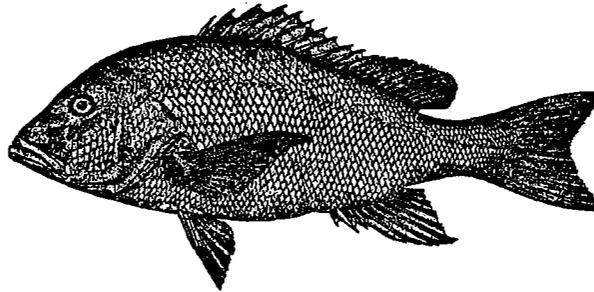


AMENDMENT 9
TO THE
REEF FISH FISHERY MANAGEMENT PLAN
FOR THE REEF FISH RESOURCES OF
THE GULF OF MEXICO
(Includes Environmental Assessment and Regulatory Impact Review)



March, 1994

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Abbreviations Used in This Document

Council	Gulf of Mexico Fishery Management Council
EEZ	Exclusive Economic Zone
FMP	Fishery Management Plan
IRFA	Initial Regulatory Flexibility Analysis
ITQ	Individual Transferable Quota
NMFS	National Marine Fisheries Service
RIR	Regulatory Impact Review
Secretary	Secretary of the Department of Commerce
SPR	Spawning Potential Ratio
TAC	Total Allowable Catch

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1. PUBLIC REVIEW

A total of 10 public hearings were held to obtain public comments on this plan amendment with one additional hearing held during the Gulf Council meeting March 16, 1994. The public comment period for this amendment ended on February 28, 1994.

Public hearings were held at the following locations during 7:00 p.m. to 10:00 p.m.:

Wednesday, January 26, 1994

Auditorium
Gulf Coast Research Laboratory
J. L. Scott Marine Education Center
and Aquarium
115 East Beach Boulevard; U.S. Highway 90
Biloxi, Mississippi
601-374-5550

Wednesday, January 26, 1994

Conference Room
Panama City Laboratory
National Marine Fisheries Service
3500 Delwood Beach Road
Panama City, Florida
904-234-6541

Thursday, January 27, 1994

Orange Beach Community Center
27301 Canal Road
Orange Beach, Alabama
205-981-6141

Thursday, January 27, 1994

Old Library
Pinellas County Cooperative
Extension Service
12175 125th Street North
Largo, Florida
813-582-2100

Tuesday, February 1, 1994

H. L. Stokely Hall
Ft. Brown Memorial Center Complex
600 International Boulevard
Brownsville, Texas
210-542-3367

Tuesday, February 1, 1994

Police Jury Annex
Courthouse Square
Cameron, Louisiana
318-775-5718

Wednesday, February 2, 1994

Visitor's Center Auditorium
University of Texas
Marine Science Institute
750 Channel View Drive
Port Aransas, Texas
512-749-6729

Wednesday, February 2, 1994

Versailles Room
Larose Regional Park
307 East 5th Street
Larose, Louisiana
504-693-7355

Thursday, February 3, 1994

Ballroom South
Holiday Inn on the Beach
5002 Seawall Boulevard
Galveston, Texas
409-740-3581

Thursday, February 3, 1994

Boothville Community Center
Highway 23
Boothville, Louisiana
504-657-7202

2. LIST OF AGENCIES AND PERSONS CONSULTED

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

Coastal Zone Management Programs: Louisiana
Mississippi
Alabama
Florida

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

3. LIST OF PREPARERS

Gulf of Mexico Fishery Management Council
- Steven Atran, Statistician/Biologist
- Antonio Lamberte, Economist

4. HISTORY OF MANAGEMENT

The Reef Fish Fishery Management Plan (FMP) was implemented in November 1984, and established a 13 inch minimum size limit for red snapper, an inshore stressed area with gear restrictions, and data reporting requirements for the reef fish fishery.

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. Consequently, just recently has quantitative assessment of the population levels of major reef fish species been possible. 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 potential ratio (SPR). The 1988 assessment also identified shrimp trawl bycatch as a significant source of mortality.

In November, 1989, the National Marine Fisheries Service (NMFS) announced a control date, stating that anyone entering the commercial reef fish fishery in the Gulf of Mexico and South Atlantic after November 1, 1989, may not be assured of future access to the reef fish fishery if a management regime is developed and implemented that limits the number of participants in the fishery. The purpose of this announcement was to establish a public awareness of potential eligibility criteria for future access to the reef fish resource, and does not prevent any other date for eligibility or other method for controlling fishing effort from being proposed and implemented. (Note: The Federal Register notice was published on November 7, 1989, and the effective control date therefore is November 7, 1989.)

Amendment 1, implemented in January, 1990, set a 7 fish recreational bag limit and a 3.1 million pound commercial quota for red snapper. It 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. This amendment also implemented a framework procedure to allow for annual management changes and set a recovery goal for overfished reef fish stocks of 20 percent spawning potential ratio (SPR) by the year 2000.

Amendment 2, implemented in 1990, prohibited the harvest of jewfish. The provisions of this amendment were initially implemented by emergency rule.

Amendment 3, implemented in July 1991, allowed the target date for rebuilding an overfished stock to be changed depending on changes in scientific advice, except that the rebuilding period cannot exceed 1.5 times the generation time of the species under consideration. 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 1991 red snapper Total Allowable Catch (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). The 2.04 million pound red snapper quota was reached on August 24, 1991, and the fishery was closed to further commercial harvest in the Exclusive Economic Zone (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 commercial 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. Although this emergency rule resulted in a quota overrun of approximately 600,000 pounds, analysis by NMFS biologists determined that this one time overrun would not prevent the red snapper stock from attaining its target SPR in the prescribed period.

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 individual who is the income qualifier 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 to allow more time for preparation of stock assessments and included additional species in the reef fish management unit.

Amendment 5, implemented in January, 1994, established additional restrictions on the use of fish traps in the Gulf of Mexico EEZ, created a non-transferable (but see amendment 7) fish trap endorsement and set a three year moratorium for new entrants to the fish trap fishery, created a special management zone off the Alabama coast where gear may be restricted, established a framework procedure for creating future special management zones, required that all finfish except for oceanic migratory species and bait be landed with head and fins attached, raised the red snapper minimum size limit to 14 inches in 1994 and then gradually to 16 inches over a period of five years, and prohibited all fishing on a mutton snapper aggregation at Riley's Hump near Dry Tortugas during May and June of each year.

The 1993 red snapper TAC was set by a Regulatory Amendment 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). This amendment also changed the target year to achieve a 20 percent SPR from 2007 to 2009, based on the framework provision that the rebuilding period may be for a time span not exceeding 1.5 times the potential generation time of the stock and an estimated red snapper generation time of 13 years (Goodyear 1992).

An Emergency Rule effective December 30, 1992 created a red snapper endorsement to the reef fish permit for the start of the 1993 season. 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. For the duration of the emergency rule, permitted vessels with red snapper endorsements were allowed a 2,000 pound possession limit of red snapper, and permitted vessels without the endorsement were allowed 200 pounds of red snapper. The emergency rule permitted transfer of the red snapper endorsement to another vessel owned by the income qualifier but not to another individual. Furthermore, all federal reef fish vessel permit holders were required to agree to abide by the red snapper trip limits regardless of where the fish are caught. This emergency action was initially effective for 90 days, and was extended for an additional 90 days with the concurrence of NMFS and the Council. 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. The commercial red snapper fishery opened on February 16 under the endorsement system, and the 3.06 million pound quota was filled and the season closed on May 21. *Note: A legal challenge to the red snapper endorsement emergency rule was filed in U.S. District Court, Corpus Christi, Texas on January 21, 1993. The outcome of this challenge has not been determined as of the writing of this draft.*

Amendment 6, implemented in June, 1993, extended the provisions of the red snapper endorsement emergency rule for the remainder of 1993 and 1994, unless replaced sooner by a comprehensive effort limitation program. In addition, it allows the trip limits for endorsed and non-endorsed permitted vessels to be changed under the framework procedure for specification of TAC.

A regulatory amendment for the 1994 red snapper season defined the red snapper trip limits as daily landing limits as well as at sea possession limits. It made it a violation for a dealer to buy or attempt to buy more than one trip limit per day from a fisherman, and for a fisherman to sell or attempt to sell more than one trip limit per day. It also delayed the opening of the 1994 commercial red snapper season until February 10, 1994.

Amendment 7, implemented in February, 1994, established a federal reef fish dealer permit (beginning April 1, 1994) and dealer record keeping requirements, allowed transferability of fish trap endorsements and permits between immediate family members, allowed the temporary or permanent transfer of a red snapper endorsement to any person upon death or disability of the permit/endorsement holder, and allowed the temporary or permanent transfer of a reef fish permit to any person upon death or disability of the vessel owner.

Proposed Amendment 8 (in preparation) proposes to establish a comprehensive effort management system for the commercial red snapper fishery, based on either license limitation or individual transferable quotas. The purpose of this proposal is to restore stability to the commercial fishery and eliminate the derby effect, and to provide for long-term cost effective and enforceable management of the fishery in a manner which promotes flexibility for fishermen in their fishing operations and optimizes the net benefits from the fishery. Because of the complexity of effort management and unfamiliarity with this type of management by the fishing industry in the Gulf of Mexico, the Council has decided to adopt a slow track schedule in order to gather more information and hold additional workshops. This amendment (Amendment 9) is part of the additional information gathering program. Implementation of a red snapper effort management system, if adopted, is expected to occur in 1996.

5. PURPOSE AND NEED FOR ACTION

The Council is considering implementation of an effort management system for the commercial red snapper fishery. Section 303 of the Magnuson Fishery Conservation and Management Act states that fishery management plans may establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such a system, the Council and Secretary take into account:

- (A) present participation in the fishery,
- (B) historical practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery, and
- (F) any other relevant considerations.

If a system to limit access to the red snapper fishery is established, the Council will use the baseline years of 1990, 1991 and 1992 to establish historical dependence on the fishery. These years were selected because 1990 was the first year that the commercial permit and reef fish logbook system was implemented, and 1992 was the last year that the directed red snapper fishery was open to all permitted reef fish vessels, prior to implementation of the interim red snapper endorsement system. However, during these years, logbooks were not required of all reef fish fishermen or for all months. Logbook records can be supplemented by Florida trip ticket records for fishermen who landed their catch in Florida, but fishermen will need to provide fish house receipts to document landings that

were neither in the federal logbook nor Florida trip ticket system. In addition, historical captains who are not income qualifiers may be included in an initial allocation of fishing privileges under alternatives being considered by the Council. In public hearings and advisory panel meetings, fishermen have indicated that, without knowing their initial share, they are unable to know whether they support or oppose the proposed effort management measures. Having a summary of this information available to the Council prior to final action on effort management will also allow the Council to better assess the impact of the proposed measures on the red snapper industry. In order to collect this information before taking final action on effort management, a separate plan Amendment is needed to implement a data collection program for vessel owners, vessel operators who are income qualifiers for reef fish permits and historical captains.

The reef fish permit moratorium was implemented for a three year period from May, 1992 to May, 1995. The red snapper endorsement system was implemented for the 1993 and 1994 fishing seasons. When these measures were implemented, the Council anticipated that any effort management plan which is adopted would be in place by 1995. However, in September, 1993, the Council decided to adopt a slow track approach to establishing a red snapper effort management system in order to provide additional time to collect more information and allow more public input. Implementation of a red snapper effort management system will now occur no sooner than 1996. If the red snapper endorsement system expires before implementation of a long term effort management system, directed landings of red snapper will be allowed by any vessel with a reef fish permit. If both the red snapper endorsement system and the permit moratorium expire, directed red snapper landings will be opened to all holders of existing permits plus new entrants who qualify for and purchase a newly issued permit. This increase in fishing effort could create short term disruptions in the red snapper industry, and may result in a larger pool of initial allocations if the Council chooses an allocation criteria consisting of all permit holders. To maintain stability during the interim period, an extension of these systems or of at least the red snapper endorsement system may be needed.

6. PROBLEMS REQUIRING A PLAN AMENDMENT

- The original Reef Fish FMP set an objective to establish a fishery reporting system for monitoring the reef fish fishery. However, evaluation and implementation of a red snapper effort management system will require additional information which was not collected by the existing reporting system.
- Fishermen and managers will be unable to assess the impact of the proposed effort management alternatives in Amendment 8 on individual fishermen unless a system for reporting historical landings data is established and preliminary allocation estimates are made prior to making a final decision on Amendment 8 (the red snapper effort management amendment),
- The existing reef fish permit moratorium will expire in May 1995. The red snapper endorsement system will expire at the end of 1994. Development of a red snapper effort management system will not be completed before the moratorium and endorsement systems expire. If fishermen who are not current permit holders feel that there is a benefit to obtaining a reef fish permit, either for inclusion in the red snapper system or for insurance against future effort management systems for other reef fish species, there could be a resulting increase in the number of permits issued and the number of fishermen landing red snapper, which could create instability in the fishery and a reduction in net economic benefits due to overcapitalization.

7. PROPOSED ACTIONS

This amendment proposes to:

- a) Establish a system to collect the historical red snapper landings data needed to evaluate red snapper effort management alternatives and to qualify individuals for initial shares.
- b) Extend the time period for the reef fish permit moratorium until January 1996 unless replaced sooner by a red snapper effort management system.
- c) Extend the time period for the red snapper endorsement system until January 1996 unless replaced sooner by a red snapper effort management system.

8. COLLECTION OF HISTORICAL COMMERCIAL LANDINGS DATA ON RED SNAPPER

8.1. Permitted Vessels

Proposed Alternative: NMFS shall collect and compile commercial red snapper landings data for the years 1990, 1991 and 1992 for vessels by owner and, in the case of permitted vessels for which the permit was based on the earned income qualification of an operator, by such operator of vessels that were operating in the commercial red snapper fishery and had red snapper landings in any of the years 1990, 1991, and 1992, whether such persons are currently owners or income-qualifying operators of permitted vessels or not. These landings data will serve as the basis for an initial red snapper Individual Transferable Quota (ITQ) or limited license allocation, if such a system is implemented.

- a) For those vessels which submitted logbooks, only the logbook landings that were received by the appropriate cutoff dates will be considered for the months in which a logbook was required to be submitted or was voluntarily submitted.¹
- b) In the absence of logbook records, for those vessels landing red snapper in Florida, only Florida trip tickets will be considered for landings in Florida.¹
- c) For landings where neither of the above criteria apply, the owner or operator of the vessel whose income was used to qualify the vessel for the permit, shall provide NMFS with documentation of red snapper landings in accordance with the criteria used for the red snapper endorsement.

¹ NMFS logbook landings records and Florida trip ticket data are on computer files of the National Marine Fisheries Service and Florida Department of Environmental Protection respectively, and persons affected do not have to submit duplicate copies of these records. However, fishermen will be given printouts of their records on file and have an opportunity to submit records they believe were omitted. Any such additional submissions are subject to verification. Note: logbook records that were not submitted when required cannot be submitted at this time. For additional data collection criteria, refer to the box on page 8.

Discussion: This alternative directs NMFS to collect the baseline information needed to determine initial quota shares (if an ITQ system is implemented) or initial allocations of red snapper licenses (if a license limitation system is implemented). The range of information to be collected is broad enough to cover all alternatives in proposed Amendment 8 except those pertaining to historical captains who are not income qualifiers. The collection of additional information needed to consider historical captains is considered in the next subsection. Collection of landings data from all fishermen with red snapper landings during the qualifying period whether currently permitted or not would accommodate fishermen who left the reef fish fishery after 1992 but still wish to be part of an initial allocation process. This would also accommodate fishermen who never obtained a reef fish permit but who harvested red snapper during the periods in 1990 and 1992 when reef fish could be legally harvested without a permit. For fishermen who submitted logbook records or landed their catch in Florida, NMFS logbook landings data and Florida trip ticket data are kept on file by the respective agencies, and these landings do not need to be resubmitted by fishermen. Documentation of landings of red snapper that were not recorded under either of those systems will need to be submitted by fishermen to be counted in the allocation process. Landings submissions will follow the same criteria that was used for the red snapper endorsements. Prior to final action by the Council on red snapper effort management, fishermen who submit records will be notified by NMFS of what their initial shares or license limitation status would be under the preferred alternatives of Amendment 8.

The following is from the NMFS criteria for obtaining a red snapper endorsement on a reef fish permit:

Landings will be calculated as whole or eviscerated weight, as indicated on the documentation. If not indicated, eviscerated weight will be assumed.

Landings data will not be accepted for a period during which the harvesting vessel did not have a vessel permit, provided a permit was required during such period. Permits were not required from January 1 through April 22, 1990, and January 1 through 31, 1992. All documentation of landings of red snapper are subject to verification by comparison with state, federal and other records.

Landings data will not be accepted for a period during which the commercial red snapper fishery in the EEZ was closed. The commercial red snapper fishery was closed from August 24 through December 31, 1991; from February 22 through April 2, 1992; and from May 15 through December 31, 1992.

Landings of red snapper documented by NMFS vessel logbooks and received by the Science and Research Director prior to September 16, 1992, are conclusive as to red snapper landed during the months that such logbooks were required of or voluntarily submitted by a vessel -- landings data from other sources will not be considered for such months. In the absence of landings data from NMFS vessel logbooks, landings of red snapper documented by Florida through its trip ticket system and received by the State prior to September 16, 1992, are conclusive as to landings in Florida -- landings data from other sources will not be considered for landings in Florida.

Documentation of red snapper landings not covered by NMFS vessel logbooks or the Florida trip ticket system may consist of copies of trip receipts that show dates and amounts of landings of red snapper. Trip receipts must definitively show the species, red snapper, and the vessel's name or other traceable indication of the harvesting vessel.

Documentation may also consist of dealer records that show dates and amounts of landings of red snapper. As with trip receipts, dealer records must definitively show the species, red snapper, and the vessel's name or other traceable indication of the harvesting vessel. Dealer records must contain a sworn affidavit by the dealer confirming the accuracy and authenticity of the records. A sworn affidavit is an official written statement wherein the individual signing the affidavit affirms that the information presented is accurate and can be substantiated, under penalty of law.

Documentation by a combination of trip receipts and dealer records is acceptable, but care must be exercised not to double count any landings. Errors and oversights of this type may cause delays in processing the application and/or rejection.

Amendment 9 provides the only opportunity for individuals to submit landings data. Therefore, anyone wishing to participate in the initial allocation of ITQ or limited licenses must submit all requested landings data.

Some fishermen have expressed concern that some individuals may attempt to submit false landings records. Persons who submit false landings records will be prosecuted and may be disqualified from receiving an initial ITQ share or limited license. If an effort management system is implemented under Amendment 8, appeals will be handled under the appeal procedure to be determined in that amendment. Appeals will not be considered at this stage because this is intended to be data collection only for purposes of evaluation; no allocations will actually be made at this time.

Biological Impacts: This alternative involves only the collection of previous landings data, and has no biological impacts.

Socioeconomic Impacts: This alternative affords the Council a more accurate set of data for purposes of designing alternatives for allocating fishing privileges. It would also allow the fishermen to determine their most likely level of participation in the fishery if a limited access system is adopted for the fishery. Moreover, this alternative will provide information on the change in the fishery participants since the implementation of more restrictive regulations on the reef fish fishery. (See Section 11 for more detailed discussion of impacts).

Rejected Alternative 1: NMFS shall collect commercial red snapper landings as stated in the preferred alternative, but shall compile landings data only for the two highest landings years of each person for whom 1990-1992 landings are being compiled.

Discussion: This alternative is nearly identical to the Proposed Alternative except that fishermen would be asked to submit landings data compiled only for the two highest landings years of each permitted vessel. The purpose of this alternative is to reduce the reporting burden on fishermen. This would provide enough information to implement any of the Amendment 8 license limitation alternatives (section 10.1 in Amendment 8) or the preferred alternatives for "Eligibility Criteria for Initial ITQ Allocation" 11.2.3) and "Initial Apportionment of ITQ Shares" (section 11.2 in Amendment 8). However, other Amendment 8 alternatives for ITQ allocation require information from all three years and could not be implemented with only the information collected under this alternative. In addition, since landings data will be collected from three sources (NMFS logbooks, Florida trip tickets and fishermen's receipts), a determination of a fisherman's total landings history for a given year cannot be made until landings data from all three sources are combined into a single database. As a result, it is possible that a year for which a fisherman does not to submit landings records is one which would have been one of his top two years after his landings records were combined with the NMFS logbook and Florida trip ticket data on file.

Biological Impacts: This alternative involves only the collection of previous landings data, and has no biological impacts.

Socioeconomic Impacts: This alternative has about the same effects as the Proposed Alternative, but the information provided by the fishermen will not be as much as that under the Proposed Alternative. The cost to NMFS and fishermen under this alternative does not probably differ substantially from that under the Proposed Alternative, but the likely benefits are probably less due to the limited data that will be provided by the fishermen. (See Section 11 for more detailed discussion of impacts).

Rejected Alternative 2: NMFS shall collect and compile commercial red snapper landings data for the years 1990, 1991 and 1992 for vessels by owner and, in the case of permitted vessels for which the permit was based on the earned income qualification of an operator, by such operator where the person is the owner or operator who is the income qualifier of a currently permitted vessel and had red snapper landings in any of the years 1990, 1991, and 1992

Discussion: This alternative is similar to the Proposed Alternative but would limit the number of persons for whom vessel landings data is compiled to those that had red snapper landings during the qualifying period of 1990 to 1992, but are permitted in 1994. The number of additional persons included by this alternative is not known. At the time that this amendment is being written, proposed Amendment 8 does not contain any alternatives that would allow persons who are not associated with a permitted reef fish vessel at the time of the initial allocation (January 1996, or whenever the allocation is actually made) to obtain an initial share. However, the proposed alternative provides the Council with a larger database and greater flexibility to consider initial allocation criteria under the red snapper effort management amendment.

Biological Impacts: This alternative involves only the collection of previous landings data, and has no biological impacts.

Socioeconomic Impacts: The nature of effects of this alternative is similar to that of the Proposed Alternative. The major difference will be in terms of less information collected but also at a potentially lesser cost. Whether the net positive effect of this option is larger than that of the Proposed Alternative depends on the extent to which information about fishermen and vessels with red snapper landings in the period 1990-1992 will be helpful in decisions relative to the initial assignment of fishing rights under a limited access system. (See Section 11 for more detailed discussion of impacts).

Rejected Alternative 3: No Action - Do not compile commercial red snapper landings records.

Discussion: If landings records are not collected prior to final action being taken on Amendment 8, the Council and NMFS will need to take action based on estimates of the impact of their decision rather than actual numbers. Similarly, fishermen would need to make a decision on limited access alternatives without knowing what their potential ITQ share or license allocation would be. Data collection will become part of the implementation of Amendment 8 rather than being done beforehand. Data collection and verification is a time consuming process, and may delay final implementation of a red snapper effort management system beyond the currently targeted date of January 1996. However, if no red snapper effort management system is implemented, this alternative will prevent a needless paperwork burden from having been imposed on commercial fishermen and on NMFS.

Biological Impacts: This alternative has no biological impacts.

Socioeconomic Impacts: In principle, this alternative has no socioeconomic impacts. In the event, however, that a limited access system is adopted, the basic information to be collected would have to be generated later in conjunction with the consideration of such limited access system. Under this situation, this alternative would appear inferior to any of the data collection options. If, on the other hand, a limited access system were not adopted, this alternative would prevent the expending of costs associated with the data collection unless such decision not to adopt a limited access system depended crucially on the data generated by the other alternatives.

8.2. Historical Captains²

Proposed Alternative: Require that historical captains (1) provide documentation of red snapper landings during the period of his operation as a historical captain,, (2) identify the vessel(s) and period of time when they operated with the share agreement, (3) provide statements signed by each vessel owner with whom they had a share agreement attesting to the share agreement and acknowledging that the captain determined shares/payment to the crew or, if unable to obtain any such statement, an explanation of why such statement cannot be obtained and documentation of the agreement and its terms, (4) submit income tax forms from 1989 through 1993 to verify that they meet the 50 percent earned income criterion for each of those years, and (5) submit at least one red snapper landing record from prior to the control date of November 7, 1989.

Discussion: Proposed Amendment 8 contains allocation alternatives which, if adopted, would include historical captains in the initial allocation process. It is therefore necessary to ascertain which vessel a historical captain operated and what his share agreement was with the owner so that both historical captain and owner can receive the appropriate credit for that vessel's landings in the allocation process. Since historical captains who are not income qualifiers are not named on the vessel permit, another means of identifying them is needed. This alternative would require historical captains to substantiate their claims by submitting proof for both red snapper landings and for meeting the historical captain criteria. The requirement that captains control the shares/payment of the crew is included as evidence that the captains are independent contractors and not employees of the vessel owner. In public testimony, the requirement for a signed statement from vessel owners stating the terms of the share agreement met with resistance from some owners, who stated that they would refuse to sign such a statement. Under this situation, historical captains would be allowed to submit alternative documentation of the share agreement. Although this alternative would result in duplicate landings records being submitted by historical operators and vessel owners, it would make it more difficult for false claims to be submitted.

Biological Impacts: This alternative involves only the collection of information on previous participation in the red snapper fishery, and has no biological impacts.

Socioeconomic Impacts: This alternative will provide the necessary data about historical captains that will be used for allocating fishing privileges in the event that a limited access system is adopted and historical captains are eligible to receive fishing privileges apart from the vessel owners. Such information is vital in the Council's decision to include historical captains among those eligible to receive fishing privileges as well as in its decision to allocate the amount of fishing privileges to those captains.

² Historical captains were defined by an Ad Hoc Allocation AP that met in October 1993 as: captains operating continuously in the red snapper fishery under a verbal or written share agreement with an owner to lease a vessel from prior to the control date of November 7, 1989 set for reef fish who have landed at least 5,000 pounds of red snapper per year in two of the three years 1990, 1991, and 1992 and who can meet the requirement that more than 50 percent of earned income came from commercial fishing, that is, sale of the catch, for each year from the year of the control date (1989) to present. The agreement must provide that the captain is responsible for hiring the crew and paying them from his share.

Rejected Alternative 1: Require that historical captains identify the vessels upon which they served as captain during 1990, 1991, and 1992, the share agreement(s) that existed with vessel owners, and a notarized affidavit that they meet the qualifications² for a historical captain.

Discussion: Since the alternatives in the previous section provide means to collect all relevant landings data for each vessel whose landings are to be considered in the initial allocation process, this alternative does not require duplicate records from historical captains. However, since historical captains who are not income qualifiers are not named on the vessel permit, another means of identifying them is needed. Under this alternative, historical captains would not have to submit proof of their status, but would need to provide a notarized affidavit. Historical captains who submit false claims would be subject to prosecution.

Biological Impacts: This alternative involves only the collection of information on previous participation in the red snapper fishery, and has no biological impacts.

Socioeconomic Impacts: This alternative has similar effects to the Proposed Alternative, but it does not provide the Council with the means to readily verify the information submitted by historical captains.

Rejected Alternative 2: No Action - Do not require historical captains to submit records of landings or share agreements or identify vessels.

Discussion: If an initial allocation process is adopted in Amendment 8 that includes historical captains and the information needed to identify historical captains has not been previously collected, it will be necessary to collect the information before implementation of red snapper effort management can be completed. This could delay the final implementation. However, if no red snapper effort management system is implemented, this alternative will prevent a needless paperwork burden from being imposed on commercial fishermen and on NMFS.

Biological Impacts: This alternative has no biological impacts.

Socioeconomic Impacts: In principle, this alternative has no impacts of fishing participants. In the event, however, that a limited access system is adopted, the basic information to be collected would have to be generated before full implementation.

9. EXTENSION OF REEF FISH PERMIT MORATORIUM

Proposed Alternative: Terminate the moratorium upon implementation of a red snapper effort management system, but no later than January 1996.

Discussion: This alternative will extend the reef fish permit moratorium for an additional seven months, and terminate it coincident with implementation of a red snapper effort management system. If a red snapper effort management system is not implemented, or if implementation is delayed beyond January 1996, this would still terminate the moratorium at that time. The Council selected this as its Proposed Alternative because it felt that it would be beneficial to prevent speculative entry anywhere in the reef fish fishery prior to establishing a red snapper effort management system, but that once the red snapper effort management system was implemented, given that there is no current consideration being given to limiting access in other

reef fish fisheries, there was no benefit to continuing the moratorium. It is the intent of the Council to select and implement a long term red snapper effort management system before the reef fish permit moratorium endorsement system expires.

Biological Impacts: The moratorium helps to prevent speculative entry and stabilize effort and fishing mortality in the reef fish fishery. In addition, a moratorium extension may benefit the grouper fishery, which nearly filled its shallow-water quota in 1993, and could see additional fishing pressure from shark longliners who switch to grouper once the shark quota is reached. However, while the moratorium is in place, newcomers wishing to enter the reef fish fishery will find it difficult to enter the fishery. Consequently, the experience and efficiency of permitted fishermen can be expected to increase, which may lead to an increase in harvest rates even if the number of fishermen does not increase.

Socioeconomic Impacts: This alternative will effectively extend the moratorium from May 1995 through December 1995, at the latest. If a limited access system is implemented by January 1996, as currently planned, this alternative will have minimal impacts on the red snapper fishery, mainly because this fishery usually closes around May. If no limited access is imposed by then, consideration of a limited access system for the red snapper fishery can still proceed in a relatively orderly manner. There is, nevertheless, some complication introduced if all "current participants" that had landings of red snapper in the period 1990-1992 are included in the limited access system since those individuals with landings in said period could re-enter the fishery once the moratorium ends and a limited access system is not yet put in place. (See Section 11 for more detailed discussion).

Rejected Alternative 1: Extend the reef fish permit moratorium for an additional:

- a. one year (to May 1996)
- b. two years (to May 1997)

Discussion: The Council has adopted a slow track schedule, and a red snapper ITQ system, if implemented, will not occur before 1996. If the Council intends for the moratorium to remain in place until the red snapper system is implemented or consider limited access systems for additional reef fish species, it is desirable to extend the reef fish permit moratorium for up to two years beyond its current May 1995 termination. This would provide time for the Council to implement and evaluate the effectiveness of limited access in the red snapper fishery. However, the Council rejected this alternative because it felt that providing an extension longer than the minimum time necessary would reduce the incentive for the Council to act in a timely manner.

Biological Impacts: Biological impacts are similar to those for the Proposed Alternative. There could be increased pressure on species other than reef fish if fishermen unable to wait the additional one to two years turn to other fisheries. A moratorium on the use of fish traps was implemented by Amendment 5 on February 7, 1994 and is scheduled to remain in effect until February 7, 1997. The fish trap moratorium will control access to the reef fish fishery by fishermen using this gear regardless of any extension of the reef fish permit moratorium.

Socioeconomic Impacts: The extension of the moratorium under this alternative, whether or not followed with a limited entry system, will allocate the benefits from utilization of the reef fish resources to permit holders. The recreational sector will also partly benefit from the extension since they will be faced with relatively less competition for the resource even though there is a

separate recreational allocation. Such recreational benefits, however, may be local in character and would be mainly in terms of less fishing competition within a given area or period.

Rejected Alternative 2: Terminate the moratorium upon implementation of the red snapper effort management system or by notice action.³

Discussion: This alternative does not have a set termination date. It will leave the moratorium in place as long as is necessary to implement a red snapper effort management system but will terminate the moratorium as soon as the red snapper system is implemented. If the Council does not feel that limited entry systems for other reef fish fisheries are needed in the near future, it may wish to terminate the moratorium when a red snapper effort management system in place, as it will no longer be necessary to use the moratorium to control effort in the red snapper fishery. The Council has requested that the Gulf states adopt regulations compatible to federal regulations in order to improve enforceability of the federal plan. Florida requires fishermen to have either a South Atlantic snapper-grouper permit or Gulf of Mexico reef fish permit to land or sell reef fish in state waters, requires a Gulf reef fish permit and red snapper endorsement to land and sell red snapper, and limits all fishermen to 2 red snapper from state waters. The Council did not adopt this alternative because it felt that a definite termination date was needed in order to give managers and fishermen a planning horizon. In addition, if the Council decides not to implement a red snapper effort management system, this alternative would leave the moratorium in place indefinitely, unless repealed by a subsequent plan amendment or by notice action (see footnote).

Biological Impacts: Termination of the moratorium while the Council is considering limited access to other reef fish species could encourage speculative entry into those fisheries, resulting in increased harvest rates and shortened quota seasons. However, fisheries for species in the reef fish management unit other than red snapper are not currently filling their quotas. A modest increase in fishing effort on these resources may not result in a great enough impact to be considered negative unless quota closures result or unless future stock assessments suggest that quota levels for these alternative species are too high.

Socioeconomic Impacts: This alternative has similar effects as the Proposed Alternative, but it could prevent the kind of complication mentioned under the Proposed Alternative if no limited access system is in place by January 1996. However, this alternative would also provide a disincentive for the Council to act in a timely manner on a red snapper effort management system.

Rejected Alternative 3: Status Quo - The Moratorium Will Expire in May 1995

³ If the Council after final hearings on draft Amendment 8 concludes that a limited access system is not appropriate for the red snapper fishery, it may request that the Regional Director terminate the moratorium (or endorsement). An analysis of the effects of ending the moratorium would need no be conducted and public testimony taken prior to a final decision by the Council. If the Regional Director concurs, that action may be taken by notice published in the Federal Register, without a proposed rule or additional public comment. In the event that the Regional Director does not concur with the request, the moratorium would continue.

Discussion: This alternative will result in the moratorium expiring approximately seven months before implementation of a red snapper effort management program if a red snapper effort management system is implemented in 1996. Even without the reef fish permit moratorium, participation in the directed red snapper fishery will remain stable while the red snapper endorsement system remains. There may be an increase in landings at the bycatch level, however, from fishermen who obtain newly issued reef fish permits to target other species. In addition, a current preferred alternative of proposed Amendment 8 is that, if an ITQ system is implemented, for the first 18 months transfer of ITQ shares will be limited to those who met the eligibility requirements to receive a red snapper ITQ share at the start of the program. Depending on which eligibility alternative is implemented, this may include the owner or income qualifying operator of a permitted reef fish vessel regardless of red snapper landings history. If the moratorium expires before the start of the ITQ system, if implemented, there will be no impact on the initial allocation to fishermen with red snapper landings histories, but there will be an opportunity for fishermen who are not currently in the red snapper fishery to obtain vessel permits in order to establish eligibility to enter the fishery during the first 18 months by purchasing shares from the original participants. The Council rejected this alternative because it felt that there were significant benefits to maintaining stability in the reef fish fishery by continuing the moratorium until a red snapper effort management system is implemented.

Biological Impacts: If the red snapper directed fishery continues to be constrained by the red snapper endorsement, there will be no substantial impact on the red snapper resource, although there may be some increase in landings at the bycatch level from fishermen who obtain reef fish permits to target other species. Fishing pressure on reef fish other than red snapper may increase due to the increased number of reef fish permits that will be issued. In particular, the grouper longline fishery saw a small increase in effort in 1993 when the shark quota was filled and fishermen with both shark and reef fish permits switched to the grouper fishery. Once the reef fish permit moratorium expires, additional shark longliners will be able to switch to targeting grouper, resulting in increased harvest rates.

Socioeconomic Impacts: In principle, this alternative has no impacts on fishery participants. If the red snapper limited access program is implemented by 1996 as planned, this alternative has virtually no impacts on this fishery over the long-run although the kind of complications mentioned under the Preferred Alternative will worsen under this alternative. We may note, however, that other reef fish fisheries may experience an increase in the number of participants over the long-run. While such increased participation can alleviate the social conditions of fishermen displaced from the reef fish fishery due to the moratorium or from other fisheries due to restrictive regulations, it would mainly heighten the level of capitalization in these fisheries. This could render the fishery more economically inefficient unless an effort limitation program is adopted for such fisheries. (See Section 11 for more detailed discussions).

10. EXTENSION OF RED SNAPPER ENDORSEMENT SYSTEM

Proposed Alternative: Continue the red snapper endorsement and associated trip limit provisions until midnight, December 31, 1995 unless replaced sooner by a more comprehensive effort management program.

Discussion: Under the existing red snapper endorsement system, permitted vessels with the red snapper endorsement are limited to a trip limit which the Council has determined to be adequate

for the directed red snapper fishery, while permitted vessels without the endorsement are limited to a smaller trip limit which serves as a bycatch allowance. For 1993 and 1994, these trip limits were set at 2,000 pounds and 200 pounds respectively. In addition, beginning in 1994, the trip limit is both a daily landing limit and a possession limit. The trip limits for endorsement holders and non-endorsement holders can be changed through the FMP's framework procedure for setting TAC. Although framework measures can be implemented at any time, changes to trip limits and other framework measures for reef fish are typically taken under consideration by the Council at its September meetings for implementation in the following season.

Transfer of a permit with the red snapper endorsement is allowed only to another vessel owned by the qualifying permit holder, except that a red snapper endorsement may be temporarily or permanently transferred upon death or disability of the person who qualified for the endorsement.. Transfer of permits without the red snapper endorsement is as provided by the reef fish permit moratorium provisions of Amendment 4.

The red snapper endorsement provision and associated trip limits will expire at midnight, December 31, 1995. A more comprehensive red snapper effort management system, if implemented, will not take effect any sooner than January 1996. If the endorsement system is allowed to expire, the 1995 commercial red snapper season will proceed under the framework provisions of the Reef Fish FMP, which are a quota, a 14 inch size limit (unless changed by framework action) plus any other framework provisions that the Council and NMFS may implement by regulatory amendment prior to the 1995 season, i.e., trip limits, closed seasons, closed areas, or gear restrictions. It is the intent of the Council to select and implement a long term red snapper effort management system before the endorsement system expires.

Biological Impacts: During the 1992 regular red snapper season (January 1 to February 22), with no trip limits in place, total commercial landings of red snapper averaged 48 thousand pounds per day. During the emergency season (April 3 to May 14), with a 1,000 pound trip limit applied to all reef fish vessels, total landings averaged 14 thousand pounds per day. In 1993, under the red snapper endorsement and two tier trip limit system, total landings averaged 34 thousand pounds per day. Thus, the endorsement system with the 2,000/200 pound trip limits resulted in a harvest rate that was 29 percent slower than unrestricted access, but 47 percent faster than the uniform 1,000 pound trip limit. If the endorsement system is continued for another year using the same trip limits, the rate of harvest should be a little higher than in 1993, due to the stock recovery program.

Socioeconomic Impacts: This alternative may be expected to partially arrest the re-occurrence of the derby system in the red snapper fishery that would likely ensue under the no action alternative. (See Section 11 for more detailed discussions).

Rejected Alternative 1: 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 or until terminated by notice action.

Discussion: The earliest that a red snapper effort management program can be implemented is January 1996. However, the Council has previously delayed implementation to allow more time for public input and information gathering. and additional delays could push the implementation date back further. Rather than continually amending the FMP to extend the termination date for

the endorsement system, it may be preferable to leave the endorsement system in place until the long-term program is in place. Since the existing system allows limited transferability of the endorsements (between vessels of the same owner and to others upon death or disability of the endorsement holder), effort in the red snapper commercial fishery should remain fairly constant. If the Council decides not to implement a red snapper effort management system, this alternative would allow termination of the endorsement system by notice action (see footnote 3). The Council rejected this alternative because it felt that extending the endorsement system for an indefinite time period would provide a disincentive to implement the red snapper effort management system in a timely manner.

Biological Impacts: Biological impacts are the same as for the Proposed Alternative.

Socioeconomic Impacts: The impacts of this alternative are similar to those of the Proposed Alternative, with the duration of effects being longer or shorter. If a limited access system becomes in place in the 1996 season, as currently planned, this alternative will be the same as the Proposed Alternative.

Rejected Alternative 2: No Action - The red snapper endorsement system is terminated in 1994.

Discussion: Under this alternative, red snapper management would revert to only the framework provisions beginning in 1995, until replaced by a comprehensive effort management program. All permitted reef fish vessels would be subject to the same trip limits or other framework measures regardless of their red snapper landings history. As indicated in the discussion for the preferred alternative, single trip limits can be effective in extending the season if they are set at limits below the current 2,000 pound directed harvest trip limit. This alternative would open up the directed red snapper fishery to all permitted reef fish vessels. There are approximately 1,800 permitted reef fish vessels in the Gulf (as of February 1994), and that number may increase once the permit moratorium expires. Many of these vessels are west Gulf grouper vessels that do not target red snapper. However, directed red snapper fishing effort will likely increase from vessels that are displaced from other fisheries by quota closures or other restrictions, and by reentry into the fishery of vessels that previously had substantial red snapper landings but were unable to meet the endorsement criteria of 5,000 pounds in two of three years. The Council rejected this alternative because it wanted to continue to stabilize participation in the red snapper fishery until the effort management system could be implemented.

Biological Impacts: Fishing pressure and harvest rate of red snapper is likely to increase unless constrained by trip limits, closed seasons or other framework measures, due to an increase in the number of vessels targeting red snapper. There will be a corresponding decrease in fishing pressure on alternative species such as vermilion snapper while the red snapper season is open. Vessels that are currently constrained to the 200 pound trip limit will be able to keep red snapper that they presently have to throw back, reducing discard mortality. However, discard mortality from larger vessels may increase if, after catching a reduced red snapper trip limit, they continue to fish for alternate species.

Socioeconomic Impacts: This alternative may be expected to result in a derby system in the red snapper fishery with concomitant adverse socioeconomic consequences on fishing participants. (See Section 11 for more detailed discussion).

11. REGULATORY IMPACT REVIEW

11.1 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 the proposed regulations are a "significant regulatory action" under the criteria provided in Executive Order 12866 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 Amendment 9 to the Reef Fish FMP would have on the commercial reef fish industry.

11.2 Problems and Issues in the Fishery

The general problems in the reef fish fishery are enumerated in the section Problems in the Fishery of the Reef Fish Fishery Management Plan, as amended. The specific problems addressed by this proposed plan amendment are enumerated in Section 6 of the amendment document. There are three issues identified for plan amendment: 1) specialized data collection on historical red snapper landings; 2) extension of the commercial reef fish permit moratorium; and, 3) extension of the red snapper endorsement system.

11.3 Objectives

The general management objectives are enumerated in the section Management Objectives of the Reef Fish Fishery Management Plan, as amended. This amendment is intended to address the three major problems and issues identified for the reef fish fishery.

11.4 Management Measures

The proposed actions are summarized in Section 7. The specific management measures are fully stated and discussed in Sections 8 through 10. There are three sets of management actions considered corresponding to the three problems identified. These are re-stated or described in the following section where their potential impacts are analyzed.

11.5 Analysis of Impacts of All Measures

11.5.1 Data Collection of Historical Commercial Landings Data on Red Snapper

A. Permitted Vessels

Proposed Alternative: NMFS shall collect and compile commercial red snapper landings data for the years 1990, 1991 and 1992 for vessels by owner and, in the case of permitted vessels for which the permit was based on the earned income qualification of an operator, by such operator of vessels that were operating in the commercial red snapper fishery and had red snapper landings in any of the years 1990, 1991, and 1992, whether such persons are currently owners or income-qualifying operators of permitted vessels or not. These landings data will serve as the basis for an initial red snapper Individual Transferable Quota (ITQ) or limited license allocation, if such a system is implemented.

- a) For those vessels which submitted logbooks, only the logbook landings that were received by the appropriate cutoff dates will be considered for the months in which a logbook was required to be submitted or was voluntarily submitted.⁴
- b) In the absence of logbook records, for those vessels landing red snapper in Florida, only Florida trip tickets will be considered for landings in Florida.¹
- c) For landings where neither of the above criteria apply, the owner or operator of the vessel whose income was used to qualify the vessel for the permit, shall provide NMFS with documentation of red snapper landings in accordance with the criteria used for the red snapper endorsement.

Rejected Alternative 1: NMFS shall compile commercial red snapper landings as stated in the preferred alternative, but shall compile landings data only for the two highest landings years of each person for whom landings are being compiled.

Rejected Alternative 2: NMFS shall collect and compile commercial red snapper landings data for the years 1990, 1991 and 1992 for vessels by owner and, in the case of permitted vessels for which the permit was based on the earned income qualification of an operator, by such operator where the person is the owner or operator who is the income qualifier of a currently permitted vessel and had red snapper landings in any of the years 1990, 1991, and 1992

Rejected Alternative 3: No Action - Do not compile commercial red snapper landings records.

The major motivation for a specialized data collection as proposed here is to provide the decision makers baseline data for the eventual adoption and implementation of a limited access system for the red snapper

⁴ NMFS logbook landings records and Florida trip ticket data are on computer files of the National Marine Fisheries Service and Florida Department of Environmental Protection respectively, and persons affected do not have to submit duplicate copies of these records. However, fishermen will be given printouts of their records on file and have an opportunity to submit records they felt were omitted. Note: logbook records that were not submitted when required cannot be submitted at this time. For additional data collection criteria, refer to the box on page 8.

fishery. It may be noted though that at this time, the proposed Amendment 8 to the reef fish FMP, which contains the proposed provisions for a limited access system, has an open access system as one alternative for the long-term management of the red snapper fishery. This option partly rationalizes the no action alternative with respect to data collection although a limited entry program can still proceed even under the no action alternative but it would have to include later a data collection provision that would be about similar to the alternatives, except no action, presented here. The choice of the years 1990 through 1992 for data collection purposes is based on the fact that 1990 was the first year commercial reef fish vessel permits and logbooks were issued and 1992 was the last year before the implementation of the red snapper endorsement system, which excluded many (who did not meet the required landings requirement) from being allowed to land the upper limit of the established two-tier trip limit system.

The data expected to be collected here will be mainly used in the initial assignment of fishing privileges under a limited access system should this system be adopted. Other relevant information that is needed to fully analyze the potential forms of limited access system for the red snapper fishery will not be collected. However, such data is hoped to be generated by a NMFS cost and returns survey for the commercial reef fish fishery. In addition, the data collected in conjunction with a Council-financed social study of a sample of red snapper fishermen with endorsement could be utilized to conduct impact analysis of limited access system for the red snapper fishery.

Permitted vessels for the years 1990 through 1992 can be individually identified through the NMFS' permit system. This permit system file indicates the following number of vessels with reef fish permit: 1990 - 1,622; 1991 - 1,762; and, 1992 - 2,214. For these three years, a good portion of the vessels were covered under the NMFS logbook and Florida trip ticket programs, but there were also several vessels that were either not covered or only partially covered by these programs. The NMFS logbook program did not cover all permitted reef fish vessels until the 1993 red snapper fishing season. Additionally, the Florida trip ticket program covers only those vessels landing in Florida, and even some Florida vessels were not in this system when they landed their catches in other states although some either were issued NMFS logbooks or voluntarily submitted logbooks. Another set of data is available when the red snapper endorsement was being considered in 1992 for the 1993 implementation. A major requirement for the endorsement was to demonstrate landings of 5,000 or more pounds for any two of the three-year period 1990-1992. Based on logbooks and trip tickets, 81 were pre-approved for two or more years and 87 were pre-approved for one year of landing. After the applicants were allowed to submit fish receipts to verify their landings not covered by the logbook or trip ticket systems and/or to file an appeal, only 131 of the 251 that applied were finally approved for the endorsement. While additional vessel specific data is supplied through this process, most of the information submitted was only to certify that vessels landed 5,000 or more pounds for any two of the three-year period. What all the foregoing discussions amount to is that existing data are incomplete in many respects for purposes of assigning fishing privileges, especially when ITQ is adopted as a form of limited access for the commercial red snapper fishery.

There are three positive features of the Proposed Alternative: 1) it helps provide the Council with the necessary information relative to the assignment of fishing privileges; 2) it affords potential participants of the limited access program the opportunity to provide additional information that will be used in assigning fishing privileges; and, 3) it provides the affected fishermen a more accurate picture on the distribution of fishing privileges. These are discussed in turn below.

The Proposed Alternative may be expected to generate whatever data is necessary to supplement existing data base in order to determine each vessel's landings of red snapper for each of the years 1990, 1991, and 1992. As this alternative is currently worded, logbook and trip ticket data take precedence

over other information, and only information absent from these two data sources will be accepted as valid information. This alternative essentially affords only landings information as basis for initially assigning fishing privileges and thus excludes such other features as for example financial investment in the fishery or length of participation in the fishery which in one form or another have been used in some limited access systems that have been implemented. This mainly arises from the decision of the Council to use only landings data for initial allocation of fishing privileges under any form of limited access system for the red snapper fishery. Partly because of that decision, the proposed data collection is rendered more straightforward. While some forms of fishing privilege allocation are already under consideration by the Council and contained in the proposed Amendment 8 to the reef fish FMP, availability of more complete information will enable the Council to examine various allocation alternatives as well as evaluate the impacts of each such allocation alternative. For example, if a license limitation is adopted, the Council can examine various levels of landings requirements for eligibility in the program or if an ITQ is adopted, the Council can be afforded a better view of the maximum and minimum initial allocation of catch privileges that may be assigned to a single fishing entity. In a sense, the Council will be better informed of the equitability and economic impact of assigning one form of fishing privilege or another.

The second feature of the Proposed Alternative helps to ensure that potential participants are given the opportunity to examine and supplement the data that will be used for initial assignment of fishing privileges. As discussed elsewhere in the amendment document, fishermen will be provided with copies of their individual landings as found in the logbook and trip tickets and will be asked to supplement, rather than duplicate, those landings data. However, they may submit authenticated copies of logbooks and trip tickets if they find discrepancies between their personal records and the landings information provided to them. More importantly, those that for valid reasons did not submit landings information through the NMFS logbook and Florida trip ticket programs would be given ample opportunity to submit the necessary information that would eventually define their inclusion and level of participation in the limited access program.

The third feature of the Proposed Alternative provides information to both the Council and fishermen the most likely allocation of fishing privileges under various allocation scenarios. Such information affords both sectors the common ground for addressing various concerns. The fishermen, in particular, would be able to find out exactly what their likely level of participation in the event a limited access system is adopted for the fishery. Such information would be highly instructive in their attempt to provide input in the decision process leading to the adoption (or non-adoption) of a limited access system for the fishery. The Council, in turn, would be in a better position to evaluate fishermen's objection or support of the limited access program as well as specifically define the basic criteria to use in the appeal process. In addition to assisting both the Council and fishermen in deciding an allocation alternative, the implementation (or rejection) of a limited access system could proceed in a more predictable fashion.

Like any other data collection activity, certain costs will be incurred if the Proposed Alternative is adopted. The major cost components will be the time, effort, and direct cash outlay that will be expended by both the fishermen and NMFS. The proposed data collection is estimated to impose a public burden of about 3,600 hours or a cost of \$36,000 and a cost to NMFS of about \$92,000 (Sadler, 1994). However, unlike many data collection activities, the data to be generated here is specific to the implementation of a limited access system. If it is decided not to adopt a limited access program, the costs for this activity will have been incurred without a compensating benefit to society unless the data so generated provided the crucial information leading to the rejection of a limited access program.

Rejected Alternative 1 is a special case of the Proposed Alternative in the sense that fishermen would be asked to provide landings information on only two of the three years 1990, 1991, and 1992. The discussed effects of the Proposed Alternative also apply to this alternative; however, it is very likely that

the positive effects would be less while the cost would be about the same, since both NMFS and fishermen will still have to examine records for three years and choose those two with highest landings.

Rejected Alternative 2 would provide less information than the Proposed Alternative. It may be noted that the universe of people included for data collection under the Proposed Alternative includes owners or operators who are the income qualifiers of reef fish vessels during the 1990-1992 qualification period whether currently permitted or not. Rejected Alternative 2 would include only owners or operators who are the income qualifiers of currently permitted reef fish vessels. Thus, those who used to own or operate reef fish vessels fishing in the period 1990-1992 but are no longer associated with currently permitted vessels will be excluded from the proposed data collection process. Inclusion of this latter group provides information relating to "historical" fishermen but no longer active (in actual or legal sense) to complement the information relating to those currently active but were not in the fishery for the three-year period. The major benefit from such group's inclusion in the data collection process comes in the form of depicting the change in the fishery participants over the period of more restrictive regulations. Undoubtedly, such alternative would complicate the data collection activity and thus increase the total cost (summing over those of all fishermen and NMFS). Inclusion of this group in the initial allocation of fishing privileges (although not currently an alternative under the proposed Amendment 8) would also complicate the decision process. While an alternative to include this group in the initial assignment of fishing privilege would provide a broader picture of the equity aspect of a limited access system, the condition that the present fishery is overcapitalized would more likely render this alternative to be adjudged less economically efficient.

B. Historical Captains

Proposed Alternative: Require that historical captains (1) provide documentation of red snapper landings during the period of his operation as a historical captain,, (2) identify the vessel(s) and period of time when they operated with the share agreement, (3) provide statements signed by each vessel owner with whom they had a share agreement attesting to the share agreement and acknowledging that the captain determined shares/payment to the crew or, if unable to obtain any such statement, an explanation of why such statement cannot be obtained and documentation of the agreement and its terms, (4) submit income tax forms from 1989 through 1993 to verify that they meet the 50 percent earned income criterion for each of those years, and (5) submit at least one red snapper landing record from prior to the control date of November 7, 1989.

Rejected Alternative 1: Require that historical captains identify the vessels upon which they served as captain during 1990, 1991, and 1992, the share agreement(s) that existed with vessel owners, and a notarized affidavit that they meet the qualifications for a historical captain.

Rejected Alternative 2: No Action - Do not require historical captains to submit records of landings or share agreements or identify vessels.

The information about historical captains is closely related to the regulatory measure to be adopted regarding historical captains. Since the proposed Amendment 8 contains alternatives recognizing historical captains as eligible for initial allocation of fishing privileges, the no action alternative may be regarded as inferior to either of the other alternatives. However, if the Council eventually decides not to determine the initial sharing of captains and vessel owners, the no action alternative can be considered the least costly approach unless such Council decision is a direct result of the submitted information regarding share agreements.

Relative to the no action alternative, the Proposed Alternative would provide the Council necessary information to make at least two vital decisions. First, it would afford the Council the opportunity to decide whether a more refined means of initially allocating fishing privileges down to the captain level is feasible from an administrative standpoint. Second, it would provide the basic information for dividing fishing privileges between owners and captains. With such opportunity to make the mentioned decisions, it may be contended that if the Council decides not to refine the assignment of fishing privileges down to the captain level, such decision is better achieved with information afforded by the Proposed Alternative than by the no action alternative.

Rejected Alternative 1 has similar effects as the Proposed Alternative in terms of providing the Council with the basic information to make the aforementioned two decisions. While the Proposed Alternative (relative to Rejected Alternative 1) imposes a higher cost on fishermen it does provide a better means of verifying the information submitted by captains, and thus provides better information. From this standpoint, the net benefit afforded by the Proposed Alternative may be deemed higher than that of Rejected Alternative 1.

11.5.2 Extension of Reef Fish Moratorium

Proposed Alternative: Terminate the moratorium upon implementation of a red snapper effort management system, but no later than January 1996.

Rejected Alternative 1: Extend the reef fish permit moratorium for an additional:

- a. one year (to May 1996)
- b. two years (to May 1997)

Rejected Alternative 2: Terminate the moratorium upon implementation of the red snapper effort management system or by notice action.

Rejected Alternative 3: Status Quo - The Moratorium will expire in May 1995

From the timetable adopted by the Council for consideration of limited access system for the red snapper fishery, it is certain that no limited access system will be in place by May 1995, the original termination date for the permit moratorium. In principle, an end to the moratorium before a limited access system for the red snapper fishery is adopted (Alternative 3) will complicate the effectiveness of limited entry in that fishery. A surge in permit applications -- some for valid reasons to enter or re-enter the reef or red snapper fishery and others for speculative purposes -- may be expected when the moratorium ends. It may also be noted that if a limited entry for red snapper is implemented, there could be attendant provisions restricting the transfer of fishing privileges (i.e., licenses or ITQs) within some time period in order to provide participants some time to better understand the value of those privileges and the potential implications of any transfer of fishing privileges to their respective fishing operations. To a great extent however, the foregoing negative aspects of ending the reef fish moratorium would be mitigated by the alternative to consider only the years 1990-1992 for initial allocation of fishing privileges under a limited access system. In addition, the target date for implementation of a limited access system for the red snapper fishery is the 1996 fishing year and by then a moratorium would not be needed, at least in this fishery.

An extension of the moratorium for less than one year (Proposed Alternative) or one to two years (Rejected Alternative 1) could hold off a substantial increase in actual or potential effort in the reef fishery, and possibly would give enough time to evaluate the limited entry system for red snapper and to study the feasibility of a similar system in other reef fisheries under a relatively more stable fishing

environment. Such benefits are even better achieved under an indefinite extension that is tied to the implementation of a limited access system (Rejected Alternative 2). Under this latter alternative, the moratorium can be extended from less than a year to a maximum that is reasonably allowable, with the termination date being determined by the implementation of a limited access system. Noting the fact that only the red snapper fishery is currently under consideration for a limited access system, the mentioned benefits under any of the options for a moratorium extension would be limited to this fishery.

Among the alternatives for extending the moratorium, the Proposed Alternative and Rejected Alternative 2 appear to provide a more stable environment for fishermen's decisions regarding fishing operations in the near future. Both alternatives relate the extension of the moratorium to the establishment of a limited access system. While in this case, Rejected Alternative 2 may be deemed a better alternative, there is one major issue that needs to be recognized in considering this alternative vis-a-vis the Proposed Alternative.

The moratorium was implemented in 1992 in order for the Council to consider a limited access system for the fishery, and for the fishermen to understand at least the major issues surrounding certain forms of limited access system. Three series of workshops had been conducted throughout the Gulf states and several Council meetings were held for the purpose of structuring a more appropriate limited access system for the red snapper fishery. In addition, public hearings were held for the then proposed plan amendment specifying a limited access system for the fishery. It may also be noted that the species endorsement for the red snapper fishery was established as an interim rule to manage the red snapper fishery. Given such background, Rejected Alternative 2 can only give rise to uncertainty from the fishermen's standpoint as to the direction the Council might take regarding long-term management of the red snapper fishery. This condition makes it difficult for fishermen to make plans regarding their fishing operations in the near future, since they are not afforded the idea of when a limited entry may be adopted or rejected by the Council.

While an end to the moratorium will not preclude successful consideration of a limited access system for the rest of the reef fisheries, any limited access discussion without the benefit of a moratorium is bound to attract more effort into the reef fishery. Although the grouper fishery, which is now the biggest segment of the reef fishery in landings and values, has not filled its quota since the inception of quota management in the fishery, more recent landings records appear to show that the quota is nearly reached. The advent of more restrictive regulations on the shark fishery has appeared to affect the effort expended on the grouper fishery, prompting an industry group to propose suspending consideration of moving the longline/buoy (used for catching reef fish) line inshore to 15 fathoms. It may be noted that a limited access system is more likely to succeed and entails less cost when the fishery considered is still not characterized with excess effort. If in fact there is less effort in other (than red snapper) reef fisheries, termination of the moratorium would enable expansion of benefits from these other fisheries and would also widen the distribution of benefits to a larger number of fishermen. If in addition these other species are also way above the overfished condition for reef fish, then many of the restrictions currently in place, such as longline and buoy prohibition, entangling net prohibition, size limits, trawl vessel restriction, and even grouper quotas must have only restricted the economic benefits derivable from the fishery. If, on the other hand, there is enough effort for full utilization of reef fishery resources, termination of the moratorium would likely further add obstacles to efficient allocation of labor and capital in the fishery.

The extension of the moratorium whether or not followed with a limited entry system, will allocate the benefits from utilization of the reef fish resources to permit holders. The recreational sector will also partly benefit from the extension since they will be faced with relatively less competition for the resource

even though there is a separate recreational allocation. Such recreational benefits, however, may be local in character and would be mainly in terms of less fishing competition within a given area or period.

Given the foregoing discussions, the Proposed Alternative and Rejected Alternative 2 may be ranked higher than the other alternatives with respect to their beneficial effects on the red snapper fishery. It is not clear, however, which of these two alternatives would result in higher net benefits. We may stress the fact that such ranking refers only to the effects on the red snapper fishery. Moreover, if a limited access system for the red snapper fishery is implemented by January 1996, all alternatives except Alternative 3 will have the same effects.

11.5.3 Extension of Red Snapper Endorsement

Proposed Alternative: Continue the red snapper endorsement and associated trip limit provisions until midnight, December 31, 1995 unless replaced sooner by a more comprehensive effort management program.

Rejected Alternative 1: 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 or until terminated by notice action.

Rejected Alternative 2: No Action - The red snapper endorsement system is terminated in 1994.

The red snapper endorsement took effect in the 1993 fishing season, continues to the 1994 season, and will expire at midnight, December 31, 1994 calendar year if the no action alternative is adopted. The major rationale for this species endorsement was to temporarily address the derby problem in the red snapper fishery that occurred in the 1992 regular season. It may be recalled that in 1992 the commercial quota was filled over a very short time and the fishery closed 53 days after it opened, although it was re-opened for another 41 days 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 the 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. The red snapper TAC was increased from 4 MP to 6 MP in the 1993 season, and as result the commercial quota was also raised from 2.04 MP to 3.06 MP. The same TAC and commercial quota are maintained for the 1994 season. Under the red snapper endorsement system, the 1993 fishing season lasted 93 days (February 16 - May 21), and the Gulfwide average price for red snapper was about \$2 a pound. The 1994 season, which will commence on February 10, was originally expected to last about a week longer than the 1993 season under the same quota and endorsement system. The additional fishing days are due to the recently passed regulatory amendment that redefined trip limits as daily landing limit and at sea possession limit (see GMFMC, 1993). However, more recent catch estimates for the 1994 season show that fishermen are catching more fish relative to the same period in 1993 so that the expected lengthened season may not probably materialize.

The Proposed Alternative may be expected to partially arrest the re-occurrence of the derby fishery that would likely ensue under the no action alternative. There are, nonetheless, certain effects of the endorsement system that need to be recognized.

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. Such situation is partly demonstrated by several vessels that took multiple trips in one day in 1993. As earlier mentioned, however, this situation would be minimized by the redefinition of trip limits as daily landing limits and at sea possession limits.

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 1994 season open for about 100 days (see GMFMC, 1993), 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. This would be significantly less than the 1991 season which closed in August but possibly longer than what would occur without the endorsement. 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 were 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 enabled the fishermen to take advantage of stronger demand during the Lenten season. A similar fishery opening in 1994 (i.e., February 10) is expected to bring about similar effects. The endorsement and the daily landing and possession 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.

The endorsement coupled with landing and possession 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 1996 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 although this possibility did not materialize in 1993 due partly to the restrictions imposed on the transfer of vessel permits and endorsement. Such possibility of an increase in fishing effort from small vessels makes it difficult to unequivocally conclude that the Proposed Alternative would result in effort reduction. Even if one assumes that effort reduction occurs, 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 landing 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 landing limit. Although there is an incentive for large vessel owners to switch to medium size ones, an additional year of the endorsement

under the preferred alternative 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 landing limits will enable dealers to receive fresh red snapper over a longer time frame relative to the no action alternative. 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 Alternative, 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 preferred alternative relative to a derby situation.

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.

The impacts of Rejected Alternative 1 are similar to those discussed under the Proposed Alternative, but the duration of its effects would be longer or shorter depending on when a limited access system would be adopted or rejected. While this alternative provides a relatively consistent regulation for the red snapper fishery while adoption or rejection of a limited access system is being considered, it gives rise to some level of uncertainty on the part of the fishermen in making plans for their fishing operations in the near future. In this way, the net effect of this alternative may be about the same as that of the Proposed Alternative. If a limited access system becomes in place in the 1996 season, as currently planned, this alternative will have the same impacts as the Proposed Alternative.

11.6 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.....	\$34,600
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NMFS administrative costs of document

preparation, meetings and review.....	\$ 7,500
Law enforcement costs.....	\$ none
Public burden associated with data collection.....	\$36,000
NMFS costs associated with data collection.....	\$92,000
TOTAL.....	<u>\$170,100</u>

The Council and Federal costs of document preparation are based on staff time, travel, printing and any other relevant items where funds would be expended directly for this specific action. There are no additional law enforcement costs with this plan amendment. The data collection action imposes costs on the public and NMFS. The NMFS costs associated with the data collection include those that would be expended for compiling information. The public burden associated with the data collection includes the equivalent dollar amount of the time devoted to sending information to NMFS. It is felt that the identified costs comprise the major cost items for the preparation and implementation of this amendment.

11.7 Summary of Regulatory Impacts

Among the alternatives for data collection regarding permitted vessels, the Proposed Alternative is deemed to generate more net benefits than the rest of the alternatives. With respect to data collection on historical captains, the Proposed Alternative is deemed superior to the other alternatives. Regarding the extension of the commercial reef fish permit moratorium, the Proposed Alternative may be expected to have minimal effects on the implementation of a limited access system in the red snapper fishery but could complicate consideration of limited access system for other reef fish fisheries. This alternative has about similar net effects as Rejected Alternative 2, and both these alternatives may be considered more beneficial than the other alternatives. Extending the endorsement and trip limit rules under the Proposed Alternative may be expected to generate about the same benefits as Rejected Alternative 1, and both alternatives may be expected to generate more positive economic benefits than the status quo. Total costs for preparation and implementation of this plan amendment, including the proposed data collection, are estimated at \$170,100.

11.8 Determination of a Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a "significant regulatory action" 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 mainly because 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). The entire commercial reef fish fishery had an ex-vessel value of about \$21.1 million in 1991. 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 to extend the endorsement system to the 1995 season would partially restore the price structure of red snapper to its historical levels and changes. There are no expected major cost increases to the red snapper industry, commercial and recreational, attributable to the proposed measures. The cost of about \$36,000 borne by the industry relative to the data collection measures is deemed not substantial. The federal government is not expected to incur any substantial increase in enforcement or in the administration of permits, although NMFS is expected to incur an estimated cost of about \$92,000 for data collection and compilation. 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 restrictions are necessary to match capital with the overfished level of the stock. The moratorium, if extended, would also restrict employment and investment in the entire reef fish fishery, but the extent of this impact cannot be estimated. On balance, the proposed measures are not deemed to constitute a "significant regulatory action" under any of the mentioned criteria.

11.9 Determination of the Need for Initial Regulatory Flexibility Analysis

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. In addition, 131 red snapper endorsements have been issued to qualified individuals. 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, particularly those in the red snapper fishery, 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).

The measures that may have direct effects on gross revenues are the ones relating to the extension of the red snapper endorsement and the termination of the permit moratorium in 1995 under the Proposed Alternative. While the proposed endorsement extension would not change the effects of the endorsement system, such extension is bound to also extend the effects of the endorsement. Individual vessels that will continue to 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 before the endorsement was established 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 before the endorsement they had 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 were previously harvesting less than 2,000 pounds per trip have the potential to continue 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 red snapper quota is expected to be fully taken. 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. For some other reef fish fisheries, the termination of the permit moratorium would affect the gross revenues of vessels that are currently in the fishery. The extent of this effect is not known.

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 any of the proposed measures. Some costs, but deemed not substantial, would be incurred by the industry under the proposed data collection activity.

As mentioned above, 131 red snapper endorsements have been issued, and if the alternative to include historical captains in the issuance of endorsement is adopted, the number of endorsee will certainly increase although that number is not known at this time. Relative to 1992 permittee, 131 endorsee are about 6 percent of total reef fish permittee, 16 percent of permittee landing red snapper, or 48 percent of permittee who applied for the endorsement. Undoubtedly, those excluded from the endorsement exceed 2 percent of total reef fish permittee, or permittee with red snapper landings, or permittee 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 measure to extend the endorsement 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.

In view of the foregoing, 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.

Explanation of Why the Action is Being Considered

Refer to the section on Problems and Issues in the Fishery in the RIR, and references thereat to Section 6 of the amendment text and the FMP, as amended.

Objectives and Legal Basis for the Rule

Refer to the section on Objectives in the RIR, with references thereat to the FMP, as amended. The Magnuson Fishery Conservation and Management Act of 1976 provides the legal basis for the rule.

Demographic Analysis

Refer to the FMP, as amended.

Cost Analysis

Refer to the section on Private and Public Costs and Summary of Regulatory Impacts in the RIR.

Competitive Effects Analysis

In view of the fact that the industry is essentially composed of small businesses, the impacts of the measures considered under this amendment are deemed not to involve disproportional small versus large business effects.

Identification of Overlapping Regulations

The proposed action does not create overlapping regulations with any state regulations or other federal laws.

Conclusion

The proposed regulation has been determined to have no significant economic impacts on a substantial number of small business entities in the reef fish fishery. The foregoing information and pertinent portions of the RIR are deemed to satisfy the analysis required under the RFA.

12. ENVIRONMENTAL CONSEQUENCES

The Supplemental Environmental Impact Statement of Amendment 5 examined the effects of the fishery on the environment. In addition to the discussion below, refer to Section 5 (Purpose and Need for Action) and the discussions accompanying the specific alternatives.

12.1 Physical Environment

The actions presented in this amendment will have no impact on the physical environment since it is primarily an administrative system of data collection.

12.2 Fishery Resources

The alternatives for collection of red snapper landings data are an administrative system of data collection and will have no impact on the fishery resources. Reef fish permit moratorium alternatives which allow increased participation in the reef fish fishery may result in increased fishing mortality if fishermen displaced from other fisheries enter the reef fish fishery. Specifically, shark longline fishermen could obtain reef fish permits and switch to reef fish during periods when the large coastal shark fishery is closed due to quota being filled. NMFS estimated that nine shark vessels converted to grouper fishing following the shark closure in July, 1993. Red snapper endorsement alternatives which result in the endorsement system being terminated prior to implementation of a long term effort management plan or increase the number of vessels in the red snapper fishery may result in a temporary increased harvest rate of red snapper, as fishermen currently targeting other reef fish species will be able to retain their red snapper catch in excess of the 200 pound bycatch allowance. Total annual harvest of red snapper will continue to be limited by the quota, and the long term recovery program will not be affected.

12.3 Human Environment

The alternatives for collection of red snapper landings data are an administrative system of data collection and will have at best minimal impacts on the human environment. Termination of reef fish permit moratorium under any of the alternative measures would allow increased participation in the reef fish fishery although not necessarily in the red snapper fishery. Such increased participation would alleviate the socioeconomic stress some fishermen experienced when the moratorium took effect in 1992 or when they were displaced from other fisheries due to more restrictive regulations. But such increase in participation would only exacerbate the overcapitalization of the reef fish fishery and may eventually result in a derby system similar to what occurred in the red snapper fishery unless some form of effort limitation is imposed on these other reef fish fisheries. Red snapper endorsement alternatives would render this fishery more stable but only if such alternatives result in the termination of the endorsement system after implementation of a limited access system for the fishery. If, as planned, the limited access program for the red snapper fishery is in place by 1996, only the no action alternative would change the fishing environment for this fishery in terms of allowing an increase in participation. In this event, the discussion above regarding increased participation when the moratorium ends also applies to the red snapper fishery.

12.4 Impact on Other Fisheries

The proposals contained in this amendment deal with data collection and with permitting in the red snapper and reef fish fisheries, and have no direct impact on other fisheries.

12.5 Effect on Endangered Species and Marine Mammals

An informal Section 7 consultation on draft Amendment 9 and the fishery determined that populations of endangered/threatened species would not be adversely affected by the proposed action.

13. OTHER APPLICABLE LAW

13.1 Habitat Concerns

Reef fish habitats and related concerns were described in the FMP and updated in Amendments 1 and 5. The actions in this amendment do not affect the habitat.

13.2 Vessel Safety Considerations

The endorsement system and associated trip limits help to spread out the harvest of red snapper, and reduce, though not eliminate, the derby effect. Reducing a derby fishery will reduce the incentive to fish even under hazardous weather conditions and will result in a positive impact on vessel safety.

13.3 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.

13.4 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 Council proposes, through this amendment, to establish additional permit and modify data collection programs. The total public reporting burdens for these collections of information, including the time for reviewing instructions, searching existing data sources, getting and maintaining the data needed, and completing and reviewing the collection of information, are estimated to be about 3,600 hours.

13.5 Federalism

As the amendment document currently stands, no federalism issues have been identified relative to the actions proposed in this amendment. Therefore, preparation of a federalism assessment under Executive Order 12612 is not necessary.

14. REFERENCES

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