Finding of No Significant Impact (FONSI) for Measures in Amendment 28 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 28)

National Marine Fisheries Service

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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 introduction 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 *Amendment 28 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region*, dated January 2013.

The EA contains seven alternatives, thirteen sub-alternatives, and six preferred alternatives/sub-alternatives (**Table 1**). For the discussion throughout the FONSI, the "proposed action" refers to the six preferred alternatives/sub-alternatives. **Alternative 1** (**No Action**) would retain the existing regulations for red snapper, including the prohibition of fishing for, possession, and retention of red snapper implemented through rulemaking for Amendment 17A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 17A), which contained an environmental impact statement (EIS). In 2012, a limited red snapper fishing season was established through an emergency action under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Alternatives 2-4 would modify the annual catch limit (ACL) of zero (landings only) and the red snapper harvest and possession prohibition. If harvest is allowed (when last year's mortality level is less than last year's acceptable biological catch (ABC)), the NMFS would announce the ACL as computed by the equation in **Alternative 2. Alternatives 3** and **4** would establish the start days for the commercial and recreational seasons, respectively. If limited harvest is allowed, **Alternative 5** would eliminate the 20-inch total length (TL) minimum size limit, while **Alternatives 6** and **7** would implement a commercial trip limit and recreational bag limit, respectively.

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

Alternative Number	Preferred	Alternative Description[1]
1 (no action)		ACL=0 (landings), harvest and possession prohibited. Limited 2012 harvest allowed
2		Set a process to evaluate whether harvest would be allowed each year beginning in 2013
2a		Average of last two year's removals and ABC
2b		Ratio of mortality to ABC in last year
2c	X	Ratio of mortality to ABC in last two years
3		Commercial fishing season
3a	X	Begins 12:01 AM on 2nd Monday in July
3b		Begins 12:01 AM on 1st Monday in August
3c		Begins 12:01 AM on 2nd Monday in September
4		Recreational fishing season
4a	X	Begins 12:01 AM on 2nd Friday in July
4b		Begins 12:01 AM on 1st Friday in August
4c		Begins 12:01 AM on 2nd Friday in September
5	X	Eliminate 20-inch total length minimum size limit
6		Commercial trip limit
6a		25 lb gutted weight
6b		50 lb gutted weight
6c	X	75 lb gutted weight
6d		100 lb gutted weight
7	X	1 fish per person per day bag limit (recreational)

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

Under **Alternative 1**, the no action alternative, the underlying purpose (as described in Chapter 1 in the attached EA) would not be addressed. The purpose is to allow harvest of red snapper to reduce negative socio-economic effects expected from the regulations in Amendment 17A while maintaining biological protection for the species as the stock rebuilds. **Alternatives 2-7** would meet the purpose by implementing a procedure that would allow a limited harvest of red snapper within the constraints of the ABC identified by the rebuilding plan in Amendment 17A. To ensure that rebuilding of the stock is not compromised, harvest would only be allowed if last year's ABC is less than last year's mortality level. In addition, the proposed action would meet an additional purpose by providing fishery-dependent information on the life history of red snapper that may be used to inform a 2014 stock assessment.

Table 2. Projection results (expected values)/ABCs with $F=0.98XF_{30}$, extended from assessment model configuration with component weights as in the assessment workshop report, but headboat index weight increased to 0.30.

	Discard Mortalities (1000 fish)	**Landings (1000 fish)**	**Total (1000 fish)**
2012	41	45	86
2013	44	52	96
2014	47	59	106
2015	50	64	114
2016	52	69	121
2017	54	74	128
2018	56	79	135
2019	58	84	142

Source: SEDAR-24 South Atlantic Red Snapper:
Management quantities and projections requested by the SSC and SERO.

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 NAO 216-6 criteria and CEQ's context and intensity criteria. 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. Instead, the proposed action would allow for harvest of red snapper, without negatively impacting the stock. As more fully discussed in Chapter 4 of the EA, the proposed action, which includes the formula to specify a red snapper ACL in **Preferred Sub-Alternative 2c**, the potential openings in **Preferred Alternatives 3a** and **4a**, and the management measures identified in **Preferred Alternatives 5**, **6c**, and **7**, is consistent with the following: (1) assessment results from Southeast Data, Assessment, and Review (SEDAR) 24; (2) rebuilding projections provided by the Southeast Fisheries Science Center (SEFSC); (3) ABC recommendation from the South Atlantic Fishery Management Council's (South Atlantic Council) Scientific and Statistical Committee (SSC); and, (4) rebuilding plan implemented in 2010. The assessment and rebuilding plan have been peer-reviewed and are based on the best available scientific information.

As discussed in **Section 1.4** of the EA, the rebuilding plan allows for the ABC to increase as the stock rebuilds. In 2012, information from the SEFSC indicated the level of total mortality occurring from the incidental catch of red snapper was less than the ABC from the red snapper rebuilding projection in 2012. Therefore, at its June 2012 meeting, the South Atlantic Council voted to request NMFS implement temporary measures through emergency action to increase the red snapper ACL and allow limited harvest of red snapper in or from the South Atlantic exclusive economic zone (EEZ) in 2012. NMFS implemented the temporary measures, and the ACL was increased in accordance with the rebuilding plan. The ACL increase did not change the rebuilding plan.

Similarly, the South Atlantic Council has determined that retention of a limited number of red snapper, beginning in 2013, would not jeopardize the rebuilding of the red snapper stock if the ABC is not exceeded the previous year. As such, the South Atlantic Council has developed a process and formulas in Amendment 28 where NMFS would determine if there would be a fishing season for a particular year, and the magnitude of red snapper harvest that might be allowed each year. Harvest would only be allowed if last year's mortality level is less than last year's ABC. 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 increase in the red snapper ACL as proposed by the EA, if it is to occur, is expected to be relatively small.

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 expected to jeopardize the sustainability of any non-target species. Any changes in the bycatch of other fish species and resulting population and ecosystem effects would be minimal 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 as the red snapper ACL resulting from the formula in the EA is expected to be relatively small. In 2012, an emergency rule specified an ACL of 13,067 fish based on an ABC of 86,000 fish. The average annual increase in the ABC over the next three years is 9,333 fish **(Table 2)**; therefore, future increases in the ACL could be expected to be similar.

A bycatch practicability analysis (BPA) is included in **Appendix B** of the EA. The impacts to bycatch are also discussed in **Section 4.1.2.** Species that are most likely to co-occur with red snapper include: vermilion snapper, gag, scamp, greater amberjack, gray triggerfish, black sea bass, and red grouper. The BPA concluded that the proposed action is not anticipated to significantly increase bycatch of snapper-grouper species. As the increase in the red snapper ACL as proposed by the EA is expected to be relatively small and the seasons are expected to be very short, none of the proposed alternatives are expected to substantially increase overall fishing effort or the spatial and/or temporal distribution of current fishing effort.

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 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. Since the proposed action is expected to represent a relatively small increase in the red snapper ACL in accordance with an established rebuilding plan, fishing effort is not expected to significantly increase as a result of these actions, nor are changes in fishing technique or behavior expected. 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 **Section 4.1.2**.

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 techniques or operations in a way that would impact the safety of commercial or recreational fishermen. The Regional Administrator (RA) of NMFS's Southeast Regional Office would evaluate weather conditions before determining any opening dates. If the RA determines severe weather conditions exist, or are projected to exist, in the South Atlantic during the open season, the RA may modify the opening and closing dates. If the RA determines that the fishing season dates should change based on severe weather conditions, the RA would file a notification to that effect with the Office of the Federal Register, and announce via NOAA Weather Radio and Fishery Bulletin any change in the fishing season. These impacts are described in the EA in **Sections 2.1** and **4.1.5.**

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 Endangered Species Act (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. However, the

proposed action is unlikely to alter fishing in ways that would cause new adverse affects to species not previously considered. Protected resources are discussed in **Section 3.2.6** and **Appendix G (Other Applicable Law)** of the EA; the biological impacts are discussed in **Section 4.1.2**.

NMFS completed a biological opinion (opinion) on the South Atlantic snapper-grouper fishery entitled: "The Continued Authorization of Snapper-Grouper Fishing in the U.S. South Atlantic Exclusive Economic Zone (EEZ) as Managed Under the Snapper-Grouper Fishery Management Plan of the South Atlantic Region (SGFMP), including Amendment 13C to the SGFMP," on June 7, 2006. The opinion concluded the continued authorization of the fishery will not affect marine mammals and is not likely to jeopardize the continued existence of any other ESA-listed species. ESA consultations conducted after NMFS completed the biological opinion have determined the snapper-grouper fishery was not likely to adversely affect marine mammals, Atlantic sturgeon, or *Acropora* species (See **Appendix G** for discussion of most recent ESA Section 7 consultations). On December 7, 2012, NMFS published a proposed rule that proposed listing 66 coral species under the ESA, and recommended reclassifying *Acropora* from threatened to endangered (77 FR 732220). In a memo to file dated January 23, 2013, NMFS concluded the new information in the proposed rule would not trigger reinitiation of consultation.

There is likely to be no additional biological benefit to protected species from **Alternative 1 (No Action)** because it would perpetuate the existing level of risk for interactions between ESA-listed species and the fishery, and reinitiation of formal consultation is not required.

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. This action is expected to increase the ACL by a relatively small amount consistent with the FMP objectives, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. The proposed action is not expected to alter fishing methods or activities. The proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort.

As discussed in **Section 4.1.2** of the EA, allowing harvest through **Alternatives 2** to **4** is consistent with the following: (1) assessment results from SEDAR 24; (2) rebuilding projections provided by the SEFSC; (3) ABC recommendation from the South Atlantic Council's SSC and adopted by the South Atlantic Council; and, (4) rebuilding plan implemented in 2010. The assessment and the rebuilding plan have been peer reviewed and are based on the best available scientific information.

Red snapper mortality may occur when fish are returned to the water for larger fish (called high-grading). High-grading behavior could occur both if the 20 inch minimum size limit is retained (**Alternative 1 (No action)**) and if it is removed (**Alternative 5 (Preferred)**). **Alternative 7 (Preferred)** could result in beneficial effects by increasing the probability that the ACL would

not be exceeded during the recreational fishing season by constraining harvest through effort controls. A bag limit could decrease the incentive to target red snapper; targeting of red snapper may increase discards if high-grading occurs as described previously.

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

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

Red snapper is a minor component of the entire *commercial* component of the snapper-grouper fishery. All harvests (all trips and all species) by commercial vessels harvesting snapper-grouper averaged approximately 11.24 million pounds valued at $24.74 million (2011 dollars) over 2003-2007. The landings of red snapper in 2003-2007 averaged annually at approximately 121,000 pounds valued at $421,000 (2011 dollars). During 2005-2009, commercial harvest of red snapper averaged approximately 171,000 lbs valued at approximately $612,000 (2008 dollars) per year. Harvest of red snapper was prohibited in 2010 and 2011.

Recreational snapper-grouper harvest in the South Atlantic averaged approximately 10.8 million lbs per year during 2005-2009. For the same period, recreational harvest of red snapper averaged approximately 557,000 pounds per year. Recreational target effort and catch effort for snapper-grouper averaged 945,000 trips and 2.7 million trips per year, respectively, during 2005-2009. For the same period, red snapper target effort and catch effort, respectively, averaged 57,300 trips and 94,000 trips per year.

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

Response: No. As discussed in **Section 4.1.4** and **Chapter 5** of the EA, the effects of the proposed action on the quality of the human environment are not likely to be highly controversial. One public hearing was held at the December 2012 South Atlantic Council meeting and a one-month comment period was announced for the public to submit written comments. The majority of stakeholders were in favor of a limited re-opening of red snapper harvest beginning in 2013. Based on this information, it is anticipated that most of the South Atlantic Council's constituents support this action. The effects on the quality of the human environment of the red snapper closure approved in the interim rule and extended through Amendment 17A were controversial as some fishermen felt the action would have negative economic effects. Also, many fishermen questioned the accuracy of the data used to make the overfishing and overfished stock status determinations. Any controversy resulting from this EA would likely be minimal as the proposed action would reduce negative socio-economic effects imposed through the red snapper closure, while ensuring the red snapper stock continues to rebuild.

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 **Chapter 6 (Cumulative Effects)**, 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. 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, which may establish a short opening for red snapper in the future, 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 **Section 1.5** of the EA, the proposed action, including the specification of the ACL in **Preferred Sub-Alternative 2c**, the expected relatively short openings in **Preferred Alternatives 3a** and **4a**, and management measures in **Preferred Alternatives 5**, **6c**, and **7**, is consistent with the following: (1) assessment results from SEDAR 24; (2) rebuilding projections provided by the SEFSC; (3) ABC recommendation from the South Atlantic Council's SSC; and, (4) rebuilding plan implemented in 2010. The assessment and rebuilding plan have been peer reviewed and are 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 expected to represent a relatively small increase in the red snapper ACL. Therefore, there are no foreseeable significant additive or interactive effects as a result of the proposed action. These impacts are described in **Sections 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.4, 6.1,** and **6.2** of the EA.

As discussed in **Chapter 1** and **Section 4.1.2** in the EA, the proposed action would establish a procedure and formulas to determine future red snapper ACL and fishing seasons, but does not specify the ACL amount or length of the seasons. The length cannot be determined under **Sub-alternatives 2a, 2b,** and **2c** until the estimated removals are available. If the proposed action is implemented, NMFS would use the formula to compute the number of fish that may be harvested. The length of the season would depend on a number of factors, including the ABC and estimated removals. In 2012, the 86,000 fish ABC and estimated removal levels resulted in a six and seven day fishing season for the recreational and commercial sectors, respectively. The 2013 ABC is 96,000 fish.

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 as these are not in the South Atlantic EEZ. This action is not likely to cause destruction of significant scientific, cultural, or historical resources 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. 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 significant scientific, cultural, or historical resources such as these national marine sanctuaries; the actions, which may establish a short opening for red snapper in the future, are not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort within the South Atlantic region.

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 would not introduce or spread any non-indigenous species because it does not change existing fishing operations. There is no evidence or indication that the snapper-grouper fishery has ever resulted in the introduction or spread of non-indigenous species. The proposed action is not expected to alter fishing methods or activities. The proposed action is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. The biological impacts are discussed in **Section 4.1.2.**

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. A rebuilding plan was completed for red snapper through Amendment 17A which contained an EIS. This action proposes to implement a procedure to consider a revision to the ACL in beginning in 2013 for red snapper according to the rebuilding plan. The proposed action represents an expected relatively small increase in the ACL, and is not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. As the stock rebuilds, a new stock assessment is completed, or other biological information about red snapper becomes available in the future, the ACL would be adjusted according to FMP objectives, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. These impacts are described in **Sections 7.1,** and **7.2** of the EA. The South Atlantic Council is considering additional management measures for red snapper in Amendment 22 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 22). Amendment 22 considers long-term management of red snapper, including the implementation of a tag program where retention is limited to those who possess tags.

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 E**.

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 7. 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 preferred alternative for the ACL equation for red snapper is consistent with the objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region, the rebuilding plan, and the ABC recommendation from the South Atlantic Council's SSC. The scientific information upon which the ACL is based (SEDAR 24, rebuilding projections provided by the SEFSC, Amendment 17A EIS) 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.

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 EIS for this action is not necessary.

6/7/13

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Date