Finding of No Significant Impact (FONSI) for Measures in the Environmental Assessment Supporting a Temporary Rule through Emergency Action Allowing Limited Harvest of Red Snapper in the South Atlantic Region in 2012

National Marine Fisheries Service

August 2012

Introduction

This FONSI was prepared in accordance with National Oceanic and Atmospheric Administration Administrative Order 212-6 (NAO 216-6; May 20, 1999) and NMFS Instruction 30-124-1, July 22, 2005, Guidelines for Preparation of Finding of No Significant Impact, for determining the significance of impacts of a proposed management action. This introduction provides a brief description of the proposed management action and alternatives and summarizes why measures contained in the environmental assessment (EA) will not have a significant effect on the human environment. Attached is the EA, entitled *Measures to Allow Limited Harvest of Red Snapper (*Lutjanus campechanus*) in the South Atlantic in 2012.*

The EA contains seven alternatives, seven sub-alternatives, and six preferred alternatives/sub-alternatives **(Table 1).** For the discussion throughout the FONSI, the "proposed action" refers to the six preferred alternatives/sub-alternatives. **Alternative 1 (No Action)** would retain the existing regulations for red snapper, including the prohibition of fishing for, possession, and retention of red snapper. **Alternatives 2-4** would modify the annual catch limit (ACL) of zero (landings only) and the red snapper harvest and possession prohibition in 2012 established through Amendment 17A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 17A), which contained an environmental impact statement (EIS). The Regional Administrator of NOAA Fisheries Service's (NOAA Fisheries) Southeast Regional Office will determine the dates for the commercial and recreational season openings and closings. NOAA Fisheries will evaluate landings to determine if the commercial ACL is harvested and if commercial red snapper can re-open again in 2012. Landings will need to be lower than the ACL in order for red snapper to reopen in 2012. **Alternative 5** would suspend the 20-inch total length (TL) minimum size limit, while **Alternatives 6** and **7** would reduce effort during the opening through a commercial trip limit and recreational bag limit.

Table 1. A summary of the alternatives considered in the EA.

Alternative Number	Preferred?	Alternative Description[1]
1 (no action)		ACL=0 (landings), Closed fishery.
2		Set a 2012 ACL
2a		2,121 fish (3,379 lbs comm.[2]/1,526 fish rec.)
2b		8,984 fish (14,313 lbs comm.[2]/6,462 fish rec.)
2c	X	13,067 fish (20,818 lbs comm.[2]/9,399 fish rec).
3	X	7 day commercial season[3]
4	X	6 day recreational season[3]
5	X	Suspend 20-inch total length (TL) minimum size limit
6		Set a commercial trip limit
6a		25 lb gutted weight
6b	X	50 lb gutted weight
6c		75 lb gutted weight
6d		100 lb gutted weight
7	X	1 fish per person per day bag limit (recreational)

[1]See Chapter 2 of the EA for a more detailed description of the alternatives.
[2]Pounds are in gutted weight.
[3]NOAA Fisheries will evaluate landings to determine if the fishery may re-open again in 2012.

Under **Alternative 1**, the no action alternative, the underlying purpose (as described in Chapter 1 in the attached EA) will not be addressed. The purpose is to allow harvest of red snapper to reduce negative socio-economic effects expected from the regulations in Amendment 17A while maintaining biological protection for red snapper as the stock rebuilds. An additional purpose is to provide needed data for a stock assessment. **Alternatives 2-7** will meet the purpose by increasing the ACL in 2012 and allowing a limited harvest of red snapper within the constraints of the acceptable biological catch (ABC) identified by the rebuilding plan in Amendment 17A. In addition, the proposed action should provide fishery-dependent information on the life history of red snapper that may be used to inform a 2014 stock assessment.

Finding of No Significant Impact

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include the following criteria:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: No. The proposed action will not be expected to jeopardize the sustainability of any target species. As more fully discussed in Chapter 4 of the EA, the proposed action, including the specification of the ACL in **Preferred Sub-Alternative 2c**, the short openings in **Preferred Alternatives 3** and **4**, and the actions in **Preferred Alternatives 5**, **6b**, and **7**, is consistent with the following: (1) assessment results from Southeast Data, Assessment, and Review (SEDAR) 24; (2) rebuilding projections provided by the Southeast Fisheries Science Center (SEFSC); (3) acceptable biological catch (ABC) recommendation from the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee (SSC); and, (4) rebuilding plan implemented in 2010. The assessment and rebuilding plan have been peer reviewed and are based on the best available scientific information.

As discussed in **Section 1.4** of the EA, the rebuilding plan allows for the ABC to increase as the stock rebuilds. New information from the SEFSC indicates the level of total kill occurring from incidental catch of red snapper is less than the ABC from the red snapper rebuilding projection in 2012. Thus, the ACL can be increased during 2012 in accordance with the rebuilding plan. The proposed action will not change the rebuilding plan. Furthermore, the proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort within the South Atlantic region.

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

Response: No. Although fishery management actions can adversely impact non-target species, the proposed action is not anticipated to have such effects on such species. The increase in the red snapper ACL as proposed by the EA is relatively small (13,067 fish) and will not be expected to significantly increase bycatch of snapper-grouper species. Any changes in the bycatch of other fish species and resulting population and ecosystem effects will be minimal in nature as the proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort within the South Atlantic region.

A bycatch practicability analysis (BPA) is included in **Appendix D**. The impacts to bycatch are also discussed in **Section 4.1.1.** Species that are most likely to co-occur with red snapper

include: vermilion snapper, gag, scamp, greater amberjack, gray triggerfish, black sea bass, and red grouper. The BPA concluded that the proposed action is not anticipated to significantly increase bycatch of snapper-grouper species. As the increase in the red snapper ACL as proposed by the EA is relatively small (13,067 fish) and the seasons will be relatively short, none of the proposed alternatives are expected to substantially increase overall fishing effort or the spatial and/or temporal distribution of current fishing effort.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and defined in the FMP for the Snapper-Grouper Fishery of the South Atlantic Region?

Response: No. Although fishery management actions can adversely affect habitat by increasing fishing gear interactions with the seafloor and/or redistributing fishing effort over more vulnerable habitat, the proposed action is not anticipated to have such an effect. The area affected by the proposed action in the snapper-grouper fishery has been identified as essential fish habitat for the Shrimp, Snapper-Grouper, Coral, Dolphin-Wahoo, *Sargassum*, and Golden Crab FMPs of the South Atlantic Council; the Coastal Migratory Pelagics and Spiny Lobster joint FMPs of the Gulf and South Atlantic Councils; the Bluefish and Squid/Mackerel/Butterfish FMPs of the Mid-Atlantic Council, and the Tuna/Swordfish/Shark and Billfish FMPs of NOAA Fisheries' Highly Migratory Species Division. Since the proposed action represents a relatively small increase in the red snapper ACL (13,067 fish) in accordance with an established rebuilding plan, fishing effort is not expected to significantly increase as a result of these actions, nor are changes in fishing technique or behavior expected. As a result, the proposed action is not expected to cause damage to ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in the South Atlantic Council's FMPs. Additionally, the South Atlantic Council has implemented a number of gear restrictions designed to minimize adverse effects of the snapper-grouper fishery on particularly vulnerable or valuable habitat. The habitat environment is discussed in **Section 3.1** of the EA; the biological impacts are discussed in **Section 4.1.1**.

4) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No. Although fishery management actions can sometimes affect public safety by eliminating or minimizing fishermen's flexibility to decide when, where, and how to fish, the proposed action is not expected to have such an effect. The proposed action is not expected to change fishing techniques or operations in a way that will impact the safety of commercial or recreational fishermen. The openings will occur as early as possible in 2012 so as to not open the season too late in the fishing year when poor weather can lead to unsafe fishing conditions. The Regional Administrator of NOAA Fisheries' Southeast Regional Office will evaluate weather conditions before determining any opening dates. These impacts are described in Sections **4.1.3**, **4.1.4**, **6.1**, and **6.2** of the EA.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

Response: No. Fishery management actions can adversely affect species and/or habitat protected by the Endangered Species Act (ESA) and/or Marine Mammal Protection Act (MMPA) by increasing bycatch and/or fishing gear interactions with these species, and/or by redistributing fishing effort to areas where protected species and/or critical habitat occurs. However, the proposed action is unlikely to alter fishing in ways that will cause new adverse affects to species not previously considered. Protected resources are discussed in **Section 3.2.6** of the EA; the biological impacts are discussed in **Section 4.1.1**.

According to the 2012 List of Fisheries (76 FR 73912, November 29, 2011), the Southeastern U.S. Atlantic snapper-grouper fishery is classified as a Category III fishery under the MMPA, meaning the annual mortality and serious injury of a marine mammal resulting from the fishery is less than or equal to one percent of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. Additionally, the snapper-grouper fishery is not expected to adversely modify northern right whale critical habitat. Listed sea bird species such as the Bermuda petrel will not be adversely affected by actions contained within this EA due to their rare occurrence off the Atlantic coast.

NOAA Fisheries completed a biological opinion (opinion) on the South Atlantic snapper-grouper fishery entitled: "The Continued Authorization of Snapper-Grouper Fishing in the U.S. South Atlantic Exclusive Economic Zone (EEZ) as Managed Under the Snapper-Grouper Fishery Management Plan of the South Atlantic Region (SGFMP), including Amendment 13C to the SGFMP," on June 7, 2006. The opinion concluded the continued authorization of the fishery will not affect marine mammals and is not likely to jeopardize the continued existence of any other ESA-listed species.

Subsequent to the June 7, 2006, biological opinion, elkhorn and staghorn coral (*Acropora cervicornis* and *Acropora palmata*) were listed as threatened. In a consultation memorandum dated July 9, 2007, NOAA Fisheries concluded the continued authorization of the South Atlantic snapper-grouper fishery is not likely to adversely affect these *Acropora* species. On November 26, 2008, an *Acropora* critical habitat was designated. In a consultation memorandum dated December 2, 2008, NOAA Fisheries concluded the continued authorization of the snapper-grouper fishery is not likely to adversely affect *Acropora* critical habitat. Additionally, on September 22, 2011, NOAA Fisheries and the U.S. Fish and Wildlife Service determined the loggerhead sea turtle population consists of nine DPSs (76 FR 58868). Previously, loggerhead sea turtles were listed as threatened species throughout their global range. The snapper-grouper fishery interacts with loggerhead sea turtles from what is now considered the Northwest Atlantic (NWA) DPS, which remains listed as threatened. Five distinct population segments (DPS) of Atlantic sturgeon have been listed (effective April 6, 2012). In a consultation memorandum dated February 15, 2012, NOAA Fisheries concluded the continued authorization of the South Atlantic snapper-grouper fishery is not likely to adversely affect the Atlantic sturgeon. The February 15, 2012, memorandum also stated that because the 2006 biological opinion had evaluated the impacts of the fishery on the loggerhead subpopulations now wholly contained

within the NWA DPS, the opinion's conclusion that the fishery is not likely to jeopardize the continued existence of loggerhead sea turtles remains valid.

As provided in 50 CFR 402.16, re-initiation of formal consultation is required if: 1) The amount or extent of the incidental take is exceeded; 2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered; 3) the agency action is subsequently modified in a manner causing an effect to the listed species or critical habitat not previously considered; or 4) if a new species is listed or critical habitat designated that may be affected by the identified action.

Reinitiation of ESA section 7 consultation for this EA is not required. The amount or extent of incidental take authorized by the 2006 biological opinion has not been exceeded, and no new information exists that indicates the agency action is causing effects to listed species that have not been previously considered. The proposed action is also not likely to modify the agency action in a manner that will cause new effects not previously considered. Fishing activities anticipated to occur if the proposed action is effective will fall within the level of effort and scope of the action analyzed in the June 7, 2006, opinion. During the harvest prohibition of red snapper, it is possible that fishing effort has been redistributed to target other species. Regardless, elimination of the harvest prohibition to allow for a very small increase in the red snapper ACL under this EA is not likely to attract any new effort into the snapper-grouper fishery. Additionally, the proposed action will not change the gear use that were previously evaluated in the section 7 consultation. Thus, no new effects from the fishery are anticipated. No new species or critical habitat has been designated that may be affected by the identified proposed action.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g. benthic productivity, predator-prey relationships, etc.)

Response: The proposed action is not expected to have a substantial impact on biodiversity and ecosystem function within the affected area. This action merely increases the ACL by a relatively small amount (13,067 fish) in 2012 consistent with the FMP objectives, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. The proposed action is not expected to alter fishing methods or activities. The proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. These impacts are described in **Section 4.1.1** of the EA.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. In the context of the entire snapper-grouper fishery as a whole, the social and economic impacts of the preferred alternative are not expected to be significant as the magnitude of net effects of the proposed action comprises a relatively small portion of the entire economic and social activities associated with the snapper-grouper fishery in the South Atlantic. It is also noted that these effects are expected to be positive. These impacts are described in **Section 4.1.2** of the EA.

Red snapper is a minor component of the entire *commercial* snapper-grouper fishery. All harvests (all trips and all species) by commercial vessels harvesting snapper grouper averaged approximately 11.24 million pounds valued at $24.74 million (2011 dollars) over 2003-2007. The landings of red snapper in 2003-2007 averaged annually at approximately 121,000 pounds valued at $421,000 (2011 dollars). Assuming the absence of overages in the commercial sector, the maximum expected revenue effects from the proposed action, in 2011 dollars, would be $86,395 with a commercial ACL of 20,818 lbs gw.

Recreational snapper grouper harvest in the South Atlantic averaged approximately 10.8 million lbs per year during 2005-2009. For the same period, recreational harvest of red snapper averaged approximately 557,000 pounds per year. In terms of effort, recreational target effort and catch effort for snapper-grouper averaged 945,000 trips and 2.7 million trips per year, respectively, during 2005-2009. For the same period, red snapper target effort and catch effort, respectively, averaged 57,300 trips and 94,000 trips per year. Assuming the absence of any overages in the recreational sector, the maximum expected consumer surplus effects from the proposed action, in 2011 dollars, would be $231,896 with a recreational ACL of 9,399 fish. Although there is not a comparable estimate of consumer surplus for the entire snapper-grouper recreational sector, it can be inferred from the relative size of the recreational sector's allowable harvest of red snapper that the social and economic effects of the proposed action to the recreational sector will be relatively insignificant.

8) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. The effects of the proposed action on the quality of the human environment are not likely to be highly controversial. As discussed in **Section 5.1** of the EA, the South Atlantic Council held a public comment session prior to approving any motions pertaining to the management of red snapper; the majority of stakeholders were in favor of a limited re-opening of red snapper harvest in 2012. Based on this information, it is anticipated that most of the South Atlantic Council's constituents support this action. The effects on the quality of the human environment of the red snapper closure approved in the interim rule and extended through Amendment 17A were controversial as some fishermen felt the action will have unnecessary negative economic effects. Also, many fishermen questioned the accuracy of the data used to make the overfishing and overfished stock status determinations. Any controversy will likely be minimal as the proposed action will reduce negative socio-economic effects imposed through the red snapper closure, while ensuring the red snapper stock continues to rebuild.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: No. Special areas, including historic and cultural areas, park land, prime farmlands, wetlands, wild and scenic rivers, ecologically critical areas, or marine sanctuary areas will not be impacted by the proposed action because none of these areas are in the directly affected environment of the South Atlantic snapper-grouper fishery, which is conducted in the federal waters off of North Carolina, South Carolina, Georgia, and Florida.

10) Are the effects of the human environment likely to be highly uncertain or involve unique and unknown risks?

Response: No. As discussed in **Section 1.5** of the EA, The proposed action, including the specification of the ACL in **Preferred Sub-Alternative 2c**, the short openings in **Preferred Alternatives 3** and **4**, and the actions in **Preferred Alternatives 5**, **6b**, and **7**, is consistent with the following: (1) assessment results from SEDAR 24; (2) rebuilding projections provided by the SEFSC; (3) ABC recommendation from the South Atlantic Council's SSC; and, (4) rebuilding plan implemented in 2010. The assessment and rebuilding plan have been peer reviewed and are based on the best available scientific information. NOAA Fisheries will monitor the landings as described in Section 6.3 of the EA.

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The proposed action represents a relatively small increase in the red snapper ACL, and is not expected to compound the cumulative effects on the physical, social and economic environments, habitat, protected species or the fishery resource. Therefore, there are no foreseeable significant additive or interactive effects as a result of the proposed action. These impacts are described in **Sections 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.4, 7.1,** and **7.2** of the EA.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

Response: No. The proposed action affected environment does not concern districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. Consequently, it is unlikely that the proposed action will adversely affect the aforementioned, and this action is not likely to cause destruction of significant scientific, cultural, or historical resources.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. The proposed action will not introduce or spread any non-indigenous species because it does not change existing fishing operations. There is no evidence or indication that the snapper-grouper fishery has ever resulted in the introduction or spread of non-indigenous species. The proposed action is not expected to alter fishing methods or activities. The proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. The biological impacts are discussed in **Section 4.1.1.**

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: No. The proposed action does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. A rebuilding plan was completed for red snapper through Amendment 17A which contained an EIS. This action merely proposes to revise the ACL in 2012 for red snapper according to the rebuilding plan. The proposed action represents a relatively small increase in the ACL, and is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. As the stock rebuilds, a new stock assessment is completed, or other biological information about red snapper becomes available in the future, the ACL will be adjusted according to FMP objectives, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. These impacts are described in **Sections 7.1,** and **7.2** of the EA. The Council is considering additional management measures for red snapper in Amendment 22 to the Snapper-Grouper FMP. Amendment 22 considers long-term management of red snapper, including the implementation of a tag program where retention is limited to those that possess tags.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State or local law requirements imposed for the protection of the environment?

Response: No. The proposed action is not likely to impose or cause a violation of federal, state, or local law or requirements imposed for the protection of the environment. The proposed action is consistent with applicable state and federal regulations. A thorough analysis of other applicable laws related to the implementation of the EA was conducted and the analysis is contained in **Appendix E**.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target or non-target species?

Response: No. The proposed action is not expected to result in any cumulative adverse effects that could have a substantial effect on the target species or non-target species. The impacts of the proposed alternatives on the biological, physical, and human environment are described in Chapter 4 and 7. The cumulative effects of the proposed action on target and non-target species are detailed in Chapter 7 of the EA. The cumulative effects analysis revealed no significant, cumulative adverse effects on the biological environment. The preferred ACL in 2012 for red snapper is consistent with the objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. The scientific information upon which the ACL is based (SEDAR 24, rebuilding projections provided by the SEFSC, Amendment 17A EIS) has been peer reviewed and is based on the best available scientific information. Furthermore, the proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort within the South Atlantic region.

Determination

In view of the information presented in this document and the analysis contained in the supporting EA, I have determined that the preferred alternative and preferred sub-alternatives will not significantly impact the quality of the human environment as described above and in the supporting EA. In addition, all beneficial and adverse impacts of the proposed action have been identified and analyzed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

8/15/12

Roy E. Crabtree, Ph.D.
Regional Administrator
National Marine Fisheries Service
Southeast Regional Office

Date