Finding of No Significant Impact (FONSI) for
Measures in Regulatory Amendment 19 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 19)

National Marine Fisheries Service

August 2013

Introduction

This FONSI was prepared in accordance with National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6; May 20, 1999) and National Marine Fisheries Service (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 FONSI provides a brief description of the proposed management action and alternatives and summarizes why measures contained in the environmental assessment (EA) would not have a significant effect on the human environment. Attached is the EA, titled *Regulatory Amendment 19 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region*, dated April 2013.

The EA contains one action and three alternatives (Table 1). The purpose for the action is to modify the annual catch limits (ACL), recreational annual catch target (ACT), and optimum yield (OY) for black sea bass for the June 1 through May 31 fishing year, beginning in 2013, based on the results of a stock assessment completed in 2013. The need for action is to (1) ensure black sea bass management benchmarks are based upon the best available science, (2) ensure overfishing of black sea bass does not occur, (3) enhance socioeconomic benefits to fishermen and fishing communities that utilize the black sea bass portion of the snapper-grouper fishery, and (4) prevent interactions between black sea bass pot gear and Endangered Species Act (ESA)-listed whales during large whale migrations and right whale calving season off the southeastern coast (November 1 through April 30).

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

Alternative Number	Preferred	Alternative Description[1]
Action 1. Revise the Annual Catch Limits, Recreational Annual Catch Target and Optimum Yield for Black Sea Bass		
1 (no action)		For black sea bass, retain the current annual catch limits (ACLs), optimum yield (OY), and recreational annual catch target (ACT) formulas and values: Current ACL = 847,000 pounds (lbs) whole weight (ww) = 718,000 lbs gutted weight (gw) Commercial ACL = 309,000 lbs gw (364,620 lbs ww) (June 1 –May 31 fishing year) Recreational ACL = 409,000 lbs gw (482,620 lbs ww) (June 1-May 31 fishing year) Recreational ACT = 347,650 lbs gw (410,227 lbs ww) (June 1 –May 31 fishing year)
2		For black sea bass, retain the current ACL and ACT formulas and revise the ACLs and recreational ACT for the 2013/14 fishing season and beyond until modified as shown below. Retention, possession, and fishing for black sea bass is prohibited using black sea bass pot gear, annually, from November 1 through April 30. ACL = ABC = OY Total ACL / Commercial ACL 2,133,000 lbs ww (2013) / 917,190 lbs ww (2013) 1,992,000 lbs ww (2014) / 856,560 lbs ww (2014) 1,814,000 lbs ww (2015) / 780,020 lbs ww (2015) Recreational ACL / Recreational ACT 1,215,810 lbs ww (2013) / 1,062,861 lbs ww (2013) 1,135,440 lbs ww (2014) / 992,602 lbs ww (2014) 1,033,980 lbs ww (2015) / 903,905 lbs ww (2015)
3		For black sea bass, revise the total ACL, sector ACLs, recreational ACT, and OY values based on results from new stock assessment (SEDAR 25 Update 2013). Retain the values until modified. Change the ACL formula to ACL = OY = yield at 75%F_{MSY} when the stock is at equilibrium. The specified OY, ABC, ACLs, and recreational ACT would remain in place until modified. Retention, possession, and fishing for black sea bass is prohibited using black sea bass pot gear, annually, from November 1 through April 30. ACL = OY = 1,756,450 lbs ww Commercial ACL = 755,274 lbs ww Recreational ACL = 1,001,177 lbs ww Recreational ACT = 875,229 lbs ww Note: values represent landings only.
4	X	For black sea bass, revise the total ACL, sector ACLs, recreational ACT, and OY values based on the results from the new stock assessment (SEDAR 25 UPDATE 2013). Change the ACL formula to 1. 2013-2015 ACL = OY = 1,814,000 lbs ww 2. 2016 onwards ACL = OY = 1,756,450 lbs ww (yield at 75% F_{MSY} when the stock is at equilibrium). Commercial ACL 780,020 lbs ww (2013-2015) 755,274 lbs ww (2016) Recreational ACL 1,033,980 lbs ww (2013-2015) 1,001,177 lbs ww (2016) Recreational ACT 903,905 lbs ww (2013-2015) 875,228 lbs ww (2016)

[1] See **Chapter 2** of the EA for a more detailed description of the alternatives.

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 NMFS Instruction 30-124-1, July 22, 2005, Guidelines for Preparation of Finding of No Significant Impact. 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 would not be expected to jeopardize the sustainability of any target species. As discussed in **Chapter 4** of the EA, the proposed action, including the specification of the ACL in **Alternatives 2** and **3**, is consistent with (1) results from the 2013 assessment conducted by Southeast Data Assessment and Review (SEDAR), (2) acceptable biological catch (ABC) recommendation from the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee (SSC), and (3) the ABC control rule developed by the South Atlantic Council and SSC and implemented through the Comprehensive ACL Amendment. The assessment has been peer reviewed and is based on the best available scientific information.

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 non-target species. As discussed in **Appendix B (Bycatch Practicability Analysis)** and **Section 4.1.1 (Biological Effects)**, raising the current ACLs is expected to increase fishing opportunities for black sea bass, and extend the length of the commercial and recreational fishing seasons, which would have the potential to reduce bycatch of black sea bass because black sea bass could be retained during the open fishing seasons.

Conversely, bycatch of co-occurring species could increase if the black sea bass seasons are longer compared to recent years and directed fishing effort for black sea bass increases. However, in the commercial sector there is not much bycatch associated with black sea bass pots, which dominates the commercial harvest of the species. It is possible that some of the 32 black sea bass pot endorsement holders might use vertical line gear to target black sea bass during a prohibition on the use of black sea bass pots; however, the magnitude of any increase in effort is likely to be small. Additionally, there could be increased targeting of black sea bass by other snapper-grouper commercial fishermen who do not possess black sea bass pot

endorsements due to an increase in the ACL. However, vertical line gear catch of black sea bass has historically been very small. Furthermore, black sea bass are taken in shallower water than many other snapper-grouper species, where release mortality of discarded species is low. Therefore, incidental mortality of other non-target species that might be taken by some black sea bass pot endorsement holders during the November through April prohibition on the use of black sea bass pot gear, or by other snapper-grouper commercial fishermen using vertical hook-and-line gear would be expected to be small.

In the recreational sector, fishermen are more opportunistic and often do not target any particular species. Thus, bycatch of co-occurring species associated with any targeting of black sea bass may remain the same despite an increase in the length of the black sea bass recreational fishing season. In addition, fishing for black sea bass occurs in fairly shallow water where release mortality of many fish species is low. Furthermore, the final rule to implement Regulatory Amendment 18 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 18), increases commercial and recreational ACLs for vermilion snapper. The increase in the ACLs for vermilion snapper, which is one of the top co-occurring species with black sea bass, is expected to extend the length of the fishing seasons for vermilion snapper. Regulatory Amendment 18 removes a 5-month recreational closure for vermilion snapper, which would further reduce bycatch of vermilion snapper because the species could be retained during the open season. The November 1 through April 30 prohibition of black sea bass of harvested with pot gear is not expected to change bycatch levels of black sea bass or co-occurring species as the pot gear must be returned to shore when fishing with the gear is prohibited.

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 Consolidated Highly Migratory Species (HMS) FMP of NMFS's HMS Division. Changes in fishing method are not expected from the actions. 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 **Sections 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 methods in a way that would impact the safety of commercial or recreational fishermen. These impacts are described in the EA in **Chapters 2** and **4.**

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 ESA and/or Marine Mammal Protection Act 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.

As discussed in **Section 3.3**, there are 40 species protected by federal law that may occur in the exclusive economic zone (EEZ) of the South Atlantic Region and are under the purview of NMFS. Portions of designated critical habitat for North Atlantic right whales and *Acropora* corals also occur within the South Atlantic Council's jurisdiction. North Atlantic right whales are likely to occur in the areas under the South Atlantic Council's jurisdiction from approximately November 1 through April 30. Fixed fishing gear, including sink gillnets, drift nets, and trap/pot gear are all known to entangle large whales, particularly right and humpback whales. It is important to note that, as discussed in Section 3.3 of the EA, there are no documented interactions between the black sea bass pot sector and large whales.

An increase in the commercial ACL, as proposed in **Alternatives 2-4**, could extend the commercial fishing season into the large whale migration, and right whale calving season (November 1 through April 30). Since 2010, the commercial sector was closed each year before the beginning of the large whale migration and right whale calving season because the commercial ACL had been met. Twenty-four potential seasonal closure dates were estimated across the four projection methodologies; 18 indicated the commercial fishing season would extend into the large whale migration and right whale calving season (November 1 through April 30), six indicated it would close prior to that period. Like **Alternative 1 (No Action)**, **Alternatives 2-4** are unlikely to have any effect on large whales because they include a provision to close the black sea bass trap/pot sector during the time of year when large whales are anticipated in the South Atlantic. Under all three alternatives, black sea bass trap/pot fishing would still be subject to trap/pot gear requirements established under the Atlantic Large Whale Take Reduction Plan, which include line marking, weak links, sinking ground lines, and no wet storage of gear.

As discussed in **Section 4.1.1**, relative to **Alternative 1 (No Action)**, **Alternatives 2-4** are likely to be slightly less biologically beneficial to sea turtles, smalltooth sawfish, and Atlantic sturgeon. Based on the projected closure dates using the approaches in **Table 4.1.2** and **Table 4.1.3**, the two alternatives would allow black sea bass trap/pot gear to remain in the water slightly longer

than **Alternative 1 (No Action)**. However, since interactions between black sea bass pot/gear and sea turtles, smalltooth sawfish, and Atlantic sturgeon are not anticipated, these alternatives would likely have very similar biological benefits for these species and may have only marginally less biological benefit than **Alternative 1 (No 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. As more fully discussed in **Chapter 4** of the EA, the proposed action, including the specification of the ACL in **Alternatives 2**-4, are consistent with (1) results from a 2013 assessment, (2) ABC recommendation from the South Atlantic Council's SSC, and (3) the ABC control rule developed by the South Atlantic Council and SSC and implemented through the Comprehensive ACL Amendment. The assessment has been peer reviewed and is based on the best available scientific information.

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

Response: No. In the context of the entire fishery as a whole, the social and economic impacts of the alternatives are not expected to be significant as the net effects of the proposed action are expected to be positive and their magnitude comprises a relatively small portion of the entire economic and social activities associated with the snapper-grouper fishery in the South Atlantic. These impacts are described in **Section 4.1.2** and **4.1.3** of the EA.

All harvests (all trips and all species) by commercial vessels harvesting snapper-grouper averaged approximately 11.24 million pounds whole weight (lbs ww) valued at $24.74 million (2011 dollars) over 2003-2007. Under **Alternative 2**, the real ex-vessel revenue increase would be over $1.2 million in 2013, over $1.1 million in 2014, and over $900,000 in 2015 using average 2007-2011 ex-vessel prices in real 2011 dollars, adjusted for inflation. Under **Alternative 3**, the commercial ACL would increase by an additional 390,654 lbs ww, potentially amounting to an approximate increase in real ex-vessel revenue of a little under $900,000 (using average ex-vessel prices 2007-2011 in 2011 dollars adjusted for inflation). The economic effects of **Preferred Alternative 4** fall between those of **Alternative 2** and **Alternative 3**. Ninety percent of the commercial landings have historically been landed by the black sea bass pot sector; there are 32 black sea bass pot endorsement holders.

Likewise, recreational harvest of black sea bass in pounds is only a minor component of the total recreational harvest of all snapper-grouper species. Recreational snapper-grouper harvest in the South Atlantic averaged approximately 10.8 million lbs ww per year during 2005-2009. As discussed in **Section 3.4.2.1**, from 2007-2012, the recreational harvest of black sea bass averaged approximately 614,336 lbs ww per year.

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

Response: No. As discussed in **Section 4.1.3,** In general, the higher the ACL, the greater the social and economic benefits that would be expected to accrue, assuming long-term recovery and rebuilding goals are met. The six month prohibition on the use of black sea bass pots could elicit controversy among the 32 fishermen who have endorsements; however, this controversy will be offset to a degree by the substantial increase in the ACL, and the expected positive economic and social effects to fishermen and fishing communities.

In recent years the black sea bass commercial sector has existed under derby conditions, in which the quota is met and sometimes exceeded in just a few weeks. In addition to concerns about safety at sea that arise from the race to fish, the derby periods result in a large amount of black sea bass on the market in a very short period of time. This may cause reduced market value and lower product quality, and the bust-and-boom nature of the commercial black sea bass component of the snapper-grouper fishery may hinder business stability and steady job opportunities for captain and crew. A similar situation exists in the black sea bass recreational sector in which recreational harvest is allowed for a few months during the summer before the recreational ACL is met or exceeded and harvest is prohibited. Under **Alternative 1 (No Action)**, it would be expected that the conditions for both the commercial and recreational sectors would continue and the ACLs are met quickly. An increase in the black sea bass ACL under **Alternatives 2-4** may help extend the fishing seasons for both sectors. Thus, the effects on the quality of the human environment are not expected to be controversial.

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. As discussed in **Section 6.1,** this action is not likely to result in direct, indirect or cumulative effects to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas 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. The U.S.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the boundaries of the South Atlantic EEZ The proposed actions are not likely to cause loss or destruction of these National Marine Sanctuaries because the actions are not expected to result in appreciable changes to current fishing practices.

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

Response: No. As discussed in **Sections 1.7** and **3.2.2** of the EA, the proposed action is consistent with (1) results from a 2013 assessment conducted by SEDAR, (2) ABC recommendation from the South Atlantic Council's SSC, and (3) the ABC control rule developed by the South Atlantic Council and SSC and implemented through the Comprehensive ACL Amendment. The assessment has been peer reviewed and is based on the best available scientific information.

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

Response: No. The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. The impacts of the proposed alternatives on the biological, physical, and human environment are described in **Chapters 4** and **6**. The cumulative effects of the proposed action on target and non-target species are detailed in **Chapter 6** of the EA. The cumulative effects analysis revealed no significant, cumulative adverse effects on the biological environment. The alternatives are consistent with the objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region and the ABC recommendation from the South Atlantic Council's SSC. The scientific information upon which the black sea bass ACL is derived 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.

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 would not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. The U.S.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the boundaries of the South Atlantic EEZ. However, as discussed in **Section 6.1**, the proposed actions are not expected to significantly alter fishing methods in a way that would be expected to adversely affect 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 actions are not expected to significantly alter fishing in a way that would be expected to result in the introduction or spread of a non-indigenous species. There is no evidence or indication that the snapper-grouper fishery has ever resulted in the introduction or spread of non-indigenous species. The biological impacts are discussed in **Section 4.1.**

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. The proposed action would increase the black sea bass ACLs and implement a six month prohibition on the use of black sea bass pots. Modifying ACLs and seasonal closures 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. As new stock assessments are completed, or other biological information about black sea bass becomes available in the future, the ACL would be expected to

be adjusted according to FMP objectives and the ABC recommendation from the South Atlantic Council's SSC. These impacts are described in **Chapter 4** of the EA.

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 F**.

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 **Chapters 4** and **6**. The cumulative effects of the proposed action on target and non-target species are detailed in **Chapter 6** of the EA. The cumulative effects analysis revealed no significant, cumulative adverse effects on the biological environment. The proposed actions are consistent with the objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region and the ABC recommendation from the South Atlantic Council's SSC. The scientific information upon which the black sea bass ACL is derived (SEDAR 25 Update) has been peer reviewed and is based on the best available scientific information.

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.

9/6/13

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

Date