Finding of No Significant Impact for
Measures in the Environmental Assessment Supporting a Temporary Rule through Emergency Action Modifying the Annual Catch Limits and Accountability Measures for the Deep-Water Complex and Implementing Annual Catch Limits and Accountability Measures for Blueline Tilefish

National Marine Fisheries Service
March 2014

Introduction

This Finding of No Significant Impact (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 FONSI 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 *Specification of Annual Catch Limits and Accountability Measures for Blueline Tilefish (*Caulolatilus microps*) in the South Atlantic Region*, dated January 2014.

A stock assessment completed in October 2013 determined that the blueline tilefish stock in the South Atlantic is experiencing overfishing and is overfished according to the current definition for the minimum stock size threshold. NMFS notified the South Atlantic Fishery Management Council (Council) of the stock status in a letter dated December 6, 2013. As mandated by Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS and the Council must prepare and implement a plan amendment and regulations to rebuild the stock and end overfishing immediately by December 6, 2015.

At their December 2013 meeting, the Council initiated development of Amendment 32 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 32) to end overfishing of the blueline tilefish stock. Blueline tilefish is currently in the deep-water complex along with yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper; in the same amendment, the Council proposes to separate blueline tilefish from the complex and revise the annual catch limits (ACL) and accountability measures (AM) for the deep-water complex accordingly.

At their December 2013 meeting, the Council voted 12 to 1 to request NMFS publish an emergency rule, as early in 2014 as possible, to implement temporary ACLs and AMs for blueline tilefish and modify the current ACLs and AMs for the deep-water complex. Through the implementation of temporary ACLs and AMs, the Council's intent is to reduce overfishing of blueline tilefish while Amendment 32 is developed.

The EA contains two actions, six alternatives, and four sub-alternatives (Table 1). **Sub-alternative 3a** of **Action 1** and **Alternative 3** of **Action 2** have been selected as preferred alternatives. The proposed action is to temporarily modify the ACLs and AMs for the deep-

water complex and implement ACLs and AMs for blueline tilefish. The temporary ACLs for blueline tilefish, if implemented, would be below harvest levels of blueline tilefish in recent years. The purpose for taking action is to reduce catches of blueline tilefish while the Council explores long-term options to end overfishing and rebuild the stock. The need for the action is to minimize future, adverse biological effects to the blueline tilefish stock and socio-economic adverse effects to fishermen and fishing communities that utilize the blueline tilefish portion of the snapper-grouper fishery by reducing overfishing of blueline tilefish and achieving optimum yield on a continuing basis. Although the proposed action in the emergency rule, if implemented, would likely have socio-economic adverse effects beginning in 2014, the short-term effects may minimize long-term reductions in harvest that may be required if the current levels of unsustainable harvest continue to reduce the biomass of the blueline tilefish stock.

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

Alternative Number	Preferred	Alternative Description[1]
Action 1. Temporarily Revise Annual Catch Limits for Species in the Deep-Water Complex		
1 (no action)		Retain the current annual catch limits for the deep-water complex (yellowedge grouper, blueline tilefish, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper). Commercial ACL = 376,469 pounds whole weight (lbs ww) Recreational ACL = 334,556 lbs ww
2		Revise the current commercial and recreational annual catch limits for the deep-water complex by reducing allowable harvest for the blueline tilefish portion of the complex.
Sub-alternative 2a		Reduce the blueline tilefish portion of the deep-water complex to equal the equilibrium yield at 75%F_{MSY}. The commercial and recreational annual catch limits for the deep-water complex would be 172,578 and 131,206 pounds whole weight, respectively.
Sub-alternative 2b		Reduce the blueline tilefish portion of the deep-water complex to the yield at F_{MSY} (based on current biomass). The commercial and recreational annual catch limits for the deep-water complex would be 157,006 and 115,678 pounds whole weight, respectively.
3	X	Separate blueline tilefish from the deep-water complex and establish annual catch limits for blueline tilefish.
Sub-alternative 3a	X	Establish commercial and recreational annual catch limits for blueline tilefish based upon the equilibrium yield at 75%F_{MSY} and existing sector allocations (50.07% commercial and 49.93% recreational). Blueline tilefish commercial ACL = 112,207 lbs ww Blueline tilefish recreational ACL = 111,893 lbs ww Deep-water complex commercial ACL = 60,371 lbs ww Deep-water complex recreational ACL = 19,313 lbs ww
Sub-alternative 3b		Establish commercial and recreational annual catch limits for blueline tilefish based upon the yield at F_{MSY} (based on current biomass) and existing sector allocations (50.07% commercial and 49.93% recreational). Blueline tilefish commercial ACL = 96,635 lbs ww Blueline tilefish recreational ACL = 96,365 lbs ww Deep-water complex commercial ACL = 60,371 lbs ww Deep-water complex recreational ACL = 19,313 lbs ww
Action 2. Temporarily Revise Accountability Measures for Species in the Deep-Water Complex		
1 (no action)		Retain in-season accountability measures for deep-water complex. Commercial=close in-season if reaches ACL Recreational=no in-season accountability measures
2		Deep-water complex (including blueline tilefish) accountability measures: Commercial and recreational=close in-season
3	X	Blueline tilefish in-season accountability measures: Commercial and recreational=close in-season

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

Under both no action alternatives, the underlying purpose (as described in Chapter 1 in the attached EA) would not be addressed. The other alternatives would meet the purpose by modifying the ACLs and AMs for the deep-water complex and implementing ACLs and AMs for blueline tilefish. The temporary ACLs for blueline tilefish, if implemented, would be below harvest levels of blueline tilefish in recent years.

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 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 NMFS Instruction 30-124-1, July 22, 2005, Guidelines for Preparation of Finding of No Significant Impact. 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. As more fully discussed in **Chapter 4** of the EA, the proposed action would have positive biological effects on the blueline tilefish stock since allowable harvest levels would be reduced from 2012 landings by 34 to 41 percent. In addition, the proposed action is consistent with the assessment results from Southeast Data, Assessment, and Review (SEDAR) 32 and objectives of the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region. The assessment has been peer reviewed and is based on the best available scientific information. Also, the emergency rule, if implemented, may only be in place for a maximum of 366 days.

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

Response: No. The proposed action would not be reasonably expected to jeopardize the sustainability of any non-target species. A bycatch practicability analysis is included in **Appendix F**. The impacts to bycatch are also discussed in **Section 4.2.1.** As discussed in the EA, fishery managers, through the measures in **Action 1** and **2**, are proposing ACLs for blueline tilefish below historical allowable harvest, in addition to AMs that would prohibit retention of blueline tilefish when the commercial and recreational ACL are reached or projected to be reached. These actions may increase the level of bycatch if harvest of blueline tilefish or the deep-water species (including blueline tilefish) is prohibited in-season. However, any increase in bycatch of blueline tilefish or other species in the deep-water complex is not expected to be substantial for several reasons. First, in 2012, blueline tilefish represented 96% of the landings in the deep-water complex; therefore, fishing effort towards the other species in the deep-water complex would likely be greatly reduced if blueline tilefish is prohibited as the other species are likely not targeted. Second, commercial fishermen may still retain the recreational bag limit if

the commercial sector is closed but the recreational sector is open; the ability to retain the fish, even at low levels, would reduce the adverse effects of bycatch if the recreational sector is still open. Finally, blueline tilefish is largely caught separately from other deep-water species such as snowy grouper; therefore, incidental catch of blueline tilefish is not expected.

As discussed in the EA, the low association between blueline tilefish and other deep-water species, including snowy grouper, may be attributable to the unique habitat preferences of deep-water species compared to blueline tilefish. For example, blueline tilefish inhabit irregular bottom comprised of troughs and terraces inter-mingled with sand, mud, or shell hash bottom where they live in burrows, whereas snowy grouper inhabit the upper continental slope, between 240 and 330 ft of depth, in habitats characterized by rocky ledges and swift currents. A study completed in North Carolina, which monitored fishing trips that targeted blueline tilefish with longline gear, supports the low association between the harvest of blueline tilefish and other deep-water species. In all the trips monitored (100 trips), anglers did not catch any speckled hind, warsaw grouper, misty grouper, queen snapper, silk snapper, or yellowedge grouper.

Additionally, the action is not reasonably expected to jeopardize the sustainability of non-target species that are not in the deep-water complex as these species are not likely a significant component of catch on trips that target blueline tilefish. For example, black sea bass and snowy grouper were the only species not in the deep-water complex caught on trips documented in the North Carolina exempted fishing permit study; less than 200 and 400 pounds of black sea bass and snowy grouper, respectively, were caught during the study.

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. Changes in fishing method are not expected from the actions. 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 FMP for the Snapper-Grouper Fishery of the South Atlantic Region. Additionally, the 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 **Sections 4.1.1 and 4.2.1.**

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 methods in a way that would have a substantial adverse impact the safety of commercial or recreational fishermen. The commercial sector already is managed with the possibility of an in-season closure. One alternative would implement the possibility of an ins-season closure for the recreational sector. Scenario 1 predicted the recreational ACL would be met in early February 2014; whereas, under scenario 2 predict the recreational ACL will not be met in the fishing year. These impacts are described in the EA in **Chapter 4.**

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 effects to species not previously considered. As more fully discussed in Chapter 4 of the EA, the proposed action would have positive biological effects on the blueline tilefish stock since allowable harvest levels would be reduced from 2012 landings by 34 to 41 percent. Also, the emergency rule, if implemented, may only be in place for a maximum of 366 days. Protected resources are discussed in **Section 3.2.6** and **Appendix H (Other Applicable Law)** of the EA; the biological impacts are discussed in **Sections 4.1.1** and **4.2.1.**

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 would 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 H** of the EA for discussion of most recent ESA Section 7 consultations). In a consultation memorandum dated July 9, 2007, NMFS concluded the continued authorization of the South Atlantic snapper-grouper fishery is not likely to adversely affect *Acropora*. 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 73220). This proposed reclassification provided additional information on the status of *Acropora* that was not available at the time of the 2007 consultation. However, in a memorandum dated January 23, 2013, it was determined that new information did not change previous effects determination that the fishery was not likely to adversely affect *Acropora.* In a separate consultation memorandum dated February 15, 2012, NMFS concluded the continued authorization of the South Atlantic snapper-grouper fishery is not likely to adversely affect any distinct population segments of Atlantic sturgeon.

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 ecosystem function within the affected area. As more fully discussed in **Chapter 4** of the EA, the proposed actions would have positive biological effects on the blueline tilefish stock since allowable harvest levels would be reduced from 2012 landings by 34 to 41 percent. In addition, the proposed action is consistent with the assessment results from SEDAR 32 and objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region. The assessment and projections have been peer reviewed and are based on the best available scientific information. Also, the emergency rule, if implemented, may only be in place for a maximum of 366 days. The biological impacts are discussed in **Sections 4.1.1** and **4.2.1.**

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 interrelated with natural or physical environmental effects, as discussed in **Chapters 3** and **4** of this EA. Although temporary losses of dockside revenues are expected from the proposed actions, the intent of the proposed actions in the EA is to minimize adverse socio-economic adverse effects to fishermen and fishing communities that utilize the blueline tilefish portion of the snapper-grouper fishery by reducing overfishing of blueline tilefish and achieving optimum yield on a continuing basis by using the best science available. Overall, adjustments to ACLs based on improved information would be beneficial to the blueline tilefish fish stock and would likely produce long-term benefits to the fishermen, coastal communities, and fishing businesses by contributing to sustainable harvest of these fish in the present and future. Socio-economic impacts are also discussed in **Appendix G** (Regulatory Flexibility Analysis).

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

Response: No. The effects of the proposed action on the quality of the human environment are not likely to be highly controversial. As discussed in the response to Item 7 above, the intent of the proposed actions in the EA is minimize adverse socio-economic adverse effects to fishermen and fishing communities that utilize the blueline tilefish portion of the snapper-grouper fishery by reducing overfishing of blueline tilefish and achieving optimum yield on a continuing basis by using the best science available. The socio-economic environment and impacts are discussed in **Chapters 3** and **4,** respectively

As discussed in **Section 1.8** of the EA, the Council held a public comment session prior to approving any motions pertaining to the management blueline tilefish. Only two members of the public commented on blueline tilefish management and both comments pertained to the stock assessment/Amendment 32 and not the proposed emergency actions. One member of the public felt that blueline tilefish should be managed with appropriate possession limits to avoid total closures. Another member of the public expressed concerns with the 1981 through 1986 data that were utilized in the assessment.

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 **Section 6.1,** 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.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the boundaries of the South Atlantic EEZ. The proposed action is not likely to cause loss or destruction of these National Marine Sanctuaries because the actions are not expected to result in appreciable changes to current fishing practices.

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

Response: No. As more fully discussed in **Chapter 4** of the EA, the proposed actions would have positive biological effects on the blueline tilefish stock since allowable harvest levels would be reduced from 2012 landings by 34 to 41 percent. In addition, the proposed action is consistent with the assessment results from SEDAR 32 and objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region. The assessment and projections have been peer reviewed and are based on the best available scientific information. Also, the emergency rule, if implemented, may only be in place for a maximum of 366 days.

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

Response: No. The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. As discussed in **Section 5.1**, none of the actions in this EA would have significant biological, social, or economic effects because, even though the actions would reduce ACLs and modify AMs, they are temporary. Therefore, the cumulative effects of the actions are not expected to significantly affect the magnitude of bycatch, diversity and ecosystem structure of fish communities, or safety at sea of fishermen targeting snapper-grouper, and other species managed by the Council. Based on the cumulative effects analysis presented herein, the proposed actions would not have any significant cumulative impacts compared to other past, present, and foreseeable future actions. See **Chapter 4** for the detailed discussions of the magnitude of the impacts of the alternatives on the human environment.

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.

The U.S.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the boundaries of the South Atlantic EEZ. However, as discussed in **Section 6.1**, the proposed action is not expected to significantly alter fishing methods in a way that would be expected to adversely affect significant scientific, cultural, or historical resources.

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 expected to significantly alter fishing in a way that would be expected to result in the introduction or spread of a non-indigenous species. There is no evidence or indication that the snapper-grouper fishery has ever resulted in the introduction or spread of non-indigenous species. The biological impacts are discussed in **Sections 4.1.1** and **4.2.1.**

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. The effects are described in **Chapter 4** and **Sections 6.1,** and **6.2** of the EA. The proposed action is to temporarily modify the ACLs and AMs for the deep-water complex and implement ACLs and AMs for blueline tilefish. The temporary ACLs for blueline tilefish, if implemented, would be below harvest levels of blueline tilefish in recent years. Modifying ACLs and AMs do not represent a novel approach to managing fisheries in the South Atlantic, nor do these actions represent a decision in principle about a future consideration. As new stock assessments are completed, or other biological information about blueline tilefish becomes available in the future, the ACL would be expected to be adjusted according to FMP objectives and the acceptable biological catch recommendation from the Council's Scientific and Statistical Committee. Through Amendment 32, the Council and NMFS are planning to implement management measures to end overfishing of the blueline tilefish stock.

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 **6**. The cumulative effects of the proposed action on target and non-target

species are detailed in **Chapter 5** of the EA. The cumulative effects analysis revealed no significant, cumulative adverse effects on the biological environment. The proposed action is consistent with the assessment results from SEDAR 32 and objectives of the FMP for the Snapper-Grouper Fishery of the South Atlantic Region. The scientific information upon which the blueline tilefish ACL is derived (SEDAR 32) has been peer reviewed and is based on the best available scientific information.

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 would 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 Environmental Impact Statement for this action is not necessary.

Phil Steele
for

3/28/14

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

Date