

# Carryover Provisions and Framework Modifications

## Draft Amendment For a 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

June 2018



*This is a publication of the Gulf of Mexico Fishery Management Council Pursuant to National Oceanic and Atmospheric Administration Award No. NA15NMF4410011.*

This page intentionally blank

# 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.

## Responsible Agencies and Contact Persons

Gulf of Mexico Fishery Management Council (Council) 2203 North Lois Avenue, Suite 1100 Tampa, Florida 33607 Ryan Rindone ( <a href="mailto:Ryan.Rindone@gulfcouncil.org">Ryan.Rindone@gulfcouncil.org</a> )	813-348-1630 813-348-1711 (fax) <a href="mailto:gulfcouncil@gulfcouncil.org">gulfcouncil@gulfcouncil.org</a> <a href="http://www.gulfcouncil.org">http://www.gulfcouncil.org</a>
--	---

South Atlantic Fishery Management Council 4055 Faber Place, Suite 201 North Charleston, South Carolina 29405 Contact tbd ( <a href="mailto:somebody@safmc.net">somebody@safmc.net</a> )	866-723-6210 843-769-4520 (fax) <a href="http://www.safmc.net">http://www.safmc.net</a>
--	---

National Marine Fisheries Service (Lead Agency) Southeast Regional Office 263 13 <sup>th</sup> Avenue South St. Petersburg, Florida 33701 Richard Malinowski ( <a href="mailto:rich.malinowski@noaa.gov">rich.malinowski@noaa.gov</a> ) Karla Gore ( <a href="mailto:karla.gore@noaa.gov">karla.gore@noaa.gov</a> )	727-824-5305 727-824-5308 (fax) <a href="http://sero.nmfs.noaa.gov">http://sero.nmfs.noaa.gov</a>
--	---

## 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

# TABLE OF CONTENTS

Environmental Assessment Cover Sheet .....	i
Abbreviations Used in this Document .....	ii
Table of Contents .....	iii
List of Tables .....	iv
Chapter 1. Introduction .....	1
1.1 Background .....	1
1.2 Purpose and Need .....	4
1.3 History of Management .....	4
Chapter 2. Management Alternatives .....	12
2.1 Action 1 – Eligibility for a Carryover Provision for Managed Reef Fish and Coastal Migratory Pelagic Stocks in the Gulf of Mexico (Gulf) .....	12
2.2 Action 2 – Parameters for Applying the Carryover Provision to Stocks managed under Individual Fishing Quota (IFQ) Programs in the Gulf .....	19
2.3 Action 3 – Establishment of a Fixed Buffer between the Acceptable Biological Catch (ABC) and the Overfishing Limit (OFL) under the Carryover Provision .....	23
2.4 Action 4 – Modify the Framework Procedures for Gulf Council FMPs .....	25
Chapter 3. References .....	28
Appendix A: Reef fish Framework Procedure .....	30
Appendix B: CMP Framework Procedure .....	35
Appendix C: Shrimp Framework Procedure .....	39
Appendix D: Alternatives Considered but Rejected .....	42

## LIST OF TABLES

<b>Table 1.1.1.</b> Examples of stocks with some portion of the ACL having gone unharvested in 2016. 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 mackerel which is in reported weight. ....	3
<b>Table 1.1.2.</b> Examples of stocks with sectors with some portion of the ACL having gone unharvested in 2016. 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 mackerel which is in reported weight. ....	3
<b>Table 2.1.1.</b> Demonstration of stocks for which the carryover provision would not apply for options under Alternative 2. ....	15
<b>Table 2.1.2.</b> 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). ....	16
<b>Table 2.2.1.</b> Stocks managed under commercial IFQ programs in the Gulf of Mexico. ....	20
<b>Table 2.2.2.</b> Commercial landings and ACLs for IFQ-managed stocks in the Gulf of Mexico. All landings are in pounds gutted weight with the exception of red snapper which are in pounds whole weight. ....	21
<b>Table 2.3.1.</b> Comparison of the percent difference between the OFL and ABC for stocks which would be affected by this amendment. Goliath and Nassau grouper has been excluded, since it is currently closed to harvest. ....	24

# 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. Fishing is prohibited when harvest reaches, or is projected to reach, the ACL. With the exception of stocks managed under an individual fishing quota program, 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 carryover 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.

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. With respect to the CMP FMP, which is co-managed by the Gulf Council and South Atlantic Fishery Management Council (South Atlantic Council), only the portion of the stocks which occur in the Gulf of Mexico (Gulf) are being considered herein. The Shrimp, Spiny Lobster, and Coral and Coral Resources FMPs are not being considered for carryover. Corals are not being considered since the preponderance of corals managed in the Gulf are not open to any form of anthropogenic removal. White, brown and pink

### *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.

shrimp do not have ACLs. Royal red shrimp have an ACL; 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, which would need to review and approve any modifications to the ABC for spiny lobster. The necessity for the review of any ACL modifications by both Councils 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

### *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

It is the intent of the Gulf Council 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 modify appropriate catch levels in accordance with the carryover provision through the closed framework process. Proposed changes would 1) 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); 2) 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 3) 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 some portion of the ACL having gone unharvested in 2016. 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 mackerel which is in reported weight.

Species	2016 ACL	2016 Landings	% ACL Remaining
Red Snapper	13,960,000	14,160,272	-1.5%
Red Grouper	10,360,000	5,900,818	43.0%
Gag	2,842,000	1,707,426	39.9%
Greater Amberjack	1,662,070	2,399,949	-30.7%
Gray Triggerfish	265,323	493,763	-46.3%
King Mackerel	9,210,000	5,533,025	39.9%
Cobia	1,660,000	963,506	41.96%
Gray Snapper	2,420,000	2,342,916	3.19%

**Table 1.1.2.** Examples of stocks with sectors with some portion of the ACL having gone unharvested in 2016. 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 mackerel which is in reported weight.

Species	Sector	2016 ACL	2016 Landings	% ACL Remaining
Red Snapper	Commercial*	6,768,000	6,723,822	0.65%
	Private Angler	4,150,000	5,293,635	-27.56%
	For-hire	3,042,000	2,142,815	29.56%
Red Grouper	Commercial*	7,780,000	4,497,582	42.19%
	Recreational	2,580,000	1,403,236	45.61%
Gag	Commercial*	939,000	910,996	2.98%
	Recreational	1,903,000	796,430	58.15%
Greater Amberjack	Commercial	464,400	437,390	5.82%
	Recreational	1,197,670	1,962,559	-63.86%
Gray Triggerfish	Commercial	64,100	61,122	4.65%
	Recreational	201,223	432,641	-115.01%
King Mackerel	Comm- Western HL	1,180,000	1,124,725	4.68%
	Comm- Northern HL	531,000	467,222	12.01%
	Comm- Southern HL	619,500	624,657	-0.83%
	Gillnet	619,500	537,733	13.20%
	Recreational**	6,260,000	2,778,688	55.61%
Cobia	Combined	1,660,000	963,506	41.96%
Gray Snapper	Combined	2,420,000	2,342,916	3.19%

\* Sector for this stock 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 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 incorporate the flexibility allowed under the October 2016 revisions to the NS1 guidelines.

## 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 a season length adjustment for recreational gray triggerfish, and a payback provision for commercial gray triggerfish harvest under the gray triggerfish rebuilding plan. This season adjustment is 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 AM trigger, the 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 AM 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 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 red snapper 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 (SSC).

**The Generic ACL/AMs Amendment**, implemented in January 2012, established an AM for reef fish other than vermilion snapper that, for stocks and sectors that do not currently have AMs, 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 in March 2012, authorized NMFS to revise 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, 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 in March 2013, the modified AM reduces the recreational season of only the stock for which the ACL was exceeded. The amendment also modified the framework procedure to allow adjustments to AMs.

**Amendment 37**, implemented in May 2013 for 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 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 in April 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** 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*

The CMP FMP, 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**, 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 of Mexico. The rule implemented an increase in the daily trip limit from 25,000 pounds to 45,000 pounds, 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 August 22, 1984, NOAA issued the final rule to implement the Coral FMP. The rule was prepared jointly by the Council and South Atlantic Fishery Management Council (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. The FMP addressed three objectives:

1. Established unique HAPC for coral which were currently or potentially threatened;
2. Prohibited the taking or destruction of stony corals and sea fans (*Gorgonia flabellum* and *Gorgonia ventalina*) except under scientific permit; and
3. Provided permit systems for the taking of certain corals for scientific and educational purposes and harvesting fish or other marine organisms using toxic chemicals in coral habitat.

The management unit consisted of the coral and coral reefs in federal waters including hard bottom, deep-water banks, patch reefs, and outer bank reefs. It specifically established four HAPCs: East and West Flower Garden Banks and Florida Middle Grounds in the Gulf, and the

Oculina Banks in the South Atlantic, where the use of any fishing gear interfacing with the bottom (i.e., bottom trawls, traps, pots, and bottom longlines) was prohibited.

In 1989, NMFS published revised guidelines for FMPs that addressed the Magnuson-Stevens Act national standards. These guidelines require each FMP to include a scientifically measurable definition of overfishing and an action plan to prevent or stop overfishing should it occur. The Council and South Atlantic Council reviewed these requirements and concluded that because harvest of prohibited corals was limited to scientific and educational purposes, overfishing of corals could not occur. NMFS review determined that an amendment to the plan was necessary because it did not include a measurable definition of overfishing, which was addressed in Amendment 1 (GMFMC and SAFMC 1990).

#### **Amendment 1/Environmental Assessment (EA) (1990)**

Amendment 1 defined the management unit to include octocorals. Specifically the management unit was defined as consisting of coral reefs, stony corals, and octocorals including the two sea fans *Gorgonia ventalina* (venus sea fan) and *Gorgonia flabellum* (common [purple] sea fan) in the Gulf and South Atlantic EEZ. The amendment defined coral reefs as including hard bottom, deep-water banks, patch reefs, and other outer bank reefs; stony corals included species belonging to Class Hydrozoa (fire corals and other hydrocorals) and Class Anthozoa, Subclass Zoantharia (stony corals and black corals); and octocorals included in Class Anthozoa, Subclass Octocorallia (GMFMC and SAFMC 1990).

This amendment also established permit and reporting requirements for the harvest of octocorals for scientific or educational purposes and limited the recreational and commercial harvest of allowable octocorals not to exceed 50,000 colonies per year. Recreational harvest permits were implemented that limited the harvest of octocorals other than sea fans to a bag limit of six colonies per person per day, and commercial harvest permits were implemented that had no bag limit. Amendment 1 also defined the optimum yield (OY) as zero for coral reefs, stony corals, sea fans, and octocorals in the EEZ except as authorized for scientific or educational purposes, with harvest expected to be approximately 308 lbs (140 kg) per year; and overfishing was defined as an annual level of harvest that exceeded the OY (GMFMC and SAFMC 1990).

The incidental take of corals in other fisheries was addressed by implementing the requirement that those colonies be returned to the water in the general area of capture as soon as possible. An exception was provided for groundfish, scallop, and other similar fisheries where the entire unsorted catch is landed. In such instances, the corals could be landed but not sold, and allowable octocorals taken as bycatch without a state or federal permit were to be treated as prohibited species (GMFMC and SAFMC 1990).

#### **Generic Sustainable Fisheries Act Amendment (1999)**

The Generic Sustainable Fisheries Act Amendment provided scientific definitions for stocks managed by the Council including: maximum sustainable yield (MSY), OY, maximum fishing mortality thresholds (MFMT) and minimum stock size thresholds (MSST). The OY was set to zero for all stony and black coral species, so no overfishing or overfished thresholds were set.

### **Generic ACL/AMs Amendment (2011)**

The Generic ACL/AM Amendment was Amendment 8 to the Coral FMP. The amendment removed octocorals (Class Anthozoa; Subclass Octocorallia; Family Scleractinia) from the FMP. The removal of octocorals as a federally managed species in the Gulf provided the opportunity for states to manage the resources in federal waters adjacent to their state waters. In April 2011, the Gulf Council and South Atlantic Council received a letter from Florida Fish and Wildlife Conservation Commission (FWC), stating the FWC agreed to manage the allowable octocoral fishery in both Florida state waters and federal waters adjacent to the state. The South Atlantic Council decided to retain allowable octocorals in their Coral FMP but allow Florida FWC to assume management of octocorals off Florida. The FWC extended Florida's octocoral regulations into federal waters and the regulations were modified to establish an annual quota for allowable harvest in state and federal waters off Florida (GMFMC 2011).

### *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).

**Amendment 1/Environmental Assessment (EA)** (1987) updated the Spiny Lobster FMP rules to be more compatible with those of Florida and made the following management measures: limited live undersized attractants to 100 per vessel, required live wells, required a commercial vessel permit, provided for a recreational permit, limited recreational possession to six lobsters, modified the special two-day recreational season before the commercial season, modified the duration of the closed commercial season, provided a 10-day trap retrieval period, prohibited possession of egg-bearing spiny lobster, specified the minimum size limit for tails, provided for a tail separation permit, and prohibited possession of egg-bearing slipper lobster.

**Amendment 2/EA** (1989) modified the issues and objectives of the Spiny Lobster FMP, modified the optimum yield statement, established a regulatory amendment procedure for instituting future compatible state and federal rules without amending the Spiny Lobster FMP, and added vessel safety and habitat standards to the Spiny Lobster FMP.

**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 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.

### *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.

**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 6/EA** (1992) eliminated the annual reports and reviews of the Tortugas Shrimp Sanctuary in favor of monitoring and an annual stock assessment. Three seasonally opened areas within the sanctuary continue to open seasonally, without need for annual action. A proposed definition of overfishing of white shrimp was rejected by NMFS because it was not based on the best available data.

**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, addressed management of royal red shrimp. It 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 9/supplemental environmental impact statement (SEIS)** (1997) required the use of a NMFS certified bycatch reduction device (BRD) in shrimp trawls used in the EEZ from Cape San Blas, Florida to the Texas/Mexico border, and provided for the certification of BRDs and specifications for the placement and construction. The purpose of this action was to reduce the bycatch mortality of juvenile red snapper by 44% from the average mortality for the years 1984 through 1989 (the required bycatch reduction was reduced to 30% in 2008 through a framework action). This amendment exempted shrimp trawls fishing for royal red shrimp seaward of the 100-fathom contour, as well as groundfish and butterfish trawls, from the BRD requirement. It also excluded small try nets and no more than two ridged frame roller trawls of limited size. Amendment 9 also provided mechanisms to change the bycatch reduction criterion and to certify additional BRDs.

**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.

**Amendment 14/EIS** (2007) was a joint amendment with Reef Fish Amendment 27. It established a target red snapper bycatch mortality goal for the shrimp fishery in the western Gulf and defined seasonal closure restrictions that can be used to manage shrimp fishing efforts in relation to the target red snapper bycatch mortality reduction goal. It also established a framework procedure to streamline the management of shrimp fishing effort in the western Gulf.

**The Generic Annual Catch Limit (ACL)/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 15/EA** (2015) redefined stock status criteria for the three penaeid species of shrimp, including species-specific MSY values and overfished/overfishing thresholds. The general framework procedure was updated.

**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.

**Amendment 17A/EA** (2016) extended the Gulf shrimp permit moratorium for another 10 years until October 26, 2026.

## CHAPTER 2. MANAGEMENT ALTERNATIVES

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

**Alternative 1:** No Action – Do not apply a carryover provision to harvest the unused portion of the annual catch limit (ACL) for any managed reef fish or coastal migratory pelagic (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:** 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 2a:** Do not allow carryover of unused ACL for stocks which are currently rebuilding plan.

**Option 2b:** Do not allow carryover of unused ACL for stocks which are currently overfished.

**Option 2c:** Do not allow carryover of unused ACL for stocks, other than stock components managed under an individual fishing quota program, which did not have an ACL or quota closure.

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

**Option 2e:** Do not allow carryover of unused ACL for stocks whose catch limits (e.g., ABCs, ACLs) were not determined using projections from a peer-reviewed quantitative stock assessment (i.e., catch limits were set using ABC control rule tier 3 or a data-limited method).

**Option 2f:** Do not allow carryover of unused ACL for stocks 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 is not novel in fisheries management (see historical management of Pacific groundfish, and North Atlantic swordfish, and of 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 the carryover of some unused portion of an ACL from one year to increase the ABC by default, the ACL, the following

fishing year. A carryover provision developed through this amendment would be added to the Gulf of Mexico (Gulf) 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 pounds of fish carried over to the next fishing year may be equivalent to only eight fish for one sector (or component), 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 if the carryover is disproportionately apportioned. 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.

Some stocks have only a single stock ACL, while others divide the stock ACL into commercial and recreational sector ACLs. Other 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. 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 gillnet component has its own ACL and would have a separate carryover.

In the South Atlantic, stocks with split seasons are apportioned a base ACL which is then subdivided amongst the individual seasons based on some percentage for each season. Per the conditions noted above, the carryover would apply to the ACL for the smallest divisible unit (fishing sector or sector component, or fishing zone), which would then be subdivided amongst the split seasons for that unit. The Gulf Council is considering split season quotas for greater amberjack.

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 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 stocks currently managed by the Council. For how a carryover provision will affect the commercial harvest of these IFQ stocks, please refer to Action 2.

**Table 2.1.1.** Demonstration of stocks for which the carryover provision would not apply for options under Alternative 2.

Option	2a	2b	2c	2d	2e	2f
<i>Criterion</i>	<i>Under Rebuilding Plan</i>	<i>Overfished</i>	<i>No ACL Closure: 2012 - 2016</i>	<i>IFQ Species (Commercial only)</i>	<i>No Peer-Reviewed Stock Assessment</i>	<i>Managed by Apportionment</i>
<i>Stock</i>	Gray Triggerfish	Greater Amberjack	<i>Shallow Water Groupers:</i> Black Grouper Scamp Yellowmouth Grouper Yellowfin Grouper	Red Snapper	Almaco Jack	Black Grouper
	Greater Amberjack			<i>Shallow Water Groupers</i> Black Grouper Scamp Yellowmouth Grouper Yellowfin Grouper	Banded Rudderfish	Mutton Snapper
	Red Snapper				Blackfin Snapper	Yellowtail Snapper
					Blueline Tilefish	
					Cubera Snapper	
					Goldface Tilefish	
			<i>Tilefishes:</i> Blueline Tilefish Golden Tilefish Goldface Tilefish		<i>Tilefishes</i> Blueline Tilefish Golden Tilefish Goldface Tilefish	Lesser Amberjack
				Queen Snapper		
				Scamp		
			<i>Deepwater Groupers:</i> Warsaw Grouper Snowy Grouper Speckled Hind Yellowedge Grouper	<i>Deepwater Groupers</i> Warsaw Grouper Snowy Grouper Speckled Hind Yellowedge Grouper	Silk Snapper	
					Gag	Snowy Grouper
					Red Grouper	Speckled Hind
						Warsaw Grouper
			<i>Jacks:</i> Almaco Jack Banded Rudderfish Lesser Amberjack		Wenchman	
				Gray Snapper	Yellowfin Grouper	
			Hogfish		Yellowmouth Grouper	
			Lane Snapper			
			Mutton Snapper			
			<i>Mid-Water Snappers</i> Silk Snapper Wenchman Blackfin Snapper Queen Snapper			
		Vermilion Snapper				
		Yellowtail Snapper				
		Cubera Snapper				
		Spanish Mackerel				
		Cobia				

**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).

Management Aspect	Stock ACL	Sector ACLs	Sector Components	Closed
Stock	Almaco Jack	Black Grouper	King Mackerel	Goliath Grouper
	Banded Rudderfish	Blueline Tilefish	Red Snapper	Nassau Grouper
	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 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).

If a carryover provision is applied, 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. **Alternative 2** would allow a carryover provision except for stocks which meet certain conditions, if any. If no options are selected, **Alternative 2** would allow a carryover provision for all stocks.

**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 can be reviewed 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). Stocks that are rebuilding are generally under increased harvest pressure, and increasing the ACL could negatively impact the 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.

**Option 2c** would exclude stocks which did not have their fishing year closed because the ACL or quota was met or projected to be met. Stocks, or the component of a stock, managed under an IFQ program are excluded from this option because carryover provisions for IFQ managed stocks are addressed separately in Action 2. 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. This option would prevent the continual accrual of carryover harvest to successive fishing years for stocks which are not currently harvesting their ACL on an annual basis. Examples of stocks for which the carryover provision would not apply under this option can be reviewed in Table 2.1.1. If a stock for which **Option 2c** 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 options in this action).

**Option 2d** would exclude stocks/stocks complexes under the IFQ program. The carryover could not be applied on an individual shareholder basis, but rather would be added to the commercial or stock ACL. In proposed Amendment 36A, NMFS would be required to release any withheld portion of the quota in anticipation of a decrease in quota to the IFQ shareholders by June 1 of that year if it has not done so by then. A carryover to the IFQ stock could be set-up in a similar fashion.

**Option 2e** would exclude stocks with catch limits that were not determined using projections from a peer-reviewed quantitative stock assessment. This would include stocks where ABC was set using tier 3a or 3b of the ABC Control rule, or for which ABC was set using methods from the data-limited methods toolkit. 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. This option 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 makes a recommendation about whether those assessments represent the best scientific information available. The absence of catch advice based on a peer-reviewed and accepted stock assessment 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 stocks for which the carryover provision would not apply under this option can be reviewed in Table 2.1.1.

**Option 2f** would exclude stocks which are 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 stocks will not be carried over to a successive fishing year. Stocks 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 (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 can be reviewed in Table 2.1.1. Requiring consultation and approval for carryover for applicable stock will 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).

In this amendment, the Council's intent is that the SSC would not be required to review each carryover event prior to its implementation; rather, the concept of a carryover would be approved, and would be implemented by NMFS per the management measures outlined in this amendment. This degree of autonomy is viewed as key to the success of a carryover provision to the Council's ABC Control Rule (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 NMFS to modify appropriate catch levels in accordance with the carryover provision through the closed framework process. Once the provisional landings for a species are known, NMFS will determine whether a species is eligible for a carryover in the following fishing year according to the carryover provision to the Council's ABC Control Rule. If so, NMFS will begin the closed framework process to implement the carryover of the unused quota for that species, with any amount carried over being applied to the smallest divisible managed portion (individual fishing sector, component(s), zone(s) or gear) from which the remaining ACL or quota went unharvested. The requisite ABCs, ACLs, and (if applicable) ACTs or quotas would then be summarily updated, and posted via the Federal Register.

## 2.2 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

*Note: Alternative 2 carries quota over so long as the unused portion is below a preset threshold. Alternative 3 caps the amount of carryover at a preset level.*

### **Discussion:**

The IFQ programs in the Gulf are used to manage the commercial fisheries for several stocks in the Council's Reef Fish FMP (Table 2.2.1). The IFQ programs are specifically designed to avoid ACL closures for the commercial sector for the species to which they apply. Briefly, the quota for each IFQ species or species complex is divided into percentages held by shareholders, with specific caps set for each share category. Allocation (in pounds of fish) is distributed to shareholders on January 1 of each year based on the account's shareholdings and the quota for the year. Allocation is annual, and account holders are permitted to hold and transfer allocation throughout the year. The red snapper quota is equal to the ACL, whereas species in the Grouper-Tilefish IFQ Program have quotas based on the ACT, which is some percentage lower than the ACL. The gag and red grouper multi-use flexibility provisions are based on formulas for both species utilizing the difference between the ACL and the ACT. Because the Grouper-Tilefish IFQ Program species quotas are set at the ACT, with the exception of gag and red grouper, it is not possible to land the ACL in any given year. Therefore, landings of species from the

Grouper-Tilefish IFQ Program will always be less than the ACL. 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) would be distributed based on shareholdings at the time of distribution.

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

IFQ Program	Red Snapper	Gag	Red Grouper	Shallow-water Grouper	Deepwater Grouper	Tilefish
Stock	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 stocks are also included in the shallow-water grouper quota.

**Alternative 1** would not establish parameters for applying the carryover provision, as outlined in Action 1, to stocks managed under IFQ programs in the Gulf. This means that if a particular stocks is eligible for a carryover 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 carryover to the following fishing year.

The amount of pounds remaining at the end of the fishing year varies widely among IFQ-managed stocks (Table 2.2.2). Over the last three fishing years, the amount of the unused portion of the commercial ACL for a stock has ranged from as little as 0.65% (red snapper, 2016) to as much as 57.75% (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 stocks in the Gulf of Mexico. All landings are in pounds gutted weight with the exception of red snapper which are in pounds whole weight.

Species	Year	ACL	IFQ Quota	Landings	Lbs Remaining	% ACL Remaining
Deep-water Grouper	2014	1,160,000	1,110,000	1,081,145	78,855	6.80%
	2015	1,150,000	1,101,000	955,250	194,750	16.93%
	2016	1,105,000	1,024,000	889,965	134,035	13.09%
Gag	2014	1,100,000	835,000	586,377	513,623	46.69%
	2015	1,217,000	939,000	542,774	674,226	55.40%
	2016	1,217,000	939,000	910,996	306,004	25.14%
Other Shallow-water Grouper	2014	545,000	523,000	230,248	314,752	57.75%
	2015	547,000	525,000	238,427	308,573	56.41%
	2016	547,000	525,000	335,238	211,762	38.71%
Red Grouper	2014	6,030,000	5,630,000	5,601,905	428,095	7.10%
	2015	6,030,000	5,720,000	4,798,007	1,231,993	20.43%
	2016	8,190,000	7,780,000	4,497,582	3,692,418	45.08%
Red Snapper	2014	5,610,000	-	5,567,822	42,178	0.75%
	2015	7,293,000	-	7,184,029	108,971	1.49%
	2016	6,768,000	-	6,723,822	44,178	0.65%
Tilefishes	2014	606,000	582,000	517,268	88,732	14.64%
	2015	606,000	582,000	537,512	68,488	11.30%
	2016	606,000	582,000	429,003	176,997	29.21%

Source: [NMFS IFQ Monitoring webpage](#)

**Alternative 2** states that if a species or 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 either 2% (**Option 2a**), 5% (**Option 2b**), or 10% (**Option 2c**) of the total commercial ACL. Because IFQ program landings are known with greater accuracy than, say, private recreational landings, and because landings data are received by NMFS at much more frequent time intervals than for non-IFQ program fisheries, the likelihood of an IFQ program-managed fishery exceeding its ACL is thought to be comparatively much lower. Concurrently, the likelihood of the ACL for an IFQ program fishery not being met due to landings uncertainty and management limitations is low; rather, other factors are likely more responsible for the ACL not being met (e.g., environmental conditions, stock health, fishing effort, ex-vessel prices, etc). Requiring that the majority of the ACL has been caught prior to applying a carryover of the uncaught decreases the likelihood that management uncertainty is less likely to blame for the underage, and protects the stock in the event that the underage is the result of a biological or fishery-related factor. Simply put, **Alternative 2** carries quota over so long as the unused portion is below a preset threshold.

**Alternative 3** states that 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 either the unused portion of the commercial ACL or 2% (**Option 3a**), 5% (**Option 3b**), or 10% (**Option 3c**) of the commercial ACL for that species, whichever is less. **Alternative 3** caps the amount of carryover at a preset level, thereby preventing carrying over large portions of the unused ACL. **Alternative 3** provides similar protections to the stock as **Alternative 2**, except from the opposite end of the spectrum. Limiting the amount to be carried over into the following fishing year also provides a degree of predictability for commercial anglers participating in an IFQ program. If the amount by which the ACL was not met, and a carryover is imminent, the IFQ program participants will know the amount of the carryover and will be able to deduce how they will be affected based on the number of shares they hold.

The carryover limitations proffered in Action 2 are only being considered for species which are managed under IFQ programs. This is because the IFQ programs are specifically designed to avoid ACL closures for the commercial sector fisheries for these species and, therefore, would be expected to always have some portion of the ACL remaining at the end of the fishing year. Due to the comparatively higher degree of accuracy with which commercial IFQ landings are thought to be known, these fisheries are historically more capable of landing the majority of their ACL without exceeding it (see Table 1.1.2; red snapper and gag). The proposed carryover limitations are intended to protect the subject stock in the event that the ACL was not caught due to reasons other than fishing effort which, for IFQ program-managed fisheries, is not limited by seasons.

## 2.3 Action 3 – Establishment of a Fixed Buffer between the Acceptable Biological Catch (ABC) and the Overfishing Limit (OFL) under the Carryover 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 carryover provision in the Gulf (as described in Action 1).

**Alternative 2:** Establish a fixed buffer between the ABC and the OFL under the carryover 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 a percentage of the OFL, to prevent overfishing. If the ABC is greater than percentage of the OFL before any carryover, there will be no carryover.

**Option 2a:** The ABC may not exceed 99% of the OFL

**Option 2b:** The ABC may not exceed 98% of the OFL

**Option 2c:** The ABC may not exceed XX% of the OFL

### Discussion:

**Alternative 1** would not establish a fixed buffer between the ABC and the OFL under the carryover provision in the Gulf, if so established in Action 1. Currently, the buffer between the ABC and the OFL for a stock is determined using the ABC control rule, which uses data from the most recent stock assessment. The buffer between the ABC and the OFL varies by stock, and is influenced by the type and quality of data used in the assessment, and the degree of uncertainty characterized by that assessment. If there is no minimum buffer, 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 will presume that the proposal would not prevent overfishing, in the absence of sufficient analysis and justification for the approach.

If the unused portion of the ACL is carried over to the following fishing year, it would increase 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 would decrease the probability of overfishing in carryover years. **Alternative 2** would fix the ABC at no more than 99% (**Option 2a**) or 98% (**Option 2b**) of the OFL. 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. Federal regulations (50 CFR 600.310(F)(4)(i)) state that a stock may be assumed to be undergoing overfishing if the ABC is set equal to the OFL. In order to prevent this condition, and the necessity for the Council to take immediate steps to end said overfishing, some buffer must exist between the ABC and OFL. The options presented under **Alternative 2** would permit some amount of carryover for all managed species to which the Council's ABC Control Rule has been applied. A buffer greater than 2% (**Option 2b**) would begin to limit which species would be eligible for a carryover. A buffer which is greater than the buffer set by the ABC Control Rule would also result in a decrease in the catch limits, which would be counter to the purpose of this amendment.

**Table 2.3.1.** Comparison of the percent difference between the OFL and ABC for stocks which would be affected by this amendment. Goliath and Nassau grouper has been excluded, since it is currently closed to harvest.

Stock Complexes	Stock	Year	OFL	ABC	% Difference	Individual Stocks	Stock	Year	OFL	ABC	% Difference	
	<b>Other Shallow-water Grouper:</b>							Gray snapper	2011+	2.88 mp ww	2.42 mp ww	15.97%
	Black Grouper, Scamp, Yellowmouth Grouper, Yellowfin Grouper	2015+	not defined	0.710 mp gw	-			Lane snapper	2017	0.364 mp ww	0.355 mp ww	2.36%
	<b>Deep-water Grouper:</b>							Vermilion snapper	2017+	4.17 mp ww	3.11 mp ww	25.42%
	Warsaw Grouper, Snowy Grouper, Speckled Hind, Yellowedge Grouper	2016+	1.11 mp gw	1.11 mp gw	-			Cubera snapper	2011+	7,000 lbs ww	5,070 lbs ww	27.57%
	<b>Tilefishes</b>							Hogfish	2017-2019	0.232 mp ww	0.219 mp ww	5.60%
	Golden Tilefish, Blueline Tilefish, Goldface Tilefish	Fixed	0.747 mp gw	0.608 mp gw	18.61%			Mutton Snapper*	2017	0.751 mp ww	0.717 mp ww	4.53%
	<b>Jacks Complex</b>							Yellowtail Snapper*	2012+	4.61 mp ww	4.13 mp ww	10.41%
	Almaco Jack, Banded Rudderfish, Lesser Amberjack	2011+	0.372 mp ww	0.312 mp ww	16.13%			Red Snapper	2017	14.40 mp ww	13.32 mp ww	7.50%
	<b>Mid-water Snapper</b>							Gray Triggerfish	2017	1.31 mp ww	0.305 mp ww	76.72%
Silk Snapper, Wenchman, Blackfin Snapper, Queen Snapper	2011+	0.209 mp ww	0.166 mp ww	20.57%		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%		

\* Mutton and yellowtail snapper are regional stocks which occur in both Gulf Council and South Atlantic Fishery Management Council (South Atlantic Council) jurisdictions, with the ABC apportioned between the Councils for management.

\*\* Cobia on the east coast of Florida are part of the Gulf migratory group, but are apportioned for management to the South Atlantic Council.

## 2.4 Action 4 – 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 their 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. The modifications in Alternative 4 have already been completed for the Shrimp FMP.

**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 1-3, 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. These changes have already been made to the framework procedures for the other FMPs.

## CHAPTER 3. REFERENCES

GMFMC. 1981. Environmental impact statement and fishery management plan for the reef fish resources of the Gulf of Mexico and environmental impact statement. Gulf of Mexico Fishery Management Council, Tampa, Florida.  
<http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/RF%20FMP%20and%20EIS%201981-08.pdf>

GMFMC. 1989. Amendment 1 to the reef fish fishery management plan includes environmental assessment, regulatory impact review, and regulatory flexibility analysis. Gulf of Mexico Fishery Management Council, Tampa, Florida. 356 p.  
<http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/RF%20Amend-01%20Final%201989-08-rescan.pdf>

GMFMC. 1991. Amendment 3 to the reef fish fishery management plan for the reef fish resources of the Gulf of Mexico including environmental assessment and regulatory impact review. Gulf of Mexico Fishery Management Council. Tampa, Florida. 17 p. plus app.  
<http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/RF%20Amend-03%20Final%201991-02.pdf>

GMFMC. 1996. Revisions to Amendment 11 to the reef fish fishery management plan for the reef fish resources of the Gulf of Mexico including regulatory impact review and environmental assessment – resubmission of disapproved measure specifying optimum yield. Gulf of Mexico Fishery Management Council. Tampa, Florida.  
[http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/RF%20Amend-11%20Final%20\(Revisions\)%201997-04.pdf](http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/RF%20Amend-11%20Final%20(Revisions)%201997-04.pdf)

GMFMC. 1999. Generic sustainable fisheries act amendment, includes environmental assessment, regulatory impact review, and initial regulatory flexibility analysis. Gulf of Mexico Fishery Management Council, Tampa, Florida.  
<http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/Generic%20SFA%20amendment%201999.pdf>

GMFMC. 2011a. Final generic annual catch limits/accountability measures amendment for the Gulf of Mexico fishery management council's red drum, reef fish, shrimp, coral and coral reefs fishery management plans, including environmental impact statement, regulatory impact review, regulatory flexibility analysis, and fishery impact statement. Gulf of Mexico Fishery Management Council. Tampa, Florida.  
[http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL\\_AM\\_Amendment-September%209%202011%20v.pdf](http://www.gulfcouncil.org/docs/amendments/Final%20Generic%20ACL_AM_Amendment-September%209%202011%20v.pdf)

Martell, S. and R. Froese. 2012. A simple method for estimating MSY from catch and resilience. Fish and Fisheries. DOI 10.1111/j.1467-2979.2012.00485.x. 11 p.  
<http://onlinelibrary.wiley.com/doi/10.1111/j.1467-2979.2012.00485.x/abstract>

Ralston, S., A.E. Punt, O.S. Hamel, J.D. DeVore, and R. J. Conser. 2011. A meta-analytic approach to quantifying scientific uncertainty in stock assessments. Fishery Bulletin 109:217-231. <http://fishbull.noaa.gov/1092/ralston.pdf>

# 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 MSA<sup>1</sup> 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

*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 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%

*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 carryover.*

### **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 stock 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 stock for which a carryover is considered. This adjustment would be based on factors not necessarily related to biological uncertainty. Reasons to make such an adjustment to the carryover 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 carryover.

*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**.*