



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

July 2, 2012

Mr. Michael Barnette
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Southeast Regional Office
Protected Resources Division
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Review Comments for DEIS “Southeastern U.S. Shrimp Fisheries, To Reduce Incidental Bycatch and Mortality of Sea Turtles, Tidally Influenced Waters and Substrates of the Gulf of Mexico and South Atlantic and its estuaries of LA, MS, AL, and NC and extending out to the limit of the U.S. Exclusive Economic Zone”; CEQ #20120153

Dear Mr. Barnette:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) and National Marine Fisheries Service (NMFS) Draft Environmental Impact Statement (DEIS) 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 has responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including Fishery Management Plans (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.

Background:

EPA understands that the purpose for the above referenced DEIS is to implement measures expected aid in the protection and recovery of listed sea turtle populations by reducing incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries. The alternatives discussed in this DEIS may potentially affect five sea turtle species: the leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), and Kemp’s ridley (*Lepidochelys kempii*), which are listed as endangered, and the loggerhead (*Caretta caretta*) Northwest Atlantic DPS and green (*Chelonia mydas*), which

are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.¹

Over the past two years the NMFS has noted an elevation in sea turtle strandings in the Northern Gulf of Mexico, particularly throughout the Mississippi Sound area. A total of 644 sea turtle strandings were reported in 2010 from Louisiana, Mississippi, and Alabama waters, 561 (87 percent) of which were Kemp's ridley sea turtles.² NMFS provided information in the DEIS that indicated that a significant number of the stranded turtles in the 2010 and 2011 events appeared to be from forced submergence, which is commonly associated with fishery interactions. Pursuant to section 4(d) of the ESA, NMFS has regulations in place extending the prohibition of take, with exceptions, to threatened sea turtles (50 CFR223.205 and 223.206).

NMFS provided information in the DEIS that indicated that there are compliance issues with current turtle excluder device (TED) use and tow time restrictions in the southeastern U.S. shrimp fisheries. Specifically, NMFS cites improper installation and maintenance of TEDs and exceedances of allowable tow times. Because of the elevated strandings in 2010 and 2011, as well as issues identified within the southeastern U.S. shrimp fisheries, notably issues with TED compliance within the otter trawl sector and new information indicating an evaluation of alternative tow time restrictions within the skimmer trawl sector was warranted, NMFS initiated the development of this DEIS.³

Alternatives Evaluated:

Alternative 1: No action

Alternative 2a: Amend alternative tow time restriction, which would require vessels 30 feet and greater in length using skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs

Alternative 2b: Amend alternative tow time restriction, which would require vessels 20 feet and greater in length using skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs

Alternative 2c: (Preferred Alternative) Withdraw alternative tow time restriction, which would require all vessels using skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs

Alternative 3a: Close all shrimp fishing in state waters from the Texas-Louisiana state boundary, eastward to the Alabama-Florida state boundary from March 1 through May 31

Alternative 3b: Close all shrimp fishing in state waters from the Louisiana-Mississippi state boundary, eastward to the Alabama-Florida state boundary from March 1 through May 31

¹ p. 22 of DEIS

² p. 1 of DEIS

³ P. 1 of DEIS

Alternative 3c: Close all shrimp fishing in state waters from the Texas-Louisiana state boundary, eastward to the Alabama-Florida state boundary from April 1 through May 15

Alternative 3d: Close all shrimp fishing in state waters from the Louisiana-Mississippi state boundary, eastward to the Alabama-Florida state boundary from April 1 through May 15

EPA Comments:

EPA appreciates that several alternatives for proposed action was presented and that a preferred alternative was selected in the DEIS. Based on our review, we offer the following comments for the proposed action covered within the DEIS.

Summary Table:

EPA recommends including a summary table of all the proposed alternatives and their impacts (socio-economic and environmental) in the executive summary section.

Unusual Mortality Event:

On page 67 of the DEIS it is stated that “An unusual mortality event (UME) is defined under the MMPA as, ‘a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.’” What constitutes a significant die-off of a marine mammal population? What caused the sea turtle stranding events reported in 2010 and 2011 to be classified as UMEs? EPA recommends clarification in the FEIS.

Fuel Cost Estimates:

Estimates used to discuss the current economic challenges of the U.S. shrimp fishing industry are somewhat outdated. Specifically, NMFS cites data from 2002-2006 when discussing fuel prices (page 89). Since fuel prices have risen by approximately 30-40% since 2006 it would be valuable to update these estimates.

Socio-Economic Impact of Alternatives:

Table 23 provides a summary of the estimated economic effect of each alternative. It appears from Table 23 that significant cost to the industry will come in a two areas (catch loss and the initial TED purchase). It's unclear on how NMFS developed the 4.97 percent catch loss estimate and why it is that the same for all alternatives. EPA recommends clarification in the FEIS. Mitigation of cost for purchasing the TEDs is discussed in the DEIS. Specifically, the National Fish and Wildlife Foundation (NFWF) allocated funds received from oil recovery income associated with the DWH oil spill event for Gulf of Mexico restoration efforts. According to the DEIS, some of these funds were used to purchase 360 TEDs for 180 Mississippi resident shrimp vessels. Are these funds available to other states and how might this impact the overall socio-economic impact alternatives analysis? EPA recommends clarification in the FEIS.

Environmental Justice:

EPA notes that Census data from 1990 and 2000 was used to determine the potential for the proposed action to have a disproportionately high and adverse effect on minority or

low-income populations. EPA recommends that NMFS consider using more current 2010 Census data if available.

Public Participation:

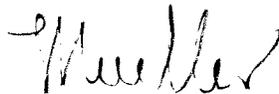
EPA notes during the scoping phase of the development of this DEIS, NMFS provided a second, previously unscheduled, public meeting in Biloxi Mississippi due to a large turnout of Vietnamese fishermen and the lack of adequate translation services at the July 13th, 2011 meeting. The second meeting was held on July 26th, 2011 with 50 people in attendance. It is important that the NEPA process include all impacted populations and that the proposed action be clearly communicated to these impacted populations. EPA commends NMFS for efforts to clearly communicate the proposed action to the fishing communities impacted by providing this second meeting in Biloxi with translation services.

EPA DEIS Rating:

Although some clarification comments are offered for this DEIS, EPA supports NOAA and NMFS on the above referenced DEIS and gives deference to their fishery expertise. Therefore, EPA rates this DEIS as “LO” (Lack of Objections). Nevertheless, we request that NOAA and NMFS directly respond to our comments in a dedicated section of the FEIS.

EPA appreciates the opportunity to review the DEIS. Should NOAA have questions regarding our comments on this DEIS, please feel free to contact Dan Holliman at 404/562-9531 or holliman.daniel@epa.gov of my staff.

Sincerely,



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