

**Regulatory Amendment 16  
to the Fishery Management Plan  
for the Snapper Grouper Fishery of the South  
Atlantic Region**

**DECISION DOCUMENT**

**June 2014**

## PDF PAGE

### PURPOSE & NEED FOR ACTION

The purpose of Regulatory Amendment 16 is to reconsider the annual November 1 to April 30 prohibition on the use of black sea bass pot gear.

The need for the amendment is to minimize potential negative socio-economic impacts to black sea bass pot endorsement holders while maintaining protection for ESA-listed whales in the South Atlantic region.

#### **IPT's recommended edits:**

The purpose of Regulatory Amendment 16 is to reconsider the annual November 1 **through** April 30 prohibition on the use of black sea bass pot gear.

The need for the amendment is to ~~minimize potential negative~~ **increase** socio-economic ~~impacts~~ **benefits** to black sea bass pot endorsement holders while maintaining protection for ESA-listed whales in the South Atlantic region.

Rationale: Minimizing negative impacts does not actually capture the status quo because there is currently no fishing allowed during that time period. The need should be to increase beneficial impacts.

**COMMITTEE ACTION:** APPROVE SUGGESTED EDITS TO PURPOSE AND NEED

## PROPOSED ACTION

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

**Alternative 1 (No Action).** Retention, possession, and fishing for black sea bass is prohibited using black sea bass pot gear, annually, from November 1 through April 30.

The following provisions currently exist that may reduce entanglements of whales listed under the Endangered Species Act. The South Atlantic Fishery Management Council does not intend to change these provisions through this amendment.

Amendment 18A to the Snapper Grouper Fishery Management Plan of the South Atlantic Region (SAFMC 2012a):

- Established an endorsement program that capped the number of vessels utilizing pot gear at 32;
- Limited the number of pots per vessel to 35;
- Required that pots be brought back to shore after each trip;
- Established a commercial trip limit of 1,000 lbs gw;

See **Table 1.6.1** for measures mandated through the Atlantic Large Whale Take Reduction Plan.

In March 2014, the Council approved the following guidance: EXPAND ALTERNATIVE 1 WITH EXISTING PROVISIONS IN ALWTRP AND AMENDMENT 18A BUT CLARIFY THAT EXISTING MEASURES WOULD STAY IN PLACE.

- IPT added Section 1.6: What Regulations Have the Council and NMFS Implemented Concerning Black Sea Bass in the South Atlantic Region?
- IPT added Section 1.6.1: Atlantic Large Whale Take Reduction Plan – section contains information on measures that are applicable to the black sea bass pot fishery in the South Atlantic.

**Alternative 2.** Remove the annual November 1 through April 30 prohibition on the retention, possession, and fishing for black sea bass using black sea bass pot gear.

**COMMITTEE ACTION:** APPROVE SUGGESTED EDITS TO ALTERNATIVES 1 AND 2

~~**Alternative 3.** Prohibit retention, possession, and fishing for black sea bass using black sea bass pot gear, annually, from November 15 through April 15.~~

In March 2014 the Council approved moving this alternative to the Considered But Rejected Appendix

**Old Alternative 4.** The black sea bass pot closure applies only in designated right whale critical habitat in the South Atlantic region.

In March 2014, the Council clarified that:

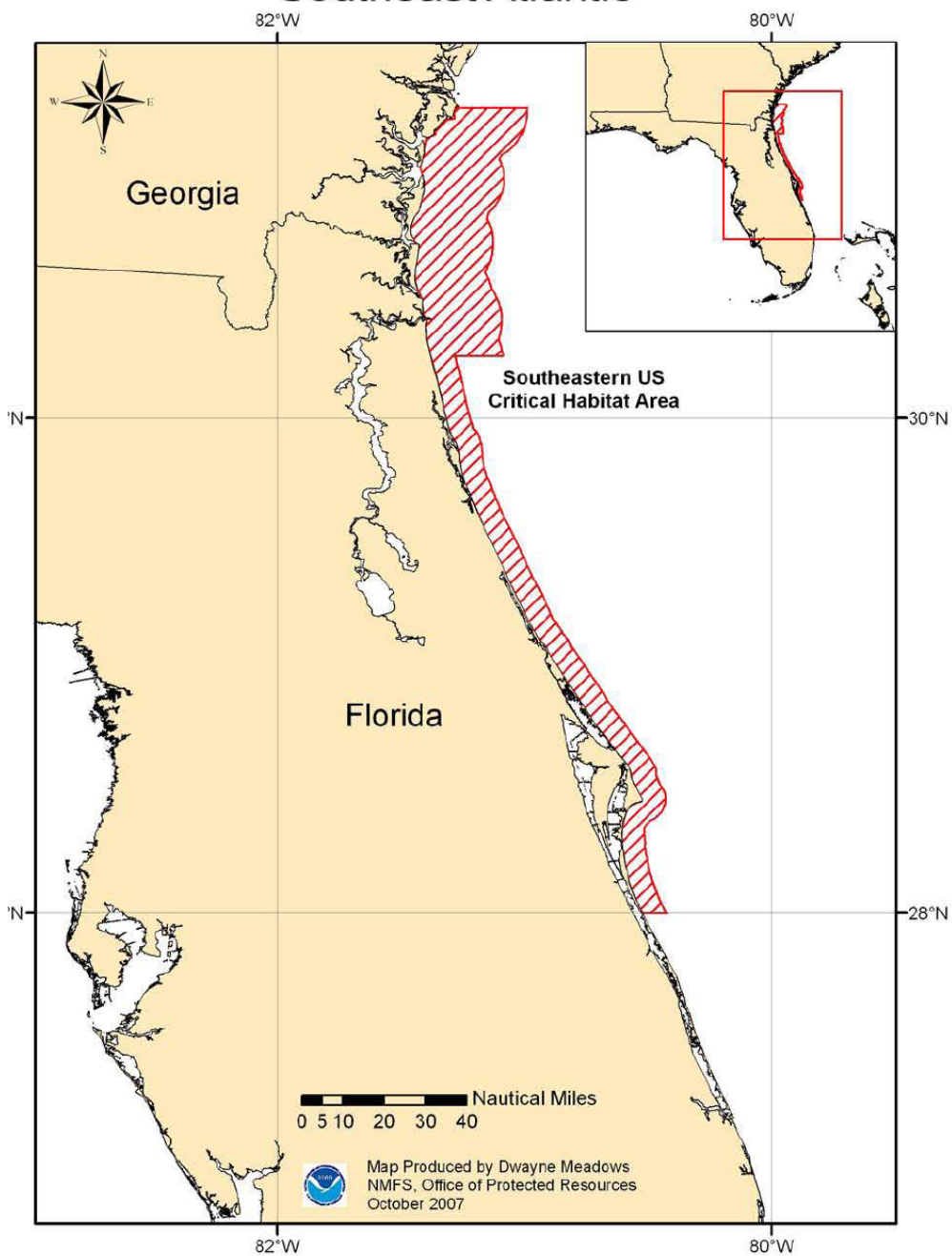
- THE AREA DEPICTED IN ALTERNATIVE 4 WOULD REMAIN UNCHANGED EVEN IF RIGHT WHALE CRITICAL HABITAT BOUNDARIES CHANGE AS A RESULT OF ITS RE-EVALUATION.
- GUIDANCE TO INCLUDE TIMEFRAME OF NOV 15 THROUGH APR 15 TO THE LANGUAGE OF ALTERNATIVE 4.

**New Alternative 3.** The black sea bass pot closure applies to the area currently designated as North Atlantic right whale critical habitat (**Figure 2.1.1**). This area encompasses waters between 31° 15'N, (approximately the mouth of the Altamaha River, Georgia) and 30° 15'N (approximately Jacksonville, Florida) from the shoreline out to 15 nautical miles offshore; and the waters between 30° 15'N and 28 °00'N, (approximately Sebastian Inlet, Florida) from the shoreline out to 5 nautical miles. The closure applies to the area annually from November 15 through April 15.

**Note:** This area represents North Atlantic right whale critical habitat in the South Atlantic region designated on June 3, 1994. The map below provides location of the critical habitat boundary. The critical habitat designation did not provide waypoints for the boundary. The boundary would not automatically change if the boundary for the right whale critical habitat were to change.

**COMMITTEE ACTION:** APPROVE SUGGESTED EDITS TO ALTERNATIVE 3

## Northern Right Whale Critical Habitat: Southeast Atlantic



**Figure 2.1.1.** Area for the Proposed Black Sea Bass Pot Closure in Alternative 3.

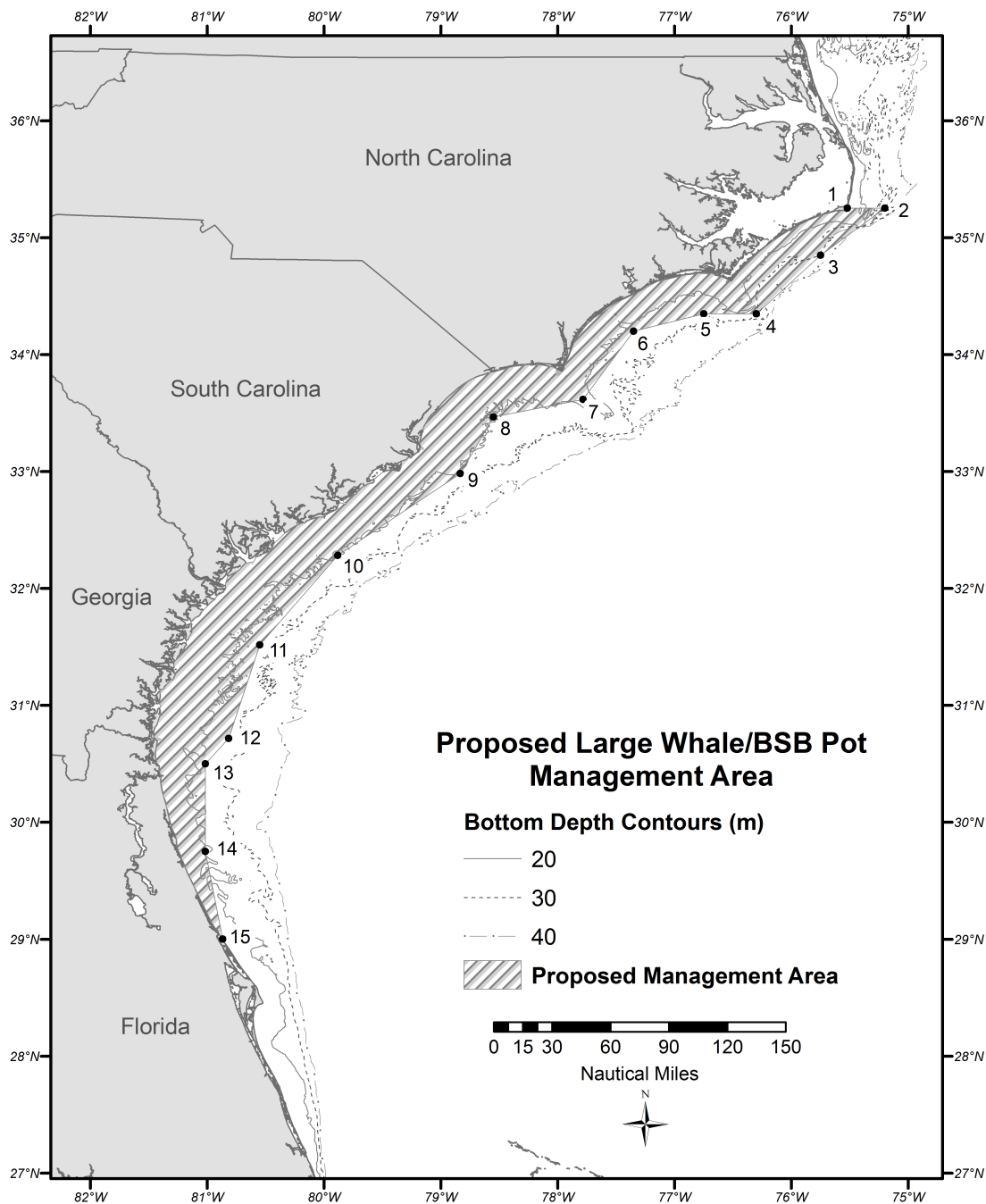
**Old Alternative 4.** The black sea bass pot closure applies to waters inshore of points A-O listed below; approximately Ponce Inlet, Florida, to Cape Hatteras, North Carolina. The closure applies to the area annually from November 1 to April 30.

**New Alternative 4.** The black sea bass pot closure applies to waters inshore of points 1-15 listed below (**Table 2.1.1**); approximately Ponce Inlet, Florida, to Cape Hatteras, North Carolina (**Figure 2.1.2**). The closure applies to the area annually from November 1 through April 30.

Note: This area likely represents North Atlantic right whale calving habitat. The area identified from Cape Fear, North Carolina, southward to 29°N (approximately Ponce Inlet, Florida) is based on model outputs (i.e., Garrison 2007, Keller et al. 2012, Good 2008). The area from Cape Fear, North Carolina, to Cape Hatteras, North Carolina, is an extrapolation of those model outputs and based on sea surface temperatures and bathymetry.

**Table 2.1.1.** Eastern boundary coordinates for the proposed black sea bass pot closure in Alternative 4.

Point	N Latitude	W Longitude
1	35°15.19' N	Shoreline
2	35°15.19'	75°12'
3	34°51'	75°45'
4	34°21'	76°18'
5	34°21' N	76°45'
6	34°12'	77°21'
7	33°37'	77°47'
8	33°28'	78°33'
9	32°59'	78°50'
10	32°17'	79°53'
11	31°31'	80°33'
12	30°43'	80°49'
13	30°30'	81°01'
14	29°45'	81°01'
15	29°00'	Shoreline



**Figure 2.1.2.** Area for the Proposed Black Sea Bass Pot Closure in Alternative 4.

**COMMITTEE ACTION:** APPROVE SUGGESTED EDITS TO ALTERNATIVE 4

**Old Alternative 6.** The black sea bass pot closure applies to waters 25 m or shallower from 28° 21.5" N (approximately Cape Canaveral, Florida) to Savannah, Georgia. From the Georgia/South Carolina border to Cape Hatteras, North Carolina, the closure applies to waters under SAFMC management that are 30 m or shallower. The closure applies to the area annually from November 1-April 30. The map below provides approximate location of proposed boundary.

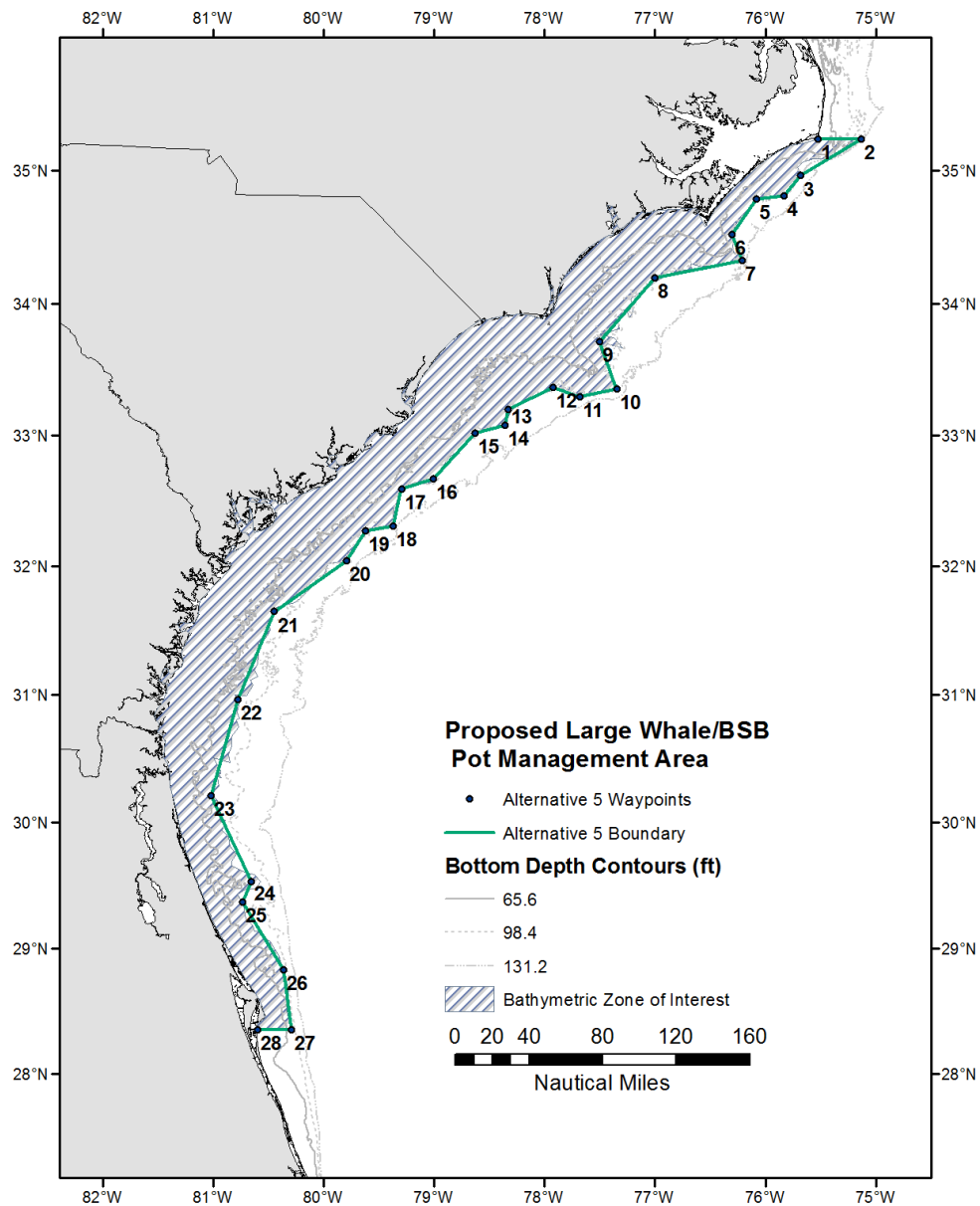
**New Alternative 5.** The black sea bass pot closure applies to waters inshore of points 1-28 listed below (**Table 2.1.2**), approximately Cape Canaveral, Florida, to Cape Hatteras, North Carolina (**Figure 2.1.3**). The closure applies to the area annually from November 1 through April 30.

Note: This area generally represents waters 25 m or shallower from 28° 21.5" N (approximately Cape Canaveral, Florida) to Savannah, Georgia; from the Georgia/South Carolina border to Cape Hatteras, North Carolina, the closure applies to waters under Council management that are 30 m or shallower. This bathymetric area is based on right whale sightings (all demographic segments) and sightings per unit of effort (proxy of density) by depth and captures 97% and 96% of right whale sightings off the North Carolina/South Carolina area, and Florida/Georgia area, respectively. The map below provides an approximate location of the proposed boundary.



**Table 2.1.2.** Eastern boundary coordinates for the proposed black sea bass pot closure in Alternative 5.

Point	N Latitude	W Longitude
1	35° 14'	Shoreline
2	35° 14'	75° 08'
3	34° 58'	75° 41'
4	34° 49'	75° 50'
5	34° 47'	76° 05'
6	34° 31'	76° 18'
7	34° 20'	76° 13'
8	34° 12'	77° 00'
9	33° 43'	77° 30'
10	33° 21'	77° 21'
11	33° 18'	77° 41'
12	33° 22'	77° 56'
13	33° 12'	78° 20'
14	33° 05'	78° 22'
15	33° 01'	78° 38'
16	32° 40'	79° 01'
17	32° 36'	79° 18'
18	32° 19'	79° 22'
19	32° 16'	79° 37'
20	32° 03'	79° 48'
21	31° 39'	80° 27'
22	30° 58'	80° 47'
23	30° 13'	81° 01'
24	29° 32'	80° 39'
25	29° 22'	80° 44'
26	28° 50'	80° 22'
27	28° 21'	80° 18'
28	28° 21'	Shoreline



**Figure 2.1.3.** Area for the Proposed Black Sea Bass Pot Closure in Alternative 5.

**COMMITTEE ACTION:** APPROVE SUGGESTED EDITS TO ALTERNATIVE 5.

**Alternatives developed as a result of scoping comments:**

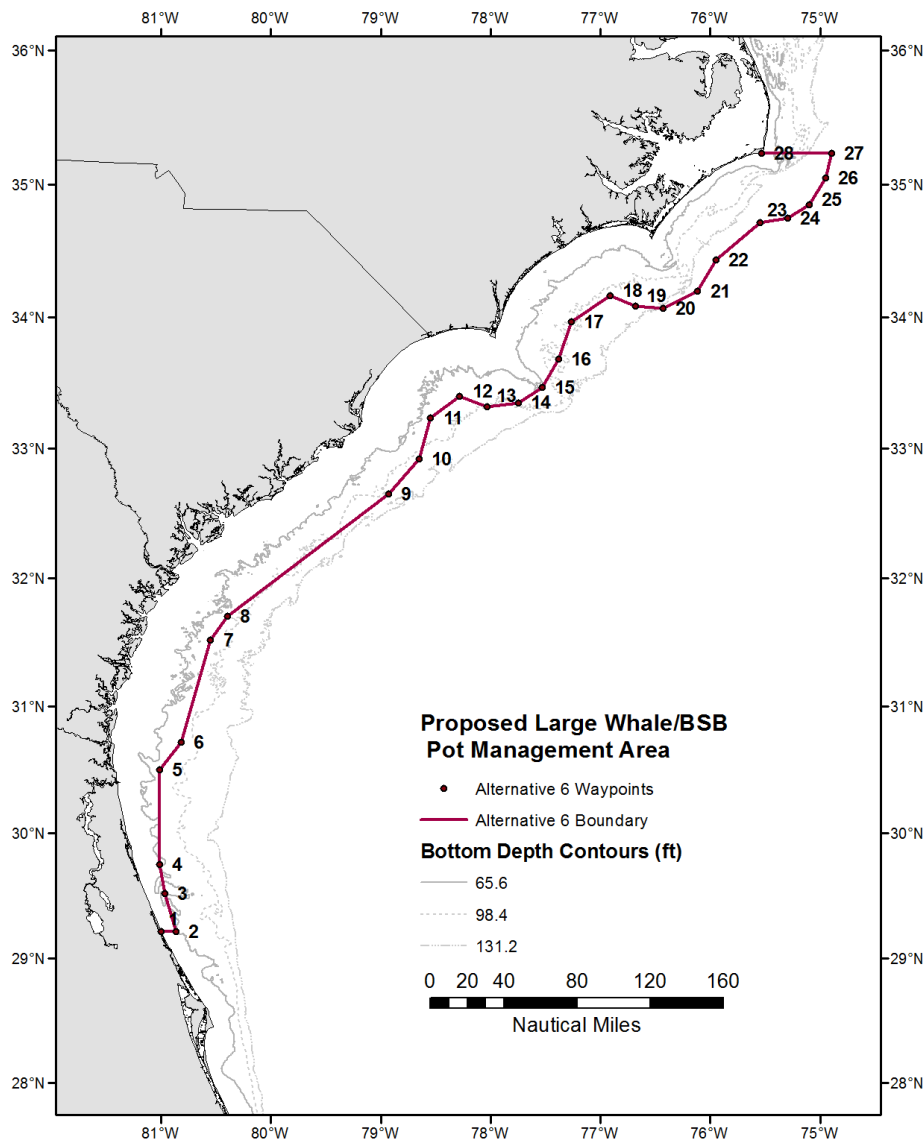
**Alternative 6.** The black sea bass pot closure applies to waters inshore of points 1-28 listed below (**Table 2.1.3**); approximately Cape Canaveral, Florida, to Cape Hatteras, North Carolina (**Figure 2.1.4**). The closure applies to the area annually from November 1 through April 30.

Note: This area is based on joint comments received from non-government organizations (dated January 3, 2014) in response to NMFS' December 4, 2013, *Federal Register* Notice of Intent to Prepare this Draft Environmental Impact Statement (DEIS) (78 FR 72868). The non-government organizations proposed the area as a reasonable alternative for consideration. The area, also included in a Center for Biological Diversity et al. petition in 2009 for right whale critical habitat, is off the coasts of Georgia and Florida and based on calving right whale habitat modeling work of Garrison (2007) and Keller et al. (2012). This area represents the 75th percentile of sightings (91% of historical sightings included in their study) off Florida and Georgia (Garrison 2007 and Keller et al. 2012). Off the coasts of North Carolina and South Carolina, the closure extends from the coastline to 30 nautical miles offshore. The map below provides approximate location of proposed boundary.

**Table 2.1.3.** Eastern Boundary Coordinates for the Proposed Black Sea Bass Pot Closure in Alternative 6.

Point	N Latitude	W Longitude
1	29° 13'	Shoreline
2	29° 13'	80° 52'
3	29° 31'	80° 58'
4	29° 45'	81° 01'
5	30° 30'	81° 01'
6	30° 43'	80° 49'
7	31° 31'	80° 33'
8	31° 42'	80° 24'
9	32° 39'	78° 56'
10	32° 55'	78° 39'
11	33° 14'	78° 33'
12	33° 24'	78° 17'
13	33° 19'	78° 02'
14	33° 21'	77° 45'
15	33° 28'	77° 32'
16	33° 41'	77° 23'
17	33° 58'	77° 16'

18	34° 10'	76° 55'
19	34° 05'	76° 41'
20	34° 04'	76° 26'
21	34° 12'	76° 07'
22	34° 26'	75° 57'
23	34° 43'	75° 33'
24	34° 45'	75° 18'
25	34° 51'	75° 06'
26	35° 03'	74° 57'
27	35° 14'	74° 54'
28	35° 14'	Shoreline



**Figure 2.1.4.** Area for the Proposed Black Sea Bass Pot Closure in Alternative 6.

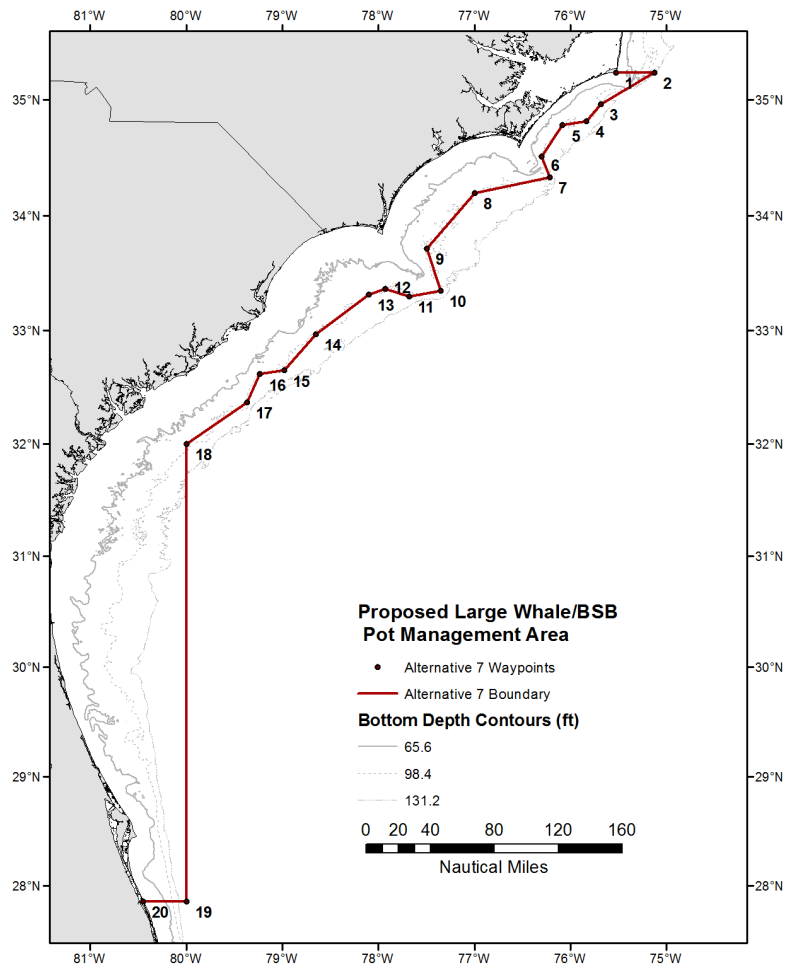
**Alternative 7.** The black sea bass pot closure applies to waters inshore of points 1-20 listed below (**Table 2.1.4**), approximately Sebastian, Florida, to Cape Hatteras, North Carolina. The closure applies to the area annually from November 1 through April 30.

**Note:** This area is also based on joint comments received from a number of environmental groups (dated January 3, 2014) in response to NMFS' December 4, 2013, *Federal Register* Notice of Intent to Prepare this DEIS (78 FR 72868). The environmental groups proposed the area as a reasonable alternative for consideration. This area represents an existing management area, the Southeast Seasonal Gillnet Restricted Area, under the Atlantic Large Whale Take Reduction Plan; and an additional

area off North Carolina. The area off North Carolina includes waters shallower than 30 meters and is northward of the designated ALWTRP Southeast Restricted Area.

**Table 2.1.4.** Eastern boundary coordinates for the proposed black sea bass pot closure in Alternative 7.

Point	N Latitude	W Longitude
1	35° 14'	Shoreline
2	35° 14'	75° 08'
3	34° 58'	75° 41'
4	34° 49'	75° 50'
5	34° 47'	76° 05'
6	34° 31'	76° 18'
7	34° 20'	76° 13'
8	34° 12'	77° 00'
9	33° 43'	77° 30'
10	33° 21'	77° 21'
11	33° 18'	77° 41'
12	33° 24'	77° 57'
13	33° 19'	78° 06'
14	32° 58'	78° 39'
15	32° 39'	78° 59'
16	32° 37'	79° 14'
17	32° 22'	79° 22'
18	32° 00'	80° 00'
19	27° 51'	80° 00'
20	27° 51'	Shoreline



**Figure 2.1.5.** Area for the Proposed Black Sea Bass Pot Closure in Alternative 7.

**COMMITTEE ACTION:** APPROVE ALTERNATIVES 6 & 7 AS PRESENTED

In March 2014, the Council approved the motions below:

MOTION: ADD AN ALTERNATIVE(S) THAT WOULD CLOSE POTS IN WATERS OFF NC:

- FROM NOV 1 TO DEC 15 IN ALL EZZ WATERS OFF NC
- NOV 1 TO DEC 15 IN WATERS SHALLOWER THAN 25 M
- MARCH 15 TO APR 30 IN ALL EZZ WATERS OFF NC
- MARCH 15 TO APR 30 IN WATERS SHALLOWER THAN 25 M

\*\*\*GUIDANCE TO STAFF TO STRUCTURE IN A MANNER THAT WILL FACILITATE ANALYSIS\*\*\*

**Alternative 8.** The black sea bass pot closure applies to waters off the states of North Carolina and South Carolina, annually, from November 1 through December 15 and March 15 through April 30.

**Sub-alternative 8a.** The black sea bass pot closure applies in the entire exclusive economic zone off the states of North Carolina and South Carolina (**Table 2.1.5**).

**Table 2.1.5.** Eastern Boundary Coordinates for the Proposed Black Sea Bass Pot Closure in Sub-alternative 8a.

Point	N Latitude	W Longitude

**Sub-alternative 8b.** The black sea bass pot closure applies in the exclusive economic zone off the states of North Carolina and South Carolina in waters shallower than 25 meters (**Table 2.1.6**).

**Table 2.1.6.** Eastern Boundary Coordinates for the Proposed Black Sea Bass Pot Closure in Sub-alternative 8b.

Point	N Latitude	W Longitude

**IPT NOTE:** During the March 2014 meeting, the Committee discussed that in order to provide the necessary temporal and spatial protection to migrating whales, both Alternative 8 and Alternative 3 would have to be selected as preferred alternatives. To facilitate analyses, the IPT suggest the Committee consider including a combination of alternatives 3 & 8 as an alternative instead.

**COMMITTEE ACTION:** CONSIDER IPT’S SUGGESTION AND PROVIDE GUIDANCE



## **SNAPPER GROUPE AP RECOMMENDATIONS:**

**November 2013:** The AP discussed the feasibility of the pot closure only applying to within designated Right Whale Critical Habitat. Some of the AP members from North Carolina indicated that migratory whales are frequently encountered in water 30-60 feet deep off the NC coast. Migrating whales are distributed from the Gulf of Maine south in spring and fall and congregate at calving grounds. The number of black sea bass pots the whales encounter in the South Atlantic is minuscule relative to the number of pots in the Gulf of Maine. The AP made the following motion:

**MOTION: RECOMMEND ALTERNATIVE 4 AS PREFERRED**

**Alternative 4.** Prohibit retention, possession, and fishing for black sea bass using black sea bass pot gear, annually, from November 1 to April 30, in designated right whale critical habitat in the South Atlantic region.

**APPROVED**

**April 2014:** The AP made no further recommendations on the amendment but reiterated that vertical lines in the northeast lobster fishery pose a much more severe threat to whales than black sea bass pots and questioned why there are no restrictions in place for the northeast lobster fishery.

## **PROPOSED OUTLINE FOR CHAPTER 4 (Submitted by SERO Protected Resources):**

- A. Evaluate each alternative in terms of fishery effort that would be impacted  
Solicit Nick Farmer's assistance with projected fishing effort
- B. Evaluate each alternative in terms of whale use
  - a) This would be based on sightings data or more likely, models
  - b) For model based approach, would likely utilize variables incorporated into Gowan and Orega-Ortiz 2014 manuscript to determine utilization of habitat by right whales
  - c) Variables may include: Survey effort, Sea Surface Temperature, Distance to Shore, Depth, Distance to 22°C isotherm, semi-month, year
- C. Risk assessment using spatio-temporal black sea bass fishing data and spatio-temporal right whale occurrence data (or predicted occurrence) to determine relative risk of black sea bass fishing to right whales among alternatives.

## **TIMING:**

Based on the time necessary for Protected Resources to complete their analyses, a timing change is being recommended: Approve for public hearings at December 2014 meeting,

hold public hearings in January/February 2015, approve all options in March 2015, and final approval at the June 2015 meeting.