1:00 p.m. - 2:30 p.m. Omnibus Amendment - Recreational Accountability Measures

- Review and approve alternatives to be included in the Amendment

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National Standard 1 Guidelines
50 C.F.R. § 600.310(g)

(g) Accountability measures. The following features (see paragraphs (g)(1) through (5) of this section) of accountability measures apply to those stocks and stock complexes in the fishery.

(1) Introduction. AMs are management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur. AMs should address and minimize both the frequency and magnitude of overages and correct the problems that caused the overage in as short a time as possible. NMFS identifies two categories of AMs, inseason AMs and AMs for when the ACL is exceeded.

(2) Inseason AMs. Whenever possible, FMPs should include inseason monitoring and management measures to prevent catch from exceeding ACLs. Inseason AMs could include, but are not limited to: ACT; closure of a fishery; closure of specific areas; changes in gear; changes in trip size or bag limits; reductions in effort; or other appropriate management controls for the fishery. If final data or data components of catch are delayed, Councils should make appropriate use of preliminary data, such as landed catch, in implementing inseason AMs. FMPs should contain inseason closure authority giving NMFS the ability to close fisheries if it determines, based on data that it deems sufficiently reliable, that an ACL has been exceeded or is projected to be reached, and that closure of the fishery is necessary to prevent overfishing. For fisheries without inseason management control to prevent the ACL from being exceeded, AMs should utilize ACTs that are set below ACLs so that catches do not exceed the ACL.

(3) AMs for when the ACL is exceeded. On an annual basis, the Council must determine as soon as possible after the fishing year if an ACL was exceeded. If an ACL was exceeded, AMs must be triggered and implemented as soon as possible to correct the operational issue that caused the ACL overage, as well as any biological consequences to the stock or stock complex resulting from the overage when it is known. These AMs could include, among other things, modifications of inseason AMs or overage adjustments. For stocks and stock complexes in rebuilding plans, the AMs should include overage adjustments that reduce the ACLs in the next fishing year by the full amount of the overages, unless the best scientific information available shows that a reduced overage adjustment, or no adjustment, is needed to mitigate the effects of the overages. If catch exceeds the ACL for a given stock or stock complex more than once in the last four years, the system of ACLs and AMs should be re-evaluated, and modified if necessary, to improve its performance and effectiveness. A Council could choose a higher performance standard (e.g., a stock's catch should not exceed its ACL more often than once every five or six years) for a stock that is particularly vulnerable to the effects of overfishing, if the vulnerability of the stock has not already been accounted for in the ABC control rule.

(4) AMs based on multi-year average data. Some fisheries have highly variable annual catches and lack reliable inseason or annual data on which to base AMs. If there are insufficient data upon which to compare catch to ACL, either inseason or on an annual basis, AMs could be based on comparisons
of average catch to average ACL over a three-year moving average period or, if supported by analysis, some other appropriate multi-year period. Councils should explain why basing AMs on a multi-year period is appropriate. Evaluation of the moving average catch to the average ACL must be conducted annually and AMs should be implemented if the average catch exceeds the average ACL. As a performance standard, if the average catch exceeds the average ACL for a stock or stock complex more than once in the last four years, then the system of ACLs and AMs should be re-evaluated and modified if necessary to improve its performance and effectiveness. The initial ACL and management measures may incorporate information from previous years so that AMs based on average ACLs can be applied from the first year. Alternatively, a Council could use a stepped approach where in year-1, catch is compared to the ACL for year-1; in year-2 the average catch for the past 2 years is compared to the average ACL; then in year 3 and beyond, the most recent 3 years of catch are compared to the corresponding ACLs for those years.

(5) AMs for State-Federal Fisheries. For stocks or stock complexes that have harvest in state or territorial waters, FMPs and FMP amendments must, at a minimum, have AMs for the portion of the fishery under Federal authority. Such AMs could include closing the EEZ when the Federal portion of the ACL is reached, or the overall stock's ACL is reached, or other measures.
**Variation in Recreational Accountability Measures (AMs)**

Approaches to recreational accountability measures differ by region, and within a single region, may vary substantially by species, species complex, or sector. Much of this variation is due to differences in the timeliness and accuracy of recreational reporting and data, but AMs may also vary depending on how and when each specific fishery is prosecuted. Some recreational fisheries have accountability measures that vary based on stock status (i.e., overfished or under a rebuilding plan).

The two general categories of AMs include:

- **Proactive AMs**: In-season measures including, but not limited to: Annual Catch Targets (ACTs), closure of a fishery, closure of specific areas, changes in gear, changes in trip size or bag limits, or effort reductions.
- **Reactive AMs**: Measures including, but not limited to, modifications of in-season or next season AMs or overage adjustments.

Examples of how accountability measures are approached in other regions include:

**South Atlantic**

In the South Atlantic, recreational AMs vary by species, and some vary based on stock status. Some AM scenarios include:

- In the event that a recreational Annual Catch Limit (ACL) is exceeded, in-season monitoring of the following year’s fishery for indications of persistence in increased landings. Fishing season may be shortened if deemed necessary. *Example*: Atlantic spadefish
- In-season closures if the recreational ACL is projected to be reached, and post-season overage paybacks in the event that the recreational ACL is exceeded, both independent of stock status. *Example*: Southern stock, black sea bass
- In-season closures if the recreational ACL is projected to be reached and the species is overfished. If the ACL is exceeded, independent of stock status, reduce the sector ACL in the following season by the amount of the overage. *Example*: Vermilion snapper
- In the event that a recreational ACL is exceeded, required reduction in length of the following season to ensure that season’s ACL is not exceeded. *Example*: golden tilefish

**New England**

The recreational accountability measures in New England affect two species of groundfish. If a recreational sub-ACL is exceeded in a given year, adjustments to the management measures are made in the following year. These adjustments could include changes in bag limit, season, minimum size, fishing areas, or others. Recreational accountability measures do not include direct overage paybacks. The timing of data availability has thus far prevented the implementation of more proactive accountability measures.

**Gulf of Mexico**

In the Gulf of Mexico, AMs include in-season monitoring and closures for the vermilion snapper fishery. For all other reef fish species, any ACL overages are addressed the following fishing year by closing the fishery for the remainder of the year if landings are projected to reach or exceed the stock ACL.

**Caribbean**

Accountability measures in the U.S. Caribbean consist of a shortened fishing season in the year following an ACL being exceeded. A seasonal reduction remains in place until additional data is available to
support an adjustment. In the Caribbean, there can be significant delays (up to several years) between time of harvest and application of accountability measures to address an overage. Accountability measures in the Caribbean include a provision that requires the Southeast Fisheries Science Center and the Caribbean Council’s Scientific and Statistical Committee to review data and determine whether apparent increases in landings are due to improved data collection or actual increases in harvest. If the former is the case, then accountability measures may not be invoked.

**North Pacific**
The North Pacific Council manages only one recreational fishery, for Pacific halibut, an international fishery managed under the International Pacific Halibut Commission. The Council deals only with domestic allocations. There is a guideline harvest level program for two areas, which does not include in-season management. If the guideline harvest level is exceeded in a given year, the fishery does not shut down, but the Council selects more conservative measures in the following year. Overages are accounted for in the stock assessment model.
Draft Alternatives for Omnibus Rec Accountability Measure Amendment

The Amendment will consider modifications to existing accountability measures for MAFMC-managed recreational fisheries (Atlantic mackerel, bluefish, summer flounder, scup, black sea bass).

The FMAT discussed a range of alternative accountability measures (AMs) that could be considered by the Council at its February meeting. These include both proactive and reactive AMs.

Proactive AMs are actions intended to prevent a catch limit from being exceeded and, as such, are put in place either before the fishing year starts or if within-season data indicate a need, before the fishing year ends. Although certain recreational management measures such as limits on season, bag, and size are intended to constrain or reduce landings, the FMAT discussed whether they can actually be thought of as accountability measures. It was suggested that these measures are a means to achieve a catch target that is itself a proactive accountability measure in that it is a reduction from a catch limit. Nevertheless, there is abundant latitude for defining AMs in the MSRA and bag, size and season are the only “AMs” applied to two groundfish species in New England. The exercise of in-season closure authority is a pro-active accountability measure when its exercise prevents an ACL from being exceeded, but this necessitates adjusting measures or closing the season before the ACL has been reached.

Reactive AMs are applied after are management responses that are triggered if management controls have failed to prevent a catch limit from being exceeded. As such, there are two components to reactive accountability measures, 1) the trigger, or what has to occur for an accountability measure to be implemented and (2) the actual AM, or the action that follows if the trigger condition is met (such as a reduction in a future year’s RHL or ACT). The exercise of in-season closure authority is a reactive accountability measure when it is triggered by the RHL or other catch threshold being reached or exceeded.

The examples provided below include status quo regulatory language, compared to action alternatives where red, underlined font indicates replacement language for existing regulations.

1 Annual Catch Target. An annual catch target is specified for all MAFMC-managed recreational fisheries that may be a reduction from the annual catch limit.

1.1 No Action/Status Quo. Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process. The Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.
1.2 Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend ACTs for the recreational fishing sector as part of the specification process, including explicit consideration of a reduction from the ACL based on uncertainty in recreational landings estimates. The Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, and any additional relevant information considered in the ACT recommendation process.

1.3 Monitoring Committee shall identify the appropriate bag, size, and/or season combination to prevent the ACL from being exceeded.

2 In-Season Closure Authority.

2.1 No Action/Status Quo. Maintain in-season closure authority

   2.1.1 Status Quo. The Regional Administrator will monitor recreational landings based on the best available data and shall determine if the recreational harvest limit has been met or exceeded. The determination will be based on observed landings and will not utilize projections of future landings. At such time that the available data indicate that the recreational harvest limit has been met or exceeded, the Regional Administrator shall publish notification in the Federal Register advising that, effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.

2.1.2 The Regional Administrator will monitor recreational landings based on the best available data and shall consider whether projections of future landings indicate that the recreational harvest limit will be met prior to the close of the fishing season. If the recreational harvest limit is projected to be met prior to the close of the season, the Regional Administrator shall publish notification in the Federal Register advising that, effective on a specific date, the recreational fishery in the EEZ shall be closed for remainder of the calendar year.

2.2 Eliminate in-season closure authority

   This alternative reflects FMAT discussion about the use of in-season closures which, under current conditions, would always penalize recreational activity toward the end of the year. An alternative that would allocate the RHL by wave based on historic patterns and then apply AMs...
by wave was also discussed but the practical aspects of such an approach are problematic given the variability in catch by wave. The figures below reflect percent landing by wave for black sea bass and bluefish. Note the variability in the wave 3-5 landings (March – October).
Post-Season Reactive Accountability Measures

3 Trigger (“If…”)

3.1 No Action/Status Quo. If available data indicate that the recreational sector ACL has been exceeded and the landings have exceeded the recreational harvest limit…

Note: Currently, the ACL evaluation is done on a 3-year moving average basis; that is, the average catch from the last three years is compared to the average ACL for the same three years to determine whether an ACL overage occurred. 2015 will be the first year when three year averages are available (looking back at 2012-2014).

3.1.1 Option: Remove the three year moving average and replace with

3.1.1.1 Annual evaluation
3.1.1.2 Five year average evaluation.

3.2 If available data indicate that the recreational sector ACL has been exceeded and the ABC has been exceeded …

3.3 If available data indicate that the recreational sector ACL has been exceeded and the OFL has been exceeded …

3.4 If available data indicate that the recreational sector ACL has been exceeded and Fmsy has been exceeded …

3.5 If the range of recreational landings estimates (e.g., ± 1SE, 50% CI) is above the recreational ACL, …

4 Recreational landing overage repayment (“Then…”)

4.1 No Action/Status Quo. … the exact amount of the landings overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT.

4.2 … the landings overage (in pounds) will be deducted, as soon as possible, from a subsequent single fishing year recreational sector ACT proportionally based on stock status (B/Bmsy)

4.2.1 If an estimate of B/Bmsy is available, the deduction is scaled linearly to B/Bmsy with endpoints such that deduction = 0 at B>Bmsy and deduction = 100% at B≤Bmsy. If B/Bmsy is not available, then there will be no deduction unless the stock is in re-building in which case it will be 100%.
4.2.2 If an estimate of $B/B_{msy}$ is available, the deduction is scaled linearly to $B/B_{msy}$ with endpoints such that deduction = 0 at $B/B_{msy} = 1.25$, and deduction = 100% at $B/B_{msy} = 0.75$. If $B/B_{msy}$ is not available, then there will be no deduction unless the stock is in re-building in which case it will be 100%.

4.2.3 Other scaling variations

4.3 … the overage would be deducted from the following year’s recreational harvest limit on a per-wave basis, as informed by historic patterns of landings by wave

4.3.1 Scaled linearly to $B/B_{msy}$ with endpoints such that deduction = 0 at $B>B_{msy}$ and deduction = 100% at $B<B_{msy}$

4.3.2 Scaled linearly to $B/B_{msy}$ with endpoints such that deduction = 0 at $B/B_{msy} = 1.25$, and deduction = 100% at $B/B_{msy} = 0.75$

4.3.3 Other scaling variations

4.4 … the bag, season and/or size limits for the recreational fishery will be adjusted for the subsequent fishing year.
**Action Plan (as of 1/30/13)**

**Omnibus Recreational Accountability Measures Amendment**

*Special Note:* The following presumes that the Omnibus Amendment will be submitted on June 1, 2013 for Secretarial Approval. That date is critical for avoidance of e AMs being effective on Jan 1, 2014.

**Council:** Mid-Atlantic only

**Demersal and Coastal Migratory Committee Membership:** Luisi, Gilmore, Anderson, Batsavage, Berg, Cole, Deem, DiLernia, Hemilright, Himchak, King, Linhard, McMurray, O'Reilly, Pate, Zeman; ASMFC: Beal; NEFMC: Blount, McKenzie

**Council Leadership:** Rick Robins and Lee Anderson

**Council Staff:** Jim Armstrong

**Additional expertise sought:**

<table>
<thead>
<tr>
<th>Agency</th>
<th>Role</th>
<th>Person</th>
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<tbody>
<tr>
<td>ASMFC</td>
<td>ASMFC Rep</td>
<td>Toni Kerns</td>
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<tr>
<td>NMFS NERO</td>
<td>General Counsel</td>
<td>Denise Desautels</td>
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<tr>
<td>NMFS NERO</td>
<td>Sustainable Fisheries</td>
<td>Moira Kelly</td>
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<td>NMFS NERO</td>
<td>NEPA</td>
<td>Sara Beigel</td>
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<td>NMFS NEFSC</td>
<td>Pop Dyn</td>
<td>Anthony Wood</td>
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<tr>
<td>NMFS NEFSC</td>
<td>Socioeconomics</td>
<td>Scott Steinback</td>
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**Title of Action:** Omnibus Recreational Accountability Measures Amendment

**Problem Statement/Objective of Action:** The Council is developing a document that will address the need for improved federal accountability measures in our recreational fisheries (summer flounder, scup, black sea bass, bluefish, Atlantic mackerel).

**Types of Measures Expected to be Considered:** At this time, the Council is limiting action under this amendment to recreational accountability measures.
**Type of NEPA Analysis Expected:** Because this action would simply develop an administrative process, it has no direct impacts and would be accomplished through an EA.

**Applicable laws/issues:**

<table>
<thead>
<tr>
<th>Act/Memo</th>
<th>Yes/No/ Possibly; details</th>
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<tbody>
<tr>
<td>Magnuson-Stevens Act</td>
<td>Yes</td>
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<tr>
<td>Administrative Procedures Act</td>
<td>Yes</td>
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<tr>
<td>Regulatory Flexibility Act</td>
<td>Possibly; level of consultation, if necessary, depends upon the actions taken</td>
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<td>Paperwork Reduction Act</td>
<td>Possibly; depends on data collection needs</td>
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<tr>
<td>Coastal Zone Management Act</td>
<td>No</td>
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<td>Endangered Species Act</td>
<td>No</td>
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<tr>
<td>Marine Mammal Protection Act</td>
<td>No</td>
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<tr>
<td>E.O. 12866 (Regulatory Planning and Review)</td>
<td>Possibly; depends upon whether there are implementing regulations</td>
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<tr>
<td>E.O. 12630 (Takings)</td>
<td>Possibly; legal review will confirm</td>
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<tr>
<td>E.O. 13132 (Federalism)</td>
<td>Possibly; legal review will confirm</td>
</tr>
<tr>
<td>Essential Fish Habitat</td>
<td>No</td>
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<tr>
<td>Information Quality Act</td>
<td>Yes</td>
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</tbody>
</table>

**Timing:** The target implementation date for these measures is January 1, 2014. The timeline is given below.
### Timeline for development/review/implementation:

<table>
<thead>
<tr>
<th>MILESTONES</th>
<th>DATES (all 2013 except implementation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Begin work on amendment document (description of environment, etc.)</td>
<td>Jan</td>
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<tr>
<td>2. Development of alternatives and further document development</td>
<td>Jan-Mar</td>
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<tr>
<td>3. Council approves alternatives for analysis</td>
<td>Mar</td>
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<tr>
<td>4. Staff/FMAT analysis of alternatives for Council consideration</td>
<td>Mar</td>
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<tr>
<td>5. <strong>Council approves Draft Amendment/EA, selects preferred alternatives</strong></td>
<td>Apr</td>
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<td>6. Public hearings (at Council meeting)</td>
<td>Apr</td>
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<td>7. <strong>Council approves final measures and document</strong></td>
<td>May</td>
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<tr>
<td>8. Staff submits final amendment to NMFS, begin formal review</td>
<td>June</td>
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<tr>
<td>9. Implementation</td>
<td>Jan 1, 2014</td>
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