



November 27, 2012

Mr. David Cupka, Chairman
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

RE: Comments on Final Approval of CE-BA 3, Amendment 28 and Regulatory Amendment 17

Dear Mr. Cupka,

On behalf of the Pew Environment Group, please accept these comments for consideration by the South Atlantic Fishery Management Council (Council) at its December meeting regarding final approval of the Comprehensive Ecosystem-Based Amendment 3 (CE-BA 3) to improve fisheries data collection and monitoring; Snapper Grouper Amendment 28 which deals with red snapper management; Snapper Grouper Regulatory Amendment 17 to revise the existing network of deepwater marine protected areas (MPAs) to protect depleted speckled hind and warsaw grouper; and the visioning and planning process for South Atlantic snapper and grouper fisheries.

Specifically, for CE-BA 3 we recommend:

- In Action 1: Preferred Alternative 4, including both sub-alternatives 4a and 4b, which require weekly (or at intervals shorter than a week) electronic reporting for charter boats and headboats;
- In Action 2: New Proposed Alternative 4 with sub-alternative 4a, which requires commercial snapper grouper permit holders to complete catch and bycatch logbooks at the end of the trip and submit entries electronically within 7 days;
- In Action 3: New Alternative 3, which is intended to improve bycatch reporting legally required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA); and
- In Action 4: Alternative 2 to require Vessel Monitoring Systems (VMS) on all commercial snapper grouper vessels in line with recommendations by the Snapper Grouper Advisory Panel.

For Snapper Grouper Amendment 28:

- We recommend that any action taken to allow fishing for red snapper in 2013 be consistent with its 2010 rebuilding plan and include specific accountability measures (AMs) to prevent the annual catch limit (ACL) from being exceeded and that include any overage adjustments that might be necessary as a result of the 2012 mini-season or that may occur in the future.

For Snapper Grouper Regulatory Amendment 17:

- We urge the Council to reconvene its Expert Work Group on MPAs for speckled hind and warsaw grouper to evaluate and provide recommendations on a reasonable range of MPA sites and/or configurations based on the analyses provided by the Southeast Fisheries Science Center (SEFSC) with the goal of protecting sufficient warsaw grouper and speckled hind habitat to prevent overfishing and rebuild depleted spawning biomass.

CE-BA 3

We fully support the purpose and intent of CE-BA 3, which proposes measures to improve data collection to better verify dealer reports and help ensure ACL overages do not occur in South Atlantic fisheries. Since 1996, the MSA has required that all fishery management plans (FMPs) have a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch in the fishery. Specifically, each FMP must:

“ . . . establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority – (A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided;”¹

However, an effective catch monitoring and reporting system capable of providing reliable estimates of bycatch and discards in the South Atlantic is still lacking. Establishment of an adequate standardized bycatch and discard reporting methodology is critical to effective ACL management and accountability and must be a top priority of the Council. The suite of actions proposed in this amendment would improve catch monitoring and reporting considerably if fully implemented. The Council must also continue to improve data collection methods going forward in order to comply fully with National Standard (NS) 9 and the requirement for a standardized bycatch reporting methodology in MSA § 303(a)(11).

In Action 1, we support the Council’s Preferred Alternative 4, which should include both sub-alternatives 4a (charter) and 4b (headboat) and would require that both submit electronic fishing records to the Science and Research Director (SRD) at weekly or shorter intervals. The Council should move forward expeditiously with sub-alternative 4b for headboats as the SEFSC has secured funding to implement electronic reporting for 100% of the headboat sector and could begin doing so on January 1, 2013.²

It is important that electronic reporting be implemented in the headboat sector as soon as possible. Headboat catch is currently monitored by NOAA Fisheries at the SEFSC’s laboratory in Beaufort, NC. Daily catch records are obtained for all trips and are filled out by headboat operators or by NOAA Fisheries-approved headboat samplers. The data are often not available soon enough to implement in-season management of the headboat fishery if necessary. Requiring electronic reporting will improve data timeliness and should improve the accuracy of estimates of that sector’s catch and fishing effort to better monitor and adhere to ACLs that prevent overfishing,

The Council should ask the SEFSC to work with NOAA’s Marine Recreational Information Program (MRIP) to implement electronic reporting for the charter sector as soon as possible with a strong emphasis on data validation, which must contain at least two elements: enforcement and dockside sampling. The Council should look at forthcoming recommendations on validation and best practices from a recent pilot study, expected in early 2013,³ that tested electronic reporting in the Gulf of Mexico charter fleet. We urge the Council to make

¹ 16 U.S.C. § 1853(a)(11).

² Attachment 1a CE-BA 3, SAFMC briefing book Dec 2012, p. 106.

³ Attachment 1a CE-BA 3, SAFMC briefing book Dec 2012, p. 2.

implementing sub-alternative 4a a priority and to ask the SEFSC to prioritize funding to implement electronic reporting for the charter sector as soon as possible along with methods for validation. Better, more timely monitoring and reporting will improve the likelihood that catch limits are not exceeded and can minimize post-season AMs (*e.g.* fishery closures) by better forecasting when fishing limits are being approached. Maintaining catch limits and avoiding post-season AMs can have significant positive effects on the for-hire sector, angling customers and for fishing communities overall.

In Action 2, the New Proposed Alternative 4 with sub-alternative 4a should be adopted. This alternative requires commercial snapper grouper permit holders to complete catch and bycatch logbooks before the vessel ties up at the end of the trip and submit entries electronically within 7 days of the end of each trip in accordance with Atlantic Coast Cooperative Statistics Program (ACCSP) standards and in a NOAA Fisheries-defined file format and transmission method. This alternative would allow closer tracking of the commercial catch and effort data, which will improve monitoring and reduce the possibility of overages and consequential AMs.

In Action 3, the new Alternative 3 - to implement components of the ACCSP module that are currently not being achieved - should be adopted. The MSA requires that FMPs must include a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery,⁴ in accordance with NS 9.⁵

Implementing components of the ACCSP module that are not currently in use would help achieve this objective. Further, adopting the ACCSP module would establish a standardized format for data collection and reporting used among the Fishery Management Councils, the federal government and states along the entire U.S. east coast.⁶ The use of a consistent data collection and monitoring methodology will improve the ability of managers to evaluate future impacts of climate change and possible changes in fish ranges across regions. Establishing an adequate SBRM is critical to effective ACL management and accountability and must be a top Council priority.

In Action 4, Alternative 2 should be adopted, requiring VMS on all commercial snapper grouper vessels in the South Atlantic. The Snapper Grouper AP has twice endorsed requiring VMS for all vessels fishing for snapper and grouper species – both commercial and recreational. One of the reasons cited by the AP was that this is a way to improve compliance with MPAs and reduce bycatch of speckled hind and warsaw grouper.^{7,8} VMS has the potential to be a cost-effective option to better monitor catch and bycatch on small hook and line commercial vessels, where the size of the boat makes it challenging to accommodate an observer and the cost to achieve an adequate level of observer coverage would be significant. Further, NOAA Office of Law Enforcement has funding to purchase the VMS equipment, thereby minimizing the cost to the fishing community.⁹ Implementing this VMS requirement would provide essential information about the distribution of fishing effort both in time and in space, improving data collection and compliance with reporting requirements, area closures, seasonal closures and other management measures.

Amendment 28

Red snapper have been chronically overfished and severely depleted for decades, according to the most recent Southeast Data Assessment and Review (SEDAR) assessment.¹⁰ In 2010, the Council implemented a moratorium on directed fishing and approved a red snapper rebuilding plan. This year, the Council allowed a limited directed

⁴ 16 U.S.C. § 1853(a)(11).

⁵ 16 U.S.C. § 1851(a)(9).

⁶ Atlantic Coastal Cooperative Statistics Program, <http://www.accsp.org/partners.htm>.

⁷ Summary Report, Snapper Grouper Advisory Panel Meeting 11/16-18/2010 Charleston, SC.

⁸ Summary Report, Snapper Grouper Advisory Panel Meeting 4/18-19/2012 Charleston, SC.

⁹ Attachment 1a CE BA 3, SAFMC briefing book Dec 2012, p. 102.

¹⁰ SEDAR 24. October 2010, Stock assessment report for South Atlantic Red Snapper.

fishery for red snapper via a temporary rule.¹¹ Proposed amendment 28 would establish a process to determine future annual catch limits and fishing seasons for red snapper in the South Atlantic, similar to the brief season that occurred this fall. As the Council reviews information on red snapper landings and discards since the moratorium was implemented, and landings and discards from 2012 seasons, we remind the Council of its legal obligation to adhere to the rebuilding plan.

In addition to maintaining the 2010 rebuilding plan, the proposed actions must be consistent with the rebuilding projections from SEFSC and SEDAR 24, and the ABC recommendations of the Council's Scientific and Statistical Committee (SSC).¹² Also, the amendment **must include accountability measures** as required by the MSA¹³ that include overage adjustments that may occur in the future and including any overage from the 2012 seasons. Currently, the NS 1 guidelines provide further instruction on AMs stating:

“...the AMs should include overage adjustments that reduce the ACLs in the next fishing year by the full amount of the overage, unless the best scientific information available shows that a reduced overage adjustment, or no adjustment, is needed to mitigate the effects of the overages.”¹⁴

Under the temporary rule that allowed a directed red snapper fishery in 2012, the only AM is the shortened length of the fishing season – *i.e.*, there is no “payback” provision or post-season adjustment measure to account for any potential overages in 2012. Adequate mechanisms to constrain the catch within the limit must be in place in 2013 and beyond to allow directed fishing for red snapper, including AMs to address any overages.

Regulatory Amendment 17

Snapper Grouper Amendment 14 (2007) established a network of eight Type II MPAs where bottom fishing is prohibited but some fishing is still allowed.¹⁵ The network is designed to aid in the recovery of overfished deepwater species and protect associated habitats and to reduce bycatch of depleted deepwater species such as red snapper, warsaw grouper and speckled hind. According to NOAA Fisheries, all three species are undergoing overfishing and red snapper is severely overfished and in a long-term rebuilding program.¹⁶ Although speckled hind and warsaw grouper are unassessed and their overfished status is less certain, both species are extremely vulnerable to overfishing and depletion due to life history traits.¹⁷

Snapper Grouper Amendment 17B concluded that prohibiting landings for these species (*i.e.*, setting an ACL equal to zero landed catch) “would not be sufficient to end overfishing of speckled hind and Warsaw grouper,¹⁸ which is why Amendment 17B also included a prohibition on fishing for deepwater snappers and groupers seaward of the 240-foot depth contour (the “deepwater closure”). With the repeal of the deepwater closure via Regulatory Amendment 11 in May 2012 (77 FR 27374), the network of 8 deepwater MPAs provides the only deepwater refuges from fishing (bycatch mortality) for warsaw grouper and speckled hind. Snapper Grouper Regulatory Amendment 17 is intended to evaluate the efficacy of the existing MPAs at reducing the bycatch and

¹¹ http://sero.nmfs.noaa.gov/fishery_bulletins/documents/pdfs/2012/fb12-061_sa_red_snapper_temp_rule.pdf.

¹² 16 U.S.C. 1852(g) requires SSCs to provide the Councils recommendations for ABCs that prevent overfishing and 16 U.S.C 1852(h)(6) specifies that Councils shall develop ACLs that may not exceed the fishing level recommendations [ABCs] of their SSCs.

¹³ 16 U.S.C. § 1853(a)(15).

¹⁴ 50 CFR 600.310(g)(3).

¹⁵ See <http://www.safmc.net/Portals/6/Library/MPAdeepwaterbrochure.pdf>. The Council's stated purpose in establishing these MPAs was “to protect a portion of the long-lived, deepwater snapper grouper species and their habitat from directed fishing pressure” and “to protect the size, age, and genetic structure of the populations of deepwater species that are susceptible to overfishing.”

¹⁶ NMFS Status of U.S. Fisheries 2012, <http://www.nmfs.noaa.gov/sfa/statusoffisheries/SOSmain.htm>.

¹⁷ 77 Fed. Reg. at p. 27379.

¹⁸ 75 Fed. Reg. at p 82291.

discard mortality of warsaw grouper and speckled hind and consider an appropriate system of spatial closures that will achieve that objective¹⁹

PEG calculates that the footprint of the existing MPA network represents about one-quarter of 1% of the South Atlantic Exclusive Economic Zone (EEZ) and is insufficient in scope or configuration to provide adequate protection to depleted speckled hind and warsaw grouper. A NOAA Fisheries review of available distribution and catch data indicated that the existing MPAs encompass less than 6% of the hard-bottom habitat on the shelf edge and less than 10% of the documented encounters with warsaw grouper and speckled hind.²⁰

Previously, when spatial closures to reduce the bycatch mortality of warsaw grouper and speckled hind were considered under CE-BA 3,²¹ the options under consideration included deepwater MPAs that would protect 20%, 30% and 40% of suitable warsaw grouper and speckled hind habitat. Based on that earlier analysis and information, PEG supported consideration of a range of alternatives to protect 20%, 30% and 40% of the identified high-relief, hard-bottom habitat where these species occur. Regulatory Amendment 17 should do likewise, using data and analyses provided by the SEFSC and NOAA Fisheries Southeast Regional Office (SERO) to evaluate a range of MPA sites and configurations of existing MPAs that will protect significantly higher percentages of hard-bottom habitat along the shelf edge where warsaw grouper and speckled hind occur.

An effective system of deepwater MPAs is the backbone of AMs aimed at preventing overfishing and rebuilding overfished deepwater snapper and grouper species. At the October 2012 SSC meeting, Dr. Nick Farmer of SERO provided a detailed analysis of existing and potential sites and configurations that offers the Council a multitude of options for reconfiguring and/or expanding the existing system of MPAs. We urge the Council to reconvene its Expert Work Group (EWG) to review Dr. Farmer's analysis, building on the group's May 2012 deliberations.²²

The Council should request that the EWG evaluate all sites it previously identified, those analyzed by Dr. Farmer and the eight existing sites and report back to the Council with specific recommendations on MPA siting that would achieve protection of 20%, 30% and 40% of the total high-relief, hard-bottom area in the region. Selection criteria should focus on areas with a high percentage of "known and probable" habitat of the most vulnerable deepwater species, as analyzed by Dr. Farmer. His analysis also considers species co-occurring with speckled hind and warsaw grouper and the possible impacts of MPA closures on other target fisheries. Consideration of how a system of MPAs could serve as AMs for co-occurring species in other directed fisheries should also be part of this Amendment.

The Council should also request that SERO and the SEFSC review all of the relevant scientific literature and data, and make a recommendation to the Council at the March or June 2013 meeting on the percentage of hard-bottom, high-relief habitat in the region that would be sufficient to prevent overfishing and rebuild depleted spawning biomass of warsaw grouper and speckled hind if protected through a Type II MPA network.

Visioning and Strategic Planning

At the September 2012 Council meeting, members voiced a desire to initiate a strategic visioning and planning process for snapper and grouper fisheries. Reasons included the inefficiency of the current "crisis management" mode of decision-making, the public's aversion to derby fisheries, waste resulting from bycatch and the need for a road map for a long-term structure of the fishery that aligns with how fishermen want their fisheries to look.

¹⁹ NMFS presentation to the SAFMC SSC, October 23-25, 2012, <http://www.safmc.net/LinkClick.aspx?fileticket=lejCdKJyBYU%3d&tabid=748>.

²⁰ Speckled Hind and Warsaw grouper: A Review of Available Distribution and Catch Data, March 23, 2012, <http://www.safmc.net/LinkClick.aspx?fileticket=RIM9zzhWEyE%3d&tabid=725>.

²¹ CE-BA 3 Options paper presented to the Council in March 2012.

²² MPA Expert Workgroup Meeting Overview May 16-17, 2012, Pooler, GA, <http://www.safmc.net/LinkClick.aspx?fileticket=5Cl1M4ndCp8%3d&tabid=404>.

The Mid-Atlantic Fishery Management Council (MAFMC) recently undertook a visioning exercise about which the South Atlantic Council and the public will learn more from MAFMC Chairman Mr. Rick Robins' presentation at the beginning of the upcoming Wilmington meeting December 3rd. A successful visioning process could help alleviate some of the persistent problems that undermine efforts to put Southeast fisheries on a more sustainable and stable path. In particular, we are eager to see:

- Development of a credible standardized bycatch reporting methodology;
- Improved fishery monitoring through logbook validation and verification;
- More careful consideration of seasonal and spatial fishery closures and MPAs to control bycatch;
- Plans for addressing chronic ACL overages and unreported discard mortality in recreational fisheries; and
- Prioritized funding for unassessed stocks that may be ecologically important but receive limited management attention.

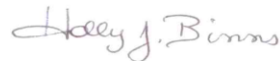
Conclusion

Thank you for considering these comments. We support the Council's efforts to improve data collection and create additional fishing opportunities as South Atlantic fish populations recover. We appreciate the hard work undertaken by the Council and its staff on these issues and look forward to continuing to work with you to ensure vibrant South Atlantic fisheries for the future.

Sincerely,



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