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Thanks,
Eugene Bowers

Sincerely,
Eugene Bowers

Preserving the Fishing Industry

Author: Kenny Fex

September 11, 2007

Introduction

We have all gathered to find a solution to the proposed over-harvesting issue. It is to be understood that the South Atlantic Fishery Management Council is governed by its own guideline, regulations and time restraints. But the council needs to take into consideration that it's not only the fisherman who will suffer from its decisions; the entire fishing industry along with the individual fisherman will struggle if not falter under new Quotas and Regulations. Hopefully other options may be considered to preserve the fish stock as well as the entire fishing industry.

Explanation

First of all, the fishing industry is made up of several branches. The bait is caught, packed and shipped to us for purchase. The tackle is made and shipped for use. The fuel is pumped, and transported to fuel the boat. The boats are maintained by parts from the parts departments. All these businesses or individuals are needed just to go fishing. Once the fish is caught, it is taken to the fish house, then goes to the transporter, and on to the fish market; finally to be consumed at restaurants and households all across the United States. So with the awareness of all the businesses and individuals involved in the fishing industry, it becomes easier to understand how it could be adversely affected by the decisions made.

Quota System Analysis

One of the finest and well known examples of the quota system is the film series "Deadliest Catch", which is a fleet of vessels in a rodeo round-up, to get the biggest piece of the pie (quota). The Captains push their boats, crews and own abilities to the limits. The result sometime is the loss of their boat and crew.

If the quota system starts at the beginning of the year, an example of why this may not work is that the Vermillion Snapper season does not start in North Carolina until May or June. Therefore, the quota may already be met by boats in Florida, Georgia or larger boats that can travel further south. This may furthermore force a North Carolina boat to go beyond its limits and abilities to get a larger piece of the pie (quota), not to mention fishing during the worse time of the year, winter.

The impact of a quota system on other species will be determined if a vessel, for example, cannot harvest Vermillion Snapper, it must seek alternative fish that will make it financially feasible to continue to participate in the fishing industry. An example of another species is Grouper. Grouper will be harvested at a much greater rate than

normal, which in turn will place a greater strain on the Grouper species and result in over-harvesting.

Timely quotas will fall victim of supply and demand. When the season opens, the market will be flooded with an excessive amount of snapper (raising the supply); then a sharp drop in demand resulting in a large price drop for a product that is perishable (must be sold within days).

This analysis provides viable reasons why quotas might be reconsidered as a solution to the issue at hand.

With this in mind, please find below three (3) options that may be considered alone or in combination as a more viable solution.

Option 1

Consideration should be given for size limits. Consider a change in the Vermillion Snapper size limit to be 14" and Gag Grouper to 28". This size adjustment would help sustain a larger spawn stock, maintain a better equality throughout the harvest, and provide for less over-harvesting on a select species. The result would be to maintain a more productive fishing industry.

Option 2

Consideration should be given to closing Gag Grouper in March and April, with no possession. Also, consideration should be given to the selection of two (2) months to close Vermillion Snapper, with no possession. This change would be easier to enforce and deter illegal sales. This option would also be easier on select species, allow undisturbed spawning periods and, again maintain a more productive fishing industry.

Option 3

Consideration should be given to a mandatory self selection of thee (3) months to refrain from fishing entirely. This option would allow crews to switch to another boat or get a part time job in order to maintain income. Owners could haul boats to invest some time in maintaining their vessels, which would therefore make a safer and more successful fishing vessel. This option's benefit would be a reduction of vessels harvesting per month of 25% to 30% throughout the year. All the benefits would bring safer boats, a stable fishing career, and reduce the vessels harvesting time which again, maintains a more production fishing industry.

Conclusion

It is a good thing that the South Atlantic Fishery Management Council is trying to protect such a valuable natural resource from being over-harvested. Furthermore, the Council is bound by its guidelines, regulations and time restraints to reduce the chances of this natural resource being further diminished. However, a quota system is not the best solution to the issue. Other options should be considered which would create a lesser impact on a select species, maintain the fisherman's future, and allow for a prosperous fishing industry for now and the future.

Thank you.

Proposed Amendment 16
Made by a Fisherman, for the Fisherman

Options to be considered instead of proposed LAPP program:

Option 1

Increase size limit on select species (i.e.: 13 inch Vermillion snapper, 26 inch Gag Grouper).

Negatives: Harder to find legal size fish.

Positives: Increase size of spawning stock for future benefits.

Option 2

Implement a two (2) month closure for select species during spawning cycle with no possession.

Negatives: Fisherman will have to alternate fish to obtain a profitable fishing trip.

Positives: Undisturbed spawning cycle for future benefits. Also deters illegal sale of fish that are in the closed spawning season.

Option 3

Implement trip limits on proposed over harvested species (i.e.: 400 lbs Vermillion Snapper per person per trip).

Negatives: May prohibit fisherman from having great catches of fish from one species.

Positives: Will keep fisherman from over harvesting a select species, most commonly done during the spawning cycle

Option 4

Implement a self selection of three (3) months to refrain from fishing entirely.

Negatives: Vessel owners will lose income but qualified captains and crew can alternate to another vessel.

Positives: Vessel will be maintained better and fisherman may have a brighter future.

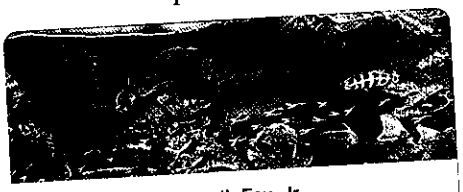
Conclusion of Amendment

So without our qualified captains and crew our boats and permits are useless. But under LAPP's proposals and proposed allocations, all fishermen may become useless. So, please check at least three (3) options considered and we might be able to decide our future.

Sincerely,

Kenneth Fex

Owner/Caption Raw Bar



Kenneth Fex, Jr.
907 W. Yacht Dr. • Oak Island, NC 28465

910-620-5847

ex

PETITION

Date	Name	Experience	Option Considered	LAPP (yes)	Options (yes)
1-01-08	John Doe	10 years Captain	1, 2, 4		yes

From: Robert Herring
Sent: Tue 1/8/2008 7:57 PM
To: Kim Iverson
Subject: Ending overfishing of Gag groupers

While i think your plans for saving Gags is needed you forgot to look forward and see where the Commercial guy is going to go and offset his loses.The Red Grouper and Scamp now have a larger target strapped to their backs.In fighting one problem you may have created another.Lower quotas across the board and protect the whole Grouper complex.Maybe lower Recreational bag limit to 4 per person(increasing length will just cause a higher release mortality),lower Federal quotas or decrease the open season.there are so many options that will work.The rule changes are nothing without proper enforcement,i live in NC and see the lack of resources put forth to Marine Patrol we have a Rec license that generates money but the funds do not go to the proper areas of need.Maybe the Feds need to step in and allow the Coasties to enforce these new laws in conjunction with the state authorities. Thanks for allowing me to rant a little,Robert Herring

December 21, 2007

Mr. Bob Mahood
Executive Director of
SAFMC
4055 Saber Place Drive, Suite 201
North Charleston, South Carolina 29405

Dear Mr. Mahood,

I am writing you on behalf of the Brunswick County Fisheries Commission, Brunswick County, North Carolina. I am chairman, appointed by the Brunswick County Commissioner.

Over the past three months, we had numerous complaints, from Grouper/Snapper Commercial fisherman who engage in this fishery full time. They say that part time fisherman with N.C. Commercial Licenses with Grouper/Snapper permit and a federal King Mackerel permit are driving down prices unfairly.

These fishermen contend that on any given weekend there are hundreds of these weekend warrories fishing and selling their catch to the local fish houses without filling out trip tickets. Therefore, going unreported and untaxed. This drastically effect the price, full time fishermen get for their fish, while they have to abide by all rules and regulations.

On December 6, 2007, King Mackerel price was $3.25 per lb at Tatum Seafood in Southport, North Carolina. On Monday, December 10, 2007, King Mackerel prices had dropped to $.75 per lb. There was so many weekend warriors fishing that the fish houses could not handle all the fish and had to call an 18 wheeler to come hold the fish. Over 28,000 lbs of King Mackerel were caught by part-time fisherman in a 3 day period. I am sure most of these fish went unreported. On Sunday night, they were unloading King Mackerel until midnight.

Our full time fisherman left the dock Friday morning thinking that they were going to get $3.25 per lb. return on their fish. When they returned on Tuesday, the 11th, they were informed that King Mackerel prices were $.75 per lb. This would make the boldest fisherman angry.

Lets look at the facts, North Carolina should require 25 percent of a license holder income be from commercial fishing. The federal King Mackerel permits requires that 25 percent of permit holders income be from commercial fishing. Simply put, if the State and Federal government is not enforcing the law, 75 percent of our over fishing problems could be elimated by enforcing this law.

Our Grouper/Snapper and King Mackerel fishery is not being depleted by our commercial fleet but by part-time weekend warriors. This problem can be solved without a quota system or any reduction in our commercial full time fisherman but by simply enforcing 25 percent income requirement law. Require a copy of tax return or proof that a license holder meet 25 percent of the requirements before a person can renew their current license.

Many of these weekend warriors have their licenses in their wives name to circumvent the system. This must stop. Placing the burden on our full time commercial fisherman must stop.

Our position is that a montaturm be placed on recreational sale of grouper, snapper, v. snapper, king mackerel.

It is the opinion of this commission is that if this problem is not addressed in 12 months, we will seek legal advise to get NCDMF to adopt a 25 percent income requirement for all license holders and get the NMF to enforce the 25 percent income requirement that is not enforced.

Sincerely,

William A. Hickman

William A. Hickman
Chairman of Brunswick County Fisheries Commission

Your response required.

Cc:

Louis Daniels
Directors of NCDMF
PO Box 769
Morehead City, North Carolina 28557

Dr. William Hogarth
Director of NMF
1315 East West Hwy, Room 1455
Silver Spring, MD 20910-6233
Washington, DC

Dr. Brian Cheuvront
NCDMF
PO Box 769
Morehead City, North Carolina 28557

John V. O'Shea
Executive Director
Atlantic States Marine Fisheries Commission
1444 eye Street, N.W., 6th Floor
Washington, DC 20005

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Patrick J Magrady

Karl Pappas	Richard Bushey	John E Mountford	Orson Tarver
John D Bauman	Richard McCormick	John FitzGerald	Jon Scholtens
Winter Haven, Fla	Buddy Padgett	Joseph Thomas Stegner	Dave Megregia
Dan Hart			jeff deloche

Corey Bartlett

Kevin S. Reynolds

Brett Duncan

Robert Bradley Londeree

Paul Golub

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Mark Kowalski

Captain Randall S. Austin

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Glenn M. Smith

Travis Anderson

Thomas A Tison

Robert Sutton

David Eicher

Gregory Snack

james Thompson

Steve Collins
Florida Sport Fishing
Assoc. Vice President

Eric Kubes

Marcus Bradley

Jay farris

Raymond R. Hiltz

William Hyatt

Greg Cordle

John Jervey

Melissa Guzman

Brian Frye

Paul Ramirez

Nicholas S Odom

Carlos Nugent

Lauren DeLucia

Raymond J. Campbell

Greg Oropeza

Michael Seay

Bart Free

Leon G. Vetsch

Don Newhauser
Verniece Newhauser

Ray Hutchinson

Rodney Sahr

Robert McKinney III

Kimberly Duncan

Walter F. Eismann
Sincerely,
John M. Carney

Tim Turner

James Mosier

Dale L Worth
Weighmaster for Central Florida Offshore Anglers

Francis Martin

jeffrey A page

Dale R. Badgett
President
Florida Sport Fishing Association

Stephen H Wolfe Jr

Jim Benard

daryoush payman

rolf kurt fischer

Michael Read

Jorge Perez

Mel Waters

Mark W. Galloway

Capt. Jim Brown

Terry Winn

Tony Ford

Matt Carter

Lee Alexander

Patrick Murphy

Dennis J. Whitted

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linsey h Johnson

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Michael Charbeneau, I agree with the views of this site

Robert Holt	Luis Casals	Mount This Fish Company
David Conway	Casey Lee Smith	edgar mayorga
JOhn Mines	Greg Gammage	Joseph Bivona
Damien McDermott	Liz Gammage	Trevor A. Melderis
Wesley Toth	Troy Denson - Owner	Chad Troncale

kevin f Johnson

Michael K. Hughes

Sean Halsey

Deirdre Halsey

Zach Metts

Jeff Holliday

Greg Trefz

Jim Bassford

Brady E. Gaughan

tyler foster

John Moscarillo

Paul Klett

Jeff Sevor

Christopher Hudson

Brad Latraverse

terry lee ravenscraft

Richard Rasey

Fred R. Harrell

Susan Wilkerson

John D. Hannan

Dennis Blacwkell

Capt. Jimmy Dolan

William E. Stewart

L.L.TREFZ

Matthew Weisberg

Ken Yancey

Jordan Jinright

jeff theroux

Janie Kowalski

Wade F. Liles

John Olszewski

Bruce Lane

Krista Trefz

Charlie McCullough

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claudio Garalde

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I oppose any easing of the regulations and the removal of the 300 lb trip limit. In addition, I oppose any further restrictions of the recreational fishing for Golden Tilefish. Table 4 as attached to the Comprehensive Allocation Amendment shows that over 90% of the landings are commercial. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

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Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
Denny Topper

Derek Pederson

Mark Filichia

jim markovich

richard e. foster

Jerry Fedele

brian eichenlaub

THOMAS P MCDONOUGH

Mark Lusa

James F. Grebey, Jr.

Jason Burt

Jeff Brown

Chris Kindig DMD

Ian Romero

Randall S. Lang

Tara Shea

Steve Quincy

Mark Harrison

LP

Robert Nieman

Brenton Malchow

Dennis Vocelka

Joe McDermott

Travis Michael Culp

Christopher Collins

David S. van der Meulen

John F. Church

Clark Lachcik

Chad Starling

Josh Huff

rick pino

Steven M. Lehning

andrew cancelmo

David Rounds

James Scott Bradford

Willam Scott Schermerhorn

James Carling

Shawn Grezaffi

Randy Siegel

Matt Silvey

Bill Netto

Walter Borowski

Jane C. Magrady

STEPHEN C SMITH

Paula L. Cowart, President
Southern Printing, Inc.

John H. Riedel

Mark Whitmire

Dennis Parker

Robert and Anne
MacKichan

William Kirtley

Lucy Vanderwall

Michael Travis

GARY PHILLIPS

Jack Curry

Ernest Stallings

Felix C Beruvides

Randy Larson

Scott Brooke

Denise Brooke

Megan Ross

Darryl J. Braun

Gary Rauch

Bradley P Grant

Michael Colter

Randy Smathers

S. Todd Tharp

Clint Symons

Captain Ron Wright

Charlie Stephens JR

gary price

Markham D Bowman

Al Rapaport

Captain Michael A.
Cochran

John M. Knight

Dan Dunwoody

Scott Giles

John Barber

Mr Gerard Fogarty

Elizabeth Barber

Michael edmiston,
Scott Miller

R. Williamsen

John B. Jolliff

Roger Kershaw

James Ashcraft

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Donna Golub

C. Edward Albine

George S. Gaston

Jeff Coutant

Richard Yates

Robert Beliech

matt meyer

Joseph w Huebner Sr

Joe Kaile

Randy Pearce

Robert E Carter

Joey Rodriguez, Sr.

Noah M. Williams

William Hunter Thompson

Robert Nakada

Andy Johnson

Louis Sanchez

Brandon W. Blackmon

Trina M. Polkey

Steve Wilcox

WARD A. BEMISS

SEAN KOBYLARZ

Don Naber

John Laskowitz

Leigh Davis

Eric Fosbender

Matthew E. Pitman

James L Drake

Jessica Barber Brown

KEVIN JOHNS

Richard F Miller

John William

Henry A. Gowing Jr.

mike greene

perry greene

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Harvey N. Moss

G. Stephen Hiers

John Crickenberger

Michael J Beckmann

Donald S. Trauthwein

Aaron Kunsberg

Tim totaro

joshua bessette

David Barber

G L Spears

Lori Bessette

Lori Barber

Michael Murphy

alexander Crandall

Peter Fatizzi

Jean Gasperoni

GARY PHILLIPS

Karl P Pappas

Kendall W. Allen

javier Sandoval

Paul Parson

Dawn and Paul Partlow

Donald Henley

Paul Westmoreland

Mikal Hale

Michael R. Ansay

Robert W Knight

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Sincerely,
Larry Hirt Jr

scott Maresca

james daniel keonitzer

Robert C Minotti Deland, FL

Chris O'Kelley

John Donaldson

Jack Bergquist

Erica L. Byda

Dear sirs,

My name is Robert Harrison. I own and operate the fishing vessel Prowler. I live in Hatteras, NC and I have a snapper/ grouper permit.

Everything in this amendment seems to be a good idea to me except for one part. Closing snowy grouper for half the year would cripple me, I am very dependant on this fishery in Jan- Mar. I realize that Tillman Gray and Jeff Oden asked for this. They are very wealthy and greedy men that do other things in the winter (ski, surfboard, hunt etc.). Closing the fishery for six months would benefit them and hurt the rest of us. Please do not do it.

OWEN A. KOGAN
1127 MANATI AVE CORAL GABLES, FL 33146

To: National Marine Fisheries Service N.M.F.S.

Owen A Kogan
2-4-08
305-665-3785

Good fisheries management requires knowing the fowling.
How much is being taken.
From where it is being taken.
When it is being taken (in real time).
Who is taking it.
Note: Every other federal recourse regulator knows this!
Ex: fossil fuels, lumber, minerals, etc.

Recourse fish harvest data must be 100% verifiable in real time!
[No honor systems, No loop holes, Not negotiable]
Means: All commercially licensed fishing boats must have real time GPS tracking transponders with their license ID encoded.
Note: this will stop falsified logs.
Means: All fish sales at end of trip must be electronically entered to the NMFS database at the time of sale. License must be in an electronic credit card type format.
Note: This will stop falsified trip ticket scams.

BREEDING STOCK PROTECTION ACT
Large snapper species, Large grouper species, Amberjack, Cobia
Definition. : Large snapper species are all snappers that grow to over 10 pounds.
Exception: (pan fish) yellow tail, mangrove, lane, etc.
Definition: Large grouper species are all groupers that grow to over 20 pounds.
Exception: (pan fish) strawberry, rock hind, coney, etc.
Definition: Any of the above that meet the fowling requirements.
Slow growing: lives more than 5 years.
Must grow 2 years or older to reach spawning size.
That has reached 40% or more of their maximum size.
Ex: If a black grouper grows to average maximum size of 100 pounds. Then a 40 pound or larger black grouper is a breeding stock fish.
Must be redefined as a game or trophy fish.
Commercial harvest must not exceed the recreational bag limit!

SPAWNING PROTECTION MANAGEMENT for BREEDING STOCK FISH ACT.
Closing the following each month: before, during, after the spawning season.
Note: this is 3-month closure.
NO commercial harvest
NO sales
NO importation

BY- CATCH REDUCTION ACT.
Outlaw any method or means that kills or severely harms more than 20% of non-legal sized fish caught.
Ex: Bloated trap-caught fish from deep water suffer sever harm and may not survive after being release.

A good commercial reef fishing method.
Hook & line fishery targeting reef pan fish: yellow tail, mangrove, lane, small to medium sized mutton snappers, strawberry, rock hind, small to medium sized red and scamp groupers.

Reef pan fish bring the highest market prices.
Grow and reproduce very quickly.
Require the least expense and overhead to catch.
Bring the highest profit margins.
Have minimum recourse impact.
Low by-catch mortality rate.
Environmentally correct.

SYSTEM: FOR REPORTING VIOLATORS.
Use a system designed after [U.S. CUSTOMS 1-800-BEALERT]

Post it very publicly, broadcast it, etc.
Offer large rewards.
This will get the public involved on the side of the law.

Ex: Earn some extra money by busting a crooked fishing operation or a crooked fish house.

ENEORCEMENT
Zero tolerance for any violation involving any of the following: fraud, falsifying, conspiracy, and deception.

It is one strike and you are out!
Prosecution under R.I.C.O. and any or all other severe criminal and civil federal laws.
Revoke and forfeiture of license.
Forfeiture of boat and gear.
Forfeiture of assets.
Heavy fines.
Prison

Enforcement of lessor fisheries violations that do not involve fraud, falsifying, conspiracy, deception.
Ex: violations involving unlawful fish catches.
Fine + [surcharge = 10 x Retail value of unlawful fish involved] on 1st. Violation.
2nd = 20 x
3rd = 50 x
4th = 100 x
5th = LICENSE REVOKED

Outlaw charter boats commercially licensed or otherwise from selling fish caught by paying parties. Selling of fish by charter boat crews is more than just a conflict of interest.

It is a form of greed at its worst that more than gives the sport fishing industry a black. eye.

It may not be reported on taxes (IRS cheating).

It corrupts and brings ethics to an all time low in the sport fishing industry.

It raises serious issues about employment insurance, employment taxes, workman's comp, etc i.e. who is working for who.

It puts unnecessary stress on the recourse.

If the charter boat's crew is commercially licensed to sell fish then they can do it on their own time and money.

Note: This law would be easy to enforce by undercover sting operations.

Note: Sentencing with severe fines will be a good fix to this problem.

NOAA NMFS fisheries management needs to the following.

1) Get the fox out of your hen house ASAP.
2) Stop influence buying &. Corruption and stop accepting money from the industry that you regulate.
3) No ENRON agendas
4) Fire your bureaucrats that are so crooked they can hide in the shadow of a corkscrew.
5) Hire smarter employees than the I.N.S. bureaucrats who approved the 9-11 terrorists flight school student visas 6 months after the fact.
6) Tell the commercial fishing industry that a federal commercial fishing license is a privilege not a right! Order the commercial fishermen to fish the right way, or get their licenses revoked and hit the hi-way.
7) When government does not represent or respect its citizens its citizens may not recognize it. Do your fucken jobs right or we may have a 1776 tea party on your ass.
8) We can tell when bureaucrats are lying because their lips are moving. Remember your actions speak louder than your words.
9) If you are not part of the solution, then you are the problem!

Rob a bank and go to jail.
Rob a reef and get caught and laugh all the way to the bank!

Re: year 2000 & 2001 Key Largo fish trap scam.

Who: 2 large commercial boats out of Ft. Laud. Fl.

What: Using federally licensed lobster trap gang lines of about 10 lobster traps each attached to and used to conceal outlawed fish trap gang lines of equal or more traps. The floats had the federal permit numbers imprinted on them.

Where: Upper Florida keys including Key Largo in federal waters at depths of 180 feet out to 300+ feet around wrecks ledges and deep reefs.

Result: Destruction in excess of 80% of black, gag, red groupers and mutton snappers that recovered since the 1990 ban on Atlantic fish traps!

Enforcement: Florida state law enforcement busted the 2 violators numerous times over a 1-½ year period. Then each time the federal fisheries took the cases away from the state and dropped all charges.

Conclusion: Who in the federal fisheries is being paid protection by the violators and how much?

305-788-9509
CELL phone

February 19, 2008

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

Re: Annual Catch Limit (ACL) and Accountability Measures (AM) Amendment 17 to the Snapper-Grouper FMP and Species Removal from Management Units

Dear Mr. Mahood,

On behalf of The Marine Fish Conservation Network (Network), I welcome the opportunity to provide the following comments on the annual catch limits (ACLs) and accountability measures (AMs) required by the Magnuson-Stevens Reauthorization Act of 2006 (MSRA).

The MSRA of 2006 requires science-based, enforceable catch limits and accountability measures for all federally managed fisheries. The MSRA of 2006 requires all regional fishery management councils to set enforceable catch limits based on recommendations of the councils' science advisors. The clear intent of Congress is to end overfishing by requiring catch limits and accountability measures.

The Network applauds the Council's efforts to seek public comment on this critical provision of the law and to consider a wide range of issues relevant to setting annual catch limits, including the need for precautionary buffers between ACLs and Overfishing Level (OFL), the means by which ACLs may be set in data-poor situations, the need for corrective actions when catch limits are exceeded, the types of accountability measures which should be approved for use by fishery managers, and so on.

The highest priority in the MSRA was to strengthen the MSA to ensure an end to overfishing.[1] Catch levels must be based on unbiased scientific advice, end overfishing and allow timely rebuilding of overfished stocks.

We recognize the real difficulties involved in setting catch limits indexed to uncertain biological reference points corresponding to Maximum Sustainable Yield (MSY), as NMFS cautioned in the NS1 Guidelines of 1998.[2]

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sharold@conservefish.org
www.conservefish.org

Uncertainty plays a large role in the scientific assessment of fish stocks even in relatively data rich situations, and it must be addressed in the setting of annual catch limits. Uncertainty in fishery stock assessment advice must not be an excuse to avoid setting catch limits but rather a reason to set highly precautionary catch limits. Thus the Council must recognize the need to provide buffers and margins of error to account explicitly for uncertainty in underlying fishery data and fluctuations in environmental conditions. A system of explicit decision rules based on levels of information available for managed stocks should provide clear guidance on setting ACLs, including rules for setting ACLs in data-poor situations when stock status relative to MSY (or proxy for MSY) is unknown. A precautionary approach to implementing NS1 and setting annual catch limits should include the following guidelines:

- ACLs must be science-based and may not exceed the limits recommended by the Councils' Science and Statistical Committee (SSC), in keeping with MSRA Section 103(c)(3).

- ACLs should be set at a level that has a high probability (e.g., 90%) of not exceeding the overfishing level (OFL).

- ACLs should account for all sources of fishing mortality for each managed species or stock assemblage, including all discards in the fishery and bycatch mortality in other fisheries.

- ACLs should be set for identified forage fish species which ensure that these species remain available to other consumers in the food web, including other managed species on which fisheries depend.

- Spatial and temporal management of fishing effort should be an integral part of effective catch-limit management. Measures that disperse fishing effort across subpopulations of a defined "stock" should, if employed, aim to avoid serial depletion of spatially discrete subpopulations which may undermine the productivity of the "stock as a whole."

- Accountability Measures must go hand in hand with ACLs. AMs are required to ensure that catch limits are enforced and that performance can be measured relative to goals for ending overfishing. Regular scientific review of the efficacy of management measures employed in each region is critical to ensuring that AMs are effective and working as intended. Their performance should be measurable and demonstrable or they should be modified accordingly.

➢ Forage Fish

The Marine Fish Conservation Network seeks inclusion of explicit methods and procedures for reducing optimum yield and annual catch limits to account for and

preserve the keystone role of forage fish species as food for other species in the marine food web in the Comprehensive ACL Amendment being considered by the Council. The current Amendment process presents a unique opportunity to incorporate new forage fish conservation criteria into Council guidelines on overfishing and promote wider application of ecosystem-based principles in fishery management.

Currently there is no explicit policy or regulatory framework within U.S. fishery law to ensure that there are adequate supplies of forage fish in the ocean. The keystone role of forage fish in marine food webs is not considered in conventional single-species fishery stock assessment advice and is not reflected in the annual catch limits for these critical species, which are targets of some of the largest commercial fisheries in the United States and the world. In other words, catch limits do not account for the needs of predators or other ecosystem-level considerations.[3]
Target species are treated in isolation from their relation to the rest of the ecosystem:

> "*…a single species approach to setting allowable catches largely ignores interactions between a target species and its competitors, predators, and prey*."

Forage Fish and the Shortcomings of MSY-based reference points from an ecosystem perspective
NS1 guidelines defined MSY as "*the largest catch which the stock can sustain, on average, over a long period of time, given current ecological and environmental conditions*."[4]
The key reference levels for MSY are the rate of fishing mortality that will theoretically yield MSY ($\mathbf{F_{MSY}}$) and the quantity of spawning stock that will theoretically produce MSY ($\mathbf{B_{MSY}}$) if one has been fishing at F_{MSY} over a long period. Although the adoption of MSY as a yardstick of overfishing was intended to prevent managers from exceeding the limits of a fish stock's long-term productivity, the National Standard Guidelines cautioned that MSY is very difficult to achieve for a variety of reasons and "*a theoretical concept rather than an empirical one*."[5] The effects on predators of fishing down their prey stocks by 60% on average (and more than 60% at any given time), is not considered.

MSY embodies a resource conservation philosophy that values the oceans primarily for extraction ("harvest") and sustainability is defined in terms of productive output ("yield") for fisheries, not protection of natural ecosystems or the integrity of marine food webs.[6] Conceptually, MSY is concerned principally with production of renewable natural resources for human use. The MSY procedure simply *assumes* that any fish above the theoretical replacement line needed to maintain the stock size at a given level (B_{MSY}, or proxy, in this case) is simply a "surplus" for fisheries. In an ecosystem context, however, there may be no "surplus" for man to take, because removing large quantities of forage fish biomass will leave less food in the water for competing predators.

The MSA's definition of Optimum Yield (OY) acknowledges the importance of protecting ecosystems but guidance is needed to explain *how* to reduce catch levels to preserve the ecological role of forage fish in their respective food webs

The MSFCMA, Sec. 301 (National Standards), stipulates that, "conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." 16 U.S.C. 1851. The Act's definition of optimum yield (OY) acknowledges the importance of protecting marine ecosystems and authorizes downward adjustments from the maximum allowable fishing rate "as reduced by any relevant economic, social, or ecological factor," but guidance is needed to explain *how* to reduce catch levels to preserve the ecological role of forage fish in their respective ecosystems.

Why forage fish? They are "fuel for the food web" as well as targets of large industrial fisheries. The issue of how to allocate forage fish among predators and fisheries comes up in the management context, but there are no explicit guidelines for addressing the importance of forage fish to ecosystems. The boom in aquaculture is putting increased pressure on forage fisheries to expand in order to supply feedstock for farmed fish, among other uses, lending urgency to the need for action. As a step toward integration of ecosystem-based management objectives in fishery management, NS1 guidelines should recognize the special role that forage fish play and provide guidance on how to account explicitly for the needs of predators when setting catch limits so that adequate prey are available for fish, birds, and mammals.

Current fishery management practices focus largely on maximizing yield to the fishing industry without accounting directly for ecosystem needs and food web impacts.[7] The $F_{40\%}$ policy outlined by NMFS in the NS1 Guidelines of 1998, for instance, is a single-species fishing mortality strategy which aims to reduce the spawning stock biomass 60% from its unfished level (on average),[8] and as such it does not account directly for ecosystem needs and food web impacts. In a review of the Alaska region's use of the $F_{40\%}$ policy prepared for the North Pacific Fishery Management Council, Goodman *et al*. (2002) maintained that $F_{40\%}$ is intended to provide a small buffer (5%) between OFL ($F_{35\%}$) in a conventional single-species context but is not explicitly considerate of ecosystem concerns[9].

To address these shortcomings, the any ACL amendment should reduce OY/ACLs from the maximum allowable MSY level in a precautionary manner to preserve the ecological role of forage fish, a procedure expressly sanctioned in the existing MSA definition of Optimum Yield. Under this approach, ACLs for identified forage species would be set at this reduced OY fishing level, based on a corresponding fishing mortality rate ("F_{OY}" as opposed to F_{MSY}) aimed at retaining a larger stock biomass on average ("B_{OY}" as opposed to B_{MSY}).

These proposed reductions represent a step toward integration of ecosystem-based management objectives in fishery management, based on the special role that forage fish play in marine food webs. They are intended to preserve the prey base of predators when setting catch limits so that adequate prey remain in the water to feed other fish, birds, and mammals. They are consistent with the findings of the National Research Council's Committee on Ecosystem Effects of Fishing, Phase II (NRC 2006), which concluded that if the United States is to manage fisheries within an ecosystem context, food web

interactions, life-history strategies, and trophic effects will need to be explicitly accounted for when developing fishery harvest strategies.[10]

The Amendment should include:

- Criteria for forage fish classification in the guidelines
- Identification and definition of "forage fish" through existing FMPs or new Forage Fish Plans
- Establishing a forage fish minimum stock size threshold (MSST, the stock size below which a stock is considered overfished) at B_{MSY} (as opposed to ½ B_{MSY}) in order to leave more forage fish stock in the water on average by starting rebuilding sooner
- Requiring that target reference points, such as OY or ACL, be safely set below limit reference points, in order to provide a precautionary buffer and adequate margin of safety between MSY (the overfishing level, OFL) and OY/ACL. In the absence of better information, a more conservative limit (maximum) fishing mortality rate such as $F_{75\%}$ should be employed instead of conventional F_{MSY} or proxy such as $F_{40\%}$ – in effect, an optimum yield (OY) reduced to account for ecological considerations
    - ✓ $F_{75\%}$ or other conservative proxy equates to "F_{OY}" and is the basis for setting the ACL
- Establishing precautionary buffers between OY and MSY that consider uncertain effects of climate variability and climate change on target forage fish stocks, along with other uncertainties in data and stock assessment advice

➢ **Variability in data currently available for each stock (data poor vs. data rich)**

In complying with the reauthorized MSA, ACLs will have to be set across the range of data quality situations. In data-poor situations, stock abundance is unknown and/or stock status with respect to overfishing and overfished criteria is unknown. In data-rich situations, information is available to estimate stock abundance and make stock status determinations relative to overfishing criteria. One example of a system of control rules used to set annual catch limits in situations where different levels of data are available for different stocks comes from the Alaska Region, in which a 6-tiered system of control rules and catch limit criteria provide a basis for setting ACLs in data poor situations (Tiers 4-6) as well as data-rich situations (Tiers 1-3):

Tier 1 – Reliable B, B_{MSY}, and probability density function of F_{MSY}
Tier 2 – Reliable B, B_{MSY}, F_{MSY}, $F_{35\%}$, $F_{40\%}$
Tier 3 – Reliable B, $B_{40\%}$, $F_{35\%}$, $F_{40\%}$
Tier 4 – Reliable B, $F_{35\%}$, $F_{40\%}$
Tier 5 – Reliable estimates of biomass (B) and natural mortality (M)
Tier 6 – Reliable catch history data

This is only one example of how catch limits can be set for fisheries exploiting stocks whose status relative to MSY or proxy SPR% is unknown, but it illustrates that it is practicable to set numeric catch limits across a wide range of data quality situations.
In general, the less that is known about a stock's status relative to overfishing criteria, the more conservative and precautionary catch limits should be. The Southeast Fisheries Science Center at the Beaufort Lab designed a similar system in 1999 where Level IV stocks are those with no available benchmarks, and catch based on landings history.[11]

- **Setting ACLs for stocks with unknown status**

In instances of a new fishery or significant new fishing effort, a strictly precautionary approach would set catch levels at zero until adequate information is available to assess the status of the stock. This provides an incentive to gather scientific information before significant new fishing is authorized. The intent is to avoid the vicious cycle of boom and bust fisheries. An example is the monkfish fishery of the Northeast and Mid-Atlantic regions during the 1990s, which expanded rapidly in the early 1990s without a management plan as groundfish fleets shifted their effort from overfished cod, haddock, and flounder stocks. Although the monkfish stock initially appeared robust and catches soared to record levels in the history of the fishery, it was apparent by the late 1990s that monkfish was in trouble. In 1999, concurrent with the adoption of a monkfish fishery management plan, the stock was considered overfished and the councils were forced to adopt a rebuilding plan. If a fishery is already fully developed and if the stock productivity does not show obvious signs of impairment but information is lacking to assess the stock relative to the reauthorized MSA's overfishing criteria, ACLs may be based on alternative criteria such as setting ACL as a percentage or average of catches from prior years (as is done for Tier 6 stocks in the Alaska region) or based on available estimates of biomass and natural mortality (as is done for Tier 5 stocks in the Alaska region). If the status of a stock relative to overfishing criteria is unknown (as assumed by NMFS's definition of "data poor" situations), even more precaution is warranted than that advised in earlier NMFS Technical Guidance.[7]

Bottom line: the greater the uncertainty, the greater precaution which should be required in setting catch limits.

- **Setting ACLs for stock complexes, stock assemblages, and similar stock groupings**

In instances where multiple species are treated as one "stock" for management purposes, catch limits should be based on the species within the stock assemblage with the lowest productivity and the catch limit should include the bycatch mortality of that species in all fisheries.

ACLs should account for all sources of fishing mortality for each managed species or stock assemblage, including bycatch and discard mortality in the fishery and all other fisheries. If fishery observer data are not available to estimate the quantity of the directed fishery catch/discards as well as bycatch mortality in other fisheries, estimates should be

developed based on the best available information from stock assessments, fish tickets, logbooks, research programs, etc.[8]

- **Setting a buffer between ACL and OFL to prevent overfishing, and how to determine the size of the buffer needed**

The inherent uncertainties associated with estimations of MSY and overfishing for wild fish stocks require fishery managers to set an annual catch limit that is less than the overfishing level (i.e., ACL < OFL) in order to provide a buffer against this uncertainty. The revised NS1 Guidelines on ACLs should provide clear guidance on appropriate buffers to account for uncertainty in the scientific advice, and to address ecosystem considerations which are not explicitly addressed in conventional single-species thresholds indexed to MSY.

In general, larger buffers between ACL and OFL are necessary than those recommended in the existing NS1 Guidelines. For example, the final rule for National Standard 1 guidelines cited sources in the fishery science literature to the effect that the single-species stock size at MSY is approximately 40% (range 36.8% to 50%) of the unfished or pre-exploitation stock size – i.e., $B_{40\%}$, the proxy for B_{MSY}.[7] This approach is sometimes referred to as the "$F_{40\%}$ policy," which is to say the *rate* of fishing mortality that will theoretically approximate the yield at MSY by reducing the quantity of spawning stock to only 40% of its unfished size on average ($B_{40\%}$) if one has been fishing at $F_{40\%}$ over a long period.

The basis for this policy comes from studies of Clark (1991, 1993), who proposed $F_{35\%}$ (i.e., the fishing mortality rate that reduces the spawning potential per recruit to 35% of the unfished level, or "$B_{35\%}$") as a surrogate for F_{MSY} but subsequently recommended a slightly more conservative $F_{40\%}$ mortality rate to account for uncertainties. Mace (1994) recommended $F_{40\%}$ as a conservative proxy for F_{MSY} and the $F_{40\%}$ policy has been used as a default fishing mortality rate for stocks with unknown productivity parameters (i.e., MSY unknown) in the Alaska and Pacific
regions.[8]

As noted at the West Coast Groundfish Harvest Rate Policy Workshop of 2000, however, $F_{40\%}$ is not necessarily an appropriate exploitation strategy for long- lived rockfish off the West Coast. In that instance, scientists have recommended a more conservative $F_{50\%}$ fishing mortality rate (i.e., target biomass = 50% of unfished stock size, or $B_{50\%}$) to account for differences in life history. Changes in the environment affecting productivity may also require more conservative fishing mortality strategies in times of lower productivity. Thus a "one size fits all" approach to catch limits is not appropriate for all species and situations. A default fishing mortality rate that may be deemed conservative for some species in a narrow single-species context may be too aggressive for others, or may be inappropriate under prevailing environmental conditions.

The $F_{40\%}$ policy outlined by NMFS in the NS1 Guidelines of 1998 is a single-species fishing mortality strategy which aims to reduce the spawning stock biomass 60% from its

unfished level (on average), and as such it does not account directly for ecosystem needs and food web impacts. For instance, NMFS has elsewhere said that the goal of MSY-based, single-species exploitation strategies is to remove fish before they are "lost" to natural mortality by other ecosystem consumers.[9] In a review of the Alaska region's use of the $F_{40\%}$ policy prepared for the North Pacific Fishery Management Council, Goodman *et al*. (2002) maintained that $F_{40\%}$ is intended to provide a small buffer (5%) between OFL ($F_{35\%}$) in a conventional single-species context but is not explicitly considerate of ecosystem concerns:

> "*The $F_{40\%}$ approach to estimating the ABC, by itself, is inherently a single species approach. It is thought that for most of the target species in the FMP, a fishing mortality rate of $F_{35\%}$ would be appropriate for achieving long-term catches near MSY, under the condition of an unchanged oceanographic regime…That the actual target fishing rate is $F_{40\%}$ rather that [sic] $F_{35\%}$ creates some additional margin of safety, from a single-species perspective, for target species excluding rockfish. The decision to use $F_{40\%}$ rather than $F_{35\%}$ was deliberately protective, and was intended to function as a buffer against several sources of uncertainty, including the concern that theoretical models have shown that managing each species for its single species MSY will not achieve MSY for the aggregate. Nevertheless, it is not clear how much of the margin between $F_{35\%}$ and $F_{40\%}$ was 'allocated' to ecosystem considerations. Nor was a calculation carried out to demonstrate what amount of escapement is needed for ecosystem purposes, or to assess whether the margin between fishing at $F_{35\%}$ and $F_{40\%}$ supplies this amount*."[10]

➢ **Establishing the appropriate probability that an ACL will prevent overfishing for a stock**

By their very nature, fishery stock assessments include a probability that an annual catch limit does not exceed the overfishing level. Usually there are very large error bounds around point estimates of acceptable catch. Therefore, to the extent practicable, annual catch limits should be set at a level that has a high probability of not exceeding the overfishing level (e.g., 90 percent). If data are lacking to prepare a stock assessment and estimate the probability that a given ACL will exceed OFL, catch limits should be reduced accordingly as addressed above for data-poor situations.

➢ **Establishing recommendations for in-season management authority and methods to be used as AMs to prevent overfishing**

The intent of accountability measures is to ensure that fisheries are complying with catch limits intended to prevent overfishing and to rebuild overfished stocks. AMs are required to ensure that catch limits are enforced and that performance can be measured relative to the goal of preventing overfishing. In our public scoping comments on ACLs and AMs last year, the Network called for NMFS to outline the range of AMs in the revised

National Standard 1 Guidelines. It is the Network's position that measures adopted in a given region must be approved by the Secretary of Commerce. Regular scientific review of the efficacy of management measures employed in each region is also critical to ensuring that AMs are effective and working as intended. Their performance should be measurable and demonstrable, or they should be modified accordingly.

The Network acknowledges the difficulty of monitoring catch in some fisheries. However, we believe it would be a mistake for the council to rely exclusively on trip limits, bag limits, closed areas and other effort-based measures as substitutes for enforcing catch limits in the recreational fishery, since the widespread failure of these measures to prevent overfishing was a prime motivating factor in Congress' inclusion of ACLs and AMs in the MSRA. Similarly, the use of moving averages of catch in data-limited fisheries (such that overages in one year or season are not deducted from the subsequent year or season until the catch is evaluated over multiple years, e.g., three years) is generally ill-advised. We suggest that if the MRFFS survey provides fluctuating catch, that the highest landings in a particular time-frame be used, instead of an average in order to more accurately represent the recreational catches.

Accountability measures will necessarily be fishery-specific, but some general principles apply to all fisheries:

1) **Precautionary setting of target ACLs below the maximum permissible level (overfishing level) as a proactive measure to avoid overfishing**. Providing an adequate buffer between ACL and OFL is the first line of defense against overfishing. Given the unavoidable uncertainty associated with scientific advice, we do not believe there is any circumstance in which it makes sense to set the ACL equal to OFL. Such policies have been characterized as "fishing at the margins," and they almost guarantee that overfishing will occur. A larger buffer between ACL and OFL will ensure that the risk of exceeding OFL is minimal.
2) **Inseason management actions to prevent reaching or exceeding the ACL**. Measures such as making adjustments in trip limits to reduce effort when approaching a limit and closing a fishery once it has reached a catch limit are preferred over actions taken retrospectively. Wherever information is available to close a fishery when it has reached a limit, the council should do so. Since there is an inevitable time lag between a decision to close the fishery and the actual halt to fishing, inseason managers should initiate action to close the fishery as it approaches the limit and not wait until after the limit has been exceeded.
3) **Corrective post-season management actions to address overages of the ACL after they occur.** If a fishery or fishery sector exceeds its catch limit, the amount of the overage(s) should be deducted from subsequent fishing seasons. If individual ACLs are established for each sector of a fishery, any deduction of overages should come from the sector which exceeded its limit in order to avoid penalizing those sectors of a fishery that stay within the allocated catch limit. The use of multiple-year averages of catch (e.g., three-year moving average) incurs a high risk of overfishing and should only be considered in extremely limited

circumstances in data-poor fisheries in which catch limits have been set at very low levels and in which there are no available alternatives.

- **Species Removal from Management Units**

The Council has indicated in public scoping material that it is considering the removal of species from Fishery Management Plans. We understand that there may be extenuating circumstances surrounding specific fish species that may justify their removal from management units, however the Council must not remove species simply to avoid the task of setting catch limits. Any species with no landings history in the region's federal waters, can be assigned a catch limit of zero as an alternative to dropping that species from the Plan. We look forward to a robust scientific discussion of the merits of such a decision.

- **Conclusion**

The Network is pleased that the Council is taking up an ACL amendment. The purpose of the amendment, to establish clear standards for establishing ACLs that are based on sound science and for ensuring that ACLs are set in an efficient consistent way, is a positive step. We look forward to working with you throughout this amendment process so that our nation's fishery resources are sustainably managed. Thank you for your time and consideration.

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[1]Annual Catch Limits (ACLs) and Accountability Measures (AMs): Requirements of the 2006 Amendments to the Magnuson-Stevens Act (MSA). Public information handout prepared by NMFS Office of Sustainable Fisheries, Silver Spring, MD. March 14, 2007.

[2] NMFS 1998, 63 FR 24215.

[3] Lowell W. Fritz, Richard C. Ferrero and Ronald J. Berg. The Threatened Status of Steller Sea Lions, *Eumetopias jubatus*, Under the Endangered Species Act: Effects on Alaska Groundfish Fisheries Management. Marine Fisheries Review 57(2), 1995: pp. 14-27.

[4] NMFS NS1 Guidelines (1998): 63 FR 24216.

[5] NMFS 1998, 63 FR 24216.

[6] See, for example: J. Baird Callicott. Beyond the Land Ethic: More Essays in Environmental Philosophy. State University of New York Press, 1999, p. 369: "*One primary desideratum of resource conservation is to achieve sustained yield of these renewable resources – be they Douglas firs, white-tailed deer, or sockeye salmon. Biotic communities and ecosystems are valued only incidentally. If their existence is acknowledged at all, they are treated as the machinery that produces the goods*."

[7] See, for example, NMFS Section 7 Consultation on Steller sea lions and Alaska groundfish fisheries ("FMP BiOp") at p. 225: "In effect, fisheries remove fish from the population before they are 'lost' to natural mortality (e.g., other consumers of groundfish)."

[8] NMFS NS1 Guidelines, 1998: 63 FR 24230, amending 50 CFR 600.310(c)(3).

[9] Daniel Goodman (chair), Marc Mangel, Graeme Parks, Terry Quinn, Victor Restrepo, Tony Smith, and Kevin Stokes. Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Fishery. Draft report prepared for the North Pacific Fishery Management Council, Nov. 21, 2002: pp. 7, 121.

[10] National Research Council, Committee on Ecosystem Effects of Fishing, Phase II. Dynamic Changes in Marine Ecosystems: Fishing, Food Webs, and Future Options. National Academies Press, Washington, D.C. (2006). 160 pp.

[11] Southeast Fisheries Science Center, 1999. Control Parameters and Alternatives for Control Rules for Selected Stocks Under the Jurisdiction of the South Atlantic Fishery Management Council.

1. No Action
2. Wasn't the SAFMC supposed to wait on the earbone data
analysis to accurately determine if a fishery was overfished?
3. No fishery is actually overfished...
there are not enough fishermen left to overfish a fishery!
4. If there is a problem it is coming from pollution and global warming
evidently those things cannot be regulated...but the fishermen can.
5. We do not agree on the proposed reduction of the TAC
plus quotas = closures
plus spawning closures
plus seasonal closures
6. It is all way too much regulation especially when it is not proven fact that overfishing is actually going on
7. The proven fact is that there are more fisheries management
personnel than fishermen...
8. Too bad there cannot be a quota put on you all...
maybe our congressmen need to work on that!

RUNNERS SEAFOOD
4824 - Highway 24
Morehead City / Newport, NC 28570
252-393-8474

Written Comment on Amendment 15

1. No Action as is

2. Wasn't the SAFMC supposed to wait on the earbone data
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3. No fishery is actually overfished...
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4. If there is a problem it is coming from pollution and global warming
evidently those things cannot be regulated...but the fishermen can.

5. We do not agree on the proposed reduction of the TAC
plus quotas = closures
plus spawning closures
plus seasonal closures

6. We do not agree with the regulations in place on red porgy period.
Much less any new ones!
It should have been opened back up instead of a 120 fish rule...
as it is not nor has it ever been overfished.

7. We do not agree that snowey grouper is overfished
Just because one boat hit the mother load a few times!

8. If potting had never been allowed,
there wouldn't be any problems in the bass fishery...
haven't you cut that out yet?

9. Hook and line bandit fishing is the only fair game fishing!

10. 1000 lb limit on each species, each trip, for each commercial
permit holder would create a sustainable fishery and a sustainable
fisherman!!!!!!

RUNNERS SEAFOOD
4824 - Highway 24
Morehead City / Newport, NC 28570
252-393-8474

Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

Golden Tilefish:
I oppose any easing of the regulations and the removal of the 300 lb trip limit. In addition, I oppose any further restrictions of the recreational fishing for Golden Tilefish. Table 4 as attached to the Comprehensive Allocation Amendment shows that over 90% of the landings are commercial. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Black Sea Bass:
I oppose the use of all fishing with pots. This indiscriminate method causes too much damage to untargeted species and lost pots continue to destroy marine resources.

Speckled Hind:
I oppose any further restrictions of the recreational fishing for Speckled Hind. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Warsaw Grouper:
I oppose any further restrictions of the recreational fishing for Warsaw Grouper. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
My name is Theo Mitchelson. It would be typical government slight-of-hand to further restrict the recreational fishery, when the problem of overfishing has long been demonstrated to be a primarily Commercial Fishery result. Without attacking the true

source of the problem, there will be no positive result, and the SAFMC will have abdicated the responsibility with which it has been charged.

Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

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Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
Raymond Narushko, 4611 Almnark Dr. Orlando, Fl. 32839. It ap[pears that the spiort fishery is gtoing to take another hit. It is very obvious that the sport fishing industry supplises agreater financial boost to the industry than the commercial industry. I support

the present restrictions. The commercial industry has devested the fishing industry and they are just looking to further this same policy again.

Ocean Conservancy
Advocates for a Wild, Healthy Ocean

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

February 20, 2008

Re: Scoping of Draft Amendment 17 to the Snapper Grouper Fishery Management Plan to Reduce Fishing Mortality, Establish Rebuilding Plans, and Set Annual Catch Limits and Accountability Measures for Selected Snapper Grouper Species of the South Atlantic

Chairman Geiger,

On behalf of the Ocean Conservancy,[1] we submit the following comments regarding the development and scoping of the South Atlantic Fishery Management Council's (SAFMC) Draft Amendment 17 to the Snapper Grouper Fishery Management Plan (Amendment 17) to develop annual catch limits (ACLs) and accountability measures (AMs) for snapper grouper species identified by the Secretary of Commerce as undergoing overfishing and to address issues identified in SEDAR 15 and 15a stock assessments for red snapper, greater amberjack and mutton snapper as appropriate. In light of legal requirements governing the timely implementation of management measures to end overfishing and rebuild overfished species and the new Congressional directives to end overfishing once and for all via these annual catch limits, it is critical that the SAFMC and the National Marine Fisheries Service (NMFS) end any overfishing immediately, timely rebuild fish stocks, and carefully analyze the various methodologies by which ACLs and AMs can be set.

ANNUAL CATCH LIMITS AND ACCOUNTABILITY MEASURES
Background: The Magnuson-Stevens Act and the 1996 Amendment made progress toward recovery of depleted stocks and sustaining stock health, but many stocks remain

[1] Ocean Conservancy is a non-profit organization committed to protecting ocean environments and conserving the global abundance and diversity of marine life. Through science-based advocacy, research and public education, The Ocean Conservancy informs, inspires and empowers people to speak and act for wild, healthy oceans.

overexploited or have not been rebuilt (NOAA 2007, Rosenberg et al. 2006). As a result, the 2007 amendments to the MSA are designed to improve accountability in management to prevent overfishing and rebuild stocks to levels that will support maximum sustainable yield.

Section 104 (a)(15) of the 2007 Magnuson-Stevens Reauthorization Act (MSRA) establishes "a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability." Congress has set a "no fail" deadline to establish catch limits for all fisheries experiencing overfishing by 2010, and 2011 for all other fisheries.

Current Methodology: The snapper grouper management system in the South Atlantic currently relies on keeping fishery landings within a total allowable catch (TAC) limit. Bycatch mortality, which is often substantial, is assumed to be a certain amount and is "taken off the top" to calculate a TAC. The bycatch assumptions are not explicit and are not compared to actual bycatch mortality on a regular basis. Bycatch estimates occur in the stock assessment process. It is also unclear exactly how these bycatch assumptions change, based on changes in management measures. In the absence of bycatch mortality being measured against the mortality limit, we cannot know if rebuilding goals are being met.

Catch and bycatch information exist, however, for commercial and recreational fisheries in the South Atlantic. Fishermen and processors must report actual landings on fish receiving tickets; the landings data are considered accurate. Bycatch data for the snapper grouper fishery is reported under two programs: logbooks and a (pilot) observer program. The commercial reef fish logbook program requires twenty percent of the fleet to fill in logbooks (generally 10% comply), which includes discards per trip. Additionally, NMFS and the SSC have used models of fisher behavior and stock assemblage mixing rates to determine the level of bycatch that can be reasonably assumed for a given amount of landings.

For the recreational fishery, the system relies on MRFSS B1 and B2 data for private recreational fisheries and an enhanced charter and head boat survey for these vessels. MRFSS estimates come in waves (six two month periods per year) 2-4 months after the wave has ended. However, the Federal system does not regularly compare bycatch estimated from these systems to bycatch estimated in the stock assessments, and does not compare bycatch estimates to bycatch targets.

Developing Annual Catch Limits for the South Atlantic Snapper Grouper Fishery: NMFS and the Council must develop a methodology utilizing existing data sources to establish and monitor an ACL, which incorporates a total mortality limit (explicitly includes bycatch mortality) and accounts for uncertainty in landings and bycatch. This methodology must be consistent with available data sources and realistic improvements that may be made in monitoring capabilities.

While we feel that Draft Amendment 17 must include a broad range of options for setting ACLs and AMs, an expert working group report recently published by the Lenfest Ocean Group seems to offer substantial guidance for fisheries with mixed stock assemblages and less-than-perfect information about the species/species groupings under consideration for catch limits. We encourage NMFS and the Council to closely examine these recommendations for use in the South Atlantic and include options in Amendment 17 that utilize the methodologies detailed in the report.

Following the guidance provided in the Lenfest Report[2], setting annual catch limits should be guided by the following principles:

- ***As a default or starting point, preventing overfishing applies to ALL stocks, therefore, so should ACLs;***
- ***To successfully end and prevent overfishing, OFL > ABC ≥ ACL;***
- ***ACLs should account for uncertainty in stock status and risk of overfishing for each stock;***
- ***Consideration of risk must include some evaluation of the vulnerability of a stock to the fishery;***
- ***Vulnerability and the consequences of overfishing primarily relate to individual stocks of fish, and therefore grouping of stock into assemblages for management can undermine sustainability;***
- ***The buffer or distance between the ACL and the OFL should be greater when the risk of overfishing is higher (i.e., when uncertainty is greater or the consequences of overfishing as expressed by vulnerability of the resource is higher).***

It is clear in reviewing recent actions taken by the NMFS and the Council the concept of incorporating total mortality estimations in setting catch limits in the snapper grouper fishery is well understood. We encourage continuation of this pattern in developing options for setting ACLs for stocks that have enough information to set catch limits at the yield associated with F(oy) while incorporating bycatch mortality into the equation. The equation becomes more difficult, however, when attempting to set limits for the many species in the snapper grouper complex that do not have such information.

One option for setting these ACLs should consist of a risk-based assessment of fish species in the fishery management plans of the South Atlantic Fishery Management Council that have had SEDAR stock assessments done. These risk-based assessments should then be compared to results of the stock assessments to assess the applicability of the risk-based assessments to provide an adequate buffer between the ABC and the ACL. Following the completion of this 'ground-truthing' of the methodology, NMFS and the Council (possibly the SSC) could then further develop the risk-assessment concept into a methodology for setting ACLs, with the appropriate buffers, for data-poor species.

Central to this process is determining the "buffer" needed between the Over-Fishing Limit (OFL) and the ACL in order to increase the probability that overfishing does not

[2] Rosenberg, A, D Agnew, E. Babcock, A. Cooper, C. Morgensen, R. O'Boyle, J. Powers, G. Stefansson, and J. Swasey. 2007. Annual Catch Limits Report form the Lenfest Working Group. Lenfest Ocean Program.

occur and that the rebuilding requirements are never triggered. Essentially, the process must be designed to determine how far the ACL should be set below the OFL to account for the various sources of uncertainty referred to in the principles above.

In general, buffers must increase as risk of overfishing increases and amount of known stock information decreases; conversely, low risk and more information allows for a smaller buffer. Converting the risk assessment into buffers will require an analysis of how to factor the amount of information available for a fishery into setting the buffer. Species under management will consist of data rich and data poor species. Assessments for data rich species will range from low uncertainty to high uncertainty; data poor species often do not have assessments, and are inherently uncertain. A simulation of uncertainty given available information and the vulnerability of a species will inform policy makers on the tradeoff for buffer size.

Rosenberg et al. recommend a simulation study of the impacts and consequences of uncertainty and vulnerability on fishery performance along the lines of the work of Shertzer, Prager and Williams, using results from assessments of all the data-rich stocks in the US. This should allow some analysis of the relationship between uncertainty and vulnerability. This pattern, which should include stocks across a range of productivities and susceptibilities, will then inform the setting of ACLs for data poor stocks.

Developing Accountability Measures for the South Atlantic Snapper Grouper Fishery:

A key component to the success of ending overfishing and rebuilding depleted species will be our ability to track and monitor success and prevent the kind of consistent overages that lead to unhealthy stock conditions. Annual monitoring and measures to account for overages allows us to stay on top of any problems developing in the snapper grouper fisheries instead of allowing them to compound, requiring much deeper reductions down the line.

Options for accountability measures in Amendment 17 should include a broad range of alternatives that, at a minimum:

- ***Account for the entire amount of the overage as well as compensate for any lost productivity due to the foregone spawning potential caused by the overage;***
- ***Be implemented in a precautionary way during the fishing season;***
- ***Be instituted no later than the following fishing year if in-season management is not immediately possible upon Amendment 17's implementation;***
- ***Apply on a sector-by-sector basis***

It is clear that accountability measures will be central to the success of annual catch limits in ensuring sustainability and preventing the chronic overfishing that has plagued South Atlantic snapper grouper stocks. We look forward to commenting at length on this issue as NMFS, the Council, and the SSC work towards designing and implementing this important tool.

ENDING OVERFISHING AND REBUILDING FISH STOCKS

Applicable Law

Pursuant to the Magnuson Stevens Fishery Conservation and Management Act (FCMA) the National Marine Fisheries Service (NMFS) and SAFMC must prepare a fishery management plan, plan amendment or regulations to end overfishing of any population of fish within one year of being identified as undergoing overfishing by the NMFS. Indications are that red snapper will be thus identified when the SEDAR 15/15a processes are complete.[3]

New federal legislation is also applicable to this scoping process. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, signed into law in January, 2007, requires councils to "develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its science and statistical committee (SSC)."[4] Those SSC recommendations must "prevent overfishing" and "achieve rebuilding targets."[5]

The SAFMC currently intends to use Amendment 17 as the vehicle for ending any overfishing of red snapper, greater amberjack or mutton snapper, requiring development of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). NEPA establishes a national policy that will encourage productive and enjoyable harmony between man and his environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man and to enrich the understanding of the ecological systems and natural resources important to the nation.[6]

While the South Atlantic Council will be under a one-year deadline to complete the remedial actions required by law, we support the development of an EIS rather than a more abbreviated environmental assessment. Ending overfishing is critically important to achieving sustainable management of these fish populations and therefore this action is "significant" for purposes of NEPA. For major federal actions significantly affecting the quality of the human environment, a detailed statement (EIS) must be prepared that includes the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.[7] The EIS provides a full and fair discussion of significant environmental impacts and informs decision makers and the public of the reasonable

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[3] Mr. Gregg Waugh, personal communication.
[4] 16 U.S.C. § 1852(h)(6).
[5] 16 U.S.C. § 1852(g)(1)(B).
[6] 42 U.S.C. §4321.
[7] 42 U.S.C. §4332.

alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.[8]

Issues for Consideration in Amendment 17

The EIS Must Explore a Full Range of Management Measures Necessary to End Overfishing

Essential to the sustainability of any fishery resource is ensuring that annual mortality levels – that account for both landed catch and bycatch – of a species end overfishing, and that appropriate buffers are in place to ensure that overfishing in prevented in the future. Thus, the issues we recommend for analysis include management measures that will end overfishing (including measures to create an ACL that is set <u>at least</u> as precautionary as the OY value for the stock) and limiting total mortality (via direct catches and bycatch) to levels consistent with precautionary harvest targets and limits.

In completing the EIS we recommend the analysis of the following management tools in meeting proposed rebuilding goals:

(1) Management measures that end overfishing.

These measures include, but are not limited to, limiting fishing effort, time and area closures, a network of no take marine protected areas, trip or bag limits, and caps on total mortality ("hard" total allowable mortality limits) with accounting systems that ensure annual mortality levels necessary for ending overfishing are not exceeded. These measures should specifically include:

A. A range of total allowable catch levels that is consistent with meeting management targets and thresholds.

An issue that must be addressed in the EIS is ending overfishing in light of the precautionary approach to scientific uncertainty. The Technical Guidance speaks specifically to the issue of scientific uncertainty, and the South Atlantic Fishery Management Council has developed (yet not utilized) Control Rules[9] that apply this concept to varying levels of scientific precision. In light of the recent court ruling on Amendment 13C[10] relevant to the "best available science" we strongly recommend the Council incorporate appropriate buffers to ensure success at ending and preventing overfishing of these important resources.

[8] 40 CFR §1502.1.
[9] Control Parameters and Alternative for Control Rules for Selected Stocks uner the Jurisdiction of the South Atlantic Fishery Management Council (1999).
[10] North Carolina Fisheries Association, Inc. et al, v. Gutierrez (2007).

B. Transitioning from a total allowable catch management strategy to a total allowable mortality strategy Annual Catch Limit system that recognizes bycatch as a significant source of mortality.

It is clear from a review of reef fish management in the Southeast region that the emphasis on total allowable catch and unenforceable "soft" catch targets is a key factor in the continued poor health of these species. The current reef fish management system template establishes a total allowable catch level that includes some assumed level of bycatch accounted for in the stock assessment process. This system places too much emphasis on landings which results in management measures that, at a minimum, fail to meet the legal requirement to reduce bycatch and bycatch mortality and in reality have led to years of overfishing of some of the regions most important fishery resources.

We applaud the Council for including total mortality limits and a system of determining bycatch into their Snapper Grouper Amendment 15a. We urge the Council to include a broad range of options for a total mortality management system of Annual Catch Limits for the EIS in Amendment 17 and encourage consultation with other regions and countries that have dealt with similar issues.

(2) Management measures that reduce bycatch

These measures must reduce the incidental catch of both depleted species which are the subject of this amendment and prey species and other marine life through measures including, but not limited to, time and area closures, a network of no take marine protected areas, trip or bag limits, caps on total mortality (bycatch caps on a fleet wide, sector wide and vessel level), and gear modifications.

Specific attention must be paid to size limits as a management tool. As past managers attempted to deal with the failing health of snapper-grouper populations they were primarily guided by short term economic concerns. They therefore increased the legal size of fish that could be landed in an attempt to slow down the rate of capture to extend the fishing season. This resulted in high numbers of fish that are slightly below the legal size limit being thrown back dead or dying as bycatch. Changes in size limits must be analyzed as a way to reduce both commercial and recreational discards in these fisheries. While size limits may prove useful for some fish, they may not be appropriate for others. The Amendment 17 EIS should therefore analyze different size limits that are based on biology and the reduction of bycatch of these snapper-grouper species, not misguided attempts to slow the rate of capture.

(3) Management measures that account for total mortality and ensure successful rebuilding

As noted above, new accountability requirements in the law will mandate specific measures in management plans to ensure total mortality of a stock does not

> exceed the ACL. The EIS should therefore analyze current information sources necessary to both track ending overfishing and rebuilding progress, and ensure annual mortality goals are achieved. If information sources are lacking, the EIS should identify essential data collection elements and methods for collecting those elements such as methods for more accurately assessing effort, monitoring bycatch, identifying fishing locations and identifying important habitat areas.[11] These methods should include current efforts in addition to increased observer coverage, use of federal permits or licenses to better estimate total effort, use of vessel monitoring systems or other technologies to assess areas fished, and other appropriate methods.

Management Measures that set and achieve sufficiently precautionary Optimum Yields in the red snapper, greater amberjack, mutton snapper, snowy grouper, golden tilefish, black sea bass, red grouper, black grouper, speckled hind, and warsaw grouper fisheries

The FCMA requires that fisheries are managed to achieve optimum yield on a continuing basis, not simply to prevent overfishing.[12] The OY should be set with a sufficient buffer (i.e. – allowing sufficiently less mortality than the overfishing threshold), such that overfishing rarely, if ever occurs. Therefore, the EIS for Amendment 17 should include a broad range of OY values, all of which are significantly below the overfishing threshold. ACLs should be set at or below the OY levels to provide a corresponding assurance that overfishing is avoided. Therefore, adequate analysis of an appropriate range of OY values now is prudent and necessary.

Providing more detail on this OY management regime, according to the FCMA, optimum yield is defined as the amount of fish which:

(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
(B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social or ecological factor; and
(C) in the case of an overfished fishery provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.[13]

Further direction is provided by the national standard guidelines which state that:

> Target reference points, such as OY should be set safely below limit reference points, such as the catch level associated with the fishing mortality rate or level defined by the status determination criteria.

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[11] 16 U.S.C. §1853.
[12] 16 U.S.C. § 1851(a)(1).
[13] 16 U.S.C. §1802 (28).

This approach is consistent with the trend in fisheries management of treating MSY as a management limit that should rarely be exceeded and using OY as a management target safely below the MSY threshold. This change in approach is based on past experiences of overfishing occurring despite MSY based management.[14]

For species that are not identified as overfished, management measures must achieve OY on a continuing basis. In order to accomplish this, an OY, or process for determining an annual OY should be detailed. The national standard guidelines recommend expressing OY in terms of numbers or weights of fish but provide other options for determining this parameter.[15]

With the FCMA requirements in mind, the EIS should provide a sufficiently broad range of options for setting ACLs and managing the Amendment 17 species at optimum yield with varying probabilities of success for obtaining the target. OY values and proxies recommend by the Technical Guidance should be included in the range of alternatives with accompanying analysis of both short and long term environmental and economic impacts. Within the range of permissible options, the EIS should include management options for OY that approach a 100% probability that overfishing will not occur, but in no event should options allow for less than a 50% chance of preventing overfishing. Since Congress has made clear that overfishing will not be tolerated and ACLs must be developed to meet this goal, then OY and ACLs should be set sufficiently below the overfishing threshold to provide a high likelihood of preventing overfishing.

Removal of Certain Species from the Fishery Management Unit
We look forward to a discussion of the science-based merits of removal of certain species from the snapper grouper fishery management unit. The management of fishery resources needs to be flexible enough to allow for the appropriate governing body to effectively regulate their usage, but this flexibility must be dictated by the scientific merit of the proposal and not the regulatory expediency to be gained.

Implementation Timeframes

The SAFMC and NMFS must ensure that management measures to end overfishing are implemented as quickly as possible. We urge implementation of measures to end overfishing and restore snapper-grouper species as quickly as possible but no later than March 6, 2009.

Conclusion

The preparation of an EIS for Reef Fish Amendments 17 offers the SAFMC an excellent opportunity to take a holistic look at the current management strategy and other potential scenarios to ensure that overfishing of South Atlantic snapper-grouper species is ended,

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[14] Goodman, et. al, 2002. *Draft Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Groundfish Fishery Management Plans*. Report prepared for the North Pacific Fishery Management Council.
[15] 50 CFR §600.310(f)(4).

that both the letter and the intent of the MSA are implemented and that annual catch limits are instated with the appropriate buffers and accountability measures necessary to succeed. We urge the SAFMC to take full advantage of this opportunity by not only including analysis of alternatives that establish ACLs and AMs, end overfishing, and rebuild fish stocks, but also include the full range of management measures that will ensure the appropriate targets and timelines are met.

We thank you for considering our comments and look forward to future work in protecting the marine life of the South Atlantic.

Sincerely,

_____

Elizabeth Fetherston
Gulf of Mexico Fish Program Manager
The Ocean Conservancy
449 Central Ave. Suite 200
St. Petersburg, FL 33701

References

NOAA 2007. Fish Stock Sustainability Index: 2007 Quarter 2 Update through June 30, 2007.

Rosenberg, A.A., J.H. Swasey and M. Bowman. 2006. Rebuilding US Fisheries: progress and problems. *Front. Ecol. Environ*. 4 (6), 303-308.

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Shertzer, K.W., M. H. Prager, and E. H. Williams, 2007. A probability-based approach to setting Annual Catch Levels. Appendix E of Rosenberg et al. (2007).

Comments for the commitee:

1) Please get catch history available as soon as possible for current permit holders. Based on Amendment 8, it states that all catch history goes to the new permit owner. Please release the data imediately.
2) The Gag grouper and Vermillion snapper quotas for 2009 shows data for a reduction in total allowable catch. Please try to get this implemented in a 3 year step down quota reduction. For example: Gag do not reduce the full 30% (or whatever the % is) instead reduce it in a step down. In 2009 reduce it 10%, then in 2010 reduce 20%, then year three would be the full intended %. This will allow us to prepare for the reduction by selling boats, selling our permit, or making other important decisions. Please consider this option with great importance.
3) Please do not allow for the indicator species to shut down all species. First of all, it would definately send those who survive this process out of business or in major financial trouble. Secondly, I need to find out if this is even legal through all of our policies. I will work on the legal part.
4) Please do not stop the ability to transfer permits to new individuals. This might be our last ditch effort to sell our quota history. Please give us flexibility in our permits for financial rewards.
5) How can we help participate in the science of your sampling data to help you get what you need. How can we become part of this sampling. Can you find us some serious grant money where we could fish full time for research during the next two years or more? This would give the full scope of our operations in a years time. Could this be an option ? Who can I contact?
6) Can this council request financial assistance for commercial fisherman who are affected by this reduction in Gag/Vermillion quota?
7) Can you get me the names and addresses of all South Atlantic Permit holders in an excel or database format? It has come time and maybe way too late for us all to come together as one group.

All of my requests are practical and can be done. These requests are reasonable and need to be taken very serious for our interests in this fishery. We know that we must do something based soley on your research. So, let's work together so we all survive. Permit reduction will happen with my suggestions. Consolidation will occur, people will chose to exit on thier own, people will have a little more time to get their financials adjusted, and most of all, we can save our resources and our fisherman for future harvests.

Thank you,

Jay" James Curtis Phillips Jr.

843-240-0709 cell ---call anytime

To: South Atlantic Fishery Management Council

In re: Comprehensive Allocation, Amendments 14, 15B, 16, 17, 18, and Mackerel

My name is Dunnie Smith. I reside in Beaufort, North Carolina. I have been a Federal Snapper/Grouper Permit holder since this requirement came into effect. I currently own 2 commercial bandit gear boats and provide employment to 5 people other than myself. The product we harvest also contributes to the economy in far-reaching ways.

At the request of SAFMC for public input on the above-referenced matters and pursuant to participation in that certain Scoping Meeting held in New Bern, North Carolina on or about the 7th day of February, 2008, my response is as follows:

Pursuant to MSFMCA National Standard 4, "If it becomes necfessary to allocate or assign fishing privileges among various United States fishermen, suich allocations shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges." The proposed changes contained in all Amendments, Mackerel and Comprehensive Allocation herein referenced are in violation of National Standard 4. In support of this statement:

(A) fair and equitable to all such fishermen; - Inclusive of all fishermen entitled by law to catch. No discrimination is made between commercial and recreational. There can be no fairness and equity when there is no accurate method in place to determine the number, size and species of fish caught per trip. Commercial fishermen must report number, size and species per trip.

(B) reasonably calculated to promote conservation - Cannot be reasonably calculated when no accurate method is in place to determine recreational catch

(C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges- Cannot be determined whether individuals or an entity, such as an entity to protect and promote recreational fishing, acquires an excessive share of such privileges when no accurate method is in place to determine recreational catch. Commercial fishermen are largely outnumbered by recreational fishermen in all states under SAFMC jurisdiction. For example in Carteret County, North Carolina, 10 boats participate in Snapper/Grouper bandit gear type fishing. Marinas within Carteret County house thousands of recreational boats. This does not include the hundreds to thousands of recreational boats launched at ramps throughout the year. This also does not include recreational fishermen who hire private charters and/or participate on headboats. While not all recreational boats participate in fishing, a considerable number do. It is safe to say that there are thousands of recreational fishermen to the 10 commercial boats herein referenced in Carteret County.

All proposed changes are therefore direct violation of National Standard 4.

Amendment 14 is not needed. Deep Water MPAs are unnecessary because the species being protected in these areas are already protected by quotas and trip limits.

Amendment 15B - Agree with propsal to prohibit sale of recreationally-caught snapper grouper species. This has been needed for years. Recreational, by its own definition is for recreation, not profit. Due to the nature of Snowy Grouper and the area in which they live, deep depth and strong currents much of the time, these are typically more difficult fish to catch on recreational gear. Therefore, at least 95% of Snowy Grouper should go to the commercial sector.

Amendment 16 - The Vermillion Snapper data or method used to conclude that Vermillion Snapper is overfished is in no way accurate. I've been fishing for 20 years and have never seen more or larger (on average) Vermillion Snapper than were caught in the 2007 fishing year by the 10 commercial boats herein referenced. The Council must recount these fish to ensure an accurate count. If these fish are assessed correctly, the Council will see that Vermillion Snapper are in excellent shape! The reduction in the quota of such an economic giant would be devastating to the industry, especially since these fish are very abundant in all sizes!

As to Gag Grouper, my catches have remained fairly steady over the past several years with size and numbers stable.

Amendment 17 - Quotas and catch limits already exist on Snowy Grouper, Gold Tilefish, Black Bass and Red Porgy that help to reduce bycatch. A regional quota for Snowy Grouper would be fine but along with a regional quota and a six-month winter closure the trip limit must be rescinded or at least increased to a reasonble amount. **I wrote in a letter to SAFMC approximately 3 years ago that with the miniscule trip limits the quotas would not be reached and they have not been.** As mentioned previously in this response, Snowy Grouper live in deeper water, often with much current, consequently making these fish a much less dependable catch than shallow water species. Due to water current, weather and erratic feeding patterns of Snowy Grouper, sometimes it is nearly impossible to catch these fish during an entire trip. On certain trips, when conditions are favorable and Snowy Grouper are feeding, we must be allowed to take advantage of these times! In order to do this, we need at least an increased trip limit or the quota with no trip limit.

Amendment 18 - Economics and regulations have already made this industry a limited access venture, not to mention to the 2 for 1 permit exchange, which made it extremely expensive and difficult to get into this industry. In the 20 years I have worked in this industry, I have watched the reduction of the fleet under SAFMC jurisdiction by at least half or more.

Mackerel - Should remain status quo.

Please ensure that this e-mail reaches the proper personnel to address each issue.

I enjoy being a fisherman and am confident that the Council will allow me to remain one!
Thank you.
Dunnie Smith

Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

Golden Tilefish:
I oppose any easing of the regulations and the removal of the 300 lb trip limit. In addition, I oppose any further restrictions of the recreational fishing for Golden Tilefish. Table 4 as attached to the Comprehensive Allocation Amendment shows that over 90% of the landings are commercial. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Black Sea Bass:
I oppose the use of all fishing with pots. This indiscriminate method causes too much damage to untargeted species and lost pots continue to destroy marine resources.

Speckled Hind:
I oppose any further restrictions of the recreational fishing for Speckled Hind. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Warsaw Grouper:
I oppose any further restrictions of the recreational fishing for Warsaw Grouper. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
Tod Howard

Patrick J Magrady

Karl Pappas	Richard Bushey	John E Mountford	Orson Tarver
John D Bauman	Richard McCormick	John FitzGerald	Jon Scholtens
Winter Haven, Fla	Buddy Padgett	Joseph Thomas Stegner	Dave Megregia
Dan Hart			jeff deloche

Corey Bartlett

Kevin S. Reynolds

Brett Duncan

Robert Bradley Londeree

Paul Golub

Sincerely,
Mark Kowalski

Captain Randall S. Austin

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Sincerely,
Glenn M. Smith

Travis Anderson

Thomas A Tison

Robert Sutton

David Eicher

Gregory Snack

james Thompson

Steve Collins
Florida Sport Fishing
Assoc. Vice President

Eric Kubes

Marcus Bradley

Jay farris

Raymond R. Hiltz

William Hyatt

Greg Cordle

John Jervey

Melissa Guzman

Brian Frye

Paul Ramirez

Nicholas S Odom

Carlos Nugent

Lauren DeLucia

Raymond J. Campbell

Greg Oropeza

Michael Seay

Bart Free

Leon G. Vetsch

Don Newhauser
Verniece Newhauser

Ray Hutchinson

Rodney Sahr

Robert McKinney III

Kimberly Duncan

Walter F. Eismann
Sincerely,
John M. Carney

Tim Turner

James Mosier

Dale L Worth
Weighmaster for Central Florida Offshore Anglers

Francis Martin

jeffrey A page

Dale R. Badgett
President
Florida Sport Fishing Association

Stephen H Wolfe Jr

Jim Benard

daryoush payman

rolf kurt fischer

Michael Read

Jorge Perez

Mel Waters

Mark W. Galloway

Capt. Jim Brown

Terry Winn

Tony Ford

Matt Carter

Lee Alexander

Patrick Murphy

Dennis J. Whitted

James M. Frink

linsey h Johnson

brian rimer

John Wacha

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Sincerely,
Michael Charbeneau, I agree with the views of this site

Robert Holt	Luis Casals	Mount This Fish Company
David Conway	Casey Lee Smith	edgar mayorga
JOhn Mines	Greg Gammage	Joseph Bivona
Damien McDermott	Liz Gammage	Trevor A. Melderis
Wesley Toth	Troy Denson - Owner	Chad Troncale

kevin f Johnson

Michael K. Hughes

Sean Halsey

Deirdre Halsey

Zach Metts

Jeff Holliday

Greg Trefz

Jim Bassford

Brady E. Gaughan

tyler foster

John Moscarillo

Paul Klett

Jeff Sevor

Christopher Hudson

Brad Latraverse

terry lee ravenscraft

Richard Rasey

Fred R. Harrell

Susan Wilkerson

John D. Hannan

Dennis Blacwkell

Capt. Jimmy Dolan

William E. Stewart

L.L.TREFZ

Matthew Weisberg

Ken Yancey

Jordan Jinright

jeff theroux

Janie Kowalski

Wade F. Liles

John Olszewski

Bruce Lane

Krista Trefz

Charlie McCullough

John E. Mitchell

Richard Brosseau

Tom Hargrove

claudio Garalde

jim bozung

Thomas G. Floyd

Michael Schimmack

George D. Bolton

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Sincerely,
Denny Topper

Derek Pederson

Mark Filichia

jim markovich

richard e. foster

Jerry Fedele

brian eichenlaub

THOMAS P MCDONOUGH

Mark Lusa

James F. Grebey, Jr.

Jason Burt

Jeff Brown

Chris Kindig DMD

Ian Romero

Randall S. Lang

Tara Shea

Steve Quincy

Mark Harrison

LP

Robert Nieman

Brenton Malchow

Dennis Vocelka

Joe McDermott

Travis Michael Culp

Christopher Collins

David S. van der Meulen

John F. Church

Clark Lachcik

Chad Starling

Josh Huff

rick pino

Steven M. Lehning

andrew cancelmo

David Rounds

James Scott Bradford

Willam Scott Schermerhorn

James Carling

Shawn Grezaffi

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Scott Brooke

Denise Brooke

Megan Ross

Darryl J. Braun

Gary Rauch

Bradley P Grant

Michael Colter

Randy Smathers

S. Todd Tharp

Clint Symons

Captain Ron Wright

Charlie Stephens JR

gary price

Markham D Bowman

Al Rapaport

Captain Michael A.
Cochran

John M. Knight

Dan Dunwoody

Scott Giles

John Barber

Mr Gerard Fogarty

Elizabeth Barber

Michael edmiston,
Scott Miller

R. Williamsen

John B. Jolliff

Roger Kershaw

James Ashcraft

Hans DeKoning

Frank J Kowalski

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I oppose any further restrictions of the recreational fishing for Speckled Hind. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Warsaw Grouper:
I oppose any further restrictions of the recreational fishing for Warsaw Grouper. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
Steven Edmiston

Edward J. Higgins

Paul R. Ewing

Donna Golub

C. Edward Albine

George S. Gaston

Jeff Coutant

Richard Yates

Robert Beliech

matt meyer

Joseph w Huebner Sr

Joe Kaile

Randy Pearce

Robert E Carter

Joey Rodriguez, Sr.

Noah M. Williams

William Hunter Thompson

Robert Nakada

Andy Johnson

Louis Sanchez

Brandon W. Blackmon

Trina M. Polkey

Steve Wilcox

WARD A. BEMISS

SEAN KOBYLARZ

Don Naber

John Laskowitz

Leigh Davis

Eric Fosbender

Matthew E. Pitman

James L Drake

Jessica Barber Brown

KEVIN JOHNS

Richard F Miller

John William

Henry A. Gowing Jr.

mike greene

perry greene

Jason Joyce

Zack Forrestal

Brian Mather

alexander leach

Tim Steuber

Paul Schumacher

Jason Velleff

alexander leach

Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

Golden Tilefish:
I oppose any easing of the regulations and the removal of the 300 lb trip limit. In addition, I oppose any further restrictions of the recreational fishing for Golden Tilefish. Table 4 as attached to the Comprehensive Allocation Amendment shows that over 90% of the landings are commercial. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Black Sea Bass:
I oppose the use of all fishing with pots. This indiscriminate method causes too much damage to untargeted species and lost pots continue to destroy marine resources.

Speckled Hind:
I oppose any further restrictions of the recreational fishing for Speckled Hind. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

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Sincerely,
Robert P. Sallas III

Harvey N. Moss

G. Stephen Hiers

John Crickenberger

Michael J Beckmann

Donald S. Trauthwein

Aaron Kunsberg

Tim totaro

joshua bessette

David Barber

G L Spears

Lori Bessette

Lori Barber

Michael Murphy

alexander Crandall

Peter Fatizzi

Jean Gasperoni

GARY PHILLIPS

Karl P Pappas

Kendall W. Allen

javier Sandoval

Paul Parson

Dawn and Paul Partlow

Donald Henley

Paul Westmoreland

Mikal Hale

Michael R. Ansay

Robert W Knight

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Sincerely,
Larry Hirt Jr

scott Maresca

james daniel keonitzer

Robert C Minotti Deland, FL

Chris O'Kelley

John Donaldson

Jack Bergquist

Erica L. Byda

Dear sirs,

My name is Robert Harrison. I own and operate the fishing vessel Prowler. I live in Hatteras, NC and I have a snapper/ grouper permit.

Everything in this amendment seems to be a good idea to me except for one part. Closing snowy grouper for half the year would cripple me, I am very dependant on this fishery in Jan- Mar. I realize that Tillman Gray and Jeff Oden asked for this. They are very wealthy and greedy men that do other things in the winter (ski, surfboard, hunt etc.). Closing the fishery for six months would benefit them and hurt the rest of us. Please do not do it.

OWEN A. KOGAN
1127 MANATI AVE CORAL GABLES, FL 33146

To: National Marine Fisheries Service N.M.F.S.

Owen A Kogan
2-4-08
305-665-3785

Good fisheries management requires knowing the fowling.
How much is being taken.
From where it is being taken.
When it is being taken (in real time).
Who is taking it.
Note: Every other federal recourse regulator knows this!
Ex: fossil fuels, lumber, minerals, etc.

Recourse fish harvest data must be 100% verifiable in real time!
[No honor systems, No loop holes, Not negotiable]
Means: All commercially licensed fishing boats must have real time GPS tracking transponders with their license ID encoded.
Note: this will stop falsified logs.
Means: All fish sales at end of trip must be electronically entered to the NMFS database at the time of sale. License must be in an electronic credit card type format.
Note: This will stop falsified trip ticket scams.

BREEDING STOCK PROTECTION ACT
Large snapper species, Large grouper species, Amberjack, Cobia
Definition. : Large snapper species are all snappers that grow to over 10 pounds.
Exception: (pan fish) yellow tail, mangrove, lane, etc.
Definition: Large grouper species are all groupers that grow to over 20 pounds.
Exception: (pan fish) strawberry, rock hind, coney, etc.
Definition: Any of the above that meet the fowling requirements.
Slow growing: lives more than 5 years.
Must grow 2 years or older to reach spawning size.
That has reached 40% or more of their maximum size.
Ex: If a black grouper grows to average maximum size of 100 pounds. Then a 40 pound or larger black grouper is a breeding stock fish.
Must be redefined as a game or trophy fish.
Commercial harvest must not exceed the recreational bag limit!

SPAWNING PROTECTION MANAGEMENT for BREEDING STOCK FISH ACT.
Closing the following each month: before, during, after the spawning season.
Note: this is 3-month closure.
NO commercial harvest
NO sales
NO importation

BY- CATCH REDUCTION ACT.
Outlaw any method or means that kills or severely harms more than 20% of non-legal sized fish caught.
Ex: Bloated trap-caught fish from deep water suffer sever harm and may not survive after being release.

A good commercial reef fishing method.
Hook & line fishery targeting reef pan fish: yellow tail, mangrove, lane, small to medium sized mutton snappers, strawberry, rock hind, small to medium sized red and scamp groupers.

Reef pan fish bring the highest market prices.
Grow and reproduce very quickly.
Require the least expense and overhead to catch.
Bring the highest profit margins.
Have minimum recourse impact.
Low by-catch mortality rate.
Environmentally correct.

SYSTEM: FOR REPORTING VIOLATORS.
Use a system designed after [U.S. CUSTOMS 1-800-BEALERT]

Post it very publicly, broadcast it, etc.
Offer large rewards.
This will get the public involved on the side of the law.

Ex: Earn some extra money by busting a crooked fishing operation or a crooked fish house.

ENEORCEMENT
Zero tolerance for any violation involving any of the following: fraud, falsifying, conspiracy, and deception.

It is one strike and you are out!
Prosecution under R.I.C.O. and any or all other severe criminal and civil federal laws.
Revoke and forfeiture of license.
Forfeiture of boat and gear.
Forfeiture of assets.
Heavy fines.
Prison

Enforcement of lessor fisheries violations that do not involve fraud, falsifying, conspiracy, deception.
Ex: violations involving unlawful fish catches.
Fine + [surcharge = 10 x Retail value of unlawful fish involved] on 1st. Violation.
2nd = 20 x
3rd = 50 x
4th = 100 x
5th = LICENSE REVOKED

Outlaw charter boats commercially licensed or otherwise from selling fish caught by paying parties. Selling of fish by charter boat crews is more than just a conflict of interest.

It is a form of greed at its worst that more than gives the sport fishing industry a black. eye.

It may not be reported on taxes (IRS cheating).

It corrupts and brings ethics to an all time low in the sport fishing industry.

It raises serious issues about employment insurance, employment taxes, workman's comp, etc i.e. who is working for who.

It puts unnecessary stress on the recourse.

If the charter boat's crew is commercially licensed to sell fish then they can do it on their own time and money.

Note: This law would be easy to enforce by undercover sting operations.

Note: Sentencing with severe fines will be a good fix to this problem.

NOAA NMFS fisheries management needs to the following.

1) Get the fox out of your hen house ASAP.
2) Stop influence buying &. Corruption and stop accepting money from the industry that you regulate.
3) No ENRON agendas
4) Fire your bureaucrats that are so crooked they can hide in the shadow of a corkscrew.
5) Hire smarter employees than the I.N.S. bureaucrats who approved the 9-11 terrorists flight school student visas 6 months after the fact.
6) Tell the commercial fishing industry that a federal commercial fishing license is a privilege not a right! Order the commercial fishermen to fish the right way, or get their licenses revoked and hit the hi-way.
7) When government does not represent or respect its citizens its citizens may not recognize it. Do your fucken jobs right or we may have a 1776 tea party on your ass.
8) We can tell when bureaucrats are lying because their lips are moving. Remember your actions speak louder than your words.
9) If you are not part of the solution, then you are the problem!

Rob a bank and go to jail.
Rob a reef and get caught and laugh all the way to the bank!

Re: year 2000 & 2001 Key Largo fish trap scam.

Who: 2 large commercial boats out of Ft. Laud. Fl.

What: Using federally licensed lobster trap gang lines of about 10 lobster traps each attached to and used to conceal outlawed fish trap gang lines of equal or more traps. The floats had the federal permit numbers imprinted on them.

Where: Upper Florida keys including Key Largo in federal waters at depths of 180 feet out to 300+ feet around wrecks ledges and deep reefs.

Result: Destruction in excess of 80% of black, gag, red groupers and mutton snappers that recovered since the 1990 ban on Atlantic fish traps!

Enforcement: Florida state law enforcement busted the 2 violators numerous times over a 1-½ year period. Then each time the federal fisheries took the cases away from the state and dropped all charges.

Conclusion: Who in the federal fisheries is being paid protection by the violators and how much?

305-788-9509
CELL phone

February 19, 2008

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

Re: Annual Catch Limit (ACL) and Accountability Measures (AM) Amendment 17 to the Snapper-Grouper FMP and Species Removal from Management Units

Dear Mr. Mahood,

On behalf of The Marine Fish Conservation Network (Network), I welcome the opportunity to provide the following comments on the annual catch limits (ACLs) and accountability measures (AMs) required by the Magnuson-Stevens Reauthorization Act of 2006 (MSRA).

The MSRA of 2006 requires science-based, enforceable catch limits and accountability measures for all federally managed fisheries. The MSRA of 2006 requires all regional fishery management councils to set enforceable catch limits based on recommendations of the councils' science advisors. The clear intent of Congress is to end overfishing by requiring catch limits and accountability measures.

The Network applauds the Council's efforts to seek public comment on this critical provision of the law and to consider a wide range of issues relevant to setting annual catch limits, including the need for precautionary buffers between ACLs and Overfishing Level (OFL), the means by which ACLs may be set in data-poor situations, the need for corrective actions when catch limits are exceeded, the types of accountability measures which should be approved for use by fishery managers, and so on.

The highest priority in the MSRA was to strengthen the MSA to ensure an end to overfishing.[1] Catch levels must be based on unbiased scientific advice, end overfishing and allow timely rebuilding of overfished stocks.

We recognize the real difficulties involved in setting catch limits indexed to uncertain biological reference points corresponding to Maximum Sustainable Yield (MSY), as NMFS cautioned in the NS1 Guidelines of 1998.[2]

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Uncertainty plays a large role in the scientific assessment of fish stocks even in relatively data rich situations, and it must be addressed in the setting of annual catch limits. Uncertainty in fishery stock assessment advice must not be an excuse to avoid setting catch limits but rather a reason to set highly precautionary catch limits. Thus the Council must recognize the need to provide buffers and margins of error to account explicitly for uncertainty in underlying fishery data and fluctuations in environmental conditions. A system of explicit decision rules based on levels of information available for managed stocks should provide clear guidance on setting ACLs, including rules for setting ACLs in data-poor situations when stock status relative to MSY (or proxy for MSY) is unknown. A precautionary approach to implementing NS1 and setting annual catch limits should include the following guidelines:

- ACLs must be science-based and may not exceed the limits recommended by the Councils' Science and Statistical Committee (SSC), in keeping with MSRA Section 103(c)(3).

- ACLs should be set at a level that has a high probability (e.g., 90%) of not exceeding the overfishing level (OFL).

- ACLs should account for all sources of fishing mortality for each managed species or stock assemblage, including all discards in the fishery and bycatch mortality in other fisheries.

- ACLs should be set for identified forage fish species which ensure that these species remain available to other consumers in the food web, including other managed species on which fisheries depend.

- Spatial and temporal management of fishing effort should be an integral part of effective catch-limit management. Measures that disperse fishing effort across subpopulations of a defined "stock" should, if employed, aim to avoid serial depletion of spatially discrete subpopulations which may undermine the productivity of the "stock as a whole."

- Accountability Measures must go hand in hand with ACLs. AMs are required to ensure that catch limits are enforced and that performance can be measured relative to goals for ending overfishing. Regular scientific review of the efficacy of management measures employed in each region is critical to ensuring that AMs are effective and working as intended. Their performance should be measurable and demonstrable or they should be modified accordingly.

➢ Forage Fish

The Marine Fish Conservation Network seeks inclusion of explicit methods and procedures for reducing optimum yield and annual catch limits to account for and

preserve the keystone role of forage fish species as food for other species in the marine food web in the Comprehensive ACL Amendment being considered by the Council. The current Amendment process presents a unique opportunity to incorporate new forage fish conservation criteria into Council guidelines on overfishing and promote wider application of ecosystem-based principles in fishery management.

Currently there is no explicit policy or regulatory framework within U.S. fishery law to ensure that there are adequate supplies of forage fish in the ocean. The keystone role of forage fish in marine food webs is not considered in conventional single-species fishery stock assessment advice and is not reflected in the annual catch limits for these critical species, which are targets of some of the largest commercial fisheries in the United States and the world. In other words, catch limits do not account for the needs of predators or other ecosystem-level considerations.[3]
Target species are treated in isolation from their relation to the rest of the ecosystem:

> "*…a single species approach to setting allowable catches largely ignores interactions between a target species and its competitors, predators, and prey*."

Forage Fish and the Shortcomings of MSY-based reference points from an ecosystem perspective
NS1 guidelines defined MSY as "*the largest catch which the stock can sustain, on average, over a long period of time, given current ecological and environmental conditions*."[4]
The key reference levels for MSY are the rate of fishing mortality that will theoretically yield MSY ($\mathbf{F_{MSY}}$) and the quantity of spawning stock that will theoretically produce MSY ($\mathbf{B_{MSY}}$) if one has been fishing at F_{MSY} over a long period. Although the adoption of MSY as a yardstick of overfishing was intended to prevent managers from exceeding the limits of a fish stock's long-term productivity, the National Standard Guidelines cautioned that MSY is very difficult to achieve for a variety of reasons and "*a theoretical concept rather than an empirical one*."[5] The effects on predators of fishing down their prey stocks by 60% on average (and more than 60% at any given time), is not considered.

MSY embodies a resource conservation philosophy that values the oceans primarily for extraction ("harvest") and sustainability is defined in terms of productive output ("yield") for fisheries, not protection of natural ecosystems or the integrity of marine food webs.[6] Conceptually, MSY is concerned principally with production of renewable natural resources for human use. The MSY procedure simply *assumes* that any fish above the theoretical replacement line needed to maintain the stock size at a given level (B_{MSY}, or proxy, in this case) is simply a "surplus" for fisheries. In an ecosystem context, however, there may be no "surplus" for man to take, because removing large quantities of forage fish biomass will leave less food in the water for competing predators.

The MSA's definition of Optimum Yield (OY) acknowledges the importance of protecting ecosystems but guidance is needed to explain *how* to reduce catch levels to preserve the ecological role of forage fish in their respective food webs

The MSFCMA, Sec. 301 (National Standards), stipulates that, "conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery." 16 U.S.C. 1851. The Act's definition of optimum yield (OY) acknowledges the importance of protecting marine ecosystems and authorizes downward adjustments from the maximum allowable fishing rate "as reduced by any relevant economic, social, or ecological factor," but guidance is needed to explain *how* to reduce catch levels to preserve the ecological role of forage fish in their respective ecosystems.

Why forage fish? They are "fuel for the food web" as well as targets of large industrial fisheries. The issue of how to allocate forage fish among predators and fisheries comes up in the management context, but there are no explicit guidelines for addressing the importance of forage fish to ecosystems. The boom in aquaculture is putting increased pressure on forage fisheries to expand in order to supply feedstock for farmed fish, among other uses, lending urgency to the need for action. As a step toward integration of ecosystem-based management objectives in fishery management, NS1 guidelines should recognize the special role that forage fish play and provide guidance on how to account explicitly for the needs of predators when setting catch limits so that adequate prey are available for fish, birds, and mammals.

Current fishery management practices focus largely on maximizing yield to the fishing industry without accounting directly for ecosystem needs and food web impacts.[7] The $F_{40\%}$ policy outlined by NMFS in the NS1 Guidelines of 1998, for instance, is a single-species fishing mortality strategy which aims to reduce the spawning stock biomass 60% from its unfished level (on average),[8] and as such it does not account directly for ecosystem needs and food web impacts. In a review of the Alaska region's use of the $F_{40\%}$ policy prepared for the North Pacific Fishery Management Council, Goodman *et al*. (2002) maintained that $F_{40\%}$ is intended to provide a small buffer (5%) between OFL ($F_{35\%}$) in a conventional single-species context but is not explicitly considerate of ecosystem concerns[9].

To address these shortcomings, the any ACL amendment should reduce OY/ACLs from the maximum allowable MSY level in a precautionary manner to preserve the ecological role of forage fish, a procedure expressly sanctioned in the existing MSA definition of Optimum Yield. Under this approach, ACLs for identified forage species would be set at this reduced OY fishing level, based on a corresponding fishing mortality rate ("F_{OY}" as opposed to F_{MSY}) aimed at retaining a larger stock biomass on average ("B_{OY}" as opposed to B_{MSY}).

These proposed reductions represent a step toward integration of ecosystem-based management objectives in fishery management, based on the special role that forage fish play in marine food webs. They are intended to preserve the prey base of predators when setting catch limits so that adequate prey remain in the water to feed other fish, birds, and mammals. They are consistent with the findings of the National Research Council's Committee on Ecosystem Effects of Fishing, Phase II (NRC 2006), which concluded that if the United States is to manage fisheries within an ecosystem context, food web

interactions, life-history strategies, and trophic effects will need to be explicitly accounted for when developing fishery harvest strategies.[10]

The Amendment should include:

- Criteria for forage fish classification in the guidelines
- Identification and definition of "forage fish" through existing FMPs or new Forage Fish Plans
- Establishing a forage fish minimum stock size threshold (MSST, the stock size below which a stock is considered overfished) at B_{MSY} (as opposed to ½ B_{MSY}) in order to leave more forage fish stock in the water on average by starting rebuilding sooner
- Requiring that target reference points, such as OY or ACL, be safely set below limit reference points, in order to provide a precautionary buffer and adequate margin of safety between MSY (the overfishing level, OFL) and OY/ACL. In the absence of better information, a more conservative limit (maximum) fishing mortality rate such as $F_{75\%}$ should be employed instead of conventional F_{MSY} or proxy such as $F_{40\%}$ – in effect, an optimum yield (OY) reduced to account for ecological considerations
    - ✓ $F_{75\%}$ or other conservative proxy equates to "F_{OY}" and is the basis for setting the ACL
- Establishing precautionary buffers between OY and MSY that consider uncertain effects of climate variability and climate change on target forage fish stocks, along with other uncertainties in data and stock assessment advice

➢ **Variability in data currently available for each stock (data poor vs. data rich)**

In complying with the reauthorized MSA, ACLs will have to be set across the range of data quality situations. In data-poor situations, stock abundance is unknown and/or stock status with respect to overfishing and overfished criteria is unknown. In data-rich situations, information is available to estimate stock abundance and make stock status determinations relative to overfishing criteria. One example of a system of control rules used to set annual catch limits in situations where different levels of data are available for different stocks comes from the Alaska Region, in which a 6-tiered system of control rules and catch limit criteria provide a basis for setting ACLs in data poor situations (Tiers 4-6) as well as data-rich situations (Tiers 1-3):

Tier 1 – Reliable B, B_{MSY}, and probability density function of F_{MSY}
Tier 2 – Reliable B, B_{MSY}, F_{MSY}, $F_{35\%}$, $F_{40\%}$
Tier 3 – Reliable B, $B_{40\%}$, $F_{35\%}$, $F_{40\%}$
Tier 4 – Reliable B, $F_{35\%}$, $F_{40\%}$
Tier 5 – Reliable estimates of biomass (B) and natural mortality (M)
Tier 6 – Reliable catch history data

This is only one example of how catch limits can be set for fisheries exploiting stocks whose status relative to MSY or proxy SPR% is unknown, but it illustrates that it is practicable to set numeric catch limits across a wide range of data quality situations.
In general, the less that is known about a stock's status relative to overfishing criteria, the more conservative and precautionary catch limits should be. The Southeast Fisheries Science Center at the Beaufort Lab designed a similar system in 1999 where Level IV stocks are those with no available benchmarks, and catch based on landings history.[11]

- **Setting ACLs for stocks with unknown status**

In instances of a new fishery or significant new fishing effort, a strictly precautionary approach would set catch levels at zero until adequate information is available to assess the status of the stock. This provides an incentive to gather scientific information before significant new fishing is authorized. The intent is to avoid the vicious cycle of boom and bust fisheries. An example is the monkfish fishery of the Northeast and Mid-Atlantic regions during the 1990s, which expanded rapidly in the early 1990s without a management plan as groundfish fleets shifted their effort from overfished cod, haddock, and flounder stocks. Although the monkfish stock initially appeared robust and catches soared to record levels in the history of the fishery, it was apparent by the late 1990s that monkfish was in trouble. In 1999, concurrent with the adoption of a monkfish fishery management plan, the stock was considered overfished and the councils were forced to adopt a rebuilding plan. If a fishery is already fully developed and if the stock productivity does not show obvious signs of impairment but information is lacking to assess the stock relative to the reauthorized MSA's overfishing criteria, ACLs may be based on alternative criteria such as setting ACL as a percentage or average of catches from prior years (as is done for Tier 6 stocks in the Alaska region) or based on available estimates of biomass and natural mortality (as is done for Tier 5 stocks in the Alaska region). If the status of a stock relative to overfishing criteria is unknown (as assumed by NMFS's definition of "data poor" situations), even more precaution is warranted than that advised in earlier NMFS Technical Guidance.[7]

Bottom line: the greater the uncertainty, the greater precaution which should be required in setting catch limits.

- **Setting ACLs for stock complexes, stock assemblages, and similar stock groupings**

In instances where multiple species are treated as one "stock" for management purposes, catch limits should be based on the species within the stock assemblage with the lowest productivity and the catch limit should include the bycatch mortality of that species in all fisheries.

ACLs should account for all sources of fishing mortality for each managed species or stock assemblage, including bycatch and discard mortality in the fishery and all other fisheries. If fishery observer data are not available to estimate the quantity of the directed fishery catch/discards as well as bycatch mortality in other fisheries, estimates should be

developed based on the best available information from stock assessments, fish tickets, logbooks, research programs, etc.[8]

- **Setting a buffer between ACL and OFL to prevent overfishing, and how to determine the size of the buffer needed**

The inherent uncertainties associated with estimations of MSY and overfishing for wild fish stocks require fishery managers to set an annual catch limit that is less than the overfishing level (i.e., ACL < OFL) in order to provide a buffer against this uncertainty. The revised NS1 Guidelines on ACLs should provide clear guidance on appropriate buffers to account for uncertainty in the scientific advice, and to address ecosystem considerations which are not explicitly addressed in conventional single-species thresholds indexed to MSY.

In general, larger buffers between ACL and OFL are necessary than those recommended in the existing NS1 Guidelines. For example, the final rule for National Standard 1 guidelines cited sources in the fishery science literature to the effect that the single-species stock size at MSY is approximately 40% (range 36.8% to 50%) of the unfished or pre-exploitation stock size – i.e., $B_{40\%}$, the proxy for B_{MSY}.[7] This approach is sometimes referred to as the "$F_{40\%}$ policy," which is to say the *rate* of fishing mortality that will theoretically approximate the yield at MSY by reducing the quantity of spawning stock to only 40% of its unfished size on average ($B_{40\%}$) if one has been fishing at $F_{40\%}$ over a long period.

The basis for this policy comes from studies of Clark (1991, 1993), who proposed $F_{35\%}$ (i.e., the fishing mortality rate that reduces the spawning potential per recruit to 35% of the unfished level, or "$B_{35\%}$") as a surrogate for F_{MSY} but subsequently recommended a slightly more conservative $F_{40\%}$ mortality rate to account for uncertainties. Mace (1994) recommended $F_{40\%}$ as a conservative proxy for F_{MSY} and the $F_{40\%}$ policy has been used as a default fishing mortality rate for stocks with unknown productivity parameters (i.e., MSY unknown) in the Alaska and Pacific
regions.[8]

As noted at the West Coast Groundfish Harvest Rate Policy Workshop of 2000, however, $F_{40\%}$ is not necessarily an appropriate exploitation strategy for long- lived rockfish off the West Coast. In that instance, scientists have recommended a more conservative $F_{50\%}$ fishing mortality rate (i.e., target biomass = 50% of unfished stock size, or $B_{50\%}$) to account for differences in life history. Changes in the environment affecting productivity may also require more conservative fishing mortality strategies in times of lower productivity. Thus a "one size fits all" approach to catch limits is not appropriate for all species and situations. A default fishing mortality rate that may be deemed conservative for some species in a narrow single-species context may be too aggressive for others, or may be inappropriate under prevailing environmental conditions.

The $F_{40\%}$ policy outlined by NMFS in the NS1 Guidelines of 1998 is a single-species fishing mortality strategy which aims to reduce the spawning stock biomass 60% from its

unfished level (on average), and as such it does not account directly for ecosystem needs and food web impacts. For instance, NMFS has elsewhere said that the goal of MSY-based, single-species exploitation strategies is to remove fish before they are "lost" to natural mortality by other ecosystem consumers.[9] In a review of the Alaska region's use of the $F_{40\%}$ policy prepared for the North Pacific Fishery Management Council, Goodman *et al*. (2002) maintained that $F_{40\%}$ is intended to provide a small buffer (5%) between OFL ($F_{35\%}$) in a conventional single-species context but is not explicitly considerate of ecosystem concerns:

> "*The $F_{40\%}$ approach to estimating the ABC, by itself, is inherently a single species approach. It is thought that for most of the target species in the FMP, a fishing mortality rate of $F_{35\%}$ would be appropriate for achieving long-term catches near MSY, under the condition of an unchanged oceanographic regime…That the actual target fishing rate is $F_{40\%}$ rather that [sic] $F_{35\%}$ creates some additional margin of safety, from a single-species perspective, for target species excluding rockfish. The decision to use $F_{40\%}$ rather than $F_{35\%}$ was deliberately protective, and was intended to function as a buffer against several sources of uncertainty, including the concern that theoretical models have shown that managing each species for its single species MSY will not achieve MSY for the aggregate. Nevertheless, it is not clear how much of the margin between $F_{35\%}$ and $F_{40\%}$ was 'allocated' to ecosystem considerations. Nor was a calculation carried out to demonstrate what amount of escapement is needed for ecosystem purposes, or to assess whether the margin between fishing at $F_{35\%}$ and $F_{40\%}$ supplies this amount*."[10]

➢ **Establishing the appropriate probability that an ACL will prevent overfishing for a stock**

By their very nature, fishery stock assessments include a probability that an annual catch limit does not exceed the overfishing level. Usually there are very large error bounds around point estimates of acceptable catch. Therefore, to the extent practicable, annual catch limits should be set at a level that has a high probability of not exceeding the overfishing level (e.g., 90 percent). If data are lacking to prepare a stock assessment and estimate the probability that a given ACL will exceed OFL, catch limits should be reduced accordingly as addressed above for data-poor situations.

➢ **Establishing recommendations for in-season management authority and methods to be used as AMs to prevent overfishing**

The intent of accountability measures is to ensure that fisheries are complying with catch limits intended to prevent overfishing and to rebuild overfished stocks. AMs are required to ensure that catch limits are enforced and that performance can be measured relative to the goal of preventing overfishing. In our public scoping comments on ACLs and AMs last year, the Network called for NMFS to outline the range of AMs in the revised

National Standard 1 Guidelines. It is the Network's position that measures adopted in a given region must be approved by the Secretary of Commerce. Regular scientific review of the efficacy of management measures employed in each region is also critical to ensuring that AMs are effective and working as intended. Their performance should be measurable and demonstrable, or they should be modified accordingly.

The Network acknowledges the difficulty of monitoring catch in some fisheries. However, we believe it would be a mistake for the council to rely exclusively on trip limits, bag limits, closed areas and other effort-based measures as substitutes for enforcing catch limits in the recreational fishery, since the widespread failure of these measures to prevent overfishing was a prime motivating factor in Congress' inclusion of ACLs and AMs in the MSRA. Similarly, the use of moving averages of catch in data-limited fisheries (such that overages in one year or season are not deducted from the subsequent year or season until the catch is evaluated over multiple years, e.g., three years) is generally ill-advised. We suggest that if the MRFFS survey provides fluctuating catch, that the highest landings in a particular time-frame be used, instead of an average in order to more accurately represent the recreational catches.

Accountability measures will necessarily be fishery-specific, but some general principles apply to all fisheries:

1) **Precautionary setting of target ACLs below the maximum permissible level (overfishing level) as a proactive measure to avoid overfishing**. Providing an adequate buffer between ACL and OFL is the first line of defense against overfishing. Given the unavoidable uncertainty associated with scientific advice, we do not believe there is any circumstance in which it makes sense to set the ACL equal to OFL. Such policies have been characterized as "fishing at the margins," and they almost guarantee that overfishing will occur. A larger buffer between ACL and OFL will ensure that the risk of exceeding OFL is minimal.
2) **Inseason management actions to prevent reaching or exceeding the ACL**. Measures such as making adjustments in trip limits to reduce effort when approaching a limit and closing a fishery once it has reached a catch limit are preferred over actions taken retrospectively. Wherever information is available to close a fishery when it has reached a limit, the council should do so. Since there is an inevitable time lag between a decision to close the fishery and the actual halt to fishing, inseason managers should initiate action to close the fishery as it approaches the limit and not wait until after the limit has been exceeded.
3) **Corrective post-season management actions to address overages of the ACL after they occur.** If a fishery or fishery sector exceeds its catch limit, the amount of the overage(s) should be deducted from subsequent fishing seasons. If individual ACLs are established for each sector of a fishery, any deduction of overages should come from the sector which exceeded its limit in order to avoid penalizing those sectors of a fishery that stay within the allocated catch limit. The use of multiple-year averages of catch (e.g., three-year moving average) incurs a high risk of overfishing and should only be considered in extremely limited

circumstances in data-poor fisheries in which catch limits have been set at very low levels and in which there are no available alternatives.

- **Species Removal from Management Units**

The Council has indicated in public scoping material that it is considering the removal of species from Fishery Management Plans. We understand that there may be extenuating circumstances surrounding specific fish species that may justify their removal from management units, however the Council must not remove species simply to avoid the task of setting catch limits. Any species with no landings history in the region's federal waters, can be assigned a catch limit of zero as an alternative to dropping that species from the Plan. We look forward to a robust scientific discussion of the merits of such a decision.

- **Conclusion**

The Network is pleased that the Council is taking up an ACL amendment. The purpose of the amendment, to establish clear standards for establishing ACLs that are based on sound science and for ensuring that ACLs are set in an efficient consistent way, is a positive step. We look forward to working with you throughout this amendment process so that our nation's fishery resources are sustainably managed. Thank you for your time and consideration.

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[1]Annual Catch Limits (ACLs) and Accountability Measures (AMs): Requirements of the 2006 Amendments to the Magnuson-Stevens Act (MSA). Public information handout prepared by NMFS Office of Sustainable Fisheries, Silver Spring, MD. March 14, 2007.

[2] NMFS 1998, 63 FR 24215.

[3] Lowell W. Fritz, Richard C. Ferrero and Ronald J. Berg. The Threatened Status of Steller Sea Lions, *Eumetopias jubatus*, Under the Endangered Species Act: Effects on Alaska Groundfish Fisheries Management. Marine Fisheries Review 57(2), 1995: pp. 14-27.

[4] NMFS NS1 Guidelines (1998): 63 FR 24216.

[5] NMFS 1998, 63 FR 24216.

[6] See, for example: J. Baird Callicott. Beyond the Land Ethic: More Essays in Environmental Philosophy. State University of New York Press, 1999, p. 369: "*One primary desideratum of resource conservation is to achieve sustained yield of these renewable resources – be they Douglas firs, white-tailed deer, or sockeye salmon. Biotic communities and ecosystems are valued only incidentally. If their existence is acknowledged at all, they are treated as the machinery that produces the goods*."

[7] See, for example, NMFS Section 7 Consultation on Steller sea lions and Alaska groundfish fisheries ("FMP BiOp") at p. 225: "In effect, fisheries remove fish from the population before they are 'lost' to natural mortality (e.g., other consumers of groundfish)."

[8] NMFS NS1 Guidelines, 1998: 63 FR 24230, amending 50 CFR 600.310(c)(3).

[9] Daniel Goodman (chair), Marc Mangel, Graeme Parks, Terry Quinn, Victor Restrepo, Tony Smith, and Kevin Stokes. Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Fishery. Draft report prepared for the North Pacific Fishery Management Council, Nov. 21, 2002: pp. 7, 121.

[10] National Research Council, Committee on Ecosystem Effects of Fishing, Phase II. Dynamic Changes in Marine Ecosystems: Fishing, Food Webs, and Future Options. National Academies Press, Washington, D.C. (2006). 160 pp.

[11] Southeast Fisheries Science Center, 1999. Control Parameters and Alternatives for Control Rules for Selected Stocks Under the Jurisdiction of the South Atlantic Fishery Management Council.

1. No Action
2. Wasn't the SAFMC supposed to wait on the earbone data
analysis to accurately determine if a fishery was overfished?
3. No fishery is actually overfished...
there are not enough fishermen left to overfish a fishery!
4. If there is a problem it is coming from pollution and global warming
evidently those things cannot be regulated...but the fishermen can.
5. We do not agree on the proposed reduction of the TAC
plus quotas = closures
plus spawning closures
plus seasonal closures
6. It is all way too much regulation especially when it is not proven fact that overfishing is actually going on
7. The proven fact is that there are more fisheries management
personnel than fishermen...
8. Too bad there cannot be a quota put on you all...
maybe our congressmen need to work on that!

RUNNERS SEAFOOD
4824 - Highway 24
Morehead City / Newport, NC 28570
252-393-8474

Written Comment on Amendment 15

1. No Action as is

2. Wasn't the SAFMC supposed to wait on the earbone data
analysis to accurately determine if a fishery was overfished?

3. No fishery is actually overfished...
there are not enough fishermen left to overfish a fishery!

4. If there is a problem it is coming from pollution and global warming
evidently those things cannot be regulated...but the fishermen can.

5. We do not agree on the proposed reduction of the TAC
plus quotas = closures
plus spawning closures
plus seasonal closures

6. We do not agree with the regulations in place on red porgy period.
Much less any new ones!
It should have been opened back up instead of a 120 fish rule...
as it is not nor has it ever been overfished.

7. We do not agree that snowey grouper is overfished
Just because one boat hit the mother load a few times!

8. If potting had never been allowed,
there wouldn't be any problems in the bass fishery...
haven't you cut that out yet?

9. Hook and line bandit fishing is the only fair game fishing!

10. 1000 lb limit on each species, each trip, for each commercial
permit holder would create a sustainable fishery and a sustainable
fisherman!!!!!!

RUNNERS SEAFOOD
4824 - Highway 24
Morehead City / Newport, NC 28570
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Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

Golden Tilefish:
I oppose any easing of the regulations and the removal of the 300 lb trip limit. In addition, I oppose any further restrictions of the recreational fishing for Golden Tilefish. Table 4 as attached to the Comprehensive Allocation Amendment shows that over 90% of the landings are commercial. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Black Sea Bass:
I oppose the use of all fishing with pots. This indiscriminate method causes too much damage to untargeted species and lost pots continue to destroy marine resources.

Speckled Hind:
I oppose any further restrictions of the recreational fishing for Speckled Hind. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Warsaw Grouper:
I oppose any further restrictions of the recreational fishing for Warsaw Grouper. Recreational fishing has an insignificant impact on this species and any further restrictions are unnecessary, and will have little impact on restoring this species. The proposed changes only make the allotment more unfair and in further violation of the Magnuson-Stevens Act.

Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
My name is Theo Mitchelson. It would be typical government slight-of-hand to further restrict the recreational fishery, when the problem of overfishing has long been demonstrated to be a primarily Commercial Fishery result. Without attacking the true

source of the problem, there will be no positive result, and the SAFMC will have abdicated the responsibility with which it has been charged.

Snowy Grouper:
I STRONGLY oppose all of the proposed actions and changes to the current recreational regulations. Table 3 as attached to the Comprehensive Allocation Amendment clearly shows that the overwhelming majority of the landings are commercial not recreational. In order to restore Snowy Grouper stocks to sustainable harvest levels, any changes to the regulations must be made to the commercial sector prior to any consideration of further tightening of the recreational regulations. The proposed changes only make the allotment more unfair to the recreational anglers and in further violation of the Magnuson-Stevens Act.

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Proposed changes to data collection:
Complete and accurate data is one of the cornerstones of responsible fisheries management and I STRONGLY approve of the changes and encourage the SAMC to implement these changes as soon as possible.

Sincerely,
Raymond Narushko, 4611 Almnark Dr. Orlando, Fl. 32839. It ap[pears that the spiort fishery is gtoing to take another hit. It is very obvious that the sport fishing industry supplises agreater financial boost to the industry than the commercial industry. I support

the present restrictions. The commercial industry has devested the fishing industry and they are just looking to further this same policy again.

Ocean Conservancy
Advocates for a Wild, Healthy Ocean

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

February 20, 2008

Re: Scoping of Draft Amendment 17 to the Snapper Grouper Fishery Management Plan to Reduce Fishing Mortality, Establish Rebuilding Plans, and Set Annual Catch Limits and Accountability Measures for Selected Snapper Grouper Species of the South Atlantic

Chairman Geiger,

On behalf of the Ocean Conservancy,[1] we submit the following comments regarding the development and scoping of the South Atlantic Fishery Management Council's (SAFMC) Draft Amendment 17 to the Snapper Grouper Fishery Management Plan (Amendment 17) to develop annual catch limits (ACLs) and accountability measures (AMs) for snapper grouper species identified by the Secretary of Commerce as undergoing overfishing and to address issues identified in SEDAR 15 and 15a stock assessments for red snapper, greater amberjack and mutton snapper as appropriate. In light of legal requirements governing the timely implementation of management measures to end overfishing and rebuild overfished species and the new Congressional directives to end overfishing once and for all via these annual catch limits, it is critical that the SAFMC and the National Marine Fisheries Service (NMFS) end any overfishing immediately, timely rebuild fish stocks, and carefully analyze the various methodologies by which ACLs and AMs can be set.

ANNUAL CATCH LIMITS AND ACCOUNTABILITY MEASURES
Background: The Magnuson-Stevens Act and the 1996 Amendment made progress toward recovery of depleted stocks and sustaining stock health, but many stocks remain

[1] Ocean Conservancy is a non-profit organization committed to protecting ocean environments and conserving the global abundance and diversity of marine life. Through science-based advocacy, research and public education, The Ocean Conservancy informs, inspires and empowers people to speak and act for wild, healthy oceans.

overexploited or have not been rebuilt (NOAA 2007, Rosenberg et al. 2006). As a result, the 2007 amendments to the MSA are designed to improve accountability in management to prevent overfishing and rebuild stocks to levels that will support maximum sustainable yield.

Section 104 (a)(15) of the 2007 Magnuson-Stevens Reauthorization Act (MSRA) establishes "a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability." Congress has set a "no fail" deadline to establish catch limits for all fisheries experiencing overfishing by 2010, and 2011 for all other fisheries.

Current Methodology: The snapper grouper management system in the South Atlantic currently relies on keeping fishery landings within a total allowable catch (TAC) limit. Bycatch mortality, which is often substantial, is assumed to be a certain amount and is "taken off the top" to calculate a TAC. The bycatch assumptions are not explicit and are not compared to actual bycatch mortality on a regular basis. Bycatch estimates occur in the stock assessment process. It is also unclear exactly how these bycatch assumptions change, based on changes in management measures. In the absence of bycatch mortality being measured against the mortality limit, we cannot know if rebuilding goals are being met.

Catch and bycatch information exist, however, for commercial and recreational fisheries in the South Atlantic. Fishermen and processors must report actual landings on fish receiving tickets; the landings data are considered accurate. Bycatch data for the snapper grouper fishery is reported under two programs: logbooks and a (pilot) observer program. The commercial reef fish logbook program requires twenty percent of the fleet to fill in logbooks (generally 10% comply), which includes discards per trip. Additionally, NMFS and the SSC have used models of fisher behavior and stock assemblage mixing rates to determine the level of bycatch that can be reasonably assumed for a given amount of landings.

For the recreational fishery, the system relies on MRFSS B1 and B2 data for private recreational fisheries and an enhanced charter and head boat survey for these vessels. MRFSS estimates come in waves (six two month periods per year) 2-4 months after the wave has ended. However, the Federal system does not regularly compare bycatch estimated from these systems to bycatch estimated in the stock assessments, and does not compare bycatch estimates to bycatch targets.

Developing Annual Catch Limits for the South Atlantic Snapper Grouper Fishery: NMFS and the Council must develop a methodology utilizing existing data sources to establish and monitor an ACL, which incorporates a total mortality limit (explicitly includes bycatch mortality) and accounts for uncertainty in landings and bycatch. This methodology must be consistent with available data sources and realistic improvements that may be made in monitoring capabilities.

While we feel that Draft Amendment 17 must include a broad range of options for setting ACLs and AMs, an expert working group report recently published by the Lenfest Ocean Group seems to offer substantial guidance for fisheries with mixed stock assemblages and less-than-perfect information about the species/species groupings under consideration for catch limits. We encourage NMFS and the Council to closely examine these recommendations for use in the South Atlantic and include options in Amendment 17 that utilize the methodologies detailed in the report.

Following the guidance provided in the Lenfest Report[2], setting annual catch limits should be guided by the following principles:

- ***As a default or starting point, preventing overfishing applies to ALL stocks, therefore, so should ACLs;***
- ***To successfully end and prevent overfishing, OFL > ABC ≥ ACL;***
- ***ACLs should account for uncertainty in stock status and risk of overfishing for each stock;***
- ***Consideration of risk must include some evaluation of the vulnerability of a stock to the fishery;***
- ***Vulnerability and the consequences of overfishing primarily relate to individual stocks of fish, and therefore grouping of stock into assemblages for management can undermine sustainability;***
- ***The buffer or distance between the ACL and the OFL should be greater when the risk of overfishing is higher (i.e., when uncertainty is greater or the consequences of overfishing as expressed by vulnerability of the resource is higher).***

It is clear in reviewing recent actions taken by the NMFS and the Council the concept of incorporating total mortality estimations in setting catch limits in the snapper grouper fishery is well understood. We encourage continuation of this pattern in developing options for setting ACLs for stocks that have enough information to set catch limits at the yield associated with F(oy) while incorporating bycatch mortality into the equation. The equation becomes more difficult, however, when attempting to set limits for the many species in the snapper grouper complex that do not have such information.

One option for setting these ACLs should consist of a risk-based assessment of fish species in the fishery management plans of the South Atlantic Fishery Management Council that have had SEDAR stock assessments done. These risk-based assessments should then be compared to results of the stock assessments to assess the applicability of the risk-based assessments to provide an adequate buffer between the ABC and the ACL. Following the completion of this 'ground-truthing' of the methodology, NMFS and the Council (possibly the SSC) could then further develop the risk-assessment concept into a methodology for setting ACLs, with the appropriate buffers, for data-poor species.

Central to this process is determining the "buffer" needed between the Over-Fishing Limit (OFL) and the ACL in order to increase the probability that overfishing does not

[2] Rosenberg, A, D Agnew, E. Babcock, A. Cooper, C. Morgensen, R. O'Boyle, J. Powers, G. Stefansson, and J. Swasey. 2007. Annual Catch Limits Report form the Lenfest Working Group. Lenfest Ocean Program.

occur and that the rebuilding requirements are never triggered. Essentially, the process must be designed to determine how far the ACL should be set below the OFL to account for the various sources of uncertainty referred to in the principles above.

In general, buffers must increase as risk of overfishing increases and amount of known stock information decreases; conversely, low risk and more information allows for a smaller buffer. Converting the risk assessment into buffers will require an analysis of how to factor the amount of information available for a fishery into setting the buffer. Species under management will consist of data rich and data poor species. Assessments for data rich species will range from low uncertainty to high uncertainty; data poor species often do not have assessments, and are inherently uncertain. A simulation of uncertainty given available information and the vulnerability of a species will inform policy makers on the tradeoff for buffer size.

Rosenberg et al. recommend a simulation study of the impacts and consequences of uncertainty and vulnerability on fishery performance along the lines of the work of Shertzer, Prager and Williams, using results from assessments of all the data-rich stocks in the US. This should allow some analysis of the relationship between uncertainty and vulnerability. This pattern, which should include stocks across a range of productivities and susceptibilities, will then inform the setting of ACLs for data poor stocks.

Developing Accountability Measures for the South Atlantic Snapper Grouper Fishery:

A key component to the success of ending overfishing and rebuilding depleted species will be our ability to track and monitor success and prevent the kind of consistent overages that lead to unhealthy stock conditions. Annual monitoring and measures to account for overages allows us to stay on top of any problems developing in the snapper grouper fisheries instead of allowing them to compound, requiring much deeper reductions down the line.

Options for accountability measures in Amendment 17 should include a broad range of alternatives that, at a minimum:

- ***Account for the entire amount of the overage as well as compensate for any lost productivity due to the foregone spawning potential caused by the overage;***
- ***Be implemented in a precautionary way during the fishing season;***
- ***Be instituted no later than the following fishing year if in-season management is not immediately possible upon Amendment 17's implementation;***
- ***Apply on a sector-by-sector basis***

It is clear that accountability measures will be central to the success of annual catch limits in ensuring sustainability and preventing the chronic overfishing that has plagued South Atlantic snapper grouper stocks. We look forward to commenting at length on this issue as NMFS, the Council, and the SSC work towards designing and implementing this important tool.

ENDING OVERFISHING AND REBUILDING FISH STOCKS

Applicable Law

Pursuant to the Magnuson Stevens Fishery Conservation and Management Act (FCMA) the National Marine Fisheries Service (NMFS) and SAFMC must prepare a fishery management plan, plan amendment or regulations to end overfishing of any population of fish within one year of being identified as undergoing overfishing by the NMFS. Indications are that red snapper will be thus identified when the SEDAR 15/15a processes are complete.[3]

New federal legislation is also applicable to this scoping process. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, signed into law in January, 2007, requires councils to "develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its science and statistical committee (SSC)."[4] Those SSC recommendations must "prevent overfishing" and "achieve rebuilding targets."[5]

The SAFMC currently intends to use Amendment 17 as the vehicle for ending any overfishing of red snapper, greater amberjack or mutton snapper, requiring development of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). NEPA establishes a national policy that will encourage productive and enjoyable harmony between man and his environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man and to enrich the understanding of the ecological systems and natural resources important to the nation.[6]

While the South Atlantic Council will be under a one-year deadline to complete the remedial actions required by law, we support the development of an EIS rather than a more abbreviated environmental assessment. Ending overfishing is critically important to achieving sustainable management of these fish populations and therefore this action is "significant" for purposes of NEPA. For major federal actions significantly affecting the quality of the human environment, a detailed statement (EIS) must be prepared that includes the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.[7] The EIS provides a full and fair discussion of significant environmental impacts and informs decision makers and the public of the reasonable

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[3] Mr. Gregg Waugh, personal communication.
[4] 16 U.S.C. § 1852(h)(6).
[5] 16 U.S.C. § 1852(g)(1)(B).
[6] 42 U.S.C. §4321.
[7] 42 U.S.C. §4332.

alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.[8]

Issues for Consideration in Amendment 17

The EIS Must Explore a Full Range of Management Measures Necessary to End Overfishing

Essential to the sustainability of any fishery resource is ensuring that annual mortality levels – that account for both landed catch and bycatch – of a species end overfishing, and that appropriate buffers are in place to ensure that overfishing in prevented in the future. Thus, the issues we recommend for analysis include management measures that will end overfishing (including measures to create an ACL that is set <u>at least</u> as precautionary as the OY value for the stock) and limiting total mortality (via direct catches and bycatch) to levels consistent with precautionary harvest targets and limits.

In completing the EIS we recommend the analysis of the following management tools in meeting proposed rebuilding goals:

(1) Management measures that end overfishing.

These measures include, but are not limited to, limiting fishing effort, time and area closures, a network of no take marine protected areas, trip or bag limits, and caps on total mortality ("hard" total allowable mortality limits) with accounting systems that ensure annual mortality levels necessary for ending overfishing are not exceeded. These measures should specifically include:

A. A range of total allowable catch levels that is consistent with meeting management targets and thresholds.

An issue that must be addressed in the EIS is ending overfishing in light of the precautionary approach to scientific uncertainty. The Technical Guidance speaks specifically to the issue of scientific uncertainty, and the South Atlantic Fishery Management Council has developed (yet not utilized) Control Rules[9] that apply this concept to varying levels of scientific precision. In light of the recent court ruling on Amendment 13C[10] relevant to the "best available science" we strongly recommend the Council incorporate appropriate buffers to ensure success at ending and preventing overfishing of these important resources.

[8] 40 CFR §1502.1.
[9] Control Parameters and Alternative for Control Rules for Selected Stocks uner the Jurisdiction of the South Atlantic Fishery Management Council (1999).
[10] North Carolina Fisheries Association, Inc. et al, v. Gutierrez (2007).

B. Transitioning from a total allowable catch management strategy to a total allowable mortality strategy Annual Catch Limit system that recognizes bycatch as a significant source of mortality.

It is clear from a review of reef fish management in the Southeast region that the emphasis on total allowable catch and unenforceable "soft" catch targets is a key factor in the continued poor health of these species. The current reef fish management system template establishes a total allowable catch level that includes some assumed level of bycatch accounted for in the stock assessment process. This system places too much emphasis on landings which results in management measures that, at a minimum, fail to meet the legal requirement to reduce bycatch and bycatch mortality and in reality have led to years of overfishing of some of the regions most important fishery resources.

We applaud the Council for including total mortality limits and a system of determining bycatch into their Snapper Grouper Amendment 15a. We urge the Council to include a broad range of options for a total mortality management system of Annual Catch Limits for the EIS in Amendment 17 and encourage consultation with other regions and countries that have dealt with similar issues.

(2) Management measures that reduce bycatch

These measures must reduce the incidental catch of both depleted species which are the subject of this amendment and prey species and other marine life through measures including, but not limited to, time and area closures, a network of no take marine protected areas, trip or bag limits, caps on total mortality (bycatch caps on a fleet wide, sector wide and vessel level), and gear modifications.

Specific attention must be paid to size limits as a management tool. As past managers attempted to deal with the failing health of snapper-grouper populations they were primarily guided by short term economic concerns. They therefore increased the legal size of fish that could be landed in an attempt to slow down the rate of capture to extend the fishing season. This resulted in high numbers of fish that are slightly below the legal size limit being thrown back dead or dying as bycatch. Changes in size limits must be analyzed as a way to reduce both commercial and recreational discards in these fisheries. While size limits may prove useful for some fish, they may not be appropriate for others. The Amendment 17 EIS should therefore analyze different size limits that are based on biology and the reduction of bycatch of these snapper-grouper species, not misguided attempts to slow the rate of capture.

(3) Management measures that account for total mortality and ensure successful rebuilding

As noted above, new accountability requirements in the law will mandate specific measures in management plans to ensure total mortality of a stock does not

> exceed the ACL. The EIS should therefore analyze current information sources necessary to both track ending overfishing and rebuilding progress, and ensure annual mortality goals are achieved. If information sources are lacking, the EIS should identify essential data collection elements and methods for collecting those elements such as methods for more accurately assessing effort, monitoring bycatch, identifying fishing locations and identifying important habitat areas.[11] These methods should include current efforts in addition to increased observer coverage, use of federal permits or licenses to better estimate total effort, use of vessel monitoring systems or other technologies to assess areas fished, and other appropriate methods.

Management Measures that set and achieve sufficiently precautionary Optimum Yields in the red snapper, greater amberjack, mutton snapper, snowy grouper, golden tilefish, black sea bass, red grouper, black grouper, speckled hind, and warsaw grouper fisheries

The FCMA requires that fisheries are managed to achieve optimum yield on a continuing basis, not simply to prevent overfishing.[12] The OY should be set with a sufficient buffer (i.e. – allowing sufficiently less mortality than the overfishing threshold), such that overfishing rarely, if ever occurs. Therefore, the EIS for Amendment 17 should include a broad range of OY values, all of which are significantly below the overfishing threshold. ACLs should be set at or below the OY levels to provide a corresponding assurance that overfishing is avoided. Therefore, adequate analysis of an appropriate range of OY values now is prudent and necessary.

Providing more detail on this OY management regime, according to the FCMA, optimum yield is defined as the amount of fish which:

(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
(B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social or ecological factor; and
(C) in the case of an overfished fishery provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.[13]

Further direction is provided by the national standard guidelines which state that:

> Target reference points, such as OY should be set safely below limit reference points, such as the catch level associated with the fishing mortality rate or level defined by the status determination criteria.

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[11] 16 U.S.C. §1853.
[12] 16 U.S.C. § 1851(a)(1).
[13] 16 U.S.C. §1802 (28).

This approach is consistent with the trend in fisheries management of treating MSY as a management limit that should rarely be exceeded and using OY as a management target safely below the MSY threshold. This change in approach is based on past experiences of overfishing occurring despite MSY based management.[14]

For species that are not identified as overfished, management measures must achieve OY on a continuing basis. In order to accomplish this, an OY, or process for determining an annual OY should be detailed. The national standard guidelines recommend expressing OY in terms of numbers or weights of fish but provide other options for determining this parameter.[15]

With the FCMA requirements in mind, the EIS should provide a sufficiently broad range of options for setting ACLs and managing the Amendment 17 species at optimum yield with varying probabilities of success for obtaining the target. OY values and proxies recommend by the Technical Guidance should be included in the range of alternatives with accompanying analysis of both short and long term environmental and economic impacts. Within the range of permissible options, the EIS should include management options for OY that approach a 100% probability that overfishing will not occur, but in no event should options allow for less than a 50% chance of preventing overfishing. Since Congress has made clear that overfishing will not be tolerated and ACLs must be developed to meet this goal, then OY and ACLs should be set sufficiently below the overfishing threshold to provide a high likelihood of preventing overfishing.

Removal of Certain Species from the Fishery Management Unit
We look forward to a discussion of the science-based merits of removal of certain species from the snapper grouper fishery management unit. The management of fishery resources needs to be flexible enough to allow for the appropriate governing body to effectively regulate their usage, but this flexibility must be dictated by the scientific merit of the proposal and not the regulatory expediency to be gained.

Implementation Timeframes

The SAFMC and NMFS must ensure that management measures to end overfishing are implemented as quickly as possible. We urge implementation of measures to end overfishing and restore snapper-grouper species as quickly as possible but no later than March 6, 2009.

Conclusion

The preparation of an EIS for Reef Fish Amendments 17 offers the SAFMC an excellent opportunity to take a holistic look at the current management strategy and other potential scenarios to ensure that overfishing of South Atlantic snapper-grouper species is ended,

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[14] Goodman, et. al, 2002. *Draft Scientific Review of the Harvest Strategy Currently Used in the BSAI and GOA Groundfish Fishery Management Plans*. Report prepared for the North Pacific Fishery Management Council.
[15] 50 CFR §600.310(f)(4).

that both the letter and the intent of the MSA are implemented and that annual catch limits are instated with the appropriate buffers and accountability measures necessary to succeed. We urge the SAFMC to take full advantage of this opportunity by not only including analysis of alternatives that establish ACLs and AMs, end overfishing, and rebuild fish stocks, but also include the full range of management measures that will ensure the appropriate targets and timelines are met.

We thank you for considering our comments and look forward to future work in protecting the marine life of the South Atlantic.

Sincerely,

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Elizabeth Fetherston
Gulf of Mexico Fish Program Manager
The Ocean Conservancy
449 Central Ave. Suite 200
St. Petersburg, FL 33701

References

NOAA 2007. Fish Stock Sustainability Index: 2007 Quarter 2 Update through June 30, 2007.

Rosenberg, A.A., J.H. Swasey and M. Bowman. 2006. Rebuilding US Fisheries: progress and problems. *Front. Ecol. Environ*. 4 (6), 303-308.

Rosenberg, A., D. Agnew, E. Babcock, A. Cooper, C. Mogensen, R. O'Boyle, J. Powers, G. Stefánsson, and J. Swasey. 2007. Annual Catch Limits Report from the Lenfest Working Group. Lenfest Ocean Program.

Shertzer, K.W., M. H. Prager, and E. H. Williams, 2007. A probability-based approach to setting Annual Catch Levels. Appendix E of Rosenberg et al. (2007).

Comments for the commitee:

1) Please get catch history available as soon as possible for current permit holders. Based on Amendment 8, it states that all catch history goes to the new permit owner. Please release the data imediately.
2) The Gag grouper and Vermillion snapper quotas for 2009 shows data for a reduction in total allowable catch. Please try to get this implemented in a 3 year step down quota reduction. For example: Gag do not reduce the full 30% (or whatever the % is) instead reduce it in a step down. In 2009 reduce it 10%, then in 2010 reduce 20%, then year three would be the full intended %. This will allow us to prepare for the reduction by selling boats, selling our permit, or making other important decisions. Please consider this option with great importance.
3) Please do not allow for the indicator species to shut down all species. First of all, it would definately send those who survive this process out of business or in major financial trouble. Secondly, I need to find out if this is even legal through all of our policies. I will work on the legal part.
4) Please do not stop the ability to transfer permits to new individuals. This might be our last ditch effort to sell our quota history. Please give us flexibility in our permits for financial rewards.
5) How can we help participate in the science of your sampling data to help you get what you need. How can we become part of this sampling. Can you find us some serious grant money where we could fish full time for research during the next two years or more? This would give the full scope of our operations in a years time. Could this be an option ? Who can I contact?
6) Can this council request financial assistance for commercial fisherman who are affected by this reduction in Gag/Vermillion quota?
7) Can you get me the names and addresses of all South Atlantic Permit holders in an excel or database format? It has come time and maybe way too late for us all to come together as one group.

All of my requests are practical and can be done. These requests are reasonable and need to be taken very serious for our interests in this fishery. We know that we must do something based soley on your research. So, let's work together so we all survive. Permit reduction will happen with my suggestions. Consolidation will occur, people will chose to exit on thier own, people will have a little more time to get their financials adjusted, and most of all, we can save our resources and our fisherman for future harvests.

Thank you,

Jay" James Curtis Phillips Jr.

843-240-0709 cell ---call anytime

To: South Atlantic Fishery Management Council

In re: Comprehensive Allocation, Amendments 14, 15B, 16, 17, 18, and Mackerel

My name is Dunnie Smith. I reside in Beaufort, North Carolina. I have been a Federal Snapper/Grouper Permit holder since this requirement came into effect. I currently own 2 commercial bandit gear boats and provide employment to 5 people other than myself. The product we harvest also contributes to the economy in far-reaching ways.

At the request of SAFMC for public input on the above-referenced matters and pursuant to participation in that certain Scoping Meeting held in New Bern, North Carolina on or about the 7th day of February, 2008, my response is as follows:

Pursuant to MSFMCA National Standard 4, "If it becomes necfessary to allocate or assign fishing privileges among various United States fishermen, suich allocations shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges." The proposed changes contained in all Amendments, Mackerel and Comprehensive Allocation herein referenced are in violation of National Standard 4. In support of this statement:

(A) fair and equitable to all such fishermen; - Inclusive of all fishermen entitled by law to catch. No discrimination is made between commercial and recreational. There can be no fairness and equity when there is no accurate method in place to determine the number, size and species of fish caught per trip. Commercial fishermen must report number, size and species per trip.

(B) reasonably calculated to promote conservation - Cannot be reasonably calculated when no accurate method is in place to determine recreational catch

(C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges- Cannot be determined whether individuals or an entity, such as an entity to protect and promote recreational fishing, acquires an excessive share of such privileges when no accurate method is in place to determine recreational catch. Commercial fishermen are largely outnumbered by recreational fishermen in all states under SAFMC jurisdiction. For example in Carteret County, North Carolina, 10 boats participate in Snapper/Grouper bandit gear type fishing. Marinas within Carteret County house thousands of recreational boats. This does not include the hundreds to thousands of recreational boats launched at ramps throughout the year. This also does not include recreational fishermen who hire private charters and/or participate on headboats. While not all recreational boats participate in fishing, a considerable number do. It is safe to say that there are thousands of recreational fishermen to the 10 commercial boats herein referenced in Carteret County.

All proposed changes are therefore direct violation of National Standard 4.

Amendment 14 is not needed. Deep Water MPAs are unnecessary because the species being protected in these areas are already protected by quotas and trip limits.

Amendment 15B - Agree with propsal to prohibit sale of recreationally-caught snapper grouper species. This has been needed for years. Recreational, by its own definition is for recreation, not profit. Due to the nature of Snowy Grouper and the area in which they live, deep depth and strong currents much of the time, these are typically more difficult fish to catch on recreational gear. Therefore, at least 95% of Snowy Grouper should go to the commercial sector.

Amendment 16 - The Vermillion Snapper data or method used to conclude that Vermillion Snapper is overfished is in no way accurate. I've been fishing for 20 years and have never seen more or larger (on average) Vermillion Snapper than were caught in the 2007 fishing year by the 10 commercial boats herein referenced. The Council must recount these fish to ensure an accurate count. If these fish are assessed correctly, the Council will see that Vermillion Snapper are in excellent shape! The reduction in the quota of such an economic giant would be devastating to the industry, especially since these fish are very abundant in all sizes!

As to Gag Grouper, my catches have remained fairly steady over the past several years with size and numbers stable.

Amendment 17 - Quotas and catch limits already exist on Snowy Grouper, Gold Tilefish, Black Bass and Red Porgy that help to reduce bycatch. A regional quota for Snowy Grouper would be fine but along with a regional quota and a six-month winter closure the trip limit must be rescinded or at least increased to a reasonble amount. **I wrote in a letter to SAFMC approximately 3 years ago that with the miniscule trip limits the quotas would not be reached and they have not been.** As mentioned previously in this response, Snowy Grouper live in deeper water, often with much current, consequently making these fish a much less dependable catch than shallow water species. Due to water current, weather and erratic feeding patterns of Snowy Grouper, sometimes it is nearly impossible to catch these fish during an entire trip. On certain trips, when conditions are favorable and Snowy Grouper are feeding, we must be allowed to take advantage of these times! In order to do this, we need at least an increased trip limit or the quota with no trip limit.

Amendment 18 - Economics and regulations have already made this industry a limited access venture, not to mention to the 2 for 1 permit exchange, which made it extremely expensive and difficult to get into this industry. In the 20 years I have worked in this industry, I have watched the reduction of the fleet under SAFMC jurisdiction by at least half or more.

Mackerel - Should remain status quo.

Please ensure that this e-mail reaches the proper personnel to address each issue.

I enjoy being a fisherman and am confident that the Council will allow me to remain one!
Thank you.
Dunnie Smith