

**From:** Moore, Christopher

**Sent:** Thursday, June 15, 2023 4:11 PM

**To:** Janet Coit - NOAA Federal <[janet.coit@noaa.gov](mailto:janet.coit@noaa.gov)>

**Subject:** MAFMC Concerns Regarding Amendment 23 (BSB Commercial State Allocations)

Janet – We have a problem. As you know, the [Notice of Availability \(NOA\)](#) and [Proposed Rule](#) for Amendment 23 both indicate that NMFS may disapprove the aspect of the amendment which would add the black sea bass commercial state allocations to the Council’s FMP. I’m contacting you directly because I’m concerned that you may have received incomplete information about the implications of this potential decision and as a follow up to our comment letter (attached). There are several points I’d like you to consider:

**NMFS is required to review this amendment for consistency with the MSA and other applicable laws based on facts in the record.** The NOA describes hypothetical future challenges, such as “potentially inadequate consideration of northern states’ fisheries, or even different allocation decisions from each body.” This speculation is not supported by the administrative record. In fact, NMFS explicitly supports the revised allocation methodology that was jointly approved by the Council and Commission through this amendment. The NOA suggests that the outcome of this amendment was appropriate while implying that future decisions made through this same process will be inherently unfair and biased.

**The Council and Commission’s joint decision-making process for black sea bass has been in place for close to 30 years, and we have consistently demonstrated a commitment to ensuring all decisions are made through a fair and equitable process that is inclusive of all the states with an interest in the fishery.** The NOA suggests that the absence of northern states on the Council could impact the Council’s ability to meet the requirements of National Standard 4 and 8 in the future. This is absurd. All Council recommendations must demonstrate compliance with the National Standards. It is not clear how *excluding* these allocations from the Council FMP would provide a better framework for consideration of the National Standards given that the Commission is not bound by the requirements of the MSA.

**The state allocations should be added to the Council FMP to ensure a thorough and transparent review process for future allocation revisions.** If these allocations remain only in the Commission’s FMP, future revisions would not be subject to the rigorous requirements of the MSA, NEPA, and other laws that do not apply to the Commission process. Furthermore, the Council would not be guaranteed a voice in future allocation decisions, and the role of NMFS would be limited to a single vote in the Commission process. This is particularly concerning given that the majority of commercial black sea bass landings come from federal waters. Formalizing the Council and NMFS’s role in these allocations will support our shared goal of building resilient, climate-ready fisheries and will enable us to respond effectively to climate-related management challenges in the future.

Finally, as you noted in your 2021 testimony before the House Subcommittee on Water, Oceans, and Wildlife, “the participatory management structure through our regional fishery management councils forms the backbone of our successful management structure.” To suggest that the Council should be excluded from important allocation decisions is antithetical to this sentiment. Amendment 23 is fully consistent with the MSA and other applicable laws, and we urge you to approve it in its entirety.

Thank you in advance for your consideration of these comments. Mike and I would be glad to discuss our comments and concerns with you prior to the July 3rd deadline. Let me know and I'll arrange a call. Thanks! C

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