

**REGULATORY AMENDMENT
TO THE
REEF FISH FISHERY MANAGEMENT PLAN
TO MAINTAIN THE RED SNAPPER
MINIMUM SIZE LIMIT AT 15 INCHES TOTAL LENGTH**

*(Includes Environmental Assessment,
and Regulatory Impact Review)*

NOVEMBER 1997



**Gulf of Mexico Fishery Management Council
3018 U.S. Highway 301 North, Suite 331
Tampa, Florida 33619
813-228-2815
gulf.council@noaa.gov**

This is a publication of the Gulf of Mexico Fishery Management Council pursuant to National Oceanic and Atmospheric Administration Award No. NA77FC0001.

Table of Contents

1. INTRODUCTION	1
2. HISTORY OF REGULATORY ACTION	1
3. PURPOSE AND NEED FOR ACTION	2
4. PROPOSED ACTION	3
5. MANAGEMENT ALTERNATIVES AND REGULATORY IMPACT REVIEW	3
Introduction	3
Management Alternatives	4
Rationale	4
Biological Impacts	4
Economic Impacts	5
Private and Public Costs	7
Summary and Net Impact of Proposed Action	8
Determination of a Significant Regulatory Action	8
Determination of the Need for an Initial Regulatory Flexibility Analysis	9
6. ENVIRONMENTAL ASSESSMENT	11
Environmental Consequences	11
Finding of No Significant Environmental Impact	11
7. OTHER APPLICABLE LAW	12
Habitat Concerns	12
Vessel Safety Considerations	12
Coastal Zone Consistency	12
Paperwork Reduction Act	12
Federalism	13
8. REFERENCES	13
9. PUBLIC REVIEW	14

Abbreviations Used in This Document

CZMA	Coastal Zone Management Act
EEZ	Exclusive Economic Zone
ESA	Endangered Species Act
F	Rate of Instantaneous Fishing Mortality
FMP	Fishery Management Plan
IRFA	Initial Regulatory Flexibility Analysis
M	Rate of Instantaneous Natural Mortality
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
RFA	Regulatory Flexibility Act of 1980
RFSAP	Reef Fish Stock Assessment Panel
RIR	Regulatory Impact Review
SBA	Small Business Administration
SPR	Spawning Potential Ratio
TAC	Total Allowable Catch
TL	Total Length
YPR	Yield Per Recruit

1. INTRODUCTION

The red snapper resource in the Gulf of Mexico is in an overfished condition, and is currently under a management program to restore the stock to a level above the presently defined overfished threshold of 20 percent spawning potential ratio (SPR) by the year 2019.

During the recovery program, red snapper stock assessments or assessment updates are conducted on an annual basis. Based on these assessments, the Council selects changes to fishing regulations (size limits, bag and trip limits, closed seasons, etc.) that are needed to achieve management goals.

Regulatory amendments differ from plan amendments in that they are used establish seasonal fishing regulations, whereas plan amendments are used to make changes in the basic policies and procedures defined in a fishery management plan. A regulatory amendment is limited in its scope and follows a specific procedure that is described in the Reef Fish Fishery Management Plan (FMP), as amended.

Among the changes introduced by Amendment 5 to the FMP was a gradual increase in minimum size limit for red snapper, from 13 inches total length (TL) to 14 inches TL in 1994, 15 inches TL in 1996, and 16 inches TL in 1998. This regulatory amendment proposes to maintain the red snapper minimum size limit at 15 inches TL for the 1998 fishing season. This regulatory amendment addresses only the red snapper size limit. Additional measures to set the 1998 red snapper total allowable catch (TAC) and associated management measures (other than size limits) may be made in a subsequent regulatory amendment following review by the Council of additional information.

2. HISTORY OF REGULATORY ACTION

This section contains a brief chronology of only those management measures that have been implemented in the reef fish fishery by regulatory amendment, using the framework procedure for setting TAC. Disapproved or withdrawn regulatory amendments are not included in this section. For a complete history of management, inclusive of those disapproved and withdrawn, refer to the most recent plan amendment.

March 1991: Red snapper TAC was set at 4.0 million pounds to be allocated with commercial quota of 2.04 million pounds and recreational allocation of 1.96 million pounds under a 7 fish bag limit. This regulatory amendment also adopted a policy of attaining a 50 percent reduction of red snapper bycatch in the shrimp trawl fishery, and set the recovery date for attaining 20 percent SPR at the year 2007.

October 1992: The 1993 red snapper TAC was raised to 6.0 million pounds to be allocated with a commercial quota of 3.06 million pounds and a recreational allocation of 2.94 million pounds under a 7 fish bag limit. Also changed was the target year to achieve a 20 percent red snapper SPR from 2007 to 2009, based on the Plan provision that the rebuilding period may be for a time span not

exceeding 1.5 times the potential generation time of the stock and an estimated red snapper generation time of 13 years.

- October 1993: The opening date of the 1994 commercial red snapper fishery was set for February 10, 1994. Commercial vessels were restricted to land red snapper no more than one trip limit per day. The TAC was retained at the 1993 level of 6.0 million pounds, with the same commercial/recreational allocation.
- October 1994: The 6.0 million pound red snapper TAC and commercial trip limits were maintained. The opening date of the 1995 commercial red snapper fishery was set for February 24, 1995. The recreational daily bag limit was reduced from 7 fish to 5 fish, and the minimum size limit for recreational fishing was raised from 14 inches TL to 15 inches TL.
- December 1995: Red snapper TAC was increased to 9.12 million pounds and the target recovery date was extended to the year 2019, based on new biological information that increased the generation time estimate to 19.6 years.
- March 1996: An addendum to the December 1995 regulatory amendment split each of the 1996 and 1997 commercial red snapper seasons into two sub-seasons, with February 1 and September 15 openings, respectively, and 3.06 million pounds for the first sub-season and the remainder for the second sub-season.
- March 1997: The opening date for the 1997 second sub-season was moved from September 15 to September 2 to close by September 15, and thereafter the fishery would be open for the first 15 days of each month until the 1997 quota was reached.

3. PURPOSE AND NEED FOR ACTION

Amendment 5, which introduced the gradual increase in minimum size limit for red snapper, noted that increasing the minimum size limit while reducing fishing mortality through the stock restoration program will increase the yield per recruit (YPR) obtained from the fishery provided the gains are not negated from release mortality of undersized fish. An earlier stock assessment (Goodyear, 1992) indicated that biomass yield would be maximized by delaying harvest until the fish reach 19 to 21 inches TL and reducing instantaneous fishing mortality (F) to about 0.2 (18 percent annual mortality). However, attaining the fishing mortality rate that would maximize YPR was recognized as a long-term goal under the restoration program, and an immediate increase to that size limit was not considered practical especially when its adverse impacts on the directed recreational and commercial fishermen are factored into the management process.

A more recent analysis (Schirripa and Legault, 1997) considered minimum size limit increases under both constant effort and constant catch strategies. In reviewing this analysis, the RFSAP (1997)

concluded that under a constant effort scenario, the potential gains to the fishery due to an increase in the minimum size limit from 15 to 16 inches TL may be offset by decreases in YPR to the commercial and recreational fisheries. Under the constant catch scenario, an increase in minimum size limit from 15 to 16 inches TL would have little, if any, effect on SPR value in the year 2019. While the biological impacts of a size limit increase from 15 to 16 inches TL would be minimal at best, the ensuing impacts on both the commercial and recreational participants of the fishery would likely be negative.

4. PROPOSED ACTION

The action proposed in this amendment is to maintain the minimum size limit for red snapper at 15 inches TL. This minimum size limit would apply to both the commercial and recreational fishing sectors.

5. MANAGEMENT ALTERNATIVES AND REGULATORY IMPACT REVIEW

Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: 1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action, 2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem, and 3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

The RIR also serves as the basis for determining whether any proposed regulations are a "significant regulatory action" under certain criteria provided in Executive Order 12866 and whether the proposed regulations will have a "significant economic impact on a substantial number of small entities" in compliance with the Regulatory Flexibility Act of 1980 (RFA). The primary purpose of the RFA is to relieve small businesses, small organizations, and small governmental jurisdictions (collectively: "small entities") of burdensome regulatory and recordkeeping requirements. The RFA requires that if regulatory and recordkeeping requirements are not burdensome, then the head of a Federal agency must certify that the requirement, if promulgated, will not have a significant effect on a substantial number of small entities.

This RIR analyzes the probable impacts that the proposed alternatives for minimum size limit for red snapper would have on the commercial and recreational directed red snapper fisheries. The problems and objectives are described in previous sections of this regulatory document as a part of the RIR by reference.

Management Alternatives

Proposed Alternative: Maintain the red snapper minimum size limit of 15 inches TL for both the commercial and recreational fisheries.

Rejected Alternative: Status quo. Allow the red snapper minimum size limit to increase to 16 inches TL for both the commercial and recreational fisheries beginning January 1, 1998.

Rationale: Increasing the minimum size limit for red snapper was previously proposed as a management method to increase yield, reduce fishing mortality, and hasten the recovery of the red snapper stock in the Gulf (Goodyear 1992). At its October 1997 meeting, the RFSAP reviewed the current status of the stock and re-evaluated the potential benefits of the previously approved increase in the minimum size limit from 15 inches TL to 16 inches TL, effective January 1, 1998. This review yielded different results that are discussed below.

Biological Impacts:

Schirripa and Legault (1997) used a simple equilibrium-per-recruit analysis to examine potential gains or losses in YPR and spawning potential ratio (SPR) under a range of minimum size regulations for the commercial and recreational fisheries. Initial conditions were set using no minimum size regulation and the percent change in YPR and SPR was computed under four sets of size regulations:

- 1) 14" minimum size for both commercial and recreational fisheries,
- 2) 15" minimum size for both fisheries,
- 3) 15" commercial and 16" recreational minimum sizes, and
- 4) 16" minimum size for both fisheries.

The analyses were conducted twice. The first used a fixed fishing effort by each of the two sectors of the fishery (commercial and recreational) as the minimum size regulations changed. In the second analyses, a constant total yield taken by the two sectors was assumed.

As expected, the results show that the SPR and total YPR increased under constant effort as the minimum size was raised. Although the fishery specific YPRs were always greater than the no minimum size condition, they did not always increase as the minimum size increased. For example, the recreational YPR did not change as its minimum size increased from 14 to 15 inches TL, and the YPR decreased as its minimum size further increased to 16 inches TL. The values, however, were still greater than the no minimum size condition. This same pattern was seen for the commercial fishery when the minimum size was assumed to increase from 15 to 16 inches TL, and the recreational minimum size was 16 inches TL. These analyses indicated that potential gains to the fishery due to increases in the minimum size regulations may be offset by decreases in YPR to the commercial and recreational fisheries for red snapper.

In the second set of analyses, Schirripa and Legault (1997) fixed the total yield landed by the commercial and recreational fisheries. Under this assumption, the SPR increased or decreased relative to the no minimum size regulation depending upon the selectivity pattern used and a stable TAC.

A total of twenty eight different management scenarios were simulated using a length-based model (Goodyear 1989). Assumptions for the simulations were: a natural mortality schedule ($M=0.5$ for age 0, $M=0.3$ for age 1, and $M=0.1$ for age 2 and older); that reductions in shrimp bycatch mortality are relative to the 1984—1989 average mortality; and that future recruitment would be computed from a Beverton-Holt stock-recruitment curve with parameters $\alpha = 4.076E-03$, and $\beta = 1.736E-11$. Variables examined in the simulations included variations in bycatch reduction, minimum size for commercial and recreational fishery, and managed fishing mortality.

These most recent analyses of increasing the minimum size of red snapper from 15 to 16 inches TL for either the recreational or both the recreational and commercial fisheries did not result in an increase in SPR in the year 2019. This is because fish that were being caught were being killed, thus contributing to fishing mortality, but not being counted towards the yield. As minimum size increased, the portion of the stock that was eligible to contribute to the yield decreased; consequently, fishermen had to fish harder to produce the same yield. This increase in effort in turn resulted in more fish being released and encountering release mortality.

Economic Impacts: An increase in the minimum size limit for red snapper may be expected to negatively impact both commercial and recreational users in the short run. These impacts would differ between the two sectors and even within each sector. The effects would be determined mainly by catch rate characteristics in each sector and the way each sector conducts its operations under existing regulations.

In the 1990's, the recreational fishery had two increases in the minimum size limit: from 13 to 14 inches TL in 1994 and from 14 to 15 inches TL in 1995. Both minimum size limit increases had effects on the size distribution of catches, although some undersized fish were still landed. Based on MRFSS data only (Holiman, 1997), landings below the legal size limit were 3.76 percent in 1993, 7.13 percent in 1994, 16.61 percent in 1995, and 9.54 percent in 1996. More instructive perhaps in determining the impacts of a minimum size limit increase is the percentage of landings in the size classes that were directly affected by the minimum size limit increases. In 1993, about 15.83 percent of landings were between 13 and 14 inches TL. This level dropped to 5.26 percent in 1994 when the minimum size limit was increased. In 1994, landings between 14 and 15 inches TL were about 11.54 percent. This value increased to 13.77 percent in 1995 when the minimum size limit was further increased, but subsequently decreased to 6.65 percent in 1996. This observation could be partly indicative of a lag in anglers' response to changes in regulations. Coincident with increases in the minimum size limit were the reductions in overall landings of recreationally caught fish from their peak in 1993, although one may note the possible effects of the bag limit reduction in 1995 from 7 to 5 fish per person. To some extent, some adjustments might have been made in 1997 that pushed

overall recreational landings upward to the point where the fishery is being closed on November 27, 1997.

The foregoing discussion implies that while an increase in the minimum size limit may effect a reduction in recreational landings, some adjustments would likely be made to render its effect as only temporary. There is even a likelihood that since larger sized fish would be targeted, or at least kept, the recreational quota that is monitored in pounds could be reached sooner. In the event that this happens, consumer surplus to anglers could potentially decrease from an increase in cost due targeting larger fish and from a longer closure in the fishery. What probably would be affected more is the marketability of fishing trips by charter and head boats in the event the minimum size limit is increased. Their overall business operation could be effected if a longer closure ensues.

The commercial sector has historically caught and sold red snapper in the 1 to 2 pound category. With an increase in minimum size limit to 16 inches TL, this category will be eventually lost to imports unless states do not change their minimum size regulations to be compatible with the proposed change in the minimum size limit in federal waters. The red snapper pricing system among red snapper dealers, as described in Amendment 5, historically used from 1 to 4 tiers of pricing red snapper based on pound sizes, with 1 to 2 tiers being the most common. Whatever the tier system used, the 2 to 4 pound category generally commanded a premium price over smaller or larger sizes. The 1 to 2 pound category commanded a premium price when a 2-tier system was used, but only a secondary price with 3 to 4 tiers. Given the information that a 2-tier system is most common, it is not readily ascertainable whether a 1 to 2 pound fish commanded higher prices than a 2 to 4 pound fish since both sizes are listed as commanding premium prices. Considering that ex-vessel demand is derived from consumer demand through wholesale demand, wholesale prices (consumer prices are not available) would be highly indicative of red snapper ex-vessel price structure. Information from the Fulton Fish Market shows that at least from 1987 through 1992, wholesale prices for medium size (presumed to be 1 to 2 pounds) red snapper had been higher than those for smaller sizes (Waters, 1992). This could very likely mean that ex-vessel prices for 2 to 4 pound sizes had been higher than for those of smaller sizes for the period mentioned. On the other hand, information for 1993 appeared to indicate that the 1 to 2 pound fish command higher wholesale prices (Antozzi, 1993). This reasoning implies higher ex-vessel prices for smaller size categories than for larger size categories.

Both demand and supply factors have a role on this apparent price reversal. Demand considerations related to the price structure of red snapper are more difficult to pin down. Although an empirically estimated demand function for snappers in the Southeast is available (Keithly and Prochaska, 1985), it provides only very general quantitative relationships between snapper price, snapper landings, imports, and income. A similar remark may be made of a more recent estimate of the relationship between red snapper price and landings (Waters, 1997). Since these estimations were done for a different purpose, they understandably lack the necessary detail to address such issues as price differentials for various sizes of red snapper. Nonetheless, such estimates show that the demand for snappers is relatively inelastic, indicating that large changes in total quantity of snapper landings are associated with small changes (in the opposite direction) in snapper price. In many public hearings

held throughout the Gulf, it has been contended that 1 to 2 pound red snappers command a relatively higher demand especially among restaurants. While this claim is supported by the premium price for smaller snappers in the 1993 open fishing season, it does not appear to support the premium price attached to 2 to 4 pound sizes in previous years. A change in demand could have possibly occurred in 1993, but there is no information to support this claim.

In view of the foregoing, we turn our attention to supply factors to explain the mentioned price reversal. With demand being constant, one possible explanation for the price reversal is that the supply of 1 to 2 pound fish in 1993 must have been relatively low compared to those of previous years and to the 1993 supply of larger fish. We may note the strong 1989 and 1990 year classes of juvenile red snapper, with the former being about twice as abundant as the latter year class. By the beginning of 1993, the 1989 and 1990 year classes averaged about 16.7 and 13.1 inches TL. We may also note that a 1 to 2 pound fish is smaller than 16 inches TL. Although it remains to be fully validated by an examination of commercial landings by size categories, there appears to be some reason to believe that in 1993 there was a relatively higher supply of larger sized fish, and this resulted in lower prices for this size category relative to smaller size fish. By 1994, the 1989 and 1990 year classes averaged about 19.8 and 16.7 inches TL respectively, so that larger size fish would then command lower prices than smaller fish because the 1991 year class was not as strong as the 1989 or 1990 year classes. Similar price conditions would exist in more recent years since subsequent year classes were also not as strong. Hence, under the condition that the 1989 and 1990 year classes dominated subsequent year classes, catches of larger fish would be very likely higher and would likely depress prices for these size categories. Hence, an increase in the minimum size limit in addition to a commercial quota would reduce the short-run revenues of commercial fishermen mainly because revenue losses from reduced sales of smaller snappers would not be outweighed by revenue gains from increased sales of larger snappers. The net effect on profitability, however, also depends on what happens to fishing costs under such a condition. If larger size fish become more abundant under the scenario depicted above, fishing time could be reduced, and costs would also be reduced. However, there is also a compensating increase in costs brought about by the added work of discarding undersized fish and by the possibility that fishing vessels may need to travel farther offshore to catch the legal size snappers. It is likely then that a higher size limit would bring about an increase in cost. Hence, an increase in the minimum size limit may be expected to result in a reduction in short-run profits to the commercial sector due to a reduction in revenue and an increase in cost. We hasten to add, however, that such reduction in profit is more likely to be effected more by a reduction in revenue than by an increase in cost.

Private and Public Costs

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources that can be expressed as costs associated with the regulations. Costs associated with this specific action include:

Council costs of document preparation, meetings, public hearings, and information dissemination	\$25,000
NMFS administrative costs of document preparation, meetings and review	\$ 16,000
Law enforcement costs	\$ none
Public burden associated with permits	\$ none
NMFS costs associated with permits	\$ none
TOTAL	\$41,000

The Council and Federal costs of document preparation are based on staff time, travel, printing, and any other relevant items where funds were expended directly for this specific action. The proposed measures are not expected to incur additional enforcement cost and permit cost of significant amount to either the public or NMFS.

Summary and Net Impact of Proposed Action

The proposed regulatory action to maintain the minimum size limit for red snapper has been determined to prevent a potential short-run reduction in benefits to both the commercial and recreational sectors of the red snapper fishery.

The proposed regulatory action is estimated to cost the Federal government \$41,000. The proposed measure is not expected to incur additional enforcement cost or permit cost of a significant amount to either the public or NMFS.

Determination of a Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a "significant regulatory action" if it is likely to result in: a) an annual effect on the economy of \$100 million or more; b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The entire commercial red snapper fishery had an ex-vessel value of about \$7.99 million in 1996 (Waters, 1997). There is currently no adequate measure of the recreational red snapper fishery impacted by the proposed regulation, but the estimated impacts of the proposed regulation are relatively small relative to the \$100 million a year benchmark. Thus, given the size of the fishery and

the segment of the fishery directly affected by the proposed regulation, it is concluded that any revenue or cost impacts on the fishery would be significantly less than \$100 million annually.

Since the only measure proposed here is retention of the 15-inch minimum size limit for red snapper, there is no expected major increase in revenues and profits to the commercial sector. Commercial cost of fishing operation and prices to consumers remain largely unaffected. Over the short-run the recreational for-hire sector remains unaffected considering the likely event of not meeting its quota any sooner. Over the long-run, closures may be effected especially as abundance of the red snapper stock and fishing effort increases. As can be gleaned from the cost estimates, there are no major increases in cost to the Federal, State, or local government agencies. In fact the cost incurred by these agencies are only those that are directly related to the formulation of the proposed regulation. Since the proposed regulation has no material adverse effects on the commercial and for-hire sectors, any of the sub-items under item (c) above would not apply.

Based on the foregoing, it is concluded that this regulation if enacted would not constitute a "significant regulatory action" under any of the criteria enumerated above.

Determination of the Need for an Initial Regulatory Flexibility Analysis

Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record keeping requirements. The category of small entities likely to be affected by the proposed regulatory amendment is that of commercial and for-hire businesses currently engaged in the reef fish fishery. The impacts of the proposed action on these entities have been discussed above. The following discussion of impacts focuses specifically on the consequences of the proposed action on the mentioned business entities. An Initial Regulatory Flexibility Analysis (IRFA) is conducted to primarily determine whether the proposed action would have a "significant economic impact on a substantial number of small entities." In addition to analyses conducted for the Regulatory Impact Review (RIR), the IRFA provides an estimate of the number of small businesses affected, a description of the small businesses affected, and a discussion of the nature and size of the impacts.

The Regulatory Flexibility Act requires a determination as to whether or not a proposed rule has a significant impact on a substantial number of small entities. If the rule does have this impact, then an Initial Regulatory Flexibility Analysis (IRFA) has to be completed for public comment. The IRFA becomes final after the public comments have been addressed. If the proposed rule does not meet the criteria for "substantial number" and "significant impact," then a certification to this effect must be prepared.

All of the commercial reef fish harvesting entities and for-hire vessels targeting red snapper affected by the rule will qualify as small business entities because their gross revenues are less than \$3 million annually for commercial vessels and \$5 million annually for-hire vessels. Hence, it is clear that the

criterion of a substantial number of the small business entities comprising the commercial reef fish harvesting industry and the for-hire sector being affected by the proposed rule will be met. The outcome of "significant impact" is less clear but can be triggered by any of the 5 conditions or criteria discussed below.

The regulations are likely to result in a change in annual gross revenues by more than 5 percent. The proposed alternative to maintain the red snapper minimum size limit at 15 inches TL is not expected to increase or decrease commercial vessel and for-hire vessel revenues.

Annual compliance costs (annualized capital, operating, reporting, etc.) increase total costs of production for small entities by more than 5 percent. The public burden to comply with the provisions of this amendment has been estimated to be practically nil as no additional permits or gear modifications are required.

Compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities. All the firms expected to be impacted by the rule are small entities, and there is no differential impact.

Capital costs of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities. General information available as to the ability of small business fishing firms to finance items such as a switch to new gear or new species or new fishing areas indicate that this would be a problem for at least some of the firms. The evidence is that the banking community is becoming increasingly reluctant to finance changes of this type, especially if the firm has a history of cash flow problems. To the extent, however, that the proposed action does not effect a major change in the commercial sector or the for-hire sector, no additional capital costs may be expected.

The requirements of the regulation are likely to result in a number of the small entities affected being forced to cease business operations. This number is not precisely defined by SBA but a "rule of thumb" to trigger this criterion would be two percent of the small entities affected. Since the proposed regulations are currently in effect, the proposed action is to maintain status quo, and no vessels would be forced out of the fishery.

Considering all the criteria discussed above, the conclusion is that small businesses in the commercial and for-hire sectors of the red snapper fishery will not be significantly affected by the proposed rule. Hence, the determination is made that the proposed rule will not have a significant economic impact on a substantial number of small business entities, and an Initial Regulatory Flexibility Analysis (IRFA) is not required.

6. ENVIRONMENTAL ASSESSMENT

Environmental Consequences

Physical and Human Environment: Since the only proposed action is to maintain status quo with respect to the red snapper minimum size limit, no effect on the physical and human environment may be expected in principle. To the extent that status quo is maintained, some stability in the fishery may be provided.

Fishery Resource: The proposed action to maintain the 15-inch minimum size limit for red will have no significant impact on fishery resources.

Effect on Endangered Species and Marine Mammals: The NOAA will conduct a consultation under Section 7 of the Endangered Species Act (ESA). A consultation was previously conducted regarding the impact of Amendment 1 which included the framework measures under which this action is being taken. A biological opinion resulting from that consultation found that neither the directed fisheries nor the proposed action jeopardize the recovery of endangered or threatened species or their critical habitat.

Effect on Wetlands: The proposed action will have no effect on flood plains, wetlands, or rivers.

Mitigating Measures: No mitigating measures related to the proposed action are necessary because there are no harmful impacts to the environment.

Unavoidable Adverse Affects: No adverse impacts are expected of the proposed action.

Irreversible and ir retrievable commitments of resources: There are no irreversible commitments of resources caused by implementation of this amendment.

Finding of No Significant Environmental Impact

The proposed regulatory amendment is not a major action having significant impact on the quality of the marine or human environment of the Gulf of Mexico. The proposed action is an adjustment of the original regulations of the FMP under the framework procedure set forth in Amendment 1 to rebuild overfished reef fish stocks. The proposed action should not result in impacts significantly different in context or intensity from those described in the environmental impact statement and environmental assessment published with the regulations implementing the FMP and Amendment 1.

Having reviewed the environmental assessment and available information relative to the proposed actions, I have determined that there will be no significant environmental impact resulting from the proposed actions. Accordingly, the preparation of a formal environmental impact statement on these issues is not required for this amendment by Section 102(2)(c) of the National Environmental Policy (NEPA) Act or its implementing regulations.

Approved: _____

Assistant Administrator for Fisheries

_____ Date

7. OTHER APPLICABLE LAW

Habitat Concerns

Reef fish habitats and related concerns were described in the FMP and updated in Amendments 1 and 5. The actions in this regulatory amendment do not affect the habitat.

Vessel Safety Considerations

A determination of vessel safety with regard to compliance with 50 CFR 600.355(d) has been requested from the U.S. Coast Guard. The proposed action in this regulatory amendment is not expected to affect vessel safety.

Coastal Zone Consistency

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 (CZMA) requires that all federal activities which directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. The proposed changes in federal regulations governing red snapper in the EEZ of the Gulf of Mexico will make changes in federal regulations that are inconsistent with some existing state regulations.

While it is the goal of the Council to have complementary management measures with those of the states, federal and state administrative procedures vary, and regulatory changes are unlikely to be fully instituted at the same time.

This regulatory amendment is consistent with the Coastal Zone Management programs of the states of Alabama, Florida, Louisiana, Mississippi, and Texas to the maximum extent possible. This determination has been submitted to the responsible state agencies under Section 307 of the Coastal Zone Management Act administering approved Coastal Zone Management programs in the states of Alabama, Florida, Mississippi, Louisiana, and Texas.

Paperwork Reduction Act

The purpose of the Paperwork Reduction Act is to control paperwork requirements imposed on the public by the Federal Government. The authority to manage information collection and record keeping requirements is vested with the Director of the Office of Management. This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications.

The Council does not propose, through this regulatory amendment, to establish any reporting requirements or burdens on the public.

Federalism

No federalism issues have been identified relative to the action proposed in this regulatory amendment. Therefore, preparation of a federalism assessment under Executive Order 12612 is not necessary.

8. REFERENCES

- Antozzi, William. 1993. Memorandum for Richard Raulerson on the subject of red snapper price system. SERO/NMFS. 9450 Koger Boulevard, St. Petersburg, Florida 33702.
- Goodyear, C. P. 1995. Red snapper in U.S. waters of the Gulf of Mexico. Contribution: MIA 95/96-05. National Marine Fisheries Service, Southeast Fisheries Center, Miami, Florida. 171 p.
- Goodyear, C. P. 1992. Red snapper in U.S. waters of the Gulf of Mexico. Contribution: MIA 91/91-170. National Marine Fisheries Service, Southeast Fisheries Center, Miami, Florida. 156 p.
- Goodyear, C. P. 1989. Spawning stock biomass per recruit: The biological basis for a fisheries management tool. ICCAT working document: SCRS /89 /82. Available from National Marine Fisheries Service, Southeast Fisheries Center, Miami Laboratory, Coastal Resources Division, 75 Virginia Beach Drive, Miami, Florida 33149.
- Holiman, S.G. 1997. Recreational catch and effort for red snapper and other reef fish species. Staff Report, Division of Economic Trade Analysis, NOAA, NMFS, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, FL 33702.
- Keithly, W. R. and F.J. Prochaska. 1985. The demand for major reef fish species in the Gulf and South Atlantic regions of the United States. Proceedings of the Tenth Annual Tropical and Subtropical Fisheries Technological Conference of the Americas, Texas A&M Sea Grant TAMU-SG-86-102, pp. 59-72.
- RFSAP. 1997. October 1997 report of the reef fish stock assessment panel. Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida 33619. 37 p.
- Waters, J. R. 1997. Economic assessment of the commercial reef fishery in the U.S. Gulf of Mexico. SERO/NMFS, NOAA. 9450 Koger Boulevard, St. Petersburg, Florida 33702.
- Waters, J. R. 1992. Economic assessment of the commercial reef fishery in the U.S. Gulf of Mexico. SERO/NMFS, NOAA. 9450 Koger Boulevard, St. Petersburg, Florida 33702.

9. PUBLIC REVIEW

A public hearing to obtain public comments on the provisions of this regulatory amendment was held during the Gulf Council meeting in November 1997 in Longboat Key, Florida. Copies of this document may be obtained from the Gulf of Mexico Fishery Management Council office, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida 33619, (813)228-2815.

LIST OF AGENCIES CONSULTED

Gulf of Mexico Fishery Management Council's

- Reef Fish Stock Assessment Panel
- Socioeconomic Panel
- Standing and Special Reef Fish Scientific and Statistical Committee
- Red Snapper Advisory Panel

National Marine Fisheries Service

- Southeast Regional Office
- Southeast Fisheries Science Center

RESPONSIBLE AGENCY

Gulf of Mexico Fishery Management Council
Lincoln Center, Suite 331
5401 West Kennedy Boulevard
Tampa, Florida 33609
(813)228-2815

LIST OF PREPARERS

Gulf of Mexico Fishery Management Council

- Rick Leard, Fishery Biologist
- Antonio Lamberte, Economist