

the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by November 25, 2011, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2011.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648-AY22

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted a Generic Annual Catch Limits/Accountability Measures Amendment (Generic ACL Amendment) to the Fishery Management Plans (FMPs) for Reef Fish Resources, Red Drum, Shrimp, and Coral and Coral Reefs for the Gulf of Mexico (Gulf) for review, approval, and implementation by NMFS. The amendment proposes actions to allow management of selected species by other Federal and/or state agencies; remove species not currently in need of Federal management from the FMPs; develop species groups for management; establish acceptable biological catch (ABC) control rules; establish annual

catch limits (ACLs) and ACL control rules; modify framework procedures; and establish accountability measures (AMs).

**DATES:** Written comments must be received on or before November 25, 2011.

**ADDRESSES:** You may submit comments on the amendment identified by NOAA-NMFS-2011-0143 by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Rich Malinowski, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0143" in the keyword search and click on "search." To view posted comments during the comment period, enter "NOAA-NMFS-2011-0143" in the keyword search and click on "search." NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of the amendment may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, telephone: 727-824-5305, or e-mail: [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement

in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The four FMPs being revised by this Generic ACL Amendment were prepared by the Council and implemented through regulations at 50 CFR parts 622 under the authority of the Magnuson-Stevens Act.

#### Background

The 2006 revisions to the Magnuson-Stevens Act require that, in 2011, for fish stocks determined by the Secretary to not be subject to overfishing, ACLs must be established at a level that prevents overfishing and helps to achieve optimum yield (OY) within a fishery. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

#### Actions Contained in the Amendment

The Generic ACL Amendment proposes to identify those fish stocks in need of ACLs; identify stocks that do not need Federal management and can therefore be removed from their respective FMPs; delegate management of selected stocks to other management agencies; and combine selected stocks into species groupings for more effective management. Additionally, the amendment would establish the necessary procedures for determining and implementing ACLs and associated management measures by creating an ABC control rule, an ACL/annual catch target (ACT) control rule, and framework procedures for implementing management changes in a timelier manner. The Generic ACL Amendment would establish ACLs, and optionally ACTs, for fish stocks or stock groups. The Generic ACL Amendment also defines the apportionment for three selected stocks across the jurisdictional boundary between the Gulf Council and the South Atlantic Fishery Management Council (South Atlantic Council), and allocates the harvest of black grouper between the commercial and recreational sectors within the reef fish fishery in the Gulf. Finally, the Generic ACL Amendment establishes AMs intended to respond to and manage future harvest should a stock or stock groups ACL be exceeded.

### *Transfer Management of Selected Stocks to Other Agencies*

The presence of some stocks in Gulf Federal waters is uncommon and their occurrence is predominately within the jurisdiction of the South Atlantic Council. National Standard 7 of the Magnuson-Stevens Act states that, to the extent practicable, conservation and management measures shall avoid unnecessary duplication. The Generic ACL Amendment proposes to remove Nassau grouper from the Reef Fish FMP; the Council will request that the Secretary of Commerce designate the South Atlantic Council as the responsible council for Nassau grouper. The South Atlantic Council has agreed to manage this species throughout its range in the South Atlantic and Gulf of Mexico regions. Similarly, the Generic ACL Amendment would remove octocorals from the Coral and Coral Reefs FMP. The majority of harvest of octocorals occurs in waters under the jurisdiction of the South Atlantic Council, and they will continue to manage octocorals in their region. Octocoral harvest in the Gulf occurs primarily in Florida territorial waters. Florida manages octocorals in its state waters, and has notified the Council that it will assume management of octocorals in Gulf Federal waters as well.

### *Removal of Stocks From Reef Fish Fishery Management Plan*

Approximately 50 species of fish are under consideration for management actions in the Generic ACL Amendment. Many uncommonly harvested species were originally placed in fishery management plans for data monitoring purposes, rather than because they were considered to be in need of Federal management. The Generic ACL Amendment would remove ten of the less frequently landed species in the Reef Fish FMP, after the Council determined these species are not in need of Federal management. Species proposed for removal include those species for which average landings are less than 15,000 lb (6,804 kg) annually, or that are harvested primarily in state waters, and include: Anchor tilefish, misty grouper, sand perch, dwarf sand perch, blackline tilefish, schoolmaster, red hind, rock hind, dog snapper, and mahogany snapper.

### *Species Groupings*

In some cases, groups of stocks share a common habitat and are caught with the same gear in the same area at the same time. Some species groupings already exist in management, *i.e.*, shallow-water grouper, deep-water

grouper, and tilefishes. The Council determined that grouping species that share similar fishery characteristics would allow for more effective management of those lesser caught species where there is insufficient individual single species information.

### *ABC Control Rules*

Standard methods for determining the appropriate ABC would allow the Council's Scientific and Statistical Committee (SSC) to determine an objective and efficient assignment of ABC at or less than the overfishing limit. The SSC's selection of an ABC takes into account scientific uncertainty regarding the harvest levels that would lead to overfishing. The quality and quantity of landings information varies according to the stock in question, thus separate control rules are needed for data-adequate and data-poor stocks. In some cases, the nature of the fishery or other management considerations may require a separate control rule for a given stock.

### *ACL/ACT Control Rules*

Under the Magnuson-Stevens Act, ACTs are optional management targets intended to help constrain harvest to levels so that the ACL is not exceeded. Establishing control rules for setting these catch levels would provide guidance to the Council on setting an objective and efficient assignment of ACLs that take into account the potential for management uncertainty. As with the ABC control rule, different levels of landings information about catch levels and management of stocks may require separate control rules for data-adequate and data-poor stocks. In some cases, the nature of the fishery or other management considerations may require a separate control rule for a given stock.

### *Generic Framework Procedures*

To facilitate timely adjustments to harvest parameters and other management measures, the Council has added the ability to adjust ACLs and AMs, and establish and adjust total allowable catch, to the current framework procedures. These adjustments or additions may be accomplished through a regulatory amendment which is less time intensive than an FMP amendment. By including ACLs, AMs, ACTs, and other management criteria in the framework procedures, the Council and NMFS would have the flexibility to more promptly alter those harvest parameters as new scientific information becomes available. The proposed addition of other management options into the

framework procedures would also add flexibility and the ability to more timely respond to certain future Council decisions through the framework procedures.

### *Specification of ACLs*

The Generic ACL Amendment would assign initial ACLs, and optionally ACTs, for each of the stocks retained for Federal management in the amendment. Additionally, the Generic ACL Amendment would apportion harvest levels of black grouper, yellowtail snapper, and mutton snapper stocks between the Gulf Council and South Atlantic Council. Finally, this measure would establish commercial and recreational harvest allocations for black grouper for the Gulf.

### *Accountability Measures*

In-season and post-season AMs are proposed that would maintain catch levels within the proposed ACLs or to restore catch levels to those limits if exceeded. These AMs would take into account the timeliness of the catch data for in-season monitoring, as well as whether the stock is under a rebuilding plan.

### **Consideration of Public Comments**

A proposed rule that would implement measures outlined in the Generic ACL Amendment has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

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**Emily H. Menashes,**  
*Acting Director,*

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