



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

October 11, 2011

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Review Comments on NOAA's FEIS for "Amendment 10 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic"; CEQ #20110304

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA understands that the purpose and need for Amendment 10 is to bring the spiny lobster fishery management plan into compliance with new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and to meet requirements of the Endangered Species Act (ESA). EPA also understands that the spiny lobster fishery management plan (FMP) is the jointly managed by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). EPA previously reviewed the Draft Environmental Impact Statement (DEIS) for the proposed action and provided comments to NOAA on June 1, 2011.

NOAA evaluated 11 actions within the FEIS which included: 1) removal of lobster species from the FMP; 2) modification of maximum sustainable yield (MSY), overfishing & overfished; 3) establishment of sector allocations; 4) establishment of an acceptable biological catch (ABC) rule, annual catch limits (ACL), annual catch targets (ACT); 5) establishment of accountability measures (AM); 6) update of the framework procedure and protocol for enhanced cooperative management; 7) modification of regulations regarding use of undersized lobster as attractants; 8) modification of regulations regarding tailing permits; 9) closure of areas to protect threatened coral species; 10) requirement of trap line markings; and 11) removal of derelict traps. EPA understands that NOAA proposes to "postpone" selecting an action alternative for Action 9 – closure of areas to protect threatened coral species and Action 10 – setting requirements for trap line markings. EPA also understands that NOAA proposes to address these actions in a separate future amendment, which will allow for additional stakeholder input.

EPA has a responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including FMPs and FMP Amendments

(Amendments) as developed, approved, and implemented under the MSA where those Plans and Amendments are subject to the EIS requirement of NEPA, but it should be clear that we defer to NOAA and the Councils as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species.

EPA appreciates that NOAA provided a clear summary of all proposed actions and preferred alternatives and added a dedicated section in Appendix K that provided specific responses to our previous comments on the DEIS. We have chosen to focus our review and comments on NOAA's responses to our previous comments.

EPA Comments:

Action – 1: Removal of lobster species from the FMP

EPA appreciates the inclusion of additional discussion regarding the benefits and negatives of listing or not listing species as ecosystem component species in section 2.1 and 4.1. EPA understands that designating the lobster species slated for removal from the FMP under Action 1 would not provide any additional benefits under the current system. EPA has no additional comments regarding Action 1.

Action 2: Modification of MSY, overfishing & overfished

EPA appreciates the inclusion of additional discussion of how the MSY proxy value was derived by the Gulf SSC in section 2.2.

Action 3: Establishment of sector allocations

EPA understands that NOAA and the Councils decided to select the no action alternative for this action and will not establish sector allocations. EPA appreciates the additional information and references to assist the reader in better understanding the environmental impact of setting versus not setting sector allocations.

Action 4: Establishment of ABC, ACL, ACT

EPA has no additional comments.

Action 5: Establishment of accountability measures

EPA has no additional comments.

Action 6: Update of the framework procedure and protocol for enhanced cooperative management

EPA maintains that having multiple preferred alternatives for one single action is confusing for the reader and recommends that NOAA minimize this approach in future NEPA documents when identifying a preferred alternative for a proposed action. EPA appreciates the clarification provided in Table 2.6.2 with respect to identification of the preferred alternative.

Action 7: Modification of regulations regarding use of undersized lobster as attractants

EPA appreciates that NOAA provided additional clarification in sections 2.7 and 4.7 explaining why fishermen need for more juvenile Caribbean Spiny Lobsters than traps aboard. EPA has no additional comments regarding Action 7.

Action 8: Modification of regulations regarding tailing permits;

EPA continues to maintain that having multiple preferred alternatives for one single action is confusing for the reader and reviewer.

Action 9: Closure of areas to protect threatened coral species

EPA understands that the preferred alternative for this action has been changed to the no action alternative and that NOAA proposes to address this action in a future amendment. EPA has no additional comments.

Action 10: Requirement of trap line markings

EPA understands that the preferred alternative for this action has been changed to the no action alternative and that NOAA proposes to address this action in a future amendment. EPA has no additional comments.

Action 11: Removal of derelict traps

EPA appreciates the additional information and clarification regarding the focus areas of Action 11 and that those areas were selected based on the Biological Opinion.

General Comments:

Environmental Justice / Public Participation:

EPA supports NOAA's post DEIS efforts to provide Spanish speaking translators during informational meetings and materials, such as the summary documents for this amendment, that were focused on communicating with Spanish speaking communities that may be impacted by these proposed actions.

Section 5 – Fishery Impact Analysis/Social Impact Statement

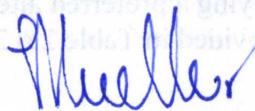
EPA notes that Section 5 was provided in the FEIS.

Summary:

EPA supports NOAA and the Councils on Amendment 10 and gives deference to their fishery expertise. Lastly, we request a copy of the NOAA ROD.

Should NOAA or the Councils have questions regarding our comments on the Amendment actions, please feel free to contact Dan Holliman at 404/562-9531 or holliman.daniel@epa.gov and for EJ comments please contact Ntale Kajumba at 404/562-9620 or kajumba.ntale@epa.gov of my staff.

Sincerely,



Heinz J. Mueller
Chief, NEPA Program Office
Office of Policy and Management