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Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Comments on NOAA DEIS for "Amendment 17A to the Fishery Management Plan for the Snapper Grouper Fishery of South Atlantic Region"; South Atlantic Fishery Management Council; South Atlantic Region; CEQ No. 20100061; ERP No. NOA-E91030-00

Dear Dr. Crabtree:

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's (NOAA) Draft Environmental Impact Statement (DEIS) for Amendment 17A prepared by the South Atlantic Fishery Management Council (Council).[1] This comprehensive DEIS proposes the long-term rebuilding of red snapper (*Lutjanus compechanus*) stocks in the South Atlantic Region along coastal South Carolina, Georgia and Florida.

Overall, EPA is supportive of Amendment 17A since South Atlantic red snapper stocks are experiencing overfishing[2] and therefore are in need of additional fishery management and enforcement to end overfishing and return stocks to an Optimum Yield (OY) level. Red snapper have been regulated for some time in the South Atlantic and Gulf of Mexico, with current regulation including minimum size and bag limitations. Fishing pressure is due to both commercial and recreational (private and for-hire) fishers. Red snapper management is confounded by their co-occurrence with various other snapper-grouper species in the same habitat at the same time. These co-occurring species include vermillion snapper, tomtate, scup, red porgy, white grunt, black sea bass, red grouper and scamp, which are also experiencing overfishing (pg. 8). Red snapper management is therefore not limited to controlling landings, but also to minimizing bycatch (which frequently die as discards) from fisheries that target these other co-occurring snapper-grouper species and thereby incidentally catch red snapper. Accordingly, red snapper management needs to consider a reduction of total kills (removals) consisting of not only landings but also dead discards from bycatch.

[1] We have also received some follow-up errata files (primarily for App. F) by email.
[2] Overfishing is based on 2008 Southeast Data Assessment and Review (SEDAR) data for red snapper.

Amendment 17A considers five actions for red snapper. These are: 1) a Maximum Sustainable Yield (MSY) proxy for red snapper, 2) a rebuilding plan (rebuilding schedule as well as rebuilding strategy and OY), 3) management measures, 4) a requirement to use circle hooks, and 5) a monitoring program. These actions include several alternatives for each, with one or more draft NOAA/Council preferred alternatives being provided for each action. EPA commends NOAA and the Council for proposing notably stringent fishery management measures that include a total prohibition of red snapper (no landings) and closures of several fishing areas for both red snapper and other co-occurring snapper-grouper species. We are also pleased to note that circle hooks are required under Amendment 17A to reduce discard mortalities.

Our main concern with Amendment 17A as proposed is that a very long rebuilding schedule is proposed (35 yrs) with only a 50% chance of success for stock recovery by 2044. Although the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) allows for long rebuilding in "specific cases" (pg. 9),[3] it was our understanding that greater efforts to achieve shorter recovery terms (10 years or less) were to be made. However, we recognize that the incidental capture of red snapper as bycatch by other snapper-grouper fisheries targeting co-occurring species confounds the rebuilding of red snapper.

EPA offers the following specific NEPA comments on the DEIS:

* NEPA Process – Page 8 indicates that a NOAA determination has been made to separate Amendment 17 to address the overfishing of red snapper (present Am 17A) versus other snapper-grouper species co-occurring with red snapper (pending Am 17B).[4] Moreover, unlike Amendment 17A being assessed in a comprehensive EIS, it was determined that fishery impacts in Amendment 17B would be evaluated in an Environmental Assessment (EA). While EPA understands that each federal agency determines the level of its NEPA documentation pursuant to its own NEPA regulations, we request that the rationale for this determination be disclosed in the FEIS. If an EA is prepared, we believe that a public hearing or meeting with affected fishers may still be beneficial to scope impacts given the overfishing of snapper-grouper species and the likelihood for regulatory changes limiting landings. EPA also requests a draft copy of such an EA for possible review and comment.

* Alternatives – Numerous alternatives and NOAA/Council preferred alternatives were offered for the five actions considered for red snapper recovery:

+ *MSY Proxy*: The MSY proxy[5] for rebuilding red snapper stocks was based on the most recent SEDAR data assessment ($F_{40\%SPR}$). We therefore agree

[3] We request that the FEIS provide examples of "specific cases" that were intended by MSA.
[4] However, from an ecosystem-based fishery management approach, addressing overfishing of the co-occurring snapper-grouper complex in one EIS as Amendment 17 would seem to have merit, although it would be a long and comprehensive EIS. If Amendment 17 is to be divided into 17A and 17B, EPA suggests that considerable overlap (e.g., cumulative effects and cross-referencing) be incorporated in both documents.
[5] We suggest that "MSY proxy" be defined in the FEIS text and List of Acronyms.

with NOAA's/Council's preference for changing to Alternative 2 instead of continuing with the No Action status quo (Alt. 1: $F_{30\%SPR}$).

+ *Rebuilding Plan*: As suggested above, EPA believes the proposed 35-year rebuilding schedule for Alternative 4 preferred by NOAA/Council is lengthy. While we typically defer to NOAA and the Council on such fishery determinations, we wish to offer that EPA prefers a shorter recovery period to rebuild the South Atlantic stocks. EPA generally favors such shorter rebuilding terms with effective management and accountability measures (AMs) in order to promote a more rapid restoration of the resource. However, given that the proposed management measures in Amendment 17A are notably stringent (total prohibition of red snapper with no landings, initial 83% reduction in total kills[6], and closure of several fishing areas to both red snapper and other co-occurring snapper-grouper species (pg. 15, 50) to reduce red snapper bycatch in other fisheries), it is unclear why such a long term is proposed to rebuild stocks and that there is still only a 50% chance that the stocks will indeed be rebuilt by 2044. We would expect a shorter recovery period for such stringent management measures that not only prohibit red snapper landings but also reduce red snapper bycatch. We also note that the proposed rebuilding strategy is based on "very high recruitment" levels (pg. 19), which would not seem predictable throughout such an extended term.[7]

Despite EPA's preference for management measures that emphasize restoration of the resource, we also understand the need to balance such restoration with socioeconomic effects (consistent with MSA and the definition of OY) on the affected fishers of all demographics, with emphasis on Environmental Justice (EJ) communities. Given that socioeconomic impacts are considered in Amendment 17A, a longer rebuilding period can be expected to allow some continued fisher income. It is therefore unclear, however, why the proposed 35-year recovery time would result in Alternative 4 only being characterized as a "midpoint in socioeconomic impacts that could result from the suite [of] alternatives" in the DEIS (pg. 28). That is, for a 35-year rebuilding period, we would expect that societal impacts on fishers would be suitably offset/minimized.

It is therefore unclear to us why the proposed stringent measures of the DEIS-preferred Alternative 4 would still require a long rebuilding period and, conversely, why the proposed long rebuilding period would not benefit the affected fishers more. The FEIS should discuss this further in laymen's terms.

+ *Management Measures*: The current red snapper size and bag limitations for both commercial and recreational fishers is not adequate for recovery. NOAA and the Councils have preferred the additional and notably stringent management measures in Alternative 4D. This alternative would prohibit the harvest of red snapper year-round in

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[6] We understand that NOAA and the Council will periodically re-evaluate management based on SEDAR updates.

[7] Based on EPA reviews of NOAA fishery amendment EISs on red snapper in the Gulf of Mexico, red snapper recruitment is stressed since many larvae and juveniles are killed by shrimp trawls. Is this also the case in the South Atlantic or is recruitment less impacted by other fisheries, loss of habitat or natural conditions? On the other hand, we understand that red snapper spawning occurs almost year round (pg. 2).

the South Atlantic Region by both commercial and recreational fishers. Moreover, it would prohibit (through area closures) the harvest of all snapper-grouper species (not just red snapper) in specific areas (seven logbook grids at depths of 98-300 ft) of the South Atlantic to minimize bycatch removals and frequent dead discards (discard mortality rates for commercial fishers are 90% and for recreational fishers are 40%: pg. XXV). Although stringent, EPA agrees with these two management measures to restore the resource (to the extent consistent with MSA relative to societal impacts for such measures) and defers to NOAA and the Council as to which area grids are appropriate for closure (however, the FEIS should indicate the bases for such decisions). We note that the proposed area closures prohibiting the harvest of not only red snapper but also other co-occurring snapper-grouper species would also have the positive secondary effect of helping to restore these other overfished snapper-grouper species as well.

Exemptions to this Alternative 4D strategy were outlined in Alternatives 5, 7 and 8a, all of which were preferred by NOAA and the Council in the DEIS. Generally, EPA agrees with inclusion of some rebuilding exemptions as a means of relieving societal impacts to affected fishers, unless those exceptions generate their own new substantive impacts.

o Alternative 5 – This alternative allows the incidental harvest[8] of red snapper in designated area closures when caught via pots intended for black sea bass entrapment. EPA agrees with this exception to the red snapper rebuilding plan because these pots are very selective for black sea bass (i.e., few red snapper are incidentally caught in these pots: 0.01% of catch by weight; pg. 57) and as a fisher socioeconomic offset in closure areas. The use of this exemption appears to be sound logic based on good fisheries data.

We assume that red snapper captured in black sea bass pots can be kept as landings (the FEIS should verify). However, we suggest that consideration also be given to requiring the release of captured red snapper since pot entrapment would preclude bleeding from hooking injuries.[9] Therefore, assuming pot soaking depths are at moderate depths where depth-related trauma is not critical, captured red snapper specimens may have a reasonable chance for survival as discards, and thereby further reduce the overall red snapper bycatch and total kill consistent with the intent of Amendment 17A.

o Alternative 7 – This alternative allows the spearfishing of snapper-grouper species other than red snapper in the designated closure areas. While we understand that spearfishing can be very selective, red snapper may still be illegally harvested in the process (how will this exemption be enforced?). Moreover, spearfishing has inherent safety issues associated with it and perhaps should not be encouraged.

o Alternative 8a – This sub-alternative would allow vessel transit across area closures (even with snapper-grouper specimens onboard that were harvested outside the

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[8] The harvest of incidentally captured red snapper specimens in back sea bass pots is implied on page 57, and is therefore assumed by EPA. However, the FEIS should clearly specify if such specimens can be legally kept or if they must be released and only black sea bass may be landed and kept.

[9] We note (pg. 271) that hook trauma accounted for most mortalities at depths where red snapper are typically caught (91-140 ft depths), compared to depth-related trauma (associated with rapid surfacing of specimens) which resulted in the most mortalities in deeper water.

closure areas) if fishing gear was appropriately stowed ("stowage" is defined). We strongly agree with this exception to increase safety at sea (e.g., shorten routes to shore in bad weather), to save fuel, and to reduce emissions affecting air quality and climate change. However, enforcement of this exemption to prevent illegal fishing in designated closure areas would be difficult.

+ *Circle Hook Requirement*: EPA salutes NOAA and the Council for requiring circle hooks for hook-and-line fishing for the snapper-grouper complex in the South Atlantic Region north of 28 degrees (Alt. 2). Alternative 3, which would have required the use of circle hooks throughout the South Atlantic, was not selected in order to maintain or increase the hooking and landings of yellowtail snapper and gray triggerfish, which are fished at levels below OY. EPA typically supports circle hooks over the J-hook style for commercial fishing since they can reduce the number of gut-hooks and dead discards. We therefore appreciate the inclusion of the supporting references and discussion on the biological effects of circle hooks (pg. 270).

+ *Monitoring Program*: EPA supports monitoring of new regulations to help determine success. Action alternative choices were between using a monitoring program designed by fishers (fishery-dependent) or by scientists (fishery-independent). We agree with NOAA's/Council's preference for a fishery-independent program (Alt. 2) since it might be more scientific and encompassing (i.e., less geared to sampling at fishing hot spots where catches are historically high). However, this assumes that adequate funding for such monitoring is available since fishery-dependent monitoring would likely be less expensive. A hybrid approach between Alternatives 2 and 3 where fishers work with scientists could also be beneficial. In any event, monitoring methods should emphasize indirect monitoring (videos, etc.) and minimize direct fish handling and mortalities. However, in the event of unavoidable mortalities, we agree that dead specimens could be used for life history studies (pg. 63).

* Environmental Justice (EJ) – Although societal issues were considered in the DEIS, no direct discussion on EJ (pp. 157; 163) was found relative to fishers that would be impacted by Amendment 17A regulatory reductions. It therefore remains unclear if any minority and/or low-income fishers would be impacted by the reduced landings of red snapper and other snapper-grouper species. Through community outreach and other means, the FEIS should attempt to determine the demographics of affected fishers and how the impacts of fishers of all demographics can be reasonably offset.

* Editorial Suggestions – We note and appreciate that this DEIS is one of the best documents that EPA Region 4 has reviewed in terms of providing background information and definitions to complex fishery strategies and procedures for the benefit of public reviewers. However, a number of these definitions occur only throughout the text and should also be consolidated. The existing List of Acronyms should therefore also include ACL, AMs, MSYproxy, SSB_{MSY}, SSC, F, FMU and various other terms,

acronyms and jargon in the FEIS that may be unfamiliar to the public.[10]

* EPA Rating of DEIS – Although we strongly support aspects of Amendment 17A (total prohibition, area closures and circle hook requirements), EPA is concerned about the proposed long rebuilding schedule. We therefore rate this DEIS as "EC-2" (Environmental Concerns with additional information requested) and look forward to additional clarification n the FEIS.

* Summary – Overall, EPA supports Amendment 17A in order to end the red snapper's overfishing status in the South Atlantic Region. We particularly support the proposed actions to establish total prohibition of red snapper landings in the South Atlantic, area closures for not only red snapper but also other co-occurring snapper-grouper species to reduce red snapper bycatch, and the required use of circle hooks in portions of the region to minimize dead discards. However, our main concern with Amendment 17A as proposed is its lengthy rebuilding schedule of 35 years and the fact that only a 50% probability for recovery to OY is expected by 2044. As a rule, EPA prefers rebuilding strategies with shorter restoration periods that emphasize resource recovery but still reasonably consider socioeconomic impacts on affected fishers of all demographics, with particular emphasis on any EJ fishers. We look forward to additional discussion in the FEIS.

EPA appreciates the opportunity to review the DEIS for Amendment 17A. We look forward to receipt of FEIS for Amendment 17A and the NEPA document for the related Amendment 17B. Should you have questions regarding these comments, feel free to contact Chris Hoberg of my staff at 404/562-9619 or hoberg.chris@epa.gov.

Sincerely,

Christian M. Hoberg / for

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

cc: Dr. Paul N. Doremus – NEPA Coordinator (NOAA): Silver Spring, MD

[10] It is possible that some of these terms (e.g., ACL) were already included in the DEIS since the copy we reviewed started with page II (did not include page I) of the List of Acronyms. Editorially, we also note that would-be page XXVIV was numbered as page 29 and contained seemingly out-of-place language.