

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **SPINY LOBSTER PUBLIC SCOPING MEETING**

**Wyndham Reach Resort  
Key West, Florida  
June 17, 2002**

### **SUMMARY MINUTES**

A public scoping on Spiny Lobster was convened in the Wyndham Reach Resort, Key West, Florida on Monday, June 17, 2002 and was called to order by Chairman Tony Iarocci.

Mr. Iarocci: If everybody could take their seat, we could get this scoping meeting started. Good evening, ladies and gentlemen, I would like to get this meeting started, please. I'm Anthony Iarocci and today I am acting as chairperson on behalf of the South Atlantic Fisheries Management Council.

Other members of the scoping meeting board are as follows, and they're seated in the back with you: LCDR Dave Cinalli, Dr. Roy Crabtree, Dr. Louis Daniel, Dr. John Dean, Captain Glenn Durden, Ebbie LeMaster, Pete Pearce, Dr. Joe Powers, and Robert Southerland.

We would like to thank you all for taking the time to attend. The purpose of this scoping meeting is to give you the opportunity to comment before the council develops a position on an issue.

Scoping meetings are required by the National Environmental Policy Act, NEPA, and are also now a part of the pre-management plan and amendment process. Scoping meetings are different from public hearings in that the council does not have a position on a particular issue prior to the scoping meeting.

Public hearings occur after the scoping meetings. This scoping meeting is to allow you to comment on the use of tailing permits and other issues in the spiny lobster fishery.

Besides the tailing permit issue, there are a couple of other things that the council will address in the next amendment to the spiny lobster plan. One is to make the necessary change relative to the state of Florida change from the Marine Fish Commission to the Florida Fish and Wildlife Conservation Commission.

Two, to address the Magnuson-Stevens Act in the spiny lobster fisheries management protocol inconsistencies. Both of these are going through legal type thing to be addressed by the council.

And three, the short issue, there is a request by Monroe County Commercial Fishermen, Incorporated, a change that would allow a vessel moving traps to have in their live well one undersized lobster per trap aboard their boat, plus an additional fifty lobsters.

If you haven't filled out a card and you wish to speak, please do so now. I hope everyone had a

chance to go over the scoping document of this meeting beforehand so you know what the issues are and what's going on. With that said, Kerry, if you would like to go through some of the issues.

Ms. O'Malley: I will briefly go through the scoping document. You should have it. If you do not have the document we're referring to, please see Kim and Stacy over in the corner.

As Tony mentioned, the first issue that we're here to address is the issue of tailing permits. A little background for those of you who aren't familiar.

With the Spiny Lobster Amendment 2 back in 1987, the council allowed for tailing permits for fishermen who fished over two days, or 48 hours, in order for them to keep the quality of their product the way that they need to in order to sell it.

The intent at that time was for commercial fishermen. It is written in the code of federal regulations that you must prove through a certain means that you are a commercial fisherman.

But, over time the number of permits has increased. 2001 data show that there are 73 commercial permits and 327 recreational and charter permits. In 1998 the Florida director of the Division of Law Enforcement requested that the National Marine Fisheries Service regional administrator cease to allow tailing permits.

In 1989 the state of Florida stopped allowing the use of tailing permits and in 1999 the South Atlantic Fishery Management Council's Law Enforcement Advisory Panel requested that the council take action via framework or amendment to deal with this tailing permit issue.

So that is why we are here. This is the second time we have had a scoping meeting on this issue. There are some options that have been brought to the council at this point that I will put up for you.

Again, these are in the scoping document. The options that the council has on the table at this point is to take no action and maintain the existing tailing permit system. Option 2 would be to prohibit tailing, and that could either be for all fishermen in certain geographic areas, for recreational and charter fishermen. Other options are for divers.

Another option would be to maintain the current 48 hour at-sea requirement and limit issuance of tailing permits to commercial fishermen only. One option being to issue to all commercial fishermen.

One would be to deal with spear guns separately, and one would be to issue only to trap fishermen and to deal with powerheads separately.

The fourth one would be to require documentation to receive a tailing permit, meaning that all permit applicants must provide documentation that whatever percent is part of their income as commercial fishing, and that would be something we would be asking for you to specify a percent that you think makes you a commercial fisherman. Finally, talk about permit fees for this issue.

The second two issues that Tony brought up are very sort of administrative issues. We need to change in the amendment places where we talk about the old Florida -- what was it called before, the first time -- The Florida Marine Fisheries Commission, we need to change that in the document to the Florida Fish and Wildlife Commission as their name has changed, and we need to reflect how that government body has changed.

And, finally, we need to address some inconsistencies with the Magnuson-Stevens Act whereby the state of Florida collects fees for traps and tags and things like that and we need to determine whether or not it's legal under Magnuson Act to do that. So the last two are administrative.

As Tony said, there are some other issues that have been brought to his attention, and please bring them up to us here so that we can include it in this scoping report. That's all I have to say.

Mr. Iarocci: Thank you, Kerry. Before I open the meeting up to public comment, I want to once again thank you all for taking the time to be here tonight. I would like to start with Greg DiDomenico, representing Monroe County Commercial Fishermen.

Mr. DiDomenico: Good evening. My name is Greg DiDomenico. I serve as the executive director of the Monroe County Commercial Fishermen, Incorporated, and will be making comments on their behalf today.

First, I would like to give some public testimony on the tailing permit. We would like the council to keep the provision in the regulations that allow tailing permits to be issued to commercial fishermen.

But, from the information provided by the council, we would also support a review of the criteria that allows someone to apply for and retain that tailing permit. Our fishermen who retain these permits do routinely take a trip that is longer than 48 hours and tail their catch, at times, for purposes of keeping a quality product.

This, as was stated before, was the original intent of the council. I will also add that these fishermen do not routinely tail their fish, but circumstances such as bad weather or a disruption in the transport of their fish from the boat to the fish house, when these circumstances have arisen, these permits have been proven to be invaluable and have kept their catch in a good quality so they could be sold.

We firmly believe that careful issuance of these permits will address the council's concerns. Secondly, I would like to briefly talk about the increased retention of undersized lobsters as attractants.

We would also request that the council consider the amendment to the existing rule that allows us to retain undersized lobsters as attractants in the appropriate live well system. The precise change would allow us to retain one undersized lobster per trap on board, plus 50 additional lobsters instead of the current rule, which is 50 lobsters or one per trap.

What that does, and what flexibility that provides to fishermen, is that when they are moving gear, they are going to be allowed one short per trap on board, plus 50 additional lobsters. Therefore, when they're done setting those hundred traps, they're going to have 50 left over in the live well to bait the traps they intend to start to pull and return to the water.

It's important to remember that this change was supported by Florida Marine Resources Institute staff and passed by the Florida Fish and Wildlife Conservation Commission at their May meeting, and has already been considered by the Gulf Council and it will be implemented in state waters for the August 2002 season.

In addition to that, this request was supported, and is supported, by Marine Patrol. Lastly, I would like to say that it is important to again realize that this change will not compromise the goals of the existing lobster trap management program, while allowing us to be more efficient in our current fishing practices. That concludes my testimony. If you have any questions, I would be glad to answer them.

Mr. Iarocci: Thank you, Greg. The next speaker is Peter Bacle, representing Stock Island Lobster.

Mr. Bacle: Peter Bacle, Stock Island Lobster Company. I didn't really come here prepared since I wasn't certain what the agenda really was. I would like to make a couple of comments, though, after reviewing the paper that was given to us, as well as the paper that I got from Greg DiDomenico.

First of all, I wasn't aware, as a very active commercial fishing person, that recreational and charter fishermen could get tailing permits. I had always assumed that they were only available to commercial fishermen, so that came as somewhat of a surprise to me.

The number of 73 active commercial licenses is about what I would have guessed, that it was something less than a hundred. I also noted on a table that Greg DiDomenico supplied me with listing spiny lobster tailing permits from '93 to 2001.

Although the first year they were issued, there has been a 24 percent increase to the present, it actually has not increased in the last seven years, since 1995, and actually the pattern has started

going down from a high of 525 in 1998 and now we're down to 400.

I'm just a little bit surprised at why this has become an issue right now. I feel like there must be something here that I don't know because I don't know why we bother to have hearings on something that doesn't appear to be a problem. So if there's some problems that we don't know about, I hope we'll be made aware of them somewhere. Thank you.

Mr. Iarocci: Thank you, Peter. Don DeMaria.

Mr. DeMaria: My name is Don DeMaria. I fish out of Key West. At a recent Fish and Wildlife meeting in Tallahassee, when they discussed the importation of crawfish in the off season tails, there were some misleading comments that were made.

And one of them that was made was that the importation of tails would not impact Florida fishermen because Florida fishermen fish for a whole crawfish, and there would be no competition there. There's a lot of guys that do tail their crawfish.

If you fish to the west of Key West, particular Tortugas or up near the Gulf, a lot of them do tail their crawfish. And, of course, northeast Florida, that's Jacksonville, St. Augustine, that area, that's pretty much exclusively a tailing type fishery.

I think that commission was a bit misled on that one. The problems with the tailing permit, the problem seems to be mainly between like, I would say, the Miami area and Fort Pierce and it's not trappers; it's divers. You know, I kind of hate to say that.

I'm a diver myself, but I know what's going on. That's the problem there. Those guys are using bleach and they're spearing their crawfish. Anybody that's a recreational diver and operates out of an outboard boat, say between -- even between the middle Keys or so, in Fort Pierce, I'm not sure why they need a tailing permit.

Those smaller boats are all one-day boats. They can tail their crawfish when they get back to shore. But if you do fish especially the Tortugas area, even go west of Key West -- I dive a lot to the west of Key West and not quite as far as Tortugas anymore, and we like to be able to tail our crawfish.

It's a much better product, and we like to be able to use the heads when we get back in the boat, to crush them up and use them for chum for the next dive. The mutton snapper like those.

I think if you prohibit tailing, certainly, it's going to impact the guys in Tortugas that trap fish. There's no doubt about that. It's also going to force them -- and the guys in Northeast Florida -- it's also going to force them to land an inferior product.

The only thing we really have over imports right now is it's a fresh product. So actually if you have a crawfish that you have to keep on ice for two weeks or something whole, it's probably going to be inferior to imports.

So I would suggest you go back and look at the criteria for a tailing permit, get rid of all the recreational ones to start with, and even some of the commercial ones that can't prove that they stay out, you know, make multi-day trips.

I would look at those too because there's some commercial fishermen in the Miami/Fort Pierce area that probably don't need them. Thanks a lot.

Mr. Iarocci: Thank you. Don, one question. Then you do support Option 3, the current 48-hour criteria and issue to all commercial fishermen, both trappers and divers; is that what you're saying?

Mr. DeMaria: Yes, I would continue to issue them to the divers, definitely, especially in Northeast Florida. And the 48-hour period, yes, you should be able to prove that. If you can't, well, you don't need one.

Mr. Iarocci: Next speaker, Allen Sprouse, please.

Mr. Sprouse: Allen Sprouse, commercial dive boat owner, working out of North Florida in Jacksonville. I'm addressing the council today not only for myself, but for many other commercial lobster fishermen that were unable to make the trip due to the associated costs in coming down here.

In regards to this issue, I've addressed the council back in June of 2000, March 2001 in Georgia, and today hopefully stressing the fact that it's a very important issue to the commercial lobster fishermen in North Florida.

The commercial lobster fishery in North Florida doesn't even begin until you're approximately 40 miles offshore. The trips made by these lobster fishermen working out of North Florida are multi-day trips, often in excess of five or more days.

With the duration of these trips, the size of the lobster we're harvesting, and the inability of many of the vessels to provide adequate ice storage for whole lobsters for that length of time, it makes it essential for us to maintain these tailing permits and to ensure that we arrive at the fish houses with a quality product.

Therefore, I would support Option 3A, the issuance to commercial fishermen, and I highly support Option 4, requiring some sort of income requirement to obtain these permits. I'm aware of some

people that have these things that do no commercial fishing at all. They just send an application and sign an affidavit that they are commercial fishermen to receive these permits back. That concludes my comment for today.

Mr. Love: Maybe I missed something, but I haven't heard any of them mention anything about adding more live lobsters and the shorts. What is your feeling about that?

Mr. Sprouse: I really couldn't comment too much on that as a fishermen of North Florida because we don't trap up there.

Mr. Iarocci: Thank you, Allen. Next speaker, Gary Nichols, please.

Mr. Nichols: I'm Gary Nichols from Conch Key. This tailing issue, we've addressed it quite a number of times with the Spiny Lobster Committee with the South Atlantic, and it really hasn't ever been an issue at any of our meetings.

Over a period of time, it's just come to my knowledge and awareness. I've really kept an eye on this and that's my job, or what I felt was my job, to kind of keep an eye on what's going on with the spiny lobster fishery in the north part of the state and whatnot, because it's not familiar to me.

I really haven't made any comments in the past to infringe upon people like Allen or other people that fish up in that area that I'm not familiar with, so I've made it a point not to.

It became evident to me that at the last Fish and Game Commission meeting, that there's a problem going on in the fishery when a recreational fishermen, who is a tropical fish diver, comes to a meeting and just agreeing with Don DeMaria and brings up an issue of what they're calling a spear, rip, clip, and bag theory.

Now, I'm only saying a theory because I haven't seen it. But that's really disturbing to me because the egg-bearing lobsters are our future. With all the size limits, bag limits, closed seasons, if we start taking everything that moves, it's going to devastate all the pluses and increases.

We've reduced our traps. You know, we're going to be about 50 percent down on our traps in the next few years. It's very, very disturbing. I don't know if it's ethnic. I don't know if it's just crazy people that are doing it, but whatever is going on, it's really got my dander up a little bit.

And if there's anything that we can do to stop that, right now I think is the right time to do it. Without stepping on the last speaker's toes, looking at this, I agree that every commercial fishing boat that's staying out that's got a trap permit should have the ability to have a tailing permit.

But I don't believe -- the thing that I heard, even talking to some of the divers up in the Jacksonville area, that kind of disturbs me is first of all the lobsters and the law in Florida is to be landed in whole condition.

That lobster should be brought up to the top, you know, after diving. It should be given a chance to be turned upside down and be able to look at the bottom of it, make sure it has no eggs on it or it's not getting ready to excrete the eggs.

It also should have -- you shouldn't be able to spear that lobster on the bottom and take its tail off and come up to the top with it. That's just not acceptable to me. I don't care -- no one is going to change my mind about that one way or the other because it's just wrong.

I think if you're diving deep and you can't stay down long enough, oh, well, you still need to bag them, you know, get a big basket or something to put in them, bring them up to the top, then look at them, and then let them go.

But this tailing thing recreationally just gives an open door to be able to spear the lobster, take the tail off, leave it, and it's just the way they do it in the Bahamas. You just go around the coral head and you get 300 lobsters in an hour.

With a bottom time, you know, in a hundred feet of water, you have ten minutes, so you have to get them quick, and it doesn't give me enough time to look at that lobster and harvest the right kind of lobster.

Maybe in an area where you're going out five days from shore, like this fellow said up in Jacksonville, it might be a thing. But like Don said, I think if you went from Miami to maybe Jacksonville, I don't know of an area you need to run that far where you couldn't come back in.

So you guys would have to look at the specifics and the logistics of an area and from that point, I think, you should have no tailing recreationally.

You should have no tailing from Miami to at least Jacksonville, I would guess, or whatever specific area you all come up with. And that Option 3, I like A; C in Option 4. And obviously OFF and Monroe County Commercial Fishermen work with the state and the option, with a large boat lobster fishing, of keeping the 50 short deal that we had talked about is basically only to allow us to have the 50 shorts that we have originally in excess of being able to put a lobster in a trap for bait.

So you'll still be able to bait your traps once you start pulling. So if you're moving traps -- it's really just kind of a semantical thing, and it's going to just get the fishermen from having to, you know -- actually, it's a good situation.

I don't think there was any discrepancy or too much argumentation in the Marine Fisheries Commission and law enforcement. This thing really gets my dander up here. 327 recreational tailing permits just seems like a whole lot compared to 73 guys doing full-time fishing.

I don't get it. I thought it was a commercial only myself and opening the door to spear, rip, clip, and bag, that's horrific, and that's about all I got to say about that. Thanks.

Mr. Iarocci: Thank you, Gary. Gary, that's why we're having this scoping meeting right now because we know the problem with the permits and the recreational permits and that's why we want to hear from the public right now. Thank you for your comments. Next speaker, Adam Disson, please.

Mr. Disson: My name is Adam Disson. I fish out of Key West. I'm a trap fisherman and I need the tailing permit to survive for my business. I fish average two week trips.

I bought a real big boat because you all forced me to go further away to catch my living. So if you've got a problem, you know, you go buy a bigger boat and then you have a bigger ice hold. And, you know, I never heard of anybody tailing after 48 hours.

It's usually after a week or if you have trouble or something like that, so that 48 hours is something I've never heard of. Everybody I know it's after, you know, five, six, seven days or if you know you're going to stay two weeks, then you start tailing.

But this after 48 hours, I've never heard of that. And if you need to, you go by a person's old trip tickets and it will show you time after time how long he stays on the trip and that person should get a tailing permit.

I have it dated back, you know, twelve or fifteen years that I go out two weeks at a time, and I need that tailing permit. I believe I should be able to retain a tailing permit.

As far as the shorts go, I'm all for it. Any time we can have more, you know, attractants legally on our boat without getting hassled by the marine patrol, that's a good thing.

And one more comment. If there is an investigation about these tags being illegal and all that stuff, I'm all for it because I've thought since day one something is wrong here. How they gave us something and then they take it away after we have to pay for it just doesn't seem legal in America to me. Thank you.

Mr. Iarocci: How about John Kramer.

Mr. Kramer: I just want to say I'm a commercial fisherman. John Kramer. I'm Vice President at large for OFF. I've been a fisherman in the Middle Keys since I was 13 years old, about twenty something years.

I just want to say I support these guys, the fishermen in Key West, these guys making these long trips, being able to retain their tailing permits. But I do think we need to look into -- I, like Gary, have heard about these guys, you know, in the middle of the state abusing these tailing permits, spearing lobsters, and I think you all need to look into that.

I just want to say I support having the additional shorts on the vessels. We've given up a lot. We've given up a lot of traps and this is just something that will help us stay in business, make things a little easier for us because we have given up a whole lot. And that's all I have to say. Thank you.

Mr. Iarocci: Excuse me, one question. On the short issue, just for the record too so people realize what's going on, the size of your boat, the size of your live well, and how much water circulates.

Mr. Kramer: I have a 34-foot boat. I have two fifty-five gallon live wells and a 35-gallon live well. I have more than ample -- and I've got an aeration system on my boat too; because I find when the water is hot, you know, at the beginning of the season, they seem to do a lot better with aeration on them. I have a 3,000 gallon per hour pump and an air pump, half horse air pump.

Mr. Iarocci: Thank you. William Roach, Fishbuster Fisheries.

Mr. Roach: William Roach. I've been a commercial fisherman here in the Keys all my life, since I can remember, anyway, and due to regulations and whatnot, I've been forced to go farther and farther away from home.

So, in my opinion, I definitely need my tailing permit because, you know, I don't tail every time I go if it's going to be a short trip or whatnot. But depending on the weather and whatnot, at times I have to start in the middle of the trip and tail my fish, so I have good product. And as far as the diver having it, that's a joke. There ain't no need for that, I don't care what anybody says. And that's about it.

Mr. Iarocci: William, if you could, too, the size of your boat and the size of your live well.

Mr. Roach: Sixty-five foot, and what I use is my chill barrel that I use for -- well, not chill barrel; it's an ice box. It's six foot by eight foot, and I run a 3,000 gallon pump to it and I pop a hole in the side so it runs out before it gets to the top. So I'm not sure exactly how much is in there, but it's a lot.

Mr. Iarocci: Thank you because a lot of questions were brought up and a lot of concern about if you do a lot more shorts, the people are carrying, people were wondering about the water, how much water and the circulation and the size of all that, and I wanted to get that on the record so the people that were asking those questions knew it was coming directly from a fisherman. Thank you.

Mr. Iarocci: I have two written comments here, but I also have some other cards that people had signed in, but wished not to speak. Maybe after hearing some comments, some people want to make some comments to this or people that are in the audience that haven't filled out a card and want to fill a card and speak, now is the time to do it.

George, do you want to say something, George Niles? I don't have a card for you -- or Currie Thompson or anybody else back there, any of the other fishermen that are here, now is the time to do it and please fill out a card. Thank you.

Mr. Niles: George Niles, Vice President of Monroe County Commercial Fishermen. Tony, I want to address one issue on shorts that no one else has spoke of. Florida has already passed this.

So in state waters we're already going to get the extra shorts, and it will be a lot easier for the marine patrol if they only have to enforce one law rather than worry about Loran readings or GPS readings and where the boat is at and, you know, how many shorts can you have at this minute; and you go a hundred yards the other side of the line, and you can have this many shorts.

It would be a lot easier if the council would go along with what Florida has done. I also agree with what just about everyone else has said about the tailing permits. I think that the people, you know, that fish way offshore need to retain that tailing permit to keep their product, you know, in good shape if they're going to stay more than a week.

I can also see where there could be some abuse from divers and recreational fishermen having their tailing permit and spearing lobsters. I would like to see that looked into more. That's about all I have to say and I'll get you a card.

Mr. Iarocci: Thanks, George. Currie, or anybody else have anything to say? Okay, I've got two written comments. I'm going to try to be brief and read through this if I could.

This one is first from Mark Williams. He's from Mayport, Florida"

"I wish I could be down there with you today. The lobster tailing permit issue is of special concern to myself and seven other permitted fishermen in Northeast Florida. The length of the trip we normally take mandates that we have the ability to tail lobster for quality assurance and purposes.

"Florida vessels tailing permit come back to the dock less than 24 hours notwithstanding the 48-hour legal minimum limit for use of the permit." Basically what he states in this is that he needs the tailing permit. He's a diver and he wants the 48-hour mandate.

The next one is by our friend, Hubert Weber:

"Dear council members, I have been fishing off the coast of Northeast Florida for the last twelve years, harvesting all species of fish and lobster. I hold a federal tailing permit for those years. I'm a diver I would call a powerheader.

"During lobster season, we drive out to lobster bottom, which starts about 50 nautical miles out from shore. My vessel is very capable of making this trip in just one day, but it is not cost effective.

"So I have to take a ten-hour day which consists of four hours of running the boat out and back, not to mention the cost of fuel, so we stay out for two to three days. We dive in depths of 120 feet to 150 feet. This limits our time on the bottom to ten minutes.

"So in order to be cost effective, we stay out there two to three days, depending on supply. Not to be able to tail my lobsters would eliminate 25 percent of my annual income.

"The option I see is to eliminate having my spear gun on board my vessel. This cannot be. First, who would want to dive in 120 feet without protection? Secondly, while lobstering, I use my gun for that extra grouper or snapper that may swim up to me, increasing my income.

"By eliminating my spear guns on board, you restrict my ability to produce fish product. We don't go out there for just one species at a time. Who could?

"What bothers me the most is the recreational charterboats have 327 tailing permits out there and 73 commercial permits. How did this come about? I always was under the impression that you need to show \$20,000 income to mandate a permit.

"These 327 permits are not commercial. Why do they need a tailing permit anyways? They are only allowed the recreational bag limits. I might be wrong, but if you make those 327 show a period of more than 48 hours at sea and make them show their income requirements, they don't need a tailing permit and your problem is solved.

"Again, we see that the divers are being singled out. If there are abuses within the tailing permits, it is clearly coming from the recreational sector because there isn't a commercial fisherman out there who would risk his permits.

"Your first option is clear. Eliminate the recreational fishermen from the commercial side of the coin and then see where you are at that point. Those of us who have been harvesting lobster for years does not need these weekend warriors out there taking out our precious resources and income in exchange for a sport. Thank you, Captain Hubert Weber."

That concludes the public comment of this. If there are any questions from any of the council members or any other people that want to address this issue, please do so now. Seeing none, I call this meeting to a close.

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