



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/R4/DH NRDAR

AUG 13 2015

Memorandum

To: Field Supervisors, Ecological Services Offices in: Panama City, Florida; Daphne, Alabama; Jackson, Mississippi; Lafayette, Louisiana; and Corpus Christi, Texas

From: Deputy *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager *Debra L. McCl.*

Subject: Proposed Sea Turtle Early Restoration Project

As you are no doubt aware, on or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced an explosion, leading to a fire and its subsequent sinking in the Gulf of Mexico (the Gulf). These events resulted in the discharge of millions of barrels of oil into the Gulf over a period of 87 days. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil. These events are hereafter collectively referred to as the Oil Spill.

The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, is a designated natural resource trustee agency authorized by the Oil Pollution Act of 1990 (OPA) and other applicable federal laws to assess and assert a natural resource damages claim for this Oil Spill. DOI is only one of several Trustees, including agencies in the State of Florida, so authorized. Consistent with their federal and state authorities, the Trustees are investigating the resource injuries and losses that occurred as a result of the Oil Spill and have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured natural resources to make the public whole for injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, National Oceanic and Atmospheric Administration (NOAA), and the Trustees for the five Gulf states affected by the Oil Spill entered into an agreement with BP, a responsible party for the Oil Spill, under which BP agreed to provide \$1 billion for early restoration projects in the Gulf to address injuries to natural resources caused by the Oil Spill. The subject project is being evaluated by the Trustees as a potential early restoration project. The early restoration project has been proposed in a draft early restoration plan that was released for public comment and review May 20, 2015. If the Trustees select the project after publication of the plan and consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by the National Park Service (NPS) and the U.S. Fish and Wildlife Service (USFWS) for DOI, NOAA, and the Texas Parks and Wildlife Department (TPWD).

As with other early restoration projects, we reviewed the proposed Sea Turtle Early Restoration Project for compliance with Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). We determined the proposed project has been the subject of a number of consultations or permitting actions under the ESA. We have summarized these analyses in the attached ESA Biological Evaluation Forms for *Deepwater Horizon* Oil Spill Restoration (BE) and determined no additional consultation with U.S. Fish and Wildlife Service or National Marine Fisheries Service for the proposed project is necessary.

Within the BE forms, we have also reviewed the proposed project for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-712), respectively and we determined take would be avoided. These BE forms will also be submitted to NMFS in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

We are providing you with these Biological Evaluation Forms for your information and no concurrence is necessary. If you have questions or concerns regarding this documentation, please contact Ashley Mills, Fish and Wildlife Biologist, at 812-756-2712 or ashley_mills@fws.gov.

Attachments (5)

Endangered Species Act Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

Fish and Wildlife Service & National Marine Fisheries Service

This form will be used to provide information for the initiation of informal Section 7 consultations under the Endangered Species Act, if required or to document a No Effect determination. In addition, information provided in this form may be used to inform other regulatory compliance processes such as Essential Fish Habitat (EFH), Marine Mammal Protection Act (MMPA), Section 106 of the National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Bald and Golden Eagle Protection Act (BGEPA). Further information may be required beyond what is captured in this form. Note: if you need additional space for writing, please attach pages as needed.

A. Project Identification

<i>Lead Agency</i>			
U.S. Fish and Wildlife Service/National Marine Fisheries Service		<i>Phone</i>	<i>Email</i>
<i>Agency Contact Person</i>		812-756-2712 and	Ashley_Buchanan@fws.gov and
Ashley Mills and Laurel Jennings		206-526-4601	Laurel.Jennings@noaa.gov
<i>I. Applicant Agency or Business Name</i>			
NOAA's National Marine Fisheries Service			
<i>II. Applicant Contact Person</i>		<i>III. Phone</i>	<i>Email</i>
Sara McNulty		(301) 427-8446	sara.mculty@noaa.gov
<i>IV. Project Name and ID# (Official name of project and ID number assigned by action agency)</i>			
Sea Turtle Early Restoration: Gulf of Mexico Shrimp Trawl Bycatch Reduction and Texas Enhanced Fisheries Bycatch Enforcement			
<i>V. Project Type</i>			
Other			
<i>VI. NMFS Office (Choose appropriate office based on project location)</i>			
NMFS Southeast Regional Office			
<i>VII. FWS Office (Choose appropriate office based on project location)</i>			
Select Most Appropriate			

B. Project Location

<i>I. Physical Address of Project Site (If applicable)</i>	
The proposed Gulf of Mexico Bycatch Reduction project component would be implemented throughout the Gulf of Mexico in both state and federal waters within areas or regions associated with shrimp trawl fisheries.	
<i>II. State & County/Parish of Project Site</i>	
Texas, Louisiana, Mississippi, Alabama, Florida coastal waters and U.S. Federal waters.	
<i>III. Latitude & Longitude for Project Site (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: http://transition.fcc.gov/mb/audio/bickel/DDDMSS-decimal.html])</i>	
Gulf of Mexico coastal and offshore waters.	
<i>IV. Township, range and section of the project area</i>	
Several coastal towns within the Gulf of Mexico (for training, outreach and dock-side activities)	

C. Description of Action Area

1. Attach a separate map delineating where the action will occur. 2. Describe ALL areas that may be affected directly or indirectly by the Federal action and not merely the immediate project site involved in the action, or just where species or critical habitat may be present. Provide a description of the existing environmental conditions and characteristics (e.g., topography, vegetation type, soil type, substrate type, water quality, water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). 3. If habitat for species is present in the action area, provide a general description of the current state of the habitat. 4. Identify any management or other activities already occurring in the area. 5. Detailed map of the area of potential effect for ground disturbing activities if it is different from the project area

The proposed Gulf of Mexico Bycatch Reduction project component would be implemented throughout the Gulf of Mexico in both state and federal waters within areas or regions associated with shrimp trawl fisheries. The U.S. portion of the Gulf of Mexico extends from the southern tip of Texas eastward to the Florida Keys, following the coastline of five states including Texas, Louisiana, Mississippi, Alabama, and Florida.

NOAA's Southeast Fisheries Shrimp Trawl Observer Program (Observer Program) would operate aboard existing active shrimp fishing vessels. Observers would be placed on randomly selected state-licensed and federally-licensed shrimp vessels to monitor for sea turtle bycatch.

NOAA's Gear Monitoring Team (GMT) program would include marine-based activities associated with courtesy at-sea turtle excluder device (TED) inspections and will also conduct land-based activities when conducting fisher education workshops, training events, and courtesy dock-side TED inspections.

The Texas Enhanced Fisheries Bycatch Enforcement component activities would target shrimp vessels while they operate primarily in Texas State waters (approximately 367 miles of coast line out to 9 nautical miles) and the exclusive economic zone (EEZ) off Texas within the Gulf of Mexico.

These project components will largely be implemented within Gulf of Mexico nearshore and offshore waters aboard shrimp fishing vessels. Education workshops and outreach events will occur within the coastal communities, but do not involve any changes to existing structures.

a. *Waterbody*
 (If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If the location is in a river or estuary, please approximate the navigable distance from the project location to the marine environment.)

The nearshore and offshore waters where state and Federally-permitted shrimp trawl vessels operate.

b. *Existing Structures*
 (If applicable. Describe the current and historical structures found in the project area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.

Multiple existing structures are present along the shorelines of the Gulf of Mexico, such as docks and marinas. None will be altered by the proposed project

c. *Seagrasses & Other Marine Vegetation*
 (If applicable. Describe seagrasses found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the seagrasses in the project area.)

This proposed project is not expected to interact with sea grasses or other marine vegetation. All in-water work will occur on the surface of the water on shrimp trawl vessels.

d. *Mangroves*
 (If applicable. Describe the mangroves found in project area. Indicate the species found (red, black, white), the species area of coverage in square footage and linear footage along project shoreline. Attach a separate map showing the location of the mangroves in the project area.)

This proposed project is not expected to interact with mangroves. All in-water work will occur on the surface of the water on shrimp trawl vessels.

e. *Corals*
 (If applicable. Describe the corals found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the project area.)

This proposed project is not expected to interact with corals.

f. *Uplands*
 (If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

This proposed project is not expected to interact with upland habitat.

D. Project Description

I. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

The proposed project does not include construction. The proposed project will be implemented for a 10-year period, and builds on two existing and well-established programs that are operated by NOAA. The Texas Enhanced Fisheries Bycatch Enforcement will also be implemented for a 10-year period, and it builds on existing Texas Parks and Wildlife law enforcement efforts.

II. *Describe the Proposed Action: 1. What is the purpose and need of the proposed action? 2. How do you plan to accomplish it? Describe in detail the construction equipment and methods** needed; permanent vs. temporary impacts; duration of temporary impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained. 3. Attach a separate map showing project footprint, avoidance areas, construction accesses, staging, laydown areas. **If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, or artificial reefs, list the method here, but complete the next section(s) in detail.*

The Gulf of Mexico Shrimp Trawl Bycatch Reduction project component would be implemented by NOAA and would enhance two existing NOAA programs, the Gear Monitoring Team (GMT) program and the Observer Program and Texas Enhanced Fisheries Bycatch Enforcement

Gulf of Mexico Gear Monitoring Team Enhancement

This project component would expand NOAA's GMT program within the Gulf of Mexico. The primary goal of the proposed expanded GMT program is to increase capacity for education and outreach to the shrimp fishing community to improve compliance with existing federal TED regulations. The expanded GMT is intended to provide direct benefits to sea turtles by decreasing the likelihood of capture mortality through greater use of properly built, installed, and maintained TEDs. A TED is a grid that fits into the cod end of the trawl, with a top or bottom escape opening covered with a flap. Sea turtles, and other animals such as sharks, encounter the TED grid when they pass through the trawl and are able to escape through the adjacent opening. Small animals, such as shrimp, pass through the bars of the TED and are caught in the cod end of the trawl. When installed properly, TEDs are expected to be 97% effective at releasing sea turtles from trawl gear.

NOAA's GMT program operates out of the Southeast Fisheries Science Center, Pascagoula Lab, and currently consists of one mobile team comprised of two individuals. This project component would add two new teams (each consisting of 2 staff), increasing the program to three teams total. The two new teams would be deployed throughout the Gulf of Mexico. The GMT would improve TED compliance by working closely with TED manufacturers and net shops to assist and ensure that TEDs are properly built and installed to the required standards. The GMT would work with the fishing industry to improve their knowledge and understanding of how to effectively build, use, and maintain TEDs. This would be achieved through offering workshops and courtesy dock-side and at-sea TED inspections.

The GMT would also work closely with the Observer Program and the Sea Turtle Stranding and Salvage Network (STSSN) to identify specific areas of bycatch concern within the Gulf. Through working with state agencies, the Observer Program, and the STSSN, the GMT would target under-represented areas in the Gulf and areas identified as potentially problematic for sea turtle bycatch. The project component would enhance coordination with other State and Federal agencies, fishing industry and fishery associations (State and National). The proposed actions would provide additional support and resources that are needed to increase compliance with TED regulations.

Southeast Shrimp Trawl Fisheries Observer Program Enhancement

This project component would expand the capacity of NOAA's Observer Program to place trained observers on shrimping vessels in the Gulf of Mexico to monitor sea turtle bycatch. The Observer Program is operated out of the NOAA National Marine Fisheries Service (NMFS), Southeast Fisheries Science Center, Galveston Lab. The primary goal of the expanded Observer Program would be to improve capacity to collect data on bycatch of sea turtles in the shrimp trawl fishery in the Gulf. The funding for this project component would add 300 observer sea days annually for a 10-year period. This additional coverage would focus on specific times and areas identified as priorities for monitoring sea turtle bycatch to allow for better characterization and assessment of bycatch. Information on sea turtle interactions with fishing activities would help target, refine, and improve conservation management and potential recovery of sea turtles in the Gulf.

NOAA's Observer Program currently observes approximately 2% of the commercial shrimp trawl fleet in the Gulf of Mexico and Southeast U.S. Atlantic (approximately 1,500 sea days annually), at an annual cost of approximately \$2 million. The additional information gained through this expansion would also be used to better inform the target areas for GMT efforts and the STSSN to improve conservation management and recovery of sea turtles in the Gulf of Mexico. The intent of the expansion of the Observer Program monitoring is to ultimately decrease the number of bycatch mortalities of Kemp's ridley, loggerhead, and green sea turtles in the shrimp trawl fishery in the Gulf of Mexico. The placement of observers would be reviewed by NOAA to ensure that observations are occurring at the correct times and/or locations where sea turtles are likely to be present and where bycatch concerns are greatest.

Texas Enhanced Fisheries Bycatch Enforcement (see attached)

iii. *Specific In-Water Construction Methods (Provide a detailed account of construction methods. It is important to include step-by-step descriptions of how demolition or removal of structures is conducted and if any debris will be moved and how. Describe how construction will be implemented, what type and size of materials will be used and if machines will be used, manual labor, or both. Indicated if work will be done from upland, barge, or both.)*

a. *Overwater Structures (Place your answers to the following questions in the box below.)*

- i. *Is the proposed use of this structure for a docking facility or an observation platform?*
- ii. *If no, is this a fishing pier? Public or Private? How many people are expected to fish per day? How do you plan to address hook and line captures?*
- iii. *Use of "Dock Construction Guidelines"? <http://sero.nmfs.noaa.gov/pr/endangered%20species/Section%207/DockGuidelines.pdf>*
- iv. *Type of decking: Grated – 43% open space; Wooden planks or composite planks – proposed spacing?*
- v. *Height above Mean High Water (MHW) elevation?*
- vi. *Directional orientation of main axis of dock?*
- vii. *Overwater area (sqft)?*
- viii. *Use of "Sea Turtle and Smalltooth Sawfish Construction Conditions, March 2006"? <http://sero.nmfs.noaa.gov/pr/endangered%20species/Sea%20Turtle%20and%20Smalltooth%20Sawfish%20Construction%20Conditions%203-23-06.pdf>*

There is no construction included in this project.

b. *Pilings & Sheetpiles (What type of material is the piling or sheetpiles? What size and how many will be used? Method used to install: impact hammer, vibratory hammer, jetting, etc.?)*

N/A

c. *Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)*

N/A

d. *Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)*

N/A

- e. *Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the project area.)*

N/A

- f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)).*

N/A

- g. *Blasting (Projects that use blasting might not qualify as "minor projects," and a Biological Assessment (BA) may need to be prepared for the project. Arrange a technical consultation meeting with NMFS Protected Resources Division to determine if a BA is necessary. Please include explosive weights and blasting plan.)*

N/A

- h. *Artificial Reefs (Provide a detailed account of the artificial reef site selection and reef establishment decisions (i.e., management and siting considerations, stakeholder considerations, environmental considerations), deployment schedule, materials used, deployment methods, as well as final depth profile and overhead clearance for vessel traffic. For additional information and detailed guidance on artificial reefs, please refer to the artificial reef program websites for the particular state the project will occur in.*

N/A

F. Effects of the Proposed Project

- i. *Explain the potential beneficial and adverse effects to each species listed above (Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects. If species are present (or potentially present) and will not be adversely affected describe your rationale. If species are unlikely to be present in the general area or action area, explain why. This justification provides documentation for your administrative record, avoids the need for additional correspondence regarding the species, and helps expedite review.)*

This project will enhance existing programs that are already covered under specific permits or consultations.

Gear Monitoring Team:

The GMT project component would have no effect on sea turtle species because it would not result in an increase in fishing effort and would have no direct interactions with sea turtle species. The downstream effects of the project would be improvement in fisher compliance with federal TED regulations, which will result in a benefit to sea turtles. Proper installation of TEDs would result in a 97% effectiveness of releasing sea turtles from shrimp trawl nets. This project component would increase the potential for sea turtle survival. Additionally, the education and outreach efforts of the GMT are detailed in the 2014 NMFS Biological Opinion on the Shrimp Trawl fishery, and are described to be an important component of improving and maintaining TED compliance in the shrimp fishery.

Observer Program:

The NOAA Observer Program is currently operating under scientific research permit file No. 15552 (NOAA 2011). The permit, issued by NMFS, authorizes research activities to be carried out by fishery observers on ESA-listed sea turtles incidentally captured in commercial fisheries. The purpose of the research is to document the take of ESA-listed sea turtles at multiple life stages in commercial fisheries and to enhance estimates of sea turtle bycatch in order to characterize the effects on sea turtle sub-populations (NOAA 2011). Research activities would include the handling of sea turtles for identification, photography, measuring, applying a Passive Integrated Transponder (PIT) tag, collecting a biopsy sample, and flipper tag sea turtles, salvage parts, and potential transportation of dead or injured turtles to approved STSSN personnel. The data collected by the observers would provide valuable information to target, refine, and improve conservation management and recovery of sea turtles in the Gulf of Mexico.

The proposed enhancement of the Observer Program would be performed in the same manner as authorized in the Observer Program permit (File No. 15552). The effects of the proposed project component to individual sea turtles would not be expected to differ from those analyzed in the July 2011 EA and the July 2011 Biological Opinion. Observers would only be authorized to take turtles up to the amount authorized in the permit and associated ESA Section 7 consultation biological opinion. The EA for Permit No. 15552 evaluates the effects of the following activities on sea turtles: handling and holding; measuring, weighing, and photographing; flipper and PIT tagging and carapace painting; release; and salvage. The project component would increase the number of observer sea days that operate under the Observer Program permit, but would not change any of the existing activities or protocols for the Observer Program when a sea turtle is observed. Therefore, the analysis completed in the EA for issuance of Permit No. 15552 also applies to this project component. The Observer program will re-apply for a new Permit when the current permit expires.

TX Enforcement:

- ii. *Explain the potential beneficial and adverse effects to critical habitat listed above (Describe what, when, and how the critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects (e.g. acres of habitat, miles of habitat). Describe your rationale if designated or proposed critical habitats are present and will not be adversely affected.*

Loggerhead critical habitat was designated in the Gulf of Mexico by USFWS and NMFS in 2012. This project would have no anticipated effect on loggerhead critical habitat.

G. Actions to Reduce Adverse Effects

I. *Explain the actions to reduce adverse effects to each species listed above (For each species for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)*

This project will be conducted as outlined in the existing permits to reduce adverse effects to sea turtles.

II. *Explain the actions to reduce adverse effects to critical habitat listed above (For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)*

N/A

H. Effect Determination Requested

From the sections above, there should be enough detailed information to provide clear and obvious support for your determinations in the section below. If the rationale for the determination is not clear, additional information must be added to one of the sections. Identify if gulf sturgeon are in saltwater, estuarine, or in freshwater in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. gulf sturgeon CH - saltwater). Identify if sea turtles are in water or on land in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. Loggerhead sea turtle CH - terrestrial).

SPECIES and/or CRITICAL HABITAT	DETERMINATION (see definitions below)
No new determinations are made and no new concurrences are requested	Select Most Appropriate
via this BE form as all effects have been addressed	Select Most Appropriate
via current and valid permits and consultations	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact, while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Services concur in writing with the Action Agency's determination of "is not likely to adversely affect" listed species or critical habitat, the section 7 consultation process is completed.

LAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable or insignificant. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation and will require additional information.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

I. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (e.g., walking, camping, clean-up, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (e.g., driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If these measures cannot be implemented, then you must contact the Service’s Migratory Bird Permit Office.
 Texas – (505) 248-7882 or by email: permitsR2MB@fws.gov
 Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

J. Migratory Birds

Identify the species anticipated in the project area and behaviors (breeding, roosting, foraging) anticipated during project implementation. You may list similar species on a single line and categorize by type (e.g., Wading birds - great blue heron, snowy egret, reddish egret). Use additional tables on the next page if needed.

i.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS
There are migratory birds found within the Gulf of Mexico	nesting, foraging, sheltering/roosting	No impacts are anticipated to migratory birds. This project will occur on board shrimp trawl vessels, on docks, or in the form of outreach training in upland environments (not field training). No interactions with birds are expected to occur.

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

Migratory Birds

Continuation page if needed.

II.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

III.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

Pre-existing NEPA Documents

Yes No

Does this project have any pre-existing, site specific NEPA analysis? If YES, then provide final NEPA analysis, if not final then provide draft. If tiered from a programmatic EIS or EA, then provide the programmatic document or a link below.

NOAA Observer Program Research Permit Biological Opinion is attached.

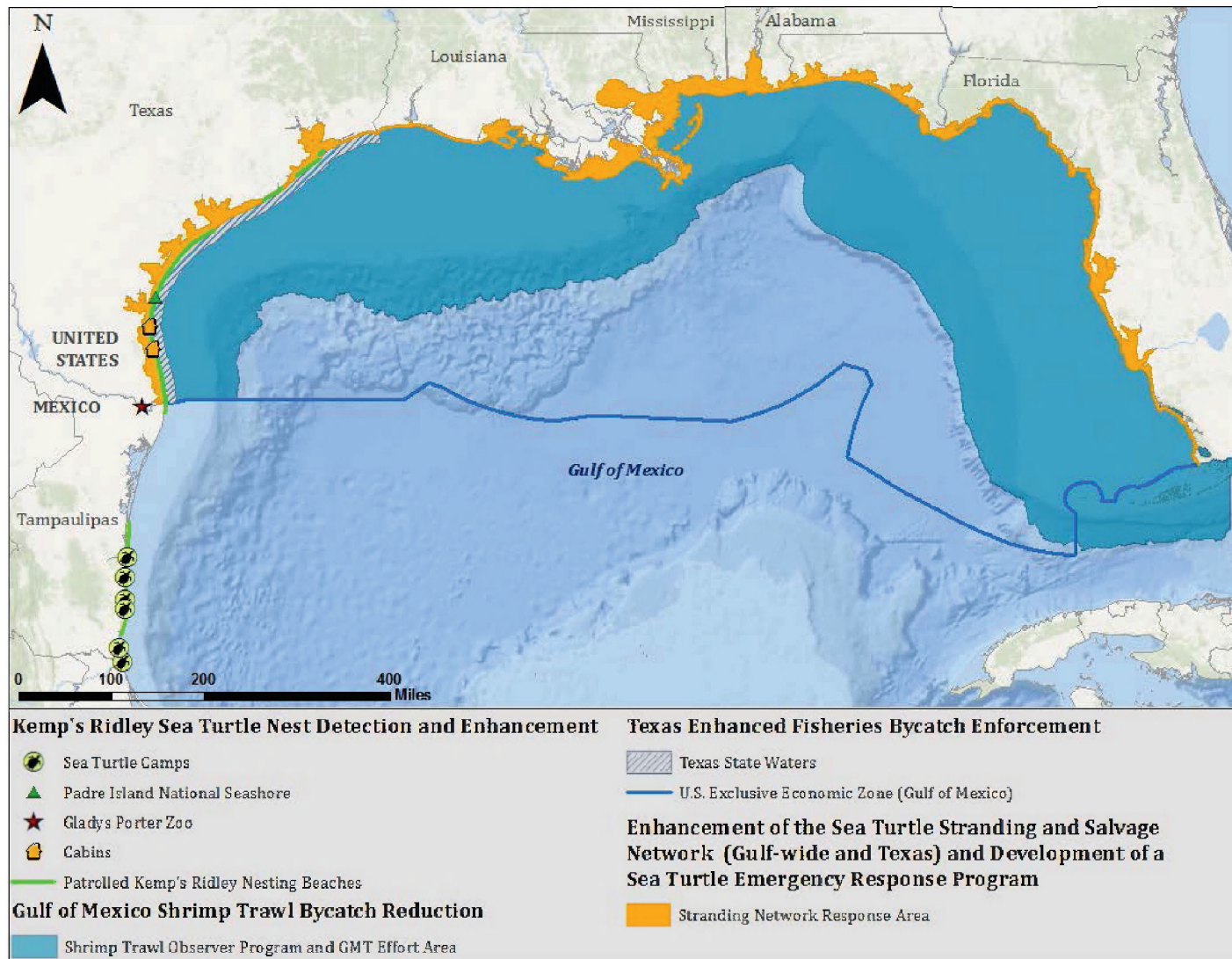
NMFS ESA §7 Consultation

We request that all ESA §7 consultation requests/packages be submitted electronically to: **Laurel.Jennings@noaa.gov**. Questions about consultation status may be directed to the same email address or by phone, 206-526-4601 or 206-794-4761 (cell).

FWS ESA § 7 Consultation

We request that all consultation requests/packages to FWS be submitted electronically to: **Ashley_Buchanan@fws.gov**. You will be notified when we receive your Biological Evaluation. Upon receipt, we will conduct a preliminary review and provide any comments and feedback, including any requests for modifications or additional information. If modifications or additional information is necessary, we will work with you until the Biological Evaluation form is considered complete. Once complete, we will send your Biological Evaluation to the appropriate Field Office to conduct consultation. If you have questions about consultation status, please contact Ashley Mills by phone 812-756-2712 or email **Ashley_Buchanan@fws.gov**.

Name of Person Completing this Form:	<input type="text" value="Sara McNulty"/>
Name of Project Lead:	<input type="text"/>
Date Form Completed:	<input type="text" value="05/19/2015"/>



Geographic area of the proposed Phase IV Sea Turtle Early Restoration project

Contents

PROPOSED PHASE IV EARLY RESTORATION PROJECTS: Turtle Projects	1
Texas Enhanced Fisheries Bycatch Enforcement.....	1
Project Summary.....	1
Background and Project Description	1

PROPOSED PHASE IV EARLY RESTORATION PROJECTS: Turtle Projects

Texas Enhanced Fisheries Bycatch Enforcement

Project Summary

The Texas Enhanced Fisheries Bycatch Enforcement project would enhance TPWD enforcement activities for fisheries that incidentally catch sea turtles while they operate primarily in Texas State waters (approximately 367 miles of coast line out to 9 nautical miles) within the Gulf of Mexico for a 10-year period. These increased enforcement operations would focus on compliance with Turtle Excluder Devices (TED) regulations during the Gulf shrimp fishery season (primarily February through April). Patrols would be targeted during this timeframe because it is an active time not only for the industry, but for sea turtle interactions due to the beginning of the spring nesting season. This project is anticipated to reduce sea turtle mortalities through increased compliance with TED regulations as a result of increased enforcement actions.

Background and Project Description

The purpose of the Texas Enhanced Fisheries Bycatch Enforcement project is to protect juvenile and adult sea turtles by active patrolling of the shrimping fleet to encourage TED regulation compliance. Previous efforts to increase enforcement activities during this time period have had an impact on compliance rates, reducing the number of observed strandings during this time period.

The project would include a series of patrols focusing on the enforcement of TED regulations in the Gulf of Mexico along the entire Texas coast ensuring compliance aboard commercial shrimp vessels. Targeted patrols will primarily occur during the period of the year when sea turtle strandings have historically been the highest, typically February through May. These patrols will be over and above the current patrol frequency in the Texas state waters of the Gulf of Mexico.

The vessels associated with this type of open sea enforcement activities are mid-range patrol vessels with a crew of three Game Wardens and long-range patrol vessels with a crew of four Game Wardens. There are thirteen mid-range patrol vessels and two long-range patrol vessels along the coast. TPWD expects to provide about 200 boat hours of mid-range patrol and boat 80 hours of long-range patrol to

DRAFT/DELIBERATIVE, ATTORNEY WORK PRODUCT, ATTORNEY CLIENT COMMUNICATION, PRIVILEGED AND/OR CONFIDENTIAL RECORD-SUBJECT TO DWH US/STATE CONFIDENTIALITY AGREEMENT AND TRUSTEE COUNCIL MOU/CONFIDENTIAL

enhance enforcement of TEDs. Hours may be shifted between the types of vessel as weather or patrols demand.

NOAA's Gulf of Mexico Gear Monitoring Team Enhancement Component

1.1 Project Summary

This project component will provide funding to expand NOAA's Gear Monitoring Team (GMT) program within the Gulf of Mexico (GOM) which operates out of the National Marine Fisheries Service (NMFS), Southeast Fisheries Science Center, Pascagoula Lab. The primary goal of the proposed expanded GMT is to provide a greater capacity for education and outreach to the shrimp fishing community to improve compliance with existing federal turtle excluder device (TED) regulations. The expanded GMT will provide direct benefits to individual sea turtles by decreasing the likelihood of capture mortality through greater use of properly built, installed, and maintained TEDs.

1.1.1 Background and Project Description

A TED is a grid that fits into the cod end of the trawl, with a top or bottom escape opening covered with a flap. Sea turtles, and other animals such as sharks, encounter the grid when they pass through the trawl net and are able to escape through the opening. Small animals, such as shrimp, will pass through the bars of the TED and are caught in the cod end of the trawl. When installed properly, TEDs are expected to be 97% effective at releasing sea turtles from trawl gear.

NOAA's GMT program currently consists of one mobile team comprised of two individuals. The GMT provides education and outreach to the shrimp fishing community, including fishers, TED manufacturers, and net shops to ensure TEDs are properly built, installed, used, and maintained to effectively release sea turtles. This project component will add two new teams (each consisting of 2 staff), increasing the program to three teams total. The two new teams will be deployed throughout the GOM. The GMT will improve TED compliance by working closely with TED manufacturers and net shops to assist and ensure that TEDs are properly built and installed to the required standards. The GMT will work with fishers and the community to improve their knowledge and understanding of how to effectively use and maintain TEDs. This will be achieved through offering workshops and courtesy dock-side and at-sea TED inspections.

The GMT will also work closely with the NMFS Federal Observer Program and the Sea Turtle Stranding and Salvage Network (STSSN) to identify specific areas of bycatch concern within the GOM. Through working with state agencies, the observer program, and the STSSN the GMT will target under-represented areas in the GOM and areas identified as potentially problematic for sea turtle bycatch. The project will enhance coordination with other State and Federal agencies, fishers and fishery associations (State and National). The proposed actions will provide additional support and resources that are needed to increase compliance with current TED regulations.

NOAA's Gulf of Mexico Shrimp Trawl Observer Program Enhancement Component

1.1 Project Summary

This project component will provide funding to expand the capacity of NOAA's Southeast Shrimp Trawl Fisheries Observer Program within the Gulf of Mexico (GOM), operated out of the National Marine Fisheries Service (NMFS), Southeast Fisheries Science Center, Galveston Lab, to effectively place trained observers on shrimp fishing vessels to monitor sea turtle bycatch. The primary goal of the expanded Observer program is to improve capacity to collect data on incidental captures of sea turtles in the shrimp trawl fishery in the Gulf of Mexico (GOM). The project will add 300 observer sea days annually for a 10-year period. This additional coverage will focus on specific times and areas identified as priorities for monitoring sea turtle bycatch to better characterize and assess this bycatch. Information on sea turtle interactions with fishing activities will help target, refine, and improve conservation management and recovery of sea turtles in the GOM.

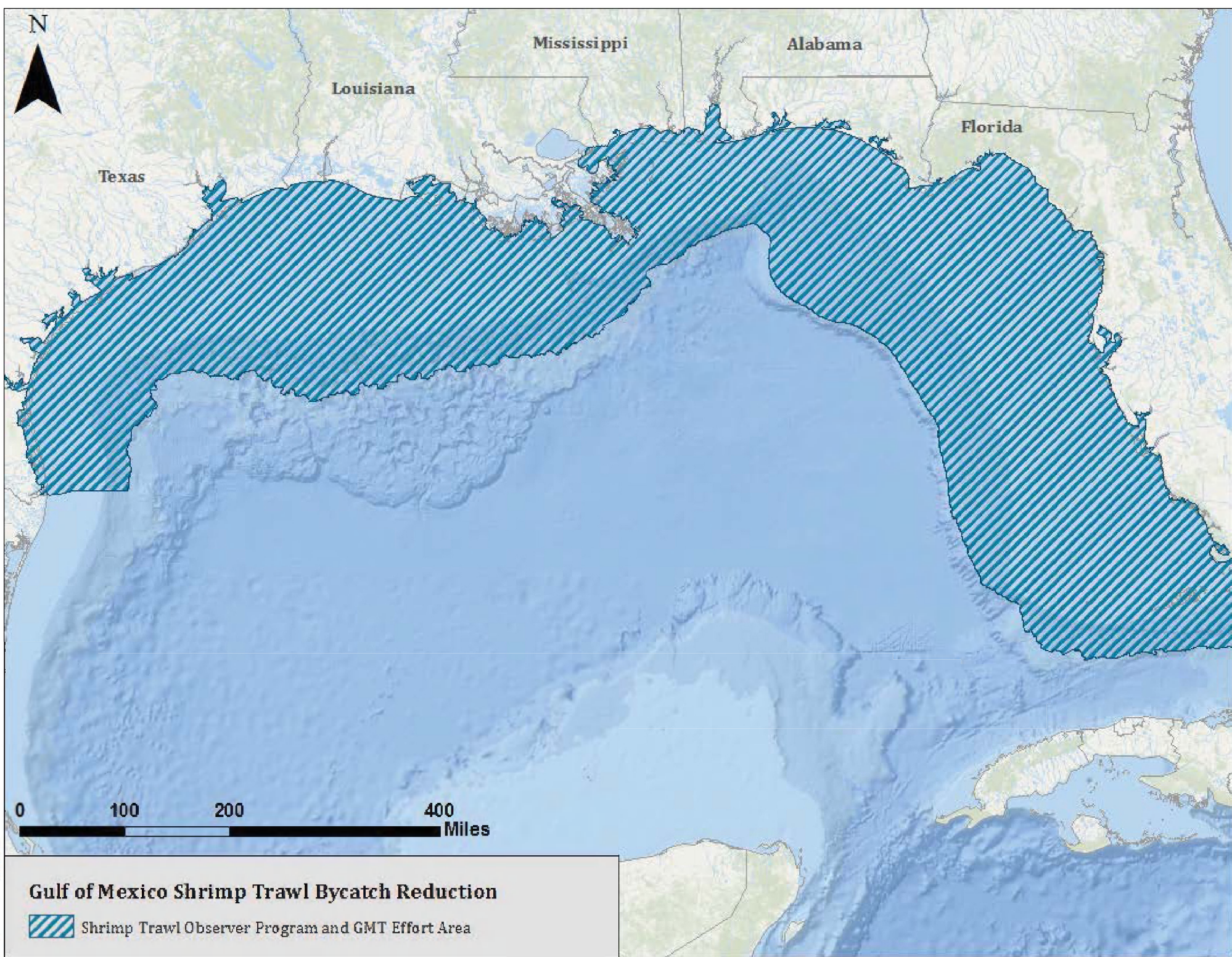
1.1.1 Background Project Description

NOAA's shrimp trawl observer program currently observes approximately 2% of the commercial shrimp trawl fleet in the Gulf of Mexico and Southeast U.S. Atlantic (approximately 1500 sea days annually), at an annual cost of approximately \$2M (NMFS 2013, NMFS 2012). The expansion of the fisheries observer program, specifically for sea turtle bycatch monitoring, will improve NOAA's capability to detect and monitor the bycatch of sea turtles which will be used to better inform the target areas for the Gear Monitoring Team (GMT) efforts and Sea Turtle Stranding and Salvage Network (STSSN). This will ultimately decrease the number of incidental capture mortalities of Kemp's ridley, loggerhead, and green sea turtles in the shrimp trawl fishery in the GOM. Annual monitoring of the shrimp trawl observer program will include annual reporting of observer placement, observer data and direct assessments of bycatch levels. Data will be aggregated in accordance with existing requirements and laws, including the protection of personal identifiable information.

The observer placement will be reviewed to ensure that observations are occurring at the correct times and/or locations where sea turtles are likely to be present and where bycatch concerns are greatest. The proposed actions will provide additional sea turtle information that will enhance conservation management based on the data collected by the expanded observer program.


NMFS. 2013. National Observer Program Annual Report – FY 2012, NOAA Tech. Memo. NMFS F/SPO-127, 38 p.

NMFS. 2012. National Observer Program Annual Report – FY 2011, NOAA Tech. Memo. NMFS F/SPO-123, 36 p.



DWH-AR0289567

Gulf of Mexico Shrimp Trawl Bycatch Reduction

 Shrimp Trawl Observer Program and GMT Effort Area