

**Finding of No Significant Impact (FONSI) for Amendment 18 to Fishery Management Plan
for Coastal Migratory Pelagic (CMP) Resources of the
Gulf of Mexico and South Atlantic (FMP)**

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. Setting annual catch limits (ACLs) and accountability measures (AMs) will improve the sustainability of king mackerel, Spanish mackerel, and cobia stocks. Although the amendment will remove four species from the FMP, these species have been in the FMP for more than 25 years "for data collection" purposes only. During that time, no management measures have been implemented, nor have any specific data collection programs. NOAA Fisheries Service requires fishermen and dealers that hold federal permits to submit data on any species regardless of the presence of that species in an FMP. Guidance on National Standard 7 outlines general factors that should be considered, among others, when deciding whether a fishery needs federal management. Considering these factors, all four species appear to be good candidates for removal from the FMP. States can manage harvest of the species within federal waters adjacent to state waters for vessels registered to the state or landing catch in the state. In addition, data collection through dealer reports should alert NOAA Fisheries Service if landings or effort change, and species could be added back into the FMP if necessary for conservation and management. If management of these species was desired, a plan amendment would be required whether the species are in the FMP or not.

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

Response: No. Actions in the amendment are not likely to jeopardize the sustainability of any non-target species. Because CMP species are caught near the surface, few species are incidentally caught while targeting these species. The Gulf of Mexico (Gulf) and South Atlantic Fishery Management Councils (Councils) chose not to decrease bag limits for any species; thus, the amount of regulatory discards should remain the same for the recreational sector.

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 Fishery Conservation and Management Act (Magnuson-Stevens Act) and identified in fishery management plans?

Response: No. Actions in this amendment are not 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. Under the preferred alternatives, fishery participation using the same gear and methods is expected to remain at or near its current level. 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. Actions in the amendment are not expected to have a substantial adverse impact on public health or safety because these measures should not alter fishing practices in a substantial way.

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. Actions in the amendment are not expected to adversely affect marine mammals, endangered or threatened species, or critical habitat of these species. Fishery participation using the same gear and methods is expected to remain near its current level or be reduced; therefore, impacts on endangered or threatened species, marine mammals, or critical habitat of these species would not change. The Gulf and South Atlantic coastal migratory pelagic hook-and-line fishery is classified in the 2012 MMPA List of Fisheries 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. The Gulf and South Atlantic coastal migratory pelagic gillnet fishery is classified as Category II fishery. This classification indicates an occasional incidental mortality or serious injury of a marine mammal stock resulting from the fishery (1-50% annually of the potential biological removal). The fishery has no documented interaction with marine mammals; NOAA Fisheries Service classifies this fishery as Category II based on analogy (ie., similar risk to marine mammals) with other gillnet fisheries.

In a 2007 biological opinion, NOAA Fisheries Service determined the continued existence of endangered green, leatherback, hawksbill, and Kemp's ridley sea turtles, and threatened loggerhead sea turtles was not likely to be jeopardized by fishing for CMP species in the Southeastern United States. Other listed species are not likely to be adversely affected, including ESA-listed whales, Gulf sturgeon, and *Acropora* corals.

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. Actions in the amendment are not expected to substantially impact the biodiversity and/or ecosystem function within the affected area. Fishery participation using the same gear and methods is expected to remain at or near its current level. Therefore, impacts on benthic productivity, or predator prey relationships, would not be significantly different from the status quo.

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

Response: No. Although some short-term adverse social consequences would be expected to result if harvests are reduced or closures are triggered by AMs (especially for the South Atlantic Spanish mackerel commercial sector), the measures in this amendment would be expected to result in positive long-term economic benefits for commercial and recreational fisheries. These measures are expected to result in improved management flexibility and efficiency, improved protection of species from risk of overfishing, improved protection from habitat impacts, and improved accountability for commercial and recreational sectors. This should provide better safeguards for producing and maintaining a stable resource capable of supporting steady and sustainable economic benefits to the nation in the form of ex-vessel revenues and recreational fishing opportunities.

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

Response: No, the effects on the quality of the human environment are not likely to be controversial. Few impacts are expected on the human environment from the actions; any that occur would be short-term minor impacts resulting from changes due to closures or subsequent shorter seasons. The actions are expected to improve and sustain the fishing stocks, including precautionary measures that will decrease the likelihood of exceeding the ACLs or ACTs. This should result in long-term overall benefits to communities by improving present and future fishing opportunities.

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. Actions in the amendment are not expected to result in substantial impacts to unique or ecologically critical areas. Requirements in the FMP already include restrictions on fishing in marine protected areas and habitat areas of particular concern. Nothing in this amendment is expected to alter existing fishery practices in such a way as to substantially change existing impacts to such 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. The action modifies existing established management regulations, involving commonly used management procedures, and thus does not involve unique or unknown risk. A thorough analysis of the impacts of the actions contained within the Environmental Assessment has been completed and revealed no substantial change in the human impacts is expected from the current environment.

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

Response: No. The development of ACLs and AMs for all other managed species in the Gulf and South Atlantic could impose an additional burden on CMP fishermen who supplement their income by fishing for other species. If ACLs are more restrictive for these other species than recent landings, some effort shifting might be expected. However, king mackerel commercial permits are limited access and can only be purchased from existing permit holders. Spanish mackerel and cobia are not as popular as king mackerel. Gillnets are the primary gear used to harvest Spanish mackerel, so switching to this type of fishing would require purchase of additional gear. Many king mackerel fishermen are part time because commercial quotas are usually met during the year for most zones, and fishing in those zones is then closed. For both Gulf and South Atlantic migratory groups of king mackerel, the commercial quotas will increase slightly under the ACLs, perhaps allowing a longer fishing time in some zones and reducing the level of effort shift. Thus any cumulative effects are not expected to be significant.

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. Actions in the amendment 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. In the South Atlantic, several notable shipwrecks can be found along the southeast coast in federal and state waters including Lofthus (eastern Florida), SS Copenhagen (southeast Florida), Half Moon (southeast Florida), Hebe (Myrtle Beach), Georgiana (Charleston), Monitor (Cape Hatteras), Huron (Nags Head), and Metropolis (Carolla). In the Gulf, the U.S.S. Hatteras is isolated in federal waters off Texas and is listed in the National Register of Historic Places. Shipwrecks in the Florida Keys and Dry Tortugas include USCG Cutter Duane, USS Alligator, San Pedro, Windjammer, and Bird Key. Fishing activity already occurs in the vicinity of these sites, but actions within this amendment will have no additional impacts on the above listed historic resources, nor will they alter any regulations intended to protect them.

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

Response: No. Actions in the amendment are not expected to result in the introduction or spread of any non-indigenous species. Because the proposed actions are directed towards the management of naturally occurring species in the Gulf of Mexico and South Atlantic, the introduction or spread of non-indigenous species should not occur.

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. Actions in the amendment are not likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. The actions to set ACLs, AMs, and other management measures in the CMP fishery are readily changeable by the Councils in the future. The framework as outlined in this amendment would allow timely implementation of such changes.

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. Actions in the amendment are not expected to threaten a violation of federal, state, or local law or requirements for the protection of the environment. The Environmental Assessment contains a thorough analysis of other applicable laws related to the actions in this amendment, 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 comply with 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. Although the EA contains many actions, the cumulative effects are likely not significant because of the nature of the CMP fishery, which is very different than many other fisheries. For example, in the Gulf Reef Fish and South Atlantic Snapper Grouper fisheries, all species are landed under one permit and in the same area, and each fisherman might be expected to be affected to some extent by all ACLs imposed on reef fish species. However, under the CMP FMP, one single universe of fishermen cannot be assumed. Separate commercial permits are issued to king mackerel and Spanish mackerel fishermen, and no permits are currently required for cobia fishermen. In addition, king mackerel commercial permits are limited access and can only be purchased from existing permit holders. Some overlap of these groups most certainly occurs; however, different gear types are primarily used to fish for king mackerel and Spanish mackerel, and many fishermen do not switch between gear types. Further, each species is managed under two different sets of regulations, one for each migratory group. A large portion of commercial king mackerel fishermen fish in both the Gulf and South Atlantic, but it would not be expected, for example, that a cobia fisherman in the South Atlantic would also fish for Spanish mackerel in the Gulf. Recreational fishermen are also unlikely to move between the Gulf and South Atlantic, except perhaps in the Florida Keys.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment, it is hereby determined that the proposed actions in Amendment 18 to the Coastal Migratory Pelagic FMP would not significantly affect the quality of the human environment as described above and in the supporting Environment Assessment. 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.

Miles M. Croom

for Roy E. Crabtree, Ph.D.
Southeast Regional Administrator

12/9/2011

Date