

FINDING OF NO SIGNIFICANT IMPACT

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a FONSI when an action not otherwise excluded will not have a significant impact on the human environment (40 CFR §§ 1500.4(b), 1500.5(b), & 1501.6). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional, or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (40 CFR § 1501.3(b)(2)(i)-(iv); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration (40 CFR § 1501.3(b)(2)(i)-(iv)). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed Amendment 56 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Gulf), which includes an Environmental Assessment (EA) that evaluates the affected area, the scale and geographic extent of the proposed action, the degree of effects on those resources (including the duration of impact), and whether the impacts were adverse and/or beneficial and their magnitude. The EA is hereby incorporated by reference (40 CFR § 1501.6(b)).

II. Approach to Analysis

The proposed action is not expected to cause significant impacts because it is not expected to change how the reef fish fishery is prosecuted. The proposed action would incorporate the best scientific information available to revise the status determination criteria for Gulf gag by changing the maximum sustainable yield (MSY) proxy, Gulf gag catch limits including the overfishing limit (OFL) and acceptable biological catch (ABC), optimum yield (OY), the commercial and recreational sector allocations, and establishing a rebuilding plan for Gulf gag. In addition, this action would modify gag sector annual catch limits (ACL), annual catch targets (ACT), accountability measures (AM), and the recreational fishing season. The proposed action is expected to maintain fishing opportunities while preventing overfishing, thereby providing the greatest overall net benefit to the Nation, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and its National Standards. The proposed action and comparison of alternatives are summarized in Chapter 2. Detailed discussions of the magnitude and impacts of the alternatives on the human environment, including biological, economic, social, and administrative, are in Chapter 4. Although several other management actions, in addition to the proposed action, may affect Gulf gag, the proposed action when combined with other past, present, and reasonably foreseeable future actions, is not expected to result in significant effects (Section 4.3).

III. Geographic Extent and Scale of the Proposed Action

The scale and geographic extent for the proposed actions is the Gulf from Texas to Florida as described in Chapter 3, although the majority of Gulf gag landings (95%+) occur in or adjacent waters off of west coast of Florida. Although this is a large area, the proposed action affects only the allowable harvest and management measures of Gulf gag, which is only one species managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP). Thus, the proposed action is relatively small-scale.

IV. Degree of Effect:

A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.

The proposed action is being taken pursuant to federal legal mandates for the management of fishery resources, which ensures state participation in management decisions (see Appendix I of the EA). It is not reasonably expected to threaten a violation of federal, state, local law, or requirements imposed for the protection of the environment.

B. The degree to which the proposed action is expected to affect public health or safety.

The proposed action is not reasonably expected to have a significant adverse impact on public safety or health (see Section 4.3). The proposed action changes Gulf gag catch limits and reduces the fishing season. Gulf gag can be caught with co-occurring species. The proposed changes are not expected to substantially alter the manner in which the reef fish fishery as a whole is prosecuted, and there are no anticipated safety-at-sea issues.

C. The degree to which the proposed actions are expected to affect a sensitive biological resource, including:

a. Federal threatened or endangered species and critical habitat;

The proposed action is not reasonably expected to have a significant adverse effect on endangered or threatened species or their critical habitat. Sections 3.1 and 3.2 of the EA provides a description of the protected and endangered species, and their critical habitat, and as indicated in Sections 4.1.1, 4.1.2, 4.2.1, 4.2.2, 4.3.1, 4.3.2, 4.4.1, 4.4.2, 4.5.1, and 4.5.2 of the EA, any impacts on the biological and physical environments, which include those species and their critical habitat, are expected to be minimal. Although the reef fish fishery as a whole causes some adverse effects on endangered and threatened species, the proposed action is not expected to cause new effects to listed species or critical habitats that were not considered in the previous Endangered Species Act Section 7 consultations because it is not expected to substantially alter the manner in which the reef fish fishery is conducted throughout the Gulf gag managed area.

b. stocks of marine mammals as defined in the Marine Mammal Protection Act;

The proposed action is not expected to adversely affect stocks of marine mammals (Chapters 3 and 4 of the EA). The primary gear in the reef fish fishery used to harvest Gulf gag is hook-and-line, although a minor component of the commercial sector harvests gag incidentally using bottom longline gear. Both of these types of gear are classified in the 2023 Marine Mammal Protection Act List of Fisheries as a Category III fishery (88 FR 16899; March 21, 2023) and is unchanged from the 2022 List of Fisheries (87 FR 23122; April 19, 2022). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from these fisheries 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 proposed action is not expected to alter existing fishing practices (e.g., types of methods, gear used, etc.) in this fishery in such a way as to alter its interactions with marine mammals.

c. essential fish habitat identified under the Magnuson–Stevens Act;

The proposed action is not reasonably expected to affect essential fish habitat in the U.S. waters of the Gulf, as described in Section 4.1.1, 4.2.1, 4.3.1, 4.4.1, and 4.5.1 of the EA. Gulf gag are caught primarily using vertical line and bottom longline commercially, and vertical line and spearfishing recreationally. Although bottom longline and vertical line gear has the potential to snag and entangle bottom structures, and anchoring can add to the potential damage of the bottom at fishing locations, any impacts from this action are expected to be minimal because the action will not alter the execution of the reef fish fishery as a whole.

d. bird species protected under the Migratory Bird Treaty Act;

The proposed action is not reasonably expected to adversely affect bird species protected under the Migratory Bird Treaty Act. There is no information to indicate birds rely on Gulf gag for food. Additionally, there is no evidence that the reef fish fishery is adversely affecting birds (see Appendix J).

e. national marine sanctuaries or monuments;

The proposed action is not reasonably expected to adversely affect marine sanctuaries, as described in Appendix I. Regulations are already in place to limit or reduce habitat impacts within sanctuaries, such as the Flower Gardens Banks National Marine Sanctuary in the Gulf. Furthermore, the proposed actions would not alter the execution of the reef fish fishery as a whole.

f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

The proposed action is not reasonably expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems in the U.S. waters of the Gulf. As described in Sections 4.1.1, 4.1.2, 4.2.1, 4.2.2, 4.3.1, 4.3.2, 4.4.1, 4.4.2, 4.5.1, and 4.5.2 of the EA, this action should only have minor impacts to the physical and biological environments, if any, because no substantial changes to fishing practices are expected.

g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)

The proposed action is not expected to adversely affect biodiversity and/or ecosystem function within the affected area (see Appendix J). There are no anticipated changes to fishing gear and/or fishing practices in such a manner that would affect benthic productivity or predator-prey relationships.

D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.

The proposed action is not reasonably expected to result in significant impacts to unique areas, park lands, prime farmlands, wetlands, wild and scenic rivers, 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. There are thousands of sunken ships in federal

and state waters of the Gulf exclusive economic zone, and archaeologists have evaluated only a few of these. Further information can be found at: <https://www.boem.gov/environment/historic-shipwrecks-gulf-mexico>. The *U.S.S. Hatteras*, located in federal waters off Texas, is listed in the National Register of Historic Places. Fishing activity already occurs in the vicinity of these sites and the proposed action is not expected to change that activity. Therefore, the proposed action would not be expected to have any additional adverse impacts on listed historic resources (Appendix I of the EA).

E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).

The proposed action is not expected to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities. As described in Sections 3.3, some communities expected to be affected by the proposed action may have social vulnerabilities that exceed the environmental justice (EJ) thresholds and, therefore, may constitute areas of concern. However, no EJ issues as a result of the proposed action have been identified. The proposed action will address the overfishing status of the Gulf gag stock, which is expected to result in positive long-term effects to the social environment as a whole. No additional effects to minority or low-income communities are expected.

F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

The proposed action is not likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species. Gulf gag, the species affected by the proposed action, is native to the Gulf (see Section 3.1 and 3.2 of the EA). Additionally, the actions do not propose any activity, such as increased ballast water discharge from foreign vessels, which is associated with the introduction or spread of non-indigenous species.

G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resources such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.

The proposed action is not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed actions, as described in Chapter 4 of the EA. The analyses and data used in the decision-making process were based on standard techniques used to evaluate fish stocks and fisheries (see Chapters 1-4 of the EA). Fishery participants may disagree with the scientific information, making for controversial opinions, but National Standard 2 of the Magnuson-Stevens Act requires conservation and management measures to be based upon the best scientific information available.

V. Other Actions Including Connected Actions

The proposed action is part of a larger action, which is the management of reef fish resources under the Reef Fish FMP. However, as discussed in Section 4.6, the proposed action, when combined with other past, present, and reasonable foreseeable actions, is not expected to result in individually insignificant but cumulatively significant impacts. Further, Gulf gag is only one species managed under the Reef Fish FMP that can be targeted throughout the year such that the proposed action,

along with past and reasonable foreseeable future actions, are likewise not expected to substantially alter the manner in which the reef fish fishery is conducted.

VI. Mitigation and monitoring

The proposed action does not include any mitigation measures because fishermen already abide by harvest limits. The proposed action is only modifying measures already in place for Gulf gag. Further, as stated in Section 4.6 of the EA, the effects of the proposed action will be monitored through the collection of landings data by the National Marine Fisheries Service, stock assessments and stock assessment updates, life history studies, economic and social analyses, and other scientific observations.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for the proposed action, it is hereby determined that the proposed action will not significantly impact the quality of the human environment. The EA for the proposed action is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, the preparation of an EIS for this action is not necessary.

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1/17/2024

Date