

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Richard B. Robins, Jr.
Chairman

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January 15, 2010

Patricia Kurkul
NOAA Fisheries, Northeast Region
55 Great Republic Dr.
Gloucester, MA 01930-2276

Dear Pat,

As you are aware, the Mid-Atlantic Fishery Management Council (Council) passed the following motion at its December 2009 meeting in Wilmington, Delaware:

“Move that as outlined by the Executive Committee at the October Council meeting, convene a joint meeting of the SSC [Science and Statistical Committee] and Monitoring Committee to share available data and relevant information as it pertains to the 2010 BSB [black sea bass] recommendations for purposes of allowing the RA [Regional Administrator] to consider whether it would be appropriate to move forward with an emergency action based on final SSC review.”

A joint meeting of the SSC and Black Sea Bass Monitoring Committee was subsequently convened via Webinar on January 8, 2010 in response to the Council's request. Following its consultation with the Monitoring Committee, the SSC reconsidered its acceptable biological catch (ABC) recommendation and revised its consensus recommendation to increase the ABC for black sea bass for 2010 to 4.5 million pounds (2,041 mt). Attached please find a report from Dr. John Boreman, Chairman of the MAFMC SSC summarizing the findings and recommendations of the SSC relative to reconsideration of the 2010 ABC for black sea bass.

I believe it is reasonable to infer that the Council's motion on this issue from its December meeting would result in a request for consideration of emergency action if the SSC substantially modified its ABC recommendation. The resulting modification to the ABC is 2.2 million pounds higher than the initial ABC recommendation, and the increased recommendation can be reasonably expected to alleviate significant, negative social and economic impacts relative to the initial ABC recommendation. Consequently, and inasmuch as the SSC's revision of their ABC recommendation was unforeseen and based on unforeseen findings documented in the SSC report¹, please consider the Council's above motion together with the attached SSC report documenting the amended ABC recommendation for possible emergency rulemaking to increase the 2010 total allowable catch (TAC) for black sea bass to

¹ See also 50CFR Chapter VI [Docket No. 970728184-7184-01; I.D. 060997C] “Policy Guidelines for the Use of Emergency Rules”, which defines an emergency as a situation resulting from “recent, unforeseen events or recently discovered circumstances.”

4.5 million pounds as provided for under § 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act.

The attached SSC report indicates that the TAC and total allowable landings (TAL) levels associated with their revised ABC recommendation would be 4.5 million pounds and 3.7 million pounds (1,680 mt), respectively. The report also calls specific attention to the issue of management uncertainty related to the recreational catch overages experienced in 2009. I have added the SSC's amended ABC recommendation to the agenda for the Council's February meeting to provide the Council with an opportunity to develop comments on its preferences for possible modifications to the recreational measures for the 2010 season so that the Council can provide your office with final recommendations on this issue.

When the Council set specifications for the black sea bass fishery at its August 2009 meeting, it applied 3 percent to the TAL to establish the Research Set-Aside (RSA) quota. Consequently, if the Secretary initiates emergency rulemaking to amend the 2010 specifications and recreational harvest measures for black sea bass, I would also ask you to consider applying the same percentage to the revised TAL value to update the Research Set-Aside (RSA) quota for 2010.

I am aware that the use of emergency rule making procedures is intended only in extraordinary circumstances. As you are aware, and in response to concerns associated with the process by which the initial black sea bass ABC recommendation was developed, the Council has recently taken several important steps to improve the process by which it receives and integrates scientific information into the decision-making process. Specifically, the Council has worked with the leadership of the Atlantic States Marine Fisheries Commission to develop a new sequence in the specification-setting process that will include a pre-decisional consultation between the SSC and the appropriate Monitoring Committee; adopted a remand policy to establish criteria for reconsiderations of SSC decisions; and proposed to develop a standardized set of terms of reference for ABC recommendations as well as a Council risk policy that would be applied by the SSC when establishing ABCs.

As you consider the attached SSC report and the Council's motion in the context of possible emergency rulemaking, I would like to thank you in advance for your thoughtful consideration of these matters that are of significant importance to the region's black sea bass commercial and recreational fisheries. I appreciate your forbearance and support as the Council continues to work closely and diligently with the SSC, NMFS, the ASMFC and our management partners to improve the specification-setting process and bring the Council's fishery management plans into compliance with the new requirements of the Magnuson-Stevens Reauthorization Act.

Sincerely,

Richard B. Robins, Jr.
Chairman

Enclosure: SSC report

cc: Robert Boyles, Chairman, ASMFC