

DECISION DOCUMENT (2nd)

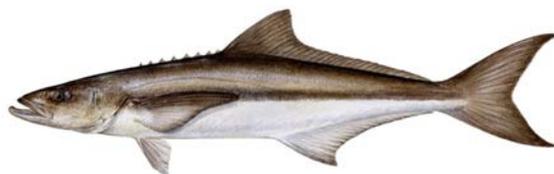
for

AMENDMENT 19 (20A)

to the joint Fishery Management Plan for
Coastal Migratory Pelagic Resources

of the

**Gulf of Mexico and South Atlantic
(CMP Sale and Permit Provisions)**



**Mackerel Committee Meeting
Charleston, SC
September 2013**

Actions in Amendment 19 (20A)

1. Sale of King and Spanish Mackerel
2. Elimination of Inactive King Mackerel Permits
3. Modify or Eliminate Income Requirements for Gulf and South Atlantic Commercial Coastal Migratory Pelagic Permits

Expected Schedule

July/August 2013- Public hearings

September 2013- South Atlantic Council final approval

October 2013- Gulf Council final approval

Spring 2014- Implementation

NOTE: This amendment was known as Amendment 19 during public comment periods, but needs to be re-numbered as Amendment 20A.

The current management objectives in the joint mackerel FMP as amended are:

1. The primary objective of this FMP is to stabilize yield at MSY, allow recovery of overfished populations, and maintain population levels sufficient to ensure adequate recruitment.
2. to provide a flexible management system for the resource which minimizes regulatory delay while retaining substantial Council and public input in management decisions and which can rapidly adapt to changes in resource abundance, new scientific information, and changes in fishing patterns among user groups or by areas.
3. to provide necessary information for effective management and establish a mandatory reporting system for monitoring catch.
4. to minimize gear and user group conflicts.
5. to distribute the TAC of Atlantic migratory group Spanish mackerel between recreational and commercial user groups based on the catches that occurred during the early to mid-1970s, which is prior to the development of the deep water run-around gillnet fishery and when the resource was not overfished.
6. to minimize waste and bycatch in the fishery.
7. to provide appropriate management to address specific migratory groups of king mackerel.

Action 1. Sale of King and Spanish Mackerel

Alternative 1: No Action - No federal permit requirement to sell king and Spanish mackerel. Sale of king and Spanish mackerel harvested under the bag limit is allowed for persons that possess the necessary state permits. However, if a commercial closure has been implemented, the sale or purchase of king or Spanish mackerel of the closed species, migratory group, subzone, or gear type, is prohibited, including any king or Spanish mackerel taken under the bag limits. **(SA Mackerel AP Preferred)**

Alternative 2: Prohibit sale of king mackerel caught under the bag limit, with the exception of for-hire trips in which the vessel also holds a federal king mackerel commercial permit. Prohibit sale of Spanish mackerel caught under the bag limit, with the exception of for-hire trips in which the vessel also holds a federal Spanish mackerel commercial permit. All sales of king and Spanish mackerel during a commercial closure are prohibited.

Option a. The South Atlantic Council's jurisdiction

Gulf Preferred Option b. The Gulf Council's jurisdiction

Alternative 3: Prohibit sale of king and Spanish mackerel caught under the bag limit. For a person to sell king or Spanish mackerel in or from the exclusive economic zone (EEZ) of the Gulf of Mexico or Atlantic, those fish must have been harvested on a commercial trip aboard a vessel with a commercial vessel permit/endorsement. A king mackerel permit is required to sell king mackerel and a Spanish mackerel permit is required to sell Spanish mackerel.

Option a. The South Atlantic Council's jurisdiction

South Atlantic Preferred Option b. The Gulf Council's jurisdiction **(Gulf AP Preferred)**

Alternative 4: Prohibit sale of king and Spanish mackerel caught under the bag limit with the exception of state-permitted tournaments. For a person to sell king or Spanish mackerel in or from the EEZ of the Gulf of Mexico or Atlantic, those fish must have been harvested on a commercial trip aboard a vessel with a commercial vessel permit/endorsement. A king mackerel permit is required to sell king mackerel and a Spanish mackerel permit is required to sell Spanish mackerel. King or Spanish mackerel caught during a tournament may be donated to a dealer in exchange for a charitable donation if the tournament organizers have a permit from a state to conduct that tournament, and transfer and reporting requirements are followed.

South Atlantic Preferred/Gulf Preferred Option a. The South Atlantic Council's jurisdiction

Gulf Preferred Option b. The Gulf Council's jurisdiction

Transfer and reporting requirements: A federally permitted wholesale dealer¹ that is not part of the tournament must be present to accept the donated fish directly from the anglers. If any value (money or goods) is exchanged for a fish, both parties (dealer and tournament representative) must be properly licensed to meet any state requirements for sale of fish in addition to any potential future federal dealer requirements. For example, sale of a tournament king mackerel in North Carolina currently requires the tournament organizer to purchase a tournament license prior to the event and sell the fish to a North Carolina-permitted dealer who must fill out a North Carolina trip ticket (see <http://portal.ncdenr.org/web/mf/rec-tourn-license-sell-fish> for more information). The wholesale dealer sells the fish and donates the money to charity. Tournaments should

arrange for the donation of funds from the sale of fish directly to the charity. If any money comes back to the tournament, the exchange would constitute a sale. The wholesale dealer instructs the tournament what records participating anglers must provide (according to their trip ticket or other reporting requirements), and how fish must be handled and iced according to Hazard Analysis Critical Control Point (HACCP) standards. The fish are reported through normal reporting procedures by the wholesale dealer and must be identified as tournament catch.

Note: Sale or sell means the act or activity of transferring property for money or credit, trading, or bartering, or attempting to so transfer, trade, or barter, as specified in 50 CFR 600.10.

Gulf Council Actions

In August 2013, the Gulf Council changed their Preferred Alternatives to:

- Alternative 2, Option b
- Alternative 4 Options a and b

This would mean sale of KM/SM caught on for-hire trips by vessels with the federal commercial KM/SM permit would be allowed in the Gulf region, and that tournament sales in states with license or permitting systems would be allowed in the Gulf and South Atlantic regions. Other bag limit sales would be prohibited.

Public Comments- South Atlantic

- 8 comments supported prohibition on bag limit sales. Most stated that recreational fish should not be sold, and that the Councils should be consistent with dolphin-wahoo and snapper grouper regulations to prohibit bag limit sales.
- 5 comments supported no action.
- One commenter felt for-hire vessels with the commercial permits should be allowed to sell fish caught on a for-hire trip.
- 5 commenters supported the exemption to allow tournament sales because they felt contributions from donations benefitted the community and local charities.
- 3 commenters did not support allowing tournament sales. One commenter felt that tournament organizers should only be allowed to directly donate fish for consumption, such as to a food bank, but not for money. Two commenters (including a MAFMC member) noted that allowing tournament sales was inconsistent with prohibiting bag limit sales, since tournament fish are also recreationally caught fish.
- One commenter felt there should be more specifications for states to allow and monitor tournament sales, including a cap on total tournament sales.
- One commenter felt that there was an inconsistency with allowing cobia bag limit sales but prohibiting king mackerel and Spanish mackerel bag limit sales.

Public Comments- Gulf

Commenters in support of allowing bag limit sales felt that the extra income and reduced waste was important, and that double-counting could be remedied by setting up a reporting requirement to count the sales toward the recreational quota. Some commenters supported the prohibition on bag limit sales.

South Atlantic Mackerel AP Recommendations (April 2013)

At the April 2013 meeting, the Mackerel AP recommended Alternative 1 (No Action) as the Preferred Alternative.

Gulf Mackerel AP Recommendations (May 2013)

In May 2013, the Gulf AP recommended Alternative 3, Option B as the Preferred Alternative.

South Atlantic Law Enforcement AP Recommendations (February 2013)

Overall, members of the LEAP emphasized the importance of consistency and simplicity whenever possible. CMP management is complicated and the least complex options are best for enforcement officers and the public.

- The LEAP expressed the desire to maintain consistent regulations between the South Atlantic and the Gulf of Mexico to facilitate enforcement efforts.
- Quality control of fish caught during tournaments would be challenging to monitor and enforce if the Council were to consider issuing a permit to allow tournament sales of king mackerel.

SSC Recommendations (October 2012)

Action 1: The SSC recommends that the Council continue allowing bag limit sales of recreationally-caught fish. From a socio-economic perspective it is better to utilize other methods to mitigate negative effects of bag limit recreational sales on the commercial sector.

Committee Actions

- 1) Does the committee want to add, remove, or modify any alternatives?
- 2) Does the committee want to change the Preferred Alternative?

Alternative 2: allow sale from for-hire trips when vessel has the KM/SM commercial permit but no other bag limit sales

Option a. The South Atlantic Council's jurisdiction

Gulf Preferred Option b. The Gulf Council's jurisdiction

Alternative 3: prohibit all bag limit sales

Option a. The South Atlantic Council's jurisdiction

South Atlantic Preferred Option b. The Gulf Council's jurisdiction (**Gulf AP Preferred**)

Alternative 4: prohibit all bag limit sales except for tournament sales in states with license/permit system.

South Atlantic Preferred/Gulf Preferred Option a. The South Atlantic Council's jurisdiction

Gulf Preferred Option b. The Gulf Council's jurisdiction

Action 2. Elimination of Inactive King Mackerel Permits

Gulf Council Preferred Alternative 1: No Action – Do not eliminate any commercial king mackerel permits. (SA Mackerel AP Preferred) (Gulf AP Preferred)

Alternative 2: Renew commercial king mackerel permits if average landings meet the qualifications of an active permit (defined below). Permits that do not qualify will be invalid, non-renewable, and non-transferable:

- Option a.** The permit has an annual average of at least 500 lbs of king mackerel from 2002-2011.
- Option b.** The permit has an annual average of at least 1,000 lbs of king mackerel from 2002-2011.
- Option c.** The permit has at least 500 lbs of king mackerel in at least one year between 2002-2011.
- Option d.** The permit has at least 1,000 lbs of king mackerel in at least one year between 2002-2011.

Alternative 3: Allow transfer of inactive commercial king mackerel permits only to immediate family members and allow transfer to another vessel owned by the same entity. Permits will be considered inactive if average landings did not meet the qualifications (defined below):

- Option a.** The permit has an annual average of at least 500 lbs of king mackerel from 2002-2011.
- Option b.** The permit has an annual average of at least 1,000 lbs of king mackerel from 2002-2011.
- Option c.** The permit has at least 500 lbs of king mackerel in at least one year between 2002-2011.
- Option d.** The permit has at least 1,000 lbs of king mackerel in at least one year between 2002-2011.

South Atlantic Council Preferred Alternative 4: Allow two-for-one permit reduction in the king mackerel commercial fishery similar to the system for Snapper Grouper Unlimited Permits.

Table 1. Number of permits qualifying and not qualifying under Options a-d from Alternatives 2 and 3. Permits are those that are valid or renewable as of June 19, 2012. The actual number and percentage of permits that would be affected would depend on the number of valid and renewable permits on the effective date of the rule.

	Qualifying	Not Qualifying	% Permits Eliminated/Restricted
Option A	937	558	37%
Option B	733	762	51%
Option C	1,216	279	19%
Option D	1,107	388	26%

Source: SEFSC logbooks and SERO Permits database.

State-level estimates:

Table 2. Estimated number of permits qualifying in each state or region under Options a-d from Alternatives 2 and 3.

State ¹	# of Current Permits	# of Permits w/ landings 2011	Number of Permits Expected to Qualify as Active:			
			Option a Avg ≥500 lb	Option b Avg ≥1,000 lb	Option c At least 1 yr ≥500 lb	Option d At least 1 yr ≥1,000 lb
NC	241	130	153	114	207	186
SC/GA	35	14	8	4	23	16
FL- East	601	430	471	394	553	520
FL- Keys	200	112	129	96	157	145
FL- West	257	91	103	65	173	146
AL	28	13	12	11	21	17
MS	11	3	3	3	6	4
LA	52	20	33	27	39	39
TX	37	10	15	10	24	21
Other	33	8	10	9	13	13
TOTAL	1,495	831	937	733	1,216	1,107

¹ Based on homeport of vessel associated with the permit.
Source: SEFSC logbooks and SERO Permits database.

Gulf Council Actions

In June 2013, the Gulf Council selected Alternative 1 (No Action) as the Preferred Alternative.

Public Comments- South Atlantic

- 6 opposed elimination of inactive permits, because permits are part of the fishing portfolio, and the Councils should not take away permits.
- One commenter suggested that permits issued before 1995 should be grandfathered in, if the Councils decide to eliminate inactive permits.
- 2 commenters supported eliminating inactive permits and supported Option A under Alternative 2.
- 2 commenters supported making inactive permits non-transferable (Alternative 3) because at least permit holders could continue fishing the permit. Both recommended Option C.
- 7 commenters supported the two-for-one requirement to reduce the number of permits over time. One commenter recommended finding a way to minimize the loophole for corporate permit transfers.
- 3 commenters opposed the two-for-one requirements because of the impact on new entrants and the requirement would de-value the permits.
- A member of the MAFMC commented in opposition to the two-for-one requirement and recommended

the Councils define a specific outcome before removing inactive permits.

- One commenter felt that there should be a threshold for the snapper grouper two-for-one requirement and the potential requirement for mackerel that designates a minimum number of permits.
- One commenter noted that there was a conflict between eliminating inactive permits and eliminating income requirements. If the intent of Action 2 is to remove latent effort and keep fishermen in who were consistently fishing, eliminating income requirements in Action 3 seems like it would keep latent effort in the fishery.

Public Comments- Gulf

Most commenters opposed elimination of permits. Two commenters supported a 2-for-one requirement, and two commenters felt there was a need for some kind of reduction.

South Atlantic Mackerel AP Recommendations (April 2013)

The AP recommended Alternative 1 (No Action) as the Preferred Alternative.

Gulf Mackerel AP Recommendations (May 2013)

In May 2013, the Gulf AP recommended Alternative 1 (No Action) as the Preferred Alternative.

SSC Recommendations (October 2012)

The SSC does not recommend eliminating latent permits, even if there is a biological need (i.e., stock is overfished and/or overfishing is occurring).

The SEP does not recommend eliminating latent mackerel permits. Without SEDAR-documented evidence of a biological decline in the stock of king mackerel, recent low catches in the commercial sector (as low as a third of the commercial ACL) do not justify the economic loss that would be incurred by fishermen who lose their limited-access permits. If the stock is biologically troubled, it should be addressed through biological measures (i.e., adjusting the ABC). Removing latent permits in any fishery may provoke unintended consequences for management including lessening trust in Council actions and providing an incentive to fish simply to keep permits active.

Committee Actions

- 1) Does the committee want to add, remove, or modify any alternatives?
- 2) Does the committee want to select a Preferred Alternative?

Action 3. Modify or Eliminate Income Requirements for Gulf and South Atlantic Commercial Coastal Migratory Pelagic Permits

Alternative 1: No Action – Maintain existing income requirements for Gulf and South Atlantic commercial king and Spanish mackerel permits. To obtain or renew a commercial vessel permit for king or Spanish mackerel, at least 25% of the applicant’s earned income, or at least \$10,000, must have been derived from commercial fishing or from charter fishing during one of the three calendar years preceding the application.

South Atlantic Preferred/ Gulf Preferred Alternative 2: Eliminate income requirements for commercial king and Spanish mackerel permits. **(SA Mackerel AP Preferred) (Gulf AP Preferred)**

Alternative 3: Modify the current income requirements to allow the Gulf or South Atlantic Council to recommend suspension of the renewal requirements by passage of a motion specifying: a) the event or condition triggering the suspension; b) the duration of the suspension; and c) the criteria establishing who is eligible for the suspension. The affected Council would then request that the Regional Administrator suspend income requirements according to the terms outlined in the motion.

Alternative 4: To obtain or renew a commercial permit for king or Spanish mackerel, at least a percentage (defined below) of the applicant’s earned income must have been derived from commercial fishing or from for-hire fishing during one of the three calendar years preceding the application.

Option a: 75%

Option b: 50%

Public Comments- South Atlantic

- Three commenters felt that income requirements should be kept but modified. Two commenters felt that income from commercial fishing only should qualify, and one commenter suggested changing the requirement to at least \$20,000 in two of the last five years.
- Three commenters supported eliminating income requirements (Preferred Alternative 2).
- Two commenters supported no action.

Public Comments- Gulf

Most commenters supported no action or elimination of income requirements. Two commenters supported the 75% requirement (Alternative 4 Option b).

South Atlantic Mackerel AP Recommendations (April 2013)

The AP recommended Alternative 2 as the Preferred Alternative.

Gulf Mackerel AP Recommendations (May 2013)

In May 2013, the Gulf AP recommended Alternative 2 as the Preferred Alternative.

Committee Actions

- 1) Does the committee want to add, remove, or modify any alternatives?
- 2) Does the committee want to select a Preferred Alternative?

Approve for Secretarial Review

- 1) Does the Committee approve the amendment for submission for Secretarial review?
- 2) Does the Committee deem the codified text as necessary and appropriate?