

November 14, 2025

*Via The South Atlantic Fishery Management Council Public Comment Form*

John Carmichael,  
Executive Director, South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
Charleston, SC 29405

**RE: Regulatory Amendment 61 to the Fishery Management Unit for the Snapper Grouper  
Fishery in the South Atlantic Region**

Dear Mr. Carmichael:

On behalf of Oceana, thank you for the opportunity to comment on the scoping document for Snapper Grouper Amendment 61.<sup>1</sup> Amendment 61 as described in the scoping document will consider whether the Snapper Grouper Fishery Management Unit (FMU) should be revised for 17 species that are currently managed under the FMU, by either removing those species from the FMU entirely, or by redesignating them as ecosystem component species.

Oceana is the largest international advocacy organization focused solely on ocean conservation. In the United States, Oceana has been a leading voice in promoting sustainable fisheries management, protecting essential fish habitats, and ensuring that federal fishery management complies with the legal mandates of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Our interest in this action stems from our commitment to ensuring that all stocks in need of conservation and management are subject to robust conservation measures that prevent overfishing, rebuild depleted stocks, minimize bycatch and maintain healthy marine ecosystems.

In considering this amendment, the Council must fully meet its obligations under the National Environmental Policy Act (NEPA) and the MSA, as discussed below.

---

<sup>1</sup> South Atlantic Fishery Management Council, Snapper Grouper Amendment 61: Evaluation of the Fishery Management Unit – Scoping Document (Oct. 2025), available at [https://safmc.net/documents/am-61-public-scoping\\_202510\\_final/](https://safmc.net/documents/am-61-public-scoping_202510_final/) (hereinafter Scoping Document).

Oceana strongly opposes any action that would remove these 17 species from the FMU or redesignate them in a manner that reduces the Council's obligation to manage them under the full requirements of the MSA. Removing or redesignating these species risks undermining the conservation and sustainable management of more than thirty percent of the 55 stocks in the fishery.<sup>2</sup> This action, as described in the Scoping Document, would set a dangerous precedent for weakening protections for vulnerable marine life and undermining responsible fisheries management.

The Council should discontinue development of Amendment 61 and focus its limited resources on other pressing issues. If the Council chooses to move forward with Amendment 61, it should adopt a no-action alternative and retain these 17 species under full management in the FMU.

### **I. National Environmental Policy Act (NEPA) Concerns**

As the Council is well aware, Section 304(i) of the MSA requires compliance with NEPA in the development and amendment of Fishery Management Plans (FMPs).<sup>3</sup> The MSA's legislative history makes clear that Congress did not intend to exempt fishery management actions from NEPA compliance nor to supplant NEPA with a new environmental impact assessment procedure, but rather to establish a consistent, timely, and predictable regulatory process for NEPA review of fishery management decisions.<sup>4</sup> Consistent with this, the National Oceanic and Atmospheric Administration (NOAA) ensures NEPA compliance in fishery management through NOAA Administrative Order 216-6A,<sup>5</sup> a Companion Manual,<sup>6</sup> and a Policy Directive specific to the MSA.<sup>7</sup>

NEPA and the MSA each have complementary but distinct review processes that guide fishery management decisions. NEPA provides an important means of ensuring that fishery managers consider essential issues that the MSA does not address. Under NEPA, federal fishery managers are required to consider possible adverse effects of proposed management actions, identify reasonable alternatives, and consider ways to avoid or minimize any adverse effects.

---

<sup>2</sup> *Id.*

<sup>3</sup> See 16 U.S.C. § 1854(i).

<sup>4</sup> Sen. Rep. 109-229 on S. 2012 at 6 (Apr. 4, 2006).

<sup>5</sup> NOAA, NAO 216-6A: Compliance with the National Environmental Policy Act, et al. (Jan. 14, 2020), *available at* <https://www.noaa.gov/organization/administration/nao-216-6a>.

<sup>6</sup> NOAA, Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216-6A (June 30, 2025), *available at* <https://www.noaa.gov/sites/default/files/2025-06/2025NOAANEPAProcedures.pdf>.

<sup>7</sup> National Marine Fisheries Service, NMFS PD 09-103, Revised and Updated National Environmental Policy Act Procedures for Magnuson-Stevens Fishery Conservation and Management Act Fishery Management Actions (June 30, 2025), *available at* <https://www.fisheries.noaa.gov/s3/2025-07/Final-NMFS-PD-09-103-MSA-NEPA-Procedures.pdf>.

The Scoping Document initiates this NEPA process for Amendment 61. As the Council moves forward, it must ensure that its actions are consistent with NEPA and NOAA's implementing procedures, including the expectation of robust public participation.<sup>8</sup>

#### **A. Scoping Requirements**

Scoping is a critical early step in the NEPA process. It is intended to identify the range of issues, alternatives, and potential environmental impacts that should be considered in the development of an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

The Council must ensure that this scoping process is not merely procedural but substantive—meaningfully engaging stakeholders and incorporating public input into the formulation of alternatives.

Oceana urges the Council to ensure that the scoping process for Amendment 61 includes:

- A thorough analysis of the ecological roles of the 17 species proposed for removal or reclassification,
- Consideration of cumulative impacts on the ecosystem and other managed species,
- A robust evaluation of the status quo and no-action alternatives that will maintain federal management of these species in the FMU, and
- Full transparency in how alternatives are developed and selected.

Failure to adequately scope these issues could result in a flawed or incomplete EA or EIS that does not meet NEPA's requirements for informed decision-making and public participation and leave the Council's action vulnerable to legal challenge.

#### **B. Compliance with Environmental Review Requirements**

Consistent with NEPA, the Council must fully evaluate the direct and cumulative effects of all proposed alternatives under Amendment 61. NEPA requires federal agencies to thoroughly analyze the environmental and economic impacts of federal actions on the environment. The proposed action would undoubtedly have a significant impact on the environment, as current management measures and safeguards that have been in place for a wide suite of fish stocks would be eliminated or substantially overhauled. Effects from proposed actions would include not only the immediate impacts to the fishery of removing or redesignating species from the Snapper Grouper FMU but also the broader ecological consequences over time and space.

Cumulative effects analysis is particularly critical in this context because decisions regarding species classification can influence ecosystem dynamics, fishing practices, and data collection

---

<sup>8</sup> *See id.* at 8 ("FMCs should engage the public as early as practicable in the development of EAs and EISs and, when practicable, actively involve the public in scoping and identifying alternatives for both EAs and EISs.").

efforts. These changes, when combined with other ongoing management actions and environmental stressors such as climate change, may result in significant long-term impacts that must be considered in the decision-making process.

To comply with NEPA in evaluating Amendment 61, the Council should:

- Prepare a thorough Environmental Assessment (EA). If the EA concludes that the proposed actions will not result in significant impacts, the Council may issue a Finding of No Significant Impact (FONSI). However, given the potential for broad ecological and socioeconomic consequences—such as changes in species classification, monitoring, and ecosystem dynamics—preparation of a full Environmental Impact Statement (EIS) would be appropriate here.
- Fully evaluate the adequacy of state management regulations for stocks removed from the federal fishery management plan and the effects of this change on the ongoing health, abundance on management of affected stocks. As noted below in Section II.C.3, that analysis must include the impact to those state-level regimes that will follow from any removal or reclassification of a species within the Federal FMP. These impacts are likely to be significant, especially for state regulations that tier to or are interdependent with Federal regulations.
- Incorporate the best available science on species interactions, habitat dependencies, and climate-related shifts.
- Engage stakeholders to identify potential indirect and cumulative effects on fishing communities and ecosystems.

Failure to fully address these requirements could result in inadequate environmental review and undermine the integrity of the management process. A precautionary, science-based approach is essential to ensure that Amendment 61 aligns with NEPA's core principles of informed and transparent decision-making.

## II. Magnuson-Stevens Act (MSA) Concerns

Each of the 17 species discussed in the Scoping Document are currently included in the Snapper Grouper FMP because the Council determined that they were a “fishery under its authority that requires conservation and management.”<sup>9</sup> The Magnuson Stevens Act (MSA) and its implementing regulations dictate that such stocks *must* be included in an FMP.<sup>10</sup> Amendment 61 now considers either removing those species from the FMP, or redesignating them as ecosystem component species.

---

<sup>9</sup> 16 U.S.C. § 1852(h)(1).

<sup>10</sup> *Id.*; see also 50 C.F.R. 600.305(c)(1).

The Council has the authority to take such actions,<sup>11</sup> but only if it complies with the strict guardrails set by the MSA and its regulations. As described further below, the Council's actions must comply with required provisions of FMPs under the MSA, including the National Standards and their requirement to utilize the "best scientific information available."<sup>12</sup> If the Council proposes to remove species from the FMU, its analysis must also meet all the regulatory requirements for removal of a stock. And if the Council instead proposes to redesignate species as "ecosystem component" species, it must also meet the regulatory requirements for that reclassification, while also complying with the overall requirements of the MSA.

#### **A. FMP Components**

The Snapper Grouper FMP, as amended by any management action (amendment, framework adjustment, etc.) must fully comply with the required contents of FMPs under Section 303(a) of the MSA. Section 303(a) stipulates that FMPs should include actions that are "necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery."<sup>13</sup> To achieve this overarching goal, this section includes 15 required provisions for all FMPs developed under the MSA that range from a description of the fishery to a requirement to describe and identify Essential Fish Habitat and objective criteria to determine when a fish is overfished.

The Council must ensure that any revisions to the Snapper Grouper FMP under Amendment 61 fully meet the required contents specified in Section 303(a). This section establishes the essential elements that every FMP must include to ensure sustainable and legally defensible management. Key requirements under this Section include:

- *Description of the Fishery*: The FMP must include a description of the fishery, including the number of vessels involved, gear types, species managed and their locations, and other pertinent information. If species are removed or reclassified, this description must be updated to reflect the new composition of the Fishery Management Unit.
- *Conservation and Management Measures*: The FMP must contain measures necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfishing stocks while achieving optimum yield.

---

<sup>11</sup> See 50 C.F.R. § 600.305(c)(7) ("Councils should periodically review their FMPs and the best scientific information available and determine if the stocks are appropriately identified. As appropriate, stocks should be reclassified within an FMP, added to or removed from an existing FMP, or added to a new FMP, through an FMP amendment that documents the rationale for the decision.").

<sup>12</sup> 16 U.S.C. § 1851(a)(2).

<sup>13</sup> *Id.* § 1853(a)(1)(A).

- *Annual Catch Limits (ACLs) and Accountability Measures (AMs)*: Establish a mechanism for specifying ACLs at a level that prevents overfishing, including measures to ensure accountability.
- *Objective and Measurable Criteria*: The plan must specify objective and measurable criteria for identifying when a fishery is overfished or approaching an overfished condition and include measures to end overfishing and rebuild stocks.
- *Maximum Sustainable Yield and Optimum Yield*: The FMP must assess and specify the maximum sustainable yield, optimum yield, and status determination criteria for managed species.
- *Bycatch Provisions*: The FMP must include measures to minimize bycatch and bycatch mortality.
- *Essential Fish Habitat*: The FMP must identify and describe EFH for the species managed and include measure to minimize adverse impacts on such habitat caused by fishing.
- *Data Collection and Reporting*: The FMP must establish a standardized reporting methodology for bycatch and other data necessary for effective management.
- *Fishing Communities and Socioeconomic Considerations*: The FMP must consider the importance of fishery resources to fishing communities and minimize adverse economic impacts.
- *Compliance with National Standards*: All measures must be consistent with the 10 National Standards for fishery conservation and management, discussed below.

## **B. National Standards**

Any amendment to the Snapper Grouper FMP must also be consistent with the ten National Standards established under Section 301 of the MSA.<sup>14</sup> The National Standards dictate how FMPs should be prepared, all of which repeat the necessity for data-driven analysis to protect and restore fisheries and minimize bycatch.

### **1. National Standard 1**

National Standard 1 states that “[c]onservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.”<sup>15</sup> Supplemental regulations from the Fisheries Service provide specific guidance on the way stocks or stock complexes are defined and the relationship between ACLs and Accountability Measures (AMs) as the framework for U.S. fishery management.<sup>16</sup>

---

<sup>14</sup> *Id.* § 1851.

<sup>15</sup> *Id.* § 1851(a)(1).

<sup>16</sup> 50 C.F.R. § 600.310.

AMs are management controls designed to prevent ACLs from being exceeded, and to correct or mitigate overages of ACLs if they occur.<sup>17</sup> AMs can include closure of a fishery, closure of specific areas, changes in gear, and changes in trip size or bag limits.<sup>18</sup> Fisheries managers must have accurate and timely monitoring data in order to set ACLs and determine whether and what types of AMs are necessary to prevent overfishing.

When specifying catch limits and AMs, fisheries managers must take an approach that considers uncertainty in scientific information and management control of the fishery. With regard to management uncertainty, the guidelines identify two sources of such uncertainty when establishing AMs for a fishery—uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amounts—and state that analyses should be performed to determine the level of uncertainty, considering past management performance and factors such as time lags in reported catch.<sup>19</sup>

The Fisheries Service’s guidelines for implementing National Standard 1 also describe sources of data that should be used to implement AMs. These include in-season monitoring data, annual catch data that can be compared to the ACL, and, where annual catch data is highly variable, multi-year average data. The guidelines further state that “[w]henever possible, FMPs should include in-season monitoring and management measures to prevent catch from exceeding ACLs.”<sup>20</sup>

## 2. National Standard 2

National Standard 2 focuses on the scientific information required for effective fishery management, and states that “[c]onservation and management measures shall be based upon the best scientific information available.”<sup>21</sup> The guidelines further state that “[f]ishery conservation and management require high quality and timely biological, ecological, environmental, economic, and sociological and scientific information to effectively conserve and manage living marine resources.”<sup>22</sup> In order to meet this standard, then, it is essential that “high quality and timely” information regarding catch and bycatch be collected.

Holistic fishery management requires addressing the relationship of catch limit reference points—Overfishing Limits (OFL), Acceptable Biological Catch (ABCs), ACLs, AMs—and catch and bycatch monitoring programs that incorporate SBRMs. Fishery management measures to minimize bycatch and bycatch mortality, and bycatch monitoring through the SBRM, are crucial to the monitoring and assessment of U.S. fisheries. Moreover, these facets of management

---

<sup>17</sup> *Id.* § 600.310(g)(1).

<sup>18</sup> *Id.* § 600.310(g)(2).

<sup>19</sup> *Id.* § 600.310(f)(1)(v).

<sup>20</sup> *Id.* § 600.310(g)(2).

<sup>21</sup> 16 U.S.C. § 1851(a)(2).

<sup>22</sup> 50 C.F.R. § 600.315(a)(1).

must be linked to an FMP's ACLs and AMs, which are required elements of FMPs.<sup>23</sup> Any ACL is, in turn, limited by and cannot exceed the ABC, which is a level of a fish stock's annual catch that accounts for scientific uncertainty in the OFL, i.e., the estimate of the catch level above which overfishing is occurring.<sup>24</sup>

### C. Criteria for Removing Stocks from Federal Management

One action alternative that Amendment 61 will evaluate is removing the 17 identified species from the Snapper Grouper FMP entirely. The MSA does allow removal of fisheries from FMPs, but only in limited circumstances. The Council cannot propose removal of species without meeting all of the conditions below.

#### 1. Overfishing Concerns

As noted above, the MSA requires that each fishery "that requires conservation and management" be included in an FMP.<sup>25</sup> The MSA regulations state that stocks unquestionably *do* require conservation and management if they "are predominately caught in Federal waters and are overfished or subject to overfishing, or likely to become overfished or subject to overfishing."<sup>26</sup> Therefore, before removing any of the 17 species from the FMP, the Council must ensure and demonstrate that:

- The species are *not* "predominately caught in Federal waters," based on the best scientific information available about effort and catch (landings and discards) in the recreational and commercial sectors including uncertainties; or
- The species are *not* "overfished or subject to overfishing," and are not likely to become so, based on the best scientific information available. The likelihood of future overfishing must consider the impacts to fishing mortality of removing the species from the FMP.

The burden is on the Council to demonstrate this prior to action, consistent with the requirements of National Standard 2. Moreover, in order to "document[] the rationale for the [removal] decision,"<sup>27</sup> the Council must explain how it concluded that the above conditions were met.

As above, burden is on the Council to make this demonstration, and the Council must "document the rationale" for concluding a species is not subject to mandatory inclusion in the FMP under this provision.

---

<sup>23</sup> 16 U.S.C. § 1851(a)(1); 50 C.F.R. § 600.310(b)(2)(iii).

<sup>24</sup> 50 C.F.R. § 600.310(f)(2)(ii), (4)(i).

<sup>25</sup> 16 U.S.C. § 1862(h)(1); *see also* 50 C.F.R. § 600.305(c)(1).

<sup>26</sup> 50 C.F.R. § 600.305(c)(1).

<sup>27</sup> *Id.* § 600.305(c)(7).

## 2. Need for Conservation and Management

Additional stocks in an FMP that are not subject to compulsory inclusion under the criteria above must still be included, and cannot be removed, if they nonetheless require “conservation and management” as defined by the MSA.<sup>28</sup> To make such a determination, the Council must analyze all the components of that term. In other words, to remove a stock from an FMP, the Council must determine that:

- The stock does *not* require any measures in order to “rebuild, restore, or maintain any fishery resource and the marine environment”<sup>29</sup>;
- The stock does *not* require any measures to assure “a supply of food and other products [and] recreational benefits ... on a continuing basis”<sup>30</sup>;
- The stock does *not* require any measures to avoid “irreversible or long-term adverse effects on fishery resources and the marine environment”;<sup>31</sup> and
- The stock does *not* require any measures to assure “a multiplicity of options available with respect to future uses of these resources.”<sup>32</sup>

As above, the burden is on the Council to demonstrate this prior to action, using the best scientific information available and the Council must document the rationale by which it concluded that all four of the above conditions were met.

## 3. Ten-Factor Analysis

As the Scoping Document notes, in determining whether stocks require conservation and management, Councils “should consider” a non-exhaustive list of ten specific factors.<sup>33</sup> This ten-factor analysis “should consider the specific circumstances of a fishery, based on the best scientific information available, to determine whether there are biological, economic, social and/or operational concerns that can and should be addressed by Federal management.”<sup>34</sup> And

---

<sup>28</sup> See 16 U.S.C. § 1802(5).

<sup>29</sup> *Id.* § 1802(5)(A).

<sup>30</sup> *Id.* § 1802(5)(B)(i).

<sup>31</sup> *Id.* § 1802(5)(B)(ii).

<sup>32</sup> *Id.* § 1802(5)(B)(iii).

<sup>33</sup> 50 C.F.R. § 600.305(c)(1). The ten factors are: “(i) The stock is an important component of the marine environment[;] (ii) The stock is caught by the fishery[;] (iii) Whether an FMP can improve or maintain the condition of the stock[;] (iv) The stock is a target of a fishery[;] (v) The stock is important to commercial, recreational, or subsistence users[;] (vi) The fishery is important to the Nation or to the regional economy[;] (vii) The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution[;] (viii) The economic condition of a fishery and whether an FMP can produce more efficient utilization[;] (ix) The needs of a developing fishery, and whether an FMP can foster orderly growth[;] (x) The extent to which the fishery is already adequately managed by states, by state/Federal programs, or by Federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the requirements of the Magnuson-Stevens Act and other applicable law.”

<sup>34</sup> *Id.* § 600.305(c)(2).

Councils “should prepare a thorough analysis” of those ten factors, considered sequentially, “[w]hen considering removing a stock from ... an FMP.”<sup>35</sup>

Of particular note are two factors that implicate the interplay between Federal and state fisheries management. This is an important aspect for the Council to consider because many of the stocks included in Amendment 61 occur across both state and federal waters, and some of those species are subject to state regulation. Moreover, as the Scoping Document notes, some of those state-level regulations “are currently dependent on federal regulations.”<sup>36</sup> Such interdependent management regimes are precisely the kind of “specific circumstances of a fishery” that the Council must take into account when conducting its ten-factor analysis.

The tenth factor requires the Council to analyze “[t]he extent to which the fishery is already adequately managed by states” or other legal regimes or programs.<sup>37</sup> Therefore, the Council must examine the existence, content, and efficacy of state regulations, as a component of its ten-factor analysis. It is a necessary part of the Council determining, in the first instance, whether a stock is in need of conservation and management.

The MSA requires the Council to do more than just analyze whether a fishery in the FMP is managed by a state. The question is whether the fishery is “adequately managed” by that state. State regulations may not be “adequate” if they do not include management that is at least as stringent as Federal management under the MSA. The question of adequacy is particularly critical where state-level regulations are dependent on, or incorporate by reference, federal regulations. In those cases, removing fisheries from an FMP would eviscerate the state regulatory structure and render “state management” an empty shell.

Tiered, interdependent state and Federal management of this type is also an element the Council must consider under the third factor, which looks at “[w]hether an FMP can improve or maintain the condition of the stock.”<sup>38</sup> If state regulations conform to Federal regulations, then in practice the FMP sets the management regime for the entire fishery across both state and Federal waters, and removing that fishery from the FMP would eliminate *all* those measures that would otherwise serve to “improve or maintain” the stock.

#### **D. Criteria for Ecosystem Component (EC) Designations**

The second action alternative that Amendment 61 will evaluate is redesignating the 17 listed species as “ecosystem component” (EC) species. EC species are defined by regulation as “stocks that a Council ... has determined do not require conservation and management, but desire to list in an FMP in order to achieve ecosystem management objectives.”<sup>39</sup> Redesignating species

---

<sup>35</sup> *Id.* § 600.305(c)(4).

<sup>36</sup> Scoping Document at 2.

<sup>37</sup> 50 C.F.R. § 600.305(c)(1)(x).

<sup>38</sup> *Id.* § 600.305(c)(1)(iii).

<sup>39</sup> *Id.* § 600.305(d)(13).

as EC species would not remove those species from the Snapper Grouper FMP entirely, but those species would no longer require ACLs, other reference points, or AMs.<sup>40</sup>

The use of EC species is guided by the MSA regulations, which provide direction to the Councils on how to set and administer the fundamental requirements of the MSA, including the National Standards. The EC designation was established in those regulations for an explicitly protective purpose: “to encourage Councils to continue to pursue ecosystem approaches to management” in fisheries.<sup>41</sup>

The Council may only redesignate species as EC species if it “determines that the stocks do not require conservation and management based on the considerations and factors in [50 C.F.R. § 600.305(c)(1)].”<sup>42</sup> This means that EC identification is subject to *the very same* standards and analyses described in Section II.C above for species removal. Just as with a removal decision, the Council would first need to determine either that the species is not predominately caught in Federal waters, or that it is not overfished or subject to overfishing and is not likely to become so.<sup>43</sup> The Council would then need to determine that the species did not require conservation and management under all four prongs of the statutory definition.<sup>44</sup> Finally, the Council would have to conduct the same ten-factor analysis, with all the same considerations about tiered management regimes. And it would need to do all that based on the best scientific information available, and with full documentation of the rationale for the reclassification.<sup>45</sup>

In no event should the Council designate EC species for the purpose of removing management protections entirely. As an initial matter, the MSA does not contain the term or concept “ecosystem component species,” and it does not authorize any regulatory loopholes to off-ramp federally managed species from the MSA’s protections. Indeed, the regulations define EC species as stocks that Councils “desire to list” in an FMP.<sup>46</sup> In other words, stocks can be *added* to an FMP “to achieve ecosystem management objectives,” but the regulations do not extend to redesignating stocks that are *already* in the FMP and subject to Federal management.<sup>47</sup> Despite this, the use of the EC species designation by Councils to avoid managing “inconvenient” or “problematic” species has become a disturbing trend that is not authorized or intended by the MSA.

---

<sup>40</sup> *Id.* § 600.310(d)(1).

<sup>41</sup> 81 Fed. Reg. 71,858, 71,865 (Oct. 18, 2016).

<sup>42</sup> 50 C.F.R. § 600.305(c)(5).

<sup>43</sup> *See id.* § 600.305(c)(1).

<sup>44</sup> *See* 16 U.S.C. § 1802(5)(A), (B)(i)-(iii).

<sup>45</sup> 50 C.F.R. § 600.305(c)(7).

<sup>46</sup> *Id.* § 600.305(c)(5) (emphasis added).

<sup>47</sup> *Id.*; *see also* 73 Fed. Reg. 32,526, 32,530 (June 9, 2008) (initial proposing for EC designation noting that EC species “would include *non-target* fish species that are *not considered part of the ‘fishery’* but rather species with which the fishery may *occasionally* interact (i.e., catch)” (emphases added)).

Putting aside the questionable legality of the EC species concept, if the Council proposes to redesignate any of these 17 federally managed species as an EC species, the Council cannot, and should not, remove management protections entirely. The EC regulations allow (but do not require) Councils to exempt these species from ACLs, AMs, and other reference points.<sup>48</sup> But those same regulations say that Councils *can* adopt management measures for EC species “in order to, for example, collect data on the EC species, minimize bycatch or bycatch mortality of EC species, protect the associated role of EC species in the ecosystem, and/or to address other ecosystem issues.”<sup>49</sup>

The Council should follow that approach and identify specific management measures for any of the 17 species it proposes for EC status. Those management measures will be a part of the proposed alternative and should be included in the analysis of that alternative under NEPA. At a minimum, EC species must be subject to management measures that prohibit directed fishing or processing, and those measures must be implemented at the same time the species are moved to the EC category. In addition, the Council must establish a procedure and timeline to review the status of any EC species on a regular basis, to reevaluate whether they are in need of conservation and management and thus no longer meet the criteria for EC status. We recommend all EC species be reviewed by the Council every two years, and this review procedure should evaluate catch levels of EC species against preset threshold levels that trigger automatic redesignation.

## **Conclusion**

Oceana opposes the changes being considered under Amendment 61 and encourages the Council to reject the action alternatives and adopt a no-action alternative.

Redesignating species as “ecosystem component” or removing them from the FMU entirely would likely exempt them from ACLs and AMs, thereby weakening accountability and conservation measures. This is especially concerning given the lack of stock assessments for many of these species and the potential for unmonitored fishing pressure to cause population declines.

Oceana calls on the Council to reject any action that would remove species from the FMU or redesignate them in a way that diminishes conservation obligations. Instead, we urge the Council to strengthen its commitment to science-based, precautionary management and uphold the integrity of the Magnuson-Stevens Act and NEPA.

---

<sup>48</sup> See *id.* § 600.310(d)(1).

<sup>49</sup> *Id.* § 600.305(c)(5); see also 16 U.S.C. § 1853(b)(12) (providing Councils the discretion to “include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations”)

Comments on Snapper Grouper Regulatory Amendment 61

November 14, 2025

Page **13** of **13**

Thank you for considering our comments. We look forward to continued engagement in this process.

Sincerely,

A handwritten signature in black ink that reads "Alex Aines". The signature is written in a cursive, flowing style.

Alex Aines

Marine Scientist

Oceana