April 25, 2013

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

Dear Dr. Crabtree:

At its April 15-18, 2013 meeting, the Gulf Council passed a motion requesting an emergency action to remove the federal regulatory compliance provision of Reef Fish Amendment 30B with respect to federally permitted charter vessels and headboats. This provision requires that if federal regulations for recreational harvest of Gulf reef fish are more restrictive than state regulations, a person aboard a charter vessel or headboat for which a charter vessel/headboat permit for Gulf reef fish has been issued must comply with such federal regulations regardless of where the fish are harvested (50 CFR 622.20(b)(3)). The Council’s primary concern is the negative impact on for-hire vessels targeting red snapper.


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

Under an emergency rule recently implemented to allow state-specific closures of the EEZ to recreational red snapper fishing, the following state-specific seasons of from 9 to 28 days would be authorized (all seasons would begin on June 1):

<table>
<thead>
<tr>
<th>State</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>12</td>
</tr>
<tr>
<td>Louisiana</td>
<td>9</td>
</tr>
<tr>
<td>Mississippi</td>
<td>28</td>
</tr>
<tr>
<td>Alabama</td>
<td>28</td>
</tr>
<tr>
<td>Florida</td>
<td>21</td>
</tr>
</tbody>
</table>
If state-specific closed seasons were not implemented, then the single Gulf-wide season would be 22 days.

At the time of the original emergency action request, the impact of this rule on the federal recreational red snapper season was not yet known. While some differences in state-specific seasons were expected, the Council feels that these seasons are excessively short (less than two weeks off Texas and Louisiana). Even if all states were to adopt consistent regulations, the season would be only 28 days long, the shortest on record. When Amendment 30B was implemented in 2009, the recreational red snapper season was 75 days long. These very short recreational fishing seasons are an unforeseen event.

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

These short federal red snapper seasons result in limited opportunities to provide red snapper fishing trips. This presents a serious management problem because such short seasons are economically disruptive to the for-hire industry particularly if bad weather occurs during the short season. Furthermore, for-hire vessels that are not federally permitted can fish in state waters during the state season regardless of whether the EEZ is closed. This creates an unfair situation since some for-hire vessels can fish in state waters for red snapper while others are prohibited when the federal season is closed. Since the federal regulation applies to fishing in state waters, it interferes with the states’ ability to manage recreational fishing in its own waters. Although removing the federal regulatory compliance provision would shorten the federal season even further, this action would allow additional opportunities for for-hire vessels to advertise red snapper trips during the state open seasons, would help to reduce the economic burden on federally permitted vessels, would allow all vessels to be treated in a fair and equitable manner, and would allow state management to control fishing in their own waters.

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

Because of the extremely short recreational fishing seasons projected for 2013 even under the most optimistic outlook, it is essential that the federal regulatory compliance provisions be removed in time for the 2013 recreational season. Immediate benefits can only be accomplished through an emergency action. Although the emergency action process bypasses the normal public comment period, the Council has received strong support for removing this provision in public testimony and written comments. In order to allow regional season adjustments in 2013, an emergency action is needed.

The policy guidelines for the use of emergency rules state that the use of emergency rules can be justified under (1) ecological, (2) economic, or (3) social situations that would result in a substantial damage or loss. From an ecological basis, the federal recreational red snapper season will likely need to be shortened under this emergency action. However, rebuilding will continue as long as the federal season can be reduced sufficiently to maintain the rebuilding schedule. As discussed above, the extremely short recreational fishing seasons projected for 2013 will result in
economic disruption for the for-hire sector that can be alleviated somewhat by allowing for-hire vessels to fish for red snapper in state waters under state regulations when the EEZ is closed. This will also eliminate an unfair situation where some (non-federally permitted) vessels can fish for red snapper in state waters while other (federally permitted) vessels are prohibited from doing so.

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