

AMENDMENT 6
TO THE
REEF FISH FISHERY MANAGEMENT PLAN
FOR THE REEF FISH RESOURCES OF
THE GULF OF MEXICO
Includes Environmental Assessment
and
Regulatory Impact Review
January 1993

Gulf of Mexico Fishery Management Council
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1. PUBLIC REVIEW

A total of 8 public hearings were held to obtain public comments on this plan amendment with one additional hearing held during the Gulf Council meeting on January 18-21, 1993, in San Antonio, Texas. The public comment period for this amendment ended on January 15, 1993.

The hearings were conducted from 7:00 p.m. to 11:00 p.m. on the following dates and locations (except the meeting in Galveston, Texas, which was held from 1:00 p.m. to 5:00 p.m.):

Thursday, December 10, 1992

Port Isabel Community Center
Corner of Yturria and Maxan
Port Isabel, Texas

December 15, 1992

Larose Regional Park
"Versailles Room"
2001 East 5th Street
Larose, Louisiana

Friday, December 11, 1992

University of Texas
Visitor's Center Auditorium
Marine Science Institute
750 Channel View Drive
Port Aransas, Texas

Wednesday, December 16, 1992

Gulf Coast Research Laboratory
J. L. Scott Marine Education Center and
Aquarium Auditorium
115 East Beach Boulevard
Biloxi, Mississippi

Saturday, December 12, 1992

1:00 p.m. - 5:00 p.m.
Best Western Beachfront Inn
5914 Seawall Boulevard
Galveston, Texas

Thursday, December 17, 1992

Orange Beach Community Center
27301 Canal Road
Orange Beach, Alabama

Monday, December 14, 1992

Police Jury Annex
Courthouse Square
Cameron, Louisiana

Friday, December 18, 1992

Gulf Coast Community College
Student Union Building East - "Lecture Hall"
5230 West Highway 98
Panama City, Florida

LIST OF AGENCIES AND PERSONS CONSULTED

Gulf of Mexico Fishery Management Council: Standing and Special Reef Fish Scientific and
Statistical Committee
Reef Fish Advisory Panel
Law Enforcement Advisory Panel

Coastal Zone Management Programs: Louisiana
Mississippi
Alabama
Florida

National Marine Fisheries Service, Southeast Fisheries Science Center, Southeast Regional Office

LIST OF PREPARERS

Gulf of Mexico Fishery Management Council

- Steven Atran, Population Dynamics Statistician
- Tony Lamberte, Economist

2. HISTORY OF MANAGEMENT

The Reef Fish Fishery Management Plan was implemented in November 1984. The implementing regulation, included: (1) prohibitions on the use of fish traps, roller trawls, and powerhead-equipped spear guns within an inshore stressed area; (2) a minimum size limit of 13 inches total length for red snapper with the exception that for-hire boats were exempted until 1987 and each angler could keep five undersize fish; and, (3) data reporting requirements.

The National Marine Fisheries Service (NMFS) has collected annual commercial landings data since the early 1950s, recreational harvest data since 1979, and in 1984 initiated a dockside interview program to collect more detailed data on commercial harvest. The first red snapper assessment in 1988 indicated that red snapper was significantly overfished and that reductions in fishing mortality rates of as much as 60 to 70 percent were necessary to rebuild red snapper to a recommended 20 percent spawning stock potential ratio (SPR). The 1988 assessment also identified shrimp trawl bycatch as a significant source of mortality.

Amendment 1 to the Reef Fish Fishery Management Plan, implemented in 1990, set a 7 fish recreational bag limit and a 3.1 million pound commercial quota for red snapper that together were to reduce fishing mortality by 20 percent and begin rebuilding the population toward the target SPR. However, analyses available to the Council during development of Amendment 1 indicated that additional red snapper harvest restrictions would be necessary in the future to rebuild to 20 percent SPR by the target year of 2000. This amendment also established a 5 fish recreational bag limit and 11.0 million pound commercial quota for groupers, with the commercial quota subdivided into a 9.2 million pound shallow-water quota and a 1.8 million pound deep-water quota. The amendment also implemented a framework procedure to allow for annual management changes.

Amendment 2, implemented in 1990, prohibited the harvest of jewfish to provide complete protection for the species in federal waters because the population abundance throughout its range is greatly depressed. This amendment was initially implemented by emergency rule.

Amendment 3, implemented in July 1991, provided additional flexibility in the annual framework procedure by allowing the target date for rebuilding an overfished stock to be changed depending on changes in scientific advice. The amendment also transferred speckled hind from the shallow-water grouper quota category to the deep-water grouper quota category and established a new red snapper target year of 2007 for achieving the 20 percent SPR goal established in Amendment 1.

A 1991 Regulatory Amendment set the red snapper TAC at 4.0 million pounds to be allocated with a commercial quota of 2.04 million pounds and a 7 fish recreational daily bag limit (1.96 million pounds) beginning in 1991. This amendment also contained a proposal by the Council to effect a 50 percent reduction of red snapper bycatch in 1994 by the offshore EEZ shrimp trawler fleet, to occur through the mandatory use of finfish excluder devices on shrimp trawls, reductions in fishing effort, area or season closures of the shrimp fishery, or a combination of these actions. This combination of measures was projected to achieve a 20 percent SPR by the year 2007. The 2.04 million pound quota was reached on August 24, 1991, and the red snapper fishery was closed to further commercial

harvest in the EEZ for the remainder of the year. In 1992, the commercial red snapper quota remained at 2.04 million pounds. However, extremely heavy harvest rates resulted in the quota being filled in just 53 days, and the commercial fishery was closed on February 22, 1992.

An emergency rule, implemented in 1992 by NMFS at the request of the Council, reopened the red snapper fishery from April 3, 1992 through May 14, 1992 with a 1,000 pound trip limit. This rule was implemented to alleviate economic and social upheavals that occurred as a result of the 1992 red snapper commercial quota being rapidly filled.

Amendment 4, implemented in May 1992, established a moratorium on the issuance of new reef fish permits for a maximum period of three years. The moratorium was created to moderate short term future increases in fishing effort and to attempt to stabilize fishing mortality while the Council considers a more comprehensive effort limitation program. It allows the transfer of permits between vessels owned by the permittee or between individuals when the permitted vessel is transferred. Amendment 4 also changed the time of the year that TAC is specified from April to August and included additional species in the management unit.

Draft Amendment 5 (currently under review) proposes to establish restrictions on the use of fish traps in the Gulf of Mexico EEZ, create special management zones where gear may be restricted, require all finfish except for oceanic migratory species to be landed with head and fins attached, and gradually raise the minimum size limit for red snapper to 16 inches over a period of five years.

A proposed 1993 Regulatory Amendment (currently under review) will set the red snapper TAC at 6.0 million pounds to be allocated with a commercial quota of 3.06 million pounds and a recreational allocation of 2.94 million pounds to be implemented by a 7 fish recreational daily bag limit beginning in 1993. The amendment also changes the target year to achieve a 20 percent SPR from 2007 to 2009.

An Emergency Rule effective January 1, 1993 created a red snapper endorsement to the reef fish permit. The endorsement was issued to owners or operators of federally permitted reef fish vessels who had annual landings of at least 5,000 pounds of red snapper in two of the three years from 1990 through 1992. During the commercial season, holders of permits with red snapper endorsements are allowed a 2,000 pound possession limit of red snapper. Permit holders without the endorsement are allowed 200 pounds. This emergency action is in effect for 90 days, and may be extended for an additional 90 days with the concurrence of NMFS and the Council. The Council has requested NMFS to implement the extension. A related emergency rule delayed the opening of the 1993 commercial red snapper season until February 16 to allow time for NMFS to process and issue the endorsements.

3. PROBLEMS REQUIRING A PLAN AMENDMENT

If the commercial quota has not been filled before the emergency rule expires, unregulated effort may produce a "derby" fishery for the remainder of the quota, which would likely result in a quota overrun. Even if the quota is filled before the emergency rule expires and the commercial fishery is closed for the remainder of 1993, a comprehensive effort limitation program may not be ready for implementation before the beginning of the 1994 season. In the absence of commercial effort or harvest limit regulations, a "derby" fishery similar to the one in 1992 is likely to develop in 1994. To address these problems, Amendment 6 extends the red snapper endorsement and trip limits through 1994, unless replaced sooner by a comprehensive effort limitation program.

In 1989, with no commercial quota, there were 3.1 million pounds of red snapper landed from the Gulf of Mexico. The 1990 commercial red snapper fishery had a 3.1 million pound quota but landed only

2.7 million pounds, and there was no closure. In 1991 and 1992 the quota was reduced to 2.04 million pounds based on the 1990 red snapper stock assessment and an adjustment of the commercial:recreational allocation ratio from 62:38 to 51:49, as mandated under the FMP's framework procedure. The 1991 quota was reached and the fishery closed in August. After a four month closure, the red snapper fishery reopened on January 1, 1992, and the quota was reached in 53 days.

Year	Commercial Quota (1,000,000's)	Commercial Landings (1,000,000's)	Closure Date
1989	none	3.11	
1990	3.10	2.67	
1991	2.04	2.22 ¹	August 24, 1991
1992 (Jan-Feb only)	2.04	2.53 ¹	February 22, 1992
1993 ²	3.06		

Note 1 - 1991 and 1992 landings data are preliminary.

Note 2 - A regulatory amendment to set the 1993 quota is in preparation.

Source: NMFS Southeast Fisheries Center

The 1993 quota of 3.06 million pounds is almost as high as the 1990 quota. However, the total number of permittees has increased from 1,622 in 1990 to 2,199 in 1992. Many of these new permits were issued to fishermen who entered the fishery after the permit moratorium had been announced seeking to establish fishing rights before the moratorium took affect. Analysis of the 1992 log book data indicates that fishermen changed their behavior to more directly target red snapper. Although red snapper stocks are still in an overfished state, the 1992 stock assessment indicated that there has been a slight improvement, with SPR increasing from 0.6 to 1.0 percent. As a result of the slight increase in biomass and the extended 1992 closure there are likely to be large aggregations of red snapper when the season opens. For these reasons, the Council expects the 1993 season to result in another "derby" fishery without additional allocation measures.

In September 1992 the Council requested NMFS to implement a series of measures to extend the commercial red snapper season by emergency action. The major provisions of the emergency action were establishment of a red snapper endorsement for qualified reef fish permittees, a 2,000 pound possession limit for permittees holding red snapper endorsements, and a 200 pound possession limit for reef fish permittees without the endorsement. The emergency action was approved by NMFS, and took effect on December 31, 1992. It will be effective for 90 days, with a possible 90 day extension. Therefore, the emergency rule will expire on either March 31 or June 29, 1993. A plan amendment must be implemented before the emergency action expires if the Council wishes to continue the provisions of the emergency action or implement some alternate provisions for the remainder of 1993 and 1994.

4. PROPOSED ACTIONS

Actions proposed in this amendment are:

Extend the provisions of the emergency rule for the remainder of 1993 and 1994, unless replaced sooner by a comprehensive effort limitation program.

5. MANAGEMENT OBJECTIVES OF THE FMP

The management objectives of the FMP, as amended, are stated in Amendment 1. Those objectives which have a direct relevance on the present amendment are:

1. To reduce user conflicts and nearshore fishing mortality.
2. To maximize net economic benefits from the reef fish fishery.

6. MANAGEMENT OPTIONS AND REGULATORY IMPACTS

Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: 1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action, 2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem, and 3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

The RIR also serves as the basis for determining whether any proposed regulations are major under criteria provided in Executive Order 12291 and whether the proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act of 1980 (RFA). The primary purpose of the RFA is to relieve small businesses, small organizations, and small governmental jurisdictions (collectively: "small entities") of burdensome regulatory and recordkeeping requirements. The RFA requires that if regulatory and recordkeeping requirements are not burdensome, then the head of a Federal agency must certify that the requirement, if promulgated, will not have a significant effect on a substantial number of small entities.

This RIR analyzes the probable impacts that the proposed alternatives for the Reef Fish Fishery Management Plan (FMP) would have on the commercial directed red snapper fishery. The recreational component of the directed red snapper fishery is not directly affected by the proposed measures under this plan amendment.

In this document, the "Socioeconomic Impacts" statements under each of the management options comprise the bulk of the RIR. The problems and objectives are described in previous sections of the amendment document as a part of the RIR by reference.

A. EXTENSION OF THE RED SNAPPER EMERGENCY ACTION RULE

The proposed emergency action to establish a red snapper endorsement will expire before the end of the 1993 calendar year. The following are options for actions to take effect prior to or upon termination of the emergency action:

Proposed Option:

- **Continue the red snapper endorsement to the reef fish vessel permit. Permitted vessels with the red snapper endorsement will be limited to possession of 2,000 pounds of red snapper per vessel per trip and permitted vessels without the endorsement will be limited to 200 pounds per vessel per trip.**

- Allow transfer of the permit with red snapper endorsement only to another vessel owned by the qualifying permittee. Transfer of permits without the red snapper endorsement will be as provided by Amendment 4.
- Require all reef fish vessel permittees to abide by the trip limits regardless of where the red snapper were caught.
- The red snapper endorsement provision and associated trip limits will expire at midnight, December 31, 1994, unless replaced sooner by a more comprehensive effort limitation program.
- The trip possession limits for endorsement and non-endorsement permittees may be changed in the following year under the framework procedure for specification of TAC.

Discussion and Impacts:

Rationale: In 1992 there were 2,199 permitted reef fish vessels in the Gulf of Mexico. Of the 925 vessels that submitted logbooks, 37% had at least some landings of red snapper. If this percentage is applied to all permittees, then as many as 819¹ permittees had either directed or incidental red snapper landings in 1992. Many fishermen have expressed concern that, at current quota levels, there are too many fishermen landing red snapper to provide an acceptable level of harvest for most individual permittees, and that action to limit access in 1993 is needed to prevent an economic hardship for those individuals historically in the fishery. At the Council's request, NMFS implemented an emergency action to create a red snapper endorsement for 1993. Permitted vessel owners or operators needed to meet guidelines intended to show a historical participation in the red snapper fishery to qualify for the endorsement. Endorsement holders were allowed a vessel possession limit of 2,000 pounds (whole or gutted) of red snapper, while reef fish permittees without an endorsement were allowed 200 pounds.

The emergency rule established a criteria of demonstrating 5,000 pounds of annual red snapper landings in two of the last three years to qualify for a red snapper endorsement. It included a provision for creation of a temporary appeals board to handle disputes related to meeting the 5,000 pound red snapper landing requirement. This board was dissolved once all appeals were resolved (before February 15, 1993). Since no new endorsements will be created under this option, it will not be necessary to respecify the qualifying criteria or to re-establish the appeals board.

Allowing all vessels permitted in the reef fish fishery a 200 pound trip limit prevent wastage of incidentally caught red snapper that would die if released. It allows a bycatch allowance for vessels targeting other reef fish species, such as grouper. It also allows every permitted vessel a share of the commercial quota resource. These landings will be counted against the commercial quota. Since this is a short term option, allowing transfers of the endorsement between vessel owners is not considered appropriate. However, transfers will be allowed between vessels owned by the same person under this proposed option in order to allow continued participation in the fishery by that person in the event a vessel sinks or becomes inoperable. The Council intends to develop and submit for Secretarial action a comprehensive limited access program for red snapper, for implementation in 1994.

¹ The number of red snapper participants may be overestimated since the non-logbook permittees are Florida vessels, many of which are likely to have targeted primarily grouper.

Establishing the red snapper endorsement to the reef fish permit and allowing those vessels to harvest 2,000 pounds of red snapper per trip alleviates the hardship placed on fishermen who historically have been primarily dependent on red snapper. Red snapper are not distributed in equal abundance across the Gulf. The directed commercial fishery has been largely off the Louisiana/Texas shelf, whereas most of the permitted reef fish vessels are based in Florida ports (i.e. 69 percent). Some Florida-based vessels from the Panhandle area do fish for red snapper and will qualify for the endorsement. In 1990 and 1991 there was a proliferation of permits requested and issued after the Council proposed a moratorium on permits in July 1991. An additional 958 permits were issued after that time and before the moratorium was implemented. Likely, most of these vessels did not previously fish for reef fish, and many permits were probably obtained for speculative purposes since the Council indicated through the amendment that it would consider a limited access system for the fishery. A total of 2,214 permits are currently issued.

The requirement that all reef fish vessel permittees abide by the trip limits regardless of where the red snapper were caught will improve enforceability of the trip limit provisions. Law enforcement personnel have stated that trip limits are impractical to enforce at sea because of the difficulty of weighing fish on a rolling vessel. With this requirement, it will be unnecessary to differentiate between harvest in the EEZ and harvest elsewhere, allowing trip limits to be enforced at the dock. Reef fish fishermen who fish exclusively in state waters and do not have a federal reef fish permit will not be subject to the federal trip limits unless the states adopt compatible regulations. As of January 1, 1993, Florida requires reef fish fishermen to have a federal permit as well as a state license and restricted species endorsement in order to exceed the recreational bag limits or sell reef fish. Possible alternatives to a poundage limit might be to require that harvested red snapper be kept in a box (or boxes) of specified size that will on average store 2,000 pounds of product, or that the number of fish caught be limited (if the average weight of red snapper is 10 pounds, for example, then 200 fish would weigh 2,000 pounds on average). Both of these alternatives may also be difficult to enforce at sea, and would be less precise in controlling pounds landed per trip. A limit on the number of fish would encourage high grading.

The provision for changing trip limits under the framework procedure for setting TAC will permit adjustments in the event that the 2,000 and 200 pound limits result in too high or too low a rate of harvest. Although the framework procedure already allows the setting of trip limits, this provision emphasizes that changes can be made to both the endorsee and non-endorsee limits.

Biological Impacts: The 200 pound limit on permittees who do not qualify for a red snapper endorsement will result in increased fishing pressure on alternative species such as vermilion snapper and triggerfish, plus release mortality from red snapper over the 200 pound limit being thrown back. Based on an examination of the 1992 logbook data, a 2000/200 pound limit on whole or gutted fish is projected to result in an average of about 15,500 pounds of red snapper landed per day, and the 3.06 million pound commercial quota is expected to be filled in 197 days. Additional analysis by NMFS suggests that the quota season may be as short as 105 days. Since the capture of some of the fish will be delayed until after they have had a chance to spawn, there may be a positive impact on the spawning success of the stock. This benefit will be relatively minor, however, compared to the biological gains from maintaining the overall annual harvest at a level consistent with rebuilding the stock to the target of 20 percent SPR by the year 2009. The reduced harvest rate that will result from this action will allow NMFS an opportunity to enact a quota closure in a timely fashion to prevent a severe quota overrun. In 1992, NMFS projected the 2.04 million pound quota would be reached on February 22 and closed the commercial fishery on that date. Subsequent data revealed that commercial landings during the quota season totaled 2.53 million pounds, a 24 percent overrun. If the commercial sector exceeds its quota in 1993, subsequent allocations may have to be reduced in accordance with the provisions of the FMP.

Socioeconomic Impacts: For 1991 and 1992, the red snapper TAC has been set at 4.0 million pounds (MP) and allocated according to a 51:49 commercial/recreational ratio, or 2.04 MP commercial quota and 1.96 MP recreational allocation. The recreational fishery is controlled by a 7 fish bag limit without closure while the commercial sector closes when its quota is filled. For two consecutive years the commercial quota was reached, and the fishery closed the rest of the year. The 1992 commercial quota was filled over a very short time and the fishery closed in February 1992, although it was reopened from April 3 through May 14, 1992 under a 1,000 pound trip limit. During the regular season ex-vessel price dropped to as low as \$1.75 a pound compared to an historical level of about \$3.50 a pound. The estimated total commercial harvest for 1992 was 3.1 MP, or about 52 percent above its quota. About 2.5 MP was landed during the regular season and the rest during the extended season. Recreational harvest for 1992 is projected to reach 3.0 MP or about 58 percent above its allocation.

In a recently submitted regulatory amendment, the Council proposed to raise the 1993 TAC from 4 to 6 MP with the same commercial/recreational allocation. Approval of this action has not yet been rendered. In addition, the Council submitted an emergency action providing, among others, a red snapper endorsement for the commercial fishery with differential trip limits similar to ones proposed under this plan amendment. These actions are expected to enable fishermen to realize higher revenues from more catches due to a higher quota and from better ex-vessel prices through a longer season. This action has been implemented effective December 30, 1992. This plan amendment is related to the emergency action and does not affect the proposed TAC for 1993.

The emergency action will last 90 days but may be extended up to another 90 days. In this regard, the Council is now proposing to extend the emergency action for another 90 days. If the 1993 commercial quota is filled before the emergency action (inclusive of the extension) ends, the preferred option will entail no impacts for that year. Otherwise, this option will merely extend the emergency action for the entire year or until the quota is filled with respect to the species endorsement, trip limits, and condition for transfer of permits with endorsement.

Currently there are about 2,214 permitted reef vessels in the Gulf, with up to 819 permittees having directed or incidental catch of red snapper (see Rationale section above). Most of these permittees will not qualify for the endorsement but may continue to land red snapper not exceeding 200 pounds per trip. Endorsement application forms and pre-approval notifications were sent out last December 11. Out of a total of 251 permittees who sent in their endorsement applications, 115 (46%) have been approved and the rest initially rejected but were informed of the appeals process (NMFS, 1993). Of those rejected, a total of 55 permittees appealed for further consideration. The Endorsement Oversight Committee will meet on February 1-5, 1993 to review the appeals. If all appeals are favorably reviewed, a maximum of 170 vessels will be granted the red snapper species endorsement which allow them to land up to 2,000 pounds of red snapper per trip. The physical characteristics of these vessels and the socioeconomic characteristics of vessel owners/operators and crews of the qualifying and non-qualifying vessels are not known at this time. Such information is vital in appropriately determining the impacts of the species endorsement, the trip limits, and the condition for transfer of endorsement. In the absence of such information only the general tendencies of potential impacts may be assessed.

The species endorsement will limit the number of vessels allowed to harvest greater amounts of red snapper per trip and will likely render red snapper fishing for these vessels more profitable (relative to status quo). The 2,000 pound trip limit will act to forestall the recurrence of the 1992 derby situation, but at the same time it is likely to constrain the profitability of most larger vessels. Most adversely impacted by the endorsement are larger vessels that do not qualify for the endorsement, since they will be limited to no more than 200 pounds per trip. Such adverse impacts will be particularly severe on larger vessels that are more recent entrants and mainly designed to target red snapper. Medium size vessels with endorsement are the ones that may profit more under the situation. Many smaller

vessels without endorsement may not be adversely impacted as they can still land up to 200 pounds per trip. Smaller vessels with endorsement are likely to alter their fishing operation by taking more red snapper trips in order to avail of the opportunity for larger trip limits with fewer rivals. This is likely to happen especially at the start of the season when red snapper are relatively abundant in reef areas after a longer closed season.

The nature and extent of the economic effects of the endorsement and trip limits partly depend on the length of the red snapper season, the presence of market substitutes for red snapper, and the strength of demand. It has been roughly estimated that at a commercial quota of 3.06 MP, the 2,000/200 pound trip limit would leave the 1993 season open for 105 to 197 days (see Rationale section above), although factors such as the number and physical characteristics of the qualified vessels, relative red snapper abundance, and the change in fishing effort of those catching red snapper with or without endorsement may result in shorter or longer season than such estimate. Granting an open season of 197 days, the 1993 fishing season would extend from February 16th (per emergency action) through August 31st. This would be about the same duration as the 1991 season which closed in August and significantly longer than the 95 day season (regular plus extended) in 1992. It is likely under this condition that higher average ex-vessel price may be realized by fishermen. Historically, wholesale and ex-vessel prices for red snapper fluctuate in about the same manner (see Waters, 1992). Ex-vessel prices are generally higher in January through April. Higher prices in January and February may be due to relative scarcity of red snapper supply as partly shown in 1992 by a dramatic decrease in prices when landings surged well above historical levels for these months. Higher prices in March and April (lenten season) may be due to stronger demand. The opening of the 1993 season in mid-February will enable fishermen to take advantage of stronger demand during the lenten season. The endorsement and the trip limits would ensure that benefits from a stronger demand would not be totally negated by large landings of red snapper. Although relative to the 1992 derby situation more costs may be incurred during a lengthened season as more trips would be taken, favorable ex-vessel revenues would likely more than offset the costs incurred. A point worth noting though is that most of the described benefits would accrue to those permitted vessels with endorsement. Another point worth stressing relative to the 1993 fishing year is that out of the possible 197 day season, benefits that may be attributed to the preferred option of this plan amendment are only those generated beyond the maximum 180 day duration of the emergency action, i.e, 64 days (with a February 16 opening and December 30, 1992 effectivity of the emergency action).

The endorsement coupled with trip limits offers potential to reduce some of the major components of fishing effort, namely, the number of vessels and the fishing intensity of large vessels. On the other hand, such a set of measures could promote intensified fishing effort by small and possibly medium sized vessels. This intensified effort could particularly heighten when fishermen consider the possibility of an ITQ system that may be adopted for the fishery in 1994 or later. It is also possible that small vessel owners holding red snapper endorsements may switch to larger vessels in order to establish a larger landing history for the vessel. Such possibility of an increase in fishing effort from small vessels makes it difficult to unequivocally conclude that the preferred option would result in effort reduction. Even if one assumes that the set of measures results in effort reduction, the directed red snapper harvest industry may not be necessarily efficient as some more efficient vessels, particularly recent entrants, will not be eligible for the endorsement. The endorsement and trip limits would tend to render inefficient the operations of many vessels ineligible for species endorsement. Large vessels qualifying for endorsement will be rendered inefficient by the trip limit. Although there is an incentive for large vessel owners to switch to medium size ones, the 2-year duration of the endorsement coupled with the possibility of an ITQ system being in place would render such switch very unlikely.

There are no additional requirements on dealers so that the proposed measure will have no material effects on them. The endorsement requirement and trip limits will enable dealers to receive fresh red snapper over a longer time frame. Although they would possibly be paying more for the product, a

longer season will provide them with more windows to move their products up the marketing channel at more favorable wholesale prices. Processing costs for frozen red snapper would likely be lower when catches are spread out over a longer period. There is some possibility then that dealers and processors may benefit from the proposed measures to lengthen the red snapper season.

Under the proposed measures, consumers will face higher prices for red snapper relative to those months when there was a derby, i.e., January and February, but lower prices relative to those months when red snapper fishing in the EEZ was closed. In addition, consumers will have access to more and possibly higher quality supply of fresh red snapper over a longer period. Given such condition of higher quality supply and relatively stable, if not equal, price over several months, it appears that the cumulative annual consumer surplus would be higher under the proposed measures relative to a derby situation.

The process of setting up the species endorsement will entail additional administrative costs. In addition, the costs of those not qualifying for endorsement through the use of logbook data or Florida trip tickets could be substantial as they have to generate the necessary fish dealer documents to meet the requirement or submit appeals for consideration by the Endorsement Oversight Committee. The trip limits demand costly enforcement, particularly at-sea enforcement. Dockside enforcement can be greatly enhanced with cooperation from the dealers, but currently there is no great incentive for dealers to help enforce the landing rules although it is possible that some may be or have been enforcing landing rules. A limited experience with the 1992 trip limit on red snapper landing revealed some logbook reports indicating landings of exactly 1,000 pounds during the 1,000 pound trip limit period (Goodyear, 1992).

The species endorsement and trip limits will have beneficial socioeconomic effects on those who will qualify for the endorsement. Such effects are likely to be unequally distributed among the qualified participants, with smaller vessels being offered with better fishing and income opportunities than larger ones. These measures which are designed to lengthen the snapper season will reduce conflict and uncertainty, promote planning, and disperse the pressure on non-directed stocks (Riechers, 1992). Undoubtedly, those ineligible for the endorsement will raise the issue of fairness. A perception of unfair treatment has negative consequences on compliance and cooperation with enforcement. This would entail an undetermined increase in the cost of enforcement and other administrative costs over those discussed above.

Environmental Impacts: No impacts are anticipated on the physical environment.

Rejected Option A1: Continue the red snapper endorsement as proposed in the preferred option with the following change:

- The red snapper endorsement provision and associated trip limits will expire at midnight, December 31, 1993.

Discussion and Impacts:

Rationale: The Council is considering implementing a long term effort limitation program in the reef fish fishery and is currently targeting 1994 for enacting such a system in the red snapper fishery. If implemented when planned, there will be no need to continue the temporary provisions beyond 1993. However, the Council is proceeding cautiously with a long term program in order to assure that it is implemented in as equitable a manner as possible. In the event that a long term program is not implemented within the time planned, expiration of the provision for a red snapper endorsement is likely

to result in a red snapper derby fishery developing in 1994. The preferred option provides a time cushion for implementing the long term program. This cushion would not exist in rejected option A1.

Biological Impacts: The harvest provisions of this option are the same as for the preferred option, and the previous discussion applies to this option as well.

Socioeconomic Impacts: The impacts of this option on fishery participants are similar to those described for the preferred option. This time, however, the effects of the endorsement and trip limits will be limited to the 1993 fishing season, or approximately 64 days after the termination of the emergency action.

Environmental Impacts: No impacts are anticipated on the physical environment.

Rejected Option A2: Continue the red snapper endorsement as proposed in the preferred option with the following changes:

- The red snapper endorsement provision and associated trip limits will continue until the temporary moratorium on issuing new reef fish permits expires in May 1995 or is replaced by a more comprehensive effort limitation program.
- The trip possession limits for endorsement and non-endorsement permittees may be changed in future years under the framework procedure for specification of TAC.
- In addition to the transfer provision in Option 1, a red snapper endorsement may be transferred with the reef fish permit to another individual under the provisions of Amendment 4.

Discussion and Impacts:

Rationale: As with the preferred option, rejected option A2 would continue the provisions for a red snapper endorsement beyond 1993 if a more comprehensive effort management program is not yet in place. This time frame would be slightly longer than the preferred option, and would coincide with the time frame for the reef fish permit moratorium. This moratorium was enacted in May 1992 and can last until May 1995. Having the red snapper endorsement provision in place for as long as the permit moratorium would create stability in the effort directed specifically toward red snapper as well as the reef fish fishery as a whole for the full period that the Council has allowed itself to consider a long term solution. In addition, the endorsement may become a provision of the long-term effort management program adopted by the Council. This option would result in the endorsement program being in effect during three different fishing years. Because of this extended time frame, allowing annual adjustments to the endorsee/non-endorsee trip limits is explicitly stated. These adjustments could result from the commercial sector exceeding its quota, or failing to meet its quota, in a given season, or to changes in TAC resulting from a subsequent stock assessment. Also, because the program could be in effect for an extended time if this option is adopted, allowances for permittees to enter or leave the fishery would be made. The simplest solution would be to allow the red snapper endorsement as well as the reef fish permit to be transferred upon sale of a permitted vessel, in compliance with the provisions of Amendment 4. The Council did not feel that the additional time allowance in rejected option A2 over the preferred option would be needed to implement a more comprehensive program. In addition, provisions to allow transfer of red snapper endorsements between individuals would unnecessarily complicate a program which is intended to be short term.

In a comprehensive effort management program, measures to allow new entrants into the fishery will be needed and will be an integral part of such a program.

Biological Impacts: The harvest provisions of this option are the same as for the preferred option, and the previous discussion applies to this option as well.

Socioeconomic Impacts: The impacts of this option on fishery participants are similar to those described for the preferred option. This time, however, the effects of the endorsement and trip limits will extend beyond the 1994 fishing season if a limited entry system is not in place in 1994.

Environmental Impacts: No impacts are anticipated on the physical environment.

Rejected Option A3: Continue the red snapper endorsement as proposed in the preferred option with the following change:

- The red snapper endorsement provision and associated trip limits will continue indefinitely until replaced by a formal limited entry system.

Rationale: This option would provide the greatest flexibility in the amount of time that the Council could take to consider a comprehensive effort management program. However, without a provision to allow for new entrants into the fishery, over an extended time period this would result in a loss of effort through attrition, ultimately resulting in so few participants that industry might be unable to fill its quota. Adjustments could be made in a future plan amendment to allow new entrants if it became apparent that the red snapper endorsement would be in effect for an extended time. In addition, a red snapper endorsement might be incorporated into a more comprehensive effort limitation program. However, the Council felt that, as an intermediate solution, this provision should not be continued indefinitely.

Biological Impacts: The harvest provisions of this option are the same as for the preferred option, and the previous discussion applies to this option as well. However, if this option were to stay in place for an extended period, loss of effort through attrition would result in a reduction in the rate of harvest. If harvest levels were to fall below the commercial quota, the recovery of the red snapper stocks would occur more quickly.

Socioeconomic Impacts: The impacts of this option are similar to those discussed under the preferred option, with the duration of effects longer or shorter than that under the preferred option. It may be noted, however, that if a limited entry is not instituted before the moratorium ends in May 1995, this option will prevent the influx of fishermen harvesting over 200 pounds when the moratorium ends.

Environmental Impacts: No impacts are anticipated on the physical environment.

Rejected Option A4: Status Quo. Do not have a red snapper endorsement or trip limit restriction after the emergency rule expires. This option will not preclude establishment of a trip limit through a regulatory amendment under the provisions of the TAC framework procedure.

Rationale: The emergency action will be in effect for up to 180 days. This will provide sufficient time for all participants in the fishery an opportunity to harvest their share. It is possible that the quota will be reached before the emergency provisions expire. However, if the red snapper season opens on February 15, it will have been open for 135 days out of the maximum projected 197 days that the

season will last, and it is expected that the commercial sector will have harvested approximately 65 percent of its quota. The emergency action will expire at a time when other fisheries (shrimp, mackerel, shark) will be available, which may reduce the tendency toward a derby fishery on the remaining red snapper quota, if any. Removal of the 2,000 pound trip limit will allow large vessels to operate more efficiently for the remainder of the time that the fishery is open. It would also allow all permitted vessels unlimited access to the resource. Unless alternative fisheries of equal or higher value are available, this may create a derby fishery at the end of the season. With the Council considering implementation of a long term effort limitation program, allowing the emergency provisions to expire without replacement will reduce the number of interim regulations and allow the Council to consider implementation of a comprehensive long term solution rather than a piece-meal implementation. The Council felt that once the interim provisions provided in the emergency action are in effect, continuing these provisions until a comprehensive effort limitation program can be enacted would provide the greatest stability to the fishing industry.

Biological Impacts: In 1992, the extremely high landings in the first days of the season indicate that fishing occurred in the days prior to the season opening, with the boats landing their catch as soon as the harvest was legal. Vessels without red snapper endorsements may do the same thing in 1993 as the end of the emergency period approaches, triggering a mid-season derby. If a derby fishery develops from uncontrolled harvest, a substantial quota overrun may occur, resulting in mandatory allocation adjustments in future years to assure meeting the target SPR by the year 2009.

Socioeconomic Impacts: In principle, this option has no impacts on fishery participants; that is, any changes in the behavior of fishery participants are not caused by regulated changes in the fishing environment. Maintaining the status quo, however, means that a derby and its attendant adverse socioeconomic effects will recur in 1993 after the emergency action and in succeeding years until a limited entry is instituted.

Environmental Impacts: No impacts are anticipated on the physical environment.

B. CLOSED SEASONS

Proposed Option: Status quo. Allow the commercial fishery to remain open continuously until the quota is filled.

Rationale: The 1993 quota is expected to be taken in 105 to 197 days. Since all or most of the quota will likely be taken before a June closure could take effect, a summer closure will have little or no effect on extending the season. Allowing the season to remain open continuously for the duration of the quota will help to maintain the market.

Biological Impacts: Species that aggregate and become more vulnerable to the fishery during spawning season will have higher fishing mortality rates during spawning season than at other times of the year. However, such behavior does not appear to occur with red snapper. Indeed, red snapper appear to move away from reef structure to spawn (Bradley and Bryan 1975, Goodyear 1992). Consequently, while fishing during the spawning season will result in some fish being harvested before they have had a chance to spawn, the impact of spawning will be no greater than fishing at other times of the year. Other aspects of closed seasons are discussed above.

Socioeconomic Impacts: This option has no impacts on fishery participants.

Environmental Impacts: No impacts are anticipated on the physical environment.

Rejected Option B1: Close the commercial red snapper fishery in the Gulf of Mexico EEZ from June 1 (or date of implementation of this amendment) through August 31. If 67 percent or more of the commercial quota has been harvested prior to the closure, the closure will be extended through September 30. If 100 percent of the quota has been harvested, the closure will continue for the remainder of the fishing year.

Rationale: If the commercial quota is not filled during the first half of the year, this option will close the fishery during a period when other species are available for harvest, such as shrimp, mackerel and sharks. This will also close the season during much of the red snapper spawning season, which extends from May through September (Goodyear 1992). The red snapper fishery can then reopen later in the year. If only a small percentage of the quota remains, extending the summer closure for an additional month will delay the quota closure for as long as possible.

Biological Impacts: Literature cited in Amendment 1 indicate the spawning period extends from May through September with peaks in spawning activity in late summer, i.e., July to September period off Florida and Texas. Larger fish spawn on more than one occasion. Generally, closures during spawning periods are more effective than closures at other times of the year only if the species is more vulnerable to capture during the spawning period (e.g., spawning aggregations), or if fishing activity disrupts the spawning process. If vulnerability of the species does not change, then spawning season closures have no greater impact than closures at other times. The 1992 red snapper stock assessment (Goodyear 1992) shows the average percentage of annual landings by month for the years 1984-1990. August accounted for the highest percentage of annual landings (10 percent, while December and January accounted for the smallest percentages (about 6 percent each). The remaining months fell within a narrow range of 7 to 9 percent, indicating little change in harvest rates during these months.

Percentage of Red Snapper Annual Landings, Mean 1984-1990 Monthly Distribution

Month	Handline	Bottom	All
		Longline	Gears
Jan	5.982	8.632	6.193
Feb	8.788	9.811	8.870
Mar	6.968	12.681	7.422
Apr	8.793	13.814	9.192
May	8.934	12.718	9.235
Jun	8.157	6.581	8.032
Jul	9.599	4.850	9.221
Aug	10.330	6.975	10.063
Sep	8.497	2.423	8.014
Oct	9.470	8.090	9.361
Nov	8.183	9.384	8.278
Dec	6.299	4.040	6.119
All	100.000	100.000	100.000

Red snapper will aggregate on the reefs during closed periods, resulting in high availability during the immediate reopening of the fishery. When the 1992 season opened, the highest catches per day occurred at the beginning of the season, but decayed rapidly to rates comparable with the 1991 season (Goodyear 1992). This is likely to happen again at the start of the 1993 season, and at the reopening after a mid-season closure. During the closed period there will be some release mortality associated from fishermen targeting other species.

Although this option may allow some red snapper to spawn that would otherwise be caught before spawning, it is not expected to have any effect on reaching 20 percent SPR by the target date of 2009. Its purpose is to extend the quota season within the fishing year.

Socioeconomic Impacts: This measure will have no effects on fishery participants if the commercial quota is filled before June 1, and this will most likely be the case if there were no species endorsement with trip limits under the emergency action or as proposed in the previous options. Given the emergency action as extended by this plan amendment, the 1993 season will be open from February 16 through August 21 so that the closure as proposed here may have some impacts for the 1993

season. In very general terms, a mid-season closure can achieve greater benefits if the quota is divided between the two open sub-seasons according to some proportion that would maximize net profits to harvesters, for example, allocating a greater proportion of the quota for which demand is relatively strong, like the lanten season (Riechers, 1992). This appears to be the case under the proposed closures since the lanten season is usually associated with relatively stronger demand than the summer to fall months. However, the direction of impacts of re-opening the season in September or October is not clear. Waters (1992) examined the seasonality of red snapper landings, ex-vessel values, and ex-vessel prices. For the period 1986-1990, ex-vessel values in Florida were low from June to August and relatively high in later months mainly due to relatively higher landings in these months. In Louisiana, ex-vessel values were higher in the months of June through October than in later months due to both higher landings and prices. In Alabama and Mississippi, higher ex-vessel values occurred in two of the last seven months, i.e., in July and November, and an almost similar situation occurred in Texas with higher ex-vessel values in August and November. The scenario depicted shows the possibility that closure in the proposed months may not achieve its intended result of higher revenues from the remaining portion of the commercial quota. These numbers, however, are averages and do not necessarily reflect actual price and revenue conditions in certain localities.

Environmental Impacts: No impacts are anticipated on the physical environment.

C. ADDITIONAL REGULATORY IMPACTS

Private and Public Costs

The preparation, implementation, enforcement and monitoring of this or any federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this specific action include:

Council costs of document preparation, meetings, public hearings, and information dissemination.....	\$ 10,000
NMFS administrative costs of document preparation, meetings and review.....	\$ 7,000
Law enforcement costs.....	\$15,000
Public burden associated with permits.....	\$ none
NMFS costs associated with permits.....	\$ none
TOTAL.....	<u>\$32,000</u>

The Council and Federal costs of document preparation are based on staff time, travel, printing and any other relevant items where funds were expended directly for this specific action. Law enforcement costs (estimates not yet available) are mainly due to the trip limits. It appears likely that enforcing the endorsement and trip limits may be substantial. Although the endorsement process necessitates additional cost in issuing permits (estimates not available), the major costs will have already been incurred under the emergency action and thus could not be properly attributed to the proposed measures.

Summary of Regulatory Impacts

Extending the endorsement and trip limit rules beyond the duration of the emergency action will generate positive economic benefits relative to the derby situation but, for 1993, only if the quota is not filled before the termination of the emergency action. The proposed measure on closure which is the status quo does not have impacts on fishery participants. Total costs for preparation of this plan amendment are estimated at \$32,000.

Determination of a Major Rule

Pursuant to E.O. 12291, a regulation is considered a "major rule" if it is likely to result in: a) an annual effect on the economy of \$100 million or more; b) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed measures are not expected to have a \$100 million effect per year on the economy, since the restrictions proposed apply only to vessel catches per trip and not to total catch. It was discussed in connection with the determination of impacts of management measures that the total commercial quota will be fully taken before the end of a fishing year. In addition, the red snapper commercial fishery has a value at the ex-vessel level of only about \$9.2 million (assuming a price of \$3 per pound for a 3.06 million pound quota). Consumer price for red snapper would be relatively higher relative to the derby months of January and February, but lower relative to the months when fishing for red snapper in the EEZ was closed. In principle, red snapper price is approximated by the highest possible price for a given demand function when production is zero. Total consumer expenditures tend to increase under the proposed measures, but since red snapper is available over a longer period, consumer surplus also tends to increase under such situation. While consumer expenditures were practically nil during the time when fishing in EEZ was closed, consumer surplus was also foregone. By lengthening the season, the proposed measures would likely restore the price structure of red snapper to its historical levels and changes. There are no expected cost increases to the red snapper industry, commercial and recreational, attributable to the proposed measures. The federal government is not expected to incur any substantial increase in enforcement or in the administration of permits. The species endorsement may entail some adverse impacts on competition and innovation, but at the same time it is an initial attempt at rationalizing capitalization in the fishery. Employment and investment in the red snapper fishery may be delimited by the endorsement requirement but such restriction is necessary to match capital with the overfished level of the stock. On balance, the proposed measures are not deemed to constitute a "major rule" under any of the mentioned criteria.

Determination of Impacts on Small Entities

Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record keeping requirements. The category of small entities likely to be affected by the proposed plan amendment is that of commercial and for-hire businesses currently engaged in the reef fish fishery. The impacts of the proposed action on these entities have been discussed above. The following discussion of impacts focuses specifically on the consequences of the proposed action on the mentioned business entities. An Initial Regulatory Flexibility Analysis (IRFA) is conducted to primarily determine whether the proposed action would have

a "significant economic impact on a substantial number of small entities." In addition to analyses conducted for the Regulatory Impact Review (RIR), the IRFA provides an estimate of the number of small businesses affected, a description of the small businesses affected, and a discussion of the nature and size of the impacts.

Determination of Significant Economic Impact on a Substantial Number of Small Entities

In general, a "substantial number" of small entities is more than 20 percent of those small entities engaged in the fishery (NMFS, 1992). In 1992, a total of 2,214 permits were issued to qualifying individuals and attached to vessels, and are deemed to comprise the reef fish fishery in the U.S. Gulf of Mexico. The Small Business Administration (SBA) defines a small business in the commercial fishing activity as a firm with receipts of up to \$2.0 million annually. SBA also defines a small business in the charter boat activity as a firm with receipts up to \$3.5 million per year. Practically all current participants of the reef fish fishery readily fall within such definition of small business. Since the proposed action will affect practically all the current participants, the "substantial number" criterion in general will be met.

Economic impacts on small business entities are considered to be "significant" if the proposed action would result in any of the following: a) reduction in annual gross revenues by more than 5 percent; b) increase in total costs of production by more than 5 percent as a result of an increase in compliance costs; c) compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities; d) capital costs of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or e) as a rule of thumb, 2 percent of small business entities being forced to cease business operations (NMFS, 1992).

Individual vessels that will be disqualified from receiving a red snapper species endorsement will experience reduction in gross revenues to the extent that they have been landing red snapper exceeding 200 pounds per trip and cannot shift their effort to fish for other species. Even those vessels qualifying for the endorsement may also experience some reduction in revenues to the extent that they have been landing red snapper substantially higher than 2,000 pounds per trip and cannot shift their effort to fish for other species or significantly increase their red snapper fishing trips. On the other hand, vessels receiving the endorsement and harvesting less than 2,000 pounds per trip have the potential to increase their revenues. From an industry standpoint however, there is no expected reduction in gross revenues as specified in Item (a) since the fishing year's quota is expected to be fully taken. As pointed out in the discussion of impacts, the proposed species endorsement with trip limits would still allow the quota to be filled before the fishing year ends on December 31st. On the contrary, an increase in industry gross revenues relative to a derby situation may ensue from the endorsement/trip limit measures as relatively larger consumer expenditures and relatively higher ex-vessel prices may be effected by spreading landings over a longer fishing season.

Increases in costs as specified in Items (b) through (d) are not expected to be effected by the proposed measures. Cost of production will not increase since the proposed measures do not specifically restrict any variable input through gear restriction or closure of certain fishing areas. Compliance costs of small vessels will not be different from those of large vessels, whether or not the vessels compared qualify for the endorsement. In addition, there will be no attendant capital investment required to comply with the proposed endorsement/trip limits.

As mentioned in the discussion of impacts of management measures, a maximum of 170 vessels may be granted a red snapper species endorsement. Relative to 1992 permittees, this number is about 8 percent of total reef fish permittees, 21 percent of permittees landing red snapper, or 68 percent of permittees who applied for the endorsement. Actual percentages could fall below these numbers if

any or all of those who filed appeals are disallowed to receive the species endorsement. Clearly, those excluded from the endorsement exceed 2 percent of total reef fish permittees, or permittees with red snapper landings, or permittees who applied for the endorsement. What is unclear, however, is how many of those excluded would cease business for the purpose of determining whether the proposed measures would meet the requirement specified under Item (e). An examination of NMFS logbook data shows that in 1992 about 154 vessels out of 635 that submitted logbooks landed more than 200 pounds (landed weight) of red snapper per trip. Of the 154 vessels, 118 vessels indicated that red snapper landings comprised more than 50 percent of their total landings of reef fish. Of these 118 vessels about 12 will be seriously impacted by the proposed trip limits as they landed a total of more than 10,000 pounds of red snapper and made 4 or more trips with red snapper landings. However, it may still be concluded that they will not totally cease business because they can either catch other reef fish species or increase their trips for red snapper at a maximum of 200 pounds per trip. In addition, even if red snapper fishing in the EEZ is closed they can continue to harvest red snapper in those state waters where harvest is still allowed.

Conclusion

The proposed measures in this plan amendment do not have a significant impact on a substantial number of small entities; therefore an IRFA is not required.

7. ENVIRONMENTAL CONSEQUENCES

The environmental effects of the fishery were discussed in Amendment 5 and are not repeated here. Only the environmental effects of the proposed and alternative options are included in this environmental assessment. In addition to the following, refer to specific discussions under each alternative.

Recent stock assessments by the Southeast Fisheries Science Center (i.e., those prepared in 1989, 1991 and 1992) documented that the directed fishery and shrimp trawl bycatch of juvenile red snapper have had important effects on the red snapper resource. Such impacts were fully analyzed in the environmental assessments prepared for recent red snapper management changes, particularly the initial 1991 and 1993 specifications and an emergency rule reopening the 1992 commercial fishery under a 1,000 pound vessel trip limit.

Extension of the trip limits and related endorsement procedure under Amendment 6 would not change the total allowable catch level or other facets of the rebuilding program. The allotment of a larger share of the limited quota to permitted boats eligible for the larger trip limit will not, in itself, significantly alter the environmental consequences of the fishery on the resource. Conversely, status quo (no trip limits) may trigger a "derby" fishery that negatively impacts the industry, and, if quota overruns occur, the resource itself.

Physical Environment

The proposed options will have no impact on the physical environment.

Fishery Resources

The proposed actions will improve management's ability to control fishing mortality exerted on the red snapper resources and will benefit the resource in the long-term. Prevention of a derby fishery may prevent short term disruptions in reef ecosystems. However, short term impacts on the resource are considered negligible.

Human Environment and Social Impact Assessment

The measures considered in this amendment are deemed not to materially alter the human environment. There is a general lack of more current socio-cultural and demographic information on the red snapper fishing participants. The information on these aspects of the fishery are contained in the original fishery plan for reef fish, and are not adequate to determine the potential social impacts of most current management actions. However, the Council has contracted out a social impact assessment study that is presently being conducted by contractors from the University of South Alabama. A thorough assessment of the social consequences of management measures on the red snapper fishery awaits the results of such a study.

Effect on Endangered Species and Marine Mammals

NOAA conducted a consultation under Section 7 of the Endangered Species Act regarding the impact of proposed Amendment 6. The consultation also reviewed related management actions of a regulatory amendment to increase the 1993 red snapper total allowable catch, an emergency interim rule to establish a red snapper endorsement with trip limits of 2,000 pounds of red snapper for permitted vessels with an endorsement and 200 pounds for other permitted vessels, and an emergency rule to delay the opening of the 1993 commercial red snapper season until February 16 (or an alternate date with the concurrence of the Council). A biological opinion resulting from that consultation found that none of the proposed actions would jeopardize the continued existence of endangered sea turtles or marine mammals or their habitat.

Effect on Wetlands

The proposed and alternative actions and the fishery have no effect on wetlands.

Conclusion

Mitigation measures related to the proposed action and fishery: No significant environmental impacts are expected; therefore, no mitigating actions are proposed.

Unavoidable adverse effects with implementation of the proposed actions and any negative net economic benefits are discussed in the Regulatory Impact Review.

Irreversible and irretrievable commitment of resources involved with government costs are ...?

Recommendation

Finding of No Significant Environmental Impact

In view of the analysis presented in this document, I have determined that the fishery and the proposed action in this amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico would not significantly affect the quality of the human environment with specific reference to the criteria contained in NDM 02-10 implementing the National Environmental Policy Act. Accordingly, the preparation of a Supplemental Environmental Impact Statement for this proposed action is not necessary.

Approved: _____ Date _____
Assistant Administrator for Fisheries

8. OTHER APPLICABLE LAW

Impact on Other Fisheries

Fishermen who do not qualify for a red snapper endorsement and larger vessels with the capability to harvest more than 2,000 pounds per trip may choose to target other species instead of, or in addition to, red snapper. Vermillion snapper and triggerfish have been mentioned as possible alternatives. The increased fishing pressure on other these other species may be further compounded by their low ex-vessel prices, relative to red snapper, forcing the fishermen to harvest larger amounts for the same economic return.

Habitat Concerns

Reef fish habitats and related concerns were described in the FMP and updated in Amendment 1.

Vessel Safety Considerations

Preventing a derby fishery will reduce the incentive to fish even under hazardous weather conditions and will result in a positive impact on vessel safety.

Coastal Zone Consistency

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 requires that all federal activities which directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The proposed changes in federal regulations governing reef fish in the EEZ of the Gulf of Mexico will make no changes in federal regulations that are inconsistent with either existing or proposed state regulations.

While it is the goal of the Council to have complementary management measures with those of the states, federal and state administrative procedures vary, and regulatory changes are unlikely to be fully instituted at the same time.

This amendment is consistent with the Coastal Zone Management programs of the states of Alabama, Florida, Louisiana, and Mississippi to the maximum extent possible; Texas does not have an approved Coastal Zone Management program. This determination has been submitted to the responsible state agencies under Section 307 of the Coastal Zone Management Act administering approved Coastal Zone Management programs in the states of Alabama, Florida, Mississippi, and Louisiana.

Paperwork Reduction Act

The purpose of the Paperwork Reduction Act is to control paperwork requirements imposed on the public by the Federal Government. The authority to manage information collection and record keeping requirements is vested with the Director of the Office of Management and record keeping requirements is vested with the Director of the Office of Management and Budget. This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications.

The paperwork burden associated with establishing the endorsement system has been approved by OMB under the emergency rule (Control No. ____). No additional paperwork or burden is associated with extension of the emergency rule for a longer period.

Federalism

The potential federalism issue in this amendment relates to the provision requiring that, as a condition of holding a reef fish permit, permitted vessel may not exceed either the 200 pound or 2,000 pound red snapper trip limit applicable to that vessel, no matter where the fish are harvested or possessed. This is a requirement under the emergency action and is an implicit part of this amendment. However, NOAA General Counsel has opined that this does not raise a valid issue of federal preemption, because even if a state continues to allow harvests above the trip limits in state waters, the violation of the trip limits by federally permitted fisherman is a violation of federal law, not a state law. In addition, the affected states have been closely involved in developing the proposed management measures and the principal state officials responsible for fisheries management in their respective states have not expressed federalism related opposition to adoption of this amendment. Therefore, preparation of a federalism assessment under Executive Order 12612 is not necessary.

9. REFERENCES

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