

Finding of No Significant Impact (FONSI) for Amendment 38 to Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP)

National Marine Fisheries Service (NMFS)

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. On July 22, 2005, NMFS published a Policy Directive with guidelines for the preparation of a Finding of No Significant Impact. 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, the Policy Directive from NMFS, 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. The action would change the post-season accountability measures (AMs) for shallow-water groupers such that only the species (gag or red grouper) that exceeds its annual catch limit (ACL) would have a shortened season in the following year. This change would allow fishing for shallow-water grouper species when gag is closed; however, a six-month gag closed season already exists during which fishing for other shallow-water grouper is allowed, and the AM, if triggered, would merely extend that closed season. Bycatch of gag may occur during that extension by fishermen targeting other shallow-water grouper; however, even if all shallow-water grouper are prohibited, bycatch of gag would likely still occur by fishermen targeting non-grouper species, such as greater amberjack or cobia. Furthermore, the in-season AMs still remain, allowing closures for gag, red grouper, or other shallow-water grouper if the species or species complex reaches or is projected to reach its ACL. Additional AMs exist for species that are undergoing overfishing (i.e., gag). (Sections 2.1 and 4.1)

The changes to the trigger for AMs and the framework procedure will allow quicker changes to AMs, which should benefit the stock by improved management. (Sections 2.1-2 and 4.1-2)

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. In the eastern Gulf of Mexico (Gulf), fishermen incidentally catch other shallow-water grouper, red snapper, greater amberjack, and vermilion snapper as bycatch when targeting gag and red grouper. The statuses of other shallow-water grouper species, such as scamp, are unknown. However, bycatch of other shallow-water groupers is not known to be significant, because many of these species have no or small minimum size limits. Red snapper are overfished, but overfishing was determined to have ended in 2011. Red snapper numbers have been increasing in the eastern Gulf over the past two decades and fishermen have indicated they are discarding more red snapper. Actions developed in Amendment 27 to the FMP were implemented to reduce directed fishery bycatch. Greater amberjack are overfished and undergoing overfishing. Because greater amberjack are pelagic and grouper are bottom fish, bycatch of greater amberjack is relatively low in the shallow-water grouper fishery and release mortality is estimated to be 10-20%. Vermilion snapper

are not overfished or undergoing overfishing and bycatch is not expected to jeopardize the status of this stock. Therefore, these stocks are not likely to be greatly affected by changes established in this amendment. (Chapter 7, p. 60)

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 Fishery Conservation and Management 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. (Sections 4.1.1 and 4.2.1)

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. (p. ix and Section 5.6)

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; therefore, impacts on endangered or threatened species, marine mammals, or critical habitat of these species is not expected to change. The Marine Mammals Protection Act 2012 List of Fisheries (76 FR 73912) considers vertical line gear and longline gear as Category III gear types. These gear are the dominant types used in the Gulf of Mexico reef fish fishery - vertical line (90%) and longline (5.4%). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from any fishery is less than or equal to 1% 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. (Section 3.3)

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, are not expected to be significantly different from the status quo. (Sections 4.1.2 and 4.2.2)

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

Response: No. Under current AMs, restrictions on recreational fishing opportunities for the other shallow-water grouper species could result in economic losses to fishermen, and associated businesses, who fish for these species. Modifying the post-season AM to apply only to the species (gag or red grouper) that exceeds its ACL may allow relatively greater opportunity for those recreational fishermen, if the gag or red grouper ACL is expected to be exceeded. However, the in-season AMs still remain, allowing closures for gag, red grouper, or other shallow-water grouper if the species or species complex reaches or is projected to reach its ACL. Because of these in-season AMs, the expectation of exceeding the ACL is low and the triggering of post-season AMs is unlikely to occur. Therefore, no significant social or economic impacts are expected. (Sections 4.1.3-4)

The changes to the trigger for AMs and the framework procedure will allow AMs to be changed more quickly, which should benefit the stock and provide long-term benefits to the fishery. (Sections 4.1.3-4 and 4.2.3-4)

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 an extension of the six months when gag are closed, but other shallow-water grouper could be fished. (Sections 4.1.4 and 4.2.4)

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. Regulations in the FMP include restrictions on fishing in marine protected areas and habitat areas of particular concern. The actions in this amendment do not change those restrictions. (Section 3.2)

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 environmental assessment contains a thorough analysis of the impacts of the actions and revealed that no substantial changes in the human environment are expected to occur. Further, fishery participation using the same gear and methods is expected to remain at or near its current level. (Sections 4.1.3-4 and 4.2.3-4)

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

Response: No. Present management measures work to limit the harvest to sustainable levels. Reasonably foreseeable future actions are expected to benefit managed species. Cumulative effects to the reef fish fishery relative to accountability measures were analyzed in detail in Amendments 30B and 32 to the Reef Fish FMP and the Generic ACL/AM Amendment. These analyses concluded

accountability measures would have short-term economic impacts but long-term biological impacts, if triggered; however, the frequency of triggering and the severity of the restrictions cannot be known. The changes to the gag and red grouper accountability measures contained in Amendment 38 are minor and not expected to result in significant changes to fishing activities. Therefore, no individually insignificant but cumulative significant impacts are expected. (Section 4.3)

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 cause loss or destruction of significant scientific, cultural or historical resources. In the Gulf, the U.S.S. Hatteras, isolated in federal waters off Texas, is listed in the National Register of Historic Places. Fishing activity already occurs in the vicinity of this site, but actions within this amendment would have no additional impacts on listed historic resources, nor would they alter any regulations intended to protect them. (Section 3.2)

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, the introduction or spread of non-indigenous species should not occur. (Section 3.3)

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 modify AMs and the framework are readily changeable by the Gulf of Mexico Fishery Management Council in the future.

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. A thorough analysis of other applicable laws related to the actions in this amendment was conducted in the environmental assessment, which fulfills the mandates set forth in the National Environmental Policy Act (NEPA). These analyses do not indicate any reasonable expectation that the actions contained in the amendment threaten violation of federal, state, or local laws. (Appendix B)

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. Present management measures work to limit the harvest to sustainable levels, and reasonably foreseeable future actions are expected to benefit managed species. These measures are

intended to prevent overfishing and allow for sustainable fisheries. Amendment 32 to the FMP outlined a rebuilding plan for gag which would rebuild the stock within 10 years. Changes proposed in Amendment 38 would not jeopardize this rebuilding plan, but would ease restrictions on fishing for species other than gag.

Non-fishing activities are likely to adversely affect reef fish stocks, including loss of larvae by liquid nitrogen gas facilities and damage to habitat through the Deepwater Horizon MC252 oil spill. Global climate change can affect marine ecosystems through ocean warming by increased thermal stratification, reduced upwelling, sea level rise, and through increases in wave height and frequency, loss of sea ice, and increased risk of diseases in marine biota. These influences could affect biological factors such as migration, range, larval and juvenile survival, prey availability, and susceptibility to predators. At this time, the level of impacts cannot be quantified, nor is the time frame known in which these impacts will occur. However, the cumulative impacts are not expected to be significant. (Section 4.3)

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 38 to the Reef Fish 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.

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for Roy E. Crabtree, Ph.D.
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Date