Finding of No Significant Impact (FONSI) for the Programmatic Environmental Assessment (PEA), National Oceanic and Atmospheric Administration (NOAA), NOAA Fisheries Service, Southeast Regional Office, Federal Financial Assistance and Special Permits

National Oceanic and Atmospheric Administration Administrative Order (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 factor listed below is relevant in making a FONSI and has been considered individually, as well as in combination with the others. Various grants and Special Permits (defined as Exempted Educational Activity Authorizations, exempted fishing permits (EFPs), and scientific research permits (SRPs)) are analyzed in the PEA. In addition, EFPs and SRPs will be issued in accordance with National Marine Fisheries Service Instruction 01-108-02, October 28, 2003, renewed January 2008.

The term "context" is generally defined as the circumstances or events that form the environment within which something exists or takes place. The circumstances or events for those grants analyzed in the PEA are the receipt of an appropriate grants application by the Southeast Region for a competitive or non-competitive funding opportunity, all of which utilize funding sources as directed by Congress in appropriations or other regulations. The circumstances or events for the Special Permits analyzed in the PEA are the receipt of an appropriate Special Permit application by the Southeast Region. The types of grants and Specials Permits are described later in this document, and in the PEA. The location of the various grants and Special Permits is the Southeast Region comprising the eight coastal states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, as well as the Commonwealth of Puerto Rico and the U.S. Virgin Islands. The exact location of the activities within the Southeast Region varies depending on the associated grants and special permits.

The term "intensity" refers to the severity of the proposed action's impact on the environment. In determining an impact's intensity, we will consider the following factors in accordance with the CEQ National Environmental Policy Act (NEPA) Regulations (40 CFR 1508.27), NAO 216-6 (Sec. 6.01), and NMFS Instruction 30-124-1, Guidelines for the Preparation of a Finding of No Significant Impact. The factors include those found in NAO 216-6 (Sec. 6.01) and in 40 CFR 1508.27.

**Proposed Action**

The PEA is intended to streamline the NOAA grants and special permitting processes in the NOAA Fisheries, Southeast Region (SER). The SER has received submittals in the last five years (2004-2009) from states and other entities for 20 types of grants and 22 special permits. See Table 1 on page 24 for grant types and Appendix A for special permits. All of the grants utilize funding sources as directed by Congress in appropriations or other regulations. The PEA proposes a more effective alternative process to review those grants and special permits, after determining whether NEPA even applies, i.e., does NOAA have control or discretion?

The PEA also considers the no-action alternative, i.e., continuing with the present course of action for approving grants and special permits. The PEA analyzes the two alternatives.

The PEA's Table 1 lists various affected interests, localities, and those interests' expected perspective regarding the proposed action. The "affected interests" include the communities in proximity to the research or survey activities, as well as the entities dependent on the status of the fish stocks being researched. Different affected resources may have different geographic scopes of impact.

Of the past actions submitted over the last five years (2004-2009) within these grants and special permits, all were determined to have no significant impact. All those actions have been determined to be categorically excluded actions per NAO 216-6, with the exception of three construction projects that required environmental assessments. The approach of clearing individual NEPA documentation for each such grant and special permit is redundant, time-consuming, and not cost-effective, and potentially interferes with the timely dissemination of grant funds and special permits.

The PEA was initiated in August 2009 to evaluate the potential impacts associated with activities in future funding and permit requests. The PEA complies with more recent NOAA Acquisition and Grants Office direction in September 2009, and Department of Commerce guidance in January 2010, regarding NEPA compliance for grant applications where NOAA has control or discretion.

The PEA process uses the following steps, to achieve greater efficiencies and cost-effectiveness in the grant and special permit review processes:

> Determine whether NEPA even applies (i.e., does NOAA have control or discretion?)
>
> Categorize the types of activities that are included within those funding and permit requests in terms of NEPA compliance requirements and the associated potential environmental effects.
>
> Identify the types of funding and permit requests that have been submitted for consideration by the SER State/Federal Liaison Branch (hereafter referred to as the SER Grants Branch) and SER Sustainable Fisheries Division (SFD) in the last five years (2004-2009).
>
> Evaluate the potential environmental impacts associated with those types of activities using the process outlined in NAO 216-6.
>
> Determine if any of the activities could have potential significant impacts per 40 CFR 1508.27, NAO 216-6, and NMFS Finding of No Significant Impact (FONSI) Instruction.
>
> Use the resultant analyses in the PEA and associated FONSI, if determined to be appropriate, for substantially streamlining the environmental review process for funding and special permit decisions.

Proposed actions over the last five years (2004-2009) have been grouped into three categories for analytical purposes.

**Category A:** Special permits and grants that have no potential for environmental impacts, either because they involve administrative, educational, computer simulations or other non-environmental activities, or because the recipient's proposed action would collect data or conduct laboratory studies using specimens that were collected by others during the course of unrelated activities, such as measuring fish caught during commercial or recreational fishing activities (such activities are not research under MSA, although scientific research is subject to the ESA.).

**Category B:** Special permits and grants that have little to no potential for environmental effects, even though the recipient's actions would occur in the environment, such as benthic habitat mapping, onshore aquaculture actions, or video surveys.

**Category C:** Special permits and grants that have the potential for significant environmental impacts, such as construction of buildings, restoration of damaged habitats or structures, collection of protected species, offshore aquaculture activities, or taking of overfished species.

Proposed actions in Category A have no potential for environmental impacts, and would be analyzed and tracked under the PEA using the reporting form in PEA Appendix B. Proposed actions in Category B and Category C would undergo tracking and case-by-case analysis, possibly including coordination with other agencies and NOAA Fisheries Divisions. These activities would not be approved without further NEPA analysis as appropriate. The reporting form in PEA Appendix B will be used for tracking purposes and noting whether NEPA applies under NOAA and DOC guidance.

The PEA, using the process summarized above, will substantially reduce the time and effort spent on preparing redundant documentation for actions in Category A, without potential for significant environmental impacts. This proposed action will also optimize use of scarce agency resources for more effective analysis of future actions with the potential for significant environmental effects (Categories B and C). All categorical exclusions will be tracked and reviewed periodically (using the tracking form included in the PEA) to assess the potential for cumulative impacts, and the PEA will be supplemented when appropriate. The significance determination factors are:

**1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.**

> Response: The results of the funded studies and research increase our knowledge of a variety of marine species, which will promote scientific management of marine species throughout their range in a way that is consistent with national and regional priorities. Many fish stocks that are overfished or approaching overfishing status, and endangered and threatened species, are in need of further research and analysis to determine their status. Studies and research funded under the approved funding requests, and authorized by the special permits, will meet those needs and help NOAA better manage the sustainability of those species. The impacts of these projects, therefore, will have a slightly beneficial effect, which will not be significant.

**2) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?**

Response: No. Many fish stocks that are overfished or approaching overfishing status, and endangered and threatened species, are in need of further research and analysis to determine their status. Studies and research funded under the approved funding requests, and authorized by the special permits, are critical for understanding the sustainability of those species. The proposed action improves the administrative processing of those grants and special permits and thereby facilitates those studies and research. The proposed action would reasonably not be expected to jeopardize the sustainability of any target species. Fish stocks determined to be overfished, undergoing overfishing, and approaching overfished status are identified in PEA Table 2.

**3) Can the proposed action reasonably be expected to jeopardize the sustainability of any nontarget species?**

Response: No. Any future funding or special permits for take of target species is for the purpose of research, or small collections for public aquaria. Therefore, the amount of time that the gear would be in the water would be substantially lower than that for commercial fisheries and should not significantly affect nontarget species taken as bycatch in commercial or recreational fisheries. Approved funding requests and special permits in the past five years (2004-2009) have not significantly affected the status of any nontarget species. Therefore, the proposed action would reasonably not be expected to jeopardize the sustainability of any nontarget species. If any funding request, EFP, or SRP is received that has the potential to jeopardize the sustainability of any nontarget species, an additional NEPA review would be conducted outside the scope of the PEA.

**4) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in FMPs?**

Response: No. The following introductory text is taken from http://swr.nmfs.noaa.gov/hcd/efhprim.htm.

> Besides delineating EFH, FMPs or FMP amendments must also identify and describe potential threats to EFH, which includes threats from fishing or any other sources, and recommend EFH conservation and enhancement measures. Councils are required to implement management measures to minimize, to the extent practicable, any adverse impacts to EFH caused by fishing gears. Guidelines for development of EFH amendment sections for each of these issues are included in the EFH regulations.
>
> In the regulatory context for conserving fish habitat, the most important provisions of the MSA are those which require consultation with NMFS when any activity proposed to be permitted, funded, or undertaken by a federal agency may have adverse impacts on designated EFH. NMFS has

addressed these concerns in the EFH regulations by emphasizing the use of existing environmental review processes. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency procedures previously established under the NEPA, ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

The EFH regulations define an *adverse effect* as "any impact which reduces quality and/or quantity of EFH...[and] may include direct (e.g. contamination or physical disruption), indirect (e.g. loss of prey, reduction in species' fecundity), site-specific or habitat wide impacts, including individual, cumulative, or synergistic consequences of actions.

An "EFH Assessment" is a review of the proposed project and its potential impacts to EFH which is prepared by the Federal action agency. As set forth in the regulations, EFH Assessments must include (1) a description of the proposed action; (2) an analysis of the effects, including cumulative effects, of the action on EFH, the managed species, and associated species by life history stage; (3) the federal agency's views regarding the effects of the action on EFH; and (4) proposed mitigation, if applicable. If appropriate, the assessment should also include: the results of an on-site inspection; the views of recognized experts on the habitat or species affects; a literature review; an analysis of alternatives to the proposed action; and any other relevant information.

A review of the applications for grant funding and special permits indicates that certain gear has been requested for use in the last five years (2004-2009). The PEA describes those gears (Section 3.3.1) as part of EFH-related information taken from the Final Environmental Impact Statement (EIS) for the Generic EFH Amendment to the FMPs of the Gulf of Mexico, March 2004, pages 3-242 through 3-268. The PEA discusses recent studies of the effect of gear on EFH. The PEA will be updated as more recent habitat studies are obtained.

The PEA's establishment of categories for approved funding requests with varying degrees of potential for significant environmental impacts addresses the question of "substantial damage to the ocean and coastal habitats and/or EFH." Funding requests or special permits that have no effect on these habitats would be categorized in Category A. Funding requests or special permits that may affect EFH would be categorized in Category B and C. Additional NEPA analysis would then be required to determine whether those requests could reasonably be expected to cause substantial damage to those habitats.

The following discussion applies to this question to the extent that "ocean and coastal habitats" is referring to "critical habitat" under the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. § 1531 *et seq.*) Critical habitat refers to the geographical area that the species occupies at the time of its listing as a

threatened species, and is protected. Critical habitat is defined as: 1) specific areas within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection; and 2) specific areas outside the geographical area occupied by the species if the agency determines that the area itself is essential for conservation.

The ESA requires NOAA Fisheries to consult with the appropriate administrative agency (NOAA Fisheries Protected Resources Division for most marine species, the U.S. Fish and Wildlife Service for all remaining species) when proposing an action that "may affect"[1] critical habitat or threatened or endangered species. Consultations are necessary to determine the potential impacts of the proposed action. If SER Grants Branch staff determine an approved funding request may affect, but is not likely to adversely affect critical habitat, a request to initiate a Section 7 informal consultation is submitted to the SER Protected Resources Division with a request for concurrence. A Section 7 formal consultation would be initiated for projects that are likely to adversely affect critical habitat. Funding requests or special permits that have no effect on critical habitat would be categorized in Category A. Funding requests or special permits that may affect critical habitat would be categorized in Category B or Category C.

**5) Can the proposed action be reasonably expected to have an impact on public health or safety?**

Response: No. The categorization of activities in the PEA is based in part on the effects on public health and safety. Further, NOAA places standard conditions on awards, and conditions on special permits, that require compliance with applicable laws and regulations (such as Occupational Safety and Health Administration (OSHA) regulations), to protect public health and safety. Scientific research is not subject to MSA, although NOAA policy is that NOAA scientists are subject to MSA.

The PEA lists examples of actions in each of the three categories. Category A actions have no potential for significant environmental effects on public health or safety, and therefore would not need case-by-case screening beyond the PEA. Category A actions would be tracked using the PEA's reporting form. Category B actions have little to no potential for effect on public health or safety. Proposed Category B actions would undergo case-by-case screening and appropriate NEPA analysis to determine if the potential for effects on public health or safety exists.

Category C activities (for example, building construction) have the potential for significant environmental effects on public health or safety. Such Category C activities would need case-by-case analysis and tracking to determine if the potential for significant impacts actually exists. If such potential exists, the activities would not be approved without further NEPA analysis as appropriate.

---

[1] "May affect" refers to *any* potential effects, including beneficial effects, to listed species (USFWS and NMFS 1998).

Using these three categories and the accompanying analytical processes, SER's use of the PEA ensures the public health and safety are not compromised. Therefore, the proposed action is not likely to affect public health and safety.

**6) Can the proposed action reasonably be expected to significantly affect endangered or threatened species, marine mammals, or critical habitat of these species?**

Response: No. The Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. § 1531 *et seq.*) requires that federal agencies use their authorities to conserve threatened and endangered species. Section 7(a)(2) of the ESA requires that each federal agency ensure any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or to result in the destruction or significant modification of any designated critical habitat of such species. The ESA requires NOAA Fisheries to consult with the appropriate administrative agency (NOAA Fisheries Protected Resources Division for most marine species, USFWS for all remaining species) when proposing an action that "may affect"[2] critical habitat or threatened or endangered species. Consultations are necessary to determine the potential impacts of the proposed action.

Funding grant proposals or issuing special permits are examples of actions funded or authorized by a federal agency and require Section 7 review pursuant to the ESA. Presently, the SER SFD requests ESA Section 7 consultations for all special permits. The SER Grants Branch staff conducts initial reviews of approved funding requests for potential impacts to ESA-listed species. Those initial reviews have resulted in a finding that the actions will not affect listed species or their critical habitat. Past approvals of funding requests and special permits have not caused significant environmental effects of this type.

Award conditions for all approved funding requests and special permits require the funding recipient to obtain all necessary permits and comply with other applicable laws before the funded activity begins. The PEA addresses ESA consultations by specifying the types of actions that do not require consultation because they will not affect ESA-listed species, as well as specifying how consultation will be initiated for projects that may affect ESA-listed species or designated critical habitat.

If the funding request or SRP affects important coastal zone resources, the project would also be coordinated with the Habitat Conservation Division. These procedural and analytical steps, as mandated in the PEA, are designed to address ESA and habitat conservation concerns.

---

[2] "May affect" refers to *any* potential effects, including beneficial effects, to listed species (USFWS and NMFS 1998).

The PEA identifies the three general categories of activities, submitted in funding requests over the last five years (2004-2009) (see Section 3); of these, Category A projects will have no effect on ESA-listed species (Table 3). Projects in this category consist of outreach, administrative and technical tasks, or non-field based research. Regardless of the task type, the distinguishing factor for these types of projects is that they do not occur in the marine environment and no effects to marine organisms are anticipated. Some projects may use information gathered from activities occurring in the marine environment, but those activities would be subject to a separate Section 7 review. For Category A projects, SER Grants Branch staff can satisfy the requirement for Section 7 consultation by stating in writing that a specific project will not affect listed species.

The PEA also identifies two additional categories of approved funding requests (Categories B and C) with varying degrees of potential for significant environmental impacts. Projects in these categories may affect listed species but most would not likely adversely affect them. Upon determination by SER Grants Branch staff that approved funding requests may affect listed species, an effects determination would be submitted to the SER Protected Resources Division (with a request for concurrence if found not likely to adversely affect listed species). Based on the above information, the proposed action provides more effective compliance with ESA and is not expected to significantly affect endangered or threatened species, marine mammals, or their critical habitat.

**7) 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. Many of the special permits, and funding requests analyzed for the last five years (2004-2009), and expected to be submitted in the future, provide important research on biodiversity and/or ecosystem function. The proposed action will substantially reduce the time and effort spent on preparing redundant documentation for Category A actions (including biodiversity and ecosystem research), and thereby provide a more efficient review process. Proposed actions in Category A would be analyzed and tracked under the PEA using the reporting form in Appendix B. Proposed actions in Category B and Category C would undergo tracking and case-by-case analysis, possibly including coordination with other agencies and NOAA Fisheries Divisions to determine if the potential for significant environmental effects exists regarding biodiversity and ecosystem function. The proposed action, in that regard, is expected to have a beneficial, although not substantial, impact on biodiversity and ecosystem function in the area by more effectively facilitating appropriate research in those areas of interest.

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

Response: No. The proposed action provides administrative changes that substantially reduce the time and effort spent on preparing redundant documentation for actions (Category A), without potential for significant natural

or physical environmental impacts. Proposed actions in Category B and Category C would undergo tracking and case-by-case analysis, possibly including coordination with other agencies and NOAA Fisheries Divisions to determine if the potential for significant environmental effects exists and would not be approved without further NEPA analysis as appropriate. This categorization reduces the potential for significant social or economic impacts. Therefore, the PEA's proposed changes are not expected to have significant social or economic impacts, either separately or interrelated with natural physical environmental effects.

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

Response: No. The PEA (Table 1) summarizes the groups of affected parties, and their perspective regarding the PEA. That information does not indicate that the effects of the PEA are expected to be controversial. Further, the categorization will minimize the chances of such controversy. Category A activities generally include actions that have no potential for controversy, and therefore would not need case-by-case screening beyond the PEA. Category B and Category C actions have little to no potential for controversy. Category B and Category C activities would need case-by-case analysis and tracking and would not be approved without further NEPA analysis, as appropriate.

Using these three categories and the accompanying analytical steps, SER's use of the PEA minimizes the possibility of effects that would cause a large degree of controversy. The PEA, therefore, is not expected to have possible effects on the quality of the human environment that are likely to be highly controversial.

**10) 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. It is expected that future actions with potential for such effects would be limited to construction projects which are included in Category C. Each such submittal in Category C will undergo case-by-case analysis, possibly including coordination with other agencies and NOAA Fisheries Divisions to determine the potential for impacts to unique areas and would not be approved without further NEPA analysis, as appropriate. The analysis and coordination process will analyze whether unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas can be expected to be reasonably affected.

**11) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?**

Response: No. Category A activities are actions that are not highly uncertain or involve unique or unknown risks, and therefore would not need case-by-case screening beyond the PEA. Category B actions have little to no potential for such uncertainty or risks. Category C activities could have the potential for these uncertainties or risks. Category B and C activities would undergo case-by-case

analysis to determine if such potential exists and would not be approved without further NEPA analysis, as appropriate. Any special permits, and any funding requests and/or associated activities that represent such uncertainties or risk, will require additional appropriate NEPA analysis. The PEA thereby allows an allocation of agency resources to the special permits and funding requests that pose a higher risk or uncertainty. In that regard, the categorization applied in the PEA is unlikely to result in effects on the human environment that are highly uncertain or involve unique or unknown risks.

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

Response: No. As directed by the NEPA, federal agencies are mandated to assess not only the indirect and direct impacts, but cumulative impacts of actions as well. The CEQ regulations for implementing NEPA define a cumulative impact as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" (40 CFR 1508.7). Cumulative effects can either be additive or synergistic. A synergistic effect is when the combined effects are greater than the sum of the individual effects.

The cumulative impacts of the past proposed actions were insignificant. The basic nature of grants and special permits is to increase the knowledge base for managing living marine resources so as to achieve and maintain sustainable stocks and populations. To that extent a highly detailed and complex assessment of cumulative impacts is unnecessary in this PEA. Category A actions, by their very nature, are unlikely to result in cumulative impacts. Category B and C actions will undergo further NEPA analysis (including a cumulative impacts assessment) outside of the PEA.

For future Category B and C actions, depending on the outcome of further NEPA review, a more detailed cumulative effects assessment may be required outside of the PEA.

The following applies to all grants, whether in Categories A, B, or C. The Department of Commerce financial assistance standard terms and conditions, incorporated by reference, requires that each approved funding request (grant) include performance monitoring through the submittal of written progress reports, and financial reports, generally twice a year (followed by a final progress report). Each progress report is reviewed by NOAA's Technical Monitor (assigned to that award), who is familiar with the award details and is qualified to review the science supporting the funded activities. If the Technical Monitor finds the performance reports unacceptable, the recipient must make corrections to the report and funded activities as needed to comply with that award condition. Also,

the SER Grants Branch staff conducts personal in-person meetings with each grant recipient to further monitor performance. Failure to perform the work in accordance with the award conditions, including applicable law requirements as described earlier, results in corrective action including withholding payments, additional special award conditions, and termination or suspension, of any Department of Commerce active awards.

Based on the above information, the proposed action will not cause significant impacts that in turn affect other actions. The past activities associated with grants and special permits are not related to any other actions' known cumulative effects or significant impacts. Awards and special permits are further conditioned as appropriate to ensure that environmental impacts are either avoided or minimized. It is expected that the routine types of grants and special permits (i.e., covered under Category A) in the PEA would continue to have no cumulative effects.

**13) Is the proposed action likely to significantly 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 three construction awards are the only approved funding requests in the last five years (2004-2009) that could have conceivably affected district sites, highways, structures, or objects listed in the National Register of Historic Places or significant scientific, cultural, or historical resources. It is expected that future actions with potential for such significant environmental effects would be limited to construction projects. Past approved construction activities, using the analysis and consultation process, have been found to not significantly affect those items as listed above. Each submittal in Category C with the potential for such significant environmental effects (i.e., construction projects) will undergo case-by-case analysis and NEPA analysis as appropriate. The analytical process will include coordination with other agencies (such as the local Historic Commission, wildlife surveys, and site assessments) and NOAA Fisheries Divisions to determine the potential for significant environmental effects.

The PEA categorization of activities and consultation procedures will further ensure that construction projects continue to undergo appropriate scrutiny to minimize or prevent significant environmental effects of this type. The PEA thereby allows a greater allocation of agency resources to the analysis of the special permits and funding requests in Category C (such as construction projects). In that regard, the proposed action will not significantly affect district sites, highways, structures, or objects listed in the National Register of Historic Places or significant scientific, cultural, or historical resources.

**14) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?**

Response: No. The SER Grants Branch has received multiple applications for testing protocols and methodologies related to hatchery-reared fish. To date,

these requests have involved only laboratory tests (not involving non-indigenous species) and have been approved following appropriate NEPA analysis. Future funding requests for offshore aquaculture activities (that may involve non-indigenous species) will be relegated to Category C and would be carefully evaluated by the SER Grants Branch, in coordination with federal and state fish and wildlife agencies, to prevent any actions that could jeopardize the health and sustainability of native wild fish populations. Those evaluations would be consistent with Executive Order 13112 of February 3, 1999, which deals with invasive species. Under the PEA, approved funding requests and SRP conditions will continue to prevent the introduction or spread of a non-indigenous species. The PEA categorization and procedures (by allocating more agency resources to Category C) provide greater assurance that such problems will not occur. In this regard, the proposed action would not result in the introduction or spread of a non-indigenous species.

**15) Is the proposed action likely to establish a precedent for future actions with significant environmental effects or represents a decision in principle about a future consideration?**

Response: No. Most of the funding requests and special permits are issued to past recipients with a successful history of activities without significant environmental effects. Under the PEA analytical procedure, any special permits, and any funding requests, and/or associated activities that establish a precedent, or represent a decision in principle about a future consideration, will be relegated to Category B or Category C for additional appropriate NEPA analysis outside of the PEA. The PEA's categorization, therefore, ensures avoidance of the precedent for future actions with significant environmental effects or decision in principle about a future consideration.

**16) 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 Department of Commerce places standard terms and conditions (2008) on awards, and NOAA places conditions on special permits, that require compliance with applicable laws and regulations (such as federal, state, or local laws or requirements imposed for the protection of the environment). Most of the recipients of funding and special permits have received past awards and special permits, all of which have complied with applicable laws and regulations. This compliance will continue under the PEA. Thus, the chance of such a violation is slight in regards to future awards and special permits.

**17) Can the proposed action reasonably be expected to result in cumulative significant environmental effects that could have a substantial effect on the target species or nontarget species?**

Response: No. As directed by the NEPA, federal agencies are mandated to assess not only the indirect and direct impacts, but cumulative impacts of actions

as well. The CEQ regulations implementing NEPA define a cumulative impact as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" (40 CFR 1508.7). Cumulative effects can either be additive or synergistic. A synergistic effect is when the combined effects are greater than the sum of the individual effects.

The basic nature of grants and special permits is to increase the knowledge base for managing living marine resources so as to achieve and maintain sustainable stocks and populations. The cumulative impact of the proposed action is insignificant. To that extent, there are no anticipated significant cumulative impacts for Category A actions that could have a substantial effect on the target species or nontarget species. For Category B and C actions, depending on the outcome of further NEPA review, a more detailed cumulative effects assessment may be required.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Programmatic Environmental Assessment (PEA) prepared for NOAA Fisheries Service, SER, Federal Financial Assistance and Special Permits, it is hereby determined that the proposed action will not significantly impact the quality of the human environment as described above and in the supporting PEA. 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 for this action is not necessary.

James E. Weaver 1/14/2011

for Roy Crabtree, Ph.D. Date
Regional Administrator
Southeast Region
NOAA Fisheries Service