Finding of No Significant Impact (FONSI) for:
Regulatory Amendment 21 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 21)
National Marine Fisheries Service

The National Marine Fisheries Service (NMFS) intends to approve Regulatory Amendment 21, which would redefine the overfished threshold for specific snapper-grouper species with low natural mortality rates (less than 0.25). For the affected species, the current definition of minimum stock size threshold (MSST), which is used to determine if a snapper-grouper species is overfished, is a function of the natural mortality rate (M). MSST equals SSB_{MSY}*(1-M or 0.5, whichever is greater), where SSB_{MSY} is the biomass when the stock is at the maximum sustainable yield (MSY) level and considered to be rebuilt. When the natural mortality rate is small (less than 0.25) there is little difference between the biomass threshold for determining when a stock is overfished (MSST) and when the stock is rebuilt (SSB_{MSY}). Thus for species which have low natural mortality, even small fluctuations in biomass due to natural conditions, rather than fishing mortality, may cause a stock to be classified as overfished. When a species is identified as overfished, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that a plan be implemented to rebuild the stock.

Based on the current definition of MSST, a number of snapper-grouper species with low natural mortality rates could unnecessarily be classified as overfished. Redefining MSST for these species would help to prevent overfished designations when small drops in biomass are due to natural variation in recruitment or other environmental variables such as oil spills, storms, and extreme water temperatures, and ensure that rebuilding plans are applied to stocks when truly appropriate. This FONSI will be made available to the public on the NMFS Southeast Region Web page as part of the final Environmental Assessment (EA) after all comments on the proposed rule are received and addressed.

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 C.F.R. § 1508.27 state the significance of an action should be analyzed both in terms of "context" and "intensity". Additionally, NMFS has issued guidance for drafting a FONSI, which is found in NMFS Instruction 30-124-1, July 22, 2005, Guidelines for the Preparation of a FONSI. 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:

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 action contained in Regulatory Amendment 21 cannot reasonably be expected to jeopardize the sustainability of any target species. The biological impacts analysis (Chapter 2 of the EA) indicates the biological impacts of this action are not likely to be significant. Although the action alternatives would provide a lower threshold for determining an

overfished condition compared to the status quo MSST, it would help minimize undue administrative and economic burdens that could be experienced due to natural variation in recruitment, which could cause stock biomass to frequently alternate between an overfished and rebuilt condition. This action would not result in an increase in overall harvest, and in-season accountability measures are in place to close commercial harvest of the affected snapper-grouper species when the annual catch limits (ACL) are met. Based on this information, redefining MSST for select snapper-grouper species with low natural mortality rates would not result in negative biological impacts on any target species (See Sections 4.1.1 of the EA).

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

Response: No. The actions in Regulatory Amendment 21 cannot reasonably be expected to jeopardize the sustainability of any non-target species. Based on the Bycatch Practicability Analysis found in Appendix E of the EA, there is no indication that the proposed action would adversely affect non-target species. Redefining MSST for select snapper-grouper species is an administrative action and is not likely to increase or decrease the level of bycatch or bycatch mortality of non-target species that may co-occur with snapper-grouper species.

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. Relevant EFH descriptions are included in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Chapter 3 Section 3.1). As specified in the Magnuson-Stevens Act, an EFH consultation is required for federal actions which may adversely affect EFH. However, as the federal action agency in this matter, the Sustainable Fisheries Division has determined the proposed actions would not adversely affect EFH. The NMFS Southeast Regional Office Habitat Conservation Division has reviewed the actions and agrees with this determination. Further consultation on this matter is not necessary unless future modifications are proposed and such actions may result in adverse impacts to EFH. Support for this finding is contained in the Biological Effects subsection in Chapter 4 of the EA. Fishing effort is not expected to increase as a result of these actions, nor are changes in fishing technique or behavior expected. Therefore, impacts to coastal habitats and/or essential fish habitat would not be different from the status quo. This determination may be found in a memorandum to the file dated March 28, 2014.

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

Response: No. The proposed action is not expected to have an adverse impact on public health or safety. Redefining the MSST for select snapper-grouper species with low natural mortality rates is largely an administrative action, which would prevent species with low natural mortality rates from frequently fluctuating between an overfished and rebuilt condition, possibly triggering the development of rebuilding plans when they are not biologically necessary.

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. Based on the biological impacts analysis contained in Chapter 4 of the EA and Appendix C, Other Applicable Law-Marine Mammal Protection Act, the proposed action is not expected to adversely affect endangered or threatened species, including marine mammals, or critical habitat for endangered or threatened species. The snapper-grouper fishery in the South Atlantic is listed as a Category III fishery in the proposed 2015 List of Fisheries (79 FR 50589, August 25, 2014). The black sea bass pot component of the South Atlantic snapper grouper fishery is part of the Atlantic mixed species trap/pot fishery, a Category II fishery, in the proposed 2015 LOF (79 FR 50589, August 25, 2014). The Atlantic mixed species trap/pot fishery designation was created in 2003 (68 FR 41725, July 15, 2003), by combining several separately listed trap/pot fisheries into a single group. This group was designated Category II as a precaution because of known interactions between marine mammals and gear similar to those included in this group. Prior to this consolidation, the black sea bass pot sector in the South Atlantic was a part of the "U.S. Mid-Atlantic and Southeast U.S. Atlantic Black Sea Bass Trap/Pot" fishery (Category III). There has never been a documented interaction between marine mammals and black sea bass trap/pot gear in the South Atlantic. NMFS conducted an Endangered Species Act (ESA) determination for Regulatory Amendment 21 and found that the proposed actions are not likely to adversely affect any ESA-listed species including large whales, sea turtles, corals, sawfish, or sturgeon in any way that has not already been considered in previous consultations. This determination can be found in a memorandum to the file dated April 7, 2014.

Subsequent to both the publication of proposed rule for Regulatory Amendment 21 in the *Federal Register*, additional critical habitat designations were made for the Northwest Atlantic Ocean distinct population segment of loggerhead sea turtles. Portions of the newly designated critical habitat coincide with the affected area. To address the new information, NMFS completed an ESA section 7 consultation on September 16, 2014, which concluded the new critical habitat will not be adversely affected by the South Atlantic snapper-grouper fishery.

Additionally, on September 10, 2014, NMFS listed 20 new coral species under the ESA, five of those coral species occur in the Caribbean including Florida, and all are listed as threatened. On September 11, 2014, NMFS completed an ESA section 7 consultation on the continued authorization of the Snapper-Grouper fishery and evaluated the potential effects the fishery may have on the newly-listed coral species. The consultation concluded that the South Atlantic snapper-grouper fishery is not likely to adversely affect *Acropora* corals. Furthermore, the consultation concluded trophic effects, human-induced physical damage, and destructive fishing practices that could impact the five newly-listed corals in the South Atlantic are extremely unlikely to occur, and are therefore discountable.

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 substantially impact the biodiversity and/or ecosystem function within the affected area (See Chapter 4 of the EA for impacts analysis). For some species with low natural mortality rates, shifts in recruitment and other environmental variables may cause a stock's biomass to naturally decrease to the point where it is considered overfished based on the current definition of MSST. Modifying the definition of MSST for select snapper-grouper species with low natural mortality rates would establish a larger buffer between the overfished and rebuilt thresholds. This would help prevent those species from fluctuating between an overfished and rebuilt condition on a frequent basis, which could regularly trigger the required development of administratively burdensome rebuilding plans when they are not biologically necessary. Redefining MSST for select snapper-grouper species is not likely to result in any change to harvest rates, harvest levels, or how the fishery is prosecuted; therefore, no significant adverse impacts on biodiversity or ecosystem function including benthic productivity and predator-prey relationships are expected.

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

Response: No. As indicated in the social and economic impacts analysis contained in Chapter 4 (Section 4.1.2) of the EA, there are no significant social or economic impacts that are interrelated with natural or physical environmental effects. The purpose of Regulatory Amendment 21 is to prevent the subject snapper-grouper species from frequently fluctuating between overfished and rebuilt conditions due to natural variability in recruitment and environmental factors, and thus ensure that rebuilding plans are developed for snapper-grouper stocks when truly appropriate. The proposed MSST definition modification would not alter the way in which the snapper-grouper fishery is prosecuted, nor would is result in significant socioeconomic impacts over the baseline conditions of the fishery explained in Chapter 3 of the EA. The Chapter 4 analysis indicates that social and economic benefits are likely to accrue as a result of implementation of the proposed action.

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

Response: No. Regulatory Amendment 21 is not considered controversial. The action would help ensure that rebuilding plans are developed for species when appropriate by reducing the frequency with which snapper-grouper species with low natural morality rates are designated as overfished due to natural circumstances not related to fishing mortality. The action is supported by the South Atlantic Fishery Management Council (South Atlantic Council) members and the fishing industry. No parties opposed to the action have been identified.

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 action is not expected to result in substantial impacts to unique or ecologically critical areas. In the South Atlantic, areas of unique habitat exist such as the Oculina Bank, Gray's Reef, and the Florida Keys National Marine Sanctuaries, and large expanses of deepwater coral; however, regulations are currently in place to protect such known areas. Additionally, there are several notable shipwrecks along the southeast 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), U.S.S. Monitor (Cape Hatteras, North Carolina), Huron (Nags Head, North Carolina), and Metropolis (Corolla, North Carolina). The southeastern coastline is also home to numerous marshes and wetland ecosystems; however, these sensitive ecological environments do not extend into federal waters of the South Atlantic. As discussed in the Biological Effects section in Chapter 4, and item nine of the Cumulative Impacts Analysis of the EA, the action within this amendment would not affect any of the above listed habitats or historic resources. Nor would the action alter any regulations intended to protect them (as discussed in Appendix C, Other Applicable Law).

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. A thorough biological, economic, and social analysis of the potential impacts of the action has been conducted and is contained within Chapter 4 of the Regulatory Amendment 21. The analysis revealed predictable short-term and long-term impacts based on biological and socioeconomic data for the affected species within the snapper-grouper fishery. The level of uncertainty and risk of adverse impacts associated with modifying the current definition of MSST for select snapper-grouper species is very low and associated with relatively predictable short and long-term effects. Neither the uncertainty, nor the risks of redefining MSST for the subject snapper-grouper species are considered significant. Because the level of fishing for species affected by this amendment, and bycatch of non-target species would not increase or decrease as a result of the action, no significant biological impacts are anticipated (see Chapter 4, Biological Impacts). Any impacts on the socioeconomic environment are predictable and have been analyzed in the document (see Chapter 4, Social and Economic Impacts).

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

Response: No. The proposed actions are not related to other actions with individually insignificant, but cumulatively significant impacts. A Cumulative Impacts Analysis (Chapter 6 of the EA) was conducted for Regulatory Amendment 21. Several other FMP amendments are currently under development, including Amendment 32 to the FMP, which would end overfishing blueline tilefish. A recent stock assessment determined blueline tilefish is overfished

and undergoing overfishing. Blueline tilefish is one of the snapper-grouper species that would be affected by the proposed action in Regulatory Amendment 21 to redefine MSST for stocks with low natural mortality rates. However, the cumulative impacts of those amendments and Amendment 32 to the FMP, combined with the anticipated impacts of this amendment, are not expected to be significant.

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 is not likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places nor will they cause loss or destruction of significant scientific, cultural, or historical resources as stated in the answer to number nine. The snapper-grouper fishery is prosecuted in the vicinity of the Oculina Bank, and several *Lophelia pertusa* deepwater coral locations that have been closed to all bottom-tending gear. The Gray's Reef and Florida Keys National Marine Sanctuaries are also located within the area where the proposed action would be implemented, and are protected from fishing related impacts. Additionally, there are several notable shipwrecks along the southeast 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), U.S.S. Monitor (Cape Hatteras, North Carolina), Huron (Nags Head, North Carolina), and Metropolis (Corolla, North Carolina). The areas containing *Oculina* sp. and *Lophelia* sp. deep-sea coral have been designated Coral Habitat Areas of Particular Concern (CHAPC) and the action in this amendment are not likely to adversely affect the continued preservation of the designated CHAPCs or the species therein (see Chapter 4, Biological Impacts).

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 result in the introduction or spread of any non-indigenous species including lionfish. As discussed in the Biological Effects section in Chapter 4 of the EA, the action in Regulatory Amendment 21 would not alter the manner or areas in which the snapper-grouper 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 represent a decision in principle about a future consideration?

Response: No. The proposed action would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Natural variation in recruitment could cause stock biomass for species with low natural mortality estimates to frequently alternate between an overfished and rebuilt status. To avoid this, the South Atlantic Council previously redefined the MSST for red grouper, snowy grouper, and golden tilefish, which have low natural mortality estimates. The MSST for those species was set at 75% of SSB_{MSY} to provide a more appropriate buffer between the level at which the stock is

considered to be rebuilt (SSB_{MSY}) and the overfished level (MSST). Therefore, a similar modification to the MSST definition in Regulatory Amendment 21 does not represent a precedent setting action with significant effects.

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 not expected to threaten a violation of federal, state, or local law or requirements for the protection of the environment. Appendix C, Other Applicable Law, outlines each law that could apply to target and non-target species affected by Regulatory Amendment 21. The proposed action would not result in implementation of regulations contrary to any law that relates to 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 expected to result in any cumulative adverse effects that could have a substantial effect on the target species or non-target species (see Chapter 6 of the EA). A cumulative effects analysis was conducted for Regulatory Amendment 21 and revealed no cumulative adverse effects on the biological environment, which includes all target and non-target species. Regulatory Amendment 21 would modify the current definition of MSST for select snapper-grouper species to prevent stocks with low natural mortality rates from fluctuating between overfished and rebuilt conditions on a frequent basis due to natural environmental factors. As illustrated in the biological impacts analysis contained in Chapters 4 and 6 of the EA, this change, in combination with other past, present, or future actions affecting the snapper-grouper fishery, would not result in significant adverse cumulative impacts on target or non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA prepared for Regulatory Amendment 21, it is hereby determined that the proposed action is not significant. In addition, all beneficial and adverse impacts of the proposed action has been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement is not necessary for this action.

Miles M. Croom

for Roy E. Crabtree, Ph.D.
Southeast Regional Administrator
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9/17/2014

Date