FINDING OF NO SIGNIFICANT IMPACT

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. The National Marine Fisheries Service (NMFS) issued Instruction 30-124-1, July 22, 2005, Guidelines for the Preparation of a Finding of No Significant Impact (FONSI). In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. Section 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity". Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of the proposed actions is analyzed based on the NAO 216-6 criteria, the 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 actions in this environmental assessment (EA) would not jeopardize the sustainability of any target species (see **Section 3.2**; **Chapters 4** and **6** of the EA). Amendment 5 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo Amendment 5) would be expected to enhance the sustainability of dolphin and wahoo through revision of the acceptable biological catch (ABC) estimates, annual catch limits (ACLs), recreational annual catch targets (ACTs) (**Action 1**), and accountability measures (AMs) (**Action 2**). The revisions incorporate updates to the recreational landings data as per the Marine Recreational Information Program (MRIP), as well as updates to commercial and for-hire landings. Additionally, this EA would revise the framework procedure for dolphin and wahoo (**Action 3**); and consider commercial trip limits for dolphin (**Action 4**). The intent of this EA is to base conservation and management measures upon the best scientific information available, and to prevent unnecessary negative socio-economic impacts, to the extent practicable, that may otherwise be realized by participants in the dolphin wahoo fishery and fishing community, in accordance with the provisions set forth in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In **Action 1**, the small increases in the revised ABCs and ACLs under **Preferred Alternative 2** are not expected to substantially change the sustainability of dolphin and wahoo, particularly since the stocks are healthy. The Report to Congress on the Status of U.S. Stocks indicates dolphin is not overfished, and is not undergoing overfishing (http://www.nmfs.noaa.gov/sfa/statusoffisheries/SOSmain.htm). The overfished/overfishing status of wahoo is unknown, but all indications are that the stock is not vulnerable to overfishing due to its life history characteristics such as rapid growth rates, early maturity, batch spawning over an extended season, and a short life span. Furthermore, both species are currently listed as species of "least concern" under the International Union for Conservation of Nature Red List, i.e. species that have a low risk of extinction. Revision of the AMs under **Preferred sub-alternatives 2c** and **3c** (payback provisions for both commercial and recreational sectors) in **Action 2** would further ensure overfishing of dolphin and wahoo does not occur, and promote sustainability of the species. **Action 3**, with **Preferred Alternatives 2** and **3** would modify the framework procedure, is administrative in nature, and not expected to jeopardize the sustainability of dolphin and wahoo. **Preferred Alternative 1 (No Action)** under

Action 4 would not establish trip limits for dolphin. No adverse effects are expected from this action.

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

Response: No. The proposed actions are not expected to jeopardize the sustainability of any non-target species (see above; **Section 3.2**; **Chapters 4** and **6** of the EA). Bycatch information is currently being collected in the dolphin wahoo fishery. A bycatch practicability analysis (BPA) is included in **Appendix E**, and **Sections 1.1** through **1.4** of the BPA describe the effects of the action proposed in Dolphin Wahoo Amendment 5 on non-target species. There is very little bycatch of non-target species associated with hook-and-line gear, which is the predominant gear used to harvest dolphin and wahoo.

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 FMPs?

Response: No. The proposed actions are not reasonably expected to cause substantial damage to the ocean and coastal habitats and/or EFH in the U.S. waters as described in **Chapter 3.0**. The proposed actions in Dolphin Wahoo Amendment 5 are not expected to substantially alter fishing methods or activities. The habitat environment is discussed in **Section 3.1** of this EA, and the biological impacts are discussed in **Chapter 4**.

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 actions in this EA are not expected to have such an effect. The proposed actions are not expected to change fishing techniques or operations in a way that will impact the safety of commercial or recreational fishermen. These impacts are analyzed in **Chapter 6**.

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

Response: No. The proposed actions are not expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species. As discussed in the BPA (**Appendix E**), the proposed actions are not expected to alter fishing practices in ways that would affect these species, their critical habitat, or other non-target species in any manner not previously considered. NMFS evaluated the dolphin wahoo fishery of the Atlantic as part of the Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon fishery and designated it as Category III (79 FR 14418, March 14, 2014). Category III fisheries have a remote likelihood of no known incidental mortality or serious injury of marine mammals. Further, NMFS completed a biological opinion on August 27, 2003, evaluating the impacts of the Atlantic dolphin wahoo fishery on Endangered Species Act (ESA)-

listed species (see **Section 3.0**). The opinion concluded the fishery would not adversely affect ESA-listed marine mammals. Protected resources are also discussed in **Section 3.2.5** of the EA, and the biological impacts on these resources are discussed in **Chapter 4**. In a memo to file dated November 27, 2013, NMFS concluded the new information in the proposed rule to implement Dolphin Wahoo Amendment 5 would not trigger reinitiation of consultation.

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 actions are not expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area. Some of the proposed actions are mostly administrative in nature, with no anticipated changes to fishing gear and fishing practices (**Actions 2** through **4**). The small differences in the revised ABCs and ACLs under **Preferred Alternative** in **Action 1** are not expected to result in a shift in fishing effort to species that remain open to harvest or otherwise affect biodiversity or ecosystem function. See **Section 3.2, 4.4.1,** and **Chapter 6** of the EA for the biological and ecological environment for the biological impacts.

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 **Chapters 3** and **4** of this EA. The intent of this EA is to prevent unnecessary negative socio-economic impacts that may otherwise be realized by participants in the dolphin wahoo fishery and fishing community if data based upon the best scientific information available are not utilized. Overall, ACLs would be increased for both dolphin and wahoo, in addition to being based on improved information under **Preferred Alternative 2** in **Action 1**. The biological, social, and economic benefits are expected to be positive and would likely produce long-term benefits to the fishermen, coastal communities, and fishing businesses by contributing to sustainable harvest of these species in the present and future. **Action 1** is not expected to have significant impacts under this criterion of the FONSI. **Actions 2** (with **Preferred Sub-alternatives 2c** and **3c**) and **3** (with **Preferred alternatives 2** and **3**) are administrative in nature, and **Action 4** (with **Preferred Alternative 1, No Action**) is not expected to have significant impacts under this criterion of the FONSI. Socio-economic impacts are also discussed in **Appendix G** (Regulatory Impact Review) and **Appendix H** (Regulatory Flexibility Analysis).

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. Revisions to recreational and commercial ABCs and ACLs based on updated landings data under **Preferred Alternative 2** in **Action 1** of this amendment are expected to help avoid negative direct and indirect social benefits by utilizing more accurate monitoring of landings data to determine if an ACL is exceeded. Actions to modify the AMs (**Action 2,** with

Preferred Sub-alternatives 2c and **3c**), and modify the framework procedure (**Action 3,** with **Preferred alternatives 2** and **3**) are not expected to be controversial since they would provide consistency in AMs, expedite the implementation of changes to catch levels and management measures, and protect the target species. The socio-economic environment and impacts are discussed in **Chapters 3** and **4,** respectively.

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. The proposed actions are not expected to result in substantial impacts to unique or ecologically critical areas (see **Chapters 3** and **6** for a discussion of the affected environment). In the Atlantic, areas of unique habitat exist such as the Oculina Bank and large expanses of deepwater coral; however, regulations are currently in place to protect these areas. The Stellwagen Bank, U.S.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the geographic area of the proposed actions. Additionally, there are several notable shipwrecks along the Atlantic coast in state and federal waters including Lofthus (eastern Florida), SS 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). The Atlantic coastline (from Florida to Maine) is also home to numerous marshes and wetland ecosystems; however, these sensitive ecological environments do not extend into federal waters of the Atlantic. The proposed actions are not expected to alter fishing practices in any manner that would affect any of the above national marine sanctuaries, listed habitats or historic resources, nor would it alter any regulations intended to protect them.

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

Response: No. The effects of the proposed action on the human environment are not likely to be highly uncertain or involve unique or unknown risks as the proposed actions are not expected to alter well-established fishing methods or activities. The Report to Congress on the Status of U.S. Stocks indicates dolphin is not overfished, and is not undergoing overfishing (http://www.nmfs.noaa.gov/sfa/fisheries_eco/status_of_fisheries/). The overfished/overfishing status of wahoo is unknown, but all indications are that it is a healthy stock because of its life history (see **Section 3.2.4**). The differences in the revised ABCs and ACLs under **Preferred Alternative 2** in **Action 1** are small, and are likely to have little effect on the human environment. **Preferred Alternative 1 (No Action)** under **Action 4** will not establish commercial trip limits for dolphin, and is not expected to have much effect on the human environment. **Actions 2** (with **Preferred Sub-alternatives 2c** and **3c)** and **3** (with **Preferred alternatives 2** and **3**) are administrative in nature. The social and economic effects of the actions are not expected to be significantly different from the status quo. The human environment is discussed in **Section 3.3.3** of the EA, and the biological, economic, social, and administrative impacts are discussed in **Chapter 4**.

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

Response: No. The individually insignificant proposed actions in Dolphin Wahoo Amendment 5 do not have a cumulatively significant impact when related to other actions. **Action 1** proposed in this EA revises the ABCs, ACLs, and ACTs for dolphin and wahoo and is related to actions originally analyzed by the environmental impact statement for the Comprehensive ACL Amendment, which was implemented on April 16, 2012 (77 FR 15916). Revising the ABCs, ACLs and ACTs under **Preferred Alternative 2** in **Action 1** of Dolphin Wahoo Amendment 5 is necessary to ensure that conservation and management measures are based on the best scientific information available and to prevent unnecessary negative socio-economic impacts that may otherwise be realized by participants in the dolphin wahoo fishery and fishing community. However, the proposed action is not expected to substantially alter fishing activities and is not related to any other actions with individually insignificant, but cumulatively significant impacts. **Actions 2** (with **Preferred Sub-alternatives 2c** and **3c)** and **3** (with **Preferred Alternatives 2** and **3)** are administrative in nature, while **Action 4** with its **Preferred Alternative 1 (No Action)** is not expected to have any cumulatively significant impacts. The biological, economic, social, and administrative impacts of all four actions are discussed in **Chapter 4**. The potential cumulative effects are discussed in **Chapter 6**.

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 will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. The Stellwagen Bank, U.S.S. Monitor, Gray's Reef, and Florida Keys National Marine Sanctuaries are within the geographic area of the proposed actions. However, as discussed in **Section 6.1,** the actions are not expected to result in appreciable changes to current fishing practices.

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

Response: No. The proposed actions are not reasonably expected to introduce or spread any non-indigenous species because it does not substantially alter fishing methods or activities. The proposed actions are not expected to substantially increase fishing effort or the spatial and/or temporal distribution of current fishing effort. As discussed in each of the biological effects sections in **Chapter 4** of the EA, the actions in Dolphin Wahoo Amendment 5 would not affect the manner or areas in which the fishery is prosecuted; therefore, no new introduction of non-indigenous species is expected.

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 actions do not establish a precedent for future action with significant effects, and they do not represent a decision in principle about future consideration. The proposed actions, conducted in accordance with regulations established under the FMP for the Dolphin and Wahoo Fishery of the Atlantic, as amended to date, does not constitute a decision in principle about a future consideration. Dolphin Wahoo Amendment 5 incorporates recreational and commercial landings updates to revise ABCs, ACLs, and ACTs for dolphin and wahoo. The updates to recreational landings data include the incorporation of new MRIP data. A similar action to revise ABCs and ACLs through inclusion of MRIP data was taken for snapper-grouper species in Regulatory Amendment 13 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. Dolphin Wahoo Amendment 5 also proposes a revision to the framework procedure for dolphin and wahoo; and commercial trip limit for dolphin. These are routine actions by the South Atlantic Council that have been addressed in previous amendments to FMPs. FMPs and their implementing regulations are always subject to future changes. The South Atlantic Council and NMFS have discretion to amend an FMP and accompanying regulations, and may do so at any time, subject to the Administrative Procedure 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 actions are being taken pursuant to federal law for the management of fishery resources and do not implicate state or local requirements. The actions in this amendment are not reasonably expected to threaten a violation of federal, state, local law, or requirements imposed for the protection of the environment. An analysis of other applicable laws related to the implementation of the EA was conducted and the analysis is contained in **Appendix C**.

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 actions are not reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species (see responses to numbers 1, 2, 5, 6, and 11 in this FONSI). Additionally, the potential cumulative effects are discussed in **Chapter 6** of this EA.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA, it is hereby determined that the actions in Dolphin Wahoo Amendment 5 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 actions have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement is not necessary.

MAY 20 2014

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