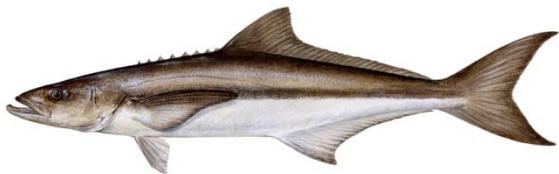
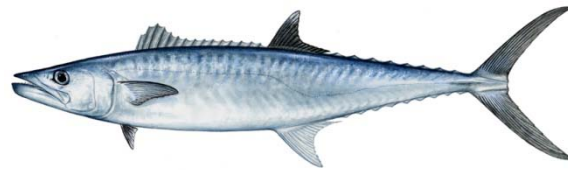


# Coastal Migratory Pelagics Sale and Permit Provisions



AP



AP



AP

## Options Paper for Amendment 19 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

Including Environmental Assessment,  
Fishery Impact Statement, Regulatory Impact Review,  
and Regulatory Flexibility Act Analysis

March 2012



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# ENVIRONMENTAL ASSESSMENT COVER SHEET

## Name of Action

Options Paper for Amendment 19 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic, 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

## Summary/Abstract

xx

## ABBREVIATIONS USED IN THIS DOCUMENT

ABC	Acceptable biological catch
ACL	Annual catch limit
ACT	Annual catch target
ALS	Accumulated Landings System
AMs	Accountability measures
APA	Administrative Procedures Act
B	Biomass
B <sub>MSY</sub>	Stock biomass level capable of producing an equilibrium yield of MSY
CDT	Commercial decision tool
CI	Confidence interval
Gulf Council	Gulf of Mexico Fishery Management Council
CMP	Coastal Migratory Pelagics
CPUE	Catch per unit effort
CS	consumer surplus
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
ELMR	Estuarine living marine resources
ESA	Endangered Species Act
F	Instantaneous rate of fishing mortality
FL	fork length
FLS	Federal logbook system
F <sub>MSY</sub>	Fishing mortality rate corresponding to an equilibrium yield of MSY
F <sub>OY</sub>	Fishing mortality rate corresponding to an equilibrium yield of OY
F <sub>30% SPR</sub>	Fishing mortality corresponding to 30% spawning potential ratio
FMP	Fishery Management Plan
FWRI	Florida Wildlife Research Institute
GMFMC	Gulf of Mexico Fishery Management Council
HAPC	Habitat area of particular concern
HBS	Headboat Survey
IRFA	Initial regulatory flexibility analysis
LOF	List of fisheries
lq	location quotient
M	Mortality
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MFMT	Maximum fishing mortality threshold
MMPA	Marine Mammal Protection Act
mp	million pounds
MRFSS	Marine Recreational Fisheries Survey and Statistics

MRIP	Marine Recreational Information Program
MSST	Minimum stock size threshold
MSY	Maximum sustainable yield
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOAA Fisheries	Same as NMFS
nm	nautical mile
NOR	net operating revenues
NOS	National Ocean Service
NS1	National Standard 1 guidelines
OFL	Overfishing level
OMB	Office of Management and Budget
OY	Optimum yield
PCA	Principal component analysis
PRA	Paperwork Reduction Act
PS	Producer surplus
Pw	Product weight
QMS	Quota Monitoring System
RA	Regional Administrator
RFA	Regulatory Flexibility Act of 1980
RIR	Regulatory impact review
rq	regional quotient
SAV	Submerged aquatic vegetation
Secretary	Secretary of Commerce
SEDAR	Southeast Data, Assessment and Review
SEFSC	Southeast Fisheries Science Center
SERO	Southeast Regional Office
SMZ	Special Management Zone
South Atlantic Council	South Atlantic Fishery Management Council
SSBR	Spawning stock biomass per recruit
SSC	Scientific and Statistical Committee
SPR	Spawning potential ratio
TAC	Total allowable catch
TPWD	Texas Parks and Wildlife Department
ww	whole weight
YPR	Yield per recruit

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# FISHERY IMPACT STATEMENT

# CHAPTER 1. INTRODUCTION

## 1.1 Background

Currently, some commercial or recreational fishermen who do not possess a valid federal commercial permit may sell coastal migratory pelagic (CMP) species harvested in the exclusive economic zone (EEZ), in an amount not exceeding applicable recreational bag limits. The South Atlantic and Gulf of Mexico (Gulf) Fishery Management Councils (Councils) are considering a requirement for fishermen harvesting CMP species in the Gulf and Atlantic EEZ to possess a valid federal commercial permit to sell fish harvested under the bag limits. A person aboard a vessel with both a for-hire vessel permit and a federal commercial snapper grouper permit is considered to be fishing as a charter when that vessel is less than 100 gross tons, and carries six or fewer passengers for hire. CMP species caught on such a trip also would not be allowed to be sold or purchased.

### *Gulf of Mexico Fishery Management Council*

- Responsible for conservation and management of fish stocks
- Consist of 11 voting members who are appointed by the Secretary of Commerce; and 1 voting member representing each of the five Gulf states
- Responsible for developing fishery management plans and recommending regulations to NOAA Fisheries Service for implementation

### *South Atlantic Fishery Management Council*

- Responsible for conservation and management of fish stocks
- Consists of 13 voting members who are appointed by the Secretary of Commerce and 4 non-voting members
- Management area is from 3 to 200 miles off the coasts of North Carolina, South Carolina, Georgia, and east Florida through Key West
- Develops management plans and recommends actions to NOAA Fisheries Service for implementation

### *NOAA Fisheries Service*

- Responsible for preventing overfishing while achieving optimum yield
- Approves, disapproves, or partially approves Council recommendations
- Implements regulations

Federal regulations prohibit sale of the following species without a federal commercial permit: South Atlantic snapper-grouper, golden crab, or rock shrimp; Atlantic dolphin-wahoo (unless authorized for a 200-pound trip limit); Gulf reef fish; and South Atlantic and Gulf live rock. With the exception of live rock, federal dealer permits are also required to purchase these species.

NOAA Fisheries Service issues a king mackerel limited access permit and a Spanish mackerel open access permit. These permits are required for commercial fishermen in the Gulf, South Atlantic, or Mid-Atlantic to retain fish in excess of the bag limit for the respective species. No permits are issued for cobia; however, the commercial cobia possession limit is the same as the recreational possession limit.

The king and Spanish mackerel commercial permits are joint permits valid for fishing in the Gulf, South Atlantic, and Mid-Atlantic regions. However, both species have separate regulations for two migratory groups, Gulf and Atlantic, which are developed by the Councils. Currently, sale of fish caught under the bag limit is allowed for both groups.

### ***Who's Who?***

- NOAA Fisheries Service and Council staffs – Develop alternatives based on guidance from the Council, and analyze the environmental impacts of those alternatives
- Gulf Council – Engages in a process to determine a range of actions and alternatives, and recommends action to NOAA Fisheries Service
- Secretary of Commerce – Will approve, disapprove, or partially approve the amendment as recommended by the Councils

## 1.2 Purpose and Need

The purpose of the proposed action is to consider modification of the sales provisions for socio-economic, data quality, and enforcement reasons. Permits changes may be necessary to enforce a prohibition on sale of CMP species harvested under the bag limit. The action also considers whether there is a need to reduce effort through permit reductions and whether income requirements for participation are needed.

The need for this action is to ensure regulations are fair and equitable, fish harvested by the recreational sector are not counted toward commercial quotas, and total landings data are accurate.

### ***Purpose for Action***

The purpose of this amendment is to consider modifications to the sales provisions; to determine the need to reduce effort through permit reductions; and if income requirements are needed for participation.

### ***Need for Action***

The need for the proposed actions is to ensure regulations are fair and equitable; harvested fish are not counted towards the wrong quota; and total landings data are accurate.

## 1.3 History of Management

## CHAPTER 2. MANAGEMENT ALTERNATIVES

### 2.1 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.

**Alternative 2:** For a person to sell king or Spanish mackerel in or from the EEZ of the Atlantic or Gulf of Mexico, those fish must have been harvested aboard a vessel with a commercial vessel permit/endorsement for each species taken.

**Alternative 3:** Prohibit the sale of king and Spanish mackerel caught under the bag limit except for allowing sale by for-hire vessels that possess the necessary state and federal commercial permits to sell CMP species harvested in or from the South Atlantic Council’s jurisdiction. Prohibition of sale during a commercial closure would apply.

*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.*

#### **Discussion:**

A commercial king mackerel permit is required to retain king mackerel in excess of the bag limit in the Gulf, South Atlantic, or Mid-Atlantic. These commercial permits are under limited access; no applications for additional commercial permits for king mackerel will be accepted by NOAA Fisheries Service, but permits can be renewed or transferred. In addition, a limited-access gillnet endorsement is required to use gillnets in the southern Florida west coast subzone. As of January 4, 2012, 1,389 federal king mackerel permits were valid. A commercial Spanish mackerel permit is required for vessels fishing in the Gulf or South Atlantic. This permit is open access. As of January 4, 2012, 1,690 federal Spanish mackerel permits were valid.

Currently, separate Gulf and South Atlantic permits are required for charter/headboats. The Gulf permit is limited access and the South Atlantic permit is open access. As of January 4, 2012, 1,194 Gulf and 1,429 Atlantic CMP charter/headboat permits were valid.

Currently, sale of coastal migratory pelagic (CMP) species without a federal commercial permit is allowed consistent with state regulations. Most states require a commercial permit, saltwater products license, restricted species endorsement, or some other specific license to sell regulated finfish. Some states have regulations requiring a federal commercial permit to sell king mackerel, Spanish mackerel, or cobia harvested from state waters, but overall these regulations are neither consistent nor specific. For example in Florida, where highest landings of these species occur, a federal commercial permit is required to exceed the bag limit, but not to sell any of these three species.



Sale of fish by private anglers is not usual but is a common practice among crews of for-hire vessels. Often passengers give their catch to the captain or crew who then sell those fish. Thus, crew from head boats with high numbers of passengers may sell substantial amounts of fish.

All fish from the EEZ that are sold are considered commercial harvest and count towards a species' commercial quota, whether or not the fisherman has a federal commercial permit. This includes fish caught during tournaments that are donated through a dealer. The Councils are concerned that harvest from trips by recreational fishermen may contribute significantly to the commercial quota and lead to early closures in the commercial sector of the fishery.

The Councils also concluded prohibiting sale of fish caught under the bag limit should improve the accuracy of data by eliminating "double counting" – harvest from a single trip counting towards both the commercial quota and recreational allocation. This practice occurs when catches are reported through the Marine Recreational Fisheries Statistics Survey (MRFSS) and through commercial trip tickets and logbooks.

At its October 2005 meeting, the South Atlantic Council's Law Enforcement Advisory Panel (LEAP) made a motion to require the appropriate federal commercial permit to sell any species under the Council's jurisdiction. The LEAP reported that such a measure would aid law enforcement because it would reduce the universe of people that officials have to enforce concerning sale of fish. In addition, a commercial permit is required for bag limit sales of snapper grouper species in the South Atlantic and reef fish species in the Gulf of Mexico. Therefore, implementation of compatible regulations for CMP species would likely help improve the enforceability of sale of seafood products in the region.

In support of the status quo, for-hire vessel owners argue that fish sales are required to cover the cost of their trips. Competition demands are such that they must keep charter fees sufficiently low while maintaining adequate crew and equipment. Regulations would be developed consistent with those already in existence. Bag limit sales of South Atlantic snapper-grouper were enacted in 2008 and are prohibited by Section 622.45 of the Code of Federal Regulations as follows:

(d) South Atlantic snapper-grouper. (1) A South Atlantic snapper-grouper harvested or possessed in the EEZ on board a vessel that does not have a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi), or a South Atlantic snapper-grouper harvested in the EEZ and possessed under the bag limits specified in § 622.39(d), may not be sold or purchased. In addition, a South Atlantic snapper-grouper harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper may not be sold or purchased regardless of where harvested, i.e., in state or Federal waters.

(2) A person may sell South Atlantic snapper-grouper harvested in the EEZ only to a dealer who has a valid permit for South Atlantic snapper-grouper, as required under § 622.4(a)(4).

(3) A person may purchase South Atlantic snapper-grouper harvested in the EEZ only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi).

This regulation refers to all sales of bag limit caught fish whether on recreational vessels or commercial vessels. Sale of Gulf reef fish caught under the bag limit have been prohibited since 1996 and the regulatory wording is similar.

The Councils would need to decide which permits would be required to sell which species. One option would be to require a species-specific commercial permit to sell a species; i.e., a king mackerel permit required to sell king mackerel, etc. However, only two species, king and Spanish mackerel, currently have commercial permits. This option could effectively eliminate commercial fishing for cobia, because those species could not be sold.

If the Councils wish to prohibit sale of cobia harvested under the bag limit, a commercial permit must be established or cobia must be added to another permit (Action 1). A new federal commercial cobia permit would likely be open access, because a limited access permit would be difficult to distribute and data do not support the need for limited access. Because no permit is required for either type of fisherman to harvest or sell cobia, fish reported on state trip tickets cannot be distinguished as either commercial or recreational landings. An open access permit could easily be developed, but the Councils would need to decide on establishing a single permit, or separate permits for fishing in waters under each Council's jurisdiction.

Another option would be to allow harvest and sale of cobia under both of the existing permits. Both king mackerel and Spanish mackerel commercial permit holders could harvest and sell cobia; no change to the permit structure would occur.

Sale of tournament-caught fish creates particular problems. Often these fish are donated to a dealer, who then sells them. The Food and Drug Administration (FDA) requires processors of fish and fishery products to develop and implement Hazard Analysis Critical Control Point (HACCP) systems for their operations. When a food safety hazard can be introduced or made worse by a harvester or carrier, the processor should include controls in his HACCP plan that require, as a condition of receipt, demonstration that the hazard has been controlled by the harvester or carrier. Recreational fishers are unlikely to be able to produce this documentation. Further, king mackerel are listed as one of the four fish containing the highest level of mercury. The FDA cautions women who are pregnant or might become pregnant, nursing mothers, and young children should not eat king mackerel. Because tournaments target large fish, and large fish have a higher accumulation of mercury, tournament-caught fish are expected to have high mercury levels thus providing a potential food safety hazard.

The regulatory language above that prohibits bag-limit sales of South Atlantic snapper and grouper also prohibits sale of tournament-caught fish; those fish are harvested under the bag limit and, therefore, cannot be sold at any point even if initially donated or if the tournament organizers have a dealer permit. Additional regulatory language would be needed to allow sale of tournament-caught fish with a dealer permit.

**Council Conclusions:**

## 2.2 Action 2 – Sale of Cobia

**Alternative 1:** No Action - no federal permit requirement to sell cobia. Sale of cobia harvested under the possession limit is allowed for persons that possess the necessary state permits. However, if a commercial closure has been implemented, the sale or purchase of cobia of the migratory group, subzone, or gear type, is prohibited, including any cobia taken under the possession limit.

**Alternative 2:** Create a new commercial cobia permit. For a person to sell cobia in or from the EEZ of the Atlantic or Gulf of Mexico, those fish must have been harvested aboard a vessel with a commercial cobia vessel permit.

**Alternative 3:** For a person to sell cobia in or from the EEZ of the Atlantic or Gulf of Mexico, those fish must have been harvested aboard a vessel with a commercial vessel king mackerel or Spanish mackerel permit.

**Alternative 4:** For a person to sell cobia in or from the EEZ of the Atlantic or Gulf of Mexico, those fish must have been harvested aboard a vessel with one or more of the following commercial vessel permits: king mackerel, Spanish mackerel, Gulf reef fish, South Atlantic snapper/grouper, or South Atlantic dolphin/wahoo.

*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.*

### **Discussion:**

A commercial king mackerel permit is required to retain king mackerel in excess of the bag limit in the Gulf, South Atlantic, or Mid-Atlantic. These commercial permits are under limited access; no applications for additional commercial permits for king mackerel will be accepted by NOAA Fisheries Service, but permits can be renewed or transferred. In addition, a limited-access gillnet endorsement is required to use gillnets in the southern Florida west coast subzone. As of January 4, 2012, 1,389 federal king mackerel permits were valid. A commercial Spanish mackerel permit is required for vessels fishing in the Gulf or South Atlantic. This permit is open access. As of January 4, 2012, 1,690 federal Spanish mackerel permits were valid.

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Currently, sale of coastal migratory pelagic (CMP) species without a federal commercial permit is allowed consistent with state regulations. Most states require a commercial permit, saltwater products license, restricted species endorsement, or some other specific license to sell regulated finfish. Some states have regulations requiring a federal commercial permit to sell king mackerel, Spanish mackerel, or cobia harvested from state waters, but overall these regulations are neither consistent nor specific. For example in Florida, where highest landings of these

species occur, a federal commercial permit is required to exceed the bag limit, but not to sell any of these three species.

Sale of fish by private anglers is not usual but is a common practice among crews of for-hire vessels. Often passengers give their catch to the captain or crew who then sell those fish. Thus, crew from head boats with high numbers of passengers may sell substantial amounts of fish.

All fish from the EEZ that are sold are considered commercial harvest and count towards a species' commercial quota, whether or not the fisherman has a federal commercial permit. This includes fish caught during tournaments that are donated through a dealer. The Councils are concerned that harvest from trips by recreational fishermen may contribute significantly to the commercial quota and lead to early closures in the commercial sector of the fishery.

The Councils also concluded prohibiting sale of fish caught under the bag limit should improve the accuracy of data by eliminating "double counting" – harvest from a single trip counting towards both the commercial quota and recreational allocation. This practice occurs when catches are reported through the Marine Recreational Fisheries Statistics Survey (MRFSS) and through commercial trip tickets and logbooks.

At its October 2005 meeting, the South Atlantic Council's Law Enforcement Advisory Panel (LEAP) made a motion to require the appropriate federal commercial permit to sell any species under the Council's jurisdiction. The LEAP reported that such a measure would aid law enforcement because it would reduce the universe of people that officials have to enforce concerning sale of fish. In addition, a commercial permit is required for bag limit sales of snapper grouper species in the South Atlantic and reef fish species in the Gulf of Mexico. Therefore, implementation of compatible regulations for CMP species would likely help improve the enforceability of sale of seafood products in the region.

In support of the status quo, for-hire vessel owners argue that fish sales are required to cover the cost of their trips. Competition demands are such that they must keep charter fees sufficiently low while maintaining adequate crew and equipment. Regulations would be developed consistent with those already in existence. Bag limit sales of South Atlantic snapper-grouper were enacted in 2008 and are prohibited by Section 622.45 of the Code of Federal Regulations as follows:

(d) South Atlantic snapper-grouper. (1) A South Atlantic snapper-grouper harvested or possessed in the EEZ on board a vessel that does not have a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi), or a South Atlantic snapper-grouper harvested in the EEZ and possessed under the bag limits specified in § 622.39(d), may not be sold or purchased. In addition, a South Atlantic snapper-grouper harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper may not be sold or purchased regardless of where harvested, i.e., in state or Federal waters.

(2) A person may sell South Atlantic snapper-grouper harvested in the EEZ only to a dealer who has a valid permit for South Atlantic snapper-grouper, as required under § 622.4(a)(4).

(3) A person may purchase South Atlantic snapper-grouper harvested in the EEZ only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi).

This regulation refers to all sales of bag limit caught fish whether on recreational vessels or commercial vessels. Sale of Gulf reef fish caught under the bag limit have been prohibited since 1996 and the regulatory wording is similar.

The Councils would need to decide which permits would be required to sell which species. One option would be to require a species-specific commercial permit to sell a species; i.e., a king mackerel permit required to sell king mackerel, etc. However, only two species, king and Spanish mackerel, currently have commercial permits. This option could effectively eliminate commercial fishing for cobia, because those species could not be sold.

If the Councils wish to prohibit sale of cobia harvested under the bag limit, a commercial permit must be established or cobia must be added to another permit (Action 1). A new federal commercial cobia permit would likely be open access, because a limited access permit would be difficult to distribute and data do not support the need for limited access. Because no permit is required for either type of fisherman to harvest or sell cobia, fish reported on state trip tickets cannot be distinguished as either commercial or recreational landings. An open access permit could easily be developed, but the Councils would need to decide on establishing a single permit, or separate permits for fishing in waters under each Council's jurisdiction.

Another option would be to allow harvest and sale of cobia under both of the existing permits. Both king mackerel and Spanish mackerel commercial permit holders could harvest and sell cobia; no change to the permit structure would occur.

Sale of tournament-caught fish creates particular problems. Often these fish are donated to a dealer, who then sells them. The Food and Drug Administration (FDA) requires processors of fish and fishery products to develop and implement Hazard Analysis Critical Control Point (HACCP) systems for their operations. When a food safety hazard can be introduced or made worse by a harvester or carrier, the processor should include controls in his HACCP plan that require, as a condition of receipt, demonstration that the hazard has been controlled by the harvester or carrier. Recreational fishers are unlikely to be able to produce this documentation. Further, king mackerel are listed as one of the four fish containing the highest level of mercury. The FDA cautions women who are pregnant or might become pregnant, nursing mothers, and young children should not eat king mackerel. Because tournaments target large fish, and large fish have a higher accumulation of mercury, tournament-caught fish are expected to have high mercury levels thus providing a potential food safety hazard.

The regulatory language above that prohibits bag-limit sales of South Atlantic snapper and grouper also prohibits sale of tournament-caught fish; those fish are harvested under the bag limit and, therefore, cannot be sold at any point even if initially donated or if the tournament

organizers have a dealer permit. Additional regulatory language would be needed to allow sale of tournament-caught fish with a dealer permit.

**Council Conclusions:**

## 2.3 Action 3 – Tournament Sale of King Mackerel

**Alternative 1:** No Action - no federal permit requirement to sell king mackerel caught during a tournament. Sale of king mackerel harvested during a tournament is allowed for tournament organizers that possess the necessary state permits. However, if a commercial closure has been implemented, the sale or purchase of king mackerel of the migratory group, subzone, or gear type, is prohibited, including any king mackerel harvested during a tournament.

**Alternative 2:** Require tournament organizers to obtain a federal commercial king mackerel permit to sell tournament-caught king mackerel. Prohibition of sale during a commercial closure would apply.

**Alternative 3:** Prohibit the sale of tournament-caught king mackerel.

**Alternative 4:** Create a set aside from the recreational king mackerel ACL for tournament sales. Tournament organizers would be required to report all king mackerel harvested during the tournament.

*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.*

### **Discussion:**

A commercial king mackerel permit is required to retain king mackerel in excess of the bag limit in the Gulf, South Atlantic, or Mid-Atlantic. These commercial permits are under limited access; no applications for additional commercial permits for king mackerel will be accepted by NOAA Fisheries Service, but permits can be renewed or transferred. In addition, a limited-access gillnet endorsement is required to use gillnets in the southern Florida west coast subzone. As of January 4, 2012, 1,389 federal king mackerel permits were valid. A commercial Spanish mackerel permit is required for vessels fishing in the Gulf or South Atlantic. This permit is open access. As of January 4, 2012, 1,690 federal Spanish mackerel permits were valid.

Currently, separate Gulf and South Atlantic permits are required for charter/headboats. The Gulf permit is limited access and the South Atlantic permit is open access. As of January 4, 2012, 1,194 Gulf and 1,429 Atlantic CMP charter/headboat permits were valid.

Currently, sale of coastal migratory pelagic (CMP) species without a federal commercial permit is allowed consistent with state regulations. Most states require a commercial permit, saltwater products license, restricted species endorsement, or some other specific license to sell regulated finfish. Some states have regulations requiring a federal commercial permit to sell king mackerel, Spanish mackerel, or cobia harvested from state waters, but overall these regulations are neither consistent nor specific. For example in Florida, where highest landings of these species occur, a federal commercial permit is required to exceed the bag limit, but not to sell any of these three species.

Sale of fish by private anglers is not usual but is a common practice among crews of for-hire vessels. Often passengers give their catch to the captain or crew who then sell those fish. Thus, crew from head boats with high numbers of passengers may sell substantial amounts of fish.

All fish from the EEZ that are sold are considered commercial harvest and count towards a species' commercial quota, whether or not the fisherman has a federal commercial permit. This includes fish caught during tournaments that are donated through a dealer. The Councils are concerned that harvest from trips by recreational fishermen may contribute significantly to the commercial quota and lead to early closures in the commercial sector of the fishery.

The Councils also concluded prohibiting sale of fish caught under the bag limit should improve the accuracy of data by eliminating "double counting" – harvest from a single trip counting towards both the commercial quota and recreational allocation. This practice occurs when catches are reported through the Marine Recreational Fisheries Statistics Survey (MRFSS) and through commercial trip tickets and logbooks.

At its October 2005 meeting, the South Atlantic Council's Law Enforcement Advisory Panel (LEAP) made a motion to require the appropriate federal commercial permit to sell any species under the Council's jurisdiction. The LEAP reported that such a measure would aid law enforcement because it would reduce the universe of people that officials have to enforce concerning sale of fish. In addition, a commercial permit is required for bag limit sales of snapper grouper species in the South Atlantic and reef fish species in the Gulf of Mexico. Therefore, implementation of compatible regulations for CMP species would likely help improve the enforceability of sale of seafood products in the region.

In support of the status quo, for-hire vessel owners argue that fish sales are required to cover the cost of their trips. Competition demands are such that they must keep charter fees sufficiently low while maintaining adequate crew and equipment. Regulations would be developed consistent with those already in existence. Bag limit sales of South Atlantic snapper-grouper were enacted in 2008 and are prohibited by Section 622.45 of the Code of Federal Regulations as follows:

(d) South Atlantic snapper-grouper. (1) A South Atlantic snapper-grouper harvested or possessed in the EEZ on board a vessel that does not have a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi), or a South Atlantic snapper-grouper harvested in the EEZ and possessed under the bag limits specified in § 622.39(d), may not be sold or purchased. In addition, a South Atlantic snapper-grouper harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for South Atlantic snapper-grouper may not be sold or purchased regardless of where harvested, i.e., in state or Federal waters.

(2) A person may sell South Atlantic snapper-grouper harvested in the EEZ only to a dealer who has a valid permit for South Atlantic snapper-grouper, as required under § 622.4(a)(4).



(3) A person may purchase South Atlantic snapper-grouper harvested in the EEZ only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper, as required under § 622.4(a)(2)(vi).

This regulation refers to all sales of bag limit caught fish whether on recreational vessels or commercial vessels. Sale of Gulf reef fish caught under the bag limit have been prohibited since 1996 and the regulatory wording is similar.

The Councils would need to decide which permits would be required to sell which species. One option would be to require a species-specific commercial permit to sell a species; i.e., a king mackerel permit required to sell king mackerel, etc. However, only two species, king and Spanish mackerel, currently have commercial permits. This option could effectively eliminate commercial fishing for cobia, because those species could not be sold.

If the Councils wish to prohibit sale of cobia harvested under the bag limit, a commercial permit must be established or cobia must be added to another permit (Action 1). A new federal commercial cobia permit would likely be open access, because a limited access permit would be difficult to distribute and data do not support the need for limited access. Because no permit is required for either type of fisherman to harvest or sell cobia, fish reported on state trip tickets cannot be distinguished as either commercial or recreational landings. An open access permit could easily be developed, but the Councils would need to decide on establishing a single permit, or separate permits for fishing in waters under each Council's jurisdiction.

Another option would be to allow harvest and sale of cobia under both of the existing permits. Both king mackerel and Spanish mackerel commercial permit holders could harvest and sell cobia; no change to the permit structure would occur.

Sale of tournament-caught fish creates particular problems. Often these fish are donated to a dealer, who then sells them. The Food and Drug Administration (FDA) requires processors of fish and fishery products to develop and implement Hazard Analysis Critical Control Point (HACCP) systems for their operations. When a food safety hazard can be introduced or made worse by a harvester or carrier, the processor should include controls in his HACCP plan that require, as a condition of receipt, demonstration that the hazard has been controlled by the harvester or carrier. Recreational fishers are unlikely to be able to produce this documentation. Further, king mackerel are listed as one of the four fish containing the highest level of mercury. The FDA cautions women who are pregnant or might become pregnant, nursing mothers, and young children should not eat king mackerel. Because tournaments target large fish, and large fish have a higher accumulation of mercury, tournament-caught fish are expected to have high mercury levels thus providing a potential food safety hazard.

The regulatory language above that prohibits bag-limit sales of South Atlantic snapper and grouper also prohibits sale of tournament-caught fish; those fish are harvested under the bag limit and, therefore, cannot be sold at any point even if initially donated or if the tournament organizers have a dealer permit. Additional regulatory language would be needed to allow sale of tournament-caught fish with a dealer permit.

**Council Conclusions:**

## 2.4 Action 4 – Elimination of latent endorsements in the Gulf group king mackerel gillnet sector

**Alternative 1:** No Action – do not eliminate any gillnet endorsements

**Alternative 2:** Renew gillnet endorsements for commercial king mackerel permits if average landings met the threshold (defined below) during:

Option a. All years with data available (2001-2011)

- i. Average of all years
- ii. Average of the best 10 years of the 11 years
- iii. At least one of the 11 years
- iv. At least two of the 11 years
- v. At least three of the 11 years

Option b. All years before the control date (2001-2009)

- i. Average of all years
- ii. Average of the best eight of nine years
- iii. At least one of the nine years
- iv. At least two of the nine years
- v. At least three of the nine years

Option c. Six years before the control date (2004-2009).

- i. Average of all years
- ii. Average of the best five of six years
- iii. At least one of the six years
- iv. At least two of the six years
- v. At least three of the six years

Option d. The threshold for average reported landings would be:

- i. 5,000 lbs
- ii. 10,000 lbs
- iii. 15,000 lbs
- iv. 20,000 lbs.

**Note:** The Councils must chose one option from a-c AND one option from d.

**Alternative 3:** Renew permits for commercial king mackerel gillnet vessels only if the vessel had reported landings in:

Option a. The fishing year ending June 30, 2009

Option b. At least one of the five years preceding the June 30, 2009 control date

Option c. At least two of the five years preceding the June 30, 2009 control date

**Discussion:**

Both a commercial king mackerel permit and a king mackerel gillnet endorsement are required to use run-around gillnets in the southern Florida west coast subzone. Gillnet endorsements can only be transferred to another vessel owned by the same entity or to an immediate family member. Consequently, the number of gillnet endorsements has decreased over time and now stands at 23 valid or renewable permits. Some of these permitted vessels have not had landings in recent years, if ever.

The 520,312-pound quota for the gillnet sector has been landed in less than two weeks in recent years. Fishermen currently participating in the sector have expressed concern that permit holders who have not been participating may begin, causing the quota to be filled even sooner. Elimination of latent king mackerel gillnet endorsements would protect the interests of the current participants.

The table below shows the number of qualifying king mackerel gillnet endorsements under various minimum average annual pounds landed. Years are based on first fishing season under the endorsement (January 2001), and last fishing season before the control date (June 2009).

**Table 2.4.1** Qualifying king mackerel gill net endorsements scenarios

Minimum Annual Pounds	2001-2009 (Alt 2bi)		2001-2009, drop one year (Alt 2bii)	
	Qualifying Endorsements	Non-qualifying Endorsements	Qualifying Endorsements	Non-qualifying Endorsements
1	18	5	18	5
1,000	17	6	17	6
5,000	16	7	16	7
10,000	14	9	14	9
15,000	13	10	13	10
20,000	9	14	10	13

Minimum Annual Pounds	2004-2009 (Alt 2ci)		2004-2009, drop one year (Alt 2cii)	
	Qualifying Endorsements	Non-qualifying Endorsements	Qualifying Endorsements	Non-qualifying Endorsements
1	18	5	18	5
1,000	16	7	16	7
5,000	16	7	16	7
10,000	14	9	15	8
15,000	13	10	13	10
20,000	11	12	12	11

Source: SEFSC logbooks and SERO Permits database.

The next table shows the number of king mackerel gillnet endorsements with landings during qualifying years. Total number of valid or renewable endorsements equals 23.

**Table 2.4.2** Number of king mackerel gillnet endorsements with landings during the qualifying years

<b>Number of Years 2001-2009</b>	<b>Endorsements with Landings</b>	<b>Number of Years 2004-2009</b>	<b>Endorsements with Landings</b>
<b>1 out of 9</b>	18	<b>1 out of 6 (Alt 4b)</b>	18
<b>2 out of 9</b>	16	<b>2 out of 6 (Alt 4c)</b>	15
<b>3 out of 9</b>	15	<b>3 out of 6</b>	13
<b>4 out of 9</b>	14	<b>4 out of 6</b>	12
<b>5 out of 9</b>	13	<b>5 out of 6</b>	10
<b>6 out of 9</b>	11	<b>6 out of 6</b>	6
<b>7 out of 9</b>	10		
<b>8 out of 9</b>	6		
<b>9 out of 9</b>	4		

Source: SEFSC logbooks and SERO Permits database.

**Council Conclusions:**

## 2.5 Action 5 – Elimination of latent permits in the king mackerel hook-and-line sector

**Alternative 1:** No Action – do not eliminate any king mackerel permits

**Alternative 2:** Renew commercial king mackerel permits if average landings met the threshold (defined below) during:

Option a. All years with data available (1998/1999-2009/2010)

- i. Average of all years
- ii. Average of the best x years of the **12 years**
- iii. At least one of the 12 years
- iv. At least two of the 12 years
- v. At least three of the 12 years

Option b. Ten years (1999/2000-2008/2009 or 2000/2001-2009/2010)

- i. Average of all years
- ii. Average of the best nine of **ten years**
- iii. At least one of the ten years
- iv. At least two of the ten years
- v. At least three of the ten years

Option c. Five years (2004/2005-2008/2009 or 2005/2006-2009/2010)

- i. Average of all years
- ii. Average of the best four of **five years**
- iii. At least one of the five years
- iv. At least two of the five years
- v. At least three of the five years

Option d. The threshold for average reported landings would be:

- i. 5,000 lbs
- ii. 10,000 lbs
- iii. 15, 000 lbs
- iv. 20,000 lbs.

**Note:** The Councils must chose one option from a-c AND one option from d.

**Alternative 3:** Renew commercial king mackerel permits only if the permit had reported landings in:

Option a. The fishing year ending June 30, 2009

Option b. At least one of the five years preceding the June 30, 2009 control date

Option c. At least two of the five years preceding the June 30, 2009 control date

**Note:** This control date is for the Gulf; however the permit covers both Gulf and South Atlantic. The South Atlantic control date is September 17, 2010.

## **Discussion:**

Establishing participation criteria for future permit renewal is difficult because there is a single permit for vessels in the Gulf and Atlantic. Historically, some vessels from the Atlantic have fished on the Gulf group king mackerel quota, particularly in the Western Zone and the Northern Subzone off Florida. However, vessels in the Gulf seldom fish on Atlantic group king mackerel. Additionally, there are different seasons in the Gulf and Atlantic and different zones that have different trip limits. Consequently, setting qualifications based on landings is biased by region because management may not allow fishermen to participate at the same level in different places.

King mackerel are a migratory species. Because of this, most king mackerel permit holders do not fish exclusively for king mackerel. Yet king mackerel may make up a substantial portion of their income in a year. Revoking a permit based on a particular level of landings may penalize fishermen that diversify when king mackerel are not present in their area, rather than fishing in other zones. Several actions in Amendment 20 are designed to prevent fishermen from moving among zones; setting a high landings threshold in this action would reward the behavior those actions are trying to prevent.

Another compounding factor is that the commercial king mackerel permit is only a permit to exceed the bag limit, and a moratorium on the issuance of new commercial king mackerel hook-and-line permits has been in effect since 1998. Thus, if these commercial vessel permits are not changed to be a requirement in order to sell, particularly in Florida, fishermen who qualify for a Saltwater Products License and a Restricted Species Endorsement can legally harvest king mackerel from state waters and sell them. These fish would be counted against the commercial quotas in the same manner as harvests from federal waters. Consequently, although a fisherman may lose his federal permit, he may be able to continue to harvest in state waters.

Table 2.5.1 has preliminary estimates of the number of permits that would not meet some of the proposed landings thresholds. Currently, data has not been compiled for years previous to the 2006/2007 fishing year. Two time periods are presented: one for the most recent three years of available data and one for the three years ending in 2009. This second time period might be preferable for two reasons: 1) the last control date was in 2009 and 2) the 2009/2010 and 2010/2011 fishing years may have been influenced by the Deepwater Horizon MC252 oil spill. Although quotas for all the Gulf zones and subzones were met during these years, individual fishing behavior may have changed.

**Table 2.5.1** Number of permits that would not meet various landing thresholds during two proposed time periods

Threshold to renew In pounds	3-yr average	
	06/07-08/09	07/08-09/10
>0	308	328
≥100	492	489
≥500	708	717
≥1,000	829	833
≥5,000 (Alt3a)	1204	1219
≥10,000 (Alt3b)	1348	1350
≥15,000 (Alt 3c)	1414	1424
≥20,000 (Alt 3d)	1449	1457
<b>During 08/09 (Alt 4a)</b>		<b>301</b>

Source: SEFSC logbooks and SERO Permits database.

The lowest landing level currently in the alternatives is 5,000 lbs. At this threshold, 80% of the 1507 permits would be revoked. Even using a threshold of 1,000 lbs would result in over half of the current permits being revoked. As stated earlier, the nature of this fishery is such that most participants only fish king mackerel part time, yet that participation may be a significant part of their annual income.

**Council Conclusions:**

## 2.6 Action 6 – Passive Reduction of Permits

**Alternative 1:** No Action – To transfer a commercial king mackerel vessel permit, the permit must be valid or renewable.

**Alternative 2:** To transfer a commercial king mackerel vessel permit, the permittee must possess two valid or renewable permits at the time of transfer; only one permit would be reissued and the other would be retired.

### **Discussion:**

This action would over time reduce the number of active permits and the resultant effort in the king mackerel fishery. As of March 28, 2012, the number of valid or renewable permits is 1,507. The number of permits has declined since the inception of the moratorium in 1998. This phenomenon is generally true for other fisheries that have incorporated moratoria as part of the management strategy. Although the commercial sector has generally caught its allocation of TAC in recent years, the recreational sector has consistently been under its allocation of TAC by approximately 2.0 mp over the past 10 years. Furthermore, the Gulf group king mackerel stock is not considered to be overfished or undergoing overfishing. This action would likely have negative social and economic impacts on this sector of the fishery.

### **Council Conclusions:**



## 2.7 Action 7 – Federal Regulatory Compliance

**Alternative 1:** No Action - All vessels with federal commercial king and/or Spanish mackerel permits, as well as CMP charter permits are subject to applicable federal CMP regulations when fishing in the EEZ, and are subject to applicable state CMP regulations when fishing in state waters.

**Alternative2:** All vessels with federal commercial king and/or Spanish mackerel permit, as well as CMP charter permits must comply with the more restrictive of state or federal CMP regulations when fishing in state waters.

### **Discussion:**

NOAA Fisheries Service has implemented several fishery regulations through either interim measures or amendments to FMPs during the past several years that were not adopted and implemented by some Gulf States. These measures included recreational red grouper interim regulations in 2005, a recreational grouper closure in 2007, and recreational red snapper regulations in 2007 and 2008. In developing regulations, analyses for Council amendments and FMPs assume that Gulf States will comply with proposed federal regulations. If states do not comply, then projected reductions in harvest and fishing mortality may not occur, compromising the Council's ability to end overfishing and rebuild overfished stocks. The net result is that landings may exceed target levels, and future determinations of stock status may indicate overfishing is occurring. Although most king mackerel are predominantly caught outside of state territorial waters, catch in state waters can still be significant for Spanish mackerel and cobia. Additionally, more liberal regulations in state waters complicate law enforcement and may provide fishermen with an incentive to harvest greater amounts of fish, regardless of where the fish are caught.

NOAA Fisheries Service has the authority to establish permit requirements and conditions for federal for-hire and commercial permit holders who choose to have a federal fishing permit and engage in the privilege of fishing. Consequently, federal fishing regulations apply to permitted CMP fishing regardless of where harvesting, landing, or operating occurs. By requiring federal permit holders to comply with the more restrictive of state or federal CMP regulations when fishing in state waters, the probability of overages occurring would be reduced and there would be an increased likelihood that overfishing is prevented. This is especially important given the new mandates of the reauthorized Magnuson-Stevens Act, which require annual catch limits and accountability measures for Council-managed species.

### **Council Conclusions:**

## 2.8 Action 8 – 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.

**Alternative 2:** If established in Action 1, establish an income requirement for the cobia permit consistent with the requirements for Gulf and South Atlantic commercial king and Spanish mackerel permits. Maintain existing income requirements for Gulf and South Atlantic commercial king and Spanish mackerel permits.

**Alternative 3:** Eliminate income requirements for commercial king and Spanish mackerel permits.

**Alternative 4:** Replace the current income requirements for king and Spanish mackerel (and cobia, if applicable) with a Coastal Migratory Pelagics landings requirement, such that in one of the three years preceding the application, landings must be greater than:

- Option a: 500 lbs of coastal migratory pelagic species
- Option b: 1,000 lbs of coastal migratory pelagic species
- Option c: 5,000 lbs of coastal migratory pelagic species
- Option d: 10,000 lbs of coastal migratory pelagic species

**Alternative 5:** Modify the current income requirements to allow the Gulf or South Atlantic Council to suspend 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.

Note: **Alternative 5** may be selected alone or with **Alternative 2** and/or **Alternative 4**.

### **Discussion:**

Currently, the renewal of both king and Spanish mackerel commercial permits requires 25% of the applicant’s income to have come from fishing or \$10,000 from commercial or charter/headboat fishing activity in one of the previous three calendar years of the application. This requirement would apply to the harvest of cobia if cobia is added to existing commercial permits (**Action 2 Alternatives 3 or 4**). If a separate cobia permit is developed (**Action 2**

**Alternative 2**), the Councils would need to consider inclusion of an income requirement (**Alternative 2**).

The renewal of the Gulf reef fish permit is the only other commercial permit issued by NOAA Fisheries Service with an income requirement. At the October 2010 Gulf Council meeting, staff was directed to begin an amendment to consider modification or elimination of the income requirements for Reef Fish and CMP permits in part because the current requirements are easily circumvented through the creation of business entities. The Gulf Council took final action at their January 2012 meeting to eliminate the income requirement for Gulf Reef Fish Permits.

**Alternative 1** would maintain current income requirements for permit renewal. Applicants would continue to complete the Income Qualification Affidavit section on the Federal Permit Application for Vessels Fishing in the Exclusive Economic Zone as proof of meeting permit income qualification requirements for the king and/or Spanish mackerel vessel permits.

**Alternative 1** would not account for the fact that these requirements are relatively easy to meet and to circumvent.

**Alternative 2** is only possible if the Councils create a separate commercial permit for cobia under **Action 2**. If the permit is created, **Alternative 2** proposes to implement a permit renewal requirement equivalent to the king and Spanish mackerel permits.

Elimination of the income requirement (**Alternative 3**) would no longer require applicants to earn more than 25% of their income from commercial or charter fishing and would afford more flexibility to fishermen and allow them to earn more income in other occupations. This added flexibility would allow some fishermen to renew their permits even if they did not have the opportunity to earn enough income from fishing. The ability to earn income from fishing could be restricted by several factors, including illness, environmental, natural or man-made disasters, and, unforeseen personal circumstances.

Eliminating the existing income qualification requirements (**Alternative 3**) would necessarily eliminate other restrictions associated with the income qualification. The existing income qualification for commercial reef fish permits may be satisfied by a vessel operator rather than a vessel owner. However, satisfying the income qualification based on an operator's income places an additional restriction on the use of the permit. Such permits are only valid for use when the qualifying individual is actually operating the vessel. Despite this restriction on the use of the permit to authorize fishing activities, the vessel owner is still considered the owner of the permit, and may transfer the permit independently from the vessel operator, by having the operator removed from the permit, subject to being required to meet the income qualification by the end of the first full tax year after transfer. Removing the income qualification entirely eliminates the need for the additional restriction based on the vessel operator, because the vessel owner would be free to remove the operator from the permit without having to satisfy an income qualification at some point in the future. The operator qualified permit would then be freely transferable by the vessel owner. Consequently, under **Alternative 3**, the owners of operator-qualified permits would automatically be notified that the operator qualification will be removed from the permit.

**Alternative 4** would replace current income qualification requirements with a minimum landings requirement. To renew a commercial vessel permit for king or Spanish mackerel and cobia (if created), an applicant would be required to prove that a predetermined amount of CMP species has been landed during one of the three preceding years. Minimum annual landings thresholds considered under **Alternative 4** range from 500 lbs of CMP species (**Option a**) to 10,000 lbs of CMP species (**Option d**). Landings could be verified using trip tickets or logbook records, and thus be more accurate than a simple declaration that the income qualification was met. However, permit holders with several vessels would have to make sure that each vessel, and thus each permit, meets the minimum landings requirement, possibly reducing the flexibility of fishing fleet operations.

Recent events including the Deep Horizon MC252 oil spill show the advantage of the Councils having a protocol for a temporary suspension of income requirements. **Alternative 5** would provide the Council with such a protocol, where the Councils would determine the events or condition that would trigger the suspension of income requirements, the length of the suspension, and, the permit holders eligible for a temporary suspension of income requirements for commercial king and Spanish mackerel permits renewal and cobia if created. Events and conditions that could warrant a temporary suspension of income requirements include oil spills and other man-made disasters, hurricanes and other natural disasters, and, economic hardship. Determination of the length of a potential suspension of income requirements could consider issues such as the magnitude and duration of the adverse economic impacts that have already or could result from the disaster or conditions warranting the suspension. Geographical areas and/or categories of permit holders affected would constitute some of the considerations in the determination of eligibility criteria for a temporary suspension of income qualification requirements. It is important to note that **Alternative 5** is intended to apply to regional events that may impair the ability of commercial king or Spanish mackerel fishermen as a group from being able to meet the earned income requirements. **Alternative 5** is not designed to apply to individual fishermen who are unable to meet the requirement due to personal circumstances. **Alternative 5** would be redundant should the Councils decide to eliminate income requirement qualifications for commercial king and Spanish mackerel permit renewal (**Alternative 3**).

### **Council Conclusions:**

## 2.9 Action 9 – Spanish Mackerel Gillnet Endorsement

**Alternative 1:** No Action – Do not establish a Spanish Mackerel gillnet endorsement

**Alternative 2:** Establish a Spanish mackerel gillnet endorsement with qualifying poundages for a commercial gillnet endorsement based on the new control dates and average landings during the most recent 5, 10, or 15 years prior to these control dates (March 31, 2010 for Gulf group Spanish mackerel and September 17, 2010 for Atlantic group Spanish mackerel)

Option a: 30,000 pounds

Option b: 20,000 pounds

Option c: 10,000 pounds

### **Discussion:**

The fishing power of gillnets is substantially higher than cast net and hook-and-line gears. In the past there was an equitable balance among the gears. In recent years there have been additional vessels entering the gillnet fishery in the Atlantic and this will negatively impact hook-and-line and cast-net fishermen as the gillnet catches occur earlier in the season, than the other gears.

### **Council Conclusions:**

## **CHAPTER 3. AFFECTED ENVIRONMENT**

### **3.1 Description of the Fishery**

### **3.2 Description of the Physical Environment**

### **3.3 Description of the Biological/Ecological Environment**

### **3.4 Description of the Economic Environment**

### **3.5 Description of the Social Environment**

#### **3.5.1 Environmental Justice Considerations**

### **3.6 Description of the Administrative Environment**

## **CHAPTER 4. ENVIRONMENTAL CONSEQUENCES**

### **4.1 Action 1:**

#### **4.1.1 Direct and Indirect Effects on the Physical Environment**

#### **4.1.2 Direct and Indirect Effects on the Biological/Ecological Environment**

#### **4.1.3 Direct and Indirect Effects on the Economic Environment**

#### **4.1.4 Direct and Indirect Effects on the Social Environment**

#### **4.1.5 Direct and Indirect Effects on the Administrative Environment**

### **4.2 Action 2:**

#### **4.2.1 Direct and Indirect Effects on the Physical Environment**

#### **4.2.2 Direct and Indirect Effects on the Biological/Ecological Environment**

#### **4.2.3 Direct and Indirect Effects on the Economic Environment**

#### **4.2.4 Direct and Indirect Effects on the Social Environment**

#### **4.2.5 Direct and Indirect Effects on the Administrative Environment**

## **4.x Cumulative Effects Analysis**

### **4.x Other Effects**

(Discuss unavoidable adverse effects; relationship between short-term uses and long-term productivity; mitigation, monitoring, and enforcement measures; and irreversible and irretrievable commitments of resources)



# CHAPTER 5. REGULATORY IMPACT REVIEW

## 5.1 Introduction

## 5.2 Problems and Objectives

## 5.3 Methodology and Framework for Analysis

## 5.4 Description of the Fishery

A description of the **xx** fishery, with particular reference to **xx**, is contained in Chapter 3.

## 5.5 Effects on Management Measures

## 5.6 Public and Private Costs of Regulations

Council costs of document preparation, meetings, public hearings, and information Dissemination .....	\$x0,000
NOAA Fisheries administrative costs of document preparation, meetings and review .....	\$x0,000
TOTAL .....	\$x0,000

## 5.7 Determination of Significant Regulatory Action

# **CHAPTER 6. REGULATORY FLEXIBILITY ACT ANALYSIS**

## **6.1 Introduction**

## **6.2 Statement of the need for, objective of, and legal basis for the rule**

## **6.3 Description and estimate of the number of small entities to which the proposed action would apply**

## **6.4 Description of the projected reporting, record-keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or records**

## **6.5 Identification of all relevant federal rules, which may duplicate, overlap or conflict with the proposed rule**

## **6.6 Significance of economic impacts on a substantial number of small entities**

## **6.7 Description of the significant alternatives to the proposed action and discussion of how the alternatives attempt to minimize economic impacts on small entities**

# CHAPTER 7. BYCATCH PRACTICABILITY ANALYSIS

## CHAPTER 8. LIST OF PREPARERS

# **CHAPTER 9. LIST OF AGENCIES, ORGANIZATIONS AND PERSONS CONSULTED**

## CHAPTER 10. REFERENCES

# **APPENDIX A. ALTERNATIVES CONSIDERED BUT REJECTED**

## **APPENDIX B. OTHER APPLICABLE LAW**



## **APPENDIX C. SUMMARIES OF PUBLIC COMMENTS RECEIVED**

List the locations of the scoping hearings and public hearings, then list the summaries and written comments

## APPENDIX D. DECISIONS TOOLS