

**AMENDMENT 13**  
**TO THE**  
**REEF FISH FISHERY MANAGEMENT PLAN**  
**FOR THE REEF FISH RESOURCES OF**  
**THE GULF OF MEXICO**  
**(Includes Regulatory Impact Review and Environmental Assessment)**



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Abbreviations Used in This Document

Council	Gulf of Mexico Fishery Management Council	NMFS	National Marine Fisheries Service
EEZ	Exclusive Economic Zone	RFA	Regulatory Flexibility Act of 1980
E.O.	Executive Order	RIR	Regulatory Impact Review
FMP	Fishery Management Plan	SBA	Small Business Administration
GMFMC	Gulf of Mexico Fishery Management Council	SEIS	Supplemental Environmental Impact Statement
IRFA	Initial Regulatory Flexibility Analysis	SEP	Socioeconomic Panel
ITQ	Individual Transferable Quota	TAC	Total Allowable Catch

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## **1.0 INTRODUCTION**

This plan amendment addresses a single issue, extension of the red snapper endorsement system.

This document has been organized to optimize readability while providing all of the discussions and sections required in a document of this type. For the set of alternatives, the rationale/discussion, economic impacts and environmental consequences have been included together in the main section of the amendment (section 6.0) instead of spread out over three separate sections. The sections titled Regulatory Impact Review and Environmental Assessment contain discussion and analysis which is not specific to individual alternatives, and include the specific alternative discussions from the main sections by reference.

The sections titled "Purpose and Need for Action" and "Problems Requiring a Plan Amendment" provide a brief overview of the issues in this amendment. The section titled "Proposed Actions" lists the proposed alternatives for each issue. These sections can serve as an executive summary for the remainder of the document.

## **2.0 HISTORY OF MANAGEMENT RELATING TO RED SNAPPER ENDORSEMENT**

A complete history of management, from implementation of the original Reef Fish Fishery Management Plan in November 1994, through December 1995, is contained in Amendment 12, and is incorporated into this amendment by reference. The following is a review of red snapper management relative to the red snapper endorsement system.

A March 1991 regulatory amendment reduced the red snapper TAC for 1991 from its previous 5.0 million pounds to 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 pound allocation). The 2.04 million pound quota was reached on August 24, 1991, and the red snapper fishery was closed to further commercial harvest in the EEZ for the remainder of the year. This was the first time that there was a commercial red snapper quota closure. 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 red snapper fishery was closed on February 22, 1992.

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

An October 1992 Regulatory Amendment raised the 1993 red snapper TAC from 4.0 million pounds to 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). The amendment also changed the target year to achieve a 20 percent red snapper SPR from 2007 to 2009, based on the Plan 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 non-transferable 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, while the commercial red snapper fishery is open permitted vessels with red snapper endorsements are allowed a 2,000 pound possession limit of red snapper, and permitted vessels without the endorsement are allowed 200 pounds. 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.

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

An October 1993 Regulatory Amendment set the opening date of the 1994 commercial red snapper fishery as February 10, 1994, and restricted commercial vessels to landing no more than one trip limit per day. The purpose of this amendment was to facilitate enforcement of the trip limits, minimize fishing during hazardous winter weather, and ensure that the commercial red snapper fishery is open during Lent, when there is increased demand for seafood. The Total Allowable Catch (TAC) was retained at the 1993 level of 6 million pounds, with a 3.06 million pound commercial quota and 2.94 million pound recreational allocation. The 1994 commercial red snapper season opened on February 10 and closed on April 27, a total of 77 fishing days.

Amendment 7, implemented in February 1994, allowed transfer of reef fish permits or endorsements in the event of the death or disability of the person who was the qualifier for the permit or endorsement.

Amendment 8, which established a red snapper Individual Transferable Quota (ITQ) system, was approved by NMFS and final rules were published in the Federal Register on November 29, 1995. This amendment provided for an initial allocation of percentage shares of the commercial red snapper quota to vessel owners and historical operators based on fishermen's historical participation in the fishery during the years 1990-1992, set a four year period for harvest under the ITQ system, during which time the Council and NMFS would monitor and evaluate the program and decide whether to extend, terminate or modify it, and established a special appeals board, created by the Council, to consider requests who contest their initial allocations of shares or determination of historical captains. The appeals board was originally scheduled to meet during January 1996, with the ITQ system itself to become operational in April 1996. However, the federal government shutdown of December 1995-January 1996 forced an indefinite postponement of the appeals board meetings, and concerns about Congressional funding of the ITQ system made it inadvisable for the ITQ system to become operational at this time.

Amendment 9, implemented in July 1994, provided for collection of red snapper landings and eligibility data from commercial fishermen for the years 1990 through 1992. Due to concerns by commercial fishermen about the impact of the proposed measures in Amendment 8, the Council delayed consideration of Amendment 8 until information could be collected (under Amendment 9) to determine eligibility and initial allocations to individual fishermen. The purpose of this data collection was to evaluate the initial impacts of the limited access measures being considered under Amendment 8 and to identify fishermen who may qualify for initial participation under a limited access system. This amendment also extended the reef fish permit moratorium and red

snapper endorsement system through December 31, 1995, in order to continue the existing interim management regime until longer term measures can be implemented. The Council received the results of the data collection in November 1994, at which time consideration of Amendment 8 resumed.

A proposed regulatory amendment to set the 1996 red snapper TAC, dated December 1995, is under review by NMFS. This regulatory amendment proposes to raise the red snapper TAC from 6 million pounds to 9.12 million pounds, with 4.65 million pounds allocated to the commercial sector and 4.47 million pounds allocated to the recreational sector. Recreational size and bag limits will remain at 5 fish and 15 inches total length. The recovery target date to achieve 20 percent SPR is extended to the year 2019, based on new biological information that red snapper live longer and have a longer generation time than previously believed. This regulatory amendment also proposes eliminating the automatic increases in commercial red snapper size limit and restoring the commercial 14 inch red snapper size limit if similar provisions in Amendment 12 are not implemented in time for the 1996 commercial season. Implementation of this regulatory amendment was delayed due to the government shutdown.

### **3.0 PURPOSE AND NEED FOR ACTION**

Reef Fish Amendment 8, which established an Individual Transferable Quota (ITQ) system for the red snapper fishery, was approved by the Council and NMFS for implementation in 1996. The red snapper endorsement system, which had been created as a temporary measure for the 1993-1994 seasons and subsequently extended through 1995, was scheduled to expire at the end of 1995. Because of the time needed to hold appeals and set up the administration of the ITQ system, NMFS determined that ITQs could not be in place before April 1996. Rather than keep the commercial red snapper fishery closed until April, the Council requested that NMFS open the fishery on February 1, 1996, with one million pounds of the quota to be harvested under an extension of the red snapper endorsement system and 2,000/200 pound trip limits. The Council further requested that, if there were delays in implementing the ITQ system, then the total quota was to be released.

In November 1995, the Council approved an increase in the red snapper TAC to 9.12 million pounds, which would raise the commercial quota from 3.06 million pounds to 4.65 million pounds. The regulatory amendment to increase the TAC is currently under review by NMFS.

On December 29, 1995, the Council cancelled its scheduled January ITQ appeals board meetings as a result of the government shutdown and furlough of NMFS personnel responsible for compiling the appeals records, and as a result of pending changes to the Magnuson Act that could postpone implementation of ITQ systems for about three years while federal guidelines for such systems are developed. As a result of these developments, it now appears unlikely that an ITQ system will be implemented in 1996, although, if no Congressional restraints are placed on implementing ITQ systems, it is possible that the red snapper ITQ system may be implemented for the last half of a proposed split season in 1996, beginning September 15, 1996.

In light of these recent and unforeseen developments, alternatives need to be decided upon for management of the 1996 (and possibly later) red snapper quota.

### **4.0 PROBLEMS REQUIRING A PLAN AMENDMENT**

Through an emergency interim action that was published in the Federal Register on January 2, 1996, the red snapper endorsement system was extended for 90 days. That emergency action was superseded by another emergency action, published in the Federal Register on February 29,

1996, that extended the red snapper endorsement system through May 29, 1996. By agreement of NMFS and the Council, that emergency action may be extended through August 27, 1996. This is a sufficient time period to cover harvest of the portion of the commercial quota that is released on February 1 under the endorsement system. However, the Council is proposing, through a revision of its red snapper regulatory amendment for the 1996 season (and 1997 if necessary), to have a split season, with the second portion of the quota to be released on September 15. This is beyond the maximum allowable time period for the emergency action. In addition, the Council is uncertain whether a permanent limited access system will be in place before the start of the 1997 fishing season. Until a permanent system can be implemented, an interim plan needs to be in place.

## 5.0 PROPOSED ACTION

This amendment contains a single proposed action. That action is to extend the duration of the red snapper endorsement system until Amendment 8 (red snapper ITQ system) is implemented or until replaced by an alternate plan to limit access to the commercial red snapper fishery. If either of these options is not possible, then the endorsement system will terminate on December 31, 1997.

## 6.0 RED SNAPPER ENDORSEMENT SYSTEM EXTENSION - ALTERNATIVES AND DISCUSSION

### Proposed Alternative:

**Extend the duration of the red snapper endorsement system until Amendment 8 (red snapper ITQ system) is implemented or until replaced by an alternate plan to limit access to the commercial red snapper fishery. If either of these options is not possible, then the endorsement system will terminate on December 31, 1997.**

### Rejected Alternative 1:

**Extend the duration of the red snapper endorsement system indefinitely until Amendment 8 (red snapper ITQ system) is implemented or until replaced by an alternate plan to limit access to the commercial red snapper fishery.**

### Rejected Alternative 2:

**No Action - Once the emergency rule to extend the red snapper endorsement system into the beginning of the 1996 fishing season expires, the red snapper endorsement system and its associated trip limits will cease to exist.**

**Rationale:** Without a plan amendment to further extend the endorsement system, or implementation of a permanent limited access system, the commercial fishery for red snapper after June 29, 1996 will revert to the regulations that existed prior the red snapper endorsement system, e.g., all permitted reef fish vessels would be allowed to harvest red snapper in any quantity until the quota is filled. If a single trip limit were to be implemented, it would have to be done either through the revised regulatory amendment or through an emergency action. Having no trip limit or a single trip limit at 2,000 pounds would intensify the derby fishery as additional vessels that are currently restricted to the 200 pound bycatch allowance would join in the directed harvest. A smaller single trip limit could offset this additional directed effort. However, in 1992,

during the emergency re-opening of the commercial fishery under a 1,000 pound trip limit, the nearshore artificial reefs off Alabama, which are usually fished by recreational vessels and small-scale commercial vessels, were heavily fished by commercial vessels, resulting in user conflicts. This is believed to have been the result of larger vessels attempting to reduce costs and increase their number of trips under the smaller trip limit. To prevent these user conflicts from recurring and to prevent further intensification of the derby fishery, a continuation of the red snapper endorsement system and its associated trip limits until a permanent limited access system can be implemented is necessary.

**Discussion:** In 1992, prior to the red snapper endorsement system, there were 2,199 permitted reef fish vessels in the Gulf of Mexico. Not all vessels were required to submit logbooks in 1992, but of the 925 vessels that submitted logbooks, 37% had at least some landings of red snapper. If this percentage is applied to all permitted vessels, then as many as 819<sup>1</sup> permitted vessels had either directed or incidental red snapper landings in 1992. When the red snapper endorsement system was implemented in 1993, 131 vessels initially received endorsements.

By February 1996, there were 1,497 active reef fish vessel permits, and 123 red snapper endorsements<sup>2</sup>. Logbook records show that 424 vessels had either directed or incidental red snapper landings in 1995 (pers. comm. from John Poffenberger). Thus, in 1995, 123 vessels fished for red snapper under a 2,000 pound trip limit, and 301 vessels caught red snapper under a 200 pound trip limit.

Under the Proposed Alternative, the endorsement system would be continued through 1997, unless replaced sooner by a limited access system. The endorsements would continue to be non-transferable, except to other vessels owned by the same permit holder or to other persons in the event of death or disability of the permit holder.

The Council anticipates that a permanent red snapper limited access system will be implemented by the end of 1997. If this is not the case, then the Council will need to review its regulations for 1998 before the proposed extension expires.

Rejected Alternative 1 is identical to the Proposed Alternative, except that it would continue the endorsement system indefinitely if a permanent limited access system is not implemented. The endorsement system has been extended three times since it was first implemented. Under Amendment 6, the endorsement system was extended beyond the original 1993 emergency action period through 1994. Amendment 9 further extended the endorsement system through 1995. The January 2, 1996 emergency rule extended the endorsement system into the beginning of 1996. This Amendment creates a fourth extension, through 1997. An indefinite extension would eliminate the need to periodically reevaluate and extend the endorsement system in the absence of permanent rules. However, NOAA General Counsel has expressed concerns that an indefinite extension could itself be considered to be a permanent limited access system, and could not be implemented without addressing the Magnuson Act Section 303 provisions for establishing limited access systems. For this reason, the Council rejected an indefinite extension.

Rejected Alternative 2 (no action) would allow the endorsement system to expire after the current emergency rule ends. If a permanent limited access system could be implemented before the next opening of the commercial red snapper fishery occurs, then an extension of the endorsement

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

<sup>2</sup> Source: NMFS/SERO Regulations and Permits Branch, 2/1/96

system would not be necessary. Likewise, an extension would not be needed if a single trip limit could be implemented that would avoid creating user conflicts, increased derby effect, or economic hardships on vessels that are historically dependent on the fishery. The Council believes that these adverse impacts cannot be avoided without either extending the endorsement system or implementing a permanent limited access system, and that a permanent limited access system cannot be implemented until the uncertainty regarding Congressional action has been resolved. For this reason, the Council Rejected the no action alternative.

**Biological Impacts:** The biological impacts of extending the endorsement system are the same as previously discussed in Amendments 6 and 9. The 200 pound limit on permitted vessels that do not qualify for a red snapper endorsement may increase fishing pressure on alternative species such as vermilion snapper and triggerfish, and may increase release mortality from red snapper over the 200 pound limit that must be thrown back.

In 1993, the commercial red snapper harvest rate averaged 34 thousand pounds per day. In 1994, the commercial harvest rate increased to averaged 40 thousand pounds per day. In 1995, the 2.84 million pounds of the 3.06 million pound commercial quota was taken under the endorsement system in 50 days, averaging about 57 thousand pounds per day. This trend toward increased harvest rates is likely to continue until a system that reduces or eliminates the derby fishery can be implemented.

**Economic Impacts:** The red snapper endorsement system was first implemented for the 1993 red snapper season. Then the total number of vessels holding reef fish permit were 2,214, and about 819 of which had directed or incidental catch of red snapper. The endorsement rule pared down the number of participants qualified for the endorsement to 131, with each qualifying vessel being entitled to a trip limit of 2,000 pounds. Vessels without endorsement have been allowed a trip limit of 200 pounds. In 1993, vessels could take as many trips as they could during the season, but beginning the 1994 season, vessels have been restricted to landing no more than one trip limit per day. As mentioned above, there are 1,497 active reef fish vessel permits and 123 of which have red snapper endorsements. In 1995, a total of 424 vessels had directed or incidental landings of red snapper.

The endorsement system has been established as an interim rule while the Council deliberated on a limited access system for the red snapper fishery. One major rationale for this system has been to reduce the severe economic and social consequences of a derby fishery that occurred in 1992 when the fishery lasted for only 53 days, although the fishery was reopened from April 3 through May 14, 1992. However, the derby continued the following years, with the fishery open for about 3 months in 1993, 2.5 months in 1994, and 1.5 months in 1995. The 1995 season was prematurely closed, but was reopened for 36 hours the first week of November. The 1996 season has just commenced.

An ITQ system for the red snapper fishery has been approved, and should have taken effect starting April 1, 1996. Unforeseen circumstances, described above, forestalled its actual implementation. In the meantime, the endorsement system has been extended through May 29, 1996 under an emergency action, or possibly through August 27, 1996, if necessary. This plan amendment will further extend the endorsement system through December 31, 1997 under the Proposed Alternative or indefinitely under Rejected Alternative 1, unless sooner replaced by actual implementation of the ITQ system or other system limiting access to the red snapper fishery. The status quo option would leave the fishery under an open access system until replaced by implementation of the ITQ system or other system limiting access to the red snapper fishery. Under status quo the number of participants will still be limited due to the moratorium on commercial reef fish permit.

If the ITQ system gets implemented before the next opening of the red snapper fishery, all three alternatives would have no economic effects, except for the cost of preparing this plan

amendment. Considering the uncertainty surrounding the implementation of the ITQ system, the Proposed Alternative and Rejected Alternative 1 may be regarded as having similar economic effects.

Implementation and previous extensions of the endorsement system had been premised on the idea that it would lengthen the fishing season and thus prevent the re-occurrence of the 1992 derby fishery. Experience in the last three years has proven otherwise -- the season has gotten shorter year after year. Based on such experience, we may expect the endorsement system to be ineffective in arresting the derby nature of the fishery. But, we may also expect that a reversion to an open access system without very restrictive trip limits will only exacerbate the derby situation.

Over the years, there has been a growing concentration of trips for red snapper. In an analysis of logbook data, Goodyear (1995) noted that in 1990 and 1991 half of the trips which landed red snapper were composed of 85 to 86 percent of other species. In 1995, half of the trips which landed red snapper were composed of less than 10 percent of other species. This is a situation we may expect under a shortened season, since fishermen will be compelled to catch red snapper before the season ends. In addition, vessels with endorsement have consistently landed a greater portion of the red snapper commercial quota. Again, this is as expected since vessels with endorsement are entitled to higher trips limits. The current commercial red snapper fishery may then be characterized as one with specialized trips and dominated by vessels with endorsement. Extension of the endorsement system will preserve this characteristic.

While fluctuations in red snapper price are readily observable, overall ex-vessel values have remained relatively stable under the endorsement system. Ex-vessel values were about \$6.3 million in 1993 and \$6.2 million in 1994 (Waters, 1995). The shortening of the season from 3 months in 1993 to 2.5 months in 1994 has not substantially affected ex-vessel revenues. This appears to imply that the fishery may have attained a certain level of stability with respect to the market for red snapper. However, the cost side of fishing operations may be different in these years under the endorsement system.

Preliminary results from a recently completed economic survey of reef fish commercial vessels indicate the dominance of high volume vessels in the red snapper fishery (Waters, 1995). This survey revealed that a total of nearly 3.7 million pounds of red snapper worth \$7.4 million were landed in 1993. Confidence bands around these numbers include actual landings and revenues for this year. Fishermen on high-volume boats with vertical hook-and-line gear accounted for nearly 62 percent of total landings and ex-vessel values. Net return to owner, captain and crew amounted to \$6.8 million. On average, a high volume hook-and-line boat in the Northern Gulf received a net revenue of about \$42,000 while its low volume counterpart received \$7,000 for the 1993 fishing season. This preliminary information suggests that high volume boats (very likely those with endorsements) have benefited significantly more than others under the endorsement system. An extension of the endorsement system is bound to preserve this type of distribution of benefits.

What has occurred in the red snapper fishery under the endorsement system serves as a preview to what would happen under an ITQ system. As discussed in a regulatory amendment submitted in December 1995, an ITQ system would generate a net return to the industry amounting to \$30.2 million for the period 1996-2000 with an annual quota of 3.06 million pounds, or \$37.8 million with an annual quota of 4.65 million pounds (see GMFMC, 1995). Among many others, the assumption that high volume producers would harvest most of the quota through consolidation of ITQs was factored into the estimation of benefits under the ITQ system.

These benefits are bound to be dissipated if the fishery returns to an open access management.

An endorsement system may be considered to fall between the ITQ and open access system. In this regard, there is reason to believe that over the next two years, an extension of the endorsement system would generate some benefits to the industry that are more than those under an open access system.

**Environmental Consequences:**

*Physical Environment:* The alternatives presented in this section will have no impact on the physical environment.

*Human Environment:* The Proposed Alternative continues the existing impact of the endorsement system on the human environment. This system has now been in place for three years and, by design, provides increased benefits to those fishermen who had a historical dependence on the fishery during the years 1990 to 1992. The relatively low attrition rate of red snapper endorsements (from 131 to 123, or 6%) compared to reef fish vessel permits (from 2,199 to 1,497, or 32%) suggests that there have indeed been increased benefits to the endorsement holders, and even more so when considering that the vessel permit has more lenient transferability provisions. (It should be noted, however, that many of the reef fish vessel permits are believed to have been obtained on speculation by persons who may not have been active in the fishery, whereas red snapper endorsements were issued only to active participants in the fishery.)

*Fishery Resources:* The red snapper recovery program will not be affected by either continuation or termination of the endorsement system, provided the overall quota continues to be enforced. Under a continuation of the endorsement system, increased fishing pressure on alternative species such as vermilion snapper by fishermen who do not qualify for the endorsement will continue. However, once the red snapper quota is filled, there will be increased pressure on these alternative species from all red snapper fishermen who continue to fish. Termination of the endorsement system without substitution of an alternative measure, such as a reduced single trip limit, will allow greater quantities of red snapper to be harvested per trip by all fishermen, resulting in a shortened season and more rapid shifting to alternative species.

*Impact on Other Fisheries:* Effort shifting toward alternative species is discussed in the previous paragraph. Except as noted, the alternatives in this amendment will have no direct impact on other living marine resources.

*Effect on Wetlands:* The alternatives presented in this section have no effect on wetlands.

## **7.0 REGULATORY IMPACT REVIEW**

### **7.1 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 any proposed regulations are a "significant regulatory action" under certain criteria provided in Executive Order 12866 and

whether the proposed 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).

This RIR analyzes the probable impacts on fishery participants of the proposed plan amendment to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP).

**7.2 Problems and Objectives**

Sections 3 and 4 discuss the problems and objectives addressed in this plan amendment.

**7.3 Methodology and Framework for Analysis**

The basic approach adopted in this RIR is an assessment of management measures from the standpoint of determining the resulting changes in costs and benefits to society. To the extent practicable, the net effects are stated in terms of producer surplus to the harvest sector, net profits to the intermediate sector, and consumer surplus to the final users of the resource.

In addition to changes in the surpluses mentioned above, there are public and private costs associated with the process of changing and enforcing regulations on the reef fish fishery.

Ideally, all these changes in costs and benefits need to be accounted for in assessing the net economic benefit from management of reef fish. The RIR attempts to determine these changes to the extent possible, albeit in a qualitative manner.

**7.4 Impacts of Proposed Alternatives**

The economic impacts of the individual alternatives are discussed in Section 6 of this amendment. The subsection "Economic Impacts" comprises the major part of this RIR and is included herein by reference.

**7.5 Government Costs of Regulation**

The preparation, implementation, enforcement and monitoring of this or any federal action involves the expenditure of public 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 . . . . .	\$ 10,000
NMFS administrative costs of document preparation, meetings and review . . . . .	16,000
Law enforcement costs . . . . .	450,000
NMFS costs associated with permits . . . . .	10,000
TOTAL . . . . .	\$486,000

It is deemed that the identified costs comprise the major cost items for the preparation and implementation of this amendment. 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. The NMFS costs associated with the permits include those that would be expended for maintaining the endorsement system. The law enforcement cost does not totally accrue to the provision in this amendment. It is the amount needed to increase current levels of enforcement in order to achieve a satisfactory level of compliance. This amount would be expended to hire additional 4 enforcement officers, 1 supervisory agent, and 1 support staff. They would be positioned in major landing ports located in Texas, Louisiana, and the Florida Panhandle.

## **7.6 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.

In 1994, the entire Gulf commercial reef fish harvest sector landed reef fish with an ex-vessel value of about \$43 million. The commercial red snapper fishery had an ex-vessel value of \$6.2 million. There is no current valuation of the harvest of reef fish by the recreational sector. Because the measure considered in this amendment does not significantly affect the total revenues generated by the commercial sector or the harvest of the recreational sector, a \$100 million annual impact due to the proposed measure is not likely to happen.

Consumer price for red snapper would be relatively higher relative to the past 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 under closure 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 measure, but since relative to status quo red snapper would be available over a longer period, consumer surplus would also tend to increase. While consumer expenditures were practically nil during the time when fishing in EEZ was closed, consumer surplus was also forgone. By lengthening the season, the proposed measure to extend the endorsement system to the 1997 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 measure. NMFS is expected to incur an estimated cost of \$10,000 for maintaining the endorsement system. The estimated enforcement cost is relatively large, but this is intended mainly to increase current levels of enforcement. The species endorsement may entail some adverse impacts on competition and innovation, but at the same time it is an interim approach to 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.

On balance, the proposed measure is not deemed to constitute a "significant regulatory action" under any of the mentioned criteria.

## **7.7 Determination of the Need for Initial Regulatory Flexibility Analysis**

### Introduction

The purpose of the Regulatory Flexibility Act is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record keeping requirements. The categories of small entities likely to be affected by the proposed plan amendment are commercial harvest and dealer operations and recreational for-hire operations 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." Although an IRFA focuses more on adverse effects, determination of beneficial significant effects is also an integral component of the analysis. 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.

### Description of Economic Impact on 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). As of February 1996 there are 1,497 active commercial reef fish permits issued. There are about 838 charter vessels and 92 party boats operating in the Gulf area. The number of recreational anglers in the Gulf targeting reef fish is not known; however state records show there are about 2.1 million recreational licenses issued by the five Gulf states. 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. Since the proposed action will affect all participants of the reef fish fishery in the Gulf area, the "substantial number" criterion 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).

Since the proposed regulation merely extends an existing rule, none of the items specified above will be affected. It is hereby concluded that this plan amendment does not have a significant economic impact on a substantial number of small entities; therefore an IRFA is not required.



## **9.0 OTHER APPLICABLE LAW**

### **9.1 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.

### **9.2 Vessel Safety Considerations**

A determination of vessel safety with regard to compliance with 50 CFR 605.15(b)(3) will be requested from the U.S. Coast Guard. The Proposed Alternative avoids intensifying the derby fishery and is not expected to affect vessel safety.

### **9.3 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 will be 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.

### **9.4 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.

Although the Proposed Alternative proposes an extension of the existing red snapper endorsement system, the Council does not propose, through this amendment, to establish additional permits or modify existing permit criteria. On this account, there are no additional public reporting burdens associated with this plan amendment.

## 9.5 Federalism

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.

## 10.0 LIST OF AGENCIES AND PERSONS CONSULTED

The following agencies have been consulted on the provisions of this amendment:

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

Coastal Zone Management Programs: Louisiana  
Mississippi  
Alabama  
Florida

National Marine Fisheries Service: Southeast Regional Office

## 11.0 PUBLIC HEARING LOCATIONS AND DATES

A total of 5 public hearings were scheduled to obtain public comments on this plan amendment with one additional hearing held during the Gulf Council meeting on March 11-14, 1996, in Duck Key, Florida. The public comment period for this amendment ends on March 8, 1996.

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

Tuesday, February 27, 1996

Larose Regional Park  
2001 East 5th Street  
Larose, Louisiana 70373

Wednesday, February 28, 1996

NMFS Panama City Laboratory  
Conference Room  
3500 Delwood Beach Road  
Panama City, Florida 32408

Wednesday, February 28, 1996

Port Aransas Public Library  
700 West Avenue A  
Port Aransas, Texas 78373

Thursday, February 29, 1996

Clarion Suites Resort and Convention Center  
20 Via DeLuna  
Pensacola Beach, Florida 32561

Thursday, February 29, 1996

Flagship Hotel Over the Water  
25th and Seawall Boulevard  
Galveston, Texas 77550

## **12.0 LIST OF PREPARERS**

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

## **13.0 REFERENCES**

GMFMC. 1995. Regulatory amendment to the Reef Fish Fishery Management Plan for setting the 1996 red snapper total allowable catch. Gulf of Mexico Fishery Management Council, Tampa, Florida. 29 p.

Goodyear, C. P. 1995. Red snapper in U.S. waters of the Gulf of Mexico. Contribution:MIA 95/96-05. National Marine Fisheries Service, Southeast Fisheries Center, Miami, Florida. 171 p.

Waters, J. R. 1995. Economic assessment of the commercial reef fishery in the U.S. Gulf of Mexico. SERO/NMFS, NOAA. 9450 Koger Boulevard, St. Petersburg, Florida 33702.