

Science, Service, Stewardship

T3.2(2)

ccc12



Gulf of Mexico Reef Fish Fishery

ESA Section 7 Case Study

**NOAA
FISHERIES
SERVICE**

NOAA



Gulf of Mexico Reef Fish Fishery Management Plan

- Management of commercial and recreational reef fish fishery in Gulf of Mexico
 - Rebuild declining stocks
 - Conserve and increase habitat
 - Minimize conflicts of user groups
- Snappers, groupers, tilefish, jacks, gray triggerfish
- Bottom longline, bandit gear, rod and reel, handline, buoy gear, spear and powerhead
- U.S. Gulf EEZ



Species Affected by Fishery

- Not Likely to Adversely Affect
 - Blue, sei, sperm, and fin whales
 - Elkhorn and staghorn corals
- Likely to Adversely Affect
 - Green sea turtle
 - Hawksbill sea turtle
 - Kemp's ridley sea turtle
 - Leatherback sea turtle
 - Loggerhead sea turtle
 - Smalltooth sawfish



ESA Sec 7 Consultation History

- 1984 – Informal consultation on management measures in RFFMP
- 1989 – Formal consultation on fishery (Kemp's ridley, green, hawksbill, leatherback sea turtles)
- 2004 – Reinitiate consultation (new species information and newly listed species)



Consultation Process for 2008 ESA Sec 7 Reinitiation

- Loggerhead sea turtle take exceeded by bottom longline fishery
- NOAA Fisheries reinitiated consultation
- NOAA Fisheries and Gulf of Mexico Fishery Management Council Coordination
 - Interim measures to continue reef fish fishing, while protecting sea turtles
 - Amend Reef Fish Fishery Management Plan to avoid jeopardy



ESA Consultation Process

- NOAA Fisheries and Gulf Council Coordination
 - Need to reinitiate
 - Significance of issue
 - Motion to prepare scoping document for amendment to fishery
 - Establishment of interdisciplinary planning team



ESA Consultation Process Cont.

- Interdisciplinary Planning Team
 - Draft scoping document
 - Scoping meetings
 - Options for rulemaking
- Council developed amendment to the Fishery Management Plan
- Temporary emergency rule to reduce take of sea turtles in bottom longline fishery
- 7(a)(2) and 7(d) determinations on continuing fishery during reinitiation period



ESA Consultation Process Cont.

- Council approved draft amendment to fishery for public hearing
- Second temporary emergency rule to reduce take of sea turtles in bottom longline fishery
- NOAA Fisheries provided technical assistance on amendment to fishery
 - Sea turtle distribution and abundance in Gulf of Mexico
 - Sea turtle interaction in bottom longline fishery
 - Measures to reduce sea turtle/fishery interactions
 - Sea turtle conservation measures



ESA Consultation Process Cont.

- Gulf Council's Scientific and Statistical Committee provided review and advice
 - Literature and analysis pertaining to Fishery amendment
 - Scientific information on loggerhead sea turtle population estimates
 - Information on bycatch and management
 - Recommendations on Fishery amendment



ESA Consultation Process Cont.

- Gulf Council submitted Fishery amendment for Secretarial review and approval
 - Management strategy to reduce sea turtle bycatch in bottom longline fishery
 - Time/area closures
 - Gear restrictions
 - Limits on number of vessels participating in bottom longline fishing
 - Requires annual endorsement from NOAA Fisheries



ESA Consultation Process Cont.

- NOAA Fisheries published “interim” rule consistent with proposed amendment to support continuation of bottom longline fishery while protecting loggerhead sea turtles until amended Fishery Management Plan was implemented
- October 2009 NOAA Fisheries issued its BiOp
 - No jeopardy/adverse modification emergency rule
 - No jeopardy/adverse modification “interim” rule
 - No jeopardy/adverse modification amended Reef Fish Fishery Management Plan



Litigation

- Dec 2009 – lawsuit challenging biological opinion
- May 2010 – amended lawsuit to include FMP
- July 2010 – NOI for failure to reinitiate consultation after Deep Water Horizon oil spill
- Sep 2010 – NOAA Fisheries conducted reinitiation analysis concluding reinitiation not necessary
- Oct 2010 – second amendment to lawsuit on decision not to reinitiate consultation
- July 2011 – Court found in favor of NMFS on BiOp, against NMFS on decision not to reinitiate after DWH



Reinitiation of 2009 Consultation

- Aug 2011 – reinitiate consultation (potential changes to environmental baseline of species)
- Aug 2011 – 7(a)(2) and 7(d) determinations
- Sep 2011 – biological opinion