FINDING OF NO SIGNIFICANT IMPACT (FONSI)

AMENDMENT 20A TO THE FISHERY MANGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC (FMP)

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 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." This action would directly affect Gulf of Mexico (Gulf), South Atlantic, and Mid-Atlantic fishermen and communities.

Each criterion listed below is relevant to making a FONSI 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 is not expected to jeopardize the sustainability of the target species. The most recent stock assessment determined the Gulf migratory group of king mackerel was not overfished and was uncertain whether the Gulf migratory group was experiencing overfishing. Subsequent analyses led to the likely conclusion that the Gulf migratory group king mackerel stock is not undergoing overfishing. Atlantic migratory group king mackerel were also determined not to be overfished; however, it was uncertain whether overfishing is occurring, and thought to be at a low level if it is occurring. The most recent stock assessment for Spanish mackerel determined that neither migratory group is overfished or experiencing overfishing. (Section 3.1.2)

Restricting bag limit sales of king mackerel and Spanish mackerel could reduce fishing effort on these stocks. Some reduction in recreational catch may occur if a portion of resource participants elect not to harvest mackerel if they are not allowed to sell them. In such cases, there may be some minimal positive benefits to the stock. Prohibition of most bag limit sales would be expected to improve the accuracy of data by reducing the frequency of "double counting" – harvest from a single trip counting towards both the commercial quota and recreational allocation. This practice occurs when catches are reported through the Marine Recreational Information Program (MRIP) and through commercial trip tickets and logbooks. (Sections 2.1 and 4.1.1)

Not eliminating or restricting latent permits would be expected to allow the same level of effort to continue, and perhaps allow an increase in effort. Permit holders who have not been fishing or fishing at low levels may begin participating more fully in the future. However, eliminating or

restricting those permits would not be expected to substantially reduce fishing effort because those permits represent a very small amount of landings. (Sections 2.2 and 4.2.1)

The action to eliminate income requirements would be expected to have minimal, if any, effect on fishing effort or the mackerel stocks. By not requiring a set level of income for the renewal of permits, fishermen would not be encouraged to increase effort to renew their permit. King mackerel permits are limited access and therefore, the number of permits could not increase. More individuals could potentially qualify to obtain a Spanish mackerel permit; however, the low level of the current requirement means most individuals who want a permit are currently able to qualify. Additionally, an income requirement is difficult to enforce. Therefore, the expectation is that elimination of the requirement would not change effort relative to the status quo. (Sections 2.3 and 4.3.1)

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?
Response: No, the proposed action is not expected to jeopardize the sustainability of any non-target species, and is not expected to substantially alter standard fishing practices from those used currently. The action is not expected to significantly increase or decrease the magnitude of bycatch or bycatch mortality in the coastal migratory pelagic (CMP) fishery. Both sectors of the CMP fishery have relatively low baseline levels of bycatch, which are not expected to change as a result of implementation of this action. Other species managed by the Councils are regulated through quotas and annual catch limits to minimize the risk of overfishing. As elaborated on in Criterion 5, the proposed action is not expected to adversely affect endangered or threatened species. (Appendix D)

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 Act and identified in Fishery Management Plans?
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 or Atlantic. Although, vertical line and net gear have the potential to snag and entangle bottom structures, this action will not change the manner in which the gear is used. The action overall would be expected to reduce effort slightly, thereby reducing any impacts of the fishery on EFH. (Section 3.2)

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 action is not expected to substantially alter the manner in which the commercial or recreational sectors of the CMP fishery are prosecuted. If effort is reduced, fishing seasons may stay open longer, mitigating any current derby conditions. (FIS, Sections 4.1-3)

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 marine mammals, endangered or threatened species, or critical habitat of these species. Fishery participation using

the same gear and methods is expected to remain near its current level or be reduced; therefore, impacts on endangered or threatened species, marine mammals, or critical habitat of these species would not change. The Gulf and South Atlantic CMP hook-and-line fishery is classified in the 2013 Marine Mammal Protection Act List of Fisheries as a Category III fishery, meaning the annual mortality and serious injury of a marine mammal resulting from the fishery is less than or equal to one percent of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The Gulf and South Atlantic coastal migratory pelagic gillnet fishery is classified as Category II fishery. This classification indicates an occasional incidental mortality or serious injury of a marine mammal stock resulting from the fishery (1-50 percent annually of the potential biological removal). The fishery has no documented interaction with marine mammals; the National Marine Fisheries Service (NMFS) classifies this fishery as Category II based on analogy (ie., similar risk to marine mammals) with other gillnet fisheries.

In a 2007 biological opinion, NMFS determined the continued existence of endangered green, leatherback, hawksbill, and Kemp's ridley sea turtles, and threatened loggerhead sea turtles was not likely to be jeopardized by fishing for CMP species in the Southeastern United States. Other listed species are not likely to be adversely affected, including Endangered Species Act-listed whales, Gulf sturgeon, and *Acropora* corals. On April 6, 2012, five distinct population segments of the Atlantic sturgeon were listed under the ESA. Because of past captures and the new protection for Atlantic sturgeon, the Sustainable Fisheries Division requested reinitiation of Section 7 consultation on November 26, 2012. In a memo dated November 27, 2013, NMFS determined that allowing the continued operation of the CMP fishery under the existing fishery management regulations, including those in Amendment 20A, during the reinitiation period will not violate section 7(a)(2) or 7(d) of the ESA. (Section 3.3.3 and Appendix D)

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. Changes in the population size structure, as a result of shifting fishing selectivities and increases in stock abundance, could lead to changes in the abundance of other species that compete with CMP species for shelter and food or that prey on CMP species. However, the action is not expected to be sufficiently substantial to influence biodiversity or ecosystem function within the Gulf or Atlantic regions, in terms of altering marine productivity, predator-prey relationships, or other ecological relationships because it will not substantially change the manner in which the fishery is conducted. (Sections 4.1-3.1)

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

Response: No, the proposed action is not expected to create any significant social or economic impacts interrelated with natural or physical environmental effects. The action is not expected to significantly change the level of catch or effort in the fishery. (Sections 4.1-3.3)

8) Are the effects on the quality of the human environment likely to be highly controversial?
Response: No, although the proposed action may be somewhat controversial, in that it is opposed by some, the effects on the quality of the human environment are not likely to be highly controversial. Limiting bag-limit sales will not substantially change the manner in which the fishery is prosecuted and elimination of income requirements is not expected to result in any significant change in the number of permits.
(Sections 2.3 and 4.3.3)

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, EFH, or ecologically critical areas. Park land, prime farmlands, wetlands, wild and scenic rivers are inland and are not part of the environment affected by this action in federal waters of the Gulf or Atlantic. Requirements in the FMP already include restrictions on fishing in marine protected areas and habitat areas of particular concern. Nothing in this amendment is expected to alter existing fishery practices in such a way as to substantially change existing impacts to such areas.
(Sections 3.2 and 4.1.1)

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. The action modifies existing established management regulations, involving commonly used management procedures, and thus does not involve unique or unknown risk. A thorough analysis of the impacts of the action contained within the Environmental Assessment (EA) has been completed and revealed no substantial change in the human impacts is expected from the current environment. (Sections 4.1-3.2-3)

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. Reasonably foreseeable future actions by the Councils are not expected to have a substantial effect on fishermen or managed species. Amendment 20B contains actions that would ease restrictions by increasing trip limits and allowing transit through closed areas. A South Atlantic framework action addresses bycatch in Spanish mackerel nets and seeks to modify regulations. Although lowered effort through the current action could be beneficial to the mackerel stocks, the annual catch limits and accountability measures set in Amendment 18 already restrict effort. (Section 4.4)

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 nor

is it expected to cause loss or destruction of significant scientific, cultural, or historical resources. In the Gulf, the *U.S.S. Hatteras*, located in federal waters off Texas, is listed in the National Register of Historic Places. In the South Atlantic, areas of unique habitat exist, such as the Oculina Bank and large expanses of deepwater coral. Additionally, several notable shipwrecks can be found along the South Atlantic coast in state and federal waters including Lofthus (eastern Florida), Copenhagen (southeast Florida), Half Moon (southeast Florida), Hebe (Myrtle Beach, South Carolina), Georgiana (Charleston, South Carolina), Monitor (Cape Hatteras, North Carolina), Huron (Nags Head, North Carolina), and Metropolis (Corolla, North Carolina). Fishing activity already occurs in the vicinity of these sites, but the proposed action would have no additional adverse impacts on listed historic resources, nor would it alter any regulations intended to protect them. (Section 3.2)

13) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?
Response: No. Because the proposed action is directed towards the management of naturally occurring species in the Gulf, the introduction or spread of non-indigenous species should not occur. Additionally, the action does not propose any activity, such as increased ballast water discharge from foreign vessels, which is associated with the introduction or spread on non-indigenous species. (Section 4.4)

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, nor does it represent a decision in principle about future consideration. Bag limit sales are currently prohibited in all Gulf and South Atlantic managed fisheries other than the CMP fishery; elimination or restriction of latent permits has been considered and rejected in other fisheries; and income requirements have been removed for all permits issued by the Southeast Regional Office except the commercial spiny lobster permit. Therefore, no precedent would be set by these actions for the CMP fishery. The Councils may change the management strategy at any time based on new information, subject to the Administrative Procedures Act, National Environmental Policy Act (NEPA), and other applicable laws. (Chapter 2)

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. An analysis of other applicable federal laws related to the action was conducted in the EA, which fulfills the mandates set forth in NEPA. The amendment erroneously omitted the requirement for a federal king mackerel permit to fish for king mackerel in North Carolina state waters in Table 3.1.1.7. North Carolina regulations require a federal permit to exceed the bag limit in state and federal waters of the Atlantic Ocean; however, for Spanish mackerel, a federal Spanish mackerel permit is required to exceed the bag limit only in federal waters.[1] Nevertheless, the analyses do not indicate any reasonable expectation that the action threatens violation of federal, state, or local laws. (Sections 3.1, 3.2, 3.3.3, and 3.5.4; Chapters 5 and 6; and Appendix B)

[1] An errata sheet has been appended to the amendment/EA.

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. Although several other regulatory changes have been proposed for the CMP fishery (see Criterion 11), the cumulative effects are likely not significant because none of the proposed actions are expected to substantially alter landings or effort. (Section 4.4)

DETERMINATION:
In view of the information presented in this document and the analysis contained in the supporting EA prepared for this amendment to the FMP, it is hereby determined that this amendment 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 addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

5/29/14

Roy E. Crabtree, Ph.D.
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Date