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December 4, 2025

Trish Murphey, Chair
South Atlantic Fishery Management Council
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RE: Ocean Conservancy's written comments for the South Atlantic Council's December 2025 meeting in Kitty Hawk, NC

Dear Chair Murphey:

Ocean Conservancy¹ offers the following comments to the South Atlantic Fishery Management Council ("Council") focusing specifically on the Red Snapper Exempted Fishing Permits (EFPs). **The EFPs do not comply with existing legal mandates and cannot be implemented as proposed.** We have significant concerns that the proposed EFPs will undermine rebuilding of this stock, fail to deliver meaningful data improvements, and, as a result, harm both the health of the stock and the communities that depend on this fishery. **Because of these serious concerns, Ocean Conservancy does not support the EFPs, and we recommend the Council reject them.**

As the Council reviews these EFPs, rigorous oversight of this hasty process is required. Even a short-term implementation of the approaches laid out in the EFPs could quickly undo any recent progress this Council has made to improve the abundance of red snapper. There is no credible way to move forward with this approach while complying with legal mandates and responsibly stewarding this resource. However, should this process continue to progress, major revisions will be necessary to bring them into compliance.

Our letter includes the following critiques for your consideration as you review and discuss these proposals. Basically stated, the proposed EFPs:

- (1) Do not comply with the Magnuson-Stevens Fishery Conservation and Management Act;
- (2) Would lead to negative conservation impacts; and
- (3) Would not improve recreational fishery data collection in a meaningful way.

We appreciate the opportunity to provide feedback and look forward to further discussion of these important issues with you.

¹ Ocean Conservancy unites science, people and policy to protect our ocean, today and for generations to come.

Before turning to these specific critiques, we take note of the many comparisons to the “Gulf model” for state-delegated management of red snapper, which appear to be driving the state EFP effort. The Council should be careful in relying on this model. In the Gulf, a growing body of evidence indicates that state-delegated management has not delivered successful conservation outcomes. Landings updates and recent reports demonstrate declining size trends for red snapper throughout most of the Gulf^{2,3,4,5} suggesting fishing pressure may be too high, and anecdotal reports indicate local depletion in many areas.⁶ While increasing season lengths is positive for angler satisfaction, this comes at the cost of declining catch rates⁷—another troubling signal about population status. Last, while private anglers have benefited from the longer seasons under state-delegated management, both commercial and for-hire industry groups have expressed concerns about smaller fish, the inability to catch designated limits and the need to travel further to catch them. All of this translates to reduced catch rates and higher expenses for their businesses.

State management in the Gulf also has not led to solid improvements with respect to data collection. Transparency remains an issue with recreational fishing data, as most state data sets remain inaccessible to the public. Also, a number of the state data collection systems are in flux,^{8,9,10} which leads to calibration problems and further obscuring of Gulf-wide fishing effort trends and increases in the uncertainty of catch data for stock assessments, further undermining sustainable management of the fishery.

Furthermore, in contrast to the Gulf, recreational fishing effort and the red snapper stock in the South Atlantic are both geographically concentrated off one state—Florida. In the Gulf, the red snapper stock is spread across a large area, and population estimates are orders of magnitude higher than in the South

² Alabama Red Snapper Landings Update to the Gulf Council. November 5, 2025. Available at: <https://gulf-council-media.s3.amazonaws.com/uploads/2025/10/B-10c-2025-Red-Snapper-Season-Update.pdf> (see slides 4, 5).

³ Mississippi Red Snapper Landings Update to the Gulf Council. November 5, 2025. Available at: <https://gulf-council-media.s3.amazonaws.com/uploads/2025/10/B-10d-Mississippi-Red-Snapper-2025-Update.pdf> (see slides 4, 5).

⁴ Louisiana Red Snapper Landings Update to the Gulf Council. November 5, 2025. Available at: <https://gulf-council-media.s3.amazonaws.com/uploads/2025/10/B-10e-Louisiana-Gulf-Council-RS-and-GAJ-Updated-10-30-25.pdf> (see slides 6, 7).

⁵ Texas Red Snapper Landings Update to the Gulf Council. November 5, 2025. Available at: https://gulf-council-media.s3.amazonaws.com/uploads/2025/10/B-10f-TEXAS_RedSnapper_GAJ_Oct2025_Council.pdf (see slides 4, 5).

⁶ See, e.g., Green, Jim. National Fisherman. The Gulf’s red snapper decline is real. June 30, 2025. Available at: <https://www.nationalfisherman.com/gulf-south-atlantic/the-gulf-s-red-snapper-decline-is-real>.

⁷ 2024 Gulf of Mexico Red Snapper Recreational Season Length Estimates for the Federal For-Hire Component Available at: <https://www.fisheries.noaa.gov/s3/2024-05/Red-Snapper-FH-2024-Projection-final.pdf> See also Anson Promoted to Marine Resources Division Director. November 6, 2025. Available at: <https://www.outdooralabama.com/articles/anson-promoted-marine-resources-division-director> (noting tradeoffs in red snapper fishery).

⁸ Gulf States Survey Transition Research Plan. September 2024. Available at: <https://www.fisheries.noaa.gov/s3/2024-09/Gulf-Transition-Research-Plan-2024-508-compliant-9.6.24.pdf>.

⁹ GulfFIN Committee. Gulf States Marine Fisheries Commission. October 28, 2025. Available at: https://www.gsmfc.org/pubs/2025_Annual_Mtg_Program_Book_FINAL.pdf (AL and MS Creel Transition Research Update: AL and MS both presented summaries which indicated their certifications have been submitted).

¹⁰ Gulf Survey Projected Transition Project Timelines. August 2025. Available at: https://www.fisheries.noaa.gov/s3/2025-08/Gulf_Transition_Timeline-August_2025_0.pdf.

Atlantic with a 2023 estimate of approximately 118 million fish in the region.¹¹ By contrast, the South Atlantic population was estimated at approximately two million in the most recent stock assessment, and recreational fishing effort is highly concentrated around Florida’s east coast.¹² With differences in both the fishery and the natural resource, comparison of recreational season length between the regions may not be useful. South Atlantic managers should consider carefully whether a policy used—to arguable effect—in the Gulf would be a good match in this region.

1. *The proposed EFPs do not comply with the Magnuson-Stevens Act.*

A core mandate of the Magnuson-Stevens Act is to avoid overfishing.¹³ This requirement is embodied in National Standard 1, and as such, all actions taken under the Act must prevent overfishing.¹⁴

In Secretarial Amendment 59, the proxy for red snapper’s fishing mortality rate at maximum sustainable yield (F_{MSY}) was reset—and raised significantly—to correspond with the level of fishing that occurred in the terminal years of the most recent stock assessment.¹⁵ As a result of this proxy revision, current fishing mortality for South Atlantic red snapper is precisely at the overfishing threshold.¹⁶ What this means is that ***any increase in catch will cause overfishing.***

The state EFPs, as currently proposed, would lead to a substantial increase in landings for South Atlantic red snapper. Effort decompression is cited in the EFPs as a reason why per-day landing rates will decrease upon lengthening of the red snapper season.¹⁷ Even if effort decompression does occur, however, it will not result in an absolute decrease in landings relative to the status quo. It simply means that the increase in landings due to increased season length will be somewhat less than the product of the new season length in days multiplied by the per-day landings amounts recently observed. This is not a decrease; it is merely less of an increase.

Given this fact, it is difficult to imagine how overfishing will not occur on the stock—and how the Council and the agency’s action would be consistent with National Standard 1 if the EFPs were approved.¹⁸

The state EFP proposals also raise concerns about annual catch limits (ACLs) and accountability measures. Congress added the requirement for ACLs and accountability measures to the Magnuson-Stevens Act in 2006 in response to decades of failures to end chronic overfishing.¹⁹ The new mandate “fundamentally altered American fishing regulation by requiring [managers] to set hard, science-based caps on how many

¹¹ The Great Red Snapper Count. Updated 2023. Available at: <https://www.harterresearch.org/snappercount>.

¹² Southeast Fisheries Science Center, Stock Assessment of Red Snapper off the Southeastern United States: Update of SEDAR73 Assessment, at 22 (Dec. 2024) (“SEDAR 73 Update”).

¹³ *NRDC v. Daley*, 209 F.3d 747, 753 (D.C. Cir. 2000).

¹⁴ 16 U.S.C. § 1851(a)(1).

¹⁵ National Marine Fisheries Service, Secretarial Amendment 59, 90 Fed. Reg. 24,527, 24,529 (June 11, 2025).

¹⁶ *Id.* (noting that “ $F_{CURRENT}/F_{2021-23} = 1.0$ ”).

¹⁷ See, e.g., Florida Fish and Wildlife Conservation Commission, Request for an Exempted Fishing Permit for Management of the Private Recreational and For-Hire Components of the Red Snapper Recreational Fishery Off Florida’s Atlantic Coast for 2026-2028, at 6 (Nov. 10, 2025).

¹⁸ 16 U.S.C. § 1851(a)(1).

¹⁹ Pub. L. No. 109-479, § 104(a)(10), 120 Stat. 3575, 3584 (Jan. 12, 2007), *codified at* 16 U.S.C. § 1853(a)(15).

fish could be caught each year and by demanding that accountability measures be triggered when fishermen exceeded those caps.”²⁰

Current regulations provide a recurring annual limit of 34,000 landed red snapper per year, which is allocated between the commercial and recreational sectors.²¹ Each sector is managed to stay within its portion of this landings-only ACL, primarily through the use of season openings and closures.²² Dead discards are not regulated through the annual catch limit mechanism.²³

The state EFP proposals would not alter the numerical value of the ACL for South Atlantic red snapper. Nor, at this point in time, is there any scientific basis for doing so. Yet the EFPs, if granted, would allow an amount of landings that substantially exceeds the recreational sector’s share of the ACL, which is 22,797 fish.²⁴

Because far more landings of red snapper would be permitted under the EFPs than are allowed under the ACL, it is unclear how the fishery could be said to still be governed by its ACL. At that point, the ACL would be merely a number on paper, with the sole effect of constraining the commercial sector; the recreational sector would be managed without a governing ACL at all.

A different way of seeing this is via accountability measures. ACLs and accountability measures are flip sides of the same coin: A number is only a “limit” on catch if it has measures that create accountability to that number, and management measures are only “accountability” measures if they are calibrated to a particular amount of catch.

The South Atlantic red snapper fishery, managed under the state EFPs, would have no accountability measures in place. None are included in the EFPs as proposed, and existing accountability measures for the fishery would not have a clear way to apply to a recreational fishery that is being conducted under EFPs.²⁵

So whether viewed from the standpoint of ACLs or accountability measures, the EFPs as currently proposed create a governance problem for the recreational sector. Lacking any particular limit on catch, or any measures creating accountability to such a limit, it is unclear how the fishery would be in compliance with the statutory mandate at 16 U.S.C. § 1853(a)(15).

²⁰ *Conservation Law Found. v. Pritzker*, 37 F. Supp. 3d 254, 266 (D.D.C. 2014) (internal citations omitted).

²¹ 90 Fed. Reg. at 24,529.

²² *Id.* at 24,529–30.

²³ *Id.* While the Amendment 59 final rule purports to set a “total ACL” which includes dead discards, nothing about that “total ACL” number is enforceable through accountability measures. See 50 C.F.R. § 622.193(y) (containing accountability measures only relative to landed catch, not dead discards). Thus the only relevant annual catch limit, within the meaning of 16 U.S.C. § 1853(a)(15), remains the limit on landings.

²⁴ See 90 Fed. Reg. at 24,529.

²⁵ The existing accountability measures are merely season closures, which apply once each sector hits its landings limit. See 50 C.F.R. § 622.193(y). But it is not clear how a federal season closure notice would apply, if recreational landings separately are being allowed on a state-by-state basis through EFPs.

Finally, it bears mentioning that EFPs should not be used as a tool of convenience for breaching ACLs and avoiding accountability measures—much less for allowing overfishing. EFPs can be useful for testing new gear, conducting pilot studies, or carrying out similar small-scale experimentation, but they are not a blank check for ignoring the requirements of the Magnuson-Stevens Act. Such use is not within the intended purpose of EFPs and can undermine what is otherwise a useful tool for innovation by fishery managers and industry.

2. *The proposed EFPs would lead to negative conservation impacts on the South Atlantic red snapper stock.*

South Atlantic red snapper is under its second rebuilding plan, the first having failed to rebuild the stock by its deadline of 2006.²⁶ Now in year thirty-four of rebuilding,²⁷ the stock has increased substantially in abundance but remains below the target level of spawning stock biomass.²⁸

The primary reason red snapper has not rebuilt fully is because its age structure remains truncated. In other words, while there are abundant numbers of fish, the vast majority of them are young and have not reached the full reproductive potential exhibited by older fish.²⁹

The recent increase in abundance for South Atlantic red snapper appears to have been driven by several above-average pulses of recruitment over the past 15 years.³⁰ Recent management has not taken advantage of these opportunities to rapidly rebuild the stock. Instead, as these large cohorts of fish are tracked over time, they appear to be diminishing at such a rapid rate that few individuals are left to grow into older adults.³¹ What this means is the stock is being subjected to excessive fishing pressure, and the cohorts that otherwise could have rebuilt the stock ahead of schedule (and ended the rebuilding plan) are now being fished down to the point where they will contribute nothing more to rebuilding than an average cohort would.³²

Given that the current level of fishing mortality is high to begin with, it is not a good idea from a conservation standpoint to increase landings substantially under the state EFPs. Doing so would jeopardize the stock's rebuilding progress thus far, risk further truncation of the age structure, and even potentially lead to a failure to rebuild by the Amendment 17A deadline of 2044.

²⁶ See 56 Fed. Reg. 56,016 (Oct. 31, 1991) (Amendment 4 final rule).

²⁷ See 75 Fed. Reg. 76,874 (Dec. 9, 2010) (Amendment 17A final rule, establishing new rebuilding plan with deadline of 2044).

²⁸ SEDAR 73 Update, *supra*, at 24.

²⁹ *Id.* at 22 (Table 2), 73 (Figure 15).

³⁰ *Id.* at 73 (Figure 15).

³¹ *Id.*

³² This is reflected by the SEDAR 73 Update assessment and Secretarial Amendment 59: the amendment redefined the F_{MSY} proxy to be the F-rate that will rebuild the stock by its current deadline of 2044. See 90 Fed. Reg. At 24,529. That value happened to correspond to the F-rate experienced by the stock in the terminal three years of the assessment update. See *id.* Thus the current level of fishing pressure on the stock is the absolute maximum possible while still rebuilding by 2044, given the existing large cohorts observed in the stock assessment. Those large cohorts, in other words, are being fished down to the point that where the stock will not rebuild any earlier than scheduled.

Proponents of the state EFPs have pointed to preliminary results from the “South Atlantic Great Red Snapper Count” to support the idea of increasing fishing mortality for red snapper. This is hasty for several reasons. First, the results of that abundance study remain preliminary and have yet to undergo peer review. Second, abundance studies are not directly comparable to stock assessments; they must be integrated into a stock assessment before management-relevant information can be derived, and this prospect (in the form of SEDAR 90) remains a year or more away. And third, even if the preliminary results were directly usable now, proponents of the state EFPs are relying on the larger of two different abundance estimates provided by the study, despite study authors explicitly cautioning that for that estimate “[t]he 95% credible intervals are too great to confidently say where the population is.”³³ At this point, the best available science shows a truncated age structure for red snapper—indicative of high fishing pressure—and nothing from the abundance study is to the contrary.

Fundamentally, South Atlantic red snapper is a sought-after species in a region with high recreational fishing pressure. In this context, using EFPs to throw open the doors to recreational fishing for a few years is short-sighted and wasteful natural resource management. Moreover, given that overfishing is incredibly likely under the EFPs, accountability measures, including closures or paybacks may be necessary in the future—and when the bill comes due, all sectors, not just the recreational sector, will pay the price.

3. *The proposed EFPs do not improve data collection in a meaningful way.*

Each of the EFPs are characterized as a “pilot program” which, by definition, is a small-scale, preliminary test of a new idea, product or process to evaluate the feasibility and effectiveness before a full-scale rollout. However, all of these EFPs lack experimental design, and EFPs from all the states except North Carolina lack limits on the number of participants. While the EFPs propose to collect *additional* information, it is unclear how the EFPs would *improve* data collection and how the EFP methods could ultimately integrate with the Marine Recreational Information Program (MRIP). Unfortunately, the reality is that there is very little information available that suggests the data collected from the EFPs could be used in science or for management purposes in the future.

Most crucially lacking are a standardized approach and cohesive plan for how the EFP methods will improve data collection and how the data collected will effectively account for catch when comparing against the overfishing limit. In the Gulf, this has been a well-documented challenge, with years of effort going into building a cohesive data partnership, ongoing since 2018 and not yet complete.³⁴ Much of that work took place before state-delegated management was pursued in the region, and state surveys were in the process of certification when the EFPs were initiated.³⁵ Even with years of planning, design, and

³³ South Carolina Sea Grant Consortium, South Atlantic Red Snapper Research Program (SARSRP) Core Messaging Document, Version 1, at 4 (Oct. 16, 2025).

³⁴ Gulf Transition Research Plan. September 24, 2024. *Available at:* <https://www.fisheries.noaa.gov/resource/document/gulf-transition-research-plan>.

³⁵ Gulf State Recreational Fishing Data Transition Process. *Available at:* <https://www.fisheries.noaa.gov/southeast/recreational-fishing-data/gulf-state-recreational-fishing-data-transition-process>.

coordination prior to the Gulf EFPs, overfishing occurred in 2019.³⁶ Recognizing these challenges, NOAA Fisheries released recreational fishing survey and data collection standards in 2020 aimed at promoting data quality, consistency, and comparability.³⁷ Specifically, it is noteworthy that each of the Gulf states has made a commitment toward achieving these recreational fishing survey and data collection standards.^{38,39} These standards provide the framework and guidance for generation of new data collection programs, and adherence to the standards offers survey administrators reasonable assurance their data can be used in science and management as well as financial and additional support.^{40,41} To be clear, each of the Gulf state survey programs are MRIP partners meaning each of the Gulf State data collection programs *are part of MRIP*.

This is not the case for the proposed EFPs. First and foremost, the proposed EFPs circumvent this vetted process entirely. It is unclear if Atlantic Coastal Cooperative Statistics Program (ACCSP) or NOAA Office of Science and Technology (OST) have been consulted and are engaged in the design, data collection or warehousing process; both groups would have a large role to play in the success of propping up future data collection programs by the states. For instance, ACCSP plays a significant role in the region for storing, standardizing and integrating data. Further, there is no mention of data standards and it is unclear if the states are pursuing certification for the proposed survey designs, a process which should occur in coordination with NOAA OST.⁴²

Secondly, new programs would need to be established and operated alongside existing data collection for years to provide a smooth transition. Without this, a shift from federal to state management would be unlikely to result in sustainable management and rebuilding of the stock for the benefit of both commercial and recreational fishing. Furthermore, it is unclear how existing data collection programs, like Florida's State Reef Fish Survey (SRFS) and the Red Snapper Research on the Atlantic Coast from the State Specialized Survey, would integrate.⁴³

³⁶ Gulf Council Meeting Minutes, September 2020 Council Meeting. Available at: <https://gulf-council-media.s3.amazonaws.com/uploads/2025/02/GMFMC-Full-Council-September-2020.pdf>.

³⁷ Recreational Fishing Survey and Data Standards. Available at: <https://www.fisheries.noaa.gov/recreational-fishing-data/recreational-fishing-survey-and-data-standards>.

³⁸ NOAA Fisheries. Recreational Fishing Surveys. Available at: <https://www.fisheries.noaa.gov/recreational-fishing-data/recreational-fishing-surveys>.

³⁹ Workshop to Establish GulfFIN Recreational Data Standards. February 4-5, 2025. Gulf Shores, AL. Available at: <https://www.gsmfc.org/publications/GSMFC%20Number%20334.pdf>.

⁴⁰ NOAA Fisheries. Transitioning to New Recreational Fishing Survey Designs Available at: <https://www.fisheries.noaa.gov/recreational-fishing-data/transitioning-new-recreational-fishing-survey-designs>.

⁴¹ National Academies of Sciences, Engineering, and Medicine. Peer Review of the Marine Recreational Information Program Recreational Data Collection Standards. Presentation by Dr. M. Drexler and C. Bruger. May 22, 2025. Available at:

<https://www.nationalacademies.org/documents/embed/link/LF2255DA3DD1C41C0A42D3BEF0989ACAECE3053A6A9B/file/DE3DA61A59FEF64B9DC64FA840DC0683D9E44D581011?noSaveAs=1>.

⁴² NOAA Fisheries Policy 04-114: Recreational Fishery Catch and Effort Survey Design. September 21, 2023. Available at: <https://www.fisheries.noaa.gov/s3/2023-09/Policy-04-114-Final-9.21.23-508-Compliant-signed-JC.pdf> (See also *Standard 5 - Certification review*).

⁴³ Red Snapper Research on the Atlantic Coast. Available at: <https://myfwc.com/research/saltwater/fishstats/srfs/atlanticrosnapper/>.

Additionally, each of the proposed state EFPs offer somewhat vague data collection methods for obtaining catch, effort and discard information. This creates a known-biases conversion issue (i.e., each data collection method has inherent biases that must be corrected for) that has been discussed at length in the Gulf and referred to as calibration or developing a common currency.⁴⁴ Without the requisite framework for consistency among the state data collection programs,⁴⁵ consistent units for measuring the catch from one state against another, or to the catch limits which were set in MRIP-FES, do not exist. As stated above, in itself, this creates a legal vulnerability to the EFPs as catch cannot be compared to the catch limits.⁴⁶ There is no mention of correction factors, biases or statistical methods in the EFPs. Bluntly, it is statistically indefensible to begin generation of brand new data streams and use them solely for catch accounting against limits set using well-established, long-term data sets.⁴⁷ While we noted above that it is unclear that the EFPs even intend to include catch accounting, managers must understand that when new data systems are brought online, they must be calibrated to be effectively used in management.

Finally, there is a general attitude surfacing suggesting that “states can do it better;” however, the EFPs provide no clear mechanism to demonstrate or measure success. Improved data collection suggests a greater precision with which managers are able to estimate catch, effort and discards, e.g., reduced estimates of uncertainty or percent standard error (PSEs). These estimates, along with others that transparently allow scientists, managers and the public to assess the quality of recreational data, are regularly produced by OST. The EFPs do not suggest producing these estimates for their new data collection ventures, meaning it will be impossible to assess their performance.

Given improving data collection is an objective, the proposed EFPs miss the mark. Data from the EFPs would be harder to find (e.g., where will they be published?); confusing for the public (e.g., will the landings count against catch limits?); fail to adhere to existing data standards; cannot be compared among each other; may not necessarily improve precision of estimates; and are unlikely to receive durable funding or support. It is critical to get these data collection discrepancies worked out at the outset of implementing any new data collection programs. The framework for new programs exists; however, the proposed approach circumvents existing channels which ensure statistical rigor, comparability, and robust survey design.

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⁴⁴ Red Snapper Data Calibrations and Catch Limit Modifications. January 1, 2023. Available at: <https://www.fisheries.noaa.gov/action/red-snapper-data-calibrations-and-catch-limit-modifications>.

⁴⁵ NOAA Fisheries Procedural Directive 04-114-01: Guidance and Procedures for the Transition Process for Modification of Recreational Fishing Catch and Effort Methods. January 17, 2025. Available at: <https://www.fisheries.noaa.gov/s3/2025-01/04-114-01-Revision-EAH.pdf> (See also Standard 4 Transition Process for Modification of Recreational Fishing Catch and Effort Methods).

⁴⁶ NOAA Fisheries. Recommended use of the Current Gulf of Mexico Surveys of Marine Recreational Fishing in Stock Assessments. Published July 2019; Revised August 2020. Available at: <https://media.fisheries.noaa.gov/dam-migration/94100569.pdf> (See page 4: “Options 1a and 4 are the only possibilities for the South Atlantic region, as there are no competing state surveys, but Option 4 is statistically indefensible. Having catch estimates that are comparable both across states and throughout the historical time series should be the top priority.” Essentially, states must develop simple ratio calibrations prior to use in management.).

⁴⁷ *Id.*

Thank you for your continued work on these issues. We value the efforts of the South Atlantic Council, agency and staff throughout the region and look forward to supporting these critical efforts to improve recreational data collection and management and the health of regional fisheries more broadly. Please contact us with any questions or concerns.

Sincerely,

Catherine Bruger

Manager, Fish Conservation