FINDING OF NO SIGNIFICANT IMPACT (FONSI)

National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. On July 22, 2005, NOAA published a Policy Directive with guidelines for the preparation of a FONSI. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. Section 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 to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria, the recent Policy Directive from NOAA, and CEQ's context and intensity criteria. These include:

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

Response: No, the proposed action would not jeopardize the sustainability of the target species. The most recent stock assessment update, as described in Section 3.2.1 of the environmental assessment (EA), indicated that although the stock continues to be neither overfished or undergoing overfishing, the stock has declined since 2005. This decline was attributed to a 2005 episodic mortality event. As discussed in Sections 1.1, 2.1, and 2.2 of the EA, the proposed action is intended to ensure the catch for 2011 be less than the overfishing threshold, so that overfishing does not occur and the stock can increase to the stock biomass needed to harvest the equilibrium optimum yield. Based on a rerun of the 2009 update stock assessment, the Council's Scientific and Statistical Committee (SSC) recommended an acceptable biological catch (ABC) be increased from 6.31 million pounds gutted weight (MP GW) to 7.93 MP GW. The difference between the overfishing threshold recommended by the SSC (8.10 MP GW) and the ABC accounts for scientific uncertainty in the assessment. The SSC's recommendation for ABC is precautionary, recommending harvests less than the maximum sustainable yield. The harvest level the total allowable catch (TAC) is based on (6.88 MP GW) is the yield associated with the fishing mortality rate needed to harvest optimum yield and is less than the ABC.

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

Response: No, the proposed action will not jeopardize the sustainability of any non-target species, and is not expected to substantially alter standard fishing practices during the 2011 or future fishing seasons. The action is intended to allow an increase in the harvest of red grouper in the U.S. waters of the Gulf of Mexico (Gulf) from 5.68 to 6.88 MP GW, based on recent scientific advice from the SSC. Increasing the TAC could result in a shift in effort from other species as described in Section 4.1; however, any shift will likely be minimal. For the commercial sector, most desirable commercial species such as gag and red grouper, are closely regulated through either an individual fishing quota (IFQ) program or through quota management. For the recreational sector, trips targeting red grouper (0.7%) are a minor portion of the recreational harvest as a whole. Therefore, red grouper are not targeted by many recreational anglers and effort shifting is expected to be minimal (see Section 2.3.2.1 of

GMFMC 2010). Increasing the red grouper TAC and bag limit may be beneficial for gag, an overfished stock, if effort is redirected from gag to red grouper.

3) 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 Fishery Conservation and Management Act (Magnuson-Stevens Act) and identified in fishery management plans (FMPs)?

Response: No, the proposed action is not reasonably expected to cause substantial damage to the ocean and coastal habitats and/or EFH in the U.S. waters of the Gulf as described in Section 4.1.1 of the EA. This action should have minimal overall impacts to EFH because effort needed to catch the allowable harvest will not substantially increase overall effort by the reef fish fishery. Longline and vertical line gear have the potential to snag and entangle bottom structures. Although individual gear has a very small footprint, the collective impact of the commercial and recreational fishing sectors result in a large amount of gear being placed in the water, increasing the potential for impact. Additionally, anchoring can add to the potential damage of the bottom at fishing locations. However, as described in Sections 4.1.1, reef fish fishing minimally impacts habitat.

4) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No, the proposed action is not reasonably expected to have a substantial adverse impact on public safety or health. The commercial sector in the Gulf operates under an IFQ (see Sections 3.3.1.1 and 3.3.1.2 of GMFMC (2010a) and incorporated by reference in Section 3.1 of the EA), which removes the need to "race for the fish", thus allowing fishermen to better choose when and how they want to fish. This increases safety at sea by eliminating derby conditions for this sector. Increasing the bag limit for the recreational sector is not expected to substantially alter how this sector harvests fish. Red grouper-targeted trips represent a small proportion of the total number of trips in the Gulf (see question 2). There is the potential that red grouper contaminated with oil from the Deepwater Horizon MC252 incident could be caught. However, federal and state governments have strong systems in place to test and monitor seafood safety and to prohibit harvesting from affected areas, keeping oiled products out of the market (See Section 2.1 of GMFMC (2010a) and incorporated in the EA by reference). In addition, oil from this incident has not been found in the area where the harvesting generally occurs.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No, the proposed action is not expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species as the proposed action is not expected to substantially alter the manner in which the reef fish fishery is conducted in the Gulf. Subsequent to the Council submitting the 2011 red grouper regulatory amendment and the publication of the proposed rule for this action, a new biological opinion for the reef fish fishery was completed (September 30, 2011). This opinion determined the fishery is not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction

of the National Marine Fisheries Service (NMFS) or result in the destruction or adverse modification of critical habitat. The proposed action in not expected to change this determination. The 2011 biological opinion supported the determinations of an earlier 2009 biological opinion cited in Section 3.2.1 of the EA. As described in Section 3.2.1 of the EA, the Gulf reef fish fishery is classified in the 2011 Marine Mammal Protection Act List of Fisheries as Category III fishery (75 FR 68468, November 8, 2010). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from the fishery is less than or equal to 1% of the potential biological removal. Dolphins are the only species documented as interacting with this fishery. Bottlenose dolphins may feed on the bait, catch, and/or released discards of the reef fish fishery.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No, the proposed action is not expected to have a substantial impact on biodiversity and/or ecosystem function within the Gulf. The proposed actions to increase the allowable harvest of red grouper and increase the red grouper bag limit are not expected to substantially alter the manner in which the fishery is conducted in the Gulf as described in Section 4 of the EA, which in turn should not alter impacts on biodiversity and ecosystem function.

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

Response: No, the proposed action would not create any significant social or economic impacts in the Gulf region interrelated with natural or physical environmental effects. As discussed in Sections 4.1 and 4.2 of the EA, increasing the allowable harvest of red grouper by both the commercial and recreational fishing sectors relative to previous years will have positive direct and indirect social and economic impacts to their respective sectors and to the shoreside operations that support them, however, these impacts are relatively small in light of the reef fish fishery as a whole. As listed in Section 2.3.1 of GMFMC (2010), red grouper is an important component of the Gulf commercial harvest of reef fish (~30% by landings and value). This species is a minor component of the overall Gulf recreational harvest (see question 2), however, red grouper are disproportionally harvested in different areas as described in Section 2.3.2 of GMFMC (2010), so the effects will be greater in some areas than others.

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

Response: No, the effects on the quality of the human environment are not likely to be highly controversial. The analyses and data used in the decision-making process were based on standard techniques used to evaluate Gulf fish stocks and fisheries. As summarized in Section 3.2.1, the actions are based on a rerun of the stock assessment and incorporated new information. It was reviewed for scientific adequacy by the Council's SSC.

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, EFH, or ecologically critical areas?

Response: No, the proposed action is not reasonably expected to result in substantial impacts to unique areas, park land, prime farmlands, wetlands, wild and scenic rivers, or EFH. This action affects federal waters of the Gulf. In regard to ecologically critical areas in the Gulf, areas such as the Flower Gardens and the Tortugas Marine Sanctuaries are closed to fishing, as are the Madison Swanson and Steamboat Lumps marine reserves as described in GMFMC (2010) and incorporated by reference in Section 2.1 of the EA. The action should have no impact on the *U.S.S. Hatteras* (Section 3.1), located in federal waters off Texas, which is listed in the National Register of Historic Places. Fishing occurs over this wreck, but because red grouper are primarily found in the eastern Gulf and not the western Gulf, any increase overall fishing effort as a result of the proposed actions should not occur in this area. Thus, there would be no additional impacts on these components of the environment from the proposed action.

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

Response: No, the effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks. As described in Section 1.1 of the EA, this action proposes to adjust the harvest of red grouper in the Gulf, in accordance with procedures outlined in the Magnuson-Stevens Act. Adjustments to quotas, target catch levels, and bag limits are regularly made in many U.S. fisheries, based on updated information regarding the status of a specific stock or stocks, and the impacts of such restrictions are well known.

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

Response: No, there are no past or reasonably foreseeable future actions related to the proposed red grouper management action with individually insignificant but cumulatively significant impacts. The proposed action to increase the allowable harvest of red grouper and the red grouper bag limit is not expected to substantially alter the manner in which the fishery is conducted. However, because of reductions in the TAC needed to end overfishing for gag, some aspects of the red grouper harvest may need to be further regulated to reduce bycatch. The degree of additional regulations for red grouper (if any) is not known at this time.

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: The proposed action does not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. The action should have no impact on the *U.S.S. Hatteras*, located in federal waters off Texas, which is listed in the National Register of Historic Places (Section 3.1). Fishing occurs over this wreck; however, the action is not expected to substantially increase overall fishing effort in this area

because red grouper are not targeted in the western Gulf. Red grouper are more commonly found in eastern Gulf waters. The proposed actions are not expected to cause loss or destruction of significant scientific, cultural, or historical resources because there are none located in the affected area.

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

Response: No, the proposed action is not reasonably expected to result in the introduction or spread of a non-indigenous species in the Gulf because it involves only naturally occurring domestic species. The proposed actions to increase the allowable harvest and bag limit of the Gulf red grouper stock are not expected to substantially alter the manner in which the fishery is conducted. As described in GMFMC (2010a) and incorporated by reference in Section 3.3 of the EA, the fishery is prosecuted within the boundaries of the Gulf exclusive economic zone and Gulf state waters, thus reducing the likelihood of introducing non-indigenous species. The non-native lionfish (*Pterois miles* and *P. volitans*), which are not targeted, could be caught by reef fish fishermen (see Section 3.2). However, these species would be either released at the point of capture or killed consistent with the manner the fishery is prosecuted, thus not allowing this species to be introduced to new areas.

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 action with significant effects, and it does not represent a decision in principle about future consideration. Fishing effort for red grouper is regulated through individual fishing quotas, size limits, bag limits, and other fishing restrictions. The Council has based its decision on updated scientific information summarized Section 3.2.1 of the EA regarding the status of the stock. The assessment indicates the stock had been depressed by an episodic mortality event but is not considered overfished and undergoing overfishing. The action would maximize the level fishermen could harvest red grouper while allowing the stock to recover to target levels. The proposed action, conducted in accordance with regulations established under the FMP, as amended to date, in no way constitutes a decision in principle about a future consideration. FMPs and their implementing regulations are always subject to future changes. The Council and NMFS have discretion to amend the FMP and accompanying regulations and may do so at any time, subject to the Administrative Procedures Act, National Environmental policy Act, and other applicable laws.

15) Can the proposed action reasonably be expected to threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment?

Response: No, the proposed action is being taken pursuant to federal legal mandates for the management of fishery resources and does not implicate state or local requirements. It is not reasonably expected to threaten a violation of federal, state, local law, or requirements imposed for the protection of the environment.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No, the proposed action is not reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species as indicated in Section 4.3 of the EA. In general, the proposed action to increase the allowable harvest and bag limit of red grouper is not expected to substantially alter the manner in which the fishery is conducted. The proposed harvest levels are adjusted less than the overfishing threshold to ensure overfishing does not occur. There may be some shifting of fishing pressure on a variety of other reef fish and non-targeted stocks, because of the increased allowable harvest of red grouper.

DETERMINATION:

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for this framework action to the FMP for the Reef Fish Fishery Resources of the Gulf of Mexico, it is hereby determined that this framework action will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. 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.

10/13/11

Date

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