



Gulf of Mexico Fishery Management Council

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

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Dr. Roy Crabtree
Regional Administrator
National Marine Fisheries Service
263 13th Avenue South
St. Petersburg, Florida 33701

Dear Dr. Crabtree:

At its February 5-8, 2013 meeting, the Gulf Council passed the following motion by a roll call vote of 10 to 7:

To request that NMFS implement an emergency rule to develop new accountability measures for recreational red snapper that provides that if one or more Gulf states establishes less restrictive recreational red snapper regulations than federal regulations, then the Regional Administrator has the authority to reduce the recreational red snapper season in the EEZ off those states by the amount necessary to account for the additional harvest that would occur as a result of those non-compliant state regulations.

For purposes of this accountability measure, the Council voted to accept the state boundaries extended into the EEZ as presented in the attached figure (briefing book Tab SP-6(b), slide number 7).

Under 50 CFR 622.43(a), when a quota is reached, or is projected to be reached, the Assistant Administrator is required to file a notification to close fishing in the EEZ for the remainder of the fishing year. When states adopt less restrictive regulations in state waters the season in the EEZ must be shortened to compensate for the additional state catches. When done on a Gulf-wide basis, this reduces the season off of both compliant and non-compliant states. The Council feels that this is not fair or equitable to the fishermen from states that are compliant, in violation of National Standard 4. This emergency action will authorize the federal season to be shortened only off those states that are non-compliant, allowing those states that are compliant to have the longest possible season consistent with the recreational red snapper quota.

The Policy guidelines for the use of emergency rules [62FR44421] list three criteria for the use of emergency rules.

(1) Results from recent, unforeseen events or recently discovered circumstances;

The 2013 recreational red snapper season is projected to last 27 days with a 2-fish bag limit. This projection takes into account Texas keeping its state waters open year-round, but assumes that the remaining states will adopt compliant regulations. During the Council meeting, the Louisiana Department of Wildlife and Fisheries announced its intention to adopt a weekends only fishing season and 3-fish bag limit from March 22 through September. In addition, following the Council meeting, the Florida Fish and Wildlife Conservation Commission proposed adoption of a 44-day season in its state waters. These unforeseen events will likely result in the recreational red snapper quota being exceeded unless adjustments are made to the federal season.

(2) Presents serious conservation or management problems in the fishery;

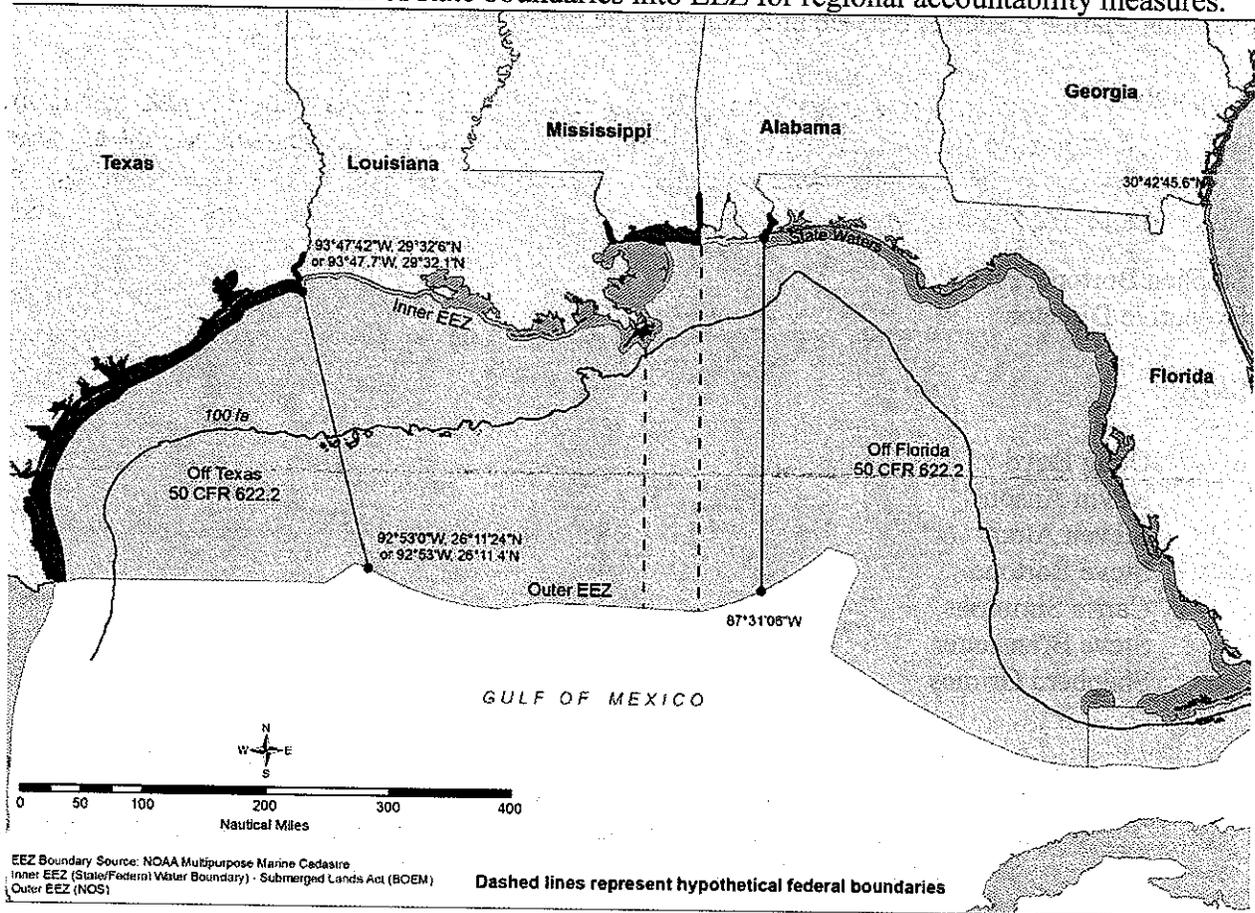
If the recreational red snapper quota is exceeded, and as a result, the acceptable biological catch (ABC) will be exceeded, then the probability of the stock rebuilding to its target MSY level by 2032 is reduced, and may require reductions in quotas in future years. Many fishermen have observed that the abundance and size of red snapper has increased in recent years, and feel that the current catch limits are no longer warranted. However, according to the best scientific information available, the stock is continuing to rebuild, and has not yet attained its MSY level. Exceeding the ABC jeopardizes the likelihood of the rebuilding target being achieved and creates serious conservation problems. In addition, reducing the recreational season throughout the EEZ penalizes fishermen from both compliant and non-compliant states. This creates a situation that is unfair and inequitable to fishermen from compliant states.

(3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts to the same extent as would be expected under the normal rulemaking process.

In order to allow regional season adjustments in 2013, an emergency action is needed. A framework action or plan amendment could be produced to implement regional accountability measures on an ongoing basis, but could not be implemented within the needed time frame. An emergency rule is the only way to provide immediate benefits.

The policy guidelines for the use of emergency rules state that the use of emergency rules can be justified under (1) ecological, (2) economic, or (3) social situations that would result in a substantial damage or loss. From an ecological basis, the Assistant Administrator already has the authority to shorten the season Gulf-wide in order to maintain the rebuilding plan. However, an emergency rule to allow this action on a regional basis is justified from both an economic and social perspective. It will help to reduce direct economic losses to the recreational fishing sector in states that are compliant with federal regulations, and it will reduce adverse community impacts in those states.

ATTACHMENT: Extension of state boundaries into EEZ for regional accountability measures.



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For the above reasons, the Council feels that an emergency rule is justified, and requests that the National Marine Fisheries Service proceed with the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Bortone". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen Bortone, Ph.D.
Executive Director

SMA

c: Doug Boyd
Kevin Anson
Steven Atran
Steve Bortone
Carrie Simmons
Steve Branstetter
Shepherd Grimes