



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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December 27, 2011

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

**Subject: EPA NEPA Review Comments on NOAA's FEIS for "Comprehensive Annual Catch Limit (ACL) Amendment for the South Atlantic Regions: Amendment 2 to the Fishery Management Plan for the Dolphin Wahoo Fishery; Amendment 2 to the Fishery Management Plan for Pelagic Sargassum Habitat; Amendment 5 to the Fishery Management Plan for the Golden Crab Fishery and Amendment 25 to the Fishery Management Plan for the Snapper Grouper Fishery, South Atlantic Region"; CEQ #20110396 ERP# NOA-E91031-00**

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 for the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL) for the South Atlantic Region is to implement measures expected to prevent overfishing and achieve Optimum Yield (OY) while minimizing, to the extent practicable, adverse social and economic effects. Long-term measures include the implementation of the following items: 1) changes to the snapper grouper fishery management unit, including the removal of some species and the development of species groups; 2) establish acceptable biological catch (ABC) control rules; 3) ACLs and annual catch targets (ACTs); 4) sector allocations; 5) accountability measures (AMs); and 6) management measures necessary to ensure mortality is at or below the annual limits and targets. In addition, EPA understands that the need for this action is to specify overfishing limits (OFLs), ACLs, and AMs, where needed to comply with Magnuson-Stevens Act requirements (MSA).<sup>1</sup> EPA previously reviewed the Draft Environmental Impact Statement (DEIS) for the proposed action and provided comments to NOAA on August 1, 2011.

EPA has responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including Fishery Management Plans

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<sup>1</sup> p. IV

(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 dedicated section at the end of the FEIS 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.

### **Response to Comments**

#### **Removal of Species from the Snapper Grouper Fishery Management Unit (FMU)**

A total of 39 species were identified for removal from the FMU in the DEIS. EPA understands that under the current proposal in the FEIS the Council proposes to remove only 13 species from the Snapper Grouper FMU. EPA is pleased to see that the Council has reduced the number of species being proposed for removal from the FMU, however we are unclear on the background of the decision made by the Council in the August 9, 2011 meeting which resulted in the change to the preferred alternate for the FEIS. EPA understands that this decision was based on NMFS and NS1 guidelines, but these guidelines should have been the basis for the original DEIS decision to remove 39 species, so what has changed? EPA recommends that additional clarification be provided in the Record of Decision (ROD) as to the reasoning for this modification of the preferred alternative.

EPA also understands that the Council proposes to designate 6 species as Ecosystem Component (EC) species. EPA understands that EC species would be retained in the Snapper Grouper FMU, but would not have a specification for ACLs, AMs, or management measures such as bag limits and size limits.<sup>2</sup> EPA has long advocated for species being proposed for removal from FMUs be designated as EC species. EPA is pleased by the Council's decision to designate several species as EC species.

Lastly, EPA notes that under the "Reorganization of the Snapper Grouper Complex" proposed action the Council has added two additional complex groups for the proposed alternative. Again, EPA is unclear on the reasoning for changing the complex groupings from the DEIS to the FEIS and recommends the Council provide clarification in the ROD.

#### **Organization of the Document**

EPA understands the challenges of conveying clear alternatives and sub-alternatives (options) to the public especially when it comes to amendments to FMPs. EPA continues to encourage NOAA and the Council to simplify the alternatives considered under proposed actions when possible for improved readability.

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<sup>2</sup> p. R-1

Demographics/Social Vulnerability/Environmental Justice

EPA continues to support the use of more detailed assessments of the actual impacted communities (vessel owners, crew, dealers, processors, employees, employees of associated industries, etc.). Although we know that this data is currently unavailable or difficult to collect, having this level of information would provide a much clearer picture of the potential impact of a proposed action on these communities.

Public Participation

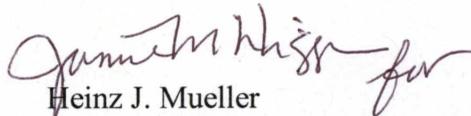
EPA is please to see that NOAA and the Council will be taking additional steps to encourage broad stakeholder involvement in the NEPA process including EJ populations. EPA is very encouraged to see NOAA making outreach to EJ communities an integral part of future plan development.

**Summary**

Overall, EPA supports NOAA and the Council on the Comprehensive ACL Amendment for the South Atlantic Regions and gives deference to their fishery expertise. We ask that the Council consider the above additional comments for this proposed action. Lastly, we request a copy of the NOAA ROD.

Should NOAA or the Council 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](mailto:holliman.daniel@epa.gov) of my staff.

Sincerely,



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