Gulf of Mexico Fishery Management Council
Managing Fishery Resources in the U.S. Federal Waters of the Gulf of Mexico

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Ms. Marian Macpherson, Acting Branch Chief
Office of Sustainable Fisheries
National Oceanic and Atmospheric Administration
Office of Science and Technology
1315 East-West Highway, 13th Floor
Silver Spring, MD 20910

Dear Ms. Macpherson:

During its August 2021 meeting, the Gulf of Mexico (Gulf) Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) received a presentation by the National Oceanic and Atmospheric Administration's (NOAA) Office of Science and Technology (OST) on the NS1 Technical Guidance Subgroup 3 Tech Memo: Managing with ACLs for data-limited stocks in federal fishery management plans – *Review and recommendations for implementing 50 CFR 600.310(h)(2) flexibilities for data limited stocks*. This Tech Memo provides guidance regarding the application of the flexibilities provided in paragraph (h)(2) of the NS1 guidelines for certain data limited stocks.

Annual catch limits (ACL) are effective tools for preventing overfishing in many fisheries. The standard ACL is expressed in amounts of fish in either number or weight. However, ACL-based management is difficult to apply in some data-limited fisheries that lack information on stock biomass, or in situations where there is limited ability to monitor and enforce harvest. These difficulties challenge our ability to effectively manage with ACLs, as described in the standard approach set forth in the National Standard 1 (NS1) guidelines. To address these concerns, in 2016, the National Marine Fisheries Service (NMFS) amended the NS1 guidelines to clarify that, for certain data-limited stocks, alternative approaches for satisfying statutory requirements other than those set forth in the NS1 guidelines, i.e., "the (h)(2) flexibilities," can apply (50 CFR 600.310(h)(2)).

This technical memo considered legal context, data-limited methods, and management advice. Ms. Macpherson's presentation noted that flexibility for setting ACLs for data-limited species is allowed but still requires that an alternative approach complies with the Magnuson-Stevens Fishery Conservation and Management Act, and that justifiable rationale for any alternative approach be documented in the fishery management plan (FMP). Ms. Macpherson emphasized that weight/numbers-based ACLs are the standard approach and provided a decision flow chart to illustrate (i.e., Figure 1 of the Tech Memo) when an alternative approach to setting an ACL may be practicable.

The SSC discussed the materials presented with particular emphasis on the applicability of using alternative methods for several data-limited reef fish stocks or complexes, and spiny lobster. The overfishing limits (OFL), acceptable biological catches (ABC), and ACLs for these stocks and complexes were informed with time series of historical landings using Tier

3 of the Council's ABC Control Rule. However, "average catch" methods have performed poorly in simulation-based research studies[1,2,3] and the SSC was optimistic that the Tech Memo would introduce new methods with improved scientific rigor for establishing catch limits for Gulf data-limited stocks. However, after review and discussion, the SSC thought that the guidance provided in the Tech Memo would provide only limited flexibility for Gulf data-limited stocks. As described in Figure 1 of the Tech Memo, stocks with removal records or absolute abundance and monitored removals are only considered appropriate for biomass or numbers-based ACLs. This criterion captures nearly all Gulf stocks as historical records of catch are available and used in the current protocols to establish ACLs. From this perspective, the SSC thought, and the Council concurred, that the Tech Memo provides limited utility for the Council at this time. The SSC did suggest that the length-based approaches identified in the report could be suitable to inform catch limits of spiny lobster. It is possible that a few deep-water species may benefit from an alternative ACL description using the approaches outlined in the Tech Memo. Further, the SSC suggested the addition of an applied case study to the Tech Memo to provide additional context regarding the application of the new guidance.

The Council and the SSC appreciate the opportunity to review and provide comment on the Tech Memo. The Council is aware of the challenges and limitations of managing data-limited stocks and encourages the ongoing development of methods necessary to improve the science necessary to promote ongoing sustainable harvest of Gulf fishery resources. Please contact Dr. John Froeschke on Council staff or me if you have any questions about these comments.

Sincerely,

Carrie M. Simmons, Ph.D.
Executive Director

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cc: Council Members / Council Staff / Clay Porch, Ph.D. / John F. Walter, Ph.D. / Shannon Cass-Calay, Ph.D. / Katie Siegfried, Ph.D. / Andy Strelcheck / Jack McGovern, Ph.D. / Peter Hood / Jim Nance, Ph.D. / Luiz Barbieri, Ph.D. / Kelly Denit / Regional Management Council Executive Directors

[1] Carruthers, T. R., Punt, A. E., Walters, C. J., MacCall, A., McAllister, M. K., Dick, E. J., and Cope, J. (2014). Evaluating methods for setting catch limits in data-limited fisheries. Fisheries Research, 153: 48-68.

[2] Newman, D., Carruthers, T., MacCall, A., Porch, C., and Suatoni, L. (2014). Improving the science and management of data-limited fisheries: An evaluation of current methods and recommended approaches. *Natural Resources Defense Council, NRDC report R*, 14-09-B.

[3] Berkson, J. and Thorson, J. T. (2014). The determination of data-limited catch limits in the United States: is there a better way? ICES Journal of Marine Science, 72(1): 237-242.