FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment for a Framework Action to Set the Annual Catch Limit and Bag Limit for Vermilion Snapper, Set the Annual Catch Limit for Yellowtail Snapper, and Modify the Venting Tool Requirement

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's National Marine Fisheries Service (NMFS) published a Policy Directive with guidelines for the preparation of a Finding of No Significant Impact (FONSI). In addition, the 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 NMFS, 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 will not jeopardize the sustainability of the target species. The most recent stock assessments, as described in Section 1.1 and 3.3, indicated the Gulf of Mexico (Gulf) vermilion snapper stock and the United States yellowtail snapper stock were not overfished or undergoing overfishing. In fact, the Gulf of Mexico Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) indicated the respective acceptable biological catches (ABC) could be increased in 2013 for both stocks. To account for management uncertainty, the Council selected annual catch limits (ACLs) below the SSC's recommended ABCs for both vermilion and yellowtail snapper, further reducing the likelihood of overfishing (see sections 2.1, 2.3, 3.3, 4.1, and 4.3). For vermilion snapper, the Council determined an increase in the stock ACL inadvisable due to concerns expressed by their Reef Fish Advisory Panel as well as fishermen who testified the stock condition has been declining in recent years (see section 2.1). In addition, the framework action would reduce the vermilion snapper bag limit within the reef fish aggregate bag limit from 20 to 10 fish to slow any increase in the recreational harvest and further protect the stock from overfishing (see sections 2.2 and 4.2.2). Although the action rescinding the reef fish venting tool requirement could lead to increased discard mortality of reef fish, the action could also reduce discard mortality by giving fishermen more flexibility on when to use venting tools (e.g., reducing the handling times of fish) or to use other, less invasive, release techniques such as using recompression devices (see sections 1.1, 2.4, and 4.4.2).

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

Response: No, the proposed actions will not jeopardize the sustainability of any non-target species, and is not expected to substantially alter standard fishing practices used in the reef fish fishery. Therefore, the sustainability of non-target species is not expected to be jeopardized by

this action. The action is intended to minimize the risk of overfishing of vermilion snapper and yellowtail snapper in the Gulf, and provide more flexibility for fishermen in how they release reef fish (see sections 4.1.2, 4.2.2, 4.3.2, and 4.4.2). Other species managed by the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico and caught by the recreational reef fish sector are closely regulated through quotas and ACLs to minimize the risk of overfishing.

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 (FMP)?

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 3.2. This action should only have minor impacts to EFH because fishing practices will not be substantially altered (see Sections 4.1.1, 4.2.1, 4.3.1, and 4.3.1). Any changes in effort from the action are likely to be minimal because the reef fish fishery is comprised of many species which fishermen can continue to target throughout the year. Nevertheless, gear used by the commercial and recreational sectors has minor effects on the environment as detailed in Section 4.1.1. Vertical line gear, the primary gear used to harvest these species, has the potential to snag and entangle bottom structures. Although individual gear has a very small footprint, the impact of the commercial and recreational fishing sectors results in a large amount of gear being placed in the water, increasing the potential for impact; however, except for the increased allowable harvest of yellowtail snapper, none of the actions will increase fishing effort. There is no indication that the increase in the allowable harvest of yellowtail snapper in the Gulf will increase fishing effort; the previous allowable harvest has not been met in recent years.

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 health or safety because the reef fish fishery fishes for multiple species year-round and thus there are always species available to target. Thus the fishery operates year-round. Changing vermilion snapper and yellowtail snapper ACLs, vermilion snapper bag limits, or reef fish venting tool requirements are expected to have negligible or no impact on recreational or commercial fishing activities and are not expected to substantially alter the manner in which the reef fish fishery is prosecuted in the Gulf.

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. Although the reef fish fishery as a whole has adverse effects on endangered and threatened species and marine mammals, the effect of the proposed action cannot reasonably be expected to be significant under NEPA because it is not expected to substantially alter the manner in which the fishery is conducted in the Gulf.

As discussed in Sections 3.3.4, 4.1.2, and 4.2.2, a 2011 biological opinion for the Gulf reef fish fishery determined the fishery is not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. With regard to marine mammals, the primary fishing gears used by the reef fish fishery, longline and hook-and-line gear, are classified in the 2012 List of Fisheries (76 FR 73912, November 29, 2011) as Category III gears. 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 (see Section 3.3.4). Bottlenose dolphins may feed on the bait, catch, and/or released discards of the reef fish fishery.

On November 30, 2012, NMFS proposed listing 66 species of corals under the Endangered Species Act, of which 12 species were proposed to be classified as endangered (see Section 3.3.4). Five of the 12 species occur in the Gulf of Mexico region; however, because of protections including closed areas identified in Section 3.2, NMFS believes the continued authorization of the Gulf of Mexico reef fish fishery is not likely to jeopardize the continued existence of any species proposed for listing.

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 affected area. The only proposed action that could increase fishing effort is increasing the yellowtail snapper ACL. As noted in Response #3, there is no indication that the increase in the allowable harvest of yellowtail snapper in the Gulf will increase fishing effort; the previous allowable harvest has not been met in recent years. Any change in overall reef fish fishing effort allowed under the ACL increase is likely to be minimal because of the multi-species nature of the reef fish fishery (See Section 4.3.1 and 4.3.2). Therefore, this action and the other proposed action is not expected to substantially alter the manner in which the reef fish fishery is conducted in the Gulf.

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

Response: No, the proposed actions would not create any significant social or economic impacts interrelated with natural or physical environmental effects. As discussed in Sections 4.1.3, 4.1.4, 4.2.3, 4.2.4, 4.3.3, 4.3.4, 4.4.3, and 4.4.4, the proposed action is likely to have direct and indirect social and economic impacts to commercial and recreational fishing sectors and to the shoreside operations that support these sectors. However, these impacts are not significant. As detailed in Section 3.1, vermilion and yellowtail snapper are just two species in the multi-species reef fish fishery. For the reef fish fishery, the cost of the venting tools is minimal. Not requiring their use should have little if any adverse effects on the social and economic environments. In fact, not requiring their use could increase fishing efficiency, albeit a small increase (Section 2.4).

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 fish stocks and fisheries (see Sections 1-4). Stakeholders were informed of this action and allowed to comment at Council meetings as well as through written comments (Appendix C). Fishery participants often do not accept the science, making for controversial opinions, but national standard 2 of the Magnuson-Stevens Act requires conservation and management measures be based upon the best scientific information available. The proposed action was certified by the Southeast Fisheries Science Center as based on the best available scientific information and made this determination through scientific review.

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 framework 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; and Madison Swanson and Steamboat Lumps ecologically-critical areas are closed to bottom fishing as incorporated by reference in Section 3.2. The actions should have no impact on the historic shipwrecks such as the *U.S.S. Hatteras* located in federal waters off Texas (also referenced in Section 3.2). Fishing does occur over wrecks; however, the proposed action does not increase overall fishing effort. Therefore, there would be no additional impacts on these components of the environment from the proposed actions.

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. This proposed action sets the vermilion and yellowtail snapper ACLs, reduces the vermilion snapper bag limit, and modifies the reef fish venting tool requirement in accordance with approved procedures outlined in the subject FMP. As noted in Section 1.3, adjustments to catch limits, bag limits, and gear requirements are made regularly in many fisheries, based on updated information regarding the status of a specific stock or stocks. For example, the changes proposed here are modifications of harvesting restrictions established or modified in the Generic ACL/Accountability Measure (AM) Amendment, enacted in 2012 (see Section 2.1 and 2.3), as well as previous other amendments to the FMP that adjusted allowable catches, bag limits and other harvesting restrictions.

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

Response: No, there is no past or reasonably foreseeable future actions related to the proposed management action with individually insignificant but cumulatively significant impacts. The proposed action sets the vermilion and yellowtail snapper ACLs, reduces the vermilion snapper bag limit, and modifies the reef fish venting tool requirement. These measures are not expected to substantially alter the manner in which the fishery is conducted. The current vermilion and yellowtail snapper ACLs were established through the Generic ACL/AM Amendment for the Gulf of Mexico Fishery Management Council's Red Drum, Reef Fish, Shrimp, Coral and Coral Reefs FMPs, the 10-fish bag limit was initially established in Amendment 23 (but later rescinded through a 2007 framework action), and the venting tool requirement was established through Amendment 27 (see Section 1.3). This action was analyzed in associated environmental impact statements except for rescinding the bag limit reduction which was analyzed through an environmental assessment`.

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 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 historic shipwrecks such as the U.S.S. Hatteras located in federal waters off Texas (also referenced in Section 3.2). Fishing does occur over wrecks; however, the proposed action does not increase overall fishing effort. The proposed action is not expected to significantly change fishing practices and so should not increase any risk of loss or destruction to any significant scientific, cultural, or historical resources 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. Vermilion and yellowtail snapper are native to the Gulf (see Section 3.3). The proposed action sets the vermilion and yellowtail snapper ACLs, reduces the vermilion snapper bag limit, and modifies the reef fish venting tool requirement and are not expected to substantially alter the manner in which the fishery is conducted. The fishery is prosecuted within the boundaries of the Gulf, reducing the likelihood of introducing non-indigenous species.

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 vermilion and yellowtail snapper, as well as other reef fish species, is regulated through size limits, bag limits, and other fishing restrictions as described in Section 1.3. The Council based its decision on updated scientific information summarized in Sections 1.1 and 3.3 regarding the status of the stocks. The assessments indicate both snapper stocks are not considered overfished or undergoing overfishing. 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 do not implicate state or local requirements (see Section 3.6 and Appendix B). 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 (see Section 4.5). In general, the proposed action sets the vermilion and yellowtail snapper ACLs, reduces the vermilion snapper bag limit, and modifies the reef fish venting tool requirement are not expected to substantially alter the manner in which the reef fish fishery is conducted. The proposed harvest levels are adjusted to ensure overfishing does not occur and maintain the stock condition at sustainable levels in compliance with the Magnuson-Stevens Act.

DETERMINATION

In view of the information presented in this document and the analysis contained in the Environmental Assessment prepared for this temporary rule, it is hereby determined that this 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 is not necessary.

Miles M Croom 7/18/2013

for Roy E. Crabtree, Ph.D. Date
Regional Administrator
Southeast Regional Office
National Marine Fisheries Service