

**Finding of No Significant Impact (FONSI) for:
Amendment 17B to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery
of the South Atlantic Region (Amendment 17B)**

National Marine Fisheries Service

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 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:

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. None of the actions contained within Amendment 17B are expected to jeopardize the sustainability of any target species. Actions in Amendment 17B are intended to end overfishing of eight snapper-grouper species and set harvest limits for nine snapper-grouper species to prevent future overfishing from occurring pursuant to new Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), National Standard 1 requirements. Revisions to the Magnuson-Stevens Act in 2006 require that by 2010, FMPs for fisheries determined by the Secretary to be subject to overfishing, must establish a mechanism for specifying annual catch limits (ACLs) at a level that prevents overfishing and does not exceed the recommendations of the respective Council’s Scientific Statistical Committee (SSC) or other established peer review processes. Accountability measures (AMs) are also required in each FMP within this time frame. AMs are management controls that ensure the ACLs are not exceeded and correct for overages if they occur. A final rule for National Standard 1 compliance was published in the *Federal Register* on January 16, 2009 [74 FR3178]. The final rule for National Standard 1 guidelines provides guidance on how to comply with the new ACL and AM requirement for ending overfishing of fisheries managed by federal FMPs. All ACLs and AMs established in Amendment 17B were specified in accordance with these National Standard 1 guidelines.

Amendment 17B will define ACLs and AMs for speckled hind, warsaw grouper, snowy grouper, golden tilefish, red grouper, black grouper, gag, vermilion snapper, and black sea bass. Management measures to prevent the ACLs from being exceeded will also be implemented through rulemaking. Amendment 17B also allocates 3 percent of the total allowable catch of golden tilefish to the recreational sector and 97 percent to the commercial sector. Additionally, the framework procedure for the Snapper-Grouper FMP will be modified to include ACLs, annual catch targets, and AMs in order to facilitate timely adjustments to these National Standard 1 parameters should they be needed in the future. Actions in Amendment 17B are likely to end overfishing, promote the continued rebuilding of overfished stocks, restore natural predator prey relationships, and prevent future ecological disturbances due to unsustainable fishing practices.

None of the measures in Amendment 17B would jeopardize the sustainability of any target species.

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

Response: No. Actions in the subject amendment are not likely to jeopardize the sustainability of any non-target species. In contrast, actions proposed in Amendment 17B would be expected to enhance the sustainability of non-target species as a result of decreased fishing effort. Prohibiting all harvest of deepwater snapper-grouper species (snowy grouper, blueline tilefish, yellowedge grouper, warsaw grouper, speckled hind, misty grouper, queen snapper, silk snapper) beyond 240 feet would not only protect speckled hind and warsaw grouper but would also decrease bycatch mortality of other co-occurring deepwater snapper-grouper species such as snowy grouper, which are overfished. The golden tilefish commercial ACL would be set at 75 percent F_{MSY} (F_{OY} level), and the commercial AM would be to prohibit all harvest, possession, and retention of the species when the ACL is met. Once the commercial fishery for golden tilefish is closed, deepwater species that are typically caught as bycatch in the golden tilefish fishery would also see biological benefits due to reduced fishing effort. Furthermore, if the recreational ACL is exceeded for golden tilefish or snowy grouper, the Regional Administrator would publish a notice to reduce the length of the following fishing year by the amount necessary to ensure landings do not exceed the sector ACL for the following fishing year. The recreational ACLs would be compared with recreational landings over a range of years. If the recreational AM is triggered, biological benefits to co-occurring species would also accrue due to reduced fishing effort.

Actions to address ACLs and AMs for vermilion snapper, black sea bass, gag, red grouper, and black grouper would establish combined commercial and recreational ACLs for gag, red grouper, and black grouper based on expected catch resulting from management measures in Amendment 16. Vermilion snapper, gag, and black sea bass have recently been assessed, and assessments for red grouper and black grouper were completed after Amendment 17B was approved for Secretarial Review. The assessment for the red grouper stock in the South Atlantic indicates that the stock is experiencing overfishing and is overfished (SEDAR 19 2010). The assessment for the black grouper stock in the Gulf of Mexico/South Atlantic indicates that the stock is not experiencing overfishing and is not overfished (SEDAR 19 2010). Because the assessments for red and black grouper were not completed during the development of Amendment 17B the Council determined the most appropriate method of assigning an ACL and AMs to red grouper and black grouper was by using a combined ACL for closely associated and similarly vulnerable species (i.e. gag, red grouper, and black grouper). This aggregate ACL would provide a reasonable means by which red grouper and black grouper could be managed using an ACL.

The combined commercial ACL for gag, red grouper, and black grouper would be 662,403 pounds gutted weight, and the combined recreational ACL would be 648,663 pounds gutted weight. The AM for the commercial sector is to prohibit the harvest and retention of shallow water grouper species (gag, red grouper, black grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, and tiger grouper) when the quota for gag is met. For the recreational sector, the ACL for vermilion snapper, black sea bass, gag; or the gag

red grouper, black grouper species group, would be compared with recreational landings over a range of years (the most recent three year running average). If a species *is overfished* or a species group contains an overfished species and the sector ACL is projected to be met, the harvest and retention of species or species group would be prohibited. If the ACL is exceeded, independent of stock status, the Regional Administrator would publish a notice to reduce the sector ACL in the following year by the amount of the overage. This system of ACLs and AMs would not only benefit the target species by utilizing a precautionary approach to managing stocks such as red grouper and black grouper, because their stock assessments were not completed during the development of Amendment 17B, but it would likely benefit co-occurring non-target shallow water and deepwater species when and if AMs are triggered.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in fishery management plans?

Response: No. The area affected by the proposed actions 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 Service's Highly Migratory Species Division. The proposed actions are not expected to cause any damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in fishery management plans. Amendment 17B would establish ACLs and AMs for nine snapper-grouper species. Additionally, the amendment would establish management measures to ensure the ACLs are not exceeded. This amendment is intended to set precautionary limits on harvest on species subject to overfishing and correct for any overages of those limits should they occur. Fishing effort is not expected to increase as a result of these actions, nor are changes in fishing technique or behavior expected. Therefore, impacts to coastal habitats and/or essential fish habitat would not be significantly different from the status quo.

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

Response: No. The proposed actions are not expected to have an adverse impact on public health or safety. Amendment 17B was developed pursuant to Magnuson-Stevens Act National Standard 1 requirements to set ACLs and AMs for species subject to overfishing by 2010. Establishing harvest limits such as ACLs and defining mechanisms of accountability are intended to benefit the biological environment and are not expected to incur any adverse impacts on public health or safety. Scoping meetings and public hearings were held in various locations throughout the impact range of this amendment and no such public health or safety concerns were raised (See Appendix K of Amendment 17B for a Summary of Scoping Meetings).

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. The proposed actions are not expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species. The Southeastern U.S. Atlantic snapper-grouper fishery is classified as a Category III fishery, 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. Regulations are in place to protect the species of concern, *Oculina varicosa*, within the *Oculina* Habitat Area of Particular Concern (HAPC) from shrimp trawl-related damage. 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 would not be adversely affected by actions contained within Amendment 17B due to their rare occurrence off the Atlantic coast.

The impacts of the South Atlantic snapper-grouper fishery on Endangered Species Act listed species have been evaluated in a 2006 biological opinion on the continued authorization of snapper-grouper fishing under Amendment 13C to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region, and during subsequent informal ESA section 7 consultations (NMFS 2006). The biological opinion stated the fishery was not likely to adversely affect any critical habitat or marine mammals (see NMFS 2006 for discussion on these species). However, the opinion did state the snapper-grouper fishery would adversely affect sea turtles and smalltooth sawfish.

NOAA Fisheries Service conducted an informal Section 7 consultation on July 9, 2007, evaluating the impacts of the South Atlantic snapper-grouper fishery on ESA-listed *Acropora* species. The consultation concluded that the continued operation of the snapper-grouper fishery was not likely to adversely affect newly listed *Acropora* species. On November 26, 2008, a final rule designating *Acropora* critical habitat was published in the *Federal Register*. A memo dated December 2, 2008, evaluated the effects of the continued authorization of the South Atlantic snapper-grouper fishery on *Acropora* critical habitat pursuant to section 7 of the ESA. The evaluation concluded the proposed actions are not likely to adversely affect *Acropora* critical habitat. Amendment 17B contains no measures that would allow for increased effort in the snapper-grouper fishery, and impacts on endangered or threatened species, marine mammals, or critical habitat of these species would not be significantly different from the status quo. Therefore, NOAA Fisheries Service concluded that reinitiation of Section 7 consultation for Amendment 17B is not required. The basis for this determination is described in a memorandum dated February 2, 2010.

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: No. The proposed action is not expected to substantially impact the biodiversity and/or ecosystem function within the affected area. The affected area includes the federal 200-mile limit of the Atlantic off the coasts of North Carolina, South Carolina, Georgia, and east Florida to Key West. In light of the available information, the extent of the boundaries would depend upon the degree of fish immigration/emigration and larval transport, whichever has the

greatest geographical range. Therefore, the proper geographical boundary to consider effects on the biophysical environment is larger than the entire South Atlantic exclusive economic zone. The ranges of affected species are described in Section 3.2 of Amendment 17B, which is hereby incorporated by reference. The most measurable and substantial effects would be limited to the South Atlantic region. Amendment 17B directly affects nine snapper-grouper species and may indirectly benefit many co-occurring fish species, as well some non-fish species such as sea birds and marine mammals through effort reductions when and if AMs are triggered.

Establishing ACLs, AMs, and implementing management measures to prevent future overfishing of speckled hind, warsaw grouper, snowy grouper, golden tilefish, gag, vermilion snapper, black grouper, red grouper, and black sea bass is expected to continue to increase their respective stock biomasses. In doing so, more natural population structures and healthy predator-prey relationships will be established and maintained. Because some of the subject species are upper level predators that prey primarily on fish, benthic invertebrates, and squid, the degree of competition for food resources and habitat between these species and other co-occurring species may increase as stock abundance increases. Harvest restrictions due to AMs being triggered could result in fishermen shifting effort to other species. The snapper-grouper ecosystem includes many species that occupy the same habitat at the same time. Therefore, restricted species are still likely to be caught incidentally when fishermen target other co-occurring species. Continued exploitation of any snapper-grouper species could disrupt the natural community structure of the reef ecosystems that support these species. Addressing overfishing of species in the snapper-grouper fishery, and implementing mechanisms to prevent future overfishing from occurring will benefit the ecosystem as a whole and reduce the subject species' vulnerability to adverse environmental conditions.

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

Response: There are no significant social or economic impacts that are interrelated with natural or physical environmental effects. For several of the species addressed in this amendment, previously implemented snapper-grouper amendments contain management measures that are comparable to ACLs and AMs, and; therefore, the socioeconomic impacts are analyzed in those amendments. Establishing ACLs using quota and allocations levels previously established would not incur socioeconomic impacts beyond those of the original quota or allocation specifications. This scenario applies to gag, black sea bass, vermilion snapper, and snowy grouper.

For speckled hind and warsaw grouper, an ACL of zero would be established and no directed harvest would be permitted. Additionally, all fishing for deepwater snapper-grouper species beyond a depth of 240 feet, except for golden tilefish, would be prohibited. Currently there is no allowable commercial harvest or sale of speckled hind and warsaw grouper, and the recreational bag limit is one fish per vessel per trip. The anticipated economic impacts of the new speckled hind/warsaw grouper measures that would establish an ACL of zero and prohibit the harvest of deep water species deeper than 240 feet is a reduction of \$292,000, or 3.3 percent in net operating revenues in commercial sector and less than a \$102,572 decrease in net operating revenues in the recreational sector.

For golden tilefish, a commercial quota at the yield associated with F_{MSY} was specified in Snapper-Grouper Amendment 13C; however, Amendment 13C used landings from 1999-2003 in determining the quota and further reductions in the total allowable catch are needed to set fishing mortality at a level associated that will produce the optimum yield. Therefore, Amendment 17B would define a new commercial ACL at the more conservative F_{OY} level and also establish a recreational ACL using landings data from 1986 to 2008. In the commercial sector, regulations that reduce industry landings in the short-term are expected to reduce dockside revenues in the short-term. Conversely, dockside revenues are expected to increase over time if regulations successfully increase biomass and landings. Headboats are unlikely to be affected due to the absence of headboat landings of and target trips for golden tilefish. In the recreational sector, it is likely that the implementation of the AM to reduce the length of the following fishing season could increasingly shorten the fishing season over the years.

For snowy grouper, the ACLs for the commercial (82,900 lbs gutted weight) and recreational sector (523 fish) was specified in Amendment 15B. The commercial AM, which closes the fishery when the ACL is met, was established in Amendment 13C. Amendment 17B would reduce the bag limit to one snowy grouper per vessel and would establish an AM that would reduce the length of the following fishing year if the recreational ACL was exceeded. Although the recreational ACL for snowy grouper is low, target trips for snowy grouper are also low. Therefore, the economic effect of the action for the recreational sector may be relatively small.

The SEDAR 19 2010, stock assessment indicates red grouper are overfished and undergoing overfishing, and black grouper are not undergoing overfishing and are not overfished. However, during the development process for Amendment 17B, the stock status of red grouper and black grouper was unknown. Therefore, to specify commercial and recreational ACLs for these species without having the most recent stock assessment the Council chose to use the equivalent of the expected catch resulting from management measures implemented for red grouper and black grouper, as well as the ACL for gag, specified in Amendment 16. The outcome is a combined recreational ACL for gag, black grouper, and red grouper of 648,663 lbs gutted weight, and a combined commercial ACL for gag, black grouper and red grouper of 662,403 lbs. The aggregate catch limit for gag, red grouper, and black grouper is expected to reduce the commercial net operating revenues by \$103,000, or about 1.2 percent. More recent amendments affecting the red grouper and black grouper are expected to constrain recreational landings to their respective ACLs. Thus, the ACLs and AMs specified in Amendment 17B would likely have minimal adverse economic effects in the recreational sector. Furthermore, none of the actions in Amendment 17B are expected to result in significant socioeconomic impacts.

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

Response: No. There are no foreseen effects on the quality of the human environment that may result from any of the actions contained in Amendment 17B. This amendment will establish ACLs and AMs for nine species in the snapper-grouper fishery, and will update the snapper-grouper framework procedure. Management measures intended to maintain harvest levels at or below the designated ACLs are expected to yield biological benefits in the form of ending

overfishing, continued rebuilding of overfished stocks, and the prevention of future overfishing events.

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. The proposed actions are not expected to result in substantial impacts to unique or ecologically critical areas. In the South Atlantic there are areas of unique habitat such as the *Oculina* Bank HAPC, and several deepwater coral HAPCs recently designated under Comprehensive Ecosystem-Based Amendment 1. However, regulations are currently in place to protect such known areas. Actions within Amendment 17B would not increase fishing effort or alter any regulations intended to protect critical or unique areas.

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

Response: No. The effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks. A thorough economic and social analysis of actions contained within the amendment has been completed and revealed relatively predictable positive net long-term benefits, which are likely to be realized through its implementation. Negative short-term impacts have also been thoroughly analyzed and are not considered significant and there are no uncertain or unknown risks associated with actions to establish ACLs, AMs, management measures, and framework updates.

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

Response: No. The proposed actions are not related to other actions with individually insignificant, but cumulatively significant impacts. Amendment 17B is not related to any other past, present, or future actions, which have or will occur in the South Atlantic, or any other region. ACLs and AMs are established on a species-by-species (or species group) basis. AMs triggered by exceeding an ACL may affect species other than those for which the AM is assigned; however, those impacts are expected to yield biological benefits.

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 actions are not likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places nor will it cause loss or destruction of significant scientific, cultural or historical resources. The snapper-grouper fishery is prosecuted in the vicinity of the *Oculina* Bank, which has been closed to all bottom-tending gear due to the presence of an HAPC for a fragile and rare deep-sea coral

species. Therefore, actions in this amendment are not likely to adversely affect the continued preservation of this HAPC or the species therein.

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 is not expected to result in the introduction or spread of any non-indigenous species. Amendment 17B establishes ACLs and AMs for nine species in the snapper-grouper fishery. Assigning ACLs and implementing AMs such as harvest reductions is not likely to introduce or spread any non-indigenous species.

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

Response: No. None of the proposed actions are likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Actions contained within this amendment are intended to comply with Magnuson-Stevens Act National Standard 1 requirements to establish ACLs and AMs for species subject to overfishing in 2010. These catch limits and mechanisms for accountability are intended to help end overfishing and prevent future overfishing of federally managed species. Several of the ACLs established are based on previously implemented catch levels, and those that are new were not set using any precedent-setting method, nor are they themselves precedent-setting. None of the Amendment 17B objectives or proposed actions will establish a precedent for any future actions.

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

Response: No. The proposed actions are not expected to threaten a violation of Federal, State, or local law or requirements for the protection of the environment. A thorough analysis of other applicable laws related to the implementation of Amendment 17B was conducted, as well as an environmental assessment which fulfills the mandates set forth in the National Environmental Policy Act (NEPA). These analyses revealed all actions contained in the amendment and its associated NEPA documentation are in compliance with any and all federal, state, and local laws.

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

Response: No. The proposed actions are not expected to result in any cumulative adverse effects that could have a substantial effect on the target species or non-target species. A cumulative effects analysis was conducted for Amendment 17B and revealed no cumulative adverse effects on the biological environment. Expected biological impacts are likely to be positive and extend to both target and non-target species. Addressing overfishing of species in the snapper-grouper fishery, and implementing mechanisms to prevent future overfishing from occurring will benefit the ecosystem as a whole and reduce the subject species' vulnerability to adverse environmental conditions.

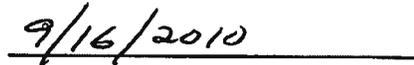
DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for Amendment 17B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region it is hereby determined that the proposed actions to establish ACLs, AMs; and management measures for speckled hind, warsaw grouper, black sea bass, vermilion snapper, gag, black grouper, red grouper, snowy grouper, and golden tilefish; and update the current snapper-grouper framework would not significantly affect 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 addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement is not necessary for this action.



for

Roy E. Crabtree, Ph.D.
Regional Administrator



Date