



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment of the Gray's Reef National Marine Sanctuary Regulation of Spearfishing Gear

The National Oceanic and Atmospheric Administration (NOAA), National Ocean Service, Office of National Marine Sanctuaries Gray's Reef National Marine Sanctuary (GRNMS or sanctuary) has completed an environmental assessment (EA) dated in December 2009 to evaluate potential environmental effects associated with further regulating spearfishing within the sanctuary. The proposed action would eliminate "spearfishing gear without powerheads" from the sanctuary's list of allowable gear and would add language that would allow possessing or carrying spearfishing gear in the sanctuary only when it is stowed, not available for immediate use, and aboard vessels that are passing through the sanctuary without interruption. The EA is the basis for NOAA's Office of National Marine Sanctuaries' finding of no significant impact for this proposed action.

NOAA Administrative Order (NAO) 216-6 (revised May 20, 1999) provides eleven criteria for determining the significance of the impacts of a proposed action. These criteria are discussed below with respect to the proposed action. Based on the analysis in the environmental assessment, the ONMS finds that:

1. Are there both beneficial and adverse impacts of the proposed action that when combined result in a net benefit?

The purpose of the proposed action is to protect and maintain the sanctuary's biological integrity as required by the National Marine Sanctuaries Act, the GRNMS designation document, and the GRNMS Final Management Plan (NMSP 2006). Prohibiting the use of spearfishing gear within GRNMS will better protect those sanctuary resources targeted by spearfishing, while also facilitating enforcement of an existing prohibition against the use of powerhead attachments for spearfishing. Compared to the no action alternative, the proposed action is expected to prevent potential negative impacts, and as a result to improve, measurably but not significantly, the condition of the sanctuary's biological resources. No adverse impacts to biological resources are anticipated.

According to interviews with businesses and organizations offering dive trips along the Georgia coast, there is currently no chartered spearfishing within the GRNMS. On-water observations from fishermen, scuba divers, and researchers suggest that private boat based spearfishing occurs at a relatively low level within the sanctuary. The abundance of substitution sites for private boat based spearfishing, and the absence of chartered spearfishing, suggest that the proposed action will have no measurable economic impact.

2. What is the degree to which public health or safety is affected by the proposed action?
The proposed action is not expected to affect public health or safety.



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3. Are there unique characteristics of the geographic area in which the proposed action is to take place?

The GRNMS encompasses one of the largest nearshore live-bottom reefs in the southeastern United States. The sanctuary is a marine protected area in federal waters in the South Atlantic Bight, an area of continental shelf stretching from Cape Hatteras, North Carolina to Cape Canaveral, Florida. It is the only marine protected area in the region that focuses on protection and conservation of all marine natural resources. Located 17.5 nautical miles offshore of Sapelo Island, Georgia, the 16.68-square-nautical-mile sanctuary contains rocky ledges and sandy flats. Unlike reefs built by corals, GRNMS comprises scattered limestone rock outcroppings that stand above the sandy substrate of the nearly flat continental shelf. The reef also supports soft corals, non-reef-building hard corals, bivalves and sponges, as well as associated fishes and sea turtles. The proposed action would provide additional protection to the sanctuary's unique biological resources.

4. What is the degree to which effects on the human environment are likely to be highly controversial?

Overall, the effects are not likely to be highly controversial. During the public comment period, NOAA received several comments disputing the biological impacts of spearfishing described in the Draft EA and some comments threatened legal action if the action were implemented. However, no scientific data were offered by the commenters to support these comments. The effect of spearfishing on size-distribution in targeted fish populations is well established and is not the subject of scientific controversy. Therefore, NOAA has confidence in the credibility of the biological and socio-economic data upon which its decision to prohibit spearfishing in the sanctuary is based. NOAA has also considered comments regarding the need for the action in order to facilitate enforcement of the prohibition against powerheads and has concluded that the record supports NOAA's view that the prohibition will improve the ability to enforce the powerhead regulation.

5. What is the degree to which effects are highly uncertain or involve unique or unknown risks?

The effects of the proposed action are not highly uncertain and do not involve unique or unknown risks. Since deferring a proposed rule to prohibit spearfishing in 2006, NOAA has conducted additional research to elucidate the socioeconomic impacts of such a prohibition. This research has removed uncertainty about the effects of this action and has borne out the finding that it would have a negligible economic impact.

6. What is the degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

The proposed action does not establish a precedent for future actions or represent a decision in principle about a future consideration. NOAA considers the need for regulations in each national marine sanctuary individually, based on a rigorous analysis of the circumstances at each location. The promulgation of a regulation in one sanctuary does not automatically result in an export of that regulation to other sanctuaries.

7. *Does the proposed action have individually insignificant but cumulatively significant impacts?*

No, the cumulative impacts of the proposed action will measurably, but not significantly, benefit the condition of the sanctuary's biological resources. Due to the absence of chartered spearfishing and the abundance of substitute sites for private boat based spearfishing the cumulative socioeconomic impacts will be negligible.

The proposed action's environmental effects are described in the EA.

8. *What is the degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources?*

The proposed action would not adversely affect areas listed in or eligible for listing in the National Register of Historic Places, or cause loss or destruction of significant scientific, cultural or historic places.

9. *What is the degree to which endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973, are adversely affected?*

The proposed action would not adversely affect endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973.

10. *Is a violation of federal, state, or local law for environmental protection threatened?*

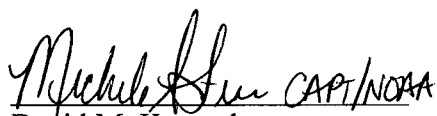
The proposed action does not threaten a violation of federal, state, or local law requirements imposed for the protection of the environment.

11. *Will the proposed action result in the introduction or spread of a nonindigenous species?*

The proposed action would not result in the introduction or spread of a nonindigenous species.

FONSI Statement

In view of the analysis presented in the EA on the Regulation of Spearfishing Gear in the Gray's Reef National Marine Sanctuary the proposed action will not significantly affect the quality of the human environment with specific reference to the criteria contained in Section 6.01 of NAO 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act (NEPA). Accordingly, the preparation of an environmental impact statement for the proposed action is not necessary.


David M. Kennedy
Acting Assistant Administrator

12/23/09
Date