

Appendix B. Regulatory Impact Review

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 regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives which could be used to solve the problem; and (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

The RIR also serves as the basis for determining whether any proposed regulations are a "significant regulatory action" under certain criteria provided in Executive Order 12866 (E.O. 12866) and whether the approved regulations will have a "significant economic impact on a substantial number of small business entities" in compliance with the Regulatory Flexibility Act of 1980 (RFA).

1.1 Problems and Objectives

The purpose and need, issues, problems, and objectives of this action are presented in **Chapter 1** of Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region, and are incorporated herein by reference.

1.2 Methodology and Framework for Analysis

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. To the extent practicable, the net effects of the proposed measures for an existing fishery should be stated in terms of producer and consumer surplus, changes in profits, and employment in the direct and support industries. Where figures are available, they are incorporated into the analysis of the economic impacts of the different actions and alternatives.

1.3 Description of the Fishery

A description of the South Atlantic coral, coral reefs, and live/hardbottom habitats is contained in **Chapter 3** of this amendment and is incorporated herein by reference.

1.4 Effects of the Management Measures

For the rock shrimp fishery, **Action 1, Sub-Alternative 2a** would be expected to result in the greatest short-term reduction in ex-vessel revenue, \$208,410 (2012 dollars), followed by **Preferred Sub-Alternative 2b** (\$159,149), and **Preferred Alternative 3** (\$30,314) (**Table 4-3**). **Sub-Alternative 2a** would have a greater direct negative economic effect than would **Preferred Sub-Alternative 2b** or **Preferred Alternative 3**. The combined direct short-term negative

economic effect of **Preferred Sub-Alternative 2b** and **Preferred Alternative 3** would be an expected reduction in revenue of \$189,463 (2012 dollars). In the short-term, these negative economic effects could be considered moderate. As previously discussed, however, over time, the habitat protected because of **Sub-Alternative 2a**, **Preferred Sub-Alternative 2b**, and **Preferred Alternative 3** would be expected to yield higher biomass of rock shrimp and other species. As a result, these alternatives would be expected to result in a net long-term increase in economic benefits compared to **Alternative 1 (No Action)**. The specific amount of these benefits, however, cannot be determined at this time, but could be reasonably be expected to offset the short-term economic losses resulting in at least a moderate, overall long-term economic benefit.

For the snapper-grouper fishery, **Sub-Alternative 2a** would be expected to result in the greatest short-term reduction in ex-vessel revenue, \$72,809 (2012 dollars), followed by **Preferred Sub-Alternative 2b** (\$42,941), and **Preferred Alternative 3** (\$12,672) (**Table 4-7**). **Sub-Alternative 2a** would have a greater direct negative economic effect than would **Preferred Sub-Alternative 2b** or **Preferred Alternative 3**. The combined direct short-term negative economic effect of **Preferred Sub-Alternative 2b** and **Preferred Alternative 3** would be an expected reduction in revenue of \$55,613 (2012 dollars). As previously discussed, however, over time, the habitat protected because of **Sub-Alternative 2a**, **Preferred Sub-Alternative 2b**, and **Preferred Alternative 3** would be expected to yield higher biomass of snapper-grouper and other species. As a result, these alternatives would be expected to result in a net long-term increase in economic benefits compared to **Alternative 1 (No Action)**. The specific amount of these benefits, however, cannot be determined at this time. Overall, the economic effects of this action on the impacted commercial fisheries are expected to be minor.

Action 2, **Alternative 2** and **Preferred Alternative 3** would allow fishermen to transit the Oculina Bank HAPC, thereby reducing the costs that would occur under **Alternative 1**. Therefore, both **Alternative 2** and **Preferred Alternative 3** would provide moderate positive, direct economic benefits to fishermen because fishermen will be able to use less fuel and take less time to get to their fishing grounds, assuming that stowing their gear is feasible and complying with VMS regulations are not prohibitive. However, **Preferred Alternative 3** would also require a higher VMS ping rate, which may result in increased costs to purchase a new VMS unit for vessels whose current VMS unit cannot ping at the higher rate. The remaining 57 vessels in the fleet have units that do not need to be replaced, but would incur charges of approximately \$150 to \$250 per VMS unit to reconfigure or upgrade hardware/software to implement the higher ping rate through the closed area. The total cost of hardware and software upgrades required to allow transit under **Preferred Alternative 3** for all vessels in the fleet is estimated to be \$72,890.

The proposed expansions of the Stetson-Miami Terrace CHAPC under **Action 3** would be expected to result in a minor loss of ex-vessel revenue to the royal red shrimp fleet under **Alternatives 2** and **3**. However, expansion of the Stetson-Miami Terrace CHAPC would be expected to provide additional habitat protection and an associated net increase in economic benefits. **Preferred Alternative 4**, which would allow for a gear haul back and back drift zone,

would not be expected to have any direct short-term economic effects, yet still afford enhanced protection for the Stetson-Miami Terrace CHAPC.

Because the proposed extension of the Cape Lookout CHAPC under **Action 4, Preferred Alternative 2** is a relatively small area, the proposed expansion would be expected to have minimal direct negative economic effects particularly on the snapper-grouper or other fleets. No information is available on fishing activity specifically in this area. Species that tend to prefer this habitat and nearby environments include the deep-water complexes. As a result, and the species most sought after by fishermen and, therefore, most likely to be affected by the additional closed area are snowy grouper and blueline tilefish. However, because the affected area is so small and there are other areas nearby where similar fishing activity will be allowed, the direct negative economic effects of **Preferred Alternative 2** are expected to be minimal.

1.5 Public and Private Costs of Regulations

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 emergency action include, but are not limited to Council costs of document preparation, meeting, and other costs; NMFS administration costs of document preparation, meetings and review, and annual law enforcement costs. A preliminary estimate is up to \$150,000 before annual law enforcement costs.

1.6 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is expected to result in: (1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this executive order. Based on the information provided above, this regulatory action would not meet the first criterion. Therefore, this regulatory action is determined to not be economically significant for the purposes of E.O. 12866.