Snapper Grouper Regulatory Amendment 16
Public Hearing Comment Summary

Public comments for Snapper Grouper Regulatory Amendment 16 were taken in August of 2015. In person public hearings were held at three locations: Little River, SC on August 11, 2015; Jacksonville, NC on August 12, 2015; and Ormond Beach, FL on August 17, 2015. Written public comments were accepted by U.S. mail, facsimile, or email until August 21, 2015.

A total of 11 comments were received. There were seven comments given at the public hearings and four comments were submitted by email.

All of the commenters who appeared in person urged the Council to make provisions to allow black sea bass pot gear in some format from November through April each year. Commenters acknowledged keeping pot gear away from whales was a good idea, not just for the whales, but for fishermen, too.

Highlights of public hearing comments:

- Reasonable allowable fishing areas differ by region
- Florida-based black sea bass pot fishermen could fish beyond 20 meters depth and be away from whales and still catch black sea bass in pots November through April.
- North Carolina-based black sea bass pot fishermen have very few days they can fish from January through April because the weather is too rough. The further out they have to go to fish, the less likely they will be able to make a trip.
- There was no absolute consensus from North Carolina pot users on the depth they need to be able to fish. All agreed that 20 meters depth was doable, but there was less consensus among public hearing attendees regarding other depths. There was no support for a 30-nautical mile from shore closure (**Alternative 5**) off the Carolinas. Weather during that time of year and the fact that the fish tend to school closer to shore in winter makes fishing at that depth impracticable.
- Pot fishermen want to catch black sea bass November through April because the fish are of higher quality and easier to catch in pots during that time of the year.
- Fishermen are willing to modify their gear and fishing behavior as necessary so they can fish during the currently closed season and at reasonable depths.
- Public hearing attendees tended not to endorse specific alternatives for **Action 1**. They endorsed specific depth closures by area.

Four written comments were received (including one from a person who also spoke at one of the public hearings). Below is a summary of those written comments.

- Recommendation to use VHF radio to warn fishermen and other boaters when endangered mammals such as North Atlantic right whales (NARW) are seen.
- The potential hazard to NARWs has been greatly reduced since the requirement of pot endorsements was introduced. Participation in the fishery was capped at 32 participants with no more than 35 traps. Most of the fishermen are using fewer than 35 traps now.
- The Southeastern Fisheries Association, East Coast Fisheries Section, for **Action 1** endorsed **Alternative 9, Sub-Alternative 9a** citing the fact this alternative/sub-alternative provides continued protection for NARWs and allows fishermen to use pots. For **Action 2**, they also supported the Council's choices of **Preferred Alternative 2**, **Sub-Alternative 2a**, **Preferred Alternative 3**, and **Preferred Alternative 4**.
- A joint written comment from The Humane Society of the U.S., Whale and Dolphin Conservation, Center for Biological Diversity, Defenders of Wildlife, Mason Weinrich, and Carolyn Good stated their position for retaining the current closure, **Action 1, Alternative 1 (No Action)**. Their objections included what they see as problems with the document development, changing purpose and need for the actions, the imperative to protect NARWs in their only known calving grounds, the need to do whatever is possible and necessary to protect NARWs, shifting economic effects from other gears to pot gear, and size of the economic gain by shifting landings to the pot sector. Should the Council choose an alternative other than **Action 1 (No Action)**, the letter writers urged the SAFMC to choose from among the other alternatives that would have the least risk of an interaction between NARWs and pot gear, namely, **Alternatives 4**, **6**, **11**, or **12**.

NAME: Tony Austin

MESSAGE:
Most of the trap options are unenforceable – either trap or no trap, nothing in between are the only enforceable options

The Humane Society of the U.S. • Whale and Dolphin Conservation • Center for Biological Diversity• Defenders of Wildlife • Mason Weinrich • Carolyn Good, Phd.

Robert Mahood, Executive Director
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC. 29405
Attn: Mike Collins
Submitted via: mike.collins@safmc.net

August 21,2015

Re: Comments on Scoping for Amendment 16

Dear Mr. Mahood,

On behalf of The Humane Society of the United States, Whale and Dolphin Conservation, the Center for Biological Diversity, Defenders of Wildlife, Mason Weinrich and Caroline Good, we are writing to provide comments on the alternatives under consideration by the South Atlantic Fishery Management Council (SAFMC or "the council") and express concern with the council's continued attempts to re-open the risk-prone black sea bass trap/pot fishery in key calving areas for critically endangered North Atlantic right whales (*Eubalaena glacialis*). All of the signatories of this letter are federally appointed members of the Atlantic Large Whale Take Reduction Team.

Under Action 1, which addresses alternatives to the current seasonal closure for black sea bass pot gear, the council is considering at least 16 alternatives at this time.[1] Under Action 2, it is also considering several alternatives related to gear modifications with the intent of reducing entanglements of endangered whales. As conservation representatives appointed by the National Marine Fisheries Service (NMFS) to the take reduction team, we continue to support the "No Action" alternative under Action 1 (thus obviating the need for most of the proposals in Action 2), and we offer comments on the various impacts of proposed alternatives and the Draft Environmental Impact Statement (Draft EIS).[2]

[1] South Atlantic Fishery Management Council.Regulatory Amendment 16 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region: public hearing summary document. July 23, 2015. See table 4 at: http://safmc.net/sites/default/files/meetings/pdf/Public%20Hearings%20&%20Scoping/08-2015/SGReg16_PHSummary_20150724.pdf.

[2] South Atlantic Fishery Management Council. Regulatory Amendment 16 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region Including an Environmental Impact Statement: Public Hearing Draft. July 2015. 232pp. At:

We are also concerned with the large number of instances in which the proposal and the Draft EIS have either incorrectly cited or completely omitted the bibliographic citation of key literature, making it impossible for commenters to check the source or determine bases for analysis and conclusions. In particular, we are disturbed by the council and NMFS' omission of appendices "N" and "R" that apparently contain the key analyses of the relative risk of various alternatives. While the federal register notice states that background documents will be made available on the council's website, only two summary documents are posted[3], neither of which include any of the 18 appendices noted in the Draft EIS, leaving commenters unable to evaluate the sufficiency or efficacy of the risk analysis.

The Council's Statement on the Need for Action

The "Need for Action" underlying proposed Amendment 16 evolves with each iteration of proposed alternatives, although the desired action (re-opening this fishery) has not changed. In September 2013, NMFS increased the annual catch limit (ACL) for black sea bass in the Southeast. 78 Fed. Reg. 58,249 (Sept. 23, 2013). When it did so, NMFS prohibited the use of trap/pot gear from November 1- April 30th stating that "[t]he seasonal sea bass pot prohibition is a precautionary measure to prevent interactions between black sea bass pot gear and whales during large whale migrations and during the right whale calving season off the U.S. southeastern coast." Despite this acknowledgement of the likely increase in risk to right whales resulting from the increase in the ACL, the Council seeks to re-open the fishery year round, eliminating the current winter closure.

Over time, the Council has changed the stated purpose of proposing this action. In its initial drafts, the Council stated that the need for re-opening the black sea bass trap fishery was to "increase socio-economic benefits" to black sea bass fishers.[4] In the subsequent Federal Register notice, the wording had been changed instead say that the need was "to minimize socio-economic impacts to black sea bass pot fishers."[5] In this current draft, there are two different purported needs for rulemaking. One is to "reduce the adverse socioeconomic impacts to black sea bass pot endorsement holders"[6] or alternatively to "improve socio-economic benefits to black sea bass pot endorsement holders."[7] There is quite a difference between "reducing socio-economic impacts" and "improving socio-economic benefits." Nonetheless it is clear that this action is proposed for the economic benefit of the trap/pot segment of the fishery and, as we will discuss further below, it appears to come at the expense of other segments of the black sea bass fishery and poses increased risk to endangered whales.

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http://safmc.net/sites/default/files/meetings/pdf/Public%20Hearings%20&%20Scoping/08-2015/SGRegAmend16_20150724.pdf

[3] See: http://safmc.net/resource-library/snapper-grouper-regulatory-amendment-16. Posted are only the Amendment Public Hearing Summary Document and a Summary of Alternatives Table.

[4] Regulatory Amendment 16 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region. Draft October 2014. See page 4 at: http://safmc.net/sites/default/files/meetings/pdf/SSC/SSC-102014/A10_RA16draft.pdf.

[5] 78 Fed. Reg. 72,869 (Dec. 4, 2013).

[6] SAFMC, supra note 2, at S-5.

[7] SAFMC, supra note 2, at S-1.

Right Whales Need Precautionary Protections in Their Only Known Calving Grounds

The agency has long documented that right whales travel to and give birth in the waters off the southeastern United States, from Florida to at least as far north as Cape Fear, North Carolina.[8] Tragically, right whale calves and juveniles are more likely to become entangled than adults.[9] Citing a study by Kraus et al, a NMFS status review of right whales stated that "photo-identification data from the western North Atlantic population [ ] calculate an average mortality rate of 17 percent per year in first-year right whales, while second- through fourth-year whales had an average mortality rate of 3 percent per year. Including all sources of mortality, both natural and anthropogenic, 27 percent of all western North Atlantic right whales die before reaching four years of age."[10] While mortality may vary by year, animals still die prior to reproducing and the rate of reproduction is not increasing as one might expect or hope. The number of documented calves in 2014 was the second lowest number in the past decade.[11] Although the Draft EIS touts the fact that right whale population abundance is slowly increasing, it is vital to avert the possibility of additional adverse impacts on females and their newborns in the Southeast.

As few as 3 percent of whale entanglements are reported and disentangling an animal does not guarantee the whale's survival.[12] Recent research indicates that survival rates for both juvenile and adult North Atlantic right whales are reduced after a reported entanglement.[13] Further, long-term impacts from entanglement may result in reduced reproductive success for the individual even if gear is removed.[14] The origin of most entangling gear found on right whales is unknown.[15] The Draft EIS states that "while black sea bass pot gear has not been definitively identified in the few cases when gear was identified to fishery, right whales entanglements in gear consistent with that used in the commercial black sea bass fishery have been documents [sic]."[16] Indeed it would be difficult to determine the origin of entangling gear, given the fact that many right whales become entangled and later disappear only to

[8] Waring et al 2014, North Atlantic right whale. In "U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments—2014". Available at: http://www.nmfs.noaa.gov/pr/sars/pdf/atl2014_final.pdf

[9] Knowlton, A.R., P.K. Hamilton, M.K. Marx, H.M. Pettis, and S.D. Kraus. 2012. Monitoring North Atlantic right whale Eubalaena glacialis entanglement rates: a 30 year retrospective. Marine Ecology Progress Series 466: 293-302. 2012.

[10] NOAA/NMFS. 2006. Review of the Status of the Right Whales in the North Atlantic and North Pacific Oceans. December 2006, at: http://www.fisheries.noaa.gov/pr/pdfs/statusreviews/rightwhale2006.pdf.

[11] Pettis, H.M. and Hamilton, P.K. (2014). North Atlantic Right Whale Consortium 2014 annual report card. Report to the North Atlantic Right Whale Consortium, November 2014. See Table 1 at: http://www.narwc.org/pdf/2014_Report_Card.pdf.

[12] Robbins, J. and Mattila, D. 2000. Gulf of Maine humpback whale entanglement scar monitoring results 1997-1999. NOAA Contract No. 40ENNF900253. 24 p.

[13] Robbins, J., A. Knowlton, and S. Landry 2015, Apparent survival of North Atlantic right whales after entanglement in fishing gear, Biological Conservation, Volume 191, November 2015, Pages 421-427.

[14] Id.

[15] Johnson, A.J., G.S. Salvador, J.F. Kenney, J. Robbins, S.D. Kraus, S.C. Landry, and P.J.Clapham.(2005). Fishing gear involved in entanglements of right and humpback whales, MarineMammal Science 21(4):635-64 and Waring et al., 2014 Supra note 8

[16] SAFMC, supra note 2, at 99.

be presumed dead some years later with no possibility of determining the origin of the gear on the whale when it was last seen.

In enacting a seasonal closure to the black sea bass trap/pot fishery just two years ago, NMFS stated that "a seasonal black sea bass pot prohibition, along with the existing regulations related to pot gear, are necessary to prevent interactions between black sea bass pot gear and whales during periods of large whale migrations and during the right whale calving season off the U.S. southeastern coast." 78 Fed. Reg. 58,250. We continue to agree with this finding and, for that reason, we continue to support the "No Action" alternative.

The NMFS Must Ensure Adequate Protection of Critically Endangered North Atlantic Right Whales Throughout the Calving Range in the Southeast

Much of the area in which the fishery operates, including the waters off South and North Carolina, are important calving habitat for North Atlantic right whales and this fact underlay the NMFS decision to prohibit the fishery from November 1 through April 30.[17] Further, and as is generally acknowledged in the Draft EIS, NMFS has proposed to expand the currently designated critical habitat. 80 Fed. Reg. 9,314 (Feb. 20, 2015). Pursuant to a settlement order, a final decision on designated critical habitat is due in early 2016. Should the council and NMFS decide to allow the fishery to reopen between November 1 and April 30, the agencies should, at the very least, prohibit black sea bass trap/pot fishing in the full area that is proposed for expanded critical habitat.

The current NMFS Stock Assessment Report (SAR) documents that the observed level of serious injury and mortality for right whales from entanglement *is more than triple* the Potential Biological Removal level (PBR) for the species[18] and estimated entanglement rates based on scarification indicate serious injury and mortality may be far higher, with some unknown percentage of those whales dying.[19] The charge of the NMFS' Atlantic Large Whale Take Reduction Team (TRT) under the Marine Mammal Protection Act (MMPA), and the goal of any Take Reduction Plan that is developed, is to "immediate[ly]" reduce entanglement to Endangered Species Act (ESA) listed large whales to levels below PBR and to reduce, within 5 years of the TRT's implementation, incidental mortality and serious injury "to insignificant levels approaching a zero mortality and serious injury rate." 16 U.S.C. § 1387(f)(2). Clearly this goal has not been met to date.

Because serious injury and mortality of right whales exceeds PBR and—eighteen years after the publication of the first Atlantic Large Whale Take Reduction Plan (ALWTRP)—still vastly exceeds the zero mortality rate goal, the recovery rate for the stock will be retarded, by definition, and will preclude the

[17] NMFS has stipulated that the right whale calving season in the South Atlantic occurs from approximately November 1 through April 30 each year in the southeastern US. 78 Fed. Reg. 58,249.
[18] Current fishery-related serious injuries and mortalities are said to average a minimum of 3.7 annually with a PBR of 0.9. See: Waring et al. 2014 U.S. Atlantic Marine Mammal Stock Assessments: North Atlantic Right Whale. supra note 8.
[19] Knowlton 2012, supra note 8.

species from reaching its optimum sustainable population as is required by the MMPA. 16 U.S.C. §§ 1361(6), 1362(9). Through various iterative rulemakings over close to two decades, the NMFS has sought unsuccessfully to reduce the rate of mortality and serious injury to endangered whales.[20]

The main goal of the most recent iteration of the ALWTRP was to reduce the number of vertical lines in the water so as to *decrease* the risk of right whales encountering them and becoming entangled.[21] Any alternative other than the "no action" alternative necessarily *increases* the number of vertical lines contrary to the stated goal of the ALWTRP.

Commercial trap/pot fisheries continue to operate, entangle, and kill endangered whales. More protections – not fewer – are needed to reduce the risk of entanglements and ensure that fisheries operate in compliance with applicable laws. Changing or removing the seasonal prohibition on the black sea bass fishery by increasing the presence of risk-prone gear in known right whale habitat would be a step in the wrong direction.

The Draft EIS states that a new Biological Opinion (BiOp) would be necessitated, should the agency select any alternative other than the "no action" alternative.[22] We are concerned that the most recent amendments to the ALWTRP and its associated BiOp were predicated on the fact that the black sea bass trap pot fishery was closed and thus its risks were not analyzed in that rulemaking. In fact, in its proposed ALWTRP rulemaking, the agency stated that, with regard to black sea bass pots in the southeast, recent changes in fishery management in the Southeast had actually reduced risk to right whales, saying "[m]ost notably, the black sea bass fishing season has not co-occurred with the right whale season for the last four years." 78 Fed. Reg. 42,654 (July 16, 2013). And in its final rulemaking, the agency stated that "[d]uring team discussion, data analyses and the initial ALWTRP rulemaking process, the Team and NMFS was unaware that there would be an increase in the black sea bass quota (specifically, during the right whale winter migration) and associated closure as a result of this quota increase. Thus, this scenario was not included in the proposed rule."[23]

In the BiOp on the Lobster Fishery that accompanied issuance of the new ALWTRP, NMFS stated that "although NMFS has concluded that the American lobster fishery is not likely to jeopardize the continued survival or recovery of right, humpback, fin, and sei whales for purposes of ESA section 7, the

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[20] Pace, R., T. Cole and A. Henry. 2014.Incremental fishing gear modifications fail to significantly reduce large whales serious injury rates. Endangered Species Research. Vol. 26: 115–126, 2014 At: http://www.int-res.com/articles/esr2015/26/n026p115.pdf.

[21] Final Environmental Impact Statement For Amending The Atlantic Large Whale Take Reduction Plan: Vertical Line Rule Volume I of II. At: http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/eis2013/voli/chapter-1introduction_feis_2014.pdf.

[22] SAFMC, supra note 2, at S-3.

[23] Final Environmental Impact Statement For Amending The Atlantic Large Whale Take Reduction Plan:Vertical Line Rule. Volume II, p. 1-14 At: http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/eis2013/volii/2014_feis_volume_ii_chapter_1.pdf

need for further efforts among stakeholders to reduce whale/fishery interactions and achieve the zero mortality goal of the MMPA is not diminished by this no-jeopardy conclusion."[24] These further efforts would not seem to include seeking to *increase* the number of risk-prone vertical lines in the Southeast where right whales journey to give birth to their calves.

Economic Impacts and the Fishery

Since 2010, the black sea bass pot fishery has not been open November through April either due to ACL quota-related closures or the seasonal prohibition that was enacted in 2013. The fishery has, nonetheless, continued to exist with approximately the same number of vessels receiving endorsements because there are times when there is no seasonal prohibition and the ACL is still available to trap/pot fishers. In fact, according to the summary documents "(t)hese [proposed] alternatives offer no advantages to the black sea bass stock in terms of further reduced harvest because it is estimated that 97-100% of the ACL would be taken."[25] Rulemaking is largely motivated by this segment of the black sea bass fishery that wishes to increase its revenue stream, though it may come, not only at the expense of increased risk to endangered whales but also at the expense of other gear types targeting black sea bass.

<u>Shifting Fishery Revenue Away from Other Gear Types</u>

The economic analysis of alternatives for reopening the fishery that was provided in 2014 concluded that "revenues foregone by vessels using black sea bass pots will likely be gained by vessels using other gear types. Thus the black sea bass pot prohibition will mainly have distributional effects within the commercial sector, *with the overall industry revenues and likely profits expected to increase*." 78 Fed. Reg. at 58251. (emphasis added). Although this language is no longer in the economic analysis in the current Draft EIS, the draft does essentially admit this same fact, saying "[s]hifting a greater percent of the landings to pot gear comes at the expense of other gears, not just in terms of percent of landings, but also in terms of potential closures [as the ACL is caught earlier in the year]."[26] That is, other gear types will lose a percentage of the landings and possibly be closed for the benefit of the 35 trap/pot vessels spread out from Florida through North Carolina.

Amendment 18 reduced the presence of risk-prone trap gear in the water even as Amendment 19 more than doubled the ACL (i.e., from 308,000 pounds to 780,020 pounds wet weight) and the limits imposed under Amendment 18 combined with the increase in ACL in Amendment 19 are likely to extend the season and thus the risk of entanglement should the trap/pot fishery re-open.[27]

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[24]Endangered Species Act Section 7 Consultation on the Continued Implementation of Management Measures for the American Lobster Fishery [Consultation No. NER-204—11-76]July 31,2014. At: http://www.greateratlantic.fisheries.noaa.gov/protected/section7/bo/actbiops/2014finalamericanlobsterbiop073114.pdf

[25] Supra note 1.

[26] SAFMC, supra note 2, at 123.

[27] SAFMC, supra note 2, at S-3.

Even with the prohibition in place under the No Action alternative, there appears to be a potential for increased profits for the industry overall, and any possible increase in economic benefit that is shifted to a small segment of the fishery is likely outweighed by the potential increase in risk of fatal entanglement of young, vulnerable and critically endangered right whales and their mothers.

The Economics of Saving Right Whales Appear to be Weighed Against Industry Profits

We are also disturbed at the economic analysis that appears to be trying to place a value on the life of a right whale by implying one can balance the economics of the fishery against the cost of responding to an entangled right whale in an attempt to save its life. The section entitled "Economic effects of relative risk to North Atlantic Right Whales and the black sea bass pot fishery,"[28] immediately follows—and is then followed by—sections containing myriad tables showing economic effects on the fishery from various alternatives and scenarios within each alternative. In this section, the agency makes the statement that "[p]otential economic outcomes must be weighed against the chance that a NARW would become entangled in black sea bass pot gear"[29] and it references "Appendix N" as providing information on the co-occurrence of right whales with risk-prone fishing gear in the Southeast. As we will discuss further, this Appendix is missing and should have been included.

Figures 4.1.2.4 and 4.1.2.5 show the estimated change in value of commercial black sea bass fishery versus relative right whale risk off Florida through South Carolina (4.1.2.4) and in North Carolina (4.1.2.5) for spatial closure alternatives proposed in Regulatory Amendment 16. These figures show some alternatives with lower risk to whales but at higher economic cost and vice versa.

The Draft EIS states that "NMFS (NMFS SERO PRD 2015) estimates that it cost $87,900 for a multi-agency attempt to rescue a NARW from unspecified entangled fishing gear in 2010." The document cited for this estimate is said in the bibliography to be an "unpublished" source and thus is inappropriately unavailable for review. The cost of multiple unsuccessful attempts to disentangle a badly wrapped right whale in 2001 was estimated at $250,000 which included cost of salaries, sedation and travel of veterinary experts to the site.[30] Other entanglements that are simple configurations may be far less expensive than even this NOAA estimate. But there is no means of evaluating the validity of the estimated cost, since the source that is cited in the Draft EIS is said to be unpublished.

That said, however; we must point out that the profit made by (i.e., the value of) the industry goes directly to the fishers who catch and sell the fish and is not shared with the American public. However, if a right whale becomes entangled in black sea bass pot gear, it is the American public, through its taxes, who pay to try to save the animal's life—a life that would not have been imperiled but for the re-opening of the pot fishery that has not existed in the risk prone times and areas since 2010. Further,

[28] SAFMC, supra note 2, at 120.
[29] Id.
[30] Bangor Daily News. 2001 Costs of whale rescue attempt exceeds $250,000. 12/12/2001. retrieved on8/15/2015. at: http://archive.bangordailynews.com/2001/12/12/cost-of-whale-rescue-attempt-exceeds-250000/.

after estimating the cost of right whale recovery efforts from 2003-2005 to be in the millions, it would seem foolish to diminish this investment in recovery by allowing a "chance that a NARW would become entangled in black sea bass pot gear" when the benefit to the pot fishery appears to be only in the few tens of thousands of dollars.[31] Nonetheless, you cannot "weigh" the profit of 35 private endorsement holders in the trap/pot segment of the industry against the incalculable value of preventing the death of a critically endangered animal.

According to Robbins et al., "disentanglement can be dangerous for responders and is not always successful, thus prevention should continue to be the primary goal for NARW and other whale species worldwide."[32]

Comments on the Action Alternatives

The Appendices containing analyses of impacts to right whales under the various alternatives are not available to the public for comment. For example, we note that the text in Chapter 4's discussion of Environmental Effects focused on "Protected Resources" states: "[t]he alternatives under consideration differ substantially in their potential biological effects on ESA-listed large whales. The comparison of alternatives below is based primarily on the analysis in SERO-LAPP-2014-09(Appendix N; Table 4.1.1.2). The analysis simulated the potential landings of black sea bass pot endorsement holders during a winter season for Alternatives 1 through 12."[33] Yet that analysis, and the basis for conclusions on whether an alternative has "low" increase in risk or "high" increase in risk, is not readily available for review and comment. Similarly, an "Appendix R" is referenced in discussion of two of the alternatives (Alternatives 11 and 12) and it too is unavailable for review. The analyses in "Appendix N" and "Appendix R" were clearly available to the Council and NMFS in the preparation of the Draft EIS and should have been made available to the public.

We do, however, applaud a caveat that NMFS and the council provide shortly after the summary of alternatives in Chapter 4. In assuring readers of the agencies' use of best available data, the Draft EIS states that "limited data should not be confused with limited right whale use of the area particularly off North and South Carolina and it states that a model and analysis of habitat use undertaken by Dr. Caroline Good, and reviewed by NMFS' Atlantic Scientific Review Group, "was valid and consistent with the expectations of experts on right whale biology."[34]

Action 1. Modify the annual November 1 through April 30 prohibition on the use of black sea bass pot gear

[31] Supra note 2, See Figure 4.1.2.3. "Expected difference in value (in 2013 dollars) between Alternative 1 (No Action) and the other Alternatives/Sub-Alternatives by catch rate scenario for Action 1, using the monthly price per pound calculations from 2000 –2013." (pot fishery only).
[32] Robbins, supra note 13.
[33] Supra note 2, at 102.
[34] Supra note 2, at 108.

Sixteen alternatives are outlined in Table 4 of the Draft EIS, which ranks them from most protective to least protective in terms of the risk that they pose to right whales.[35] As we have stated, we support the "No Action" alternative, which is a continuation of the current seasonal prohibition on trap/pot gear from Florida through southern North Carolina. In any case, no option falling outside of the "green zone" in this table (see below) should be chosen as a preferred option. However, as we pointed out above, NMFS and the council did not make readily available the Appendix containing the background document that led to the determination of which options off greater or lesser protection.

That said, if one accepts that the alternatives are in fact appropriately ranked, we offer comments on those in "the green zone" (see below) in the order of their risk-related rankings; but we offer no comments on the other options other than blanket opposition since all are said to increase risk to an even greater degree than those in "the green zone" and the fragile growth rate of the population right whales can ill afford non-precautionary management. The Draft EIS' color graphic labeled "Table 4: Ranked projected risk of right whale entanglement in pot gear vertical lines (in relative risk units; RRU) under proposed Alternatives in Regulatory Amendment 16" is inserted below.

Table 4. Ranked projected risk of right whale entanglement in pot gear vertical lines (in relative risk units; RRU) under proposed Alternatives in Regulatory Amendment 16.

NARW Protection	Alternative
Most Protective	**Alternative 1:** no relative risk of entanglement (0 RRU)
	Alternative 6: low increase in relative risk off NC (+2-8 RRU); no additional risk off FL-SC (0 RRU).
	Alternative 4: low increase in relative risk off NC (+2-8 RRU); low increase in relative risk off FL-SC (+0-3 RRU).
	Alternative 11: low increase in relative risk off NC (+3-15 RRU); low risk off FL-SC (+2-9 RRU)
	Alternative 12: low increase in relative risk off NC (+2-15 RRU); low risk off FL-SC (+0-13 RRU)
	Alternative 5: low increase in relative risk off NC (+1-2 RRU); low to high increase in relative risk off FL-SC (+11-58 RRU).
	Alternative 3: low to moderate increase in relative risk off NC (+10-26 RRU); low to high increase in relative risk off FL-SC (+16-52 RRU).
	Alternative 8a: low to moderate increase in relative risk off NC (+13-36 RRU); low to high increase in relative risk off FL-SC (+13-64 RRU).
	Alternative 9a: moderate to high increase in relative risk off NC (+26-51 RRU); moderate to high increase in relative risk off FL-SC (+30-72 RRU).
	Alternative 7a: high increase in relative risk off NC (+69-74 RRU); very high increase in relative risk off FL-SC (+77-96 RRU).
	Alternative 8b: high increase in relative risk off NC (+51-68 RRU); high to very high increase in relative risk off FL-SC (+61-89 RRU).
	Alternative 10: high to very high increase in relative risk off NC (+55-75 RRU); high to very high increase in relative risk off FL-SC (+62-89 RRU).
	Alternative 9b: high to very high increase in relative risk off NC (+61-87 RRU); high to very high increase in relative risk off FL-SC (+67-94 RRU).
	Alternative 7c: high to very high increase in relative risk off NC (+75-97 RRU) and off FL-SC (+67-100 RRU).
	Alternative 7b: very high increase in relative risk off NC (+77-89 RRU); high to very high increase in relative risk off FL-SC (+70-106 RRU).
Least Protective	**Alternative 2:** very high increase in relative risk off NC (+100 RRU over status quo) and off FL-SC (+100 RRU).
Risk Classification	1-25 RRU = low, 26-50 RRU = moderate, 51-75 RRU= high, 76-100+ RRU = very high

[35] SAFMC, supra note 2, at S-34.

Alternative 6, is acknowledged as the most protective alternative after the "no action" alternative.[36] This alternative was suggested by a number of our organizations in the event that NMFS considers allowing a reopening of the trap/pot fishery. This area represents an existing management area, the Southeast Seasonal Gillnet Restricted Area, under the ALWTRP; and an additional area off North Carolina in which right whales have been observed with newborn calves in waters generally shallower than 30 meters in depth. In the analysis provided in the Draft EIS, this alternative is said to have no increase in relative risk to right whales off Florida and Georgia, a negligible increase in relative risk is projected off South Carolina and only a low increase in relative risk off North Carolina. If NMFS and the Council select an alternative other than the "No Action" alternative, we offer general support for Alternative 6. [37]

Alternative 4, the third most protective option, similarly targets areas with preferred water depths for right whales (i.e., 30 meters or less). The boundaries are based on right whale sightings from all demographic groups in the North Carolina/South Carolina area and consider the sightings per unit of effort (a proxy for density) by depth that captures 97% and 96% of right whale sightings off Florida and Georgia. The analysis of risk discussion summarizes that this alternative would result in a low increase in relative risk in the waters from Florida northward through southern North Carolina. The council states that this alternative was based on "data sources [that] are more expansive and recent than those used to develop the area proposed in Alternative 3."[38] Because Alternative 3 and some of the other alternatives are not based on the best available science, it would be inappropriate to adopt them over other alternatives such as Alternative 4 that utilize better and more recent data on sightings and habitat use.

Alternative 11, a more recent addition, is in the "lighter green" portion of the risk assessment summary table. It is far more complex in boundaries and timing than Alternatives 4 and 6. That is, it would be in effect in November and April, in the waters off Florida and Georgia that are 25 meters in depth or less with geographic boundaries similar to Alternative 5 but off North and South Carolina, its boundaries correspond with alternative 8. However, the depth contours that help define the boundary of a restricted area are said to vary in different areas.

Inexplicably, the council provided neither map nor tables showing coordinates (latitude and longitude) as it did for all other alternatives. These tables and figures are necessary to clearly illustrate the boundaries of this alternative and allow meaningful comparison among alternatives. Instead, the text simply states that it is a hybrid of alternatives 4 and 8a. If the Council and NMFS further pursue this alternative, a map should be provided. However, in the text, it appears that, from December 1-March 30, the boundaries off Cape Canaveral Florida through Savannah Georgia extend to the 25 meter depth (similar to Alternative 4) but from the Georgia/South Carolina border through Cape Hatteras, the restricted area extends to 30 meters depth. Though the geographic boundaries and timing differ from

[36] Supra note 2, at 106.
[37] Id.
[38] Supra note 2, at 105.

Alternative 4, it too is said to be based on right whale sightings from all demographic groups in the North Carolina/South Carolina area and considers the sightings per unit of effort (a proxy for density) by depth that captures 97% and 96% of right whale sightings off Florida and Georgia.

The analysis of risk summarizes that this alternative would result in a low increase in relative risk in the waters from Florida northward through southern North Carolina. The text states that "Appendix R indicates a low increased entanglement risk in right whales off North Carolina and from South Carolina to Florida, for this alternative, relative to Alternative 1 (No Action)."[39] Again, this Appendix was not made readily available for review along with the Draft EIS. The Draft EIS acknowledges that this alternative, which has a modified area and timing of the prohibition "may expose some late/early migrating animals to entanglement risk."[40] Thus, while it is preferable to the majority of alternatives under consideration, it does increase risk to an extent greater than Alternatives 4 and 6.

Alternative 12, another more recent addition to the list of alternatives, uses boundaries that "approximate the midpoints between proposed closure Alternative 4 and Sub-Alternative 8a." It too is said to result in a low increase in relative risk from Florida through Southern North Carolina, though the risk is somewhat higher than that of Alternative 11. Again, "Appendix R" is referenced for conclusions regarding increases in entanglement risk, yet this appendix was not provided. This alternative is clearly intended to be something of a "compromise" alternative, as the Draft EIS stipulates that it "splits the difference" in boundaries described in other alternatives.

Action 2: Enhance the existing ALWTRP buoy line/weak link gear requirements and buoy line rope marking for black sea bass pots**.**

The Draft EIS proposes several alternatives that are said to enhance the ALWTRP requirements. In addition to Alternative 1 (the No Action Alternative) which would simply require compliance with the extant ALWTRP, the proposal considers 3 other "Preferred" alternatives that include altered rope breaking strength requirements, weak link requirements and gear marking requirements. The Draft EIS states that measures in the ALWTRP have not been in place long enough to gauge their success.

Preferred alternative 2 offers two differing line breaking strengths from November 1 through April 30: sub-alternative 2a, specifying 2,200 pounds in federal waters; and sub-alternative 2b specifying 1,200 pounds, with fishermen allowed the option of using the same or differing line breaking strengths at other times of the year. The Draft EIS cites a recently published paper by Knowlton et al. indicating that line breaking strengths of less than 1,700 pounds would reduce the likelihood of life-threatening entanglements.[41] This peer-reviewed source constitutes the best available science and thus, the council and NMFS cannot reasonably choose Sub-alternative 2A, which is clearly more risk-prone.

[39] Supra note 2, at 108.
[40] Id.
[41] Although said to be "in press" the research has been published: Knowlton, A, J. Robbins, S. Landry, H. McKenna, S. Kraus and T. Werner. 2015. Implications of fishing rope strength on the severity of large whale entanglements. Conservation Biology. At: http://onlinelibrary.wiley.com/doi/10.1111/cobi.12590

Preferred alternative 3 would modify the weak link requirements, mandating a breaking strength of no more than 400 pounds between November 1 and April 30. Although we question the efficacy of weak links[42] and NMFS admits that there is little documentation to support their effectiveness, we appreciate that the council is at least attempting to weaken the line at that point of attachment in the event that it may facilitate breaking free of entangling gear.

Preferred alternative 4 would modify the gear marking requirements to supplement marking requirements of the ALWTRP. It would add an additional 12 inch wide purple band at the end of each of the colored marks otherwise required by the ALWTRP as a means of distinguishing the trap/pot gear for black sea bass from other trap/pot gear. This would be required from November 15 through April 15 in the "Southeast Restricted area North;" from September 1 through May 31 in the "Offshore Trap/Pot Area;" and from September 1 through May 31 in the "Southern Nearshore Trap/Pot Area." We are hopeful that the recent changes in gear marking will assist in identifying the origin of entangling gear; however, because the area and definition of gear types are still overly broad, this may not be sufficient. Further, there is likely to be difficulty in enforcing the marking requirement—which requires hauling the gear or observing it being hauled and confirming the correct marking scheme is being used to identify the gear type and target species for which the gear was set. Finally, although these caveats make this a hopeful but not definitive identifier should an animal become entangled in black sea bass trap/pot gear, we must point out that gear marking, in and of itself, cannot be considered a mitigation measure that would reduce risk.

Mechanical Concerns with the Draft EIS

Dates are provided for a number of tables that discuss expected closure dates for various alternatives and "scanarios," given the current ACL. However, for the No Action alternative (in which there is a seasonal prohibition in place), instead of a closure date, the tables say "no closure."[43] This is misleading. It implies to naïve readers that the fishery is not and would not be closed as it would be under other alternatives. Rather, it is a de facto seasonal closure regardless of the ACL. NMFS and the Council should clarify this, indicating that the fishery is, and would remain, closed from November through April of each year.

We also note that there are a significant number of yellow-highlighted passaged and references in this document, though the reason for this highlighting is not clear.

[42] We note that right whale adults have been found dead following entanglements in which a weak link did not break due to the configuration of the entanglement. See: 70 Fed. Reg. 35,895 (July 21, 2005).
[43] For example see table 4.1.1.1.

References and Citations are Often Incorrect or Missing

Throughout the Draft EIS, references are either missing (and the word "source" is highlighted) or a reference that is provided is highlighted in yellow.[44] It is disconcerting to reviewers to see citations to important tables missing or highlighted as though there is a question as to the appropriateness of their use. Many of the tables included in Chapter 3 are cited to various "SEFSC" data sources but none of them appear in the bibliography to enable commenters to review their basis. The Council should check to assure that all references cited appear in the Bibliography or Appendix referenced.

We lacked the time to check the validity of each and every citation in the document but it was troubling to see some of the significant errors. For example, on page 100 of the Draft EIS, the citation for a discussion of the goals and requirements of the recovery plan for North Atlantic right whales is said to be "NMFS, 2005." Checking that citation in the bibliography shows that it references a different and entirely irrelevant document (i.e., "A Message From The NOAA Assistant Administrator For Fisheries: Welcome to NOAA's National Marine Fisheries Service's report on the status of the U.S. fisheries for 2004") and the web link to that reference is a dead link. When we located the correct link for that NMFS 2005 document it became clear that this was a report that has nothing to do with right whale recovery plan goals.[45] The proper internet link should have been provided.

Some references in the document lack entries in the bibliography. For example, on page 100 of the Draft EIS, the citation to the BiOp and the quote discussing the probability of extinction or quasi-extinction is said to be "NMFS (2014)." However, there is no such citation in the bibliography and the only bibliographic references to agency reports in 2014 (e.g., NOAA 2014 instead of NMFS 2014) were not references to the Biological Opinion, but were documents detailing the requirements for gear modification under the ALWTRP. We were able to find the relevant Biological Opinion online,[46]but it should have been properly referenced in the Draft EIS.

The table of contents for the Draft EIS lists a number of appendices that were not made part of the document. While we understand that at least some of the appendices that are listed in the table of contents might not be pertinent until rulemaking is proposed with a preferred Action 1 alternative selected; there are references to appendices in the document that were clearly used by the Council and NMFS, were available at the time the draft was posted for comment and would have been important for

[44] See as examples "Kraus et al, 2005" on page 99 and NMFS, 2005 on page 100 and Figures 3.3.3.2 and 3.3.3.3.
[45] The link is said to be: http://www.mafmc.org/midatlantic/StatusReport2004.pdf but this leads to an error message. The correct link is http://www.nmfs.noaa.gov/sfa/domes_fish/StatusofFisheries/StatusReport2004.pdf; however that document does not mention the criteria for right whale recovery. The SAFMC and NMFS must check ALL references to be sure that they are accurate and are 'live' links so that reviewers can ground truth the statements attributed to them.
[46] See: Endangered Species Act Section 7 Consultation on the Continued Implementation of Management Measures for the American Lobster Fishery [Consultation No. NER-204—11-76] July 31,2014 At: http://www.greateratlantic.fisheries.noaa.gov/protected/section7/bo/actbiops/2014finalamericanlobsterbiop073114.pdf.

the public to review in making informed comments. For example, in the section on economic impacts the following language appears:

> Potential economic outcomes must be weighed against the chance that a NARW would become entangled in black sea bass pot gear. SERO-LAPP-2014-09 (**Appendix N**) analyzed the potential co-occurrence of black sea bass trap pot gear and NARW in space and time across the Action 1 alternatives for a wide variety of potential scenarios (i.e., different assumptions regarding the distribution of trap gear, catch rates, and NARW responses to environmental conditions).[47]

The Draft EIS goes on to state that "[SERO-LAPP-2014-09] is the basis for comparison of alternatives …shown in Table 4" [48] which is the color gradient table ranking alternatives from most to least protective with regard to risk to right whales. The table, on which the public is asked to depend for a ranked analysis of risk provides no explanation of the basis on which these relative judgments on risk were made. Until such time as this critical analysis is made readily available to the public, rulemaking to consider any alternative other than Alternative 1 is premature and inappropriate.

Further, in its analysis of the impact to protected resources posed by Alternatives 11 and 12 under Action 1, the Draft EIS cites "Appendix R" as indicating an analysis on which NMFS and the Council based the judgment that there was a low increase in entanglement risk.[49] Yet this Appendix—clearly available to the Council and NMFS—was not made available to the public for review.

Moreover, the statement that "[o]verlaying distributions of right whales with fisheries/ships/etc. is an established way of evaluating risk from activities of interest " is cited to "NMFS 2014, Redfern et al.2013".[50] We may not dispute that co-occurrence is used in evaluating risk, but here are no such references listed in the bibliography. The only citations to the agency for 2014 are summaries of gear requirements in the Southeast and there is no reference to any work by "Redfern." We could not locate this document to review; nonetheless, it is important that this or other analyses of co-occurrence adequately consider whether the co-occurrence model includes spatially and temporally robust fisheries and right whale distributional data and an appropriate spatial scaling of these data. Again, the agency cannot reasonably make crucial management proposals and decisions based on cited documents, reports or studies it cites to which it gives the public no access.

In the section on economic analysis comparing risk to right whales with economic costs to the industry, the Draft EIS cites the cost of disentangling a right whale to "NMFS SERO PRD 2015."[51] The bibliography list the full citation as "NMFS (National Marine Fisheries Service) SERO PRD. 2015.Unpublished data."

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[47] Supra note 2, at S-42, where Appendix N, missing from the review document, is said to be "Evaluation of black sea bass trap gear closure alternatives in South Atlantic Snapper-Grouper Regulatory Amendment 16".
[48] Supra note 2, at S-33.
[49] Supra note 2, at 108.
[50] Supra note 2, at 102.
[51] Supra note 2, at 120.

Again, when weighing economic costs and benefits of rulemaking—particularly evaluating the cost of saving the life of and animal from a critically endangered species and using it to compare costs of restrictions on industry — the council and NMFS must be fully transparent and providing crucial information from data that are unavailable for review is certainly not transparent.

Conclusion

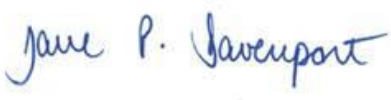
The waters from Florida through North Carolina require extra precaution when consideration is given to permitting activities that can harm the remnant population of right whales, still struggling to recover. Given the well-known history of entanglement in lines associated with trap/pot fisheries, it is prudent to continue to prohibit use of black sea bass pots in these waters from November through April, when right whales and their newborns are most likely to be present. We strongly support this prohibition and urge you to select Alternative 1, the "No Action" alternative as the preferred alternative in Action 1.

Sincerely,

Sharon B. Young
The Humane Society of the U.S.

Regina A. Asmutis-Silvia
Whale and Dolphin Conservation

Sarah Uhlemann
Center for Biological Diversity



Jane P. Davenport
Defenders of Wildlife

Mason Weinrich

Mason Weinrich
Center for Coastal Studies, Adjunct

Caroline Good

Caroline Good
Duke University

My name is Charles Renda Jr.

I live in Otway NC.

I'm a member of the SAFMC Law Enforcment Advisory Panel.

I'm speaking on the behalf of the Black Sea Bass Pot Fisherman.

There are 534 Snapper Grouper unlimited permits, and 112 225 lb. trip limit premits for a total of 646. 32 are Black Bass Pot permits, 16 are from NC.

Black Bass pot fishing is a winter fishery for these Fisherman. For the past 4 years this fishery has been closed because Whales may be in the area, and the Whales are protected under the Endangered Species Act. It started in December and ended in April. Each year it closed earlier and earlier. Last year it was closed from all of November to April. That was the end of their winter fishery.

Black Bass Fisherman by Federal Regulation can only fish 35 pots, and the pots must be removed from the water at the end of the trip. The pots are not permited to soak over night. Black Bass pot fishing is a one day fishery trip. They go to sea in the morning and return in the evening with the gear onboard.

The Endangered Species Act states when Whales are sited their location is to be reported to the Coast Guard giving Latitude and longitule. Vessels over 65 feet must reduce speed to 10 knots or less. The Southeast coast of the United States has a great number of vessels up down its coast at all times. I feel if the Whales are

spotted off Florida there is no reason to stop fishing in North Carolina, or visavis. Neither the Fisherman or the Whales want entanglement in the gear.

In the visionary meetings in 2014 and in 2015 it was mentioned to improve communication between Federal Agency and Fisherman in real time via VHF Radio. This can be done in the Black Bass pot fishery. Yes it's easier to just shut the fishery down than work out a better solution. But we have the brightist and smartist people working on the Southeast Atlantic Council and the Southeast Regional Office, so do we want the easy solution or the best solution so these 32 Fisherman don't lose their winter fishery and their income.

Thank you for the opportunity to speak.

Respectfuly,

Charles Renda Jr.

August 21, 2015

Mr. Bob Mahood, Executive Director
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

Re: Snapper Grouper Regulatory Amendment 16 Black Sea Bass Pot Fishing Public Hearing Document

Mr. Mahood,

The Southeastern Fisheries Association (SFA) East Coast Fisheries Section (ECFS) submits this written comment to the South Atlantic Fishery Management Council (SAFMC) on the Snapper Grouper (SG) Regulatory Amendment (RA) 16 Black Sea Bass (BSB) pot fishing public hearing document. The SG RA-16 has two Actions with numerous Alternatives.

The best choice for Action 1 is Alternative 9, Sub-Alternative 9a, which is the SFA ECFS Preferred for the Florida BSB pot fishermen to resume the winter BSB pot fishery that has been closed since 2013 from November 01 to April 30. The SFA ECFS supports the depth contour coordinates for the eastern boundary for continued protection of the North Atlantic Right Whale critical habitat. The SFA ECFS also supports the Action 2 Preferred Alternative 2, Preferred Sub-alternative 2a, Preferred Alternative 3 and Preferred Alternative 4.

Proposed Action 1. Modify the annual November 1 through April 30 prohibition on the use of black sea bass pot gear

SFA ECFS Preferred Alternative 9. The black sea bass pot closure applies to waters inshore of points 1-28 listed below (Table 2.1.7); approximately Daytona Beach, Florida, to Cape Hatteras, North Carolina (Figure 2.1.8).

SFA ECFS Preferred Sub-alternative 9a. The black sea bass pot closure applies to the area annually from November 1 through April 15.

Note: In **Alternative 9**, the boundaries off Florida and Georgia are identical to the boundaries in **Alternative 5**. Off North Carolina and South Carolina, the black sea bass pot closure applies in the exclusive economic zone in waters shallower than 20 meters.

When using the 2000 – 2013 price per pound values from Table 9, **Sub-Alternative 9a** had the third highest expected percentage of overall ex-vessel values for black sea bass landed by pot gear.

For pot fishermen, the potential social effects are primarily associated with foregone economic benefits due to restricted or no access to the **prolific** black sea bass resource during the winter.
Table 2.1.7. Eastern boundary coordinates for the proposed black sea bass pot closure in **Alternative 9**.

Point	N. Latitude	W Longitude
1	35° 15′	State/EEZ Boundary
2	35° 15’	75° ’20’
3	35° 05’’	75° ’24’
4	35° 08’’	’75° 38’
5	35° 04’’	’75° 52’
6	34° ’51’	’76° 11’
7	34° 36’’	76° 24’
8	34° 24’’	76° 19’
9	34° 21’’	’76° 27’
10	34° 33’’	’76° 48’
11	34° 16’	77° 25’
12	33° 44’	77° 46’
13	33° 30’	77° 31’
14	33° 28’	77° 35’
15	33° 36’	77° 55’
16	33° 34’	78° 28’
17	32° 59’	78° 52’
18	32° 59’	79° 02’
19	32° 31’	79° 30’
20	31° 57’	80° 27’
21	31° ’42’	80° ’24’
22	31° 31’	80° 33’
23	30° 43’	80° 49’
24	30° 30’	81° 01’
25	29° 45’	81° 01’
26	29° 31’	80° 58’
27	29° 13’	80° 52’
28	29° 13’	State/EEZ Boundary

Source: Amanda Frick, NMFS SERO.

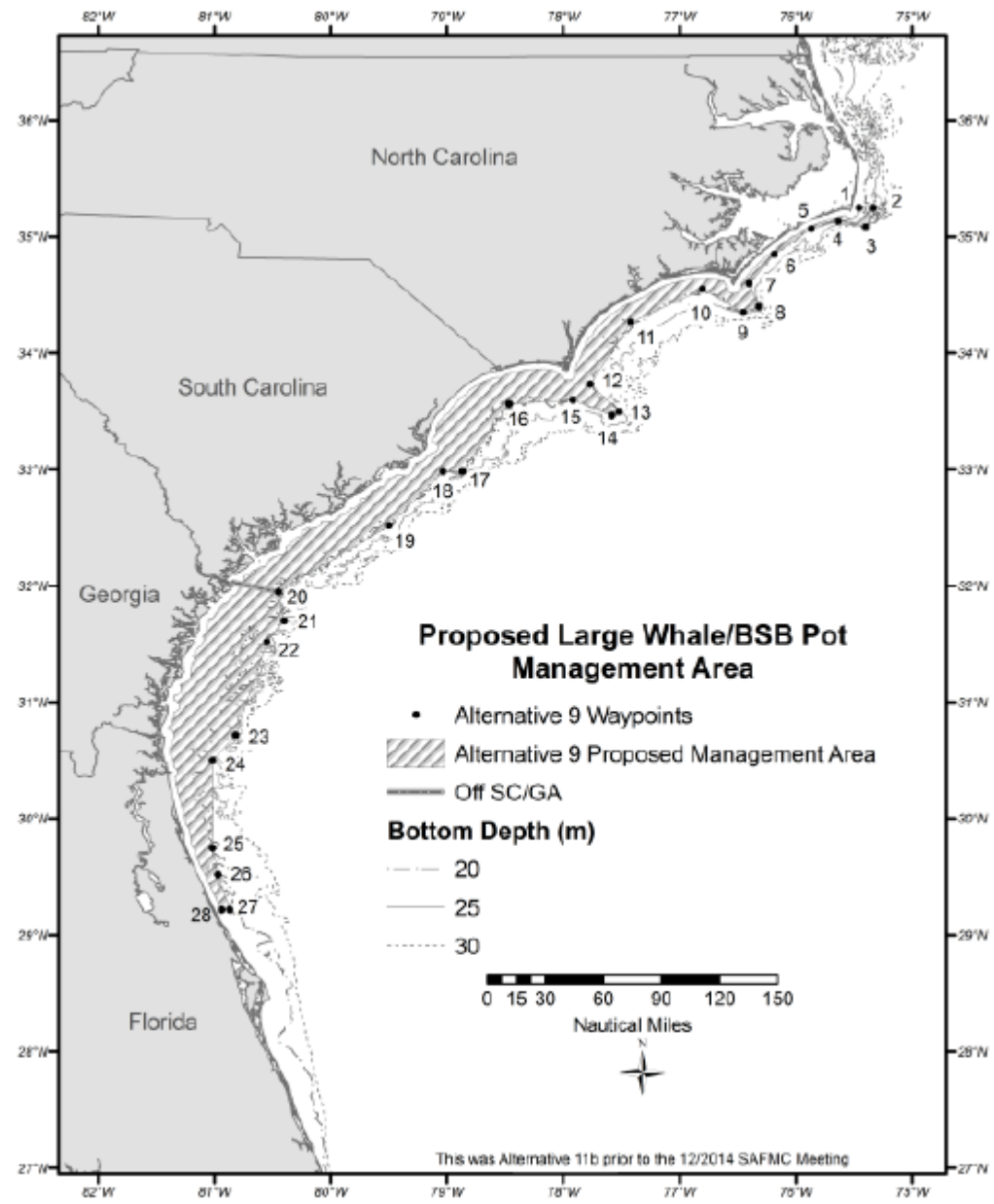


Figure 2.1.8. Area for the proposed black sea bass pot closure in **Alternative 9**. Source: Amanda Frick, NMFS SERO.

Proposed Action 2. Enhance the existing Atlantic Large Whale Take Reduction Plan (ALWTRP) buoy line/weak link gear requirements and buoy line rope marking for black sea bass pots

SFA ECFS Preferred Alternative 2. Modify the current ALWTRP buoy line requirements.

SFA ECFS Preferred Sub-alternative 2a: From November 1 through April 30, the breaking strength must not exceed 2,200 lbs in federal waters in the South Atlantic EEZ.
Note: While the buoy line breaking strength would be modified by **Preferred Alternative 2**, it would only be required for November 1 through April 30. Fishermen could decide whether they would want to use the same buoy line from May 1 through October 31.

SFA ECFS Preferred Alternative 3. Modify the current ALWTRP weak link requirements. From November 1 to April 30, the breaking strength of the weak links must not exceed 400 lbs for black sea bass pots in the South Atlantic EEZ.
Note: While the weak link breaking strength would be modified by **Preferred Alternative 3**, it would only be required for November 1 through April 30. Fishermen could decide whether they would want to use the same weak link strength from May 1 through October 31.

SFA ECFS Preferred Alternative 4. Modify the current ALWTRP gear marking requirements. In addition to the Plan's rope marking requirements, include a feature specifically distinguishing the commercial South Atlantic black sea bass pot component of the snapper grouper fishery. In addition to the currently required three 12-inch color marks at the top, midway, and bottom sections of the buoy line specified for the individual management area in which the gear is deployed as required by the Atlantic Large Whale Take Reduction Plan, an additional 12-inch wide purple band must be added at the end of each required 12-inch colored mark. Each of the three marks would be a total of 24 inches in length. The additional gear marking requirements of this action are required in federal waters from November 15 through April 15 (Southeast Restricted Area North), September 1 through May 31 (Offshore Trap/Pot Area), and September 1 through May 31 (Southern Nearshore Trap/Pot Waters Area).
Note: While the additional buoy line marking requirements would be modified by **Preferred Alternative 4**, the additional markings would only be required for November 1 through April 30. Fishermen could decide whether they would want to use the same line markings from May 1 through October 31.

Jimmy Hull, Chairman
SFA ECFS
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