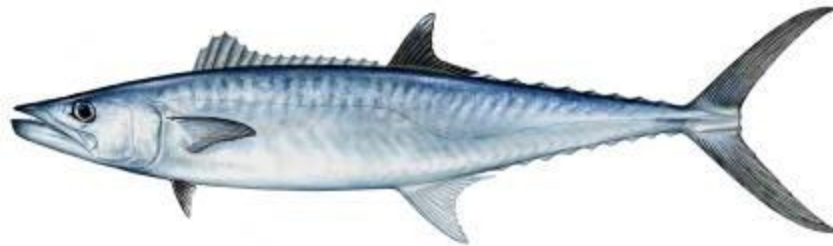


# Reorganizing Management for Gulf of Mexico and Atlantic Coastal Migratory Pelagic Species



BP

## Options Paper to the Fishery Management Plan for the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and the South Atlantic

August 2015



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# REORGANIZING MANAGEMENT FOR GULF OF MEXICO AND ATLANTIC COASTAL MIGRATORY PELAGIC SPECIES

Draft Amendment 28 to Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and South Atlantic Region, including Environmental Assessment, Fishery Impact Statement, Regulatory Impact Review, and Regulatory Flexibility Act Analysis.

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## Type of Action

Administrative  
 Draft

Legislative  
 Final

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## ABBREVIATIONS USED IN THIS DOCUMENT

ABC	acceptable biological catch
ACL	annual catch limit
ACT	annual catch target
ALS	Accumulated Landings System
AMs	accountability measures
AP	Advisory Panel
APA	Administrative Procedures Act
CMP	coastal migratory pelagics
Council	Gulf of Mexico and South Atlantic Fishery Management Councils
CZMA	Coastal Zone Management Act
DQA	Data Quality Act
EA	environmental assessment
EEZ	exclusive economic zone
EFH	essential fish habitat
EIS	environmental impact statement
EJ	environmental justice
ESA	Endangered Species Act
FMP	Fishery Management Plan
Gulf	Gulf of Mexico
Gulf Council	Gulf of Mexico Fishery Management Council
GMFMC	Gulf of Mexico Fishery Management Council
HAPC	habitat area of particular concern
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
Mid-Atlantic Council	Mid-Atlantic Fishery Management Council
MMPA	Marine Mammal Protection Act
mp	million pounds
MRFSS	Marine Recreational Fisheries Survey and Statistics
MRIP	Marine Recreational Information Program
NEPA	National Environmental Policy Act
nm	nautical mile
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOR	net operating revenue
NOS	National Ocean Service
RFA	Regulatory Flexibility Act of 1980
RIR	Regulatory Impact Review
RQ	regional quotient
SAFMC	South Atlantic Fishery Management Council
SBA	Small Business Administration
Secretary	Secretary of Commerce
SEDAR	Southeast Data, Assessment, and Review
SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office
South Atlantic Council	South Atlantic Fishery Management Council

SSC  
USCG  
ww

Scientific and Statistical Committee  
United States Coast Guard  
whole weight

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## FOREWARD

At this time, the South Atlantic Fishery Management Council (South Atlantic Council) has not approved development of Coastal Migratory Pelagics (CMP) Amendment 28. The Gulf of Mexico Fishery Management Council (Gulf Council) has directed its staff to provide this Options Paper at the Gulf Council's August 2015 meeting to review potential actions and alternatives. However, because CMP Amendment 28 would be a joint plan amendment to the Joint CMP Fishery Management Plan, both Councils must approve development and further work on this amendment. If the South Atlantic Council does not change its position with respect to CMP Amendment 28, the amendment will not complete the development process set forth by the Magnuson-Stevens Fishery Conservation and Management Act and the National Environmental Policy Act. **Therefore, at this time, CMP Amendment 28 is only a Gulf Council Options Paper, not a developing amendment.**

# CHAPTER 1. INTRODUCTION

## 1.1 Background

The Fishery Management Plan for Coastal Migratory Pelagic (CMP) Resources in the Gulf of Mexico (Gulf) and South Atlantic Region (FMP; GMFMC/SAFMC) was implemented in 1983 as a joint plan between the Gulf and South Atlantic Fishery Management Councils (Councils). The three species in the FMP – king mackerel, Spanish mackerel, and cobia – are migratory and were originally believed to move throughout the range of the FMP. Therefore, the FMP treated each species as a single stock for management purposes.

Within two years, the Councils developed Amendment 1 (GMFMC/SAFMC 1985), which split the king mackerel stock into two separate migratory groups. After another two years, the Councils developed Amendment 2 (GMFMC/SAFMC 1987), which split the Spanish mackerel stock into two migratory groups. Since then, the Councils have developed 20 plan amendments. Ten of those amendments contained actions pertaining to only one migratory group, five for each Council. The other 10 amendments contained some actions that affected both groups, but most of the actions were specific to one or the other migratory group. Even for amendments developed jointly, with some exceptions, each Council has deferred to the other on Council-specific actions. Additionally, in Amendment 8 (GMFMC/SAFMC 1986), an action was approved that allowed each Council to independently develop and approve actions through the FMP framework procedure, without approval from the other Council. After that provision was in place, each Council developed framework amendments (also called regulatory amendments or framework actions<sup>1</sup>) almost annually until 2000, and then less often after that. Most of these framework amendments set annual specifications; however, the Gulf Council developed five and the South Atlantic Council developed three framework amendments that made significant regulatory changes, without the

### *Fishery Management Councils*

- Responsible for conservation and management of fish stocks
- Consist of voting members, many of whom are appointed by the Secretary of Commerce, the National Marine Fisheries Service Regional Administrator, and one representative from each of the State marine resource agencies
- Responsible for developing fishery management plans and amendments, and recommend actions to National Marine Fisheries Service for implementation

### *National Marine Fisheries Service*

- Responsible for conservation and management of fish stocks
- Approves, disapproves, or partially approves Council recommendations
- Implements regulations

<sup>1</sup> The use of the term “framework amendment” and the current numbering system began in 2014 in an attempt to standardize the naming convention between the two Councils.

other Council's approval. The exception was for two framework amendments<sup>2</sup> between 2012 and 2015; Amendment 18 (GMFMC/SAFMC 2012) inadvertently removed the Amendment 8 provision allowing independent approval of framework amendments, which was not replaced until Amendment 20B (GMFMC/SAFMC 2015). However, during this time, each Council deferred to the other and simply approved the framework amendment after completion.

This review shows that the Councils have a history of working separately on actions that affect the migratory group for which they are responsible. Recent amendments have had few joint actions, and most of those actions further separated management between the Councils. Amendment 18 (GMFMC/SAFMC 2012) removed cero, little tunny, dolphin, and bluefish from the FMP; split the cobia stock into two migratory groups; and revised the framework procedure to allow implementation of additional management measures through framework amendments. Amendment 20A (GMFMC/SAFMC 2014) attempted a joint action to prohibit bag limit sales of king and Spanish mackerel; however, each Council ultimately picked a different preferred alternative and implemented different regulations for their area. Amendment 20B (GMFMC/SAFMC 2015) included joint actions that allowed transit through closed zones and modified the framework procedure by returning the provision that allows each Council to independently develop management measures for their respective migratory groups through framework amendments. Amendment 26, in development, proposes a new fixed jurisdictional boundary between the Councils for king mackerel and management of the mixing zone by only one Council, rather than the moving boundary and alternating management strategy currently in place.

In addition to actions increasing separation of management between the Councils, work on recent amendments has shown increasing disagreement between the Councils. As mentioned above, the Councils could not agree on an action in Amendment 20A (GMFMC/SAFMC 2014) that was intended to be a joint action. The Councils voted on submission of Amendment 20B (GMFMC/SAFMC 2015) to NMFS seven times before the same actions and alternatives were approved by both Councils. The South Atlantic Council proposed a permit split in 2013, but the Gulf Council was not interested in pursuing the issue; by early 2015, the Gulf Council had agreed to support a permit split, but the South Atlantic Council was no longer interested.

## **Permits**

The National Marine Fisheries Service (NMFS) issues king mackerel limited access permits and Spanish mackerel open access permits. These permits are valid for fishing in the Gulf, South Atlantic, and Mid-Atlantic regions and are required for commercial fishermen to retain fish in excess of the bag limit and to sell their harvest. A moratorium on the issuance of king mackerel permits was implemented in 1998, extended in 2000, and made permanent through a limited access system in 2005. The intent of these actions was to prevent an increase in permittees that could force the need for additional regulations and jeopardize the Councils' ability to manage the fishery to achieve optimum yield. Spanish mackerel permits are open access and anyone can purchase one from NMFS with no qualifiers.

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<sup>2</sup> One joint framework amendment was developed during this time. Framework Amendment 2 had separate actions to increase the ACL for each migratory group of Spanish mackerel.

Some vessels travel and fish in multiple regions and some vessels fish only in specific areas. The South Atlantic Fishery Management Council is concerned with increasing effort for king mackerel off of Florida south of Cape Canaveral. Some historical king mackerel fishermen are concerned that permit holders who have not been fishing regularly or fishing at low levels may begin participating more fully. Other historical fishermen think that the number of fishermen traveling from the South Atlantic to the Gulf is increasing, resulting in shorter seasons and reducing the profitability of the fishery.

More vessels fishing under the same quota could mean lower catches for each vessel. On the other hand, many king mackerel fishermen diversify and harvest species from multiple fisheries. Although they may be considered “part-time” king mackerel fishermen, king mackerel may contribute a large portion of their income. The migratory nature of the fish promotes this part-time participation for those who do not want to travel long distances. Thus, elimination of permits with low levels of landings could eliminate full-time fishermen that are only part-time king mackerel fishermen because of their diversification. In Joint Amendment 20A, the Councils considered ways to remove inactive permits, but public comments indicated that fishermen in most areas in the regions did not feel that latent effort was a problem or would impact the stock.

This amendment would consider actions to further separate management of CMP species between the two Councils, including creating two separate FMPs that allow completely separate management of CMP species, as well as separating the commercial permits for king mackerel and Spanish mackerel into permits for each species in each region.

### *Who's Who?*

- NOAA Fisheries Service and Council staff – Develop alternatives based on guidance from the Council, and analyze the environmental impacts of those alternatives
- Councils – Engage in a process to determine a range of actions and alternatives, and recommend action to NOAA Fisheries Service
- Secretary of Commerce – Will approve, disapprove, or partially approve the amendment submitted by the Council

## Purpose and Need

### *Purpose for Action*

To re-organize the management of coastal migratory pelagic species and create separate commercial permit systems for Gulf of Mexico and Atlantic migratory groups of king and Spanish mackerel to simplify management, and address user conflicts and overcapacity in the Gulf and Atlantic coastal migratory pelagic fisheries.

### *Need for Action*

To allow the Gulf of Mexico and South Atlantic Fishery Management Councils to more effectively account for regional variations among fishery resources and participants, avoid duplication, and utilize fishery resources efficiently while preventing overfishing within each Councils respective area.

## History of Management

The CMP FMP, with Environmental Impact Statement (EIS), was approved in 1982 and implemented by regulations effective in February 1983 (GMFMC and SAFMC 1982). The management unit includes king mackerel, Spanish mackerel, and cobia. The FMP treated king and Spanish mackerel as unit stocks in the Atlantic and Gulf. The FMP established allocations for the recreational and commercial sectors harvesting these stocks, and the commercial allocations were divided between net and hook-and-line fishermen. A full history of CMP management can be found in Amendment 18 (GMFMC and SAFMC 2012) and Amendment 20B (GMFMC and SAFMC 2014).

## CHAPTER 2. MANAGEMENT ALTERNATIVES

### 2.1 Action 1 – Reorganize Management of Coastal Migratory Pelagic (CMP) Species in the Gulf of Mexico (Gulf) and Atlantic Region

**Alternative 1.** No Action. Retain a single Gulf and South Atlantic CMP Fishery Management Plan (FMP). Retain the joint commercial king mackerel permit and the joint commercial Spanish mackerel permit, which allow fishing throughout the range of the FMP.

**Alternative 2.** Retain a single Gulf and South Atlantic CMP FMP. Create separate commercial king mackerel permits and/or commercial Spanish mackerel permits for the regions managed by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). Qualifying criteria for the limited access king mackerel permits will be addressed in Actions 2-3; Spanish mackerel permits are open access, and therefore do not require qualifying criteria.

**Option a.** Establish separate commercial king mackerel permits for each region

**Option b.** Establish separate commercial Spanish mackerel permits for each region

**Alternative 3.** Create separate CMP FMPs, one for the Gulf and one for the Atlantic region. The Gulf CMP FMP will be administered by the Gulf Council and the Atlantic CMP FMP will be administered by the South Atlantic Council. Create separate commercial king mackerel and commercial Spanish mackerel permits for each Council's region. Qualifying criteria for the limited access king mackerel permits will be addressed in Actions 2-3; Spanish mackerel permits are open access. All other management measures in the joint FMP will apply to the appropriate stock and region, and be included in the appropriate new FMPs. The jurisdictional boundary between the Councils for the new FMPs will be at:

**Option a.** The Dade-Miami/Monroe County line

**Option b.** The Gulf/South Atlantic Council boundary

#### **Discussion:**

Currently, the CMP resources are managed with a joint FMP. Each Council may develop proposed management measures, but both Councils must approve all actions in any plan amendment. A single federal king mackerel commercial permit and a single federal Spanish mackerel commercial permit are required to harvest the respective species throughout the Gulf and South Atlantic exclusive economic zone (EEZ). No commercial permit is required to harvest cobia in the EEZ.

**Alternative 1** would continue joint management of the CMP species through the current Gulf and South Atlantic CMP FMP and the joint commercial permits for king and Spanish mackerel. King mackerel, and to some extent Spanish mackerel and cobia, are migratory fish. In general, most migration is north-south, although some is inshore-offshore. The most recent stock assessment for king mackerel (SEDAR 38 2014) showed that intermixing of the two king mackerel migratory groups still occurs, with 50% of the fish south of the Florida Keys belonging to each migratory group in winter. Because of the movement of fish, some fishermen also travel

to different areas to harvest king mackerel. Other fishermen are only part-time king mackerel fishermen, and only fish when king mackerel are in their area.

The joint king mackerel commercial permit was implemented through Amendment 1 (GMFMC/SAFMC) in 1985, and the joint Spanish mackerel commercial permit was implemented through Amendment 2 (GMFMC/SAFMC) in 1987. These permits are valid for fishing from Texas to New York<sup>3</sup>. The king mackerel commercial permit is limited access, meaning NMFS does not issue any additional permits beyond those already issued prior to the moratorium implemented through Amendment 12 (GMFMC/SAFMC 1999) and the limited access program implemented through Amendment 15 (GMFMC/SAFMC 2004). Entities can renew permits or transfer them to another entity or vessel, but if permits are not renewed within one year of their expiration date, they are terminated and are no longer available. Spanish mackerel commercial permits are open access, meaning an unlimited number can be issued by NMFS and annual renewal is not necessary.

A single king mackerel permit allows travelling fishermen to move between the South Atlantic and the Gulf. This is desirable for those travelling fishermen, but not for resident fishermen in the area to which they travel. Conflicts between these two types of fishermen have risen, especially in the northern Gulf. Resident fishermen in the Florida panhandle particularly resent travelling fishermen in their area, as that area has a small quota that has been quickly harvested in recent years after the Gulf Western Zone closes, usually in September. In Amendment 20B (GMFMC/SAFMC 2015), the beginning of the fishing season for the Gulf Northern Zone was moved from July 1 to October 1, in part to discourage travelling fishermen from staying in the area after the Gulf Western Zone closes.

**Alternative 2** would continue joint management of the CMP species through the current Gulf and South Atlantic CMP FMP, but create separate commercial king and Spanish mackerel permits for the two Council jurisdictional areas. Issuing separate permits for fishing in each area is consistent with the charter/headboat permits for CMP species, which have been separate since implemented in 1987. Separate permits could allow further refinement of management measures within each Council's area. In developing recent amendments, the Councils have expressed different desires for elimination of latent permits, endorsements, declaration of zones, and limited access programs, all of which are related to permits.

If the Councils establish two king mackerel permits in **Option a**, they must develop criteria for determining which of those permits each vessel with a current permit would be granted, because the current permit is limited access. These criteria would determine the total number of king mackerel permits issued and are presented in Actions 2 and 3. In Amendment 20A (GMFMC/SAFMC 2014), the Councils considered an action to eliminate latent king mackerel permits (those with little to no landings). The South Atlantic Council was interested in preventing holders of those permits from becoming active and competing with historical fishermen, who already feel limited by closures. The Gulf Council did not want to take permits away from fishermen that might be holding them for future use. In the end, the action was not adopted because of this disagreement. If **Alternative 2, Option a** is implemented, the South Atlantic Council could proceed with elimination of latent permits for their area.

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<sup>3</sup> The Mid-Atlantic Council has delegated management of CMP species to the South Atlantic Council.

Anyone can currently purchase a Spanish mackerel commercial permit from NMFS with no qualifiers. Therefore, if the Councils choose to create separate Spanish mackerel permits in **Option b**, NMFS could simply replace the current Spanish mackerel permit with two new permits: a Gulf Spanish mackerel commercial permit and an Atlantic Spanish mackerel commercial permit. A fisherman could choose to purchase one or both of the permits when their current permit expires. Landings of Spanish mackerel in the Gulf are well below the current annual catch limit (ACL) for the stock (the Gulf has no sector allocation for Spanish mackerel). However, in the Atlantic, commercial landings of Spanish mackerel have been near or over the commercial ACL in recent years. The South Atlantic Council has expressed interest in considering a limited access permit for Spanish mackerel to address overcapitalization. **Alternative 2, Option b** would allow the South Atlantic to pursue this idea without impacting fishermen in the Gulf.

The Councils considered separating the FMP (**Alternative 3**) in Amendment 8. Part of that proposal was to set a fixed boundary for king mackerel between the two Councils' jurisdictional areas. The rationale was that although most of the biology of king and Spanish mackerel is the same for each region, the social and economic characteristics of these fisheries are not. Even by then, the Councils had been pursuing separate management measures for their areas and anticipated continued divergence in the future. However, at that time the king mackerel off the east coast of Florida were considered to be 100% Gulf migratory group fish in the winter. Any boundary that would include the east coast of Florida as Atlantic fish year-round would complicate the stock assessments, and was therefore deemed too difficult to enact.

In the most recent king mackerel stock assessment (SEDAR 38 2014), the king mackerel off the east coast of Florida were determined to be Atlantic migratory group fish only. The mixing zone was reduced to a small area south of the Florida Keys, and Amendment 26 was developed to include and action for a fixed boundary for king mackerel between the two Councils. Additionally, although both migratory groups were determined to not be overfished or undergoing overfishing, recruitment for the Atlantic migratory group was on a downward trend, whereas recruitment for the Gulf migratory group was on an upward trend. These trends indicate potential differences in the status of each migratory group.

If the Council chooses **Alternative 3**, separation of the king and Spanish mackerel commercial permits would be a necessary part of the process to separate the FMP and would proceed as discussed for **Alternative 2**. With the change in the mixing zone, all other management for king mackerel would be different for each Council. The same is true for Spanish mackerel, which already has a fixed management boundary at the Miami-Dade/Monroe County line. The management boundary for cobia is at the Florida/Georgia boundary, but management of cobia off the east coast of Florida to the Miami-Dade/Monroe County line was delegated from the Gulf Council to the South Atlantic Council via the framework procedure developed in Amendment 18 (GMFMC/SAFMC 2012).

Under **Alternative 3**, the regulations for the Gulf migratory groups would become part of the Gulf CMP FMP, and the regulations for the Atlantic migratory groups would become part of the Atlantic CMP FMP. The framework procedure would be modified to remove requirements for



each Council to approve all plan amendments, and to remove the section describing each Council's responsibilities under the joint plan. Additional measures might be needed to fully delegate management of cobia on the east coast of Florida from the Gulf Council to the Atlantic Council, as the current joint framework procedure may not be adequate. If NOAA General Counsel advises the Councils of this necessity, an action could be added to this amendment.

## 2.2 Action 2 – Qualification Criteria for Obtaining and/or Retaining a Gulf of Mexico Commercial King Mackerel Permit

*Note: Alternatives are based on the Gulf CMP Advisory Panel recommendations. Alternative 4 can be selected in conjunction with any of Alternatives 1-3. Multiple options may be selected as preferred in Alternatives 2 and 3.*

**Alternative 1.** No Action. Those individuals currently permitted to commercially fish for king mackerel in the Gulf of Mexico will continue to be allowed to do so.

**Alternative 2.** Establish qualifying criteria for the Gulf-specific commercial king mackerel permit. An individual currently holding a valid or renewable combined Gulf and Atlantic permit will receive the fully transferable Gulf-specific permit if they have met one of the following criteria for king mackerel in the Gulf:

**Option a:** 5,000 lbs of king mackerel in any one year during 1994-2009

**Option b:** 10,000 lbs of king mackerel annually in at least 4 years during 2010-2014

**Option c:** 20,000 lbs of king mackerel annually in at least 4 years during 2010-2014

**Option d:** The hailing port listed on the current federal commercial king mackerel permit as of January 1, 2015, was a port within the Gulf region.

**Alternative 3.** Establish qualifying criteria for a non-transferable Gulf-specific commercial king mackerel permit. An individual currently holding a valid or renewable combined Gulf and Atlantic permit will receive the non-transferable Gulf-specific permit if they did not meet the qualification criteria for the fully transferable permit, but have met one of the following criteria for king mackerel in the Gulf:

**Option a:** Commercial landings of any federally managed species in the Gulf

**Option b:** The hailing port listed on the current federal commercial king mackerel permit as of January 1, 2015, was a port within the Gulf region.

**Alternative 4.** Establish a spatial restriction for all Gulf-specific commercial king mackerel permits, whereby the permit holder may only fish in a specific Gulf commercial zone based upon predetermined criteria. This restriction will be valid upon the date of issuance of the permit.

**Option a:** The Gulf zone where the permit had the highest average landings of king mackerel during the previous five years.

**Option b:** The Gulf zone where the permit had the highest average landings of king mackerel during the previous ten years.

**Option c:** Selected by the permit holder before issuance of the permit.

### **Discussion:**

Commercial king mackerel fishermen in the Gulf and the South Atlantic are currently managed under a single permit which applies to both areas of jurisdiction. These permits are under a

moratorium, meaning that no additional permits may be issued. New entrants into the commercial king mackerel fishery must purchase a permit from an existing permit holder. Permit holders are permitted to fish for king mackerel in either the Gulf or South Atlantic Council's area of jurisdiction, so long as the fishing season for the specific area in which said permit holder is fishing is open. Fishermen are required to follow trip limits, which vary by the commercial zone in which they are fishing.

If separate permits are established in Action 1, the Councils will need to determine which entities currently holding the combined Gulf and Atlantic permit will receive a Gulf-specific commercial king mackerel fishing permit. **Alternative 1** would not establish any qualifying criteria, thereby granting all current commercial king mackerel permit holders a Gulf-specific permit. This alternative is not expected to result in any change to the current biological or social environments. In such cases where a permit holder maintains both a Gulf-specific and South Atlantic-specific permit, a slight negative economic effect would be experienced by permit holders whose annual costs to renew their fishing permits would increase marginally (currently \$10 per additional permit after the first permit). Additional administrative burdens would be incurred by the permit issuing agency, which would have to re-issue Gulf-specific commercial king mackerel fishing permits to each current permit holder. Further, by not establishing qualifying criteria, the overall number of permits (the sum of the new Gulf and Atlantic permits) would increase substantially, thereby negating the purpose of the current limited access system.

**Alternatives 2 and 3** would establish qualifying criteria for the Gulf-specific commercial king mackerel permit. These alternatives include options for two types of permits: those which are fully transferable (**Alternative 2**) and those which are non-transferable (**Alternative 3**). A fully transferable permit may be sold to any prospective permit holder. A non-transferable permit may not be sold, transferred, or inherited. In general, any reduction in the total number of permits valid for commercial king mackerel fishing in the Gulf has the potential to yield positive biological effects. If fishing effort and, by association, landings, is reduced, then more king mackerel will remain in the water. Conversely, the elimination of any permits will have multiple negative effects on both the social and economic environments. Some current permit holders may not be able to transfer or sell their permits to new entrants. This will likely create both social and economic hardships for those permit holders affected by **Alternatives 2 or 3**.

**Alternative 2** would establish qualifying criteria for the fully transferable Gulf-specific commercial king mackerel permit. Several landings thresholds have been proposed for determining which individuals currently holding a valid or renewable combined Gulf and Atlantic permit would receive the fully transferable Gulf-specific permit in the event the combined permit is split in Action 1. **Alternative 2, Option a** would require the individual currently holding a valid or renewable combined Gulf and Atlantic permit to have landed at least 5,000 lbs of king mackerel in any one year during 1994-2009. **Alternative 2, Option b** would require the current permit holder to have landed at least 10,000 lbs of king mackerel annually in at least 4 years during 2010-2014. **Alternative 2, Option c** would require the current permit holder to have landed at least 20,000 lbs of king mackerel annually in at least 4 years during 2010-2014. **Option d** of **Alternative 2** can be selected either by itself, or in conjunction with one of **Options a-c**. **Option d** would require that the hailing port listed on the current federal commercial king mackerel permit as of January 1, 2015, be a port within the Gulf region in order

for the current permit holder to receive the fully transferable permit. The use of January 1, 2015 as a new control date for king mackerel would need to be adopted by the Gulf Council.

**Alternative 3** would establish qualifying criteria for the non-transferable Gulf-specific commercial king mackerel permit. An individual currently holding a valid or renewable combined Gulf and Atlantic permit would receive the non-transferable Gulf-specific permit if they did not meet the qualification criteria for the fully transferable Gulf-specific permit (**Alternative 2**), but met other qualifying criteria based on commercial fishing for king mackerel in the Gulf. Options for qualifying criteria for **Alternative 3** include requiring that current permit holders have commercial landings of any federally-managed species in the Gulf (**Option a**), or that the hailing port listed on the current federal commercial king mackerel permit as of January 1, 2015, was a port within the Gulf region (**Option b**). Only those fishermen who had previously purchased a commercial king mackerel permit, but never participated in commercial fishing activities in the Gulf, would be disqualified under **Option a** of **Alternative 3**. **Option b** of **Alternative 3** may result in a larger number of current permit holders not being eligible to receive a non-transferable Gulf-specific commercial king mackerel permit, with particular emphasis on those fishermen who travel to the Gulf from other areas to fish. Further, the current permit requires that the permit holder indicate a hailing port (a shoreline location adjacent to the waters in which the permit holder expects to be fishing). If a permit holder fishes in both the Gulf and the South Atlantic, but has reported a hailing port on a South Atlantic shoreline, then under **Option b** of **Alternative 3**, said permit holder would not be eligible for the non-transferable Gulf-specific commercial king mackerel permit. In the event a current permit holder is not eligible for either the fully transferable or the non-transferable Gulf-specific commercial king mackerel permit, said individual would not qualify to fish commercially for king mackerel in the Gulf.

**Alternative 4** would establish a spatial restriction for the transferable, non-transferable, or both Gulf-specific commercial king mackerel permits, whereby the permit holder may only fish in a specific Gulf commercial zone based upon predetermined criteria. Options for determination criteria include restricting the permit's validity to the zone where the permit had the highest average landings of king mackerel during the previous five years (**Option a**) or ten years (**Option b**). Alternatively, the permit holder could also be given the option of personally selecting for which zone their permit would be valid prior to the issuance of said permit (**Option c**). This permanent restriction would be applied to all Gulf-specific permits, and would be valid and enforceable upon the date of issuance of the permit. **Alternative 4** could be selected as preferred in conjunction with any of **Alternatives 1-3**. In practice, this alternative will limit movement between commercial fishing zones in the Gulf by those traveling fishermen who fish in multiple zones. Additional economic hardship may befall those fishermen who travel, as their harvest capabilities would be limited to a single zone.

## **2.3 Action 3 – Qualification Criteria for Obtaining and/or Retaining an Atlantic Commercial King Mackerel Permit**

*Note: The South Atlantic Council has not yet agreed to go forth with CMP Amendment 28. As such, Action 3 will remain blank until guidance on the Action is provided by the South Atlantic Council.*

## CHAPTER 3. REFERENCES (TO BE UPDATED)

GMFMC and SAFMC. 1982. Fishery Management Plan for Coral and Coral Reefs in the Gulf of Mexico and South Atlantic Fishery Management Councils. Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 W. Kennedy Boulevard, Tampa, Florida; South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina, 29407. 332 p.

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# APPENDIX A. PUBLIC COMMENTS RECEIVED ON CMP AMENDMENT 28

## SCOPING WORKSHOPS Coastal Migratory Pelagics Amendment 28 King Mackerel Permits

Biloxi, Mississippi  
March 31, 2015

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Meeting Attendees:  
Rufus Young

### King Mackerel Permits

Should separate permits be established?

- Yes, splitting permits is a good, fair idea.

Should permit holders be allowed to receive both permits?

- Yes. Shouldn't limit folks on where they want to fish.

If only one permit is granted per permit holder, how will the new permit be chosen?

- Landings would be an appropriate criteria to use if you give fishermen 3-5 years from now to qualify.

Should qualifying criteria be designed to reduce the number of permits?

- No, don't actively eliminate permits through qualifying criteria.

### Spanish Mackerel Permits

Should separate commercial permits be established?

- Yes, separate Spanish mackerel permits.

Should either Council establish a limited access system for commercial permits?

- Limited access might be applicable to the Atlantic but not the Gulf. The Gulf stocks are healthy. No reason to cut someone out of the fishery.



What qualifying criteria should be used for limited access permits or to reduce the number of permits?

- Criteria should be based on having landed at least a certain number of fish for a certain time period/ series.

Saint Petersburg, Florida  
April 13, 2015

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Meeting Attendees:  
Richard Sergent  
Stewart Hehenberger

### King Mackerel Permits

Should separate permits be established?

- Separate permits should absolutely not be created, the quotas and zones can be adjusted to ensure that the amount of fish being caught isn't too much. Establishing separate permits in the Gulf and South Atlantic won't help the fish stock or control the amount of fish harvested.
- Creating separate permits, especially if you don't qualify for both, would put a major financial burden on people.
- Separate permits would unevenly effect the traveling king mackerel fishermen.

Should permits holders be allowed to receive both permits?

- Yes.

If only one permit is granted per permit holder, how will the new permit be chosen?

- The fishermen should be able to pick the zone or area(s) where they want to fish.

What qualifying criteria should be used for permits?

- If you require some criteria to qualify you for a permit, and each fisherman wasn't allowed to choose, they felt that using the hailing port would be the worst criteria possible. Instead, they felt landings, trips, or days-at-sea should be used as criteria to qualify a fisherman.

Should qualifying criteria be designed to reduce the number of permits?

- No.

Other Issues:

- Concern was expressed about enforcement of the recently implemented transit provisions because it could be easily circumvented. For example, the transit provision created in the southern subzone of the eastern zone may promote fishing while in closed waters. A fisherman could easily get around the transit provision when fishing for king mackerel because you only have 2 or 3 lines out while you're fishing. If you are pulled over you can quickly cut the lines to satisfy the gear storage requirement while in transit.
- By removing the stepped trip limit reductions in the Gulf, NMFS has compromised their ability to close the king mackerel fishery on time. Each of the subzones have overharvested their quota by 30% in 2015 since this was recently implemented. The Council should consider reestablishing that provision. If the fishery continues to go over the subzone quotas fishermen fear that NMFS will put an IFQ in place to control the fishery even though the previous trip limit reduction has proven to have the same benefits.

Key West, Florida  
April 19, 2015

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Meeting Attendees:

George Niles  
Daniel Padron  
Bill Kelly

King Mackerel Permits

Should separate permits be established?

- It depends on how many active permits are being used on both coasts and how many people it would affect.
- Fishermen still need to be able to follow fish as they migrate.

Should permits holders be allowed to receive both permits?

- Qualifying for both permits adds to cost of doing business. Would rather see only one permit or the other with option to change or transfer permits as needed, but not be able to have both at same time.

If only one permit is granted per permit holder, how will the new permit be chosen?

- Non-transferable permits are staying in families and don't allow others to get into fishery.
- Loopholes need to be closed, and the current system is not working the way it was designed.

- There needs to be a way to get rid of permits that fishermen have not been able to use.

Should qualifying criteria be designed to reduce the number of permits?

- There is no reason to get rid of any handline permits, both stocks are healthy.

### Spanish Mackerel

Should separate commercial permits be established?

- The same metric should be used for Spanish as for kingfish.

Should either Council establish a limited access system for commercial permits?

- Not in the Gulf- Gulf fishers do not go to the South Atlantic for mackerel, and the Gulf Spanish mackerel ACL is very high.
- If the South Atlantic is having a problem, then they should cap the number of permits at the current level. Don't limit the use of newly purchased permits, whether in Gulf or South Atlantic.
- Establish temporary moratorium during which qualifying criteria could be met

What qualifying criteria should be used for limited access permits or to reduce the number of permits?

- Since the Spanish mackerel price is high right now, people will try to keep others from getting into the fishery.
- There is concern expressed about South Atlantic plan for limited access since so many South Atlantic based fishermen come to the Gulf. If the South Atlantic makes it harder to catch Spanish mackerel over there, what would keep the South Atlantic based fishermen from coming to the Gulf?

### Other issues:

- Do not want to see 1250 lb limit because they won't be able to afford to fish. The 2000 lb limit that was proposed was voted down with no explanation given.
- The quota needs to make fishing worthwhile, the commercial sector is being severely punished through no fault of theirs.
- There is an over-capitalization of the king mackerel fishery even though it is under quota.
- Emotional pleas have trumped science from both Gulf & South Atlantic Councils.
- Permit holders need to be protected, since they are affected by low trip limits.

Meeting Attendees:  
Shane Cantrell

### King Mackerel Permits

Should separate permits be established?

- Yes, but the number of permits allowed need to be monitored, it could further over-capitalize fishery.

Should permits holders be allowed to receive both permits?

- Yes, in special cases people should be allowed to hold both permits if historically their landings are large enough on each side to qualify for each permit.
- This may prevent newer entrants from being able to get into fishery. New entrants should not have to buy nontransferable permits. There needs to be some mechanism in place to allow for new entrants without the large initial investment of buying a permit. Potentially, a federally-backed loan program could subsidize costs of permits for new entrants.

What qualifying criteria should be used for permits?

- An income qualifier should be used as a criteria to receive permits.

Should qualifying criteria be designed to reduce the number of permits?

- Yes, the fishery is likely over-capitalized.

### Spanish Mackerel

Should separate commercial permits be established?

- Yes, this will allow the Councils to do what is best for their fishermen.

Should either Council establish a limited access system for commercial permits?

- There should be a cap on the number of permits. It should be set at the current level of participation.
- Qualifying criteria used should be based on income & landings. The landings criteria needs to be based on a tiered landing system, where those fishermen with landings only in recent years can still qualify for a permit, while also recognizing the historical fishermen.

- A temporary moratorium should be established so fishermen can meet qualifying criteria.

Other Issues:

- Limited access needs to be maintained, but new entrants need to be allowed to get into fishery through some mechanism (purchase existing permit, purchase shares, etc).
- The commercial western zone king mackerel season should open on June 1.

Grand Isle, Louisiana  
April 28, 2015

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Meeting Attendees:

Dean Blanchard  
Kelty Readenour  
Michael Frazier  
Abigail Frazier  
Brian Hardcastle

King Mackerel Permits

Should separate permits be established?

- Yes. You should be fishing where you live.

Should permits holders be allowed to receive both permits?

- No. You should only be allowed to fish in either the Gulf or the Atlantic.

What qualifying criteria should be used for permits?

- The length of time people have held permits should be considered and there should be historical endorsements that allow for the fully transferable option as proposed by the Gulf CMP AP in March 2015. You should qualify for the fully transferable option either by your landings history, or through a historical endorsement.

Should qualifying criteria be designed to reduce the number of permits?

- No, qualifying criteria shouldn't reduce permits because the current number of fishermen are not hurting the stock.

Spanish Mackerel Permits

Should separate commercial permits be established?

- Yes. If you are going to split king mackerel permits, you should split Spanish mackerel permits too.

Should either Council establish a limited access system for commercial permits?

Let the South Atlantic Council decide on their side but, the Gulf should not consider a limited access program.