Amendment 10 to the Spiny Lobster Fishery Management Plan (FMP)

Draft Environmental Impact Statement (DEIS) Comment Summary

NMFS received six public comments on the DEIS for Amendment 10, including one comment from a governmental agency, one comment from a non-governmental agency, one comment from an industry organization, and three comments from individuals. The following is a summary of the comments received, in order of submission.

Comment 1: The Councils and NMFS should be more conservative and set an ACL less than the ten-year mean. The genetic study by Hunt et al. does not give the whole picture and some local recruitment takes place. Set MSY equal to the ten-year mean of 5.8 million pounds, the ACL equal to 90% MSY, and the ACT = 90% ACL. Eliminate the use of undersized lobsters as attractants.

Comment 2: Tailing and the tailing permit should be eliminated. Law enforcement concerns still exist, especially concerning spearing of lobster and removing the tail to hide it. Also, verifying the length of a trip is difficult. The Alternative 2 to eliminate the tailing permit should be the preferred.

Comment 3: Trap line markings need more discussion before implementation. The requirement is unnecessary and burdensome, fishermen already mark traps and buoys, and entanglements are rare. The requirement is labor intensive and would create waste. The cost of replacing all lines is high (calculations were provided). Color lines degrade more from UV exposure than black lines and are more attractive to turtles. Black should be used for vertical lines and black or white for horizontal lines.

Comment 4: The Council and NMFS should not restrict lobster before limiting Goliath grouper because Goliath grouper eat lobster.

Comment 5: Amendment 10 is not sufficient to prevent overfishing and keep landings within the ACL. Specifically, the preferred alternative for Action 5 to use the ACT as an accountability measure is not sufficient. Both in-season and post-season AMs should be implemented. The preferred alternative in Action 1 to remove smooth-tailed spiny lobster, spotted spiny lobster, and Spanish slipper lobster from the FMP should be changed. These species should be ecosystem component species to promote ecosystem-based management and provide precautionary protection to the species.

Comment 6: Not available – will be presented during the Committee meeting.

SAFMC Council
SAFMC Spiny Lobster Committee
SAFMC Spiny Lobster AP
Gulf Council Spiny Lobster Committee

Re: Amendment 10 Spiny Lobster April 29, 2011

I hear many people quoting that all of the Spiny Lobster in Florida come from other areas of the Caribbean or elsewhere, so we don't need to establish an ACL, ABC, OFL,MSY, etc that will maintain any kind of breeding stock. I think this is a risky position to take. If the 10 year mean landings are 5.8 MM then I think it is risky to establish the MSY and ACL at 2 standard deviations above the mean (7.9 MM #'s). All other fisheries set limits less than the mean.

I think the proper thing to do for the fishery & sustainability is to do what is right for the long term, not the short term. If you leave a percentage of the lobsters out there for next year (this would be like leaving some money in the bank to draw on next year if you need it), consequently there will be a larger biomass & this will help even out the landings. This could also eliminate or help reduce the negative impacts during lean landing years.

Council should be more conservative with their management measures in the lobster fishery than what are the current "Council's preferred options in Amendment 10". I fear that some of these decisions will be based on flawed data (models with certain assumptions) and opinions rather than good science. When the data is questionable and we don't know what caused the lack of lobster for ~10 consecutive years we should err more on the side of conservation.

When I read the "Using microsatellite DNA analysis to identify sources of recruitment for Florida's spiny lobster (Panulirus argus) stock by John H. Hunt, William Sharp, Michael D. Tringali, Rodney D. Bertelsen, and Samantha Schmitt Florida Fish & Wildlife Conservation Commission" report I did not get the impression that we don't need to be concerned about spawning sizes & local recruitment. These quotes from their report provides evidence that "**there is some localized self-recruitment of lobsters"**.

Pg 7:"In conclusion, our results indicate that spiny lobsters are highly interconnected in terms of gene flow in locations along the coastal United States. However, differences in allele frequencies, trends in fixation indices, and the spatial separation of genotypes among some of the tested sample locations provides evidence for a degree of localized self-recruitment."

Pg. 6: "Because it was not confined to a few markers, it is possible that the observed single-locus disequilibrium resulted from undetected population structure within samples or from temporal effects. It is also possible that the observed deficits are caused by a technical artifact of genotype screening (i.e., null allelism). We will conduct additional detailed testing to distinguish between the two alternatives. The global value over all samples of FIS (0.0306) did not differ significantly from zero."

I believe that this leaves the door open to genetic structure within the population. P. argus samples from across the entire range did not have appreciable genetic population structure. They clearly have some more work to do which they acknowledge in the report.

The idea that the lack of evidence for local self-recruitment in FL is a rationale for "catch all you can" is perverse. Clearly upstream sources are necessary for FL, but self-recruitment won't be detected in FL due to panmixia. If they can't distinguish between self recruitment which has a mix of DNA and incoming mixes of DNA, then they really don't know how much of the recruitment is not from local spawning. So the question

about local recruitment remains open in my opinion. I think the real question is how much of the recruitment is from local stock, not whether the there is local stock recruitment.

In addition the report only collected samples over a 2 year period and in my mind leaves a lot of questions that still need to be answered:

1) What were the ages of the lobsters sampled (we could be trying to compare 1960 with 2005 larvae) – Most lobsters in Florida are maybe <5 years old vs NC lobsters could be 20 to 50 years old? Can anyone tell me how old the 8" and 9" carapace lobsters are that are routinely caught off NC?
2) This report is only a snapshot in time so it may not really be representative of a fishery that historically had longer living stock. A longer sampling period could provide more evidence of local recruitment.
3) The large breeder lobsters in the Dry Tortugas were fished out in the 90's so the whole local recruitment DNA scenario can now be a lot different. Not only did the larger lobsters produce a lot more (10X) eggs as the smaller ones, but there were also a lot more of them. Maybe the recruitment that used to come from the Dry Tortugas has been compromised. The quantity of larvae from that area could now be 1 % of what it used to be.
4) The other major factor is that this study was done during a recent time period when the lobster population was very low in Florida. The same study during a period of lobster abundance could show higher local recruitment numbers & would warrant more conservation and larger minimum sizes.
5) The PAV1 virus could also be a big factor. If a lot of the lobsters were diseased and not reaching spawning age/nor spawning and the population/biomass is way down then the DNA study may not show much local recruitment versus completing the study when the fishery is healthy with a good biomass. The current 3.0" minimum carapace size can also negatively affect the local recruitment data – larger lobsters with larger clutches could mean more local recruitment & more lobsters to harvest. The 3.5" carapace would also weigh more, so landings and recruitment could easily go up a significant %.
6) I have also heard from local lobstermen that when the lobsters get above a certain size they move to deeper water. If this is true, it could also affect local recruitment. Maybe by culling out all lobsters as soon as they reach 3" they don't get to move to an area that will be more likely to re-populate Florida.
7) Eddy currents, tides, storms, Ocean currents all affect where the larvae wind up going & settling and these things vary from year to year and decade to decade.
8) The larval movement modeling that was done only shows lines, I would think that a more accurate depiction would show wide color coded paths, similar to hurricane tracking and dye diffusion studies.

I suggest the council take a strong look at setting the MSY at the 10 year mean landing rate 5.8 MM's, then set the ACL at 90 % of the MSY and the ACT at 90 % of the ACL.

In summary, more work needs to be done to adequately determine what is going on in the fishery. An incomplete DNA study and a tide/current modeling based on many assumptions should not be the basis for a **"catch all you can"** fishery.

I also think that the council should change their preferred alternative regarding the use of shorts. I endorse the SAFMC Spiny Lobster AP's recommendation (2 years in a row) to do away with using shorts in the lobster trap fishery. Disallowing the use of shorts will provide a reduction in undersized lobster mortality, it will make it easier for law enforcement, it will increase the annual landings, and trap efficiency will not be affected because they will continue to use live lobsters as attractants (legal sized).

Sincerely,

Jim Atack
Spiny Lobster AP Member

SAFMC Council
SAFMC Spiny Lobster Committee
SAFMC Spiny Lobster AP **April 29, 2011**

Re: Amendment 10 Spiny Lobster

I am disappointed that the Council's preferred position on tailing permits is:

Action 8: Modify Tailing Requirements for Caribbean Spiny Lobster for Vessels that Obtain a Tailing Permit,

This doesn't seem to address the initial concern that Law Enforcement brought up as far back as 1997. In addition the SAFMC Spiny Lobster Advisory Panel has consistently recommended eliminating these permits and during the last two Spiny Lobster AP meetings, recommendations were sent to the Spiny Lobster Committee to eliminate these permits.

April 20th , 2011 meeting in Key West:

MOTION #12: ADOPT ALTERNATIVE 2 AS OUR PREFERRED FOR ACTION 8
APPROVED BY AP (6/0)
Alternative 2 is to eliminate all tail-separation permits for all vessels fishing for Caribbean spiny lobster in the Gulf and South Atlantic waters of the EEZ

Most of the permits were being issued to divers in northern Florida who were targeting grouper with spear guns and powerheads. The temptation was significant to use those devices on the lobsters, especially since the lobsters were particularly large, and in deep water. Very few of these permits were in the hands of trap fishermen. Law Enforcement had concerns that the lobsters were being taken illegally, and that the "tailing permit" allowed divers to throw the heads away, thus removing all indication of how the lobster was taken.

The fishing effort in this sector has been steadily declining, according to a graph produced by the Council. I fail to see how the preferred alternative of "all tailed or all whole" addresses the initial concern, and it would seem that by taking the preferred action the Council is legitimizing a very small and possibly illegal fishery.

It's also difficult to verify that permit holders are able to meet the trip-length requirements of the permits. The requirement for obtaining the permit is a multi-day trip, but it's difficult to verify that trips actually meet that criteria. Considering the weather conditions off northern Florida, and the size of the boats permitted, it's doubtful that all criteria are being consistently met. The permits are not needed to preserve the integrity of the tail if the trips are not multi-day.

Since the lobster population being targeted by this action is in deep water and very old, recruitment of "walk-ins" is impossible to calculate. The damage done to the total lobster population by targeting these large lobsters could be immense, based upon known growth rates. It is clear to me that Alternative 2: *Eliminate the Tail-Separation Permit for all vessels fishing for Caribbean spiny lobster in Gulf and South Atlantic waters of the EEZ* should be the preferred action. Also, "Alternative 2 would have a positive impact on the administrative and law enforcement environments since the Tail-Separation Permit would no longer exist and the practice of tailing Caribbean spiny lobsters would be prohibited."

Thank you,

Jim Atack

Florida Keys Commercial Fishermen's Association

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E-mail: FKCFA1@hotmail.com Website: FKCFA.Org

April 18, 2011

Mr. Andy Herndon
National Marine Fisheries Service
263 13th Ave South
St. Petersburg, FL 33701

Re: Biological Opinion & Trap Line Marking in the Spiny Lobster Fishery

Dear Mr. Herndon,

Industry specific trap line marking in the spiny lobster fishery, as proposed by the National Marine Fisheries Service (NMFS) and the South Atlantic Fishery Management Council (SAFMC) in Spiny Lobster Amendment 10 warrants considerably more discussion before implementation. The efficacy and merits of the current proposals are immediately obvious to industry as unnecessary and burdensome. Both State and Federal regulations already require distinctive marking characteristics for spiny lobster traps and all buoys attached to them by line, utilizing specific colors and license number of the individual permit holders.

Furthermore, the Biological Opinion used to support the case for specific trap line marking clearly states in summary on page 147, Section 8:

"The Gulf of Mexico, South Atlantic spiny lobster fishery is not likely to jeopardize the continued existence of 1) green, hawksbill, Kemp's ridley, leatherback or loggerhead sea turtles 2) Acropora cervicornis or Acropora palmata 3) small tooth sawfish."

There are no similarities between the trap fishery in the Northeastern United States, where trap line marking is required in certain fisheries, and the spiny lobster fishery of the Southeastern United States and the Gulf of Mexico. Incidents of entanglement with marine mammals such as whales, porpoises and dolphins are rare or non-existent. Even the interactions stated in the Biological Opinion are minimal in terms of their impact on the turtles, Acropora coral or smalltooth sawfish, that were targeted in this particular review.

The realities of industry interaction with marine mammals, specifically turtles and sea-life indigenous to the area paints a different picture in the broader scope of their relationship. Commercial fishermen are routinely credited with the recovery of sea turtles and water fowl that have suffered injury from other marine life including predation and red tides, cases of which number in the hundreds working with the Islamorada Wild Bird Center and the Turtle Hospital in Marathon, FL.

Financial and environmental matters associated with trap line marking and/or trap line replacement raise additional concerns. Trap line marking is labor intensive and requires routine maintenance. Trap line replacement requires disposal of enormous amounts of otherwise serviceable material and places an exorbitant financial burden on fishermen.

PROPOSED
TRAP LINE MARKING IN THE SPINY LOBSTER FISHERY
IN THE
SOUTHEASTERN ATLANTIC AND GULF OF MEXICO

PURPOSE & JUSTIFICATION

The National Marine Fisheries Service (NMFS) in accord with the South Atlantic and Gulf of Mexico Fishery Management Councils are collectively proposing trap line marking in the spiny lobster fishery of Southern Florida in the Southeastern Atlantic Ocean and Gulf of Mexico. The purpose of which is to determine industry specific interaction with sea turtles of all types, Acropora corals and small tooth sawfish. The proposed action has been cited as being similar to industry specific trap line marking in the Northeastern Atlantic under rules and regulations promulgated in the Atlantic Large Whale Take Reduction Plan (AWLTRP).

Justification for the action is based on a Biological Opinion dated August 27, 2009 gauging trap line interaction with sea turtles, Acropora corals and smalltooth sawfish.

BIOLOGICAL OPINION

The Biological Opinion (ESA – Section 7 Consultation, August 27, 2009) used to support the case for specific trap line marking clearly states in summary on page 147, Section 8:

"The Gulf of Mexico, South Atlantic spiny lobster fishery is not likely to jeopardize the continued existence of 1) green, hawksbill, Kemp's ridley, leatherback or loggerhead sea turtles 2) Acropora cervicornis or Acropora palmata 3) small tooth sawfish."

BI-OP Table 5.6
Of over 22 million trap soak days in federal waters only 6.2 turtles are estimated to be taken, an insignificant amount that in no way jeopardizes the more than 5 different species of turtles. The number of reported marine mammal entanglements in South Florida and the Keys is relatively rare. The biological opinion supporting the proposal for specific industry trap line markings is based in part on 10 documented turtle entanglements during the years surveyed of 2004-2007. Of those, eight of the ten turtles were released alive.

BI-OP Tables 5.20, 5.21, 5.24, 5.25
Incidents of Interactions with *Acropora* corals are equally low and calculated to be 0.005 percent of the total population over a 3 year survey period. That translates to 131.3 square meters or about 0.032 of an acre.

BI-OP Section 5.5.3.2
Documented cases of interactions with small-tooth sawfish are almost non-existent with only two, non-lethal cases over two, three-year consecutive periods.

BIOLOGICAL CONCERNS & TRAP LINE COLORATION

The potential for trap line entanglement with marine mammals in the spiny lobster fishery, while minimal overall, is highest with sea turtles. Loggerhead turtles have the distinction of being the most susceptible of all the species to interaction with lines of any type or color but most notably with specific line colorations due to their high level of visual acuity.

Numerous studies have been conducted on the visual acuity of turtles with two predominant traits emerging: 1) Propensity for significant near-sightedness in open air when their eyes are above water 2) Noticeable attraction to blue, green and pink colorations and shades thereof.

It is reasonable then to question any line coloration whatsoever, whether by continuous line strand coloring or interval marking with tapes of various colors that could actually entice sea turtles to interaction. Collective anecdotal observations of turtles at sea, by fishermen, suggest a greater effort by turtles to interact with the colored buoy attached to black trap lines rather than an interaction with the line itself.

If one of the primary goals is to protect sea turtles, black line void of all other colorations should be considered as a primary color selection. The color of the line is of no consequence with Acropora corals since coloration is not a factor that could influence or incite an interaction and the same seems to hold true for small tooth sawfish.

Summaries From:
Endangered Species Act – Section 7 Consultation
Biological Opinion
NOAA/NMFS/SERO
August 27, 2009

7.1.1 Hawksbill, Kemp's Ridley, and Leatherback Sea Turtles

Survival in the Wild

The proposed action may result in up to one hawksbill, Kemp's ridley, or leatherback sea turtle take (lethal or non-lethal) during a given 3-year period.

The non-lethal take of up to one hawksbill, Kemp's ridley, or leatherback sea turtle, in combination, over consecutive 3-year periods is not expected to have any measurable impact on the reproduction, numbers, or distribution of these species. That individual is expected to fully recover such that no reductions in reproduction or numbers of these species are anticipated. Since the takes may occur anywhere in the action area and would be released within the general area where caught, no change in the distribution of hawksbill, Kemp's ridley, or leatherback sea turtles is anticipated.

7.2 Effects of the Action on the Likelihood of *Acropora* Survival and Recovery in the Wild

As noted in Section 5.6, we believe *Acropora* is likely to be adversely affected by the continued authorization of the spiny lobster fishery. We must now determine if the action would reasonably be expected to appreciably reduce, either directly or indirectly, the likelihood of *Acropora* survival and recovery in the wild. Given what we know about the fishery and the stressors impacting *Acropora* throughout its range, we do not believe the fishery is likely to directly or indirectly reduce the likelihood of *Acropora* survival and recovery in the wild. The fishery has been ongoing throughout periods of both high and low *Acropora* abundance. Additionally, over the last 15 years the number of traps in the fishery has been declining, further reducing the likelihood of adverse affects from the fishery occurring on *Acropora*.

7.3 Effects of the Action on the Likelihood of Smalltooth Sawfish Survival and Recovery in the Wild

Survival in the Wild

The non-lethal take of two small tooth sawfish over consecutive 3-year periods is not

expected to have any measurable impact on the reproduction, numbers, or distribution of these species. The vast majority of small tooth sawfish released after incidental capture show no apparent signs of any negative sub-lethal effects. Although the range of impacts of non-lethal takes are variable, this take estimate represents only those takes for which all animals are expected to fully recover such that no reductions in reproduction or numbers of small tooth sawfish are anticipated.

FINANCIAL IMPACTS

PRO-FORMA & STATISTICAL INFORMATION
SPINY LOBSTER TRAP FISHERY IN MONROE COUNTY, FLORIDA
TRAP LINE COST ANALYSIS – STANDARD BLACK 5/16" POLYPROPYLENE LINE*
(AS OF) APRIL 18, 2011

DESCRIPTION	EXPENSE
5/16" Black, UV resistant, polypropylene line, $0.29/foot, tax and freight included	0.29
Average trap length, 90' @ $0.29	26.10
750 (+/-) traps per average active permit holder	19,575.00
Cost per 1000 traps	26,100.00
485,000 traps engaged in the fishery	12,685,000.00
Amortized value of discarded, serviceable line	6,342,500.00
TOTAL EXPENSE TO 385 FLORIDA SPINY LOBSTER FISHERMEN	19,027,500.00

Total capital cost to industry, is $19,027,500.00 not including labor to remove and replace existing lines and disposal fees for existing trap lines. Total trap line for disposal amounts to 8,267 miles of polypropylene for the spiny lobster fishery alone.

Any consideration of trap line replacement with line having distinctive coloration must also include the capital costs of line being retired early. Standard black polypropylene line has a user-serviceable life span of 5-7 years. Also noteworthy and to be considered is the reduced life-span of any trap line with an intertwined, colored thread. The colored thread is much more susceptible to the detrimental effects of UV degradation than standard black line and once the colored line has failed the entire length of line will require replacement.

Trap line marking versus replacement with a continuous colored strand will incur significant labor costs in order to maintain it, especially if the requirement mandates marking every fifteen feet of the trap line length. Colored tapes around the line or tags inserted into the line will be subjected to weather and mechanical abrasion from trap haulers. Adhesive qualities of mastic type tapes will become ineffective in very short periods of time due to saltwater and ultraviolet exposure in a sub-tropical climate.

The costs associated with these proposals are so severe, we would seek federal financial assistance in order to achieve compliance.

* Fishermen employ a variety of trap line sizes and types based on area fished and application, e.g., vertical line fishery or horizontal trawls. Black polypropylene line is the primary choice of vertical trap fishermen and white polypropylene line is the primary choice in the horizontal trawl fishery. In all other applications, trap line sizes are greater than the 5/16" line category used for this extrapolation with 11/16" being used in many applications. Line costs with a trace color for industry identification are not yet available but are known to be higher than a standard black line.

ENVIRONMENTAL IMPACTS

The environmental impact of line replacement would have severe consequences in and of itself. To replace the lines on 485,000 traps in the spiny lobster fishery would amount to 8,267 miles of polypropylene line prematurely consigned to landfills or otherwise disposed of.

Polypropylene line is generally sold in tightly wound spools of 600', measuring 1.5'X1.5'X1.5' or 3.75 cubic feet per spool and would require 72,750 spools of line to change out every trap. The total volume of the retired line would come to 272,812 cubic feet of solid waste with a mean amortized value of $6,342,500.00.

SUMMARY

Trap line interaction with marine mammals, other than turtles, in the spiny lobster fishery of Southern Florida is virtually non-existent. Likewise, incidents of interaction with sea turtles, Acropora corals and small tooth sawfish have been scientifically assessed by biological opinion to be of minimal impact and do not jeopardize any of these species in the near or long term.

Trap line replacement using a trap line with a colored thread imposes significant financial burdens on fishermen and creates its own environmental impact with regard to disposal. Faster degradation of colored line due to UV exposure also increases line replacement frequency, further complicating disposal factors and increasing costs.

Similarly, trap line marking with colored tapes, or tag inserts results in increased labor costs to maintain these marking which will be subjected to significant environmental and mechanical degradation.

An approach incorporating reasonable and prudent measures suggests line replacement and labor intensive line identification proposals are not viable options. Alternative methods of gear marking do exist and could be incorporated into the spiny lobster fishery built around existing practices and trap line coloration.

By precedent and established practice and in concern for aquatic and marine life of all types, and environmental impacts associated with accelerated line disposal, it is our recommendation the Councils endorse the use of black polypropylene as the specific line coloration for vertical line buoy fishing and white or black polypropylene line in the horizontal trawl fishery of the Southern Florida spiny lobster fishery in the Southeastern Atlantic Ocean and Gulf of Mexico.

Sincerely,

Bill Kelly

Capt. Bill Kelly
Executive Director

C: Dr. Roy Crabtree, NMFS, SERO
Mr. Rick Marks, Hoffman, Silver, Gilman & Blasco

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2011-0106
DEIS/Amendment 10 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic

Comment On: NOAA-NMFS-2011-0106-0001
DEIS Lobster 10 Notice of Availability

Document: NOAA-NMFS-2011-0106-DRAFT-0006
Comment from William Klemann

Submitter Information

Name: William Klemann
Address:
Melbourne Beach, FL,

General Comment

From skimming the material in the impact statement it appears to me that your data does not recognize Goliath grouper as a factor in the state of our lobster fishery.
As a diver I can tell you that Goliath groupers are prevalent on our reefs off central Florida now. I have seen numerous areas where you might encounter 4 to 10 fish between 60and 300 lbs. I am sure there is data somewhere that tells how much biomass a 200 lb grouper needs per week to stay healthy.
The areas of reef where these groupers are common are nearly devoid of fish in the 1/2 to 4 lb. range and also of lobster.
In years past there were only G grouper in areas where there are big deep ledges for them, now they are everywhere from 10 ft. depth on out.
I would sometimes spear G Grouper when I was young and it was legal to do so, their stomach contents almost always included lobster. As a lobster diver I have witnessed many times when they will take lobster that have been spooked from their caves and have also seen them stalk lobster at night when the lobster are out feeding.
I recently had a conversation with a fisheries person who was doing a survey on swordfishing, he told me that Goliath Grouper do not eat lobster. I certainly hope there is someone involved in the decision making process who is better informed.
My feeling based on 35 years diving experience is that the abundance of Goliath grouper pose a serious threat to the lobster and snapper and grouper stocks.
I think Fisheries should consider regulations to thin Goliath grouper numbers out before restricting lobster harvest any further.

May 23, 2011

Susan Gerhart
NOAA Fisheries Service
Southeast Regional Office
Sustainable Fisheries Division
263 13th Avenue South
St. Petersburg, Florida 33701-5505

Comments re: Amendment 10 to the Spiny Lobster Fishery Management Plan in the South Atlantic and Gulf of Mexico - NOAA-NMFS-2011-0106

Dear Ms. Gerhart,

On behalf of the Pew Environment Group's Southeast Fish Conservation Campaign, we are writing to express our concern that Spiny Lobster Amendment 10 (Amendment) currently under review by both the Gulf of Mexico and the South Atlantic Fishery Management Councils (Councils) may not be sufficient to prevent overfishing and hold the fishery within its annual catch limit (ACL). This Amendment is intended to set ACLs and accountability measures (AM) as required by NOAA's technical guidance (NS1) and the Magnuson Stevens Fishery Conservation and Management Act (MSA)[1], but we are concerned with two major actions in the Amendment.

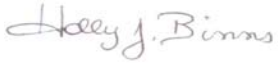
The first is Action 5 which deals with AMs. The only preferred alternative is Alternative 4, "Establish the ACT as the accountability measure for Caribbean spiny lobster," which may be insufficient to hold the fishery within its ACL. NOAA fisheries should also have in-season closure authority and there should be explicit AMs for exceeding the ACL even if those AMs do not take effect in the year immediately following the overage. Simply setting an ACT does not "prevent the ACL from being exceeded", which is the purpose of an AM.[2] The AMs must trigger some in-season adjustment or post-season action explicitly in the document.

Our second concern is with Action 1, which would remove smoothtail spiny lobster, spotted spiny lobster and Spanish slipper lobster from the fishery management unit (FMU). We feel that a designation as ecosystem component species (ECS) would better serve the goal of promoting ecosystem-based management and providing precautionary protections for these minor species.

[1] 16 U.S.C. 1853 §303(a)(15)
[2] 50 CFR Part 600 – response to question 23

We thank the NMFS for the opportunity to share these recommendations, and look forward to continuing to work with you to ensure sustainable and vibrant Southeast fisheries.

Sincerely,



Holly Binns
Manager
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