



November 23, 2009

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

**RE: Amendment 17B to the Snapper Grouper Fishery Management Plan**

Dear Chairman Harris,

On behalf of the Pew Environment Group's *End Overfishing in the Southeast* campaign, we are writing to provide comments on Amendment 17B to the South Atlantic Fishery Management Council's (Council) Snapper Grouper Fishery Management Plan. The South Atlantic region currently has ten species undergoing overfishing, more than any other region in the country. Nine of those ten species are subject to chronic overfishing (i.e. have been undergoing overfishing for 10 years or more). Amendment 17B includes two species, Warsaw grouper and speckled hind, which are considered critically endangered by the respected International Union for the Conservation of Nature. Snowy grouper is also considered to be vulnerable to extinction by the IUCN, and all three of these species have 10% or less of a reproductive population remaining.

We continue to urge the Council to follow the advice of its scientists and to set precautionary limits that account for scientific and management uncertainty. In particular, we would like to see stronger accountability measures in this document in order to properly account for management uncertainty. Management measures in the past have not produced the necessary results for these imperiled species. This is an example of the type of situation that the revised Magnuson Stevens Fishery Conservation and Management Act (MSA) sought to address through the required use of accountability measures.

Accountability measures (AMs) are required by the MSA:

*“Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall establish a mechanism for specifying annual catch limits in the plan (including a multi-year plan), implementing*

*regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, **including measures to ensure accountability.***” [emphasis added]

16 U.S.C. 1853(a)(15)

National Standard 1 goes on to describe the relationship between management uncertainty and AMs:

*“Two sources of management uncertainty should be accounted for in establishing the AMs for a fishery, including the ACT [annual catch target] control rule if utilized: uncertainty in the ability of managers to constrain catch so the ACL [annual catch limit] is not exceeded, and uncertainty in quantifying the true catch amounts.”*

USC §600.310(g)(2)

The goal is to create a buffer, or margin for error, that increases in relationship to the amount of management uncertainty. A fishery with no buffer would, by definition, have perfect in-season management control and perfect real-time reporting. Recreational fisheries in the south Atlantic region have very high management uncertainty and thus AMs will be necessary to ensure that the ACL is not exceeded. For recreational fisheries which have no in-season management and delayed data, this should always include the use of an ACT. The commercial sector can utilize in-season management to avoid exceeding the ACL on regular basis and so a payback provision to account for those cases in which the ACL is exceeded is an appropriate AM, and the use of an ACT should be optional.

### **Shallow and mid-water species: Black grouper, Black Sea Bass, Gag Grouper, Red Grouper and Vermilion Snapper**

We support the system of ACLs and AMs in the Council’s preferred Alternative 2b, as this is an ecosystem-based approach. However, we are concerned that without more appropriate ACTs or AMs, this alternative does not account for management uncertainty. NOAA’s technical guidance, National Standard 1 (NS1) on the implementation of the MSA states that:

*“Councils must take an approach that considers uncertainty in scientific information and management control of the fishery.”*

USC §600.310(b)(3)

The ACLs in the Council’s preferred alternative for these species are consistent with the allowable biological catch (ABC) numbers recommended to the Council by its Science and Statistical Committee (SSC) and therefore account for scientific uncertainty. They do not, however, account for management uncertainty.

Management uncertainty should be accounted for in the ACT or another AM in cases where in-season monitoring is sufficient to ensure that the catch will stay below the ACL. The AM should include payback of ACL overages in the commercial sector and adjustments to the following year’s recreational ACL or season, unless the fishery has little or no time lag or uncertainty in landings estimates, enforcement, compliance or reporting.

In the amendment, the Council has developed three alternatives for AMs for these species with several sub-alternatives for each, but has yet to select a preferred from among these sub-alternatives. We urge the Council to select Alternative 3c, where the ACT would equal the greater of ACL (1-PSE) or 0.5. This option would allow catch targets to be set closer to the ACL for species with more certain management control while limiting catch of those species that occur infrequently and therefore have highly uncertain catch estimates from year to year. This option also creates the right incentive for accurate reporting since more frequent and complete monitoring will reduce the buffer needed from the ACL to the ACT, and could allow for an associated increase in allowable landings.

In addition, we support the Council's preferred sub-alternatives, 4 and 5b in this section. This proposed system of ACLs and AMs for black grouper, black sea bass, gag grouper, red grouper, and vermilion snapper is a good model for the other species and species groups. It accounts appropriately for scientific and management uncertainty and will prevent and end overfishing if applied as written. We encourage the council to use this system as a basis for its comprehensive amendment to apply ACLs and AMs.

### **Speckled hind and Warsaw grouper**

We support the Council's preferred Alternative 4. As with red snapper in Amendment 17A, bycatch is a significant part of the problem for these species, and regulating the complex is the only way to appropriately limit this accidental catch. Although the closed area to protect these two critically endangered deep-water species is large, it is not likely to have a significant impact on the recreational fishing community. These deepwater species make up less than 1% of all recreational catch in the region's Exclusive Economic Zone (EEZ).<sup>1</sup> One of the ancillary benefits from this closure will be to provide these species protection from the potential effort shift to deeper waters that has historically occurred when more accessible species, such as red snapper, face stricter fishing limits.<sup>2</sup>

Although the annual catch limits (ACL) for these species will be zero under the Council's preferred alternative, there must still be AMs to account for incidental harvest and associated discard mortality. If it is estimated after some period that these species are still being taken, or are being caught in shallow water, an appropriate AM would be for the size of the deepwater closed area to be increased.

### **Golden Tilefish**

National Standard 1, NOAA's technical guidance for implementing the MSA states:

*“For fisheries without in-season management control to prevent the ACL from being exceeded, AMs should utilize ACTs [annual catch target] that are set below ACLs so that catches do not exceed the ACL.”*

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<sup>1</sup> Personal communication from the National Marine Fisheries Service, Fisheries Statistics Division. 9/15/2009

<sup>2</sup> Devine, J., Baker, K., Haedrich, R. A Shift from Shelf Fisheries to the Deep Sea is Exhausting Late-Maturing Species that Recover Only Slowly. Nature Vol 439. 2006

USC §600.310(g)(2)

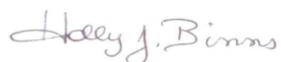
We recommend the use of an ACT for all recreational fisheries in the south Atlantic due to the management uncertainty in data and reporting for the recreational sector, and golden tilefish should be no different. The Council's preferred alternative provides a recreational ACL of less than 2,000 fish, and so an ACT is essential to prevent overfishing. We recommend the addition of an AM for the commercial sector as well. In addition to the National Marine Fisheries Service's in-season closure authority, appropriate AMs could include an overage provision, an ACT or adjustments to the following year's ACL.

### **Snowy Grouper**

We support the Council's preferred alternative 2 as long as it includes an additional AM for the commercial sector to enact a payback provision. We strongly support the use of a recreational ACT in this case as well, as we do for all other species in this amendment. Snowy grouper have a spawning potential ratio (SPR) near 10%<sup>3</sup> and the Council's SSC has recommended that all directed harvest end when the SPR drops to this low level. The Council's preferred recreational ACL of 523 fish will be difficult to monitor and enforce as the time lag in private recreational reporting is greater than the time it will take to exceed the 523 fish limit. As in all imperiled fisheries, AMs are essential; even more so for a fishery at the cutoff level for directed fishing. If the recreational or commercial ACL is exceeded there must be overage protections.

Thank you for the opportunity to share these comments with you. We look forward to working with the Council to end overfishing and restore healthy fish populations in the South Atlantic region.

Sincerely,



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<sup>3</sup> SEDAR 4