UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

MAR 0 4 2013

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

TITLE: Environmental Assessment (EA) for Emergency Action to Establish Recreational Closure Authority Specific to Federal Waters off Individual States for the Red Snapper Component of the Gulf of Mexico Reef Fish Fishery [RIN: 0648-BD00]

LOCATION: Exclusive economic zone off the Gulf of Mexico states

SUMMARY: At their February 2013 meeting, the Gulf of Mexico Fishery Management Council (Council) requested an emergency rule that gives NOAA Fisheries the authority to set the closure date of the recreational red snapper season in federal waters off individual Gulf states based on if the state regulations are consistent with federal regulations for the recreational red snapper season length or bag limit. Emergency action is needed because NOAA Fisheries has received new information, i.e. that states other than Texas intend to implement recreational red snapper regulations in state waters that are not compatible with federal regulations. The authority granted through this emergency rule will help NOAA Fisheries to constrain recreational red snapper harvest within the quota while ensuring a fair and equitable distribution of fishing restrictions.

RESPONSIBLE OFFICIAL:

Roy E. Crabtree, Ph.D.
Regional Administrator
National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA)
263 13th Avenue South
St. Petersburg, Florida 33701
727-824-5301

The environmental review process led us to conclude that these actions will not have a significant impact on the environment. Therefore, an environmental impact statement was not prepared. A copy of the finding of no significant impact (FONSI), including the environmental assessment, is enclosed for your information.

Although NOAA is not soliciting comments on this completed EA/FONSI we will consider any comments submitted that would assist us in preparing future NEPA documents. Please submit any written comments to the Responsible Official named above.

Sincerely,

Patricia A. Montanio
NOAA NEPA Coordinator

Enclosure

Establish Recreational Closure Authority Specific to Federal Waters off Individual States for the Red Snapper Component of the Gulf of Mexico Reef Fish Fishery

Including Environmental Assessment, Finding of No Significant Impact, and Regulatory Impact Review

Emergency Action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

February 2013

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FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Establish Recreational Closure Authority Specific to Federal Waters off Individual States for the Red Snapper Component of the Reef Fish Fishery

NOAA Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. On July 22, 2005, the National Marine Fisheries Service (NMFS) published a Policy Directive with guidelines for the preparation of a FONSI. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state the significance of an action should be analyzed both in terms of "context" and "intensity." The significance of this action is analyzed based on the NAO 216-6 criteria, the Policy Directive from NMFS, and CEQ's context and intensity criteria. These include:

1) **Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?**

Response: No. The action would potentially change the distribution of fishing activity, but not the total catch allowed. With or without the emergency rule, NMFS would determine the number of days for the recreational red snapper fishing to keep harvest within the quota. (Sections 2 and 4.2)

2) **Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?**

Response: No. The action is not likely to jeopardize the sustainability of any non-target species. Incidental catch would consist of alternative target species that are managed (e.g., vermilion snapper, greater amberjack) or non-managed species that are not known to be in jeopardy from fishing, e.g., grunts and porgies. Fishing regulations exist all of the managed species to constrain harvest and those regulations are unaffected by this action. (Section 4.2)

3) **Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act and identified in fishery management plans?**

Response: No. Fishery participation using the same gear and methods is expected to remain at or near its current level. Therefore, impacts to coastal habitats and/or essential fish habitat would not be substantially different from the status quo. (Section 4.1)

4) **Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?**

Response: No. Although shorter fishing seasons in some areas could encourage fishermen to take trips in less than ideal circumstances, the action should not substantially alter fishing practices, considering the recreational fishing sector as a whole. (Section 5.6)

5) **Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?**

Response: No. Overall, fishery participation using the same gear and methods is expected to remain near its current level; therefore, impacts on endangered or threatened species, marine mammals, or critical habitat of these species is not expected to change. The Marine Mammals Protection Act 2012 List of Fisheries (76 FR 73912) considers vertical line gear, which is the dominant gear used in the Gulf of Mexico (Gulf) reef fish fishery, a Category III gear type. This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from any fishery is less than or equal to 1% of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. (Section 3.3)

6) **Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?**

Response: No. Overall fishery participation using the same gear and methods is expected to remain at or near its current level. Given the short-term nature of the proposed regulations, the action is not expected to be sufficiently substantial to influence biodiversity or ecosystem function within the Gulf, in terms of altering marine productivity, predator-prey relationships, or other ecological relationships. (Section 4.2)

7) **Are significant social or economic impacts interrelated with natural or physical environmental effects?**

Response: No. Anglers who fish in the exclusive economic zone (EEZ) off states with consistent regulations would be expected to have longer open seasons, and receive the associated economic benefits. Anglers in states with less restrictive regulations would continue to have the option to fish in state waters or the EEZ off their state, and receive the economic benefits associated with any trips, but would not be allowed the full flexibility, and associated benefits, to take advantage of their state regulations and the same open season in the EEZ as states with consistent regulations. These effects cannot be quantified because the incidence (which states may adopt inconsistent regulations) or magnitude of regulatory inconsistency (how the regulations may differ) is unknown. However, the total allowable red snapper recreational harvest would not be affected, thus preserving the majority of the economic benefits accruing to this component of the recreational sector. Therefore, no significant social or economic impacts are expected. (Sections 4.3-4)

8) **Are the effects on the quality of the human environment likely to be highly controversial?**

Response: No. The proposed action may be considered controversial in that the fishing industry often questions the validity of the science involved in the estimates of annual harvest and the status of the various targeted fish stocks; however, the analyses used in the environmental assessment (EA) is based on the best available science. Further, impacts would be positive for fishermen who fish in waters off states where the federal season is extended and will be negative for fishermen who fish in waters off states where the federal season is shortened. (Sections 4.4)

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: No. The action is not expected to result in substantial impacts to unique or ecologically critical areas. Regulations already include restrictions on fishing in marine protected areas and habitat areas of particular concern. The proposed actions do not change those restrictions. (Section 3.2)

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The environmental assessment contains a thorough analysis of the impacts of the actions and revealed that no substantial changes in the human environment are expected to occur. Fishery participation using the same gear and methods is expected to remain at or near its current level. Further, NMFS establishes closure dates for fishing seasons for many species. Therefore, the effects on the human environment are not likely to be highly uncertain. However, which states will implement inconsistent regulations, and how different from federal regulations those will be, cannot be determined at this time. (Sections 4.3-4)

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. Present management measures work to limit the harvest to sustainable levels. Reasonably foreseeable future actions are expected to benefit managed species. Various different long-term actions to control recreational red snapper harvest are being considered, some of which would incorporate this emergency action and some of which would negate the need for it. Therefore, at this time, no individually insignificant but cumulative significant impacts are expected. (Section 4.2)

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. The action is not likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor cause loss or destruction of significant scientific, cultural or historical resources. In the Gulf, the U.S.S. Hatteras, located in federal waters off Texas, is listed in the National Register of Historic Places. Fishing activity already occurs in the vicinity of this site, but the proposed action would have no additional impacts on listed historic resources, nor would they alter any regulations intended to protect them. (Section 3.2)

13) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. Because the proposed actions are directed towards the management of naturally occurring species in the Gulf, the introduction or spread of non-indigenous species should not occur. (Section 3.3)

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No. Regulations for other species are similar to this action in that different areas of the Gulf have different in-season closure dates. In addition, NMFS is considering a number of management measures for recreational red snapper fishing that may replace this action in the future. Any of these future actions will be analyzed appropriately before a decision on implementation is made. (Section 1.3)

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. A thorough analysis of other applicable federal laws related to the action was conducted in the environmental assessment, which fulfills the mandates set forth in the National Environmental Policy Act. These analyses do not indicate any reasonable expectation that the actions threaten violation of federal laws. State and local laws may be inconsistent with federal regulations, but the state regulations proposed are less protective of the resource. (Appendix A)

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. Present management measures work to limit the harvest to sustainable levels, and reasonably foreseeable future actions are expected to benefit managed species. These measures are intended to prevent overfishing and allow for sustainable fisheries. The Gulf of Mexico Fishery Management Council and NMFS have established a management strategy for red snapper whereby overfishing has been projected to have ended, and the stock should be rebuilt by 2032. The allowable harvest now and in the future will be in accordance with that rebuilding plan. Non-fishing activities are likely to adversely affect reef fish stocks, including loss of larvae by liquid natural gas facilities and damage to habitat through the Deepwater Horizon MC252 oil spill. Global climate change can also affect marine ecosystems. These influences could affect biological factors such as migration, range, larval and juvenile survival, prey availability, and susceptibility to predators. At this time, the level of impacts cannot be quantified, nor is the time frame known in which these impacts will occur. However, the cumulative impacts are not expected to be significant. (Section 4.2)

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA prepared for this emergency rule, it is hereby determined that the proposed emergency action would not significantly affect the quality of the human environment as described above and in the supporting environment assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement is not necessary for this action.

Miles M Croom — 2/28/2013

for Roy E. Crabtree, Ph.D. — Date
Southeast Regional Administrator

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

ABBREVIATIONS USED IN THIS DOCUMENT

ACL	annual catch limit
CEQ	Council on Environmental Quality
Council	Gulf of Mexico Fishery Management Council
EEZ	exclusive economic zone
EJ	environmental justice
E.O.	Executive Order
FMP	fishery management plan
GMFMC	Gulf of Mexico Fishery Management Council
Gulf	Gulf of Mexico
LAPP	Limited access privilege program
MRIP	Marine Recreational Information Program
NMFS	NOAA's National Marine Fisheries Service
RIR	regulatory impact review
SEDAR	Southeast Data, Assessment, and Review
SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office

CHAPTER 1. INTRODUCTION

1.1 Background

The Gulf of Mexico (Gulf) Fishery Management Council (Council) requested the National Marine Fisheries Service (NMFS) to promulgate an emergency rule that allows implementation of state-specific closure authority for the recreational red snapper component of the reef fish fishery. Specifically, NMFS would have authority to reduce the recreational red snapper season in the exclusive economic zone (EEZ) off a Gulf state if that state does not implement regulations consistent with federal recreational regulations for red snapper.

The federal recreational season for Gulf red snapper begins June 1 each year with a two-fish bag limit. NMFS determines the length of the season based on the quota, average weight of fish, and estimated catch rates. NMFS is responsible for ensuring the entire stock harvest does not exceed the acceptable biological catch, including harvest in state waters. Therefore, if states establish inconsistent regulations, such as a longer season or a larger bag limit, the closure date of the federal season must be adjusted to account for the additional expected harvest.

Since 2008 the length of the recreational red snapper fishing season has become progressively shorter, but the landings have still exceeded the quota (with the exception of 2010) because of increasing fish size and catch rates. Preliminary estimates indicate the 2013 season will be 24-30 days, assuming all states have consistent regulations except Texas (Texas has not had consistent regulations for many years) and the recreational quota is increased to 4.145 million pounds whole weight. Both Louisiana and Florida have recently indicated they will implement inconsistent regulations for their state waters. Therefore, the 2013 federal season may need to be further reduced if Louisiana and Florida continue to move forward with these inconsistent regulations. Even further reductions would be needed if other Gulf states also fail to adopt consistent regulations in their state waters.

To mitigate the impacts of inconsistent state regulations, at their February 2013 meeting, the Council asked for an emergency rule to allow NMFS to adjust the closure date of the recreational red snapper season in the EEZ off a state that does not have regulations that are consistent with federal regulations. Emergency action is needed because NMFS has received new information, i.e. that states other than Texas intend to implement recreational red snapper regulations for state waters that are not consistent with federal regulations. The authority granted through this emergency rule will help NMFS to constrain recreational red snapper harvest within the quota while ensuring a fair and equitable distribution of fishing restrictions. The immediate benefits outweigh the value of more advanced notice because the recreational red snapper fishing season opens June 1, 2013, and earlier notice will allow for-hire businesses and private anglers to begin booking trips and planning their fishing seasons.

1.2 Purpose and Need

The purpose of this action is to ensure the impacts of federal closures required by NMFS to constrain the recreational harvest of red snapper to its quota are fairly and equitably distributed

among residents of Gulf states. The need for this action is to ensure consistency with the Magnuson-Stevens Fishery Conservation and Management Act, which requires fishery managers to allocate harvest restrictions and recovery benefits fairly and equitably, to provide for the sustained participation of fishing communities, and to minimize adverse economic impacts on such communities to the extent practicable.

1.3 History of Management

This history of management only covers events pertinent to red snapper recreational fishing seasons (Table 1.1). A complete history of management was detailed in the February 2010 Regulatory Amendment (GMFMC 2010) and is incorporated herein by reference.

Table 1.1 Recreational red snapper seasons, quotas, and landings (million pounds [mp] whole weight).

Year	Season dates	Number of Days	Recreational Quota	Recreational Landings
1996	January 1 – December 31	365	4.47 mp	4.346 mp
1997	January 1 – November 27	330	4.47 mp	6.008 mp
1998	January 1 – September 30	272	4.47 mp	4.258 mp
1999	January 1 – August 29	240	4.47 mp	3.999 mp
2000	April 21 – October 31	194	4.47 mp	3.932 mp
2001	April 21 – October 31	194	4.47 mp	4.468 mp
2002	April 21 – October 31	194	4.47 mp	5.383 mp
2003	April 21 – October 31	194	4.47 mp	4.847 mp
2004	April 21 – October 31	194	4.47 mp	4.996 mp
2005	April 21 – October 31	194	4.47 mp	4.084 mp
2006	April 21 – October 31	194	4.47 mp	4.021 mp
2007	April 21 – October 31	194	3.185 mp	4.440 mp
2008	June 1 – August 4	65	2.45 mp	3.712 mp
2009	June 1 – August 14	75	2.45 mp	4.625 mp
2010	June 1 – July 23; Oct 1 – Nov. 21 (Fri, Sat., & Sun.)	77	3.403 mp	2.239 mp
2011	June 1 – July 18	48	3.866 mp	4.603 mp
2012	June 1 – July 16*	46	3.959 mp	5.824mp**

* Season extended due to Tropical Storm Debby. ** Landings for 2012 are preliminary.
Source: Landings from SEFSC Recreational ACL Dataset (Oct 2012); 2012 landings from SERO-LAPP-2012-10.

Prior to 1997, the recreational red snapper season was open year-round. From 1997 through 1999, NMFS implemented an in-season monitoring and closure process. A February 2000 regulatory amendment (GMFMC 2000) replaced the system of in-season monitoring and closure projections with a fixed season based on a pre-season projection of when the recreational quota would be reached.

In 2008, Reef Fish Amendment 27/Shrimp Amendment 14 (GMFMC 2007) revised the rebuilding plan. The Council requested the five Gulf states adopt consistent regulations in state

waters, including a June 1 through September 30 fishing season and a 2-fish bag limit. Florida adopted a consistent 2-fish bag limit, but maintained its red snapper fishing season of April 15 through October 31. Texas maintained its 4-fish bag limit and year-round fishing season in state waters. Alabama implemented a June 1 through October 31 fishing season for state waters. As a result, the federal fishing season was shortened off of all Gulf states from 122 days to 65 days in 2008. Since that time, all states except Texas have adopted consistent fishing regulations.

In April 2010, as a result of the Deepwater Horizon MC252 oil spill, approximately one-third of the Gulf of Mexico was closed to fishing for much of the summer months. The direct loss of fishing opportunities due to the closure, plus the reduction in tourism throughout the coastal Gulf, resulted in a much lower catch than had been projected. After the recreational season closed, NMFS estimated that 2.3 mp of the recreational quota remained unharvested and developed an emergency rule to reopen the recreational red snapper season for eight consecutive weekends from October 1 through November 21 (24 fishing days).

Status of the Red Snapper Stock

The most recent red snapper Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment was completed in 2005 (SEDAR 7 2005). An update assessment was completed in December 2009 (SEDAR 7 update 2009). A new benchmark assessment should be completed in 2013.

The Status of Stocks Report to Congress currently lists the red snapper stock as overfished, but not undergoing overfishing. Under the definition of overfishing contained in the Generic ACL/AM Amendment (GMFMC 2011b), overfishing is defined for years when there was no stock assessment as exceeding the overfishing level for that year. As of November 2, 2012, the preliminary landings reported by NMFS indicate 9.861 million pounds of red snapper were landed in 2012 (SERO-LAPP-2012-10; SERO 2013). This amount is below the overfishing level, indicating overfishing is not occurring.

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1: Establish Recreational Closure Authority Specific to the Exclusive Economic Zone (EEZ) off Individual States for the Recreational Red Snapper Component of the Reef Fish Fishery

Alternative 1: When the recreational red snapper quota is projected to be reached, the National Marine Fisheries Service (NMFS) files a notification to that effect with the Office of the Federal Register. On and after the effective date of such notification, all recreational fishermen fishing in the EEZ throughout the Gulf of Mexico (Gulf) are prohibited from harvesting or possessing red snapper for the remainder of the fishing year.

Preferred Alternative 2: If one or more Gulf states establish less restrictive red snapper regulations than federal regulations, NMFS has the authority to reduce the recreational red snapper season in the EEZ off those states (including a zero day season) by the amount necessary to compensate for the additional harvest that would occur in state waters as a result of those inconsistent state regulations. Boundaries for the EEZ off each state are in Figure 2.1.

Discussion: Alternative 1 would continue the current method of determining the closure date for the recreational red snapper season and apply that date to all federal waters of the Gulf. NMFS determines the length of the season based on the quota, average weight of fish, and estimated catch rates. For example, the projection of a 27-day recreational red snapper season for 2013 was based on a 4.146 million-pound (mp) quota, 7.70 lbs/fish (mean weight), and 18,922 fish caught per day (mean catch rate) (SERO-LAPP-2012-10).

Because NMFS must ensure the entire stock harvest does not exceed the acceptable biological catch, including harvest in state waters, if states establish less restrictive regulations, the federal season must be adjusted to account for the additional expected harvest. For example, when calculating the projected 27-day 2013 season length, NMFS adjusted the mean catch rate to account for the year-round open season and 4-fish bag limit in Texas (SERO-LAPP-2012-10). Louisiana has proposed an 88-day season with a 3-fish bag limit and Florida has proposed a 44-day season with a 2-fish bag limit. Based on the estimated catch rate with those regulations in the three state waters, the 2013 federal recreational red snapper season could be reduced to 22 days (SERO-LAPP-2013-2).

Preferred Alternative 2 would allow NMFS to set different closure dates for the red snapper recreational season in the EEZ adjacent to each Gulf state. If a state were to set red snapper regulations that were not less restrictive than federal regulations, NMFS would calculate the red snapper recreational season within those boundaries using an adjusted catch rate, to account for a longer season or larger bag limit in state waters. In some cases, this could allow the EEZ off states with consistent regulations to have more days than if the season for the entire Gulf was adjusted. For example, if the 2013 federal season was reduced off Texas, Louisiana, and Florida

to account for inconsistent regulations in those waters[1], the federal seasons could be as follows: Texas = 12 days, Louisiana = 8 days, Mississippi = 28 days, Alabama = 28 days, and Florida = 21 days (SERO-LAPP-2013-2). However, if increased catch from a state with inconsistent regulations is too high, even allowing no season in the EEZ adjacent to that state may not be enough to prevent a reduction of the season in the rest of the Gulf because NMFS must continue to adjust the federal season so that harvest remains within the quota. Conversely, if a state were to implement regulations in state waters that were more restrictive than federal regulations, the federal season in the EEZ off that state could potentially be increased.

The boundaries in Figure 2.1 were agreed upon by the representatives from each state agency at the February 2013 Gulf of Mexico Fishery Management Council meeting. All lines begin at the boundary between state waters and the EEZ. Line A-B defining the EEZ off Texas is already codified as a line from 29°32.1' N latitude, 93°47.7' W longitude to 26°11.4' N latitude, 92°53.0' W longitude, which is an extension of the boundary between Louisiana and Texas (50 CFR 622.2). Likewise, line G-H defining the EEZ off Florida is codified as a line at 87°31.1' W longitude extending directly south from the Alabama/Florida boundary (50 CFR 622.2). The other two lines have not been codified, but were negotiated between the adjacent states prior to the February meeting. Line E-F is a line at 88°23.1' W longitude extending directly south from the boundary between Alabama and Mississippi.

Line C-D is a line at 89°10.0' W longitude extending directly south from the South Pass Light. Unlike the other lines, this line is not based on the boundary between Louisiana and Mississippi because doing so would be impracticable. Louisiana has jurisdiction over the Chandeleur Islands which extend into waters south of Mississippi. A line based on the state waters boundary just north of the islands could result in inequitable impacts on Mississippi anglers as it would identify federal waters that are off both Mississippi and Louisiana as being exclusively off Louisiana. A line based on the state land boundary would be even further west and would reduce the size of the EEZ off Louisiana. Therefore, a line drawn from the river was considered a fair compromise by representatives of both states.

[1] Assuming Texas has a year-round season and 4-fish bag limit, Louisiana has an 88-day season and 3-fish bag limit, and Florida has a 44-day season and 2-fish bag limit.

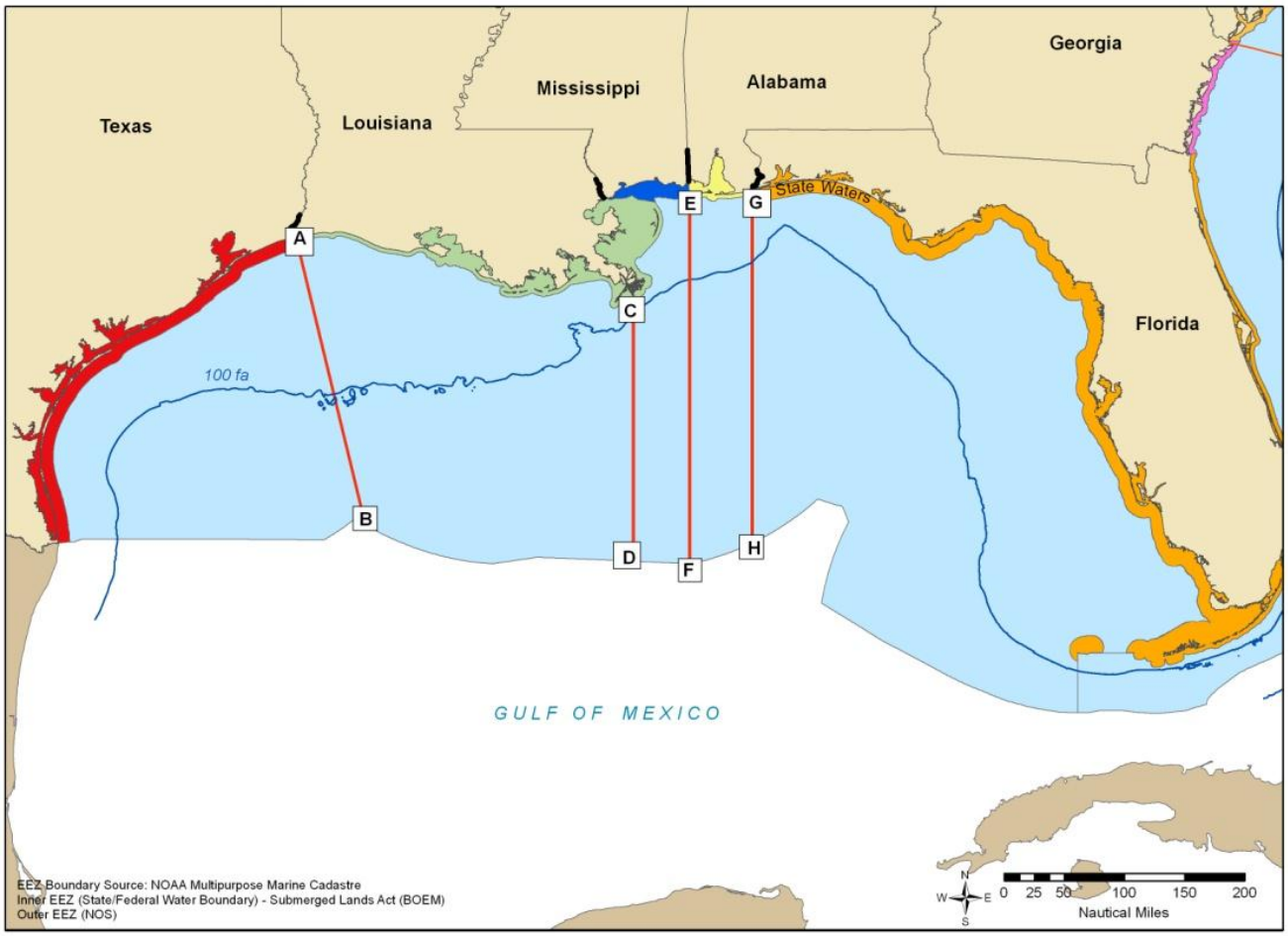

Figure 2.1. Boundaries for the exclusive economic zone off Gulf states.

CHAPTER 3. AFFECTED ENVIRONMENT

The affected environment as it pertains to the red snapper component of the reef fish recreational sector has been described in detail in the following documents: Generic Essential Fish Habitat Amendment (GMFMC 2004b), February 2010 Regulatory Amendment (GMFMC 2010), January 2011 Regulatory Amendment (GMFMC 2011a), Generic ACL/AM Amendment (GMFMC 2011b), and February 2013 Framework Action (GMFMC 2013). For information on impacts of the Deepwater Horizon MC252 oil spill, see http://sero.nmfs.noaa.gov/deepwater_horizon_oil_spill.htm.

Environmental Justice Considerations

Executive Order 12898 requires federal agencies conduct their programs, policies, and activities in a manner to ensure individuals or populations are not excluded from participation in, or denied the benefits of, or subjected to discrimination because of their race, color, or national origin. In addition, and specifically with respect to subsistence consumption of fish and wildlife, federal agencies are required to collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. The main focus of Executive Order 12898 is to consider "the disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories…" This executive order is generally referred to as environmental justice (EJ).

Recreational red snapper fishermen and associated businesses and communities along the Gulf of Mexico (Gulf) coast would be expected to be affected by this proposed action. However, information on the race and income status for groups at the different participation levels (vessel owners, crew, employees, etc.) is not available. Because this proposed action could be expected to affect fishermen and associated industries in numerous communities along the Gulf coast, county-level census data were assessed to examine whether any coastal counties have poverty or minority rates that exceed the EJ thresholds (Table 3.1). The EJ threshold used was 1.2 times the state average; if the value for the county was greater than or equal to 1.2 times the state average, then the county was considered an area of potential EJ concern (EPA 1999).

Table 3.1. Each state's average proportion of minorities and population living in poverty, and the corresponding threshold used to consider an area of potential EJ concern.

	Minorities		Poverty	
State	% Population	EJ Threshold	% Population	EJ Threshold
FL	39.5	47.4	13.2	15.8
AL	31.5	37.8	16.8	20.2
MS	41.2	49.4	21.4	25.7
LA	38.2	45.8	18.4	22.1
TX	52.3	62.7	16.8	20.1

Source: Census Bureau 2010.

No west coast Florida counties exceeded the EJ threshold for minorities. With regard to poverty, only Dixie (3.8%), Franklin (8%), Gulf (1.7%), Jefferson (4.6%), Levy (3.3%), and Taylor (7.1%) counties exceed the threshold by the percentage points noted. In Alabama, Mobile was the only county that exceeded the minority threshold (by 1.7%), and neither of Alabama's coastal counties exceeded the poverty EJ threshold. No coastal county in Mississippi exceeded either threshold. In Louisiana, Orleans Parish exceeded the minority threshold by 25% and the poverty threshold by 1.3%. Texas had several counties that exceeded the thresholds. In descending order of magnitude for exceeding the minority threshold were Willacy (26.3%), Cameron (24.7%), Kleberg (12.3%), Kenedy (9%), Nueces (2.8%), and Harris (0.8%). Exceeding the poverty threshold were Kenedy (32.3%), Willacy (26.8%), Cameron (15.6%), Kleberg (6%), and Matagorda (1.8%). Willacy, Kenedy, Cameron, and Kleberg counties exceed both the minority and poverty thresholds and are the communities identified as most likely to be vulnerable to EJ concerns.

Communities in the Gulf were evaluated based on recreational fishing engagement and reliance. Comparing these communities with the counties identified with potential EJ concerns, six of the communities listed as important to recreational or commercial fishing are located in five counties identified as having potential for EJ concerns. These communities are: 1) in Florida, Apalachicola and Carrabelle in Franklin County, and Port St. Joe in Gulf County; 2) in Alabama, Dauphin Island in Mobile County; and 3) In Texas, Port Aransas in Nueces County and Matagorda in Matagorda County.

People in these communities may be affected by fishing regulations in two ways: participation and employment. Although these communities may have the greatest potential for EJ concerns, no data are available on the race and income status for those involved in the local fishing industry (employment), or for their dependence on red snapper specifically (participation). **Alternative 1** would allow anglers, businesses, and associated communities in states with less restrictive recreational red snapper harvest regulations to continue to receive social and economic benefits associated with enhanced red snapper fishing opportunities at the expense of fishermen, businesses, and associated communities in the other Gulf states. These benefits would be associated with the pleasure of recreational fishing, the revenue derived from recreational fishing, and the nutritional value of fish consumption. Because of the low allowable red snapper harvest and the high costs associated with fishing (red snapper are not typically harvested from shore or shoreside structures), red snapper are not expected to be a significant component of the diet of any EJ populations. As a result, none of these expected effects would be associated with adverse human health or environmental changes. Inconsistent regulations essentially result in the transfer of the benefits of red snapper fishing from one group of anglers to another. Although this transfer would benefit anglers and associated communities in the states with less restrictive regulations, the shortened season in the EEZ would reduce the fishing opportunities and benefits to other anglers and communities. **Preferred Alternative 2** would reduce, but not necessarily eliminate, this transfer of benefits. Thus, under both alternatives, some entities would gain benefits and others lose benefits.

While other states have proposed inconsistent regulations, currently, only Texas has less restrictive red snapper regulations. As a result, the benefits transfer has gone to Texas anglers and communities, of which two have been identified as having possible EJ concern, at the

expense of anglers and communities in the other Gulf states, where four communities of potential EJ concern have been identified. Under **Alternative 1**, however, other states could adopt less restrictive regulations resulting in additional benefits transfer. As a result, the direction of benefits transfer is indeterminate. **Preferred Alternative 2** would, to the extent possible, result in all anglers and communities in the Gulf having equal opportunity to receive the benefits associated with recreational red snapper harvest. Thus, all anglers and communities, regardless of their EJ status, would have equal access to these benefits. As a result, although some anglers, including those in communities of potential EJ concern would be expected to experience a reduction in social and economic benefits, **Preferred Alternative 2** would return all anglers and associated communities in the Gulf closer to equal treatment and reduce the potential inequities arising from inconsistent regulations. Because **Preferred Alternative 2** would be expected to reduce current and potential future inequities in the distribution of social and economic benefits across all anglers and communities in the Gulf, and adverse effects on human health or the environment are not expected to occur, no EJ population would be expected to be disproportionately affected.

CHAPTER 4. ENVIRONMENTAL CONSEQUENCES

4.1 Effects on the Physical Environment

Giving the National Marine Fisheries Service (NMFS) authority to implement state-specific closures of the exclusive economic zone (EEZ) (**Preferred Alternative 2**) would not directly affect the physical environment. Indirect effects would be dependent on changes in effort. Neither the overall level nor the overall duration of effort, which together define the total cumulative amount of effort, would be expected to change. However, the distribution of effort could change, if fewer fishing trips are conducted in areas with shorter seasons, and more fishing trips are conducted in areas that are open longer.

The primary gear used in recreational fishing for red snapper are vertical line gear which has the potential to snag and entangle bottom structures. Each individual gear has a very small footprint and thus only a small potential for impact, but the cumulative impact of the commercial and recreational fishing sectors results in a large amount of gear being placed in the water, increasing the potential for impact. The line and weights also can cause abrasions (Barnette 2001). Additionally, vessels often anchor when fishing, adding to the potential damage of the bottom at fishing locations. If gear is not removed, long-term indirect effects to habitat may occur if the line becomes overgrown with algae or marine life becomes entangled (Hamilton 2000; Barnette 2001). Circle hooks are required in the reef fish fishery; this gear is less likely to snag bottom habitat than other hook types.

4.2 Effects on the Biological/Ecological Environment

With either alternative, NMFS would determine the appropriate number of days to allow recreational red snapper fishing to keep harvest within the quota. The same amount of harvest should result from either management scenario; therefore no additional impacts on the biological environment would be expected from **Preferred Alternative 2** versus **Alternative 1**.

4.3 Effects on the Economic Environment

Alternative 1 would result in continuation of the current situation in which fishermen, and associated businesses, throughout the Gulf of Mexico (Gulf) get penalized for red snapper harvest that occurs in state waters as a result of the adoption of regulations that are less restrictive than federal regulations. As discussed in Chapter 2, the recreational red snapper quota includes harvest from both state waters and the EEZ, and a quota closure occurs (the bag and possession limit for red snapper in or from the EEZ is zero) when the recreational red snapper quota is projected to be reached. Including the harvest resulting from less restrictive state regulations in the calculation of the length of the season in the EEZ reduces the red snapper recreational harvest season in the EEZ for anglers throughout the Gulf.

Reduction of the season in the EEZ for all anglers results in redistribution of the economic benefits associated with red snapper recreational harvest. Anglers fishing in state waters off states with less restrictive regulations can receive greater economic benefits per trip than anglers

fishing in the EEZ if states allow a higher bag limit in state waters during the period when both state waters and the EEZ are open, and continue to receive economic benefits from fishing for red snapper if states allow red snapper harvest when the EEZ is closed. Although all anglers could, in theory, travel to and fish in the state waters of states with less restrictive regulations, subject to state restrictions, the costs and associated effects on net economic benefits likely make such behavior impractical and/or unrealistic for most anglers. As a result, access to the economic benefits associated with less restrictive regulations would not be expected to be uniform or equitably distributed among all anglers.

Reduction of the red snapper open season in the EEZ for all anglers, thus, results in a transfer of economic benefits from anglers who fish in the EEZ to anglers who fish in state waters under less restrictive regulations. Although in some instances these may be the same anglers – an angler prevented from fishing in the EEZ off one state should be able to fish in state waters – in general this would not be expected to be the case, i.e., the anglers who lose the economic benefits of fishing in the EEZ are not the same anglers who receive the economic benefits accruing to less restrictive state regulations. Further, available data do not support a determination that anglers in any specific state are more deserving (because they value the activity/resource more) of the economic benefits associated with recreational red snapper harvest. Thus, the transfer of economic benefits from one user group to another as a result of less restrictive state regulations may not be equitable or economically justified. Even if the economic benefits per trip are equal across all anglers in all states under a common bag limit, a reduction in economic benefits would be expected to result from a shortening of the federal season in response to higher state bag limits because of marginal value considerations. Under marginal value considerations, the marginal gain in economic value per trip that would be expected as a result of increasing the bag limit in state waters from two fish to three fish would be expected to be less than the economic value lost by a trip reduced from two fish to zero fish as a result of a closure. As a result, a loss in economic benefits compared to potential benefits would be expected to continue to occur under **Alternative 1**.

As discussed in Chapter 1, the transfer of economic benefits and reduction in total economic benefits as a result of inconsistent regulations in Texas state waters has occurred for years. Because of the relatively small total recreational red snapper harvested each year off Texas (see SERO-LAPP-2012-10), a substantial reduction in the federal red snapper open season has not been required. As a result, the economic benefits transfer (not calculated), and associated economic loss, has likely been, and would be expected to continue to be, small. Louisiana and Florida, which account for a larger portion of the annual harvest than Texas, are considering adopting less restrictive regulations starting in 2013. In response to, or independent of, action by these states, other states could also adopt less restrictive regulation. Thus, the rate and magnitude of benefits transfer could increase substantially.

Preferred Alternative 2 would be expected to reduce, although not necessarily eliminate, the benefits transfer that would be expected to occur with **Alternative 1**. Anglers who fish in the EEZ off states with consistent regulations would be expected to have longer seasons, and receive more of the associated economic benefits, than with **Alternative 1**. Anglers in states with less restrictive regulations would continue to have the option to fish in state waters or the EEZ off their state, and receive the economic benefits associated with any trips, but would not be allowed

the full flexibility, and associated benefits, to take advantage of their state regulations and the same season in the EEZ as states with consistent regulations. Depending on the regulations adopted and the magnitude of total harvest in state waters, total closure of the EEZ off a given state may still be insufficient to account for the harvest attributed to less restrictive regulations. As a result, a shorter season in the EEZ off all other states may still be required. Thus, some benefit transfer may continue. Nevertheless, the total economic benefits would be expected to be more under **Preferred Alternative 2** than **Alternative 1**.

4.4 Effects on the Social Environment

The effects on the social environment would be expected to mirror the direction and magnitude of the economic effects discussed in Section 4.3. The adoption of less restrictive red snapper regulations in state waters would be expected to result in the transfer of the social benefits of red snapper harvest from anglers, and associated businesses and communities, who fish off states with red snapper regulations that are consistent with the federal regulations. Anglers, and associated businesses and communities, who fish off states with red snapper regulations that are not consistent with the federal regulations would be the beneficiaries of this transfer. Such transfer has already occurred as a result of the adoption of less restrictive regulations in Texas state waters. Similar to the discussion in Section 4.3 with respect to economic benefits, available information does not support a determination that red snapper has a greater social value and importance to the anglers and communities in one state relative to those in any other state (this statement should not be construed to dismiss the possibility that red snapper may be more important to some individual anglers or communities than others). Thus, the transfer of social benefits from one state to another as a result of regulatory differences, when not supported by appropriate benefit justification, would be expected to unjustifiably benefit some anglers and communities at the expense of others and, similar to economic benefits, result in a net reduction in total social benefits. Because **Alternative 1** would allow the social benefits of red snapper harvest to be transferred based simply on regulatory differences, while **Preferred Alternative 2** would reduce the extent to which such could occur, **Preferred Alternative 2** would be expected to result in increased social benefits compared to **Alternative 1**.

4.5 Effects on the Administrative Environment

This action would have direct impacts on the administrative environment. With **Preferred Alternative 2**, NMFS would be responsible for determining the appropriate number of days for the federal red snapper recreational season off each state. Enforcement would be more difficult with different seasons in different areas of the EEZ.

4.6 Cumulative Effects Analysis

The cumulative effects from the red snapper rebuilding plan have been analyzed in Amendments 22 (GMFMC 2004a) and 27/14 (GMFMC 2007), and cumulative effects to the reef fish fishery have been analyzed in Amendments 30A (GMFMC 2008a), 30B (GMFMC 2008b) and 31 (GMFMC 2009), and are incorporated here by reference. This action is an emergency rule, and as such any impacts would be expected to be short-term. No cumulative impacts should occur

that affect the red snapper stock, but fishermen could be impacted differently depending on the regulations set by the state where they fish. Short-term negative impacts on the socioeconomic environment associated with red snapper fishing have occurred and are likely to continue due to the need to limit directed harvest and reduce bycatch mortality. With **Preferred Alternative 2**, those fishermen fishing in waters off states that do not have consistent regulations would experience a shorter federal season, although they could move to other waters that are still open. The result would be a greater negative cumulative impact either from less time fishing or the cost to travel to other areas. Fishermen fishing in waters off states that do have consistent regulations may experience a longer federal season, thereby mitigating some of the negative impacts of limiting directed harvest.

The cumulative effects from the Deepwater Horizon MC252 oil spill may not be known for several years. If there was a reduction in spawning success in 2010, the impacts may not begin to manifest themselves until at least 2013, when the fish that would have spawned in 2010 would have become large enough to enter the adult spawning population and be caught by red snapper fishers. The impacts would result in reduced fishing success and reduced spawning potential, and would need to be taken into consideration in the next stock assessment. In a study conducted during the summer of 2011, University of South Florida researchers found more unhealthy fish in the area of the 2010 oil spill compared to other areas. Although some scientists have suggested that these incidences of sick fish may be related to the spill, others have pointed out that there is no baseline from which to judge the prevalence of sick fish, and no connection has been determined. Studies are continuing to check whether the sick fish suffer from immune system and fertility problems (Tampa Bay Times 2012).

Some of the likely past, present, and future impacts of global climate change induced by human activities are sea level rise, increased frequency of severe weather events, and change in air and water temperatures. The Environmental Protection Agency's climate change webpage (http://www.epa.gov/climatechange/) provides basic background information on these and other measured or anticipated effects. The United Nations Intergovernmental Panel on Climate Change's Fourth Assessment Report (IPCC 2007) contains a compilation of scientific information on climate change and is incorporated here by reference (http://www.ipcc.ch/publications_and_data/publications_and_data_reports.shtml). Global climate changes could have significant effects on Gulf fisheries; however, the extent of these effects is not known at this time. Possible impacts are outlined in the Generic ACL/AM amendment (GMFMC 2011a) and Amendment 32 (GMFMC 2011c).

The effects of the proposed action are, and will continue to be, monitored through collection of landings data by NMFS, stock assessments and stock assessment updates, life history studies, economic and social analyses, and other scientific observations. Landings data for the recreational sector in the Gulf are collected through NMFS's Head Boat Survey, the Texas Marine Recreational Fishing Survey, and the Marine Recreational Information Program.

CHAPTER 5. REGULATORY IMPACT REVIEW

5.1 Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR: 1) provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; 2) 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) 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 (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act. This RIR analyzes the expected effects that this action would be expected to have on the reef fish fishery of the Gulf of Mexico (Gulf). Additional details on the expected economic effects of the various alternatives in this action are included in Chapter 4.

5.2 Problems and Objectives

The purpose and need, issues, problems, and objectives of this amendment are presented in Chapter 1.

5.3 Description of the Fishery

A description of the recreational red snapper component of the reef fish fishery is provided in provided in GMFMC (2013).

5.4 Effects of Management Measures

The proposed action would be expected to result in a small increase in the net economic benefits to fishermen and associated businesses and communities. This proposed action would reduce the red snapper season in the exclusive economic zone (EEZ) off states that adopt less restrictive regulations than the federal regulations. The reduction in the red snapper season in the EEZ off these states would be proportionate with the amount of harvest expected to occur in state waters due to the less restrictive regulations and is intended to limit total harvest off each state (combined state and federal waters) to the amount that would occur under consistent regulations. A reduction in the red snapper season in the EEZ off states with less restrictive regulations would be expected to limit the transfer of economic benefits from anglers and associated businesses in states with consistent regulations that would otherwise occur. The transfer of benefits as a result of inconsistent regulations is expected to result in less total economic benefits than would accrue to consistent regulations throughout the Gulf. As a result, reduction of this transfer would be expected to result in a net gain in economic benefits. These effects cannot be quantified, however, because the incidence (which states may adopt inconsistent regulations) or magnitude

of regulatory incompatibility (how the regulations may differ) is unknown. However, the total allowable red snapper recreational harvest would not be affected, thus preserving the majority of the economic benefits accruing to this component of the recreational sector. As a result, the economic effects of this proposed action would be expected to be a marginal increase in economic benefits.

5.5 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 amendment include:

Council costs of document preparation, meetings, public hearings, and information dissemination……...…….. $0

NMFS administrative costs of document preparation, meetings and review $5,000

TOTAL $5,000

Because this is a temporary action wholly undertaken by NMFS, no Council costs will be incurred outside normal costs associated with Council discussion of the issues addressed by this action and requesting NMFS to take action. The federal costs of document preparation are based on staff time, travel, printing, and any other relevant items where funds were expended directly for this specific action. The estimate provided above does not include any law enforcement costs. Any enforcement duties associated with this action would be expected to be covered under routine enforcement costs, though it is noted that it will be more difficult to monitor closure periods if they vary by state.

5.6 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.

CHAPTER 6. REGULATORY FLEXIBILITY ACT ANALYSIS

Because delay in implementation would continue to impose a potential economic burden on fishermen, good cause has been found to waive prior notice and the opportunity for public comment on this action. As a result, a Regulatory Flexibility Act Analysis is not required and none was prepared.

CHAPTER 7. LIST OF PREPARERS

Name	Expertise	Responsibility	Agency
Susan Gerhart	Biologist	Document development, background, and effects analysis	SERO
Stephen Holiman, Ph.D.	Economist	Socio-economic analyses and RIR	SERO
Shepherd Grimes	Attorney	Legal compliance and review	NOAA GC
Andrew Strelcheck	Biologist	Data analyses and review	SERO
Steve Branstetter, Ph.D.	Biologist	Review	SERO
Nick Farmer, Ph.D.	Biologist	Data analyses	SERO
Noah Silverman	Natural Resource Management Specialist	NEPA compliance	SERO

SERO = National Marine Fisheries Service Southeast Regional Office, GC = General Counsel.

CHAPTER 8. LIST OF AGENCIES CONSULTED

Gulf of Mexico Fishery Management Council
National Marine Fisheries Service
- Southeast Fisheries Science Center
- Southeast Regional Office

NOAA General Counsel
U.S. Coast Guard
Environmental Protection Agency

CHAPTER 9. REFERENCES

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APPENDIX A. OTHER APPLICABLE LAW

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) provides the authority for management of stocks included in fishery management plans in federal waters of the exclusive economic zone. However, management decision-making is also affected by a number of other federal statutes designed to protect the biological and human components of U.S. fisheries, as well as the ecosystems that support those fisheries. Major laws affecting federal fishery management decision-making are summarized below.

Administrative Procedures Act (APA)

All federal rulemaking is governed under the provisions of the APA (5 U.S.C. Subchapter II), which establishes a "notice and comment" procedure to enable public participation in the rulemaking process. Under the APA, the National Marine Fisheries Service (NMFS) is required to publish notification of proposed rules in the Federal Register and to solicit, consider, and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day waiting period from the time a final rule is published until it takes effect. Comment on this rule was taken at the February 2013 Gulf of Mexico Fishery Management Council meeting. NMFS must implement this emergency rule immediately to allow for-hire businesses and private anglers to start booking trips and plan out their fishing seasons. For this reason, NMFS finds good cause to waive prior notice and the opportunity for public comment because they would be contrary to the public interest.

Coastal Zone Management Act (CZMA)

Section 307(c)(1) of the federal CZMA of 1972, as amended, requires federal activities that affect any land or water use or natural resource of a state's coastal zone be conducted in a manner consistent, to the maximum extent practicable, with approved state coastal management programs. The requirements for such a consistency determination are set forth in NOAA regulations at 15 CFR Part 930, Subpart C. According to these regulations and CZMA Section 307(c)(1), when taking an action that affects any land or water use or natural resource of a state's coastal zone, NMFS is required to provide a consistency determination to the relevant state agency at least 90 days before taking final action. However, this emergency rule qualifies as an "exigent circumstance" and therefore deviates from the required consistency review under the CZMA. Implementation of the emergency rule as soon as possible will allow NOAA Fisheries to determine the closure dates for the recreational red snapper season off each state and provide notice to the public. All Gulf states were sent a copy of the Environmental Assessment and NMFS' determination that the action is consistent with the states' Coastal Zone Management Program and requested to respond within 30-days.

Data Quality Act (DQA)

The DQA (Public Law 106-443) effective October 1, 2002, requires the government to set standards for the quality of scientific information and statistics used and disseminated by federal agencies. Information includes any communication or representation of knowledge such as facts or data, in any medium or form. Specifically, the DQA directs the Office of Management and Budget to issue government wide guidelines that "provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies." Such guidelines have been issued, directing all

federal agencies to create and disseminate agency-specific standards to: 1) ensure information quality and develop a pre-dissemination review process; 2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information; and 3) report periodically to Office of Management and Budget on the number and nature of complaints received.

Scientific information and data are key components of FMPs and amendments and the use of best available information is the second national standard under the Magnuson-Stevens Fishery Conservation and Management Act. To be consistent with the Act, FMPs and amendments must be based on the best information available. They should also properly reference all supporting materials and data, and be reviewed by technically competent individuals. With respect to original data generated for FMPs and amendments, it is important to ensure that the data are collected according to documented procedures or in a manner that reflects standard practices accepted by the relevant scientific and technical communities. Data used in the analysis of this action and its impacts has undergone quality control prior to being used by the agency and a pre-dissemination review.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) regulates the collection of public information by federal agencies to ensure the public is not overburdened with information requests, the federal government's information collection procedures are efficient, and federal agencies adhere to appropriate rules governing the confidentiality of such information. The Act requires NMFS to obtain approval from the Office of Management and Budget before requesting most types of fishing activity information from the public. This action is not expected to create additional paperwork burdens.

Executive Orders (E.O.)

E.O. 12630: Takings:

The E.O. on Government Actions and Interference with Constitutionally Protected Property Rights that became effective March 18, 1988, requires each federal agency prepare a Takings Implication Assessment for any of its administrative, regulatory, and legislative policies and actions that affect, or may affect, the use of any real or personal property. Clearance of a regulatory action must include a takings statement and, if appropriate, a Takings Implication Assessment. The NOAA Office of General Counsel will determine whether a Taking Implication Assessment is necessary for this rule.

E.O. 12962: Recreational Fisheries

This E.O. requires federal agencies, in cooperation with states and tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities through a variety of methods including, but not limited to, developing joint partnerships; promoting the restoration of recreational fishing areas that are limited by water quality and habitat degradation; fostering sound aquatic conservation and restoration endeavors; and evaluating the effects of federally-funded, permitted, or authorized actions on aquatic systems and recreational fisheries, and documenting those effects. Additionally, it establishes a seven-member National Recreational Fisheries Coordination Council (NRFCC) responsible for, among other things, ensuring that social and economic values

of healthy aquatic systems that support recreational fisheries are considered by federal agencies in the course of their actions, sharing the latest resource information and management technologies, and reducing duplicative and cost-inefficient programs among federal agencies involved in conserving or managing recreational fisheries. The NRFCC also is responsible for developing, in cooperation with federal agencies, States and Tribes, a Recreational Fishery Resource Conservation Plan - to include a five-year agenda. Finally, the Order requires NMFS and the U.S. Fish and Wildlife Service to develop a joint agency policy for administering the ESA.

E.O. 13132: Federalism

The E.O. on Federalism requires agencies in formulating and implementing policies, to be guided by the fundamental Federalism principles. The Order serves to guarantee the division of governmental responsibilities between the national government and the states that was intended by the framers of the Constitution. Federalism is rooted in the belief that issues not national in scope or significance are most appropriately addressed by the level of government closest to the people. This Order is relevant to FMPs and amendments given the overlapping authorities of NMFS, the states, and local authorities in managing coastal resources, including fisheries, and the need for a clear definition of responsibilities. It is important to recognize those components of the ecosystem over which fishery managers have no direct control and to develop strategies to address them in conjunction with appropriate state, tribes and local entities (international too). No Federalism issues have been identified relative to the proposed action. Therefore, consultation with state officials under Executive Order 12612 is not necessary.