



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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Mr. David Cupka
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC 29405

Dear Mr. Cupka:

The purpose of this letter is to inform the South Atlantic Fishery Management Council (Council) of the partial approval of Regulatory Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (Regulatory Amendment 9). Actions in Regulatory Amendment 9 include measures to: 1) Reduce the bag limit for black sea bass from 15 fish per person per day to 5 fish per person per day; 2) split the black sea bass commercial quota into two seasons (June-November and December-May); 3) establish a trip limit of 1,000 pounds gutted weight (gw) for gag; 4) establish a trip limit of 1,500 pounds gw for vermilion snapper; and 5) increase the trip limit for greater amberjack from 1,000 pounds gw to 1,200 pounds gw. NOAA Fisheries Service, with the concurrence of the Assistant Administrator for Fisheries, has determined it is not appropriate to approve the split season quota for black sea bass at this time because the action is not sufficiently supported by the administrative record as required by the Administrative Procedure Act. All other actions contained in Regulatory Amendment 9 have been approved for implementation.

During the public comment period on the proposed rule, several comments were received opposing the split season for the black sea bass commercial quota. One comment suggested the action would have negative economic effects on commercial fishermen by perpetuating the derby fishery. More specifically, the commenter indicated that opening the fishery in the winter when few other fisheries are open would likely increase the number of fishers targeting black sea bass, exacerbating the current derby fishing situation.

Another opposing comment raised multiple concerns about entanglements with marine mammals and black sea bass pot gear. The commenter stated “[t]he risk of entanglement may be further exacerbated during the winter months as a survey of black sea bass fishermen indicated that the ‘distance between pots in the winter months were less than in the summer months, which actually could increase the threat to right whales’ (Lavesque, 200[9])¹.” The commenter also stated black sea bass pot lines pose a risk to whales if they are in areas where whales concentrate, as they do in the Southeast during the winter. The same commenter also stated that reducing risk

¹ Reference: Lavesque, J. 2009. Characterization of the southeastern U.S. black sea bass (*Centropristis striata*) pot commercial fishery and implications for western North Atlantic right whale (*Eubalaena glacialis*) management and policy. *Marine Policy*, 33:40-48.

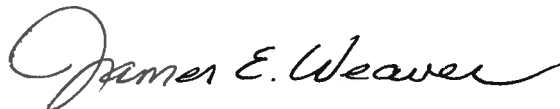


to whales from vertical lines in the Southeast was a significant focus of the April 2011 Atlantic Large Whale Take Reduction Team (ALWTRT) meeting. The information in these comments led NOAA Fisheries Service to reconsider information regarding marine mammal entanglements in black sea bass pot gear.

Saving the largest portion of the black sea bass commercial quota specifically for the December-May time period would reintroduce numerous vertical black sea bass pot buoy lines off the South Atlantic exclusive economic zone during a time of year when the whales are transiting and residing in the Southeast coast. Additionally, the presence of vertical buoy lines associated with black sea bass pot gear during the winter calving season would undermine the ongoing efforts of the ALWTRT to reduce the large whale entanglement risk, particularly managing vertical line interactions.

While the administrative record for Regulatory Amendment 9 now contains the information discussed above, it is clear that the Council did not have the opportunity to consider this information prior to making their decision to approve the split season. Because this information was not fully considered, the action to split the commercial black sea bass quota is not sufficiently supported by the administrative record. Therefore, NOAA Fisheries Service is disapproving the split season quota action for the commercial sector of the black sea bass component of the snapper-grouper fishery. NOAA Fisheries Service will work with the Council and the Southeast Fisheries Science Center to further examine the issue of right whale entanglement with vertical lines. The Council may then choose to submit a revised action to address a split season quota for black sea bass in another amendment to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.

Sincerely,


For Roy E. Crabtree, Ph.D.
Regional Administrator