

## **FINDING OF NO SIGNIFICANT IMPACT**

**I. Purpose of Finding of No Significant Impact (FONSI):** The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a FONSI when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(b) & 1500.5(b). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(ii)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed Amendment 10 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo Amendment 10) (proposed action), which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The Environmental Assessment (EA) is hereby incorporated by reference. 40 CFR § 1501.6(b).

### **II. Approach to Analysis:**

The proposed actions in Dolphin Wahoo Amendment 10 are not expected to meaningfully contribute to significant impacts. The proposed actions would incorporate best scientific information available to address catch levels, sector allocations, recreational accountability measures, and management measures for dolphin and wahoo. The actions are expected to increase fishing opportunities while preventing overexploitation and increase net benefits to the Nation, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and its National Standards. The proposed management actions and comparison of alternatives are summarized in Chapter 2. Detailed discussions of the magnitude and impacts of the alternatives on the human environment, including biological, economic, social, and administrative, are in Chapter 4. None of the impacts of the actions in this amendment, in combination with past, present, and future actions have been determined to be significant (Chapter 6). Although several other management actions, in addition to this amendment, are expected to affect dolphin and wahoo species, any additive effects, beneficial and adverse, are not expected to result in a significant level of cumulative impacts (Chapter 6).

### III. Geographic Extent and Scale of the Proposed Action

The scale and geographic extent for the proposed actions is for the exclusive economic zone (EEZ) from Maine south to the Florida Keys in the Atlantic as described in Chapters 1 and 3. The affected environment in the EA (Chapter 4) addresses potential biological, social, economic, and administrative effects of the proposed actions; and cumulative effects are discussed in Chapter 6. Cumulative economic effects from the actions are assessed in the Regulatory Impact Review (Appendix E), and the Fishery Impact Statement is available in Appendix G.

### IV. Degree of Effect:

*A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

The proposed actions are being taken pursuant to federal legal mandates for the management of fishery resources and do not implicate state or local requirements (see Section 3.4 and Appendix C [Other Applicable Law]). They are not reasonably expected to threaten a violation of federal, state, local law, or requirements imposed for the protection of the environment.

*B. The degree to which the proposed action is expected to affect public health or safety.*

The proposed actions are not reasonably expected to have a significant adverse impact on public safety or health. The proposed changes are not expected to substantially alter the manner in which the dolphin and wahoo fishery as a whole is prosecuted, and there are no anticipated safety-at-sea issues.

*C. The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*  
*a. Federal threatened or endangered species and critical habitat;*

The proposed actions are not reasonably expected to have a significant adverse effect on endangered or threatened species, or their critical habitat. Section 3.2.5 provides a description of the protected and endangered species in the biological environment and as indicated in Sections 4.1.1 of the EA, any impacts on the biological and physical environments, which include those species and their critical habitat, are expected to be minimal. Although the dolphin and wahoo fishery as a whole could have adverse effects on endangered and threatened species, the proposed actions are not expected to cause new effects to listed species or critical habitat that were not already considered in the previous Endangered Species Act Section 7 consultations because it is not expected to substantially alter the manner in which the dolphin wahoo fishery is conducted in the Atlantic.

*b. stocks of marine mammals as defined in the Marine Mammal Protection Act;*

The proposed actions are not expected to adversely affect stocks of marine mammals (Chapters 3 and 4). The longline and hook-and-line gear components of the dolphin and wahoo fishery of the Atlantic are classified in the the proposed 2022 List of Fisheries (86 FR 43491; August 9,

2021) as Category III fisheries. This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from any 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 actions would not significantly change fishing behavior in the EEZ. Therefore, the amount of interaction between fishing gear and physical environments, including marine mammals, should remain the same.

*c. essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

The proposed action is not reasonably expected to cause substantial damage to essential fish habitat in the U.S. waters of the Atlantic, as described in Section 3.1.1 and Appendix H. The recreational sector for dolphin and wahoo is responsible for a majority of the total landings in the Atlantic and uses non-longline hook-and-line gear. Commercial harvest of dolphin and wahoo in the Atlantic using pelagic longline gear does occur, but there are only a few vessels that employ this gear. Vessels have to abide by conservation measures to protect listed species (50 C.F.R. § 622.273) and areas closed to longline fishing (50 C.F.R. § 622.274). While commercial harvest of dolphin using longline gear is higher than non-longline gear, wahoo is mostly harvested using non-longline gear. Although hook-and-line gear has the potential to snag and entangle bottom structures, and anchoring can add to the potential damage of the bottom at fishing locations, any impacts from these actions are expected to be minimal because the actions will not alter the execution of the dolphin and wahoo fishery as a whole.

*d. bird species protected under the Migratory Bird Treaty Act;*

The proposed actions are not reasonably expected to adversely affect bird species protected under the Migratory Bird Treaty Act, as described in Appendix D. There is no information to indicate birds rely on dolphin and wahoo for food. Additionally, there is no evidence that the dolphin and wahoo fishery is adversely affecting birds.

*e. national marine sanctuaries or monuments;*

The proposed actions are not reasonably expected to adversely affect marine sanctuaries, as described in Appendix C. Regulations are already in place to limit or reduce habitat impacts within the Stellwagen Bank off the northeastern U.S., U.S. Monitor, Gray’s Reef, and Florida Keys National Marine Sanctuaries, which occur in the action area. Furthermore, the proposed actions will not alter the execution of the dolphin and wahoo fishery as a whole.

*f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;*

The proposed actions are not reasonably expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems in the U.S. waters of the Atlantic, as described in Sections 3.2.5. Furthermore, as discussed in Section 3.1.1 and

Appendix H, these actions should only have minor impacts to habitat, if any, because increases in effort are not expected and fishing practices would not be substantially altered.

- g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

As discussed in Sections 4.1.1 and 4.1.2 of the EA, the proposed action is not expected to adversely affect biodiversity and/or ecosystem function within the affected area. There are no anticipated changes to fishing gear types and/or fishing practices in such a manner that would affect benthic productivity or predator-prey relationships to have a substantial impact on the biological or physical environments.

- D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

The proposed actions do not adversely affect cultural resources listed above as fishing occurs in federal waters. The actions should have no impact on the historic shipwrecks such as the U.S.S. Monitor off North Carolina. The Bureau of Ocean Energy Management (BOEM) lists historic shipwrecks that occur in the Atlantic. Most of these sites are in state or deep (greater than 1,000 feet or 328 meters) waters (BOEM). Fishing could occur over wrecks; however, the proposed actions do not increase overall fishing effort or significantly change fishing practices. Thus, the proposed actions should not increase any risk of loss or destruction to any significant cultural resources in the affected area.

- E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

The proposed actions are not expected to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities. As described in Sections 3.3.2 and 3.3.3, while some communities expected to be affected by this proposed amendment may have social vulnerabilities that exceed the environmental justice (EJ) thresholds and, therefore, may constitute areas of concern, significant EJ issues are not expected to arise as a result of this proposed amendment. It is anticipated that the impacts from the proposed regulations may impact minorities or the poor, but not through discriminatory application of these regulations. However, it should be noted that some communities are not able to be analyzed as census data are not available to create the indices. There are no known claims for customary usage or subsistence consumption of dolphin and wahoo by any population including tribes or indigenous groups.

- F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

The proposed actions are directed towards the management of naturally occurring species in the Atlantic. The introduction or spread of non-indigenous species is not expected to occur. Additionally, the actions do not propose any activity, such as increased ballast water discharge from foreign vessels, which is associated with the introduction or spread on non-indigenous species.

*G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

The proposed actions are not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed actions. As described in Chapter 4, it is not anticipated that there is potential for the proposed actions to cause an effect to any other physical or biological resource where the impact is considered substantial because the proposed actions are not expected to change the way the dolphin and wahoo fishery is prosecuted.

## **V. Other Actions Including Connected Actions**

As discussed in Chapter 6, the proposed actions, added to the effects of other actions are not expected to result in individually insignificant but cumulatively significant impacts. The proposed actions are not expected to substantially alter the manner in which the dolphin and wahoo fishery as a whole is conducted. Further, dolphin and wahoo are only two species among dozens of other species of fish targeted in the Atlantic; there are fish to target throughout the year such that the proposed actions, along with past and reasonable foreseeable future actions, are likewise not expected to substantially alter the manner in which the dolphin and wahoo fishery is conducted.

## **VI. Mitigation and monitoring**

Fishery-independent and fishery-dependent data comprise a significant portion of information used in stock assessments. While there is no stock assessment for dolphin and wahoo, these data aid in allowing sustainable harvest of these species, while monitoring biological, social, and economic parameters. Fishery-dependent commercial data are collected through the commercial logbook and recreational data are collected through the Marine Recreational Information Program, Headboat logbook, and the For-hire electronic logbook program. Fishery-independent data are collected through the Southeast Fishery Information Survey and the Marine Resources Monitoring Assessment and Prediction Program. The effects of the proposed actions are, and would continue to be, monitored through collection of landings data by the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida. The National Marine Fisheries Service would continue to monitor and collect information on dolphin and wahoo species for life history studies, economic and social analysis, and other scientific observations. The monitoring burden for law enforcement would go largely unchanged, as law

enforcement officers would continue to monitor compliance with any established catch limits and other management measures.

**DETERMINATION**

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for the proposed action it is hereby determined that the proposed action will not significantly impact the quality of the human environment. The EA for the proposed action is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Date