Finding of No Significant Impact (FONSI) for:
Regulatory Amendment 18 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 18)

National Marine Fisheries Service

The National Marine Fisheries Service (NMFS) intends to implement Regulatory Amendment 18, which would update harvest limits and management measures for red porgy and vermilion snapper in the South Atlantic. Southeast Data, Assessment, and Review (SEDAR) stock assessment updates for vermilion snapper and red porgy were completed in October 2012. The vermilion snapper update indicates the stock is no longer undergoing overfishing and is not overfished. The stock assessment update for red porgy indicates the species is not undergoing overfishing but is still overfished. Furthermore, the red porgy assessment update determined the stock cannot rebuild on schedule even if $F_{rebuild}$ were set to zero for the remainder of the rebuilding period. The South Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) has reviewed the stock assessment updates and recommended updated acceptable biological catch levels (ABC) for both species. Based on the new ABC recommendations Regulatory Amendment 18 would update the annual catch limits (ACLs) for vermilion snapper and red porgy. Additionally, the amendment would update the annual catch target (ACT) for red porgy.

The SSC recommended a larger ABC for vermilion snapper than is currently in place, which could result in an increase in the commercial and recreational ACLs. However, even with a larger commercial ACL, in-season closures are still expected. Therefore, Regulatory Amendment 18 would reduce the current commercial trip limit from 1,500 pounds gutted weight to 1,000 pounds gw with a trip limit step down to 500 pounds gw when 75 percent of the commercial ACL is met or projected to be met. Additionally, Regulatory Amendment 18 would remove the annual five-month recreational vermilion snapper closure because harvest limits and accountability measures (AMs) implemented through previous amendments to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP) as well as the increased catch levels from the update assessment have made the closure biologically unnecessary.

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 regulations at 40 CFR 1508.27 state the significance of an action should be analyzed both in terms of "context" and "intensity." Additionally, NMFS has issued guidance for drafting a FONSI, which is found in NMFS Instruction 30-124-1, July 22, 2005, Guidelines for the Preparation of a FONSI. 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 Regulatory Amendment 18 are expected to jeopardize the sustainability of any target species. The biological impacts analysis (Chapter 4 of the environmental assessment [EA]) indicates there is very little probability that modifying the harvest limits for vermilion snapper and red porgy, or decreasing the commercial trip limit and removing the recreational seasonal closure for vermilion snapper would adversely affect any target species in the South Atlantic region. Updating the ACLs for vermilion snapper and red porgy is necessary based on the outcome of the October 2012 stock assessment updates for both species. Reducing the trip limit for vermilion snapper and removing the five-month recreational closure would help maximize fishing opportunities for fishery participants during each of the commercial split seasons and during the recreational fishing season. However, the cap on harvest would limit the amount of overall harvest to the level determined to be appropriate to prevent overfishing from occurring.

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

Response: No. Actions in Regulatory Amendment 18 are not likely to jeopardize the sustainability of any non-target species. Based on the biological impacts analysis conducted for this amendment (Chapter 4 of the EA) and the Bycatch Practicability Analysis found in Appendix C of the EA, there is no indication that any action contained in Regulatory Amendment 18 would adversely affect non-target species. Management measures in the amendment are species-specific for vermilion snapper and red porgy, and are not likely to significantly increase or decrease the level of bycatch or bycatch mortality of non-target species that may co-occur with these snapper-grouper stocks.

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 (FMP)?**

Response: No. The area affected by the proposed actions has been identified as Essential Fish Habitat (EFH) in the Council's FMPs for Shrimp, Snapper-Grouper, Coral, Dolphin-Wahoo, Sargassum, and Golden Crab; the joint Council and Gulf of Mexico Fishery Management Council's FMPs for Coastal Migratory Pelagics and Spiny Lobster; the Mid-Atlantic Fishery Management Council's FMPs for Bluefish and Squid/Mackerel/Butterfish, and the Consolidated FMP for Highly Migratory Species managed by NMFS. As specified in the Magnuson-Stevens Fishery Conservation and Management Act, EFH consultation is required for federal actions which may adversely affect EFH. However, as the federal action agency in this matter, the Sustainable Fisheries Division has determined that the proposed actions would not adversely affect EFH. Support for this finding is contained in each of the Biological Effects subsections in Chapter 4 of the EA. Fishing effort is not expected to significantly increase as a result of these actions, nor are changes in fishing technique or behavior expected. Therefore, impacts to coastal

habitats and/EFH would not be significantly different from the status quo. This determination may be found in a memorandum to the file dated March 8, 2013.

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. None of the actions in Regulatory Amendment 18 would modify the way in which the snapper-grouper fishery is prosecuted. As discussed in Chapter 4 of the EA, Environmental Consequences and Comparison of Alternatives, no significant increase or decrease in fishing effort is expected, nor would the gear types or how the allowable gear are used are expected to change under the proposed actions.

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. Based on the impacts analysis contained in Chapters 2 and 4 of the EA, the actions in Regulatory Amendment 18 are not expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species beyond the status quo. According to the 2012 final List of Fisheries (76 FR 73912, November 29, 2011) the hook-and-line (the gear type used to harvest vermilion snapper and red porgy) segment of the Southeastern U.S. Atlantic snapper-grouper fishery is classified as a Category III fishery, meaning the fishery is associated with a remote likelihood of interacting with marine mammals and no known interactions have been recorded.

NMFS conducted an Endangered Species Act (ESA) determination (memorandum to the file dated March 15, 2013) for Regulatory Amendment 18 and found that the proposed actions are unlikely to alter fishing practices in a way that would cause new adverse effects to listed species or critical habitat that were not considered in previous consultations.

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 actions are not expected to substantially impact the biodiversity and/or ecosystem function within the affected area (See Chapter 4 of the EA for impacts analysis). 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. The biological ranges of affected species are described in Chapter 3.0 of Regulatory Amendment 18. The level of participation in the commercial snapper-grouper fishery is controlled through a limited access permit program; therefore, slightly increasing the commercial ACL for vermilion snapper is not expected to significantly increase the overall level of fishing effort. Reducing the vermilion snapper commercial trip limit could reduce the rate at which the commercial split-season ACLs are reached and reduce the risk of the ACLs being exceeded, which is a biological benefit of this action. Eliminating the recreational closed season for vermilion snapper is not likely to increase or modify recreational fishing effort since the recreational ACL is not expected to be met even

without the five-month annual recreational closure. The ACL for red porgy would be decreased slightly; therefore, directed fishing effort on that species would decrease proportionately, which would also benefit the biological environment.

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

Response: No. As indicated in the social and economic impacts analysis contained in Chapter 4 of the EA, there are no significant social or economic impacts that are interrelated with natural or physical environmental effects. The purpose of Regulatory Amendment 18 is to modify the sector ACLs for vermilion snapper and red porgy, and adjust vermilion snapper management measures in response to the new ACLs. None of these harvest limits or management modifications would significantly alter the way in which the snapper-grouper fishery is prosecuted, nor would they result in significant adverse socioeconomic impacts over the baseline conditions of the fishery explained in Chapter 3 of the EA.

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 be highly controversial as a result of any of the actions contained in Regulatory Amendment 18. Regulatory Amendment 18 was developed in response to stock assessment updates for vermilion snapper and red porgy. The outcome of those assessment updates have not resulted in controversial issues being raised by the public. Each of the three workshops conducted under the SEDAR process is open to the public, and public comments were taken on the amendment during the March 2013 Council meeting. Some industry participants oppose the reduction of the red porgy ACL that would take place under this amendment; however, a new benchmark stock assessment for the species has been scheduled for 2014, and new ACLs will be considered by the Council based on the results of that benchmark assessment.

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, areas of unique habitat exist such as the Oculina Bank and large expanses of deepwater coral; however, regulations are currently in place to protect these areas. Additionally, there are several notable shipwrecks along the southeast coast in state and federal waters including Lofthus (eastern Florida), SS Copenhagen (southeast Florida), Half Moon (southeast Florida), Hebe (Myrtle Beach, South Carolina), Georgiana (Charleston, South Carolina), Monitor (Cape Hatteras, North Carolina), Huron (Nags Head, North Carolina), and Metropolis (Corolla, North Carolina). The southeastern coastline is also home to numerous marshes and wetland ecosystems; however, these sensitive ecological environments do not extend into federal waters of the South Atlantic. As discussed in each of the Biological Effects sections in Chapter 4 of the EA, actions within this amendment would not

affect any of the above listed habitats or historic resources. Nor would the actions alter any regulations intended to protect them (as discussed in Appendix F, Other Applicable Law).

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 biological, economic, and social analysis of the potential impacts of the actions has been conducted and is contained within Chapter 4 of Regulatory Amendment 18. The analysis revealed predictable short-term and long-term impacts based on biological and socioeconomic data for the snapper-grouper fishery.

None of the actions contained in Regulatory Amendment 18 are likely to result in any biological impacts that could be considered unique or unknown. Because the level of fishing for vermilion snapper and red porgy would not increase or decrease significantly as a result of the amendment actions, no significant biological impacts are anticipated (see Chapter 4, Biological Impacts). Any impacts on the socioeconomic environment are predictable and have been analyzed in the document (see Chapter 4, Social and Economic Impacts).

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. A Cumulative Impacts Analysis (Chapter 6 of the EA) was conducted for Regulatory Amendment 18. Several other Snapper-Grouper FMP amendments are currently under development, one of which is Regulatory Amendment 14 to the Snapper-Grouper FMP. Regulatory Amendment 14 to the Snapper-Grouper FMP includes actions to modify the current system of accountability measures (AMs) for vermilion snapper, which would improve the effectiveness of these AMs, and further reduce the risk of the species' ACLs from being exceeded, and correct for any ACL overages should they occur. Modifications to AMs for red porgy are likely to be addressed in a future amendment. Such modifications to the AMs are not considered significant on their own or when combined with the effects of the actions contained in Regulatory Amendment 18.

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, and several *Lophelia pertusa* deepwater coral locations, which have been closed to all bottom-tending gear. These areas containing *Oculina* sp. and *Lophelia* sp. deep-sea coral have been designated Coral Habitat Areas of Particular Concern (CHAPC) and actions in this amendment are not likely to adversely

affect the continued preservation of the designated CHAPCs or the species therein (see Chapter 4, Biological Impacts).

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 including lionfish. As discussed in each of the Biological Effects sections in Chapter 4 of the EA, the actions in Regulatory Amendment 18 would not affect the manner or areas in which the fishery is prosecuted; therefore, no new introduction of non-indigenous species is expected.

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 would establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Regulatory Amendment 18 would update harvest limits and management measures for vermilion snapper and red porgy in response to recently completed stock assessment updates for both species. Modifying ACLs, ACTs, and trip limits do not represent a novel approach to managing fisheries in the South Atlantic, nor do these actions represent a decision in principle about a future consideration. The Comprehensive ACL Amendment (SAFMC 2011) established ACLs for species not undergoing overfishing, while Amendment 17B to the Snapper-Grouper FMP (SAFMC 2010) specified ACLs for species that were undergoing overfishing at the time the amendment was developed. Both of these amendments explained that harvest parameters, including ACLs, ACTs, AMs, and ABCs would need to be changed periodically in response to new scientific information. Management measures intended to constrain harvest to the specified ACLs are also often changed in response to increasing or decreasing ACLs based on new scientific information. The modifications being made through Regulatory Amendment 18 are being implemented via the Framework Procedure for the Snapper-Grouper FMP as updated through Amendment 17B to the Snapper-Grouper FMP, as discussed in the Summary section of the EA.

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. Appendix F (Other Applicable Law) outlines each law that could apply to target and non-target species affected by Regulatory Amendment 18. None of the actions or alternatives contained in the amendment would result in implementation of regulations contrary to any law that relates to the protections of the environment.

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 (see Chapter 6 of the EA). A cumulative effects analysis was conducted for Regulatory Amendment 18 and revealed no cumulative adverse effects on the biological environment, which includes all target and non-target species. Regulatory Amendment 18 would update ACLs for vermilion snapper and red porgy, and modify management measures for vermilion snapper based on the outcome of recently completed stock assessment updates for each species. These changes are considered routine in nature and would not result in a significant increase or decrease in fishing harvest allowances for the snapper-grouper fishery. Therefore, no adverse cumulative impacts on target or non-target species are expected.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA prepared for Regulatory Amendment 18, it is hereby determined that the proposed actions to update the ACLs for vermilion snapper and red porgy, update the recreational ACT for red porgy, decrease the vermilion snapper commercial trip limit, and eliminate the vermilion snapper recreational closure 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.

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Southeast Regional Administrator

7/23/13
Date

References

SAFMC (South Atlantic Fishery Management Council). 2010. Amendment 17B, Final Environmental Impact Statement, Initial Regulatory Flexibility Analysis/Regulatory Impact Review, and Social Impact Assessment/Fishery Impact Statement for the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.

SAFMC (South Atlantic Fishery Management Council). 2011. Comprehensive Annual Catch Limit (ACL) Amendment of the South Atlantic Region including Snapper Grouper Amendment 25. South Atlantic Fishery Management Council, 4055 Faber Place, Ste 201, North Charleston, S.C. 29405.