

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration 50 CFR Parts 223 and 224**

[Docket No. 150527481–6928–02]

RIN 0648–XD971

**Endangered and Threatened Wildlife and Plants: Final Rule To List the Island Grouper (*Mycteroperca fusca*) as Threatened and the Gulf Grouper (*Mycteroperca jordanii*) as Endangered Under the Endangered Species Act**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** We, NMFS, issue a final rule to list two foreign grouper species under the Endangered Species Act (ESA). We considered comments submitted on the proposed listing rule and have determined that the gulf grouper (*Mycteroperca jordanii*) and the island grouper (*Mycteroperca fusca*) warrant listing as endangered and threatened species, respectively. We will not designate critical habitat for either of these species because the geographical areas occupied by these species are entirely outside U.S. jurisdiction, and we have not identified any unoccupied areas within U.S. jurisdiction that are currently essential to the conservation of either of these species.

**DATES:** This final rule is effective November 21, 2016.

**ADDRESSES:** Chief, Endangered Species Division, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Marta Nammack, NMFS, Office of Protected Resources (OPR), (301) 427–8469.

**SUPPLEMENTARY INFORMATION:****Background**

On July 15, 2013, we received a petition from WildEarth Guardians to list 81 marine species or subpopulations as threatened or endangered under the ESA. This petition included species from many different taxonomic groups, and we prepared our 90-day findings in batches by taxonomic group. We found that the petitioned actions may be warranted for 24 of the species and 3 of the subpopulations and announced the initiation of status reviews for each of the 24 species and 3 subpopulations (78 FR 63941, October 25, 2013; 78 FR 66675, November 6, 2013; 78 FR 69376,

November 19, 2013; 79 FR 9880, February 21, 2014; and 79 FR 10104, February 24, 2014). On September 23, 2015, we published a proposed rule to list the gulf grouper (*Mycteroperca jordanii*) as an endangered species and the island grouper (*Mycteroperca fusca*) as a threatened species (80 FR 57314). We requested public comment on the information in the draft status review and proposed rule, and the comment period was open through November 23, 2015. This final rule provides a discussion of the information we received during the public comment period and our final determinations on the petition to list the gulf grouper and island grouper under the ESA. The status of the findings and relevant **Federal Register** notices for the other 22 species and 3 subpopulations can be found on our Web site at <http://www.nmfs.noaa.gov/pr/species/petition81.htm>.

**Listing Species Under the Endangered Species Act**

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a “species” under the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines a “species” to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.”

Section 3 of the ESA defines an endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range” and a threatened species as one “which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” We interpret an endangered species to be one that is presently in danger of extinction. A threatened species, on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time). In other words, the primary statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either presently (endangered) or in the foreseeable future (threatened).

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened due to any one or a combination of the following

five threat factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species’ status and after taking into account efforts being made by any State or foreign nation to protect the species.

In making a listing determination, we first determine whether a petitioned species meets the ESA definition of a “species.” Next, using the best available information gathered during the status review for the species, we complete a status and extinction risk assessment. In assessing extinction risk for these two grouper species, we considered the demographic viability factors developed by McElhany *et al.* (2000). The approach of considering demographic risk factors to help frame the consideration of extinction risk has been used in many of our status reviews, including for Pacific salmonids, Pacific hake, walleye pollock, Pacific cod, Puget Sound rockfishes, Pacific herring, scalloped hammerhead sharks, and black abalone (see <http://www.nmfs.noaa.gov/pr/species/> for links to these reviews). In this approach, the collective condition of individual populations is considered at the species level according to four viable population descriptors: Abundance, growth rate/productivity, spatial structure/connectivity, and diversity. These viable population descriptors reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk (NMFS 2015).

We then assess efforts being made to protect the species to determine if these conservation efforts are adequate to mitigate the existing threats. Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation to protect the species.

**Summary of Comments**

In response to our request for comments on the proposed rule, we received comments from eight parties. All commenters presented general

information on threats or provided data that were already cited, discussed, and considered in the draft status review reports (Dennis 2015; Salz 2015) or the proposed rule (80 FR 57314; September 23, 2015). Summaries of the substantive public comments received, and our responses, are provided below, with references to our prior documents where relevant.

*Comment 1:* One commenter noted that WildEarth Guardians had submitted the petition to list these two grouper species and wondered at what level we involved WildEarth Guardians or other organizations in the process of making the assessment.

*Response:* WildEarth Guardians did not have any role in evaluating the status of the two grouper species under the ESA beyond providing us with the information in its petition.

*Comment 2:* Most commenters expressed support for the proposed rule, though several recommended we consider economic and social impacts on the tourism and fishing industries when determining what is restricted and prohibited or when developing recovery plans. One of these commenters noted that U.S. fishing companies will suffer if the gulf grouper is listed as endangered under the ESA because Mexico will not have regulations and laws for bycatch prevention devices and Mexican fishers do not have to abide by the ESA. And another commenter suggested allowing small amounts of sustainable yield to support those industries dependent on these two groupers.

*Response:* The ESA requires us to base our listing determinations solely on the best available scientific and commercial information. We may not consider economic or social impacts in making these determinations. When a species is listed as endangered, the ESA section 9 prohibitions are automatically extended to that species. The gulf grouper is listed as endangered, and therefore, it is a violation for anybody subject to U.S. jurisdiction to harvest this species in U.S. waters or on the high seas.

Therefore, we cannot authorize even small amounts of harvest of this species to support the fishing industry. However, when a species is listed as threatened, section 9 prohibitions are not automatically extended to that species. In this case, we have not extended any section 9 prohibitions to the threatened island grouper, so there is no prohibition against harvesting them. However, any Federal agency that funds, authorizes, or carries out an action that may affect an ESA listed species must consult with us under

section 7 of the ESA to ensure that the action is not likely to jeopardize the continued existence of any species listed under the ESA.

*Comment 3:* One commenter asserted that Mexico has an 8,000 km<sup>2</sup> area where gill nets are illegal, but more efforts are needed to protect the two grouper species.

*Response:* Although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters.

*Comment 4:* One commenter stated that he understood the need to protect these grouper species, but he asserted that ESA protection will not have the protective effect NMFS is seeking, especially for the gulf grouper. This commenter noted that the gulf grouper has limited habitat, the habitat is threatened by dams, and ESA listing will not help. The commenter suggested that NMFS consider public outreach to bring attention to the many problems dams cause.

*Response:* While it is true that fewer protections apply under the ESA for foreign species, important protections do apply. All persons subject to the jurisdiction of the United States (including its citizens) must comply with section 9 of the ESA, which, among other things, makes it unlawful to import endangered species into the United States or to export them from the United States, or to “take” endangered species within the territorial sea of the United States or upon the high seas (16 U.S.C. 1538(a)(1)(A)–(C)). Also, any Federal agency that funds, authorizes, or carries out an action that may affect an ESA listed species must consult with us under section 7 of the ESA to ensure that the action is not likely to jeopardize the continued existence of any species listed under the ESA. In addition, listing provides important educational benefits by informing the public about the plight of these species and promotes conservation actions by Federal and State agencies, foreign entities, private groups, and individuals.

*Comment 5:* One commenter wondered why NMFS was listing the island grouper, which is a foreign species. The commenter noted that ESA listing would have no legal impact, and it would be better to impose a ≥700mm size limit for these two grouper species.

*Response:* Section 4 of the ESA requires that we list any species that we determine to be endangered or threatened, whether it occurs within the United States or elsewhere. Demonstrating a need to secure

particular protections under the other sections of the ESA, or that such protections will be afforded where the species is found, is not a precondition to listing. As we noted in our response to Comment 3, although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters. Please see our response to Comment 4 for a summary of protections that will apply to the endangered gulf grouper and threatened island grouper.

*Comment 6:* One commenter stated that it would be helpful if other countries would realize that the imminent threats of tidal power, desalination, commercial fishing, and waste runoff are big factors in the degradation and loss of habitat for these grouper species and that they would follow through to begin addressing these issues and help bring these groupers back to viable numbers.

*Response:* Again, although we have no authority with respect to how other countries manage species within their territories, we encourage Spain, Portugal, and Mexico to provide for the conservation of these species that are found in their waters.

*Comment 7:* One commenter suggested a campaign to increase recreational scuba diving aimed at hunting lionfish for sport, feeding them to the gulf grouper, and serving them at restaurants as an effective tool for conserving gulf grouper (and lionfish eradication), as this has been successful in helping eradicate lionfish in the Caribbean.

*Response:* We appreciate the commenter’s suggestion, but this is beyond the scope of our final rule.

### Summary of Changes From the Proposed Listing Rule

We did not receive, nor did we find, scientific data from references that were not previously included in the draft status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015). We incorporate, as appropriate, relevant information received as communications during the public comment process.

However, this information does not present significant new findings that change any of our proposed listing determinations.

### Status Review

Status reviews for the gulf grouper and the island grouper were conducted by NMFS OPR staff and an in-house contractor. In order to complete the

status reviews, we compiled information on the species' biology, ecology, life history, threats, and conservation status from information contained in the petition, our files, a comprehensive literature search, and consultation with experts. Prior to publication of the proposed rule, the status review reports were subjected to peer review. Peer reviewer comments are available at [http://www.cio.noaa.gov/services\\_programs/prplans/PRsummaries.html](http://www.cio.noaa.gov/services_programs/prplans/PRsummaries.html).

The status review reports provide a thorough discussion of the life history, demographic risks, and threats to the two grouper species. We considered all identified threats, both individually and cumulatively, to determine whether these grouper species respond in a way that causes actual impacts at the species level. The collective condition of individual populations was also considered at the species level, according to the four viable population descriptors discussed above.

The proposed rule (80 FR 57314; September 23, 2015) summarizes general background information on the description, reproductive biology and spawning behavior, population structure, distribution, abundance, and habitat of the gulf grouper and island grouper. All of that information is incorporated herein.

### Species Determinations

Based on the best available scientific and commercial information described or referenced above, and included in the status review reports, and as stated in the proposed rule (80 FR 57314; September 23, 2015), we have determined that the gulf grouper (*Mycteroperca jordani*) and the island grouper (*Mycteroperca fusca*) are taxonomically-distinct species and therefore meet the definition of "species" pursuant to section 3 of the ESA and are eligible for listing under the ESA.

### Summary of Factors Affecting the Two Species

Next we consider whether any one or a combination of the five threat factors specified in section 4(a)(1) of the ESA contribute to the extinction risk of these species. The comments that we received on the proposed rule did not change our conclusions regarding any of the section 4(a)(1) factors or their interactions for these species. In fact, the comments lend further support to our conclusion that the threats of overutilization and inadequacy of existing regulatory mechanisms are contributing significantly to the risk of extinction for both *Mycteroperca* species. Therefore,

we incorporate herein all information, discussion, and conclusions on the summary of factors affecting the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

### Extinction Risk

None of the comments we received from public comment on the proposed rule affected our extinction risk evaluations of these two grouper species. Our evaluations and conclusions regarding extinction risk for these species remain the same. Therefore, we incorporate herein all information, discussion, and conclusions on the extinction risk of the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

### Protective Efforts

Finally, we considered conservation efforts to protect both species and evaluated whether these conservation efforts are adequate to mitigate the existing threats to the point where extinction risk is significantly lowered and the species' status is improved. None of the information we received from public comment on the proposed rule affected our conclusions regarding conservation efforts to protect the two grouper species. We incorporate herein all information, discussion, and conclusions on the protective efforts for the two grouper species in the status review reports (Dennis 2015; Salz 2015) and proposed rule (80 FR 57314; September 23, 2015).

### Final Determinations

We have reviewed the best available scientific and commercial information, including the petition, the information in the status review reports (Dennis 2015; Salz 2015), the comments of peer reviewers, and public comments. Following are summaries of our listing determinations for these two species.

#### Gulf Grouper

Based on the best available scientific and commercial information, as summarized here, in our proposed rule (80 FR 57314; September 23, 2015), and in Dennis (2015), and consideration of protective efforts being made to protect the species, we find that the gulf grouper (*Mycteroperca jordani*) is at a high risk of extinction. The gulf grouper was once considered abundant, and now it is rare (Jenkins and Evermann 1889, Croker 1937, and Sáenz-Arroyo *et al.* 2005a). Direct harvest is the major reason for gulf grouper decline (Sala *et*

*al.* 2004, Sáenz-Arroyo *et al.* 2005a, Aburto-Oropeza *et al.* 2008) and, due to the lack of protective regulations in Mexico (no meaningful quotas nor protective regulations for gulf grouper), there is no reason to expect fishing to be a diminishing threat.

Moreover, gulf grouper are intrinsically vulnerable to overfishing due to life history traits, including large size, late onset of reproductive maturity, protogynous hermaphrodite life history, transient aggregate spawning, slow growth rate, long life-span, and restricted geographic range (Sadovy de Mitcheson *et al.* 2012). Based on the best available information, we find that the gulf grouper is in danger of extinction throughout its range. After considering efforts being made to protect this species, we could not conclude that the existing or proposed conservation efforts would alter its extinction risk. We therefore list it as endangered under the ESA.

#### Island Grouper

Based on the best available scientific and commercial information, as summarized here, in our proposed rule (80 FR 57314; September 23, 2015), and in Salz (2015), and consideration of protective efforts being made to protect the species, we find that the island grouper (*Mycteroperca fusca*) is at a moderate risk of extinction. The nature of the threats and demographic risks identified, taking into account the uncertainty associated with the threats and risks, does not demonstrate the species is presently in danger of extinction; and therefore, it does not meet the definition of an endangered species.

However, the current threats to island grouper from fishing overutilization and inadequate regulatory mechanisms are likely to continue in the future, further exacerbating the demographic risk factors associated with abundance, growth rate and productivity, and spatial structure and connectivity. We conclude that both the species' current risk of extinction and the best available information on the extent of, and trends in, the major threats affecting this species make it likely this species will become an endangered species within the foreseeable future (defined as 40 years, as explained in the proposed rule (80 FR 57314; September 23, 2015)) throughout its range. We therefore list it as threatened under the ESA.

### Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery actions (16 U.S.C. 1533(f));

Federal agency requirements to consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); designation of critical habitat if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); and prohibitions on taking (16 U.S.C. 1538). In addition, recognition of the species' plight through listing promotes conservation actions by Federal and State agencies, foreign entities, private groups, and individuals. Because the ranges of these two species are entirely outside U.S. jurisdiction, the main effects of this final rule are the prohibitions on take, including export and import, of the endangered gulf grouper.

#### *Identifying Section 7 Consultation Requirements*

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/USFWS regulations require Federal agencies to consult with us to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. It is unlikely that the listing of these species under the ESA will increase the number of section 7 consultations, because these species occur entirely outside of the United States and are unlikely to be affected by Federal actions. Although the gulf grouper's historical range includes parts of Southern California, there are no recent records indicating that this species still exists in U.S. waters.

#### *Critical Habitat*

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(5)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. Our regulations at 50 CFR 424.12(b) specify that the Secretary will identify, at a scale determined by the Secretary to be appropriate, specific areas outside the geographical area occupied by the species that are essential for its conservation, considering the life history, status, and conservation needs of the species based on the best available scientific data.

Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat shall not be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(g)).

The best available scientific and commercial information as discussed above, the status review reports (Dennis 2015; Salz 2015), and the proposed rule (80 FR 57314; September 23, 2015) does not indicate that U.S. waters provide any specific essential biological or physical function for the gulf grouper. U.S. waters account for a very small portion on the northern limit of the gulf grouper's historical range, and may no longer be part of the species' current range. Based on the best available information, we have not identified unoccupied areas in U.S. waters that are currently essential to the conservation of gulf grouper. Therefore, based on the available information, we do not intend to designate critical habitat for the gulf grouper.

The island grouper occurs entirely outside of the United States. Therefore, we cannot designate critical habitat for island grouper.

#### *Identification of Those Activities That Would Likely Constitute a Violation of Section 9 of the ESA*

On July 1, 1994, NMFS and FWS published a policy (59 FR 34272) that requires us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not likely constitute a violation of section 9 of the ESA. Because we are listing *Mycteroperca jordani* as endangered, all of the prohibitions of section 9(a)(1) of the ESA will apply to this species. These include prohibitions against the import, export, interstate or foreign trade (including delivery, receipt, carriage, shipment, transport, sale and offering for sale), and "take" of these species. These prohibitions apply to all persons subject to the jurisdiction of the United States, including in the United States, its territorial sea, or on the high seas. Take is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." The intent of this policy is to increase public awareness of the effects of this listing on proposed and ongoing activities within the species' ranges. Activities that we believe could (subject to the exemptions set forth in 16 U.S.C. 1539) result in a violation of section 9 prohibitions for the endangered gulf

grouper include, but are not limited to, the following:

(1) Possessing, delivering, transporting, or shipping any individual or part (dead or alive) taken in violation of section 9(a)(1);

(2) Delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce any individual or part, in the course of a commercial activity;

(3) Selling or offering for sale in interstate or foreign commerce any individual or part, except antique articles at least 100 years old; and

(4) Importing or exporting gulf grouper or any part of this species.

We emphasize that whether a particular activity constitutes a violation is entirely dependent upon the facts and circumstances of each incident. Further, an activity not listed above may in fact constitute a violation.

#### *Identification of Those Activities That Would Not Likely Constitute a Violation of Section 9 of the ESA*

Although the determination of whether any given activity constitutes a violation is fact dependent, we consider the following actions, depending on the circumstances, as being unlikely to violate the prohibitions in ESA section 9 with regard to *M. jordani*: (1) Take authorized by, and carried out in accordance with the terms and conditions of, an ESA section 10(a)(1)(A) permit issued by NMFS for purposes of scientific research or the enhancement of the propagation or survival of the species; and (2) continued possession of parts that were in possession at the time of listing. Such parts may be non-commercially exported or imported; however the importer or exporter must be able to provide evidence to show that the parts meet the criteria of ESA section 9(b)(1) (*i.e.*, held in a controlled environment at the time of listing, in a non-commercial activity).

Section 11(f) of the ESA gives NMFS authority to promulgate regulations that may be appropriate to enforce the ESA. We may promulgate future regulations to regulate trade or holding of gulf grouper, if necessary. We will provide the public with the opportunity to comment on future proposed regulations.

#### *Protective Regulations Under Section 4(d) of the ESA*

We are listing the island grouper as a threatened species. In the case of threatened species, ESA section 4(d) leaves it to the Secretary's discretion whether, and to what extent, to extend the section 9(a) "take" prohibitions to

the species, and authorizes us to issue regulations necessary and advisable for the conservation of the species. Thus, we have flexibility under section 4(d) to tailor protective regulations, taking into account the effectiveness of available conservation measures. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These 9(a) prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

Because the island grouper occurs entirely outside of the United States, and is not commercially traded with the United States, extending the section 9(a) “take” prohibitions to this species will not result in added conservation benefits or species protection. Therefore, we do not intend to issue section 4(d) regulations for the island grouper.

#### References

A complete list of the references used in this final rule is available upon request (see **ADDRESSES**).

#### Classification

##### *National Environmental Policy Act*

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the

information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F.2d 825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA).

##### *Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act*

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, this final rule is exempt from review under Executive Order 12866 and the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

##### *Executive Order 13132, Federalism*

In accordance with E.O. 13132, we determined that this final rule does not have significant Federalism effects and that a Federalism assessment is not required.

#### List of Subjects in 50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: October 11, 2016.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

#### **PART 223—THREATENED MARINE AND ANADROMOUS SPECIES**

■ 1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, in the table in paragraph (e), add an entry for “Grouper, island” under Fishes in alphabetical order by common name to read as follows:

##### **§ 223.102 Enumeration of threatened marine and anadromous species.**

\* \* \* \* \*

(e) \* \* \*

Species <sup>1</sup>		Description of listed entity	Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name				
Fishes					
*	*	*	*	*	*
Grouper, island .....	<i>Mycteroperca fusca</i>	Entire species .....	[Insert <b>Federal Register</b> page where the document begins], October 20, 2016.	NA	NA
*	*	*	*	*	*

<sup>1</sup> Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

#### **PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES**

■ 3. The authority citation for part 224 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101, in the table in paragraph (h), add an entry for “Grouper, gulf” under Fishes in alphabetical order by common name to read as follows:

##### **§ 224.101 Enumeration of endangered marine and anadromous species.**

\* \* \* \* \*

(h) \* \* \*

Species <sup>1</sup>		Description of listed entity	Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name				
Fishes					
* Grouper, gulf .....	* <i>Mycteroperca jordanii</i>	* Entire species .....	* [Insert <b>Federal Register</b> page where the document begins], October 20, 2016.	* NA	* NA
*	*	*	*	*	*

<sup>1</sup>Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).