UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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DEC 19 2008

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Mr. Duane Harris, Chairman
South Atlantic Fishery Management Council
4055 Faber Place Drive, Suite 201
North Charleston, SC, 29405

Dear Mr. Harris:

NOAA's National Marine Fisheries Service (NMFS) has decided not to implement the interim rule proposed by the South Atlantic Fishery Management Council (Council) to address overfishing of gag, red grouper, and black grouper in 2009.

At its September 2008 meeting, the Council approved Amendment 16 to the Snapper Grouper Fishery Management Plan for the South Atlantic Region (Amendment 16) and requested an interim rule to address overfishing of gag, red grouper, and black grouper while Amendment 16 underwent Secretarial review. The Council submitted Amendment 16 and the associated interim rule on October 21, 2008. On October 28, 2008, NMFS sent the South Atlantic coastal states letters requesting expedited coastal zone management consistency determinations within a 30-day time frame. Because most South Atlantic coastal states have not yet responded to NMFS' request for expedited review of the interim rule under the Coastal Zone Management Act, and one state has explicitly rejected expedited review, it appears unlikely the agency could publish an interim rule earlier than February 2009. A rule published February 1, 2009, would not go into effect until early March--halfway into the Council's proposed seasonal closure. As a result, the conservation benefits of the interim rule would be greatly diminished.

In anticipation of the proposed January-April closure, some commercial fishermen are not purchasing bait and supplies, and some for-hire fishermen are unable to book trips. NMFS does not believe the limited conservation benefits gained by implementing the rule two months or more behind schedule justify the impacts fishermen are expected to bear while awaiting a decision, particularly when permanent regulations specified in Amendment 16 could be implemented in late spring or early summer. For this reason, NMFS has decided not to implement the interim rule.

The Council's long-term plan for addressing overfishing and protecting spawning grouper species in Amendment 16 is undergoing Secretarial review and will provide increased public comment and notice opportunities. The Notice of Availability for Amendment 16 will publish in the *Federal Register* next week.

Thank you and the other Council members for your hard work on Amendment 16 and the associated interim rule. I appreciate your commitment to addressing overfishing in the South Atlantic and will make every effort to process Amendment 16 as expeditiously as possible.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator