

Dated: May 30, 2001.

Alexandra Pitts,

*Acting Manager, California and Nevada
Operations Office.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010515128-1128-01; I.D.
041801C]

Fisheries of the Northeastern United States; Black Sea Bass Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of a control date for the purposes of controlling capacity or latent effort in the black sea bass commercial fishery.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, a proposed rulemaking to place additional controls on access to the black sea bass (*Centropristis striata*) fishery under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This announcement is intended, in part, to discourage speculative increases in effort or capacity while the Mid-Atlantic Fishery Management Council (Council) and NMFS are considering whether and how to additionally control access in this fishery. The date of publication of this announcement, June 5, 2001, shall be known as the control date and may be used for establishing revised eligibility criteria for participation in the fishery; i.e., the level of fishing activity after this date will not necessarily be used for future eligibility criteria.

DATES: Written comments must be received on or before 5 p.m., local time, July 5, 2001.

ADDRESSES: Written comments should be sent to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South Street, Dover, DE 19904. Mark the outside of

the envelope, "Comments on Black Sea Bass Control Date." Comments also may be sent via facsimile (fax) to (302) 674-5399. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT:

Jennifer L. Anderson, Fishery Management Specialist, (978) 281-9226, e-mail: Jennifer.Anderson@noaa.gov or Christopher M. Moore, Ph.D., Deputy Director, Mid-Atlantic Fishery Management Council, (302) 674-2331.

SUPPLEMENTARY INFORMATION: The black sea bass fishery is a major fishery on the Atlantic coast that extends from Cape Hatteras north to Maine. Regulations implementing Amendment 9 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) (61 FR 58461, November 16, 1996) control fishing mortality on black sea bass through a variety of management measures including a commercial quota, a limit on the number of commercial permits, gear regulations, and minimum fish size restrictions.

The most recent assessment on black sea bass, completed in June 1998, indicates that black sea bass are over-exploited and at a low biomass level (27th Stock Assessment Workshop). However, more recent results from the Northeast Fisheries Science Center's spring survey indicate that the black sea bass biomass has increased in recent years. In fact, the preliminary biomass index for 2000 is the highest in the time series since 1976.

Commercial landings of black sea bass, which are harvested in Federal and state waters using a variety of gears, have varied without trend since 1981, ranging from a low of 2.0 million lb (907.2 mt) in 1994, to a high of 4.3 million lb (1950.4 mt) in 1984. Since 1998, commercial landings have been constrained by quotas at an annual level of 3.025 million lb (1372.1 mt).

A moratorium on the entry of additional commercial vessels into the black sea bass fishery was put in place on November 16, 1996, with the implementation of Amendment 9 to the FMP. However, the qualifying criteria for obtaining initial permits under the moratorium were liberal and only required that vessels provide a black sea bass landing receipt demonstrating at least 1 lb (0.45 kg) of black sea bass landed between January 26, 1989, and January 26, 1993. Based on this criterion, a number of vessels attained a permit even though those vessels only

rarely or occasionally landed black sea bass during this period. There were 992 and 974 Federal black sea bass permit holders in 1999 and 2000, respectively. Based on dealer reports, 795 and 727 of these vessels in 1999 and 2000, respectively, landed black sea bass. However, 83 percent of the permit holders participating in the black sea bass fishery in 1999 accounted for less than 9 percent of the black sea bass landings. The 1999 fishing year is the last full fishing year of complete landings information.

The management measures for black sea bass implemented under Amendment 9 to the FMP have begun to rebuild the black sea bass stock. Although the Council and NMFS are concerned that increasing stock abundance may stimulate the use of unused capacity or effort by permit holders, there is equal concern that management measures have reduced fishing opportunities and income for commercial fishermen who have historically depended on black sea bass for a major portion of their income. An activation of latent effort could quickly erode the benefits to traditional operators who have sacrificed income as part of the rebuilding program.

A control date of June 5, 2001 is intended to discourage speculative activation of previously unused effort or capacity in the black sea bass fishery while alternative allocation schemes and potential management regimes to control capacity or latent effort are discussed and possibly developed and implemented. The control date may be used by the Council and NMFS in determining historical or traditional participation in the black sea bass fishery. The control date communicates to black sea bass permit holders that performance or fishing effort after that date may not be treated the same as performance or effort that was expanded prior to the control date. The Council and NMFS could choose different and variably weighted methods to qualify fishermen based on the type and length of participation in the fishery or on the quantity of landings. A control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the black sea bass fishery in Federal waters.

This control date has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 24, 2001.

John Oliver,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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