in TAC were contingent upon the TAC not being exceeded in previous years. If 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.

The Generic Annual Catch Limit/Accountability Measures Amendment, implemented in January 2012, established an accountability measure for reef fish other than vermilion snapper and royal red shrimp that, for stocks and sectors that do not currently have accountability measures, if the ACL is exceeded in a given year, then the following year fishing will be closed when the landings reach or are projected to reach the ACL. For vermilion snapper, the ACL closure provision was effective immediately.

Amendment 32, implemented March 12, 2012, authorized NMFS to close the recreational gag or red grouper fishing season when the respective recreational sector ACL is reached or projected to be reached, and added an overage adjustment for red grouper or gag if the recreational sector ACL is exceeded and the stock is in a rebuilding plan.

Amendment 38, implemented March 1, 2013, revised the post-season recreational accountability measure that reduces the length of the recreational season for all shallow-water grouper in the year following a year in which the annual catch limit (ACL) for gag or red grouper is exceeded. The modified accountability measure reduces the recreational season of only the species for which the ACL was exceeded. The amendment also modified the framework procedure to allow adjustments to accountability measures.

Amendment 37, implemented May 9, 2013 for annual catch limits and annual catch targets, and June 10, 2013 for management measures, modified the recreational gray triggerfish accountability measures by establishing an in-season closure authority based on the recreational annual catch target, and an overage adjustment to reduce the gray triggerfish annual catch limit and annual catch target by the amount of the overage. This overage adjustment applies only while gray triggerfish is overfished.

An **October 2014 Framework Action**, implemented April 20, 2015, established an overage adjustment for recreationally harvested red snapper that is only applied when the red snapper population is considered 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. This quota reduction could be modified if the best scientific information available determines that a different amount is necessary. Under this measure, the recreational annual catch target would be set at 20 percent 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** (with its associated EIS, RIR, and Regulatory Flexibility Act analysis) which was implemented by NMFS on May 22, 2015 (GMFMC 2014a). The federal for-hire component is comprised of all for-hire operators with a valid or renewable federal charter vessel/headboat permit for reef fish and the private angling component is comprised of other for-hire operators 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.

GMFMC Red Drum FMP Amendments:

The **Original Red Drum FMP** prohibited directed commercial harvest from the EEZ for 1987. The FMP provided for a recreational bag limit of one fish per person per trip, and an incidental catch allowance for commercial net and shrimp fishermen. Total harvest was estimated at 625,000 pounds; 300,000 by the commercial sector, and 325,000 by the recreational sector. The stock assessment sections of the FMP documented high inshore (state waters) fishing mortality on juvenile and sub-adult Red Drum and provided analysis that indicated significant long-term risks to the spawning stock biomass (SSB) associated with reduced juvenile recruitment to the adult population and with continued exploitation of adults.

Amendment 1, effective beginning in 1987, continued the prohibition of a directed commercial EEZ fishery, but converted the commercial and recreational estimated catch allowances into quotas that were restricted to EEZ waters off Louisiana, Mississippi, and Alabama (the primary area); harvest was prohibited from the EEZ off Florida and Texas (secondary areas). Gulf States were requested to implement rules within their jurisdictions that would provide for an escapement rate of juvenile fish to the SSB equivalent to 20% of those that would have escaped had there been no inshore fishery. This escapement rate was judged as necessary to maintain a SSB level that would prevent recruitment failure and fishery collapse.

Amendment 2, implemented on January 1, 1988, prohibited retention and possession of Red Drum from the EEZ. The 1987 Stock Assessment Panel report recommended that acceptable biological catch (ABC) be set at zero for the EEZ and that the states increase the escapement rate from the estuaries to 30 percent.

Emergency and Interim Rules

June 25, 1986: The Secretary promulgated an emergency rule to limit commercial harvest from the EEZ to one million pounds while National Marine Fisheries Service (NMFS) prepared a fishery management plan (FMP) for the fishery.

January 1, 1988: At the request of the Council, the Secretary promulgated an emergency rule to close the Gulf EEZ to further harvest of red drum. The Secretary also contacted the appropriate state officials to request the adoption of appropriate conservation measures.

Coastal Migratory Pelagics Fishery Management Plan

The CMP FMP, with Environmental Impact Statement (EIS), was approved in 1982 and implemented by regulations effective in February 1983 (GMFMC and SAFMC 1982). The management unit includes king mackerel, Spanish mackerel, and cobia. The FMP treated king and Spanish mackerel as unit stocks in the Atlantic and Gulf. The following is a list of management changes relevant to this amendment. A full history of CMP management can be found in Amendment 18 to the CMP FMP (GMFMC and SAFMC 2011), and is incorporated here by reference.

Amendment 18, with EA, implemented in January 2012, established ACLs and accountability measures for Gulf and Atlantic migratory groups of king mackerel. The ACLs for the Gulf and Atlantic migratory groups of king mackerel were 10.8 million pounds and 10.46 million pounds, respectively.

Amendment 20B, with EA, implemented in March 2015, revised Gulf king mackerel hook and line trip limits in the Florida West Coast zone Northern and Southern subzones and modified the Northern subzone fishing year; created a transit provision for areas closed to king mackerel; established Northern and Southern zones with commercial quotas for Atlantic king mackerel.

Coral and Coral Reefs Fishery Management Plan

The harvest of corals is prohibited in the EEZ of the Gulf of Mexico.

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 FMP regulations were effective on July 2, 1982 (47 FR 29203).

Amendment 3/EA (1991) added a scientifically measurable definition of overfishing, outlined an action plan to prevent overfishing, and added the requirement for collection of fees for the administrative cost of issuing permits.

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 ACL, ABC, 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; 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.

Shrimp Fishery Management Plan

The FMP for the Shrimp Fishery of the Gulf, U.S. Waters, supported by an 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, and brown rock shrimp. Seabobs and rock shrimp were subsequently removed from the FMP.

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.

Amendment 5/EA (1991) defined overfishing for Gulf brown, pink, and royal red shrimp and provided measures to restore overfished stocks if overfishing should occur. Action on the definition of overfishing for white shrimp was deferred, and seabobs and rock shrimp were removed from the management unit. The duration of the seasonal closure to shrimping off Texas was adjusted to conform to the changes in state regulations.

Amendment 7/EA (1994) defined overfishing for white shrimp and provided for future updating of overfishing indices for brown, white, and pink shrimp as new data become available. A total allowable level of foreign fishing for royal red shrimp was eliminated; however, a redefinition of overfishing for this species was disapproved.

Amendment 8/EA (1995), implemented in early 1996, established a procedure that would allow total allowable catch for royal red shrimp to be set up to 30% above MSY for no more than two consecutive years so that a better estimate of MSY could be determined. This action was subsequently negated by the 1996 Sustainable Fisheries Act amendment to the Magnuson-Stevens Act that defined overfishing as a fishing level that jeopardizes the capacity of a stock to maintain MSY, and does not allow OY to exceed MSY.

Amendment 13/EA (2005) established an endorsement to the federal shrimp vessel permit for vessels harvesting royal red shrimp; defined the overfishing and overfished thresholds for royal red shrimp; defined MSY and OY for the penaeid shrimp stocks in the Gulf; established bycatch reporting methodologies and improved collection of shrimping effort data in the EEZ; required completion of a Gulf Shrimp Vessel and Gear Characterization Form by vessels with federal shrimp permits; established a moratorium on the issuance of federal commercial shrimp vessel permits; and required reporting and certification of landings during the moratorium.

The Generic Annual Catch Limit (ACL)/Accountability Measures (AMs) Amendment/EIS (2011) set an ACL and AM for royal red shrimp. Penaeid shrimp were exempt from the ACL/AM requirements because of their annual life cycle.

Amendment 16/SEIS (2014) eliminated duplicative AMs and the quota for royal red shrimp. The ACL was set equal to the acceptable biological catch and a post-season AM was established.

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1 – Eligibility for a Carry-Over Provision for Managed Finfish Species[1] in the Gulf of Mexico (Gulf)

Alternative 1: No Action – Do not apply a carry-over provision to harvest the unused portion of the annual catch limit (ACL) for any managed finfish species in the Gulf. Any unused portion of the ACL remaining at the end of a fishing year, or after a fishing year is closed because the ACL was met or projected to be met, will not be carried over to a successive fishing year.

Alternative 2: Apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those which are currently in a rebuilding plan. Any unused portion of the ACL remaining at the end of a fishing year, or after a fishing year is closed because the ACL/quota was met or projected to be met, will not be carried over to a successive fishing year for species being rebuilt. Once a species in a rebuilding plan is determined to be rebuilt, it will be eligible for the carry-over provision, contingent on current regulations.

Alternative 3: Apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those which did not have their fishing year closed because the ACL was met or projected to be met. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year.

Alternative 4: Apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species 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 species will not be carried over to a successive fishing year.

Alternative 5: Apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those whose harvest limits (e.g., ABCs, ACLs) were not determined using projections from a peer-reviewed quantitative stock assessment. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year.

Alternative 6: Apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those which are also managed by apportionment with an adjacent fishery management council. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year.

Note: more than one alternative, besides Alternative 1, may be selected as preferred for Action 1.

[1] Finfish species include those in the Reef Fish, Coastal Migratory Pelagic, and Red Drum Fishery Management Plans. Currently, harvest of red drum is prohibited in federal waters.

Discussion:

The concept of crediting unharvested catch from a fishing year when it was not harvested to a subsequent fishing year is not novel in fisheries management (see historical management of Pacific groundfish, and North Atlantic swordfish, and of Atlantic herring). For the sake of this document, this process will be referred to as "carry-over" and generally refers to increasing the acceptable biological catch (ABC) and, by default, the ACL, of the following fishing year for species which anglers did not harvest the allowed amount of that species in the previous fishing year. The carry-over provision would be added as part of the Gulf of Mexico Fishery Management Council's ABC Control Rule. The carry-over provision would be applied to the ABC derived from the main portion of the Control Rule.

In order for the carry-over method to function while also constraining harvest to prevent overfishing, certain controls are applied:

1. The unused portion of the ACL considered for carry-over would only 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 carry-over, even if one sector component did not harvest its quota for that fishing year. Concurrently, if the combined sector landings ***did not exceed*** the sector ACL, then the sector component(s) which did not harvest its (their) quota for that fishing year may have a carry-over not to exceed the difference between the projected landings and the sector ACL for the following fishing year. Any such carry-over will be allocated proportionate to the foregone yield by the smallest divisible managed portion of the fishery for that species.

To the first point mentioned above, applying the carry-over only to the smallest divisible managed portion ensures 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. For instance, 100 pounds of fish carried over to the next fishing year may be equivalent to only eight fish for one sector, which values larger fish; but may be equivalent to 12 fish for another sector, which values 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.

To the second point mentioned above, the carry-over provision will 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 carry-over in the following fishing year, even though that sector had foregone yield in the previous fishing year. This measure is necessary to prevent overfishing until appropriate harvest controls can be applied to further prevent overfishing.

Some stocks have only a single stock ACL, while others divide the stock ACL into commercial and recreational ACLs. Other stocks have a single 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 would a carry-over be allowed, and it would only be applied to the component that was under its quota. The king mackerel commercial sector is currently divided into several zones, each with its own quota; only if landings are below the total commercial ACL would a carry-over be allowed, and it would only be applied to the zone or zones that were 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. This action would adjust the stock ABC to account for this (and all other) adjustment, with the carry-over harvest applied only to the smallest divisible managed portion of the fishery from whence it came.

Table 2.1.1 shows the species for which the carry-over provision would not apply, based on the alternatives presented in Action 1 (see discussion below for detailed explanations for each alternative). Table 2.1.2 demonstrates the smallest degree of division for the stock ACL for species currently managed by the Council. Commercial harvest of red snapper, groupers, and tilefishes are managed under the individual fishing quota system, and are expressly not included in Action 1. For how a carry-over provision will affect the commercial harvest of these species, please refer to Action 2.

Table 2.1.1. Demonstration of species for which the carry-over provision would not apply by alternative for Action 1. Note: Gray Snapper is currently being assessed under SEDAR 51.

Alternative	**Alternative 2**	**Alternative 3**	**Alternative 4**	**Alternative 5**	**Alternative 6**
Criterion	*Under Rebuilding Plan*	*No ACL Closure: 2012 - 2016*	*Managed Using a Stock ACL*	*No Peer-Reviewed Stock Assessment*	*Managed by Apportionment*
Species	Gray Triggerfish	Almaco Jack	Almaco Jack	Almaco Jack	Black Grouper
	Greater Amberjack	Banded Rudderfish	Banded Rudderfish	Banded Rudderfish	Mutton Snapper
	Red Snapper	Black Grouper	Blackfin Snapper	Blackfin Snapper	Yellowtail Snapper
		Blackfin Snapper	Cobia	Blueline Tilefish	
		Blueline Tilefish	Cubera Snapper	Cubera Snapper	
		Cobia	Gray Snapper	Goldface Tilefish	
		Cubera Snapper	Hogfish	Goliath Grouper	
		Golden Tilefish	Lane Snapper	Gray Snapper	
		Goldface Tilefish	Lesser Amberjack	Lesser Amberjack	
		Gray Snapper	Mutton Snapper	Queen Snapper	
		Hogfish	Queen Snapper	Red Drum	
		Lane Snapper	Silk Snapper	Scamp	
		Lesser Amberjack	Spanish Mackerel	Silk Snapper	
		Mutton Snapper	Wenchman	Snowy Grouper	
		Queen Snapper	Yellowtail Snapper	Speckled Hind	
		Scamp		Warsaw Grouper	
		Silk Snapper		Wenchman	
		Snowy Grouper		Yellowfin Grouper	
		Spanish Mackerel		Yellowmouth Grouper	
		Speckled Hind			
		Vermilion Snapper			
		Warsaw Grouper			
		Wenchman			
		Yellowedge Grouper			
		Yellowfin Grouper			
		Yellowtail Snapper			

Table 2.1.2. Demonstration of the smallest degree to which a species' stock ACL is divided (e.g., a single stock ACL, sector ACLs, sector component/zone ACLs or quotas).

Management Aspect	Stock ACL	Sector ACLs	Sector Components	Closed
Species	Almaco Jack	Black Grouper	King Mackerel	Goliath Grouper
	Banded Rudderfish	Blueline Tilefish	Red Snapper	Red Drum
	Blackfin Snapper	Gag		
	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			

Alternative 1 would not apply a carry-over provision to harvest the unused portion of the ACL for *any* managed finfish species in the Gulf. Any unused portion of the ACL remaining at the end of a fishing year, or after a fishing year is closed because the ACL/quota was met or projected to be met, will not be carried over to a successive fishing year. **Alternative 1** represents the status quo for how species are currently managed under the Gulf of Mexico Fishery Management Council's (Council) Reef Fish, Red Drum, and Coastal Migratory Pelagics (CMP) Fishery Management Plans (FMPs).

If a carry-over provision is applied, in accordance with the revised National Standard 1 (NS1) guidelines, the Council should evaluate the appropriateness of applying the carry-over 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. **Alternative 2** would exclude those species under a rebuilding plan from consideration for a carry-over, regardless of the size of the unused portion of the ACL remaining at the end of a fishing year. Examples of species for which the carry-over provision would not apply under this alternative can be reviewed in Table 2.1.1. Once a species completes its rebuilding plan and is determined to no longer be overfished, it will be eligible for application of the carry-over provision contingent on current regulations (e.g., other alternatives in this action).

Alternative 3 would apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those which did not have their fishing year closed because the ACL was met or projected to be met. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year. **Alternative 3** would prevent the continual accrual of carry-over harvest to successive fishing years for species fisheries which are not currently harvesting their ACL on an annual basis.

Examples of species for which the carry-over provision would not apply under this alternative can be reviewed in Table 2.1.1. If a species for which **Alternative 3** currently applies has its fishing season closed early because the ACL was met or projected to be met, and 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 alternatives in this action).

Alternative 4 would apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species 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 species will not be carried over to a successive fishing year. Under many circumstances, the preponderance of Gulf managed species would not be adversely affected in the event that a carry-over were applied for a species managed under a stock ACL. However, if a carry-over were applied, either commercial or recreational fishers could take advantage of the extra amount. Because each sector may select fish of different size and age, or using different gear, the effect on the stock may differ.

Alternative 5 would apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those whose harvest limits were not determined using projections from a peer-reviewed quantitative stock assessment. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year. **Alternative 5** ensures that the decision to carry over the unused portion of the ACL from one fishing year to the following fishing year is grounded in sound management advice which has been previously vetted by the Council's Scientific and Statistical Committee (SSC). The SSC reviews stock assessments on behalf of the Council and determined whether those assessments represent the best scientific information available, and whether they are then suitable for providing management advice. The absence of such advice may result in additional uncertainty surrounding any management decision to carry over any foregone yield from a previous fishing year to a successive fishing year. Examples of species for which the carry-over provision would not apply under this alternative can be reviewed in Table 2.1.1.

Alternative 6 would apply a carry-over provision to harvest the unused portion of the ACL for any managed finfish species in the Gulf ***except*** those which are also managed by apportionment with an adjacent fishery management council. Any unused portion of the ACL remaining at the end of a fishing year for those species will not be carried over to a successive fishing year. Species which are managed under an apportionment with another fishery management council are single stocks which cross council management boundaries. Modifying the ABCs and ACLs for these stocks will require action not only by the Gulf Council, but by the adjacent management council which also manages some other apportionment of the subject species. Examples of species for which the carry-over provision would not apply under this alternative can be reviewed in Table 2.1.1. Requiring annual consultation and approval for carry-over for applicable species would delay the implementation of the resultant regulations, and would thereby not achieve the autonomy desired by the Council for this management action (see Council meeting minutes; January and April 2017).

Currently, only species included in the fishery management unit for the Reef Fish, Red Drum, and CMP FMPs are being considered in this amendment. Corals are not being considered since

the preponderance of corals managed in the Gulf are not open to any form of anthropogenic removal. Shrimp are largely annual and variable fisheries, with most shrimp not living much longer than one year, making the application of the carry-over provision precarious to the health of shrimp stocks. Spiny lobster are managed cooperatively with the South Atlantic Fishery Management Council (South Atlantic Council), which would need to review and approve any modifications to the ABC for spiny lobster. It is the intent of the Gulf Council that the carry-over provision function as autonomously as possible (see minutes from January and April 2017 Gulf Council meetings); therefore, the need to seek the review and approval of any change to the spiny lobster ABC by the South Atlantic Council would not result in the sought-after autonomy and, as such, spiny lobster are not being considered in this amendment.

2.2 Action 2 – Parameters for Applying the Carry-Over Provision to Species managed under Individual Fishing Quota (IFQ) Programs in the Gulf

Alternative 1: No Action – do not establish parameters for applying the carry-over provision, as outlined in Action 1, to species managed under IFQ programs in the Gulf.

Alternative 2: If a species managed under an IFQ program is determined to be eligible for a carry-over 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 2% of the total commercial ACL.

Alternative 3: If a species managed under an IFQ program is determined to be eligible for a carry-over 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 5% of the total commercial ACL.

Alternative 4: If a species managed under an IFQ program is determined to be eligible for a carry-over 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 10% of the total commercial ACL.

Note: only one of Alternatives 1-4 may be selected as preferred.

Discussion:

The IFQ programs in the Gulf are used to manage the commercial fisheries for several species in the Council's Reef Fish FMP (Table 2.2.1). Briefly, shareholders are permitted to own a certain amount of allocation, with caps on the percent ownership of all allocation for a program varying by program. Shares in pounds of fish are distributed to shareholders on January 1 of each year. For the purposes of Action 2, the unused portion of the ACL to be carried over to the following fishing year (if/when applicable; see Action 1) will be distributed based on shareholdings at the time of distribution.

At its (DATE) meeting, the Council's Reef Fish Advisory Panel (Reef Fish AP) reviewed and rejected the idea of carrying forward any unharvested quota from the previous fishing year. The Reef Fish AP thought that if a shareholder couldn't harvest their allocation in a fishing year, then it is unlikely that they would be able to do so in the following fishing year. Any shareholder-specific application of the carry-over provision would likely require a significant restructuring of the IFQ system.

Table 2.2.1. Species managed under commercial IFQ programs in the Gulf of Mexico.

IFQ Program	Red Snapper	Gag	Red Grouper	Shallow-water Grouper	Deepwater Grouper	Tilefish
Species	Red Snapper	Gag	Red Grouper	Black Grouper Yellowfin Grouper Yellowmouth Grouper Scamp*	Yellowedge Grouper Snowy Grouper Speckled Hind** Warsaw Grouper** Scamp*	Golden Tilefish Goldface Tilefish Blueline Tilefish

*For the purposes of the IFQ programs, Deepwater Grouper allocation may be used to land and sell Scamp once an IFQ account holder's other Shallow-water Grouper allocation has been landed and sold or transferred.
**For the purposes of the IFQ programs, these species are also included in the shallow-water grouper quota.

Alternative 1 would not establish parameters for applying the carry-over provision, as outlined in Action 1, to species managed under IFQ programs in the Gulf. This means that if a particular species is eligible for a carry-over as outlined in Action 1, then regardless of the amount of the unused portion of the ACL at the end of the fishing year, the entirety of that unused ACL will be considered for carry-over to the following fishing year.

The amount of pounds remaining at the end of the fishing year varies widely among IFQ-managed species (Table 2.2.2). Over the last three fishing years, the amount of the unused portion of the commercial ACL for a species has ranged from as little as 0.50% (red grouper, 2014) to as much as 55.98% (other shallow-water grouper, 2014). Further, the amount of the unused portion of the ACL can vary widely between years (see gag and red grouper; Table 2.2.2).

Table 2.2.2. Commercial landings and ACLs for IFQ-managed species in the Gulf of Mexico. Landings are in pounds whole weight.

Species	Year	ACL	Landings	Lbs Remaining	% ACL Remaining
Deep-water Grouper	2014	1,110,000	1,081,145	28,855	2.60%
	2015	1,101,000	955,250	145,750	13.24%
	2016	1,024,000	889,965	134,035	13.09%
Gag	2014	835,000	586,377	248,623	29.78%
	2015	939,000	542,774	396,226	42.20%
	2016	939,000	910,996	28,004	2.98%
Other Shallow-water Grouper	2014	523,000	230,248	292,752	55.98%
	2015	525,000	238,427	286,573	54.59%
	2016	525,000	335,238	189,762	36.15%
Red Grouper	2014	5,630,000	5,601,905	28,095	0.50%
	2015	5,720,000	4,798,007	921,993	16.12%
	2016	7,780,000	4,497,582	3,282,418	42.19%
Red Snapper	2014	5,054,054	5,016,056	37,998	0.75%
	2015	6,570,270	6,472,261	98,009	1.49%
	2016	6,097,297	6,057,498	39,799	0.65%
Tilefishes	2014	582,000	517,268	64,732	11.12%
	2015	582,000	537,512	44,488	7.64%
	2016	582,000	429,003	152,997	26.29%

Source: NMFS IFQ Monitoring webpage

Alternatives 2 – 4 state that if a species managed under an IFQ program is determined to be eligible for a carry-over 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 either 2% (**Alternative 2**), 5% (**Alternative 3**), or 10% (**Alternative 4**) of the total commercial ACL. Limiting the amount of commercial ACL to be carried over prevents the accrual of large amounts of extra fish being added to successive commercial ACLs when the effort to land those extra fish may not be present. The same also serves as a safety mechanism in the event that the foregone yield in a previous year is due to an environmental variable or other factor which may make applying the carry-over provision in a given year ill-advised.

2.3 Action 3 – Establishment of a Fixed Buffer between the Acceptable Biological Catch (ABC) and the Overfishing Limit (OFL) under the Carry-Over Provision

Note: Action 3 is only valid if an alternative other than Alternative 1 is chosen in Action 1.

Alternative 1: No Action – Do not establish a fixed buffer between the ABC and the OFL under the carry-over provision in the Gulf (as described in Action 1).

Alternative 2: Establish a fixed buffer between the ABC and the OFL under the carry-over provision in the Gulf (as described in Action 1). The portion of the ACL carried over will be added to the following year's ABC, but may not exceed 95% of the OFL, to prevent overfishing.

Alternative 3: Establish a fixed buffer between the ABC and the OFL under the carry-over provision in the Gulf (as described in Action 1). The portion of the ACL carried over will be added to the following year's ABC, but may not exceed 90% of the OFL, to prevent overfishing.

Alternative 4: Establish a fixed buffer between the ABC and the OFL under the carry-over provision in the Gulf (as described in Action 1). The portion of the ACL carried over will be added to the following year's ABC, but may not exceed 85% of the OFL, to prevent overfishing.

Discussion:

Alternative 1 would not establish a fixed buffer between the ABC and the OFL under the carry-over provision in the Gulf, if so established in Action 1. Currently, the buffer between the ABC and the OFL for a species is determined using the ABC control rule, which uses data from the most recent stock assessment of a species. The buffer between the ABC and the OFL varies by species, and is influenced by the type and quality of data used in the assessment, and the degree of uncertainty characterized by that assessment.

When the unused portion of the ACL is carried over to the following fishing year, it increases the ABC for that fishing year. Fixing a buffer between the ABC and OFL in years when the unused portion of the ACL is carried over will decrease the probability of overfishing in carry-over years. **Alternative 2** would fix the ABC at no more than 95% of the OFL; **Alternative 3** would fix the ABC at no more than 90% of the OFL; and **Alternative 4** would fix the ABC at no more than 85% of the OFL. Naturally, a larger buffer represents a more conservative management approach with a lower likelihood of exceeding the OFL in a given fishing year. Table 2.3.1 provides a comparison of the current buffers between the OFL and ABC for stocks affected by this amendment. The buffers shown in Table 2.3.1 are the result of the application of the current ABC Control Rule.

Table 2.3.1. Comparison of the percent difference between the OFL and ABC for stocks which would be affected by this amendment. Red drum and goliath grouper have been excluded, since both fisheries are currently closed to harvest.

Stock Complexes

Stock	Year	OFL	ABC	% Difference
Other Shallow-water Grouper:	2015+	not defined*	0.710 mp gw	
Black Grouper*, Scamp, Yellowmouth Grouper, Yellowfin Grouper				-
Deep-water Grouper:	2016+	1.11 mp gw	1.11 mp gw	
Warsaw Grouper, Snowy Grouper, Speckled Hind, Yellowedge Grouper				-
Tilefishes	Fixed	0.747 mp gw	0.608 mp gw	
Golden Tilefish, Blueline Tilefish, Goldface Tilefish				18.61%
Jacks Complex	2011+	0.372 mp ww	0.312 mp ww	
Almaco Jack, Banded Rudderfish, Lesser Amberjack				16.13%
Mid-water Snapper	2011+	0.209 mp ww	0.166 mp ww	
Silk Snapper, Wenchman, Blackfin Snapper, Queen Snapper				20.57%

Individual Stocks

Stock	Year	OFL	ABC	% Difference
Gray snapper	2011+	2.88 mp ww	2.42 mp ww	15.97%
Lane snapper	2017	0.364 mp ww	0.355 mp ww	2.36%
Vermilion snapper	2017+	4.17 mp ww	3.11 mp ww	25.42%
Cubera snapper	2011+	7,000 lbs ww	5,070 lbs ww	27.57%
Hogfish	2017-2019	0.232 mp ww	0.219 mp ww	5.60%
Mutton Snapper*	2017	0.751 mp ww	0.717 mp ww	4.53%
Yellowtail Snapper*	2012+	4.61 mp ww	4.13 mp ww	10.41%
Red Snapper	2017	14.40 mp ww	13.32 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	2017	9.27 mp	8.88 mp	4.21%
Spanish Mackerel	2016+	11.5 mp ww	11.3 mp ww	1.74%
Cobia**	2016+	2.66 mp ww	2.60 mp ww	2.26%

2.4 Action 4 – Adjustments to the Carry-Over Provision

Note: Action 4 is only valid if an alternative other than Alternative 1 is chosen in Action 1.

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 species for which a carry-over 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%

Note: Both Alternative 2 and Alternative 3 may be selected as preferred alternatives, the combined sum of the amount to be deducted will be applied to the unused portion of the ACL being considered for carry-over.

Discussion:

The updated NS1 guidelines recommend corrections for factors such as natural mortality, and for other parameters as appropriate. Action 4 provides the Council with the opportunity to make such adjustments to any ACL eligible to be carried over from one fishing season to the following fishing season.

Alternative 1 would not reduce the amount of ACL to be carried over from the previous fishing year to the following fishing year, and any amount of ACL to be carried over to the following fishing year would be applied in full, contingent on any buffer between the ABC and OFL established in Action 3. For example, if 100,000 lbs is available to be carried over from the 2017 fishing year to the 2018 fishing year, then all 100,000 lbs would be carried over. This alternative does not account for natural mortality, episodic mortality events, or other sources of variance which might affect the amount of quota which can be carried over without adversely affecting a given stock or, if applicable, that stock's rebuilding plan.

Alternative 2 would reduce the amount of ACL to be carried over from the previous fishing year to the following fishing year by the mean natural mortality rate of the subject species as used in the most recent accepted quantitative stock assessment. For example: if a species has a mean natural mortality rate of 11%, and 100,000 lbs of ACL is eligible to be carried over to a particular fishing sector, then the final amount to be carried over to that sector would be 89,000 lbs (100,000 lbs minus 11%, or 11,000 lbs). An adjustment for natural mortality is

recommended under the revised NS1 guidelines; not making this adjustment may necessitate a record of why it was not being applied.

Alternative 3 would reduce the amount of the unused portion of the ACL to be carried over from the previous fishing year to the following fishing year by an amount which accounts for management uncertainty. Options for this adjustment include 5% (**Option 3a**), 10% (**Option 3b**), and 15% (**Option 3c**). This amount would apply to any species for which a carry-over is considered. This adjustment would be based on factors not necessarily related to biological uncertainty. Reasons to make such an adjustment to the carry-over may include general uncertainty in catch data (e.g., proportional standard error in the Marine Recreational Information Program), changes to the regulatory environment, general trends in fishing effort, or other factors. This alternative could be chosen in conjunction with Alternative 2 to be more conservative in applying a carry-over.

2.5 Action 5 – Modify the Framework Procedures for Gulf Council Fishery Management Plans (FMPs)

Alternative 1. No Action. Do not adjust the framework procedures.

Alternative 2. Modify the closed framework procedures for the Reef Fish, Coastal Migratory Pelagics (CMP), and Red Drum 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 carry-over 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, Red Drum, 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:

xiii. 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,

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Alternative 4. Revise the framework procedures for the Reef Fish, CMP, Red Drum, 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 Red Drum, Coral and Coral Reef, and Spiny Lobster FMPs regarding accountability measures. See highlighted sections below for additions to the Red Drum, Coral and Coral Reef, 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

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

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

Discussion:

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 carry-over 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, CMP, and Red Drum FMPs to allow the Regional Administrator (RA) to adjust the ABC, ACL, ACT, and quota for a stock or stock component to account for carry-over of the unused portion of the ACL (as derived from the ABC set by the ABC control rule). This change would permit NMFS to make the necessary changes to harvest limits for species eligible for a carry-over as soon as the necessary data are available. This differs from the current framework procedure, which would require an open framework amendment to modify harvest limits prior to their implementation. **Alternative 2** increases the timeliness of the application of the carry-over provision proposed in

Actions 1-4, and limits the authority of the RA to make such rapid changes only as determined by the carry-over provision.

Alternative 3 would modify the abbreviated framework procedures for the Reef Fish, CMP, Red Drum, 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 an open framework amendment 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, Red Drum, 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 Red Drum, Coral and Coral Reef, and Spiny Lobster FMPs regarding accountability measures (AMs). Specifically for the Red Drum, Coral and Coral Reef, 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.

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
12. Closure and closure procedures
13. Trip limit implementation or change
14. Designation of an existing limited access privilege program as the accountability measure for species in the IFQ program
15. Implementation of gear restrictions

vii. Implementation or changes to post-season accountability measures
16. Adjustment of season length
17. Implementation of closed seasons/time periods
18. Adjustment or implementation of bag, trip, or possession limit
19. Reduction of the ACL/ACT to account for the previous year overage
20. Revoking a scheduled increase in the ACL/ACT if the ACL was exceeded in the previous year
21. Implementation of gear restrictions
22. 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 MSA[1] 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:

<u>In-season AMs</u>
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

<u>Post-season AMs</u>
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.