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Alabama Management for Recreational Red Snapper

Draft Amendment 50D
to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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ABBREVIATIONS USED IN THIS DOCUMENT

ACL	annuals catch limit
ACT	annual catch target
AM	accountability measure
APAIS	Access Point Angler Intercept Survey
CEP	Conservation Equivalency Plan
Council	Gulf of Mexico Fishery Management Council
CS	consumer surplus
EFP	exempted fishing permit
EIS	environmental impact statement
FMP	Reef Fish Fishery Management Plan
Gulf	Gulf of Mexico
LAPP	Limited Access Privilege Program
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MRIP	Marine Recreational Information Program
NAICS	North American Industry Classification System
NEPA	National Environmental Policy Act
nm	nautical miles
NMFS	National Marine Fisheries Service
NOR	net operating revenue
Program Amendment	State Management Program for Recreational Red Snapper Amendment
PS	producer surplus
SEDAR	Southeast Data Assessment and Review
SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office
SRHS	Southeast Region Headboat Survey
TL	total length
USCG	U.S. Coast Guard

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CHAPTER 1. INTRODUCTION

1.1 Background

From 1996 – 2014, the recreational fishing season for red snapper in federal waters became progressively shorter. Despite regular increases in the recreational annual catch limit (ACL) since 2010, shorter federal seasons have continued as the quota is caught in a shorter amount of time and inconsistent state water seasons became longer. In 2015, the recreational sector was divided into a private angling component and a federal for-hire component. Separate fishing seasons are established for each component based on the component annual catch targets (ACT), which are reduced from the recreational sector's red snapper ACL by the established buffer (currently 20%).

Currently, the recreational harvest of red snapper in federal waters of the Gulf of Mexico (Gulf) is constrained by a 2-fish bag limit, 16-inch total length minimum size limit, and a fishing season that begins on June 1 and closes when the ACT of each recreational component (i.e., private angling and federal for-hire) is projected to be caught. For the 2018 and 2019 red snapper fishing seasons, the private angling component season will be set by each of the five Gulf states through exempted fishing permits (EFP), while the federal for-hire component season will continue to be set by the National Marine Fisheries Service (NMFS).[1] The purpose of the EFPs is to allow states to demonstrate the effectiveness of state management of recreationally caught red snapper and data collection methods through 2-year pilot programs.

Fishermen from different areas of the Gulf have requested more flexibility in recreational red snapper management so that regulations provide greater socioeconomic benefits to their particular area. *State management* refers to allowing a state to set some recreational regulations (e.g., bag limits, fishing season dates) in contrast to uniform recreational regulations applied to fishing in all federal waters in the Gulf.

A state management program developed through this Alabama Management for Recreational Red Snapper Amendment, hereafter referred to as the Alabama Amendment, would enable Alabama to establish various regulations specific to the recreational harvest of red snapper. This amendment is related to the State Management Program for Recreational Red Snapper Amendment (Program Amendment), which consists of actions affecting all Gulf states and the overall federal management of red snapper, regardless of whether or not all states pursue a state management program. In the Program Amendment, the Gulf of Mexico Fishery Management Council (Council) would establish the 1) the components of the recreational sector that would be included under a state's management program; and 2) the apportionment of the recreational red snapper ACL among the Gulf states.

This Alabama Amendment contains actions to define the Alabama state management program for the recreational harvest of red snapper. The first action considers two approaches for

[1] For more information, see: http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/LOA_and_EFP/2018/RS%20state%20pilot/home.html

implementing state management: the ***delegation*** of limited authority to Alabama to specify management measures or the use of a ***conservation equivalency plan*** (CEP), in which Alabama would specify the fishing season and bag limit that would constrain harvest to Alabama's portion of the recreational sector ACL (established in the Program Amendment). Under either approach, Alabama could select the applicable measures that it determines are most appropriate for management of its portion of the stock. For example, Alabama specific regulations could accommodate the local differences in tourist seasons or weather conditions from other parts of the Gulf. Alabama would establish the specific regulations pertaining to the season structure and possibly other management measures, using the process for the selected approach (delegation or CEP). The second action addresses adjusting the recreational red snapper ACLs (quotas) in the event the Alabama harvest of red snapper is greater or less than Alabama's portion of the recreational sector ACL.

The Council's preferred alternative in the Program Amendment is for state management to include the private angling component only. The private angling component consists of anglers fishing from privately owned, rented vessels, and for-hire vessels without a federal permit (i.e., state-licensed for-hire vessels). These state-licensed for-hire vessels may not harvest red snapper from federal waters, including under any state management plan. The federal for-hire component consists of anglers fishing from vessels with a federal charter/headboat permit for Gulf reef fish. Within 30 days of Council approval of the Program Amendment, Alabama must notify NMFS by letter specifying if it will manage its federal for-hire component.

Although a state management program would allow for the establishment of certain management measures most suited to the state, state management may not result in additional fishing days, particularly if Alabama establishes its season when fishing effort is greatest. However, providing Alabama with the flexibility to establish some management measures is expected to result in social and economic benefits, as it is assumed that Alabama would provide fishing opportunities preferred by anglers landing red snapper in the state. Nevertheless, proposed state management measures must achieve the same conservation goals as the current federal management measures (i.e., constrain landings of participating fishermen to Alabama's allocated portion of the recreational sector ACL).

Under state management, red snapper would remain a federally managed species. The Council and NMFS would continue to oversee management of the stock. This includes continuing to comply with the mandate to ensure the total red snapper recreational ACL is not exceeded and that conservation objectives are achieved. The Council's Scientific and Statistical Committee would continue to determine the acceptable biological catch for red snapper, while the Council and NMFS would determine the total recreational sector ACL and ACT, a portion of which would be allocated to Alabama. All federal regulations for the harvest of red snapper would remain effective. The existing federal regulations, including the bag limit and season start date, would be applicable to anglers landing red snapper in any state that does not have an approved state management program. Upon Alabama's state management program approval and implementation, the applicable existing default federal regulations would be waived for anglers on vessels landing in Alabama, or fishing in Louisiana's area of jurisdiction in federal waters, as described in more detail below. NMFS would retain authority for the remaining management

regulations including implementing ACL adjustments, regulating federal permits, and managing the commercial red snapper individual fishing quota program.

Section 407(d) of the Magnuson-Stevens Fishery Conservation and Management Act mandates that separate quotas be established for commercial fishing and recreational fishing, which includes both the private angling and federal for-hire components. When the recreational sector ACL is reached, further harvest of red snapper must be prohibited for the duration of the year. This means that even if a state under a state management program has remaining quota, NMFS must prohibit further harvest of red snapper from federal waters once the recreational sector ACL is determined to have been met.

Description of Boundaries between States

If not all states participate in state management, the federal default regulations would apply to defined areas of federal waters off of each non-participating state. For a state with an approved state management program, the default federal regulations would be waived in the defined area off that state and the state would establish its fishing season for red snapper landed in the state from both federal and state waters, and potentially other management measures consistent with the delegation or CEP. The boundaries in Figure 1.1.1 were agreed upon by the representatives from each state marine resource agency at the February 2013 Council meeting and would represent the boundaries between states for the purpose of any state having an active state management program, if needed. Federal waters refer to the area extending from the seaward boundaries of the Gulf states of Alabama, Florida, Louisiana, Mississippi, and Texas, as those boundaries have been defined by law, out to 200 nautical miles (nm) from shore. Since 2016, for purposes of management under the Reef Fish Fishery Management Plan, the seaward boundary of each of the Gulf states is 9 nm from shore.

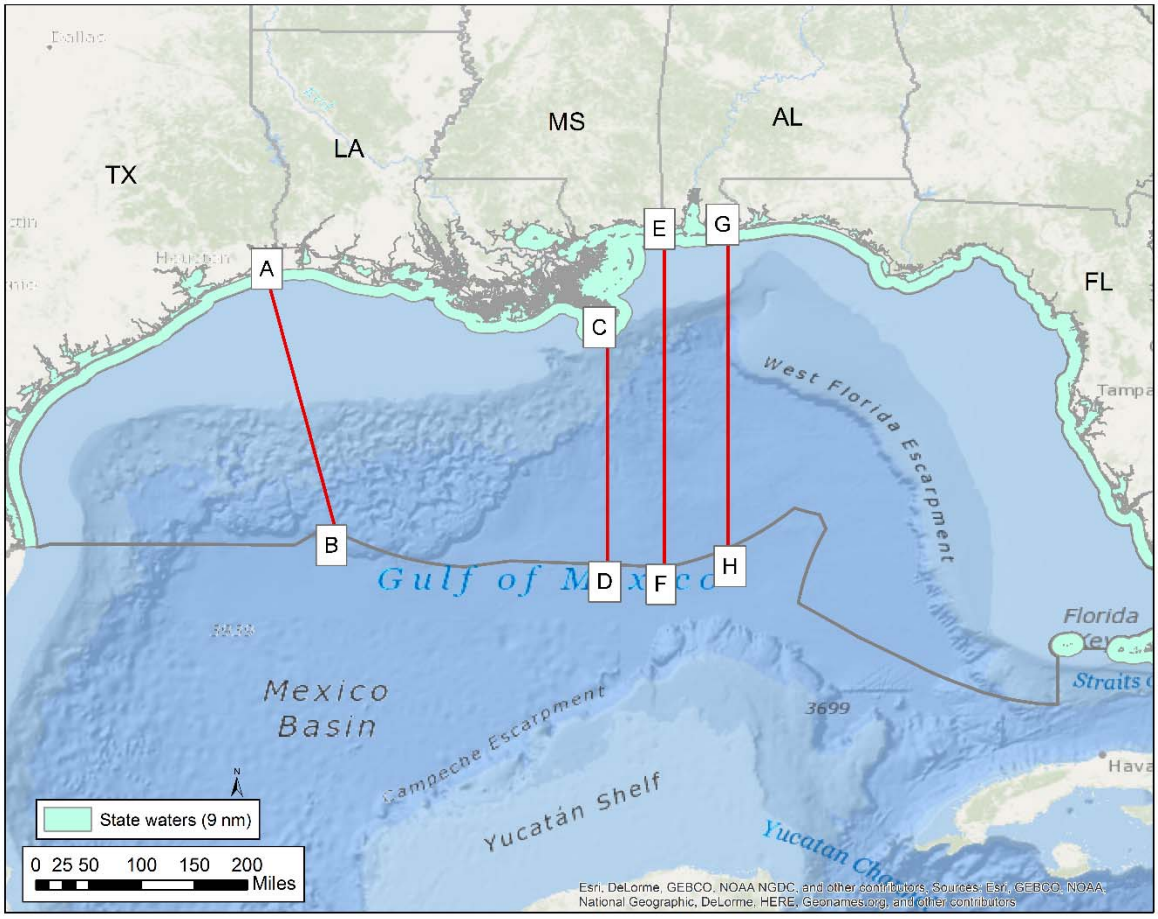

Figure 1.1.1. Map with green shading to identify state waters from federal waters and established and proposed boundaries between states extending into federal waters. The gray line passing through points B, D F, and H indicates the outer boundary for federal waters.

All lines begin at the boundary between state waters and federal waters. Line A-B, defining federal waters off Texas, is already codified in federal regulations 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 federal waters 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 agreed upon by the Council.

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 in the Mississippi River delta in Louisiana. 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 extent of federal waters off Louisiana. Therefore, this line was considered a fair compromise by representatives of both states.

1.2 Purpose and Need

The **purpose** is to give the state of Alabama the flexibility to establish certain management measures for the recreational harvest of red snapper by Alabama anglers.

The **need** is to reconsider the management of the recreational harvest of red snapper within the context of the states of the Gulf: to prevent overfishing while achieving, on a continuing basis, the optimum yield from the harvest of red snapper by the recreational sector[2]; take into account and allow for variations among, and contingencies in the fisheries, fishery resources, and catches[3]; and provide for the sustained participation of the fishing communities of the Gulf and to the extent practicable, minimize adverse economic impacts on such communities.[4]

1.3 History of Management

The Program Amendment contains a complete history of management pertinent to recreational red snapper and the Council's consideration of state management for the recreational harvest of red snapper, and is incorporated here by reference. A complete history of management for the Reef Fish Fishery Management Plan is available on the Council's website.[5]

[2] National Standard 1 https://www.ecfr.gov/cgi-bin/text-idx?SID=71b8c6026001cb90e4b0925328dce685&mc=true&node=se50.12.600_1310&rgn=div8
[3] National Standard 6: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b0acea089174af8594db02314f26914&mc=true&r=SECTION&n=se50.12.600_1335
[4] National Standard 8: https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b0acea089174af8594db02314f26914&mc=true&r=SECTION&n=se50.12.600_1345
[5] http://www.gulfcouncil.org/fishery_management_plans/reef_fish_management.php

CHAPTER 2. MANAGEMENT ALTERNATIVES

2.1 Action 1 – Authority Structure for State Management

Alternative 1: No Action. Retain current federal regulations for management of recreational red snapper in federal waters of the Gulf of Mexico (Gulf).

Preferred Alternative 2: Establish a management program that **delegates** management authority for recreational red snapper fishing in federal waters to Alabama. If Alabama's red snapper harvest plan is determined to be inconsistent with the requirements of delegation, the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper. Alabama must establish the red snapper season structure for the harvest of its assigned portion of the recreational sector annual catch limit (ACL), monitor landings, and prohibit further landings of red snapper when the ACL is reached or projected to be reached. In addition, delegated authority for managing the recreational harvest of red snapper may include establishing or modifying the:

Preferred Option 2a: bag limit

Preferred Option 2b: prohibition on for-hire vessel captains and crew from retaining a bag limit

Preferred Option 2c: minimum size limit within the range of 14 to 18 inches total length (TL)

Preferred Option 2d: maximum size limit

Option 2e: requirements for live release devices (e.g., descending devices)

Option 2f: requirements for harvest gear

Option 2g: use of area or depth-specific regulations.

Alternative 3: Establish a management program in which Alabama submits a plan describing the **conservation equivalency** measures Alabama will adopt for the management of its portion of the recreational sector ACL in federal waters. The plan, which may be submitted annually or biannually, must specify the red snapper season structure and bag limit for the state's harvest of its assigned portion of the recreational sector ACL. To be a conservation equivalency plan (CEP), the plan must be reasonably expected to limit the red snapper harvest to Alabama's assigned portion of the recreational sector ACL. If Alabama's plan is determined by the National Marine Fisheries Service (NMFS) to not satisfy the conservation equivalency requirements, then the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper.

Option 3a: The plan will be submitted directly to NMFS for review.

Option 3b: The plan will first be submitted to a technical review committee. The technical review committee reviews and may make recommendations on the plan, which is either returned to Alabama for revision or forwarded to NMFS for final review.

Discussion:

Default federal regulations refer to the Gulf-wide regulations governing the recreational harvest of red snapper in the Code of Federal Regulations (50 CFR Part 622). To implement state management by delegation or CEPs, the current regulations would be waived or suspended for

those anglers and vessels subject to a state's consistent delegation or approved CEP. Default federal regulations for the recreational harvest of red snapper would be applied to the federal waters adjacent to the state waters of Alabama in the event Alabama's delegation is determined to be inconsistent, its CEP is not approved, or if Alabama chooses not to participate in state management. A different process would be followed for delegation than for a CEP, in that delegation would remain in effect unless NMFS determines the delegation is inconsistent with the Reef Fish Fishery Management Plan (FMP; see Appendix A), while CEPs would require a periodic determination that the plan is the conservation equivalent of the default federal regulations. Federal waters adjacent to a state refer to the portion of federal waters bounded by the state's waters and the boundary line(s) shown in Figure 1.1.1 that separate federal waters off each state.

In the event that the default federal regulations are implemented for Alabama, NMFS would publish a notice with the Office of the Federal Register announcing such an action. Among other regulations that apply to reef fish fishing in general, the current federal regulations for the recreational harvest of red snapper include a 2-fish bag limit, minimum size limit of 16 inches TL, and a June 1 season opening; the season closes when the recreational annual catch target (ACT; currently set 20% below the ACL) or component ACT is projected to be met. These regulations have been established and revised over time through past actions, which considered a variety of alternatives that were analyzed as part of the decision-making process.

Alternative 1 (No Action) would retain current management measures for the recreational harvest of red snapper in federal waters of the Gulf, as described above for the federal default regulations. Currently, each Gulf state decides when to open and close its state waters to fishing, while NMFS opens and closes federal waters to fishing consistent with the regulations implementing the Reef Fish FMP. The states also decide on any other management measures (such as bag limit and minimum size limit) that are applicable in state waters while the Gulf of Mexico Fishery Management Council (Council) decides which management measures are applicable in federal waters. Many, but not all, of these management measures are consistent between the states as well as with the federal regulations.

Preferred Alternative 2 and **Alternative 3** propose different approaches to state management of recreational red snapper fishing by Alabama. Under both alternatives, red snapper would remain under federal jurisdiction, subject to Gulf-wide closure if NMFS determines that the total recreational sector ACL is met. The Council would also continue to set the stock status determination criteria and catch limits. Essentially, while Alabama would be given some management authority to determine some of the regulations that apply to the harvest of red snapper, none of these alternatives provide the complete authority to manage red snapper advocated for by some supporters of state management. The management measures implemented by Alabama must adhere to the goals of the rebuilding plan and be consistent with federal and other applicable laws.

By adopting state management under delegation (**Preferred Alternative 2**) or conservation equivalency (**Alternative 3**), Alabama would establish management measures, as appropriate, to constrain landings to its portion of the recreational sector ACL for the recreational harvest of red snapper by each component and would prohibit further landings and possession of red snapper

after its portion of the quota has been caught. Unless it is necessary to establish state management areas in federal waters, enforcement would primarily be carried out dockside. Anglers participating in Alabama's state management program may fish in Alabama state waters and federal waters. When Alabama closes its recreational season, further landings of red snapper would be prohibited, regardless of where harvested.

Under both alternatives, the respective permit and/or license requirements for anglers and recreational vessels will remain in place. Anglers fishing from privately owned vessels must comply with the required permit or licensing requirements to possess and land red snapper in Alabama. Passengers on for-hire vessels would not be allowed to fish for or possess red snapper in federal waters unless the vessel has been issued a federal charter vessel/headboat permit for reef fish.

In addition to Alabama, the Council is evaluating recreational red snapper state management for the remaining Gulf states in separate amendments. In the event some states do not have approved state management programs, the sum of all participating states' ACLs (as selected in the Program Amendment) would be subtracted from the recreational sector ACL, or component ACLs, as appropriate. Anglers landing red snapper in non-participating states or fishing in federal waters in a non-participating state's area of jurisdiction, as applicable, would continue to be managed under the default federal regulations with the remaining balance of the recreational or component ACL. NMFS would reduce the ACLs by the established buffer, and establish federal season lengths for each component in federal waters adjacent to all states based on these ACTs. Section 2.1 of the Program Amendment further describes how regulations would be applied in this situation, which would vary depending on the alternatives chosen by the Council.

While **Alternative 3** would grant less management authority directly to Alabama than **Preferred Alternative 2**, both alternatives provide flexibility to Alabama to modify the season structure for the harvest of its designated portion of the red snapper recreational ACL. Nevertheless, whether delegation (**Preferred Alternative 2**) or conservation equivalency (**Alternative 3**) is selected, Alabama's management measures must be consistent with the FMP, including the red snapper rebuilding plan and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consistency with the FMP requires, among other things, preventing overfishing, rebuilding declining reef fish stocks, monitoring the reef fish fishery, conserving and increasing reef fish habitats, and minimizing conflicts between user groups.

The following sections describe the delegation and CEP alternatives in more detail.

Delegation (**Preferred Alternative 2**)

Under **Preferred Alternative 2**, state management is defined as the delegation of limited management authority to a state, which would then establish appropriate management measures to constrain recreational landings to the state's assigned portion of the recreational sector ACL. The Magnuson-Stevens Act allows for the delegation of management to a state to regulate fishing vessels beyond their state waters, provided its regulations are consistent with the FMP. The delegation of management authority (**Preferred Alternative 2**) requires a three-quarters majority vote of the voting members of the Council. See Appendix A for additional information

on the requirements of delegation including the Secretary of Commerce's procedure for addressing a state's regulations that are deemed inconsistent with the FMP.

Under delegation (**Preferred Alternative 2**), Alabama would have management authority to establish the recreational red snapper fishing season, as well as other recreational management measures if selected as preferred (**Preferred Options 2a-2d, Options 2e-2g**). In setting the fishing season, the state would have the flexibility to select the season start date and could establish a fixed closed season, split seasons (e.g., spring and fall season), and alternate season structures (e.g., weekends, only). A state could also establish regional seasons, such as separate fishing seasons for the Florida Panhandle and west Florida. If the state is managing both the private angling and federal for-hire components, the state could establish different seasons for each component, but the state must constrain landings of each component to that component's portion of the ACL. In addition, the state could reopen its fishing season if quota remains after the initial season closes.

Preferred Options 2a-2d and **Options 2e-2g** provide recreational management measures that may be delegated in addition to the fishing season. **Preferred Option 2a** would delegate authority to Alabama to establish the recreational bag limit and **Preferred Option 2b** would allow Alabama to modify the prohibition on the captain and crew of a for-hire vessel from retaining a bag limit. As with setting the fishing season, these options would allow bag limits to be set regionally or by component, if applicable. This would allow the states to balance catch rates and season length for optimal fishing opportunities. Under the exempted fishing permits currently in place, the Alabama bag limit is two fish per person per day and no fish are allowed to be retained by captain and crew.

Preferred Options 2c and **2d** would delegate setting the recreational red snapper size limit to Alabama. Establishing both a minimum (**Preferred Option 2c**) and maximum size limit (**Preferred Option 2d**) would create a slot limit for the recreational harvest of red snapper. A slot limit may be desirable as prohibiting anglers from landing the largest fish (which weigh the most) would slow the rate at which the quota is filled, helping to extend the fishing season. The current minimum size limit for red snapper is 16 inches TL in Alabama. Having different minimum size limits among states may pose issues in terms of conducting stock assessments. The red snapper stock is still under a rebuilding plan and stock assessments must take into account minimum size limits for each sector and gear type. This option limits the minimum size limits that may be adopted by the states due to biological concerns associated with high-grading and discard mortality. Thus, the minimum size limit that may be delegated to the states is restricted to the range of 14 inches TL to 18 inches TL. All of the minimum size limits within the range are estimated to be greater than the size of reproductively mature fish. All red snapper (100%) are estimated to be reproductively mature at age-2 (SEDAR 31 2013) at approximately 358 mm or 14 inches TL using the age-length equation in Szedlmayer and Shipp (1994). For this reason, minimum size limits smaller than 14 inches TL are not considered. The largest minimum size limit within the range that could be delegated is 18 inches TL, which has the largest spawning potential for the stock.

Options 2e and **2f** would allow Alabama to establish requirements for the use of live release devices (e.g., descending devices and dehooking devices) and harvest gear, respectively, for

recreational red snapper fishing. Both options would delegate authority that applies to the recreational harvest of red snapper, only. Federal guidance for live release devices and regulations for harvest gear are not specific to red snapper, but apply to reef fish or to finfish more generally. For example, the requirement to use non-stainless steel circle hooks when fishing with natural baits applies to the fishing of all reef fish. Because authority would be delegated only for the management of red snapper, delegating authority for these devices and gear could make enforcement more complicated if a state enacts a regulation that applies to red snapper, but not to other reef fish. These options would allow a state to require a live release device (**Option 2e**) or harvest gear (**Option 2f**) in federal waters, and, therefore, require the establishment of a state management area in which the state requirements would apply. However, a state could choose to require that vessels registered in the state carry a particular live release device or harvest gear, which would allow the regulation to be enforced dockside and not require a delegation.

Option 2g proposes to allow a state to establish area or depth-specific regulations for recreational red snapper fishing and is not possible without further information regarding the scope and purpose of any planned closure. Additional information pertaining to the scope and purpose (e.g., constrain rate of harvest) is needed to complete an analysis of this option, define the delegation, and ensure environmental compliance. To implement a closed area, NMFS would likely need to do additional rule making specific to that area. **Option 2g** would not allow states to establish marine protected areas within federal waters nor restrict commercial vessels from harvesting red snapper from these areas. *Without further information about the scope and purpose of the area or depth-specific regulations, **Option 2g** cannot be included in a state's delegation.*

For some of the options (**Preferred Options 2a-2c**), specific regulations in the Code of Federal Regulations (Appendix B) would need to be waived or suspended for anglers landing in the participating state. State management, as it has been previously considered by the Council, included management measures that would rely primarily on dockside enforcement, such as bag limits (**Preferred Options 2a** and **2b**) and size limits (**Preferred Options 2c** and **2d**). Other management measures, such as gear requirements or area-specific regulations (**Options 2e-2g**), would require monitoring and enforcement of recreational fishing in federal waters. Thus, if any of these types of measures are delegated to the state (**Options 2e-2g**), lines demarcating the federal waters off each state (Figure 1.1.1) would be needed to identify the boundaries in which all of the applicable state's regulations apply. This would make state management more complicated and may create issues for enforcement.

Further, selecting some options as preferred would require a state to establish that regulation at the state level, because those regulations are currently in effect and would remain the federal default regulations (see above). For example, to remain consistent with the requirements of delegation, the fishing season (**Preferred Alternative 2**), bag limit (**Preferred Option 2a**), and minimum size limit (**Preferred Option 2c**) would need to be specified in the state's regulations if those options are selected, because the federal regulations would be waived. Selecting other options (**Preferred Options 2b** and **2d**, **Options 2e-2g**) would be optional (and may not be possible) for a state to establish under delegated authority, because any such existing regulations are not specific to red snapper but apply to fishing or reef fish fishing, generally.

Conservation Equivalency (Alternative 3)

Under **Alternative 3**, Alabama would have the opportunity to submit a CEP to establish state management measures, including season start and end dates, season structure, and bag limit, for the recreational harvest of red snapper on a yearly or biannual basis. These plans would be reviewed by NMFS to insure the proposed management measures are a conservation equivalent to the federal regulations. Table 2.1.1 provides an example timeline for the submittal and approval of the CEPs under **Alternative 3**. This process would be altered for the first year of the program if this action is implemented mid-year. Under **Option 3b**, the CEP would be submitted to the technical review committee and a separate timeline may be established by the committee. However, the established timeline may also be applied for this option. The finalized plans with the technical review committee recommendation for approval would need to be submitted to NMFS by November 1 to allow time to publish a notice in the Federal Register by January 1 identifying Alabama with an approved CEP. Without an approved CEP, Alabama would be subject to the default federal regulations. If the proposed management measures extend beyond the range analyzed in this amendment, then NMFS may recommend preparing the appropriate documentation for the applicable laws to support the decision (e.g., National Environmental Policy Act [NEPA] analysis). NMFS would collaborate with Alabama in developing the appropriate documentation with the understanding that the development of the document could delay NMFS' ability to approve the CEP and may need further Council action for implementation.

Alternative 3 provides two options for the review process of CEPs. Under **Option 3a**, Alabama would submit its plan directly to NMFS for review while under **Option 3b**, Alabama would first submit its CEP to a technical review committee, which would consist of one member from each state designated by the state fisheries director. The technical review committee would provide the initial review of the CEPs and may make recommendations on the plan, which would either be returned to Alabama for revision or forwarded to NMFS for final review and approval. Because of the additional time needed for the technical review committee to meet and review the CEPs, **Option 3b** would potentially entail a longer process for consistency determination than under **Option 3a**. On the other hand, the process under **Option 3b** provides for greater participation and input by state-level managers and stakeholders, increasing the involvement of local-level entities in the state management process. The proposed process under **Option 3b** is more similar to the Mid-Atlantic Fishery Management Council's management of summer flounder than is **Option 3a**.

Table 2.1.1. Example timeline for the review of CEPs by NMFS or the technical review committee for **Alternative 3**.

Timeline	Description
July 1	The state provides a brief written description of its preliminary CEP for the following year (e.g., the regulations they hope to implement the following year) to NMFS and the Council and demonstrate the proposal is supported by recent years' landings and effort data. At this time, NMFS would report concerns or alternative process requirements (e.g., additional NEPA documentation required if the proposed regulations are outside the scope of analysis this amendment and documentation for other applicable laws).
September 1	The state submits the CEP to NMFS or the Technical Review Committee.
October 1	NMFS or the Technical Review Committee responds to the state with the preliminary determination for whether the plan is a conservation equivalent to the federal default regulations. At this time, NMFS or the Technical Review Committee may approve the plan or request a revised CEP.
October 5	The state provides a revised CEP to NMFS or the Technical Review Committee for approval, if necessary.
November 1	If applicable, the Technical Review Committee provides the recommended state CEP to NMFS for final approval and processing.
January 1 (or sooner)	NMFS publishes a notice in the Federal Register identifying the state as having an approved CEP.

Each CEP shall include the following:

- Point of contact for the CEP.
- Point of contact with the authority to implement fishery management measures.
- Proposed CEP, including season structure and bag limit.
- Specification if the CEP is intended to be applicable for 1 or 2 years. Prior to approving the second year of the plan, it would be evaluated based on data from the first year. The plan may require revisions based on the NMFS review. A 2-year CEP could only be approved if there are 2 or more years before the program sunsets.
- Analysis demonstrating the ability of the CEP to constrain recreational harvest of red snapper to the allocated quota with a description of the methodology.
- Summary of the previous year's performance (e.g., was the harvest constrained at or below the state's quota?).
- Explanation of how the CEP will be enforced.
- If applicable, a description of the in-season monitoring program and plan to prohibit further harvest of red snapper if the state's portion of the recreational sector ACL is reached.
- If necessary, additional analysis and documentation supporting the proposed CEP, which may include NEPA, Magnuson-Stevens Act, or other applicable laws. This would only apply for CEP management strategies beyond the range analyzed in this amendment.
- Any other supporting documentation for the CEP, such as scientific research.

2.2 Action 2 – Post-Season Quota Adjustment

Alternative 1: No Action. Retain the current post-season accountability measure (AM) for managing overages of the recreational sector ACL in federal waters of the Gulf and do not add a state-specific overage adjustment. If red snapper is overfished (based on the most recent Status of U.S. Fisheries Report to Congress) and the combined recreational landings exceed the recreational sector ACL, reduce the **recreational sector** ACL, and applicable recreational component ACL in the following year by the full amount of the overage, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary. The applicable component ACT will be adjusted to reflect the previously established percent buffer. There is currently no quota adjustment in the following year when recreational landings remain below the red snapper quota (carryover).

Alternative 2: Add an **Alabama-specific** overage and underage adjustment to the existing post-season AM for the recreational sector red snapper ACL. If the combined Alabama recreational landings exceed or are less than the Alabama combined recreational ACLs (if applicable), then in the following year reduce or increase the total recreational quota and Alabama's component ACL(s) as outlined in Option a or b, in accordance with Council procedures, by the amount of the ACL overage or underage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no adjustment is necessary. If appropriate, the Alabama component ACTs will be adjusted to reflect the established percent buffer.

Option 2a: If Alabama has both a private-angling ACL and a federal for-hire ACL, the adjustment will be **applied only to the component(s)** that exceeded or were under the applicable ACL.

Option 2b: If Alabama has both a private-angling ACL and a federal for-hire ACL, the adjustment will be **applied equally to both components**.

Discussion:

This action would apply an overage or underage adjustment to the state ACLs and the recreational sector ACL. An overage adjustment, or payback provision, is a type of AM; in the event that the ACL is exceeded, the following year's ACL would be reduced. An underage adjustment, or carryover provision, is the opposite. In the event that landings remain below the ACL, the following year's ACL would be increased.

Section 407(d) of the Magnuson-Stevens Act requires that the Council ensure the FMP (and its implementing regulations) have conservation and management measures that establish a separate quota (which is the ACL) for recreational fishing (private and for-hire vessels) and prohibit the possession of red snapper caught for the remainder of the fishing year once the quota is reached. Section 303(a)(15) of the Magnuson-Stevens Act requires ACLs and associated measures to ensure accountability. The National Standard 1 guidelines identify two types of AMs: in-season and post-season. These AMs are not mutually exclusive and should be used together where appropriate. In 2014, the Council adopted an in-season AM that required NMFS to determine the recreational season length based on an ACT that is set 20% below the ACL. To correct or

mitigate any overages during a specific fishing year (50 CFR 600.310(g)), the Council also adopted a post-season AM. This AM applies if red snapper is classified as overfished and requires NMFS to reduce the recreational sector ACL in the year following an overage by the full amount of the overage (**Alternative 1**) unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary. Red snapper is not currently classified as overfished; therefore, overage adjustments are not currently implemented.

The use of an underage adjustment for state management programs would require that a carryover provision be in place, which the Council is currently developing in a draft amendment.[6] Revised National Standard 1 guidelines, published in October 2016, expressly address carrying over unused quota to the following fishing year. By creating a carryover provision, the foregone yield resulting from a state's early closing for its red snapper harvest could be applied to the following year's state ACL, thereby providing additional social and economic opportunities without negatively affecting the stock.

Alternative 1 (No Action) would continue to apply the existing post-season overage adjustment AM Gulf-wide and would not apply an underage adjustment. Because this AM applies Gulf-wide, it would not be possible to apply **Alternative 1** to the individual states. In the event red snapper landings exceed the Gulf-wide recreational ACL while red snapper is classified as overfished, the amount of the overage would be deducted from the recreational ACL. This would occur whether or not Alabama was successful in constraining landings to below its ACL, but would result in a decrease to Alabama's ACL, because Alabama's ACL would be based on a percentage of the Gulf-wide ACL. Although the possibility of triggering an overage adjustment would encourage Alabama to constrain harvest to its ACL, the Gulf-wide approach may be perceived as inequitable. For example, if the recreational ACL is greatly exceeded, then the necessary overage adjustment (applied to the recreational ACL before Alabama's ACL is deducted) may reduce fishing opportunities under Alabama's ACL the following year, even if Alabama had not exceeded its portion of the recreational ACL. If this occurs, it may reduce the flexibility provided under state management. Alternately, if Alabama's landings cause the entire recreational sector ACL to be exceeded, while landings by other components remain within their respective portions of the ACL, anglers in the other components would lose fishing opportunities despite remaining within their respective portions of the ACL. Because red snapper is not currently classified as overfished, there would be no overage adjustment under **Alternative 1**. Further, there would be no carryover provision applied under **Alternative 1**, meaning there would be no change to the recreational sector ACL in the event landings remain below the quota.

Alternative 2 would add a state-specific AM, by applying a post-season overage adjustment (payback) and underage adjustment (carryover) to Alabama's state ACL(s), in the event that the Alabama ACL is exceeded or not reached. **Alternative 2** would prevent an overage by another state, or of the Gulf-wide ACL if red snapper is classified as overfished, from affecting Alabama in the event its state ACL is not exceeded. However, if both the Alabama and the Gulf-wide ACLs are exceeded, the portion of the overage for which Alabama was responsible would be deducted from Alabama's ACL for the next year. The overage adjustment would need to be taken into account when Alabama develops its management plan (delegation or CEP), including the length of the fishing season for the following year. **Alternative 2** would encourage Alabama

[6] Carryover Provisions and Framework Modifications Draft Generic Amendment

to constrain landings to its ACL to ensure that the overage adjustment is not applied to the recreational season for the following year.

In the event Alabama's landings do not exceed its state ACL, **Alternative 2** would increase Alabama's state ACL the following year. This alternative would only be possible following implementation of the amendment establishing a carryover provision for uncaught quota, currently under development by the Council. The underage adjustment proposed under **Alternative 2** would be limited to the parameters approved through that amendment, including any conditions on the status of the stock during which an overage adjustment may be applied.

Option 2a and **Option 2b** under **Alternative 2** would apply only if the Council decides to include the federally permitted for-hire vessels in state management through the State Management Amendment. In the event one or both of Alabama's ACLs is exceeded, **Option 2a** would apply the adjustment based on whether each component's landings exceeded its portion of the Alabama ACL. This option would prevent the overage adjustment from affecting Alabama's other component that does not exceed its ACL. In the event of a quota underage, the quota increase the following year would likewise be applied to the component that remained under its quota, by the amount of the underage.

Option 2b would apply the overage or underage adjustment evenly to both of Alabama's component ACLs, regardless if only one of the components exceeded or under-harvested its component ACL. *The Council should consider whether to retain **Option 2b** alongside development of the Generic Carryover Amendment, which would adopt a quota underage adjustment for stocks including red snapper. **Option 2b** would be inconsistent with a requirement that a quota carryover apply to the smallest unit to which quota is assigned.* Although the possibility of triggering an overage adjustment would encourage the state to constrain harvest to the respective ACLs, applying the overage equally to both components may be perceived as inequitable, should one component remain within its portion of the ACL, yet have its portion of the ACL reduced in the following year due to overages by the other component. It would also be considered inequitable should a component that met its quota have its quota increased in the following year, because the other component's landings were below its quota.

Selecting **Alternative 2** would not remove the existing post-season AM that applies if the total recreational sector ACL is exceeded when red snapper is classified as overfished (**Alternative 1**). Rather, **Alternative 2** would add a state-specific AM to a state management program.

CHAPTER 3. AFFECTED ENVIRONMENT

3.1 Description of the Red Snapper Component of the Reef Fish Fishery

A description of the red snapper component of the reef fish fishery is included in the Program Amendment and associated environmental impact statement (EIS), and is incorporated here by reference. The referenced description includes a discussion of the stock status of red snapper, history of quotas, and management history for the recreational sector. Recreational red snapper fishing is divided into two components: the federal for-hire component includes vessels with a Gulf of Mexico (Gulf) charter/headboat permit for reef fish, and the private angling component includes anglers fishing from privately owned and rental boats, as well as for-hire vessels without a federal permit. The description also includes information on effort in each component, including number of permits by hailing port and directed angler trips for the federal for-hire component and number of directed angler trips for the private angling component. Alabama's red snapper landings by component for recent years are also provided. Because this amendment only affects the recreational sector, no additional summary of the commercial sector is included. The following summarizes the information in the Program Amendment that pertains to Alabama.

In 2018, all five Gulf states applied for EFPs for a pilot study to test limited state management of the private angling component. The EFPs granted the requested allocation of the red snapper recreational quota to each state, to be harvested during the 2018 and 2019 fishing years by private anglers. The EFPs allowed the states to establish the private angling fishing season in state and federal waters for anglers landing red snapper in that state. The EFPs exempted private anglers who hold a valid recreational fishing permit issued by the state they are landing in, and who are in in compliance with all other state requirements for landing red snapper. For Alabama, the EFP was for private anglers and state licensed charter vessels who participate in the red snapper mandatory reporting program (Snapper Check).

Federal For-hire Component

Any for-hire fishing vessel that takes paying anglers into Gulf federal waters where they harvest red snapper or any other species in the reef fish fishery must have a valid limited access Gulf charter/headboat permit for reef fish that is specifically assigned to that vessel. As of November 13, 2017, there were 1,278 vessels with a for-hire permit and another 32 with a historical captain for-hire permit. Over recent years, approximately 11% of for-hire permits are located in Alabama by mailing address (Table 3.1.1).

Table 3.1.1. Number of charter/headboat permits for reef fish with hailing port of vessel in Alabama, 2012-2016, and percent change in number of permits within Alabama between 2012 and 2016.

Year	2012	2013	2014	2015	2016	Average	Percent Change 2012-2016
Number of permits	157	159	153	143	134	149	-14.7%

Source: National Marine Fisheries Service, Southeast Regional Office (NMFS SERO).

From 2012 through 2016, for-hire vessels took an estimated average of 201,348 directed angler trips annually. These are trips when red snapper was the primary or secondary target or was caught by anglers. Approximately 21% of the annual directed angler trips by charter vessels are out of Alabama.

Private Angling Component

From 2012 through 2016, an average of 228,122 directed angler trips were estimated to be taken annually by private anglers. These are trips when red snapper was the primary or secondary target, although red snapper may not have been caught. Approximately 44% of the annual directed angler trips by the private angling component are out of Alabama.

Recreational Landings

Table 3.1.2 provides red snapper landings in Alabama by component and the percent of Gulf-wide recreational landings from Alabama for 2012 through 2016. For the years 2012 through 2016, approximately 38% of recreational landings of red snapper were in Alabama.

Table 3.1.2. Alabama red snapper landings by component and state from 2012-2016, and the percent of Alabama's recreational landings out of Gulf-wide recreational landings. Landings are in pounds whole weight.

Year	Federal For-hire	Private Angling	Alabama Total	Percent of Gulf-wide landings
2012	503,927	2,197,377	2,701,304	35.9%
2013	546,564	3,877,683	4,424,247	45.6%
2014	152,614	1,006,166	1,158,780	30.2%
2015	757,388	1,711,421	2,468,809	41.4%
2016	763,511	2,047,404	2,810,915	37.8%

Source: Southeast Fisheries Science Center (SEFSC) Marine Recreational Information Program (MRIP)-based recreational annual catch limit (ACL) data (July 2017); SEFSC Southeast Data Assessment and Review (SEDAR)-31 Update (2014) Access Point Angler Intercept Survey (APAIS)-adjusted red snapper data.

3.2 Physical Environment

A description of the physical environment is included in the Program Amendment and associated EIS, and is incorporated here by reference. The referenced description includes information on

the habitats for reef fish generally and red snapper specifically, environmental sites of special interest, and the single Gulf site listed in the National Register of Historic Places.

3.3 Biological Environment

A description of the biological environment is included in the Program Amendment and associated EIS, and is incorporated here by reference. The referenced description includes information on red snapper life history and biology, status of the red snapper stock, general information on reef fish species and the status of these stocks, bycatch, protected species, the northern Gulf hypoxic zone, climate change, and the *Deepwater Horizon* MC252 oil spill. The information is general to the Gulf and not specific to Alabama.

3.4 Economic Environment

3.4.1 Commercial Sector

A description of the red snapper individual fishing quota program can be found on the National Marine Fisheries Service's (NMFS) Limited Access Privilege Programs (LAPP) webpage.[7] That description is incorporated herein by reference. Additional economic information on the commercial harvest of red snapper in the Gulf is contained in Amendment 28 (GMFMC 2015). This proposed amendment does not concern the commercial harvest of red snapper or any other reef fish. Therefore, no additional information on the commercial sector is provided.

3.4.2 Recreational Sector

The following section focuses on the economic contribution of the recreational effort and harvest of red snapper. Recreational fishing for red snapper or any Gulf reef fish means fishing or fishing activities which result in the harvest of fish, none of which (or parts thereof) is sold, traded, or bartered (50 CFR 622.2).

In 2014, Amendment 40 divided the recreational sector of harvesting red snapper from federal waters into two parts based on the mode of transportation that anglers use to fish for red snapper in those waters: federal for-hire (vessel) and private (vessel) angling components (GMFMC 2014). The for-hire component applies to businesses that operate vessels that have been issued a federal Gulf reef fish for-hire permit during any time of the fishing year. These permits may be valid or renewable/transferable; however, the vessel must have a valid permit for any person onboard to fish for or possess Gulf red snapper in federal waters (50 CFR 622.20(b)).

The private angling component applies to vessel operators that have not been issued a federal charter/headboat permit for Gulf reef fish any time during the year. Amendment 40 defined the private angling component as including operators of private vessels and state-permitted for-hire vessels. Although vessels used by these operators may have multiple purposes (commercial, for-

[7] http://sero.nmfs.noaa.gov/sustainable_fisheries/lapp_dm/index.html

hire, and personal), trips involving and landings of red snapper by this component of the recreational sector occur only when the vessels are not operating as a business in federal waters.

Each component has its share of the recreational ACL, which in 2017 is 6,603,094 lbs ww. The federal for-hire component has an ACL of 2,848,000 lbs ww (43.13%) and the private angling component has an ACL of 3,755,094 lbs ww (56.87%). Additional information about the recreational sector of the reef fish fishery can be found in the description of the fishery (Section 3.1.2) and Amendment 45 (GMFMC 2016).

Federal For-Hire Component

Vessels with a valid or renewable charter/headboat permit for reef fish make up the federal for-hire component, and from 2012 through 2016, and an annual average of 49 vessels with a hailing port in Alabama had a valid/renewable charter/headboat reef fish permit permit. There was a 14.7% decline over that time (Table 3.4.2.1).

As of October 24, 2017, there were 136 for-hire fishing vessels with a hailing port in Alabama that had the permit, and approximately 74% of those vessels had a passenger capacity of six (Table 3.4.2.2). While the average vessel had a capacity of 13 passengers, the median Alabama vessel had a capacity of six (Table 3.4.2.3). Alabama's vessels accounted for approximately 12% of total Gulf capacity.

Table 3.4.2.1. Number of vessels with for-hire reef fish permit, 2012-2016.

Year	Vessels with For-Hire Reef Fish Permit with Hailing Port in Alabama						
	2012	2013	2014	2015	2016	Average	Percent Change 2012-2016
Alabama	157	159	153	143	134	149	-14.7%

Source: NMFS Southeast Regional Office (SERO).

Table 3.4.2.2. Number of permitted vessels by passenger capacity as of October 24, 2017.

Homeport State	Number of Vessels by Passenger Capacity				Percentage of Vessels	
	6	7 - 14	15 and greater	Total	6	15 and greater
Alabama	100	0	36	136	73.5%	26.5%

Source: NMFS SERO LAPPS, November 21, 2017.

Table 3.4.2.3. Range, average, median, total and percent of total passenger capacity vessels as of October 24, 2017.

Homeport State	Passenger Capacity				
	Range	Average	Median	Total	Percentage of Total Gulf-wide
Alabama	6 - 75	13	6	1,736	11.6%

Source: NMFS SERO LAPPS, November 21, 2017.

When the above vessels are operating under the for-hire permit, the businesses that own them are participating in the charter fishing and party fishing boats industry (North American Industry Classification System [NAICS] code 4872012). The U.S. Census Bureau conducts the Economic Census of the United States every 5 years, which surveys business establishments with employees. Over the past four economic censuses, there was an average of 21 employee establishments in the charter fishing and party fishing boats industry in Alabama (Table 3.4.2.4).

Table 3.4.2.4. Number of employer establishments in NAICS code 4872012 (charter fishing and party fishing boats industry).

State	Number of Establishments				
	1997	2002	2007	2012	Average
Alabama	21	18	22	22	21

Source: 1997, 2002, 2007, 2012 Economic Census of the United States.

The Economic Census can be used to estimate the average annual receipts for employer establishments in an industry, and the average establishment in the charter fishing and party fishing boats industry in Alabama had annual receipts of $234,682 in 2012 (Table 3.4.2.5). Each establishment does not necessarily represent a unique business; a business may have multiple establishments.

Table 3.4.2.5. Number of establishments, total receipts and average receipts establishments in NAICS code 4872012 in 2012.

State	2012 Establishments	2012 Receipts	
		Total	Average
Alabama	22	$5,163,000	$234,682

Source: 2012 Economic Census of the United States.

The employee establishments in the charter fishing and party fishing boats industry represent part of the broader scenic and sightseeing water transportation industry (NAICS code 487201), and in Alabama they represent the majority of employer establishments in the broader industry, (Table 3.4.2.6). Average receipts for establishments in the excursion and sightseeing boats industry tend to be higher than those for establishments in the charter fishing and party fishing boats industry.

Table 3.4.2.6. Percentage of employer establishments in NAICS code 487201 that are in the charter fishing and party fishing boats industry (NAICS code 4872012).

State	Percentage of Establishments in Charter and Party Fishing Boat Industry				
	1997	2002	2007	2012	Average
Alabama	77.8%	72.0%	75.9%	73.3%	74.7%

Source: 1997, 2002, 2007, 2012 Economic Census of the United States.

The U.S. Census surveys non-employer businesses as well; however, non-employer statistics are not publically available at the relevant 6 or 7-digit NAICS code level. In 2015, there were 947

non-employer establishments in the scenic and sightseeing (water and land) transportation industry (NAICS code 487) in Alabama, and most (61 of 71, approximately 87%) were individual (or sole) proprietorships (Table 3.4.2.7). Self-employed individuals are included in the individual proprietorship category.

Table 3.4.2.7. Number of non-employer establishments by legal form in the scenic and sightseeing transportation industry (NAICS code 487), 2015.

State	C-corporations	S-corporations	Individual proprietorships	Partnerships	Total
Alabama		7	62		71

Source: Census, 2015 Non-employer Statistics by Legal Form.

The for-hire fishing industry can be divided by the vessels used: charter vessels and headboats. These vessels vary by passenger capacity and the methods that passengers pay. A charter fishing vessel is typically a vessel that is limited to carry six passengers or fewer and typically is less than 100 gross tons (90.8 mt) and that engages in charter fishing at any time during the calendar year (50 CFR 622.2). A headboat or party boat is a vessel that holds a valid Certificate of Inspection issued by the U.S. Coast Guard (USCG) to carry more than six passengers for hire (50 CFR 622.2).

For the purpose of this and related documents, charter vessels and headboats are differentiated by passenger capacity and the method passengers pay. Specifically, a headboat is defined as a federally permitted for-hire vessel that participates in the Southeast Region Headboat Survey (SRHS), and a vessel in the SRHS meets all or a combination of the following criteria: 1) is licensed to carry 15 or more passengers, 2) fishes in federal waters or state and adjoining waters for federally managed species, and 3) charges primarily per angler (by the head). A charter vessel is defined as a federally permitted for-hire fishing vessel that does not participate in the SRHS.

Data from MRIP are used to generate estimates of effort of charter vessels in the federal for-hire component in Alabama. From 2012 through 2016, charter vessels from Alabama took an average of 43,140 directed angler trips annually (Table 3.4.2.8). These are trips when red snapper was the primary or secondary target or was caught by anglers.

Table 3.4.2.8. Estimates of numbers of directed angler trips by charter vessels in the for-hire component in Alabama, 2012 - 2016.

Year	Number of Directed Angler Trips
2012	34,459
2013	42,438
2014	29,277
2015	52,417
2016	57,108
Average	**43,140**

Source: NMFS SERO LAPPS, August 28, 2017.

Directed angler trips by charter vessels generate jobs and other economic impacts. The average annual 43,140 directed trips by Alabama's charter vessels generate 221 jobs, approximately $9.2 million in income, $25.8 million in sales, and $13.4 million in value-added impacts (Table 3.4.2.9).

Table 3.4.2.9. Estimates of economic impacts of directed angler trips by Alabama charter boats and their economic impacts.

State	Directed Trips	Jobs	Thousands of Dollars (2015 $)		
			Income	Sales	Value-added
Alabama	43,140	221	$9,208	$25,828	$13,486

Source: Estimates of economic impacts calculated by NMFS SERO using model developed for NMFS, see http://sero.nmfs.noaa.gov/sustainable_fisheries/lapp_dm/index.html.

Similar analysis of recreational effort is not possible for headboats because headboat trip data are not collected at the individual angler level, but instead at the vessel level, and target intent are not included, only species caught and landed. The length of a headboat trip varies considerably, from 3 to 5.5 hours (half a day) to 10 hours or more; however, the majority of trips are no more than 6 hours. The USCG requires a vessel that makes a trip over 12 hours long to have two captains and two deckhands, which increases the cost of a trip. Also, if overnight, a headboat will have fewer paying passengers on board to free up space for passengers to have a place to sleep.

Estimates of effort by headboats are provided in terms of angler days, or the number of standardized 12-hour fishing days that account for the different half, three-quarter, full-day and longer fishing trips by these vessels. For purposes of estimating angler days and landings, the SRHS divides the Gulf into several areas. One of those areas has been northwest Florida through Alabama, although northwest Florida was separated from Alabama in 2013. On average, from 2012 through 2016, that area accounted for an annual average of 84,739 angler days, which represented approximately 35% of angler days Gulf-wide (Tables 3.4.2.10).

Table 3.4.2.10. Number of angler days in area from northwest Florida through Alabama, 2012 – 2016.

Year	Number of Angler Days[1]
2012	77,770
2013	80,048
2014	88,524
2015	86,473
2016	90,877
Average	**84,738**

Source: SERO SRHS.

1. Beginning in 2013, SRHS data was reported separately for NW Florida and Alabama, but has been combined here for consistency with previous years.

Eight headboats from Alabama had red snapper landings in 2016 (SEFSC SRHS). Those vessels represent approximately 14% of all headboats that landed red snapper that year.

Because SRHS data do not identify species that are targeted during a trip, the economic impacts of headboat trips that may target red snapper cannot be estimated. For estimates of the average fee per angler charged by headboats, see Carter 2015, 2016; for species targeted by the for-hire component, see Savolainen et al, 2012; and for estimates of producer surplus, see Amendment 45 (GMFMC 2016), which are incorporated by reference. To see how Alabama's federal for-hire component compares to the component in the other Gulf states, see the description of the Economic Environment (section 3.4.) in the State Management Program for Red Snapper (Amendment 50A).

Private Angling Component

The private angling component is made up of anglers who fish for red snapper from their own or leased recreational vessels. Angler fishing effort refers to the estimated number of angler fishing trips taken, and an angler trip is an individual fishing trip taken by a single angler for any amount of time, whether it is half an hour or an entire day. Currently, angler fishing effort is estimated by conducting telephone surveys of coastal households (Coastal Household Telephone Survey) and for-hire (charter) vessel captains (For-Hire Survey), as well as on-site survey methods (MRIP APAIS). From these survey interviews, NMFS can estimate how many people are fishing, where people are fishing, and how often people go fishing. Moreover, with the MRIP APAIS (survey of anglers by the private boat, charter vessel and shore modes as they complete a trip), NMFS can estimate how many trips target red snapper, how many trips catch red snapper and how many are being caught, how many red snapper are kept, how many are discarded, the condition of discarded fish, and the size and weight of red snapper caught.

Data from MRIP are used to estimate effort of the private angling component in Alabama. From 2012 through 2016, the private angling component in Alabama took an average of 99,792 directed angler trips annually (Table 3.4.2.11). Those were trips where red snapper was the primary or secondary target or was caught or harvested by anglers.

Table 3.4.2.11. Estimates of numbers of directed angler trips by private angling component in Alabama, 2012 – 2016.

Year	Number of Directed Angler Trips
2012	51,794
2013	176,719
2014	46,909
2015	99,446
2016	124,091
Average	**99,792**

Source: NMFS SERO LAPPS, August 28, 2017.

Directed angler trips generate economic impacts in Alabama (Table 3.4.2.18). The average annual 99,792 directed trips by the private angling component generates 53 jobs, approximately $28 million in income, $5.2 million in sales, and $2.7 million in value-added impacts (Table 3.4.2.12).

Table 3.4.2.12. Economic impacts of average number of annual directed angler trips by private angling component (2015 dollars).

State	Directed Trips	Jobs	Thousands of Dollars (2015 $)		
			Income	Sales	Value-added
Alabama	99,792	53	$1,588	$5,281	$2,734

Source: Estimates of economic impacts calculated by NMFS SERO using model developed for NMFS, see http://sero.nmfs.noaa.gov/sustainable_fisheries/lapp_dm/index.html.

Additional information about the private angling component can be found in Amendments 40 (GMFMC 2014), 28 (GMFMC 2015), and 45 (GMFMC 2016), and are incorporated by reference. To see how Alabama's private angling component compares to the component in the other Gulf states, see the description of the Economic Environment (section 3.4.) in the State Management Program for Red Snapper (Amendment 50A).

3.5 Social Environment and Environmental Justice Considerations

A description of social environment of recreational red snapper is included in the Program Amendment and associated draft EIS, and is incorporated by reference. The referenced description includes recreational landings by state, federally permitted for-hire vessels by state, and federal for-hire vessels included in the SRHS with landings of red snapper by state, in order to provide information on the geographic distribution of fishing involvement. Descriptions of the top recreational fishing communities based on recreational engagement are included, along with the top ranking communities by the number of federal for-hire permits, number of charter vessels by homeport, number of headboats by homeport, and communities with SRHS landings of red snapper. Community level data are presented in order to meet the requirements of National Standard 8 of the Magnuson-Stevens Fishery Conservation and Management Act, which requires the consideration of the importance of fishery resources to human communities when changes to fishing regulations are considered. Lastly, social vulnerability data are presented to assess the potential for environmental justice concerns.

Portions of the referenced description, which are relevant to Alabama, are summarized here. For the years 1986 through 2015, the proportion of Gulf recreational red snapper landed in Alabama has ranged from 11.5% to 53.6%. The Alabama community of Orange Beach is included in the top twenty Gulf communities that are engaged and reliant upon recreational fishing in general and demonstrates a high level of recreational engagement. In 2016, operators in Alabama held 10.2% of federal for-hire permits for reef fish. The Alabama community of Orange Beach is included in the top ranking communities based on the number of federal for-hire permits for Gulf reef fish. When the distribution of charter vessels with federal for-hire permits around the Gulf is displayed, a pattern of abundance for charter vessels is evident with large clusters of charter vessels in Orange Beach and Dauphin Island, Alabama. A large cluster of headboats with federal for-hire permits of Gulf reef fish is located in Baldwin County, Alabama. In 2016, nine federal for-hire vessels with addresses in Alabama and registered in the SRHS, landed red snapper. Headboats with red snapper landings in Alabama are located in Orange Beach and Dauphin Island. When social vulnerability data are assessed, included Alabama communities do

not exceed the thresholds of one-half or one standard deviation above the mean and thus do not exhibit substantial vulnerabilities.

3.6 Administrative Environment

A description of the administrative environment is included in the Program Amendment and associated EIS, and is incorporated here by reference. The referenced description includes information on the agencies responsible for federal fishery management. Additional information for the Alabama Marine Resources Division can be found at http://www.outdooralabama.com/.

CHAPTER 4. ENVIRONMENTAL CONSEQUENCES

4.1 Action 1 – Authority Structure for State Management

Alternative 1: No Action. Retain current federal regulations for management of recreational red snapper in federal waters of the Gulf of Mexico (Gulf).

Preferred Alternative 2: Establish a management program that **delegates** management authority for recreational red snapper fishing in federal waters to Alabama. If Alabama's red snapper harvest plan is determined to be inconsistent with the requirements of delegation, the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper. Alabama must establish the red snapper season structure for the harvest of its assigned portion of the recreational sector annual catch limit (ACL), monitor landings, and prohibit further landings of red snapper when the ACL is reached or projected to be reached. In addition, delegated authority for managing the recreational harvest of red snapper may include establishing or modifying the:

Preferred Option 2a: bag limit

Preferred Option 2b: prohibition on for-hire vessel captains and crew from retaining a bag limit

Preferred Option 2c: minimum size limit within the range of 14 to 18 inches total length (TL)

Preferred Option 2d: maximum size limit

Option 2e: requirements for live release devices (e.g., descending devices)

Option 2f: requirements for harvest gear

Option 2g: use of area or depth-specific regulations.

Alternative 3: Establish a management program in which Alabama submits a plan describing the **conservation equivalency** measures Alabama will adopt for the management of its portion of the recreational sector ACL in federal waters. The plan, which may be submitted annually or biannually, must specify the red snapper season structure and bag limit for the state's harvest of its assigned portion of the recreational sector ACL. To be a conservation equivalency plan (CEP), the plan must be reasonably expected to limit the red snapper harvest to Alabama's assigned portion of the recreational sector ACL. If Alabama's plan is determined by the National Marine Fisheries Service (NMFS) to not satisfy the conservation equivalency requirements, then the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper.

Option 3a: The plan will be submitted directly to NMFS for review.

Option 3b: The plan will first be submitted to a technical review committee. The technical review committee reviews and may make recommendations on the plan, which is either returned to Alabama for revision or forwarded to NMFS for final review.

4.1.1 Direct and Indirect Effects on the Physical Environment

Establishing the authority structure for state management of recreational red snapper by Alabama would have no direct effects on the physical environment because the authority structure does not in and of itself effect fishing effort or how fishing effects the physical environment. Potential effects would be specific to the options within the authority structure and are discussed below. Any indirect effects would be impacts that could occur if landings are not constrained to the ACL; see Section 4.1.1 of the State Program Amendment for more information. Effects on the physical environment from this action, regardless of the alternative selected, would likely be minimal because no significant change in effort is expected.

Alternative 1 (No Action) would continue NMFS management of the recreational harvest of red snapper in federal waters of the Gulf, and there would be no change in the effects to the physical environment. **Preferred Alternative 2** would delegate management authority through an approved state management plan. If Alabama's red snapper harvest plan is determined to be inconsistent with the requirements of delegation, the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper. Alabama must establish the red snapper season structure for the harvest of its assigned portion of the recreational sector ACL, monitor landings, and prohibit further landings of red snapper when the ACL is reached or projected to be reached. If the state can more successfully constrain landings to the ACL, negative impacts to the physical environment would be reduced compared to **Alternative 1. Preferred Options 2a** and **2b** could change impacts to the physical environment from status quo. If Alabama increased the bag limit, the ACL would be met quicker; discards would be reduced, reducing negative impacts to the physical environment because of the decrease of gear interactions. Conversely, if Alabama decreased the bag limit, the ACL would not be met as quickly, discards would increased, increasing negative impacts to the physical environment from gear interaction. For **Preferred Options 2c**, if a state chose to increase the minimum size, this could result in an increase in fishing effort to catch a legal size fish. An increase in effort could increase negative impacts on the physical environment. However, the harvest of larger fish could result in more quickly meeting the ACL and reduce the season length, decreasing impacts to the physical environment. For **Preferred Option 2d**, a maximum size limit would likely increase the number of discards and slow the harvest meeting the ACL, therefore increase the season length and potentially negative impacts to the physical environment. **Options 2e, 2f,** and **2g** would require establishing a statement management area in federal waters, within which a state's management measures would apply. Therefore, the following discussion on effects to the physical environment would only be within those areas. **Option 2e** would have no effects on the physical environment because descending devices do not interact with the physical environment. **Option 2f**, is not intended to allow gear type requirements that would increase impacts to the physical environment (such as allowing reef fish fishing with traps), it is intended to allow Alabama to implement additional gear restrictions. Therefore, there would be no additional physical impacts. As discussed in Section 2.4, **Option 2g**, may be impracticable, and until more information is provided to clarify the intent, cannot be thoroughly analyzed at this time. If areas are closed to fishing, those areas would experience less effects to the physical environment, whereas if fishing is constrained to specific areas, those areas would experience more negative effects to the physical environment.

Alternative 3 would establish management by Alabama submitting a plan describing the conservation equivalency measures the state will adopt for the management of its portion of the recreational sector ACL in federal waters. The plan would specify the red snapper season structure and bag limit for the state's harvest of its assigned portion of the recreational sector ACL. To be a CEP, the plan must be reasonably expected to limit the red snapper harvest to the state's assigned portion of the recreational sector ACL. If Alabama's plan is determined not satisfy the requirements, then the recreational harvest of red snapper in federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper. Because states would still be required to fulfill the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws under any of the alternatives, one would not result in more or less impacts to the status quo. **Options 3a** and **3b** are also administrative in nature, and how the CEP is submitted and reviewed would not have direct or indirect effects on the physical environment.

4.1.2 Direct and Indirect Effects on the Biological Environment

Direct and indirect effects from fishery management actions have been discussed in detail in several red snapper framework actions (GMFMC 2010, 2012, 2013) and are incorporated here by reference. Management actions that affect the biological environment mostly relate to impacts of fishing on a species' population size, life history, and the role of the species within its habitat. Removal of fish from the population through fishing reduces the overall population size. Fishing gears have different selectivity patterns which refer to a fishing method's ability to target and capture organisms by size and species. This would include the number of discards, mostly sublegal fish or fish caught during seasonal closures, and the mortality associated with releasing these fish. For red snapper, the most likely indirect effect on the stock from this action would be on discard mortality. Regulatory discards are fish that are caught, but not kept because they are too small, would put a fisherman over the bag limit, or are caught out of season. A certain percentage of these fish die and are called dead discards. If fishing effort shifted spatially the discard mortality rate could change as well. Red snapper landed from greater depths have a greater potential of experiencing barotrauma and mortality, even if properly vented or returned with a descending device. In recent years private angling fishing effort in deeper federal waters has been limited by the shorter season. If private angling fishing effort shifted offshore because there are no longer inconsistencies between state and federal water seasons, landing more fish from deeper waters, there is the potential that discard mortality could increase. For more information see the State Program Amendment Section 4.1.2.

Establishing the authority structure for state management of recreational red snapper in the Gulf would have no direct effects on the biological environment because the authority structure does not in and of itself effect fishing effort or how fishing effects the physical environment. Potential effects would be specific to the options within the authority structure and are discussed below. Any indirect effects would be similar to those outlined above, which describes additional impacts that could occur if landings are not constrained to the ACL and bycatch. Effects on the biological environment from this action, regardless of the alternative selected, would likely be minimal because no significant change in effort is expected.

Alternative 1 (No Action) would continue NMFS management of the recreational harvest of red snapper in federal waters of the Gulf, and there would be no change in the effects to the biological environment. **Preferred Alternative 2** would delegate management authority through an approved state management plan. If Alabama's red snapper harvest plan is determined to be inconsistent with the requirements of delegation, the recreational harvest of red snapper in the federal waters adjacent to Alabama would be subject to the default federal regulations for red snapper. Alabama must establish the red snapper season structure for the harvest of its assigned portion of the recreational sector ACL, monitor landings, and prohibit further landings of red snapper when the ACL is reached or projected to be reached. If the state can more successfully constrain landing to the ACL, there would be less negative effects on the biological environment compared to **Alternative 1**.

Preferred Options 2a and **2b** could change impacts to the biological environment from status quo. While a change in bag limits would not change the total number of fish landed to meet the ACL, it could increase the number of discards, resulting in negative impacts to the biological environment. For **Preferred Options 2c** the greater the minimum size, the more likely fishermen will need to discard undersized fish, and therefore fishing effort and negative effects on the biological environment would increase; however, at the same time larger fish would contribute to meeting the ACL quicker and reduce the amount of effort, decreasing negative impacts to the biological environment. More importantly, a higher minimum size limit allows more red snapper to survive longer and contribute reproductively to the stock, which would be beneficial to the biological community. Red snapper historically begun reproducing around 2 years of age (approximate 11 to 14 inches in the eastern Gulf and 9.5 to 12.5 inches in the western Gulf) (SEDAR 52 2018). However, evidence shows a recent shift toward a slower progression to sexual maturity as well as reduced egg production, especially among young, small female red snapper. Slower maturation rates among young fish ages 2 to 6, and decreased spawning frequency have been observed, and were especially pronounced in the northwestern Gulf. Young fish have been contributing far less to the spawning stock in recent years (Kulaw et al. 2017). For **Preferred Option 2d**, a maximum size limit would overall be a beneficial impact to the biological community because it would reduce fishing mortality of larger, older fish, which contribute to the reproductive potential of the stock more than smaller younger fish (SEDAR 52 2018).

Options 2e, 2f, and **2g** all would require boundary lines to establish the area within which a state could implement these management measures. Therefore, the following discussion on effects to the biological environment would only be within those areas that had these measures. **Option 2e** would be expected to reduce negative impacts on the biological environment because descending devices return red snapper to deeper waters quickly, which reduces barotrauma, and increases the likelihood of survival of the released fish. **Option 2f**, is not intended to allow gear type requirements that would increase impacts to the biological environment (such as allowing reef fish fishing with explosives), it is intended to allow a state to implement additional gear restrictions. Therefore, any impacts from a state implementing management measures under the option would be expected to be beneficial. As discussed in Section 2.4, **Option 2g** may be impracticable, and until more information is provided to clarify the intent, cannot be thoroughly analyzed at this time. If deeper areas were closed to red snapper fishing, there would be less mortality of discards due to barotrauma, which would reduce negative impacts to the biological

community. However, if shallower areas were closed to red snapper fishing, there could be an increase in discard mortality due to barotrauma. Additionally, if shallower areas were closed, more fishing pressure would be on older larger fish found in deeper waters, which would negatively impact the biological community by reducing the reproductive potential of the stock.

Alternative 3 would require Alabama to submit a CEP that is reasonably expected to limit the red snapper harvest to the state's assigned portion of the recreational sector ACL. Therefore, there would be no change in the effects to the biological environment, unless the state can more successfully constrain landings to the ACL, which would reduce negative effects on the biological environment compared to **Alternative 1.**

Preferred Alternative 2 and **Alternative 3** allow flexibility in the management of recreational red snapper. If a state can constrain landings to the ACL, this would reduce negative impacts to red snapper comparted to **Alternative 1**. As stated in Section 4.3.1, **Alternative 3**, **Options 3a** and **3b** are administrative in nature and how the CEP is submitted and reviewed would not have direct or indirect effects on the biological environment. Because states would still be required to fulfill the requirements of the Magnuson-Stevens Act and other applicable laws under all alternatives, none would not result in more or less impacts than the status quo.

4.1.3 Direct and Indirect Effects on the Economic Environment

Alternative 1 (No Action) would retain current federal regulations for the management of recreational red snapper in federal waters adjacent to Alabama. **Alternative 1** would not allow Alabama to manage red snapper in federal waters and would not be expected to affect recreational red snapper fishing practices or harvests. Therefore, **Alternative 1** would not be expected to result in direct economic effects.

Preferred Alternative 2 and **Alternative 3** consider various mechanisms to transfer some of the management responsibilities for recreational red snapper to Alabama. **Preferred Alternative 2** would establish a program that delegates management authority for recreational red snapper to Alabama. The state of Alabama must establish recreational red snapper fishing seasons based on its allotted portions of the recreational red snapper ACL. Under **Preferred Alternative 2**, Alabama can also elect to manage bag limits (**Preferred Option 2a**), the prohibition on for-hire vessel captains and crew from retaining a bag limit (**Preferred Option 2b**), the minimum size limit between 14 to 18 inches TL (**Preferred Option 2c**), and the maximum size limit (**Preferred Option 2d**). In addition, **Preferred Alternative 2** could allow Alabama to establish requirements for the use of live release devices (e.g., descending devices and dehooking devices) (**Option 2e**), harvest gear (**Option 2f**), and area and depth-specific regulations (**Option 2g**). **Alternative 3** would establish a program allowing Alabama to devise conservation equivalency management measures the state will adopt for the management of its allotted portion of the recreational red snapper ACL. The CEP will specify the fishing season and bag limit and must realistically be expected to constrain landings within Alabama's allotted portion of the recreational red snapper ACL. CEPs developed by Alabama could either be submitted directly to NMFS for review (**Option 3a**) or first be submitted to a technical review committee for approval before submission to NMFS for final review (**Option 3b**).

Preferred Alternative 2 and **Alternative 3**, in and of themselves are administrative in nature and would therefore not be expected to result in direct economic effects. However, because the devolution of some management responsibilities to Alabama could result in management measures better suited to its anglers, **Preferred Alternative 2** and **Alternative 3** would be expected to result in indirect economic benefits that would stem from the management measures implemented following delegation or the approval of CEPs.

For anglers, economic benefits, would be measured by changes in economic value expected to result from the recreational management measures considered in this action. Changes in economic value would be evaluated based on consumer surplus (CS) changes. CS per additional fish kept during a trip is defined as the amount of money an angler would be willing to pay for a fish in excess of the cost to harvest the fish. The CS value per fish for a second red snapper kept is estimated at $82.34 (2017 dollars). Economic value for for-hire vessels can be measured by producer surplus (PS) per passenger trip (the amount of money that a vessel owner earns in excess of the cost of providing the trip). Estimates of the PS per for-hire passenger trip are not available. Instead, net operating revenue (NOR), which is the return used to pay all labor wages, returns to capital, and owner profits, is used as a proxy for PS. For vessels in the Gulf, the estimated NOR value is $158 (2017 dollars) per charter angler trip (Liese and Carter 2011, updated to 2017 dollars). The estimated NOR value per headboat angler trip is $52 (C. Liese, NMFS SEFSC, pers. comm.). The positive economic effects expected to result from **Preferred Alternative 2** and **Alternative 3** cannot be quantified at this time because they would be determined by the portion of the recreational ACL allocated to Alabama and by management measures the state would implement under delegation or by the contours of its approved conservation equivalency plan. It is noted that, for a given set of management measures implemented by the state of Alabama, a greater number of Gulf states electing to accept a transfer of management authority would be expected to result in greater aggregate economic benefits. It follows that expected economic benefits would decrease if some of the Gulf states do not participate in state management. Furthermore, the lack of participation by some of the states, requiring the partitioning of federal waters into state portions, may increase enforcement challenges and possibly costs. Enforcement challenges and possibly costs may also be increased under other options that would require at sea enforcement in federal waters adjacent to some of the Gulf states, e.g., **Options 2e, 2f,** and **2g**.

4.1.4 Direct and Indirect Effects on the Social Environment

A central assumption underlying this proposed amendment is that social benefits would increase by allowing greater flexibility in the recreational harvest of red snapper, because management measures could be established that better match the preferences of Alabama's anglers. Further, as the fishing season continued to shorten despite increasing quotas and progress in rebuilding the stock, recreational fishermen have grown frustrated with current red snapper management. Although additional effects are not usually expected from maintaining red snapper management (**Alternative 1**), the dissatisfaction with current management would continue. Positive social effects would be expected under either **Preferred Alternative 2** (delegation) or **Alternative 3** (conservation equivalency), each of which would enable some control for decision-making and management to be turned over to Alabama and by addressing the dissatisfaction with current management.

The primary differences between **Preferred Alternative 2** and **Alternative 3** concerns where management authority is held and the process for Alabama to establish its recreational management measures for red snapper. Delegation (**Preferred Alternative 2)** would involve a devolution of some management control from NMFS to Alabama, although any state regulation under the delegation would need to be consistent with the FMP. Under conservation equivalency (**Alternative 3)**, complete authority for managing red snapper would remain with the Gulf of Mexico Fishery Management Council (Council) and NMFS, but the states would be allowed to set the season and bag limit. Alabama would either provide its proposed management measures first to a review body, then to NMFS for final approval (**Option 3b**), or directly to NMFS for review and approval (**Option 3a**). Cooperation between Alabama and federal level agencies would still be a critical component for successful state management. Under both alternatives, indirect effects would be expected to result from, and be in proportion to, the success or failure of the cooperation among managing institutions and Alabama. Differential indirect effects may result should Alabama be deemed inconsistent with the requirements of delegation or have its CEP not approved. The process for addressing an issue with delegated authority or a CEP is different, and as a result, the effects may differ. It is difficult to anticipate what these effects would be, and in both cases, default regulations would remain in place and be applied to Alabama in the event its delegation is inactive or its CEP is not approved. For delegation, Alabama would retain delegated authority throughout the process of addressing the inconsistency, while under a CEP, NMFS' disapproval of a plan and application of the default federal regulations would occur more quickly. In the event that there is a disruption due to the suspension of a delegation or disapproval of a CEP, it is possible for some additional, unknown effects to occur.

Because this action would provide the management authority to establish Alabama-specific management measures, but does not establish those measures themselves, it is not possible to predict the specific management measures that would result for Alabama and the effects thereof. Thus, any resulting social effects would be indirect and relate to whether flexibility for managing toward local preferences is increased or decreased from current management (**Alternative 1**).

Although positive effects are expected in general, these effects could be undermined, and potentially eliminated, if the adopted suite of management measures results in the quota being caught faster. There is a trade-off between providing greater flexibility to establish Alabama's preferred management measures and a resulting increase in effort as the management measures provide anglers access under preferred conditions. For example, a longer season is generally preferred by fishermen, but a fishing season that coincides with times of greatest fishing effort would likely result in a state's quota being caught faster, thereby resulting in a shorter season than it may have otherwise been.

Under either delegation (**Preferred Alternative 2**) or conservation equivalency (**Alternative 3**), it is possible that the same suite of management measures could be adopted by Alabama. Alabama would be able to modify the season, bag limits, and size limits under **Preferred Alternative 2**, **Preferred Options 2a-2d**, or **Alternative 3**. The options for delegating the requirements for live release gear (**Option 2e**) and harvest gear (**Option 2f**) would require on-the-water enforcement, in contrast to a potential requirement to be in possession of such gear

which could be enforced dockside. If these options are selected with delegation by one or more states, use of lines demarcating portions of federal waters adjacent to each state would continue to be necessary, even if all states have approved state management plans, to specify where such regulations are in effect. This could reduce the benefits of state management in Alabama if anglers' intend to fish in federal waters adjacent to a bordering state but are prohibited from doing so. The authority to include requirements for use of live release gear and harvest gear are not provided under conservation equivalency (**Alternative 3**). **Option 2g** is not a viable option without further information about the scope and purpose of the area or depth-specific regulation. If Alabama were to close its adjacent federal waters, the closure would apply to all vessels of each component regardless of homeport state; a closure may not apply to vessels from a particular state only. Thus, negative effects would be expected to result for vessels fishing from neighboring states, especially for anglers who fish near Alabama, as a result of establishing such closed areas.

4.1.5 Direct and Indirect Effects on the Administrative Environment

Alternative 1 would continue NMFS management of the recreational harvest of red snapper in federal waters of the Gulf. NMFS would continue to set seasons, track landings, and apply AMs and the Council would continue to determine bag limits, size limits, gear requirements, AMs, and other regulations. States would continue to be responsible for management in state waters, out to nine miles. There would be no additional impacts to the administrative environment of the states or of NMFS and therefore **Alternative 1** would have less negative effects on the administrative environment than **Preferred Alternatives 2** and **Alternative 3**.

For **Preferred Alternative 2** and **Alternative 3 Options 3a** and **3b**, establishing management of the recreational harvest of red snapper by the Gulf states would increase administrative impacts to states selecting to participate in state management, compared to **Alternative 1**. The impacts would include the additional cost and time to analyze fishery data to set management measures such as bag limits and seasons to constraint recreational red snapper landings to the allocated ACL. It would also include impacts regarding implementing those management measures. **Alternative 3** would require submission of a CEP every one or two years and would therefore have more negative effects on the administrative environment than **Preferred Alternative 2**, which need only be submitted once. Implementing state management programs will also have negative impacts on NMFS administrative environment. Even with state management of both components of the recreational sector, NMFS is still obligated through the Magnuson-Stevens Act to prohibit recreational harvest of red snapper if the recreational ACL is reached. NMFS is also obligated to maintain the default regulations that would be in place for a state not participating in state management. In addition to the current administrative burden to NMFS, there would be the additional burden of reviewing state's management plan or CEPs.

Under either **Preferred Alternative 2** or **Alternative 3**, it is possible that the same suite of management measures could be adopted. Alabama would be able to modify the season, bag limits, and size limits under **Preferred Alternative 2 Options 2a-2d** or **Alternative 3**. Therefore the negative administrative impacts to the state would be equal. The options for delegating the requirements for live release gear (**Options 2e**) and harvest gear (**Option 2f**) would require on-the-water enforcement, in contrast to a potential requirement to be in

possession of such gear which could be enforced dockside. If these options are selected with delegation by one or more states, use of lines demarcating portions of federal waters adjacent to each state would continue to be necessary, even if all states have approved state management plans, to specify where such regulations are in effect. **Option 2g** is not a viable option without further information, but would most likely add administrative burden to the states and law enforcement to enforce area closures. Therefore **Options 2e-2g**, would be result in negative effects on the administrative environment compared to **Alternative 1, Preferred Alternative 2 Preferred Options 2a-2d**, or **Alternative 3.**

4.2 Action 2 – Post-Season Quota Adjustment

Alternative 1: No Action. Retain the current post-season accountability measure (AM) for managing overages of the recreational sector ACL in federal waters of the Gulf and do not add a state-specific overage adjustment. If red snapper is overfished (based on the most recent Status of U.S. Fisheries Report to Congress) and the combined recreational landings exceed the recreational sector ACL, reduce the **recreational sector** ACL, and applicable recreational component ACL in the following year by the full amount of the overage, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary. The applicable component ACT will be adjusted to reflect the previously established percent buffer. There is currently no quota adjustment in the following year when recreational landings remain below the red snapper quota (carryover).

Alternative 2: Add an Alabama-specific overage and underage adjustment to the existing post-season AM for the recreational sector red snapper ACL. If the combined Alabama recreational landings exceed or are less than the Alabama combined recreational ACLs (if applicable), then in the following year reduce or increase the total recreational quota and Alabama's component ACL(s) as outlined in Option a or b, in accordance with Council procedures, by the amount of the ACL overage or underage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no adjustment is necessary. If appropriate, the Alabama component ACTs will be adjusted to reflect the established percent buffer.

Option 2a: If Alabama has both a private-angling ACL and a federal for-hire ACL, the adjustment will be **applied only to the component(s)** that exceeded or were under the applicable ACL.

Option 2b: If Alabama has both a private-angling ACL and a federal for-hire ACL, the adjustment will be **applied equally to both components**.

4.2.1 Direct and Indirect Effects on the Physical Environment

A Gulf-wide post-season AM is currently in place to mitigate for an overage of the total recreational ACL and red snapper is classified as overfished. Establishing Alabama specific post-season AMs and the method to adjust the quota, allows for additional flexibility and is administrative in nature. This action looks to establish post-season AMs or a carry-over in the event an ACL is not met. In the event of an underage, implementing a carry-over regulation

would increase negative impacts to the biological community through ensuring the maximum amount of fish are landed. Effects on the physical environment from this action regardless of the alternative selected would likely be minimal from the status quo because post-season AMs are currently in place to take corrective action in the event of an overage, and in the event of an underage, assessments and projections are based on assuming landings will meet to the ACL.

Both **Alternatives 1** and **Alternative 2** and **Options 2a** or **Option 2b** would ensure that impacts to the physical environment are constrained, at a maximum, to those attributed to the effort to harvest the ACL. Since **Alternative 1** works to ensure that the catch is only at or below the ACL, it would result in less impacts to the physical environment than **Alternative 2** which would work to ensure the ACL is met (that is, that the catch is never below the ACL). As described in Section 4.1.1 any increase in the proportion of the recreational quota caught by the private angling component would be expected to require more effort to catch fish compared to the for-hire component. This would increase the amount of interaction between fishing gear and the physical environment regionally. Therefore, **Option 2b** could have slightly more negative impacts on the physical environment by disproportionally allowing for the private component to exceed their ACL than **Alternative 1** or **Alternative 2 Option 2a**.

4.2.2 Direct and Indirect Effects on the Biological Environment

A gulf-wide Post-season AMs is currently in place to mitigate for an overage of the total recreational ACL and red snapper is classified as overfished. Establishing state management specific post-season AMs and the method to adjust the quota, allows for additional flexibility and is administrative in nature. This action looks to establish post-season AMs or a carry-over in the event an ACL is not met. In the event of an underage, implementing a carry-over regulation would increase negative impacts to the biological community through ensuring the maximum amount of fish are landed. The indirect effects would be similar to those outlined in Section 4.1.2, which describes additional impacts that could occur if landings are not constrained to the ACL. The current total recreational ACL and AMs have been established to maximize yield while constraining landings. Therefore, effects to the biological environment from this action regardless of the alternative selected would likely be minimal from the status quo.

Alternative 1 would maintain the current post-season accountability measure, that requires a payback of any overage if the total recreational ACL is exceeded and the red snapper stock is classified as overfished. No additional impacts would occur to the biological environment from the status quo. In the event of an overage or underage of a given year's ACL, **Alternative 2** would implement a post-season increase or decrease in the total recreational quota and a state's ACL equal to that overage or underage, respectively. Currently there is no quota adjustment in the following year when recreational landings remain below the red snapper quota. Therefore, **Alternative 2** would result in more negative biological impacts than **Alternative 1**, because **Alternative 2** would ensure the ACL was met or accounted for the following year, whereas in **Alternative 1** there is the possibility the ACL would not be met. **Alternative 2 Option 2b** could have more negative biological impacts than **Option 2a** because it would disproportionally allow the private component to exceed their ACL.

4.2.3 Direct and Indirect Effects on the Economic Environment

Alternative 1 (No Action) would maintain the existing post-season AM Gulf-wide while red snapper is classified as an overfished stock. If Gulf-wide recreational landings exceed the aggregate recreational ACL and red snapper is overfished, then the overage would be deducted from the following year's ACL. Although **Alternative 1** would not be expected to result in Gulf-wide economic effects, it could be perceived as unfair and could potentially be detrimental to some participating states. Alabama could manage to maintain its red snapper harvests within its allotted portion of the recreational ACL and be penalized as the states who went over their allocation; thereby unduly suffering economic losses. However, these potential economic losses to Alabama would not materialize as long as red snapper is not classified as an overfished stock.

Alternative 2 would implement AMs specific to the state of Alabama. Under **Alternative 2**, if Alabama total recreational landings exceed (or are less than) its allotted share of the recreational red snapper ACL, then in the following year the state's next year ACL will be reduced (or increased) (and consequently reduce/increase the Gulf-wide ACL) by the amount of the ACL overage or underage, unless the best scientific information available determines otherwise. Quota adjustments in Alabama could be limited to the recreational component responsible for the underage or overage (**Option 2a**) or applied equally to both the federal for-hire and the private angling components of its recreational sector (**Option 2b**). **Alternative 2**, which is an administrative measure, would not be expected to result in direct economic effects. The federal for-hire and private angling components of the recreational sector are more likely to be subject to quota adjustments (payback or carryover) under **Alternative 2**. Therefore, relative to **Alternative 1, Alternative 2** would be expected to result in indirect economic effects due to the increased likelihood of overage paybacks and underage carryovers. For paybacks and carryovers, **Alternative 2** would be expected to result in indirect economic losses and benefits to Alabama, respectively. Although the expected economic effects cannot be quantified, they would be determined by the expected value of the paybacks (carryover), i.e., the likelihood of overage paybacks (underage carryover) times the value of excess harvest (under harvest) to be paid back (carried over). Relative to **Option 2b**, **Option 2a** which requires a payback only from the component responsible for the overage, would promote fairness and provide more incentives to Alabama's federal for-hire and private angling components to stay within their allotted portions of the quota.

4.2.4 Direct and Indirect Effects on the Social Environment

The overage adjustment that would reduce the recreational sector ACL in the year following an overage by the amount it is exceeded applies when red snapper is classified as overfished (**Alternative 1**). Even though red snapper is not currently classified as overfished, there would be no overage adjustment under **Alternative 1** if Alabama, with an approved state management plan, exceeds its portion of the ACL, as this provision is applicable Gulf-wide and would not apply to an individual state. This would allow Alabama to avoid the negative effects of having to payback a quota overage, but may be perceived as unfair by other states. On the other hand, if Alabama constrained its landings to below its portion of the quota, under **Alternative 1**, the uncaught quota would no longer be available for harvest and Alabama would not be able to realize an increased portion of the ACL in the following year, by the amount of uncaught quota.

For an Alabama approved state management plan, **Alternative 2** would apply an overage or underage adjustment to Alabama's ACL(s) based on its landings in the previous year: if Alabama constrained its landings to below its portion of the recreational sector ACL, the amount of quota remaining would be added to its ACL(s) in the following year, and if Alabama's landings exceeded its portion of the ACL, the amount of the overage would be deducted from Alabama's ACL in the following year. Because the overage adjustment would only apply to an individual state that exceeded its portion of the ACL, other states (with or without approved state management plans) would not be affected by having their ACL(s) reduced. In the event an overage adjustment is triggered for Alabama under **Alternative 2**, some positive effects would be expected for anglers in other states that do not exceed their respective portions of the ACL, as anglers in other states are not affected by the overage, either in the short-term setting of the following year's ACL (would only occur if red snapper is classified as overfished), or the long-term health of the stock. In the event a quota carryover is triggered for Alabama under **Alternative 2**, positive effects would be expected for anglers in Alabama, as the amount of uncaught quota would be added to Alabama's portion of the ACL in the following year.

If only the private angling component is included in Alabama's management plan, the options under **Alternative 2** are not applicable and have no effect. If Alabama is managing both components, **Option 2a** would provide some benefits to the component that does not exceed its portion of the ACL, as an overage adjustment would only apply to a component that exceeded its portion of the ACL. In turn, **Option 2a** would provide benefits to either component that remains below its ACL, by increasing in the following year the component's portion of the ACL by the amount of the quota underage. **Option 2b** may be considered unfair in contrast, as a component that exceeded (or remained under) its portion of the ACL shares in the payback of the other component's overage, or shares in the carryover of its uncaught quota.

4.2.5 Direct and Indirect Effects on the Administrative Environment

A Gulf-wide post-season AM is currently in place to mitigate for an overage of the total recreational ACL and red snapper is classified as overfished. Landings are currently monitored and any impacts to the administrative environment would be minor. Establishing Alabama specific quota adjustments, allows for additional flexibility. This action looks to establish post-season AMs or carry-over adjustments in the event there is an overage or underage of the ACL, respectively. **Alternative 1** (No Action) would result in no additional impacts or effects on the administrative environment. **Alternative 2** would have additional administrative impacts to NMFS and a state with an underage, compared to **Alternative 1** due to needing to adjust the ACL in the following year. If only the private angling component is included in state management plans, the options under **Alternative 2** are not applicable and have no effect. If a state is managing both components, **Option 2b** applies an overage or underage adjustment equally to both components. This would be less of an administrative burden than **Option 2a** which would require calculating the overage or underage for each component.

CHAPTER 5. LIST OF PREPARERS

PREPARERS

Name	Expertise	Responsibility	Agency
Ava Lasseter	Anthropologist	Co-Team Lead – Amendment development, social analyses	GMFMC
Lauren Waters	Fishery biologist	Co-Team Lead – Amendment development, biological analyses, cumulative effects analysis	SERO
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Denise Johnson	Economist	Economic environment and analyses	SERO
Christina Package-Ward	Anthropologist	Social environment	SERO
Nick Farmer	Fishery biologist	Data analyses	SERO

REVIEWERS

Name	Expertise	Responsibility	Agency
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Mara Levy	Attorney	Legal review	NOAA GC
Scott Sandorf	Technical writer and editor	Regulatory writer	SERO
Carrie Simmons	Fishery biologist	Review	GMFMC
Sue Gerhart	Fishery biologist	Review	SERO
Stephania Bolden	Biologist	Protected Resources review	SERO
David Dale	Biologist	Essential Fish Habitat review	SERO
Jessica Stephen	Fishery biologist	Data analyses	SERO
David Carter	Economist	Review	SEFSC
Matt Smith	Biologist	Review	SEFSC
Peter Hood	Fishery biologist	Review	SERO

GMFMC = Gulf of Mexico Fishery Management Council; NOAA GC = National Oceanic and Atmospheric Administration General Counsel; SEFSC = Southeast Fisheries Science Center; SERO = Southeast Regional Office of the National Marine Fisheries Service

CHAPTER 6. LIST OF AGENCIES CONSULTED

AGENCIES and ORGANIZATIONS CONSULTED

National Marine Fisheries Service
- Southeast Fisheries Science Center
- Southeast Regional Office
- Office for Law Enforcement
- Endangered Species Division
- Domestic Fisheries Division

NOAA General Counsel

Environmental Protection Agency (Region 4 and 6)
United States Coast Guard
United States Fish and Wildlife Services
Department of Interior. Office of Environmental Policy and Compliance
Department of State, Office of Marine Conservation,
Marine Mammal Commission

Texas Parks and Wildlife Department
Alabama Department of Conservation and Natural Resources/Marine Resources Division
Louisiana Department of Wildlife and Fisheries
Mississippi Department of Marine Resources
Florida Fish and Wildlife Conservation Commission

CHAPTER 7. REFERENCES

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APPENDIX A. DELEGATION PROVISION

Magnuson-Stevens Fishery Conservation and Management Act 16 U.S.C. §1856(a)(3), (b)

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) [Pertains to Alaska, only.]

(b) EXCEPTION.—
(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the exclusive economic zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan; the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).

APPENDIX B. GULF OF MEXICO RED SNAPPER FEDERAL REGULATIONS RELEVANT TO STATE MANAGEMENT AMENDMENTS

Current as described in the eCFR, September 6, 2017. This is a summary only and is not a list of all regulations applicable to Gulf reef fish overall, but focuses on regulations that affect the recreational harvest of red snapper.

§622.8 Quotas—general.

(c) *Reopening.* When a species, sector or component has been closed based on a projection of the quota specified in this part, or the ACL specified in the applicable annual catch limits and accountability measures sections of subparts B through V of this part being reached and subsequent data indicate that the quota or ACL was not reached, the Assistant Administrator may file a notification to that effect with the Office of the Federal Register. Such notification may reopen the species, sector or component to provide an opportunity for the quota or ACL to be harvested.

§622.9 Prohibited gear and methods—general.

This section contains prohibitions on use of gear and methods that are of general applicability, as specified. Additional prohibitions on use of gear and methods applicable to specific species or species groups are contained in subparts B through V of this part.

(a) *Explosives.* An explosive (except an explosive in a powerhead) may not be used to fish in the Caribbean, Gulf, or South Atlantic EEZ. A vessel fishing in the EEZ for a species governed in this part, or a vessel for which a permit has been issued under this part, may not have on board any dynamite or similar explosive substance.

(b) *Chemicals and plants.* A toxic chemical may not be used or possessed in a coral area, and a chemical, plant, or plant-derived toxin may not be used to harvest a Caribbean coral reef resource in the Caribbean EEZ.

(c) *Fish traps.* A fish trap may not be used or possessed in the Gulf or South Atlantic EEZ. A fish trap deployed in the Gulf or South Atlantic EEZ may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer.

(d) *Weak link.* A bottom trawl that does not have a weak link in the tickler chain may not be used to fish in the Gulf EEZ. For the purposes of this paragraph, a weak link is defined as a length or section of the tickler chain that has a breaking strength less than the chain itself and is easily seen as such when visually inspected.

(e) *Use of Gulf reef fish as bait prohibited.* Gulf reef fish may not be used as bait in any fishery, except that, when purchased from a fish processor, the filleted carcasses and offal of Gulf reef fish may be used as bait in trap fisheries for blue crab, stone crab, deep-water crab, and spiny lobster.

§622.11 Bag and possession limits—general applicability.

(a) *Applicability.* (1) The bag and possession limits apply for species/species groups in or from the EEZ. Unless specified otherwise, bag limits apply to a person on a daily basis, regardless of the number of trips in a day. Unless specified otherwise, a person is limited to a

single bag limit for a trip lasting longer than one calendar day. Unless specified otherwise, possession limits apply to a person on a trip after the first 24 hours of that trip. The bag and possession limits apply to a person who fishes in the EEZ in any manner, except a person aboard a vessel in the EEZ that has on board the commercial vessel permit required under this part for the appropriate species/species group. The possession of a commercial vessel permit notwithstanding, the bag and possession limits apply when the vessel is operating as a charter vessel or headboat. A person who fishes in the EEZ may not combine a bag limit specified in subparts B through V of this part with a bag or possession limit applicable to state waters. A species/species group subject to a bag limit specified in subparts B through V of this part taken in the EEZ by a person subject to the bag limits may not be transferred at sea, regardless of where such transfer takes place, and such fish may not be transferred in the EEZ. The operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag and possession limits specified in subparts B through V of this part are not exceeded.

§ 622.20 Permits and endorsements.

(b)(3) If Federal regulations for Gulf reef fish in subparts A or B of this part are more restrictive than state regulations, a person aboard a charter vessel or headboat for which a charter vessel/headboat permit for Gulf reef fish has been issued must comply with such Federal regulations regardless of where the fish are harvested.

§622.30 Required fishing gear.

For a person on board a vessel to fish for Gulf reef fish in the Gulf EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (a) and (b) of this section.

(a) *Non-stainless steel circle hooks.* Non-stainless steel circle hooks are required when fishing with natural baits, except that other non-stainless steel hook types may be used when commercial fishing for yellowtail snapper with natural baits in an area south of a line extending due west from 25°09′ N. lat. off the west coast of Monroe County, Florida, to the Gulf of Mexico and South Atlantic inter-council boundary, specified in §600.105(c).

(b) *Dehooking device.* At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

§622.33 Prohibited species.

(d) *Gulf reef fish exhibiting trap rash.* Possession of Gulf reef fish in or from the Gulf EEZ that exhibit trap rash is prima facie evidence of illegal trap use and is prohibited. For the purpose of this paragraph, trap rash is defined as physical damage to fish that characteristically results from contact with wire fish traps. Such damage includes, but is not limited to, broken fin spines, fin rays, or teeth; visually obvious loss of scales; and cuts or abrasions on the body of the fish, particularly on the head, snout, or mouth.

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

(a) *Closure provisions applicable to the Madison and Swanson sites and Steamboat Lumps, and the Edges*— …

(b) *Seasonal closure of the recreational sector for red snapper*. The recreational sector for red snapper in or from the Gulf EEZ is closed from January 1 through May 31, each year. During the closure, the bag and possession limit for red snapper in or from the Gulf EEZ is zero.

§622.35 Gear restricted areas.

(d) *Alabama SMZ.* The Alabama SMZ consists of artificial reefs and surrounding areas. In the Alabama SMZ, fishing by a vessel that is operating as a charter vessel or headboat, a vessel that does not have a commercial permit for Gulf reef fish, as required under §622.20(a)(1), or a vessel with such a permit fishing for Gulf reef fish is limited to hook-and-line gear with three or fewer hooks per line and spearfishing gear. A person aboard a vessel that uses on any trip gear other than hook-and-line gear with three or fewer hooks per line and spearfishing gear in the Alabama SMZ is limited on that trip to the bag limits for Gulf reef fish specified in §622.38(b) and, for Gulf reef fish for which no bag limit is specified in §622.38(b), the vessel is limited to 5 percent, by weight, of all fish on board or landed. The Alabama SMZ is bounded by rhumb lines connecting, in order, the following points …

(a) *Reef fish stressed area.* The stressed area is that part of the Gulf EEZ shoreward of rhumb lines connecting, in order, the points listed in Table 2 in Appendix B of this part.

(1) A powerhead may not be used in the stressed area to take Gulf reef fish. Possession of a powerhead and a mutilated Gulf reef fish in the stressed area or after having fished in the stressed area constitutes *prima facie* evidence that such reef fish was taken with a powerhead in the stressed area.

§ 622.37 Size limits.

(a) *Snapper*--(1) *Red snapper*–-16 inches (40.6 cm), TL, for a fish taken by a person subject to the bag limit specified in § 622.38 (b)(3) and 13 inches (33.0 cm), TL, for a fish taken by a person not subject to the bag limit.

§ 622.38 Bag and possession limits.

(b)(3) *Red snapper*--2. However, no red snapper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

§ 622.39 Quotas.

(a)(2)(i) *Recreational quota for red snapper.* (A) *Total recreational quota (Federal charter vessel/headboat and private angling component quotas combined).* For fishing year 2017 and subsequent fishing years—6.733 million lb (3.054 million kg), round weight.

(B) *Federal charter vessel/headboat component quota.* The Federal charter vessel/headboat component quota applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section,

will apply to the recreational sector. For fishing years 2017 through 2022—2.848 million lb (1.292 million kg), round weight.

(C) *Private angling component quota.* The private angling component quota applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component quota is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational quota, specified in paragraph (a)(2)(i)(A) of this section, will apply to the recreational sector. For fishing years 2017 through 2022—3.885 million lb (1.762 million kg), round weight.

(2) If the recreational fishery for the indicated species is closed, all harvest or possession in or from the Gulf EEZ of the indicated species is prohibited.

(c) *Restrictions applicable after a recreational quota closure or recreational component quota closure.* The bag limit for the applicable species for the recreational sector or recreational sector component in or from the Gulf EEZ is zero. When the Federal charter vessel/headboat component is closed or the entire recreational sector is closed, this bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(q) *Red snapper* (2) *Recreational sector*. (i) The recreational ACL is equal to the total recreational quota specified in §622.39(a)(2)(i)(A). The AA will determine the length of the red snapper recreational fishing season, or recreational fishing seasons for the Federal charter vessel/headboat and private angling components, based on when recreational landings are projected to reach the recreational ACT, or respective recreational component ACT specified in paragraph (q)(2)(iii) of this section, and announce the closure date(s) in the FEDERAL REGISTER. These seasons will serve as in-season accountability measures. On and after the effective date of the recreational closure or recreational component closure notifications, the bag and possession limit for red snapper or for the respective component is zero. When the recreational sector or Federal charter vessel/headboat component is closed, this bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

(ii) In addition to the measures specified in paragraph (q)(2)(i) of this section, if red snapper recreational landings, as estimated by the SRD, exceed the total recreational quota specified in §622.39(a)(2)(i)(A), and red snapper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the total recreational quota by the amount of the quota overage in the prior fishing year, and reduce the applicable recreational component quota(s) specified in §622.39(a)(2)(i)(B) and (C) and the applicable recreational component ACT(s) specified in paragraph (q)(2)(iii) of this section (based on the buffer between the total recreational ACT and the total recreational quota specified in the FMP), unless NMFS determines based upon the best scientific information available that a greater, lesser, or no overage adjustment is necessary.

(iii) *Recreational ACT for red snapper*—(A) *Total recreational ACT (Federal charter vessel/headboat and private angling component ACTs combined).* The total recreational ACT is 5.386 million lb (2.443 million kg), round weight.

(B) *Federal charter vessel/headboat component ACT.* The Federal charter vessel/headboat component ACT applies to vessels that have been issued a valid Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector. The component ACT is 2.278 million lb (1.033 million kg), round weight, for fishing years 2017 through 2022.

(C) *Private angling component ACT.* The private angling component ACT applies to vessels that fish under the bag limit and have not been issued a Federal charter vessel/headboat permit for Gulf reef fish any time during the fishing year. This component ACT is effective for only the 2015 through 2022 fishing years. For the 2023 and subsequent fishing years, the applicable total recreational ACT, specified in paragraph (q)(2)(iii)(A) of this section, will apply to the recreational sector. The component ACT is 3.108 million lb (1.410 million kg), round weight, for fishing years 2017 through 2022.

APPENDIX C. DELEGATION LETTER TO STATES WITH RESPONSES

Tab B, No. 6f

Gulf of Mexico Fishery Management Council
Managing Fishery Resources in the U.S. Federal Waters of the Gulf of Mexico

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Tampa, Florida 33607 USA
Phone: 813.348.1630 • Toll free: 888.833.1844 • Fax: 813.348.1711
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October 23, 2017

Dear [respective state director/commissioner]:

The Council is exploring the establishment of state management programs for each Gulf State to manage the recreational harvest of red snapper in federal waters adjacent to that state. The Council is considering two approaches for *delegation* of authority to the respective states. The first *delegation* alternative delegates the authority to manage only season structure and bag limit for the state-assigned portion of the recreational sector's annual catch limit (ACL). The second *delegation* alternative has yet to be defined, but would delegate a broader range of management measures. Thus, this letter provides a list of relevant management measures the Council could delegate to a state, and requests you provide a detailed list of those management measures your state would like to establish for the recreational harvest of red snapper under the second alternative.

Under the *delegation* alternatives, the National Marine Fisheries Service would modify the *Code of Federal Regulations* to remove those federal management measures applicable to the recreational harvest of red snapper management that are delegated to the respective Gulf States (e.g. the dates and structure of the fishing season and bag limit). Under the Magnuson-Stevens Act, in order for the delegation to apply, the States laws and regulations must be consistent with the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP), which would include constraining the recreational harvest of red snapper to the state's portion of the recreational quota. This would likely require the monitoring of recreational landings of red snapper, either through a state's monitoring program or through the Marine Recreational Information Program, as appropriate. Note that under the first delegation alternative (season structure and bag limit) a state could establish regional seasons. For example, the State of Florida could establish separate west Florida shelf and Florida Panhandle fishing seasons.

To delegate any aspects of the management of the recreational harvest of red snapper requires the Council to specify the scope of the delegation in the amendment. While some federal regulations are specific to red snapper, the majority are applicable to all reef fish or fishing in general. Because the state management amendments would be specific to the recreational management of red snapper, the *delegation* would also be specific to the recreational harvest of red snapper. The following list includes management measures in existing federal regulations that your state may want included in the *delegation*. The list is divided into three sections: (1)

regulations that are specific only to red snapper, (2) regulations that are applicable to all reef fish, and (3) regulations that are general to all fishing in federal waters.

Red snapper specific

- Remove prohibition on for-hire captains and crew from retaining a bag limit of red snapper.
- Allow a state to modify the annual catch target (ACT) or manage toward the ACL.

Reef Fish

- Expand required fishing gear beyond the use of non-stainless steel circle hooks when fishing with natural baits and possession of a dehooking device. For example, at this time, the Council decided not to require possession of descending devices, but rather, to develop a policy for the use of descending devices alongside an outreach and education program regarding their proper use.
- Expand the fishing gear and methods that are currently prohibited (i.e., the use of powerheads within the stressed area and prohibition on use of poisons to harvest reef fish). Additional gear and methods are prohibited in general, including explosives, toxic chemicals, fish traps, and use of reef fish as bait. Similar to the prohibition on certain fishing gear, possession of reef fish exhibiting trap rash or damage from a powerhead is currently prohibited.
- Establish gear restricted areas, similar to Alabama's special management zone (SMZ), within which regulations specific to recreational gear use could be assigned for the harvest of red snapper. These areas could not restrict access by commercial vessels and must apply to all recreational vessels regardless of homeport state.

General

- Reopen the fishing season if the state's portion of the ACL is determined to not be met, provided the state is able to constrain total landings to its portion of the ACL.
- Allow anglers to possess more than one bag limit per day if making more than one trip per day.

There may be additional management measures your state would like to consider in its state management program that are not listed above. Please add those measures to your list.

Under *delegation*, red snapper would remain a federally managed species in the Reef Fish FMP and would remain subject to all of the Magnuson-Stevens Act requirements, including 16 U.S.C. §1883(d), which requires a prohibition on recreational harvest of red snapper in federal waters when the total quota is determined to have been caught.

Management measures that cannot be delegated include those that are required to be in the Reef Fish FMP (such as specification of maximum sustainable yield, optimum yield, status determination criteria, and annual catch limits), or that affect all states or the commercial sector. These include:

- Federal permitting requirements, including renewal and transferability requirements.

- Reporting requirements for for-hire vessels selected by the Science and Research Director to participate in the southeast region headboat survey.
- Sea turtle release protocols and gear; smalltooth sawfish conservation measures.
- Area closures to protect Gulf reef fish within Madison Swanson, Steamboat Lumps, and The Edges. Establishing SMZs or marine protected areas in federal waters that restrict access by commercial vessels.
- Setting ACLs for each angling component.
- Post-season accountability measures, which will need to be modified by the Council to account for state management programs.

The Council will review a draft of the State Management Program for Recreational Red Snapper Amendment and the five related individual state management amendments at its January 29-February 1, 2018, meeting. To accommodate this timeline, we respectfully request a written response to this letter by January 12, 2018. If you have any questions, please contact Dr. Ava Lasseter at the Council office.

Sincerely,

Leann Bosarge, Chairman
Gulf Council

AL/kh

c: Gulf Council
Gulf Council Staff
Mara Levy
Lauren Waters
Sue Gerhart
Jack McGovern
Andy Strelcheck

January 12, 2018

Florida Fish and Wildlife Conservation Commission

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Leann Bosarge
Chair
Gulf of Mexico Fishery Management Council
2203 N. Lois Avenue
Tampa, FL 33607

Re: Delegation Preferences for State Management of Red Snapper

Dear Ms. Bosarge:

In response to the Gulf of Mexico Fishery Management Council's letter dated October 23, 2017, the Florida Fish and Wildlife Conservation Commission (Commission) recently discussed potential state management of the federal recreational red snapper fishery off Florida via the Council process. If management authority for the recreational red snapper fishery in federal waters off Florida is delegated to the state, the Commission would request the ability to use a broad suite of management tools that provide maximum flexibility in managing the fishery. Specifically, the Commission would request delegation of the following abilities:

- set seasons, size limits, bag limits (daily or per trip), and these tools be available to use regionally;
- modify the gear that could be used to harvest red snapper (e.g., descending devices);
- establish area- or depth-specific gear regulations;
- implement an angler registry for data collection or require angler reporting;
- manage toward the Florida annual catch limit (ACL) or adjust the Florida annual catch target (ACT) so that the ACL/ACT is met; and
- establish multi-year ACLs.

The Commission believes delegation of these management measures would be necessary for successful management of the recreational red snapper fishery in federal waters off Florida.

If you have questions about this request, please contact me or Martha Guyas in the Division of Marine Fisheries Management at 850-487-0554.

Sincerely,

Jessica McCawley
Director

JOHN BEL EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF WILDLIFE AND FISHERIES

JACK MONTOUCET
SECRETARY

January 11, 2018

Leann Bosarge, Chairman
Gulf of Mexico Fishery Management Council
2203 N. Lois Avenue, Suite 1100
Tampa, Florida 33607

Dear Ms. Bosarge,

The State of Louisiana has taken the lead in promoting state or regional management for reef fish species such as red snapper. Our current preferred alternative in the Gulf Council's draft amendment for Louisiana Management for Recreational Red Snapper is to establish a program that delegates some management authority (season structure and bag limit) in federal waters to the state of Louisiana. While this alternative satisfies our needs for flexibility in managing the recreational red snapper fishery in federal waters, we and other representatives on the Gulf Council selected this preferred alternative prior to a motion being made for other states to review an alternative for full delegation.

According to your October 23, 2017 letter, the Gulf Council is now considering a second delegation alternative which "has yet to be defined, but would delegate a broader range of management measures." We find it difficult to respond to your request for a detailed list of management measures to include in the second delegation alternative without further definition of this alternative from the Gulf Council and/or NOAA Fisheries. However, upon reviewing potential management measures for delegation, Louisiana would like to consider the following in future deliberations:

- Option to allow the captain and crew on for-hire vessels to retain their bag limit of red snapper. The for-hire component has not landed their portion of the recreational annual catch limit (ACL) since Reef Fish Amendment 40 was passed. Removing this prohibition may help this component attain their share of the catch. Louisiana can survey the state's federally permitted for-hire captains to determine if they prefer this measure in lieu of a slightly longer fishing season.
- Allow Louisiana the flexibility to manage closer to the ACL rather than the annual catch target (ACT) and remove or modify existing buffers. Through LA Creel, the state has demonstrated its ability to constrain recreational harvest to the ACL.
- Establish a carryover provision for unharvested quota (minus natural mortality) to be added to the next season from the previous season.
- Allow Louisiana to grant anglers a different bag limit (such as four fish) in lieu of a longer season, if they so desire.

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AN EQUAL OPPORTUNITY EMPLOYER

Thank you for the opportunity to request additional items for research and review. We look forward to further discussing and understanding this second delegation alternative as well as potential management measures to be included under this alternative.

Sincerely,

Patrick Banks, Assistant Secretary for Fisheries
Louisiana Department of Wildlife and Fisheries

STATE OF MISSISSIPPI
Phil Bryant
Governor

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
Joe Spraggins, Executive Director

January 29, 2018

Leann Bosarge, Chairman
Gulf of Mexico Fishery Management Council
2203 N. Lois Avenue, Suite 1100
Tampa, FL 33607

Dear Ms. Bosarge:

The State of Mississippi has always supported regional management for reef fish species such as Red Snapper. Our current alternative in the Gulf Council's draft amendment for Mississippi Management for Recreational Red Snapper is to establish a program that delegates some management authority (season structure and bag limit) in federal waters to the state of Mississippi. While this alternative satisfies our needs for flexibility in managing the recreational Red Snapper fishery in federal waters, we and other representatives of the Gulf Council selected this preferred alternative prior to a motion being made for other states to review an alternative for full delegation.

The Gulf Council is now considering a second delegation alternative which would delegate a broader range of management measures. After an intra-Agency review, Mississippi would like to consider the following potential management measures for delegation on future deliberations:

- Delegation authority to modify the annual catch target (ACT) or manage toward the ACL;
- Allow Mississippi to set seasons, size limits, bag limits, and these tools to be available regionally;
- Reopen the fishing season if the state's portion of the ACL is determined to not have been met, provided the state can constrain total landings to its portion of the ACL; and
- Allow Mississippi the flexibility to modify or update Delegation Authority rules as necessary during the requested Red Snapper season to address any unanticipated issues that may arise.

Thank you for the opportunity to request additional items for research and review. We look forward to further discussing this second delegation alternative as well as potential management measures to be included under this alternative.

Sincerely yours,

Joe Spraggins
Executive Director

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APPENDIX D. OTHER APPLICABLE LAW

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.) provides the authority for fishery management in federal waters of the exclusive economic zone. However, fishery 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

All federal rulemaking is governed under the provisions of the Administrative Procedure Act (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.

Coastal Zone Management Act

Section 307(c)(1) of the federal Coastal Zone Management Act of 1972 (CZMA), 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 NMFS regulations at 15 C.F.R. 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.

Upon submission to the Secretary, NMFS will determine if this plan amendment is consistent with the Coastal Zone Management programs of the states of Alabama, Florida, Louisiana, Mississippi, and Texas to the maximum extent possible. Their determination will then be submitted to the responsible state agencies under Section 307 of the CZMA administering approved Coastal Zone Management programs for these states.

Data Quality Act

The Data Quality Act (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, including textual, numerical, cartographic, narrative, or audiovisual forms (includes web dissemination, but not hyperlinks to information that others disseminate; does not include clearly stated opinions).

Specifically, the DQA directs the Office of Management and Budget (OMB) 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 fishery management plans (FMPs) and amendments and the use of best available information is the second national standard under the Magnuson-Stevens 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 will also undergo quality control prior to being used by the agency and a pre-dissemination review.

Endangered Species Act

The Endangered Species Act (ESA) of 1973, as amended, (16 U.S.C. Section 1531 et seq.) requires federal agencies use their authorities to conserve endangered and threatened species. The ESA requires NMFS, when proposing a fishery action that "may affect" critical habitat or endangered or threatened species, to consult with the appropriate administrative agency (itself for most marine species, the U.S. Fish and Wildlife Service for all remaining species) to determine the potential impacts of the proposed action. Consultations are concluded informally when proposed actions may affect but are "not likely to adversely affect" endangered or threatened species or designated critical habitat. Formal consultations, including a biological opinion, are required when proposed actions may affect and are "likely to adversely affect" endangered or threatened species or adversely modify designated critical habitat. If jeopardy or adverse modification is found, the consulting agency is required to suggest reasonable and prudent alternatives.

On September 30, 2011, the Protected Resources Division released a biological opinion which, after analyzing best available data, the current status of the species, environmental baseline (including the impacts of the recent Deepwater Horizon MC 252 oil release event in the northern Gulf of Mexico), effects of the proposed action, and cumulative effects, concluded that the continued operation of the Gulf of Mexico reef fish fishery is also not likely to jeopardize the continued existence of green, hawksbill, Kemp's ridley, leatherback, or loggerhead sea turtles, nor the continued existence of smalltooth sawfish (NMFS 2011). On December 7, 2012, NMFS published a proposed rule to list 66 coral species under the ESA and reclassify *Acropora* from threatened to endangered (77 FR 73220). In a memorandum dated February 13, 2013, NMFS determined the reef fish fishery was not likely to adversely affect *Acropora* because of where the

fishery operates, the types of gear used in the fishery, and that other regulations protect *Acropora* where they are most likely to occur.

Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and on the importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NMFS) is responsible for the conservation and management of cetaceans and pinnipeds (other than walruses). The Secretary of the Interior is responsible for walruses, sea and marine otters, polar bears, manatees, and dugongs.

Part of the responsibility that NMFS has under the MMPA involves monitoring populations of marine mammals to make sure that they stay at optimum levels. If a population falls below its optimum level, it is designated as "depleted," and a conservation plan is developed to guide research and management actions to restore the population to healthy levels.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. This amendment required the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction, development and implementation of take-reduction plans for stocks that may be reduced or are being maintained below their optimum sustainable population levels due to interactions with commercial fisheries, and studies of pinniped-fishery interactions.

Under Section 118 of the MMPA, NMFS must publish, at least annually, a List of Fisheries (LOF) that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs in each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. The primary gears used in the Gulf of Mexico reef fish fishery are still classified in the proposed 2014 MMPA LOF as Category III fishery (December 6, 2013; 78 FR 73477). The conclusions of the most recent LOF for gear used by the reef fish fishery can be found in Section 3.3.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (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 PRA requires NMFS to obtain approval from the Office of Management and Budget before requesting most types of fishery information from the public. Revising the definition of the hogfish management unit, setting status determination criteria and annual catch limits, and revising the hogfish minimum size limit would likely not have PRA consequences.

Executive Orders

E.O. 12630: Takings

The Executive Order 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 National Oceanic and Atmospheric Administration Office of General Counsel will determine whether a Taking Implication Assessment is necessary for this amendment.

E.O. 12866: Regulatory Planning and Review

Executive Order 12866: Regulatory Planning and Review, signed in 1993, requires federal agencies to assess the costs and benefits of their proposed regulations, including distributional impacts, and to select alternatives that maximize net benefits to society. To comply with E.O. 12866, NMFS prepares a Regulatory Impact Review (RIR) for all fishery regulatory actions that either implement a new fishery management plan or significantly amend an existing plan (See Chapter 5). RIRs provide a comprehensive analysis of the costs and benefits to society of proposed regulatory actions, the problems and policy objectives prompting the regulatory proposals, and the major alternatives that could be used to solve the problems. The reviews also serve as the basis for the agency's determinations as to whether proposed regulations are a "significant regulatory action" under the criteria provided in E.O. 12866 and whether proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Analysis. A regulation is significant if it a) has an annual effect on the economy of $100 million or more or adversely affects 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 and communities; b) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency; c) materially alters the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or d) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

This Executive Order mandates that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, 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 and possessions. The Executive Order is described in more detail relative to fisheries actions in Section 3.5.1.

E.O. 12962: Recreational Fisheries

This Executive Order 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 (Council) 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 Council 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 Executive Order 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).

E.O. 13158: Marine Protected Areas

This Executive Order requires federal agencies to consider whether their proposed action(s) will affect any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural or cultural resource within the protected area. There are several marine protected areas, habitat areas of particular concern, and gear-restricted areas in the eastern and northwestern Gulf of Mexico.

Essential Fish Habitat

The amended Magnuson-Stevens Act included a new habitat conservation provision known as essential fish habitat (EFH) that requires each existing and any new FMPs to identify EFH for each federally managed species, minimize to the extent practicable impacts from fishing activities on EFH that are more than minimal and not temporary in nature, and identify other actions to encourage the conservation and enhancement of that EFH. To address these requirements the Council has, under separate action, approved an Environmental Impact Statement (GMFMC 2004a) to address the new EFH requirements contained within the Magnuson-Stevens Act. Section 305(b)(2) requires federal agencies to obtain a consultation for any action that may adversely affect EFH. An EFH consultation will be conducted for this action.

References

GMFMC. 2004. Final environmental impact statement for the generic essential fish habitat amendment to the following fishery management plans of the Gulf of Mexico: shrimp fishery of the Gulf of Mexico, red drum fishery of the Gulf of Mexico, reef fish fishery of the Gulf of Mexico, stone crab fishery of the Gulf of Mexico, coral and coral reef fishery of the Gulf of Mexico, spiny lobster fishery of the Gulf of Mexico and South Atlantic, coastal migratory pelagic resources of the Gulf of Mexico and South Atlantic. Gulf of Mexico Fishery Management Council. Tampa, Florida. http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/Final%20EFH%20EIS.pdf

NMFS. 2011. Biological opinion on the continued authorization of Reef Fish fishing under the Gulf of Mexico Reef Fish Fishery Management Plan. September 30, 2011. Available at: http://sero.nmfs.noaa.gov/pr/esa/Fishery%20Biops/03584%20GOM%20Reef%20Fish%20BiOp%202011%20final.pdf