



THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Coral Amendment 10 Resubmission

Decision Document, 09/18/2024

Background

Timeline Reviewed at the June 2024 Council meeting:

- December 2011: The Council decided to expand the Oculina Coral Habitat Area of Particular Concern (CHAPC) northern boundary to protect recently discovered deepwater coral resources, through Coral Amendment 8.
- June 2013: Input from advisory panels helped the Council determine that the 70 – 100 meter contour line would be an appropriate eastern boundary for the northern Oculina CHAPC expansion.
- December 2013: After reviewing additional VMS information on where the rock shrimp fishery was operating, the Council determined that it would be prudent to adjust the eastern boundary slightly to allow rock shrimp fishermen access to their historical fishing grounds.
- March 2015 – December 2021: Council staff worked to develop Coral Amendment 10 towards that goal.
- July 2022: The amendment was submitted to the Department of Commerce.
- July 2022: Coral Amendment 10 was disapproved by the Secretary of Commerce.

- December 2023: The Council directed staff to work on the resubmission process by addressing the items listed in the disapproval letter.
- April 2024: The IPT met and reviewed the necessary analysis and writing responsibilities for re-submittal. The IPT requested that the Council revisit their rationale for how the proposed action in Coral amendment 10 addresses the Coral FMP goals and objectives, an issue that was highlighted in the disapproval letter. Additionally, staff requested feedback on how to move forward with Coral Amendment 10.
- June 2024: The Council requested that the IPT review potential approaches to address the purpose and need of Coral Amendment 10.

The four potential approaches for moving forward with the amendment were:

1. Address the shortcomings listed in the disapproval letter and resubmit Coral 10 in its current form.
2. Add an alternative to Coral Amendment 10 that would increase the buffer between known coral pinnacles and the western boundary of the proposed Shrimp Fishery Access Area (SFAA).
3. Modify the CHAPC boundary through a Coral FMP framework amendment.
4. Develop a Joint Shrimp/Coral FMP amendment to establish a SFAA.

Objectives for this meeting

- Decide which approach to adopt
- Provide feedback on the Purpose and Need statements.

Summary of IPT Pros and Cons for Proposed Approaches

The IPT met in June 2024 and identified pros, cons, and potential timing of the four approaches. During the discussion the IPT determined that each of these approaches will require access to permit data after 2020 and will include updated analysis, which will take time. Due to uncertainty as to when data from the SERO Permits Office will be available to update the analysis, it is difficult to predict with any certainty how long each of the four approaches would take. The IPT recognized that the opening of this area to the rock shrimp fishery is important to some Council members and acknowledged the need to choose a path that will not only address the resubmission needs but that has the highest chance of getting approved.

The IPT recommendation is included in the discussion below.

Approach 1: Move Forward with Coral 10 in its current form

This approach would move forward with the Coral 10 resubmission process after the IPT has addressed the concerns laid out in the disapproval letter.

Below are the IPT identified pros and cons for approach 1.

Pros	Cons
<ul style="list-style-type: none"> • Writing is mostly completed but analyses would still need to be updated. • Smaller workload: <ul style="list-style-type: none"> ○ Notice Of Availability (NOA) and codified have been written. ○ Finding Of No Significant Impact (FONSI) would need to be revised. • Visual evidence from a scientific survey conducted by the SEFSC in May – June 2022, corroborates the lack of coral in the area. This information will need to be added to the document. • Scoping has already been conducted and comments have already been received and reviewed. • Potentially shortest timeline. 	<ul style="list-style-type: none"> • Need to ensure that the rationale for the proposed action addresses the goals and objectives of the Coral FMP. • Significant updates to the following sections are needed: BPA, social and economic fishery descriptions, and affected EFH. • Quantitative BPA is not possible given that the Shrimp fishery is not required to report via the Coastal logbook and therefore, there are no logbooks that collect bycatch information for the shrimp fishery. • Comments have been received and include some negative feedback that will need to be addressed. • To properly update the amendment, permit data after 2020 will need to be included in the updated analysis, the timeline for accessing these data is uncertain. • The administrative record is not very clear on how the boundaries of the proposed SFAA came to be. • The Coral 10 method of establishing the SFAA is inconsistent with how SFAAs were established in the past (amending the Shrimp FMP and Coral FMP at the same time in CE-BA 1).

Approach 2: Add an alternative to Coral 10 that increases the buffer between known coral pinnacles and the western boundary of the SFAA

This approach would move forward with the Coral 10 resubmission process after the IPT has addressed the concerns laid out in the disapproval letter and add a new alternative that is a compromise between the current preferred alternative and the no action alternative.

Below are the IPT identified pros and cons for approach 2.

Pros	Cons
<ul style="list-style-type: none"> • The addition of another alternative may help address the goals and objectives of the Coral FMP because the buffer will be increased. • Additional buffer protects EFH. • Visual evidence from a scientific survey conducted by the SEFSC in May – June 2022, corroborates the lack of coral in the area. This information will need to be added to the document. • To avoid public confusion and to increase transparency, the amendment could be called Revised Coral 10. • Writing is mostly completed but analyses would still need to be updated. • Potentially second shortest timeline. 	<ul style="list-style-type: none"> • Need to ensure that the rationale for proposed action is addressing the goals and objectives of the Coral FMP. <ul style="list-style-type: none"> ○ This may be easier with the additional alternative. • The process of establishing the SFAA is inconsistent with how SFAAs were established in the past (amending Shrimp FMP and Coral FMP at the same time in CE-BA 1). • Comments have been received and include some negative feedback that will need to be addressed. • Significant updates to the following sections are needed: BPA, social and economic fishery descriptions, and affected EFH. • To properly update the amendment, permit data after 2020 will need to be included in the updated analysis, the timeline for accessing these data is uncertain. • Quantitative BPA is not possible given that the Shrimp fishery is not required to report via the Coastal logbook and therefore, there are no logbooks that collect bycatch information for the shrimp fishery. <ul style="list-style-type: none"> ○ Under the new alternative, there may be diminished benefits to the rock shrimp fishery relative to the original proposed SFAA. • The current SFAA is very narrow. Adding a buffer would make it even narrower and may not make it useable for shrimpers. • Need to gather research to support the chosen buffer zone width and prove diminished damage to coral from sediment plumes. • Shrimpers have noted that they have a self-imposed buffer because of the closed area and gear concerns. If an additional buffer was put in place the shrimpers would still use their additional self-imposed buffer. The self-imposed buffer is not enforceable and should not be considered in the amendment.

Approach 3: Modify the CHAPC boundary as a Coral FMP framework amendment

This approach would end the Coral 10 resubmission process and instead develop a Framework amendment that modifies the CHAPC boundary itself.

IPT discussion indicated that the framework process does not allow for modifying the boundaries of the CHAPC in this manner and requested feedback from NOAA General Counsel. It is a general understanding that the framework allows for modification of boundaries of CHAPC if they are providing more protection to EFH.

While, this may not be a viable option, the IPT still provided the following pros and cons for approach 3.

Pros	Cons
<ul style="list-style-type: none">• Since we would no longer be establishing a SFAA and just modifying the CHAPC boundary, the difficulty of arguing how the goals and objectives of the Coral FMP are being met becomes less complicated.	<ul style="list-style-type: none">• Could be negatively perceived by public as trying to “work the system”.• To properly update the amendment, permit data after 2020 will need to be included in the updated analysis, the timeline for accessing these data is uncertain.• Coral 10 record is established and will need to be addressed.

Approach 4: Joint Shrimp/Coral FMP amendment to establish a SFAA (IPT Recommended)

This approach would end the Coral 10 resubmission process and instead begin the development of a joint amendment establishing a SFAA under the Shrimp FMP and identifying the established SFAA under the Coral FMP.

IPT RECOMMENDATION:

The IPT recommends that the Council move forward with this approach and develop a Joint Shrimp 12 /Coral 11 FMP amendment. The Joint amendment would have one purpose and need (drafted below) and would include one action that would establish the SFAA within the Oculina CHAPC. This approach will increase the timeline and staff workload, but the IPT considers it the most appropriate vehicle to meet the goals and objectives of both FMPs while establishing the SFAA.

Below are the IPT identified pros and cons for approach 4.

Pros	Cons
<ul style="list-style-type: none">• Much of the information from Coral 10 can be used for the new document.• Through the joint amendment process the Council can weigh the benefit to the Shrimp FMP while still minimizing impacts to coral EFH for the Coral FMP.• The alternatives can be customized to include alternatives for no action, the current SFAA boundaries, and a compromise between the two.• The Council can use CE-BA 1 as an example of amendment structure which would provide precedent.• The public comments submitted for Coral 10 can be used as an outline of potential concerns that need to be addressed in the joint amendment.	<ul style="list-style-type: none">• Longer timeline.• To properly update the amendment, permit data after 2020 will need to be included in the updated analysis, the timeline for accessing these data is uncertain.• The Shrimp Amendment 12 portion of the joint document will require more drafting since information such as the Shrimp FMP goals and objectives were not previously included in Coral 10.• Still need to address Coral 10 record and public comments which will require additional rationale and writing time.

Committee Action

- Discuss and decide which approach should move forward.
 - Motion if needed

Draft Purpose and Need Statement

Purpose: The *purpose* of this amendment is to create a Shrimp Fishery Access Area along the eastern edge of the Northern Oculina CHAPC boundary in an area where the rock shrimp fishery operated historically while minimizing impacts to deepwater coral. The action does not change EFH specifications from previous amendments but provides recent information and spatial presentation of EFH as required by the EFH Final Rule (67 FR 2343, January 17, 2002).

Need: The *need* for this amendment is to allow the rock shrimp fishery to attain OY while minimizing negative impacts to deepwater coral in the Council’s jurisdiction.

Committee Action

- Provide feedback on the draft Purpose and Need statements.

Next Steps

Approach 1:

- The IPT will meet at least once more (once the permit data post 2020 are available).
- The IPT will develop the amendment within 6 months with Council and AP input

Approach 2:

- During the September 2024 Council meeting, the amendment would be incorporated into the workplan.
- The IPT will meet at least twice more (once the permit data post 2020 are available) to discuss analysis and the new alternative.
- The IPT will develop the amendment within a year and a half with Council and AP input.

Approach 3 (may not be feasible under current Coral FMP framework):

- During the September 2024 Council meeting, the amendment would be incorporated into the workplan.
- Once the permit information post 2020 is available, the IPT will meet once more.
- The IPT will develop the amendment within 6 months with Council and AP input

Approach 4 (recommended):

- During the September 2024 Council meeting the amendment would be incorporated into the workplan.
- The IPT would meet after the September 2024 Council meeting to incorporate additional members with appropriate expertise, discuss needed analysis and assign writing responsibilities.
- Once the permit information post 2020 is available, the IPT will meet as needed to develop the amendment.
- The amendment would be completed within a year and a half with Council and AP input.