

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **MACKEREL COMMITTEE**

**Holiday Inn Brownstone Hotel  
Raleigh, NC**

**December 6, 2011**

### **SUMMARY MINUTES**

#### **Mackerel Committee**

Ben Hartig, Chair  
Tom Burgess  
Michelle Duval  
John Jolley  
Charlie Phillips  
Red Munden

David Cupka, Vice-Chair  
Mac Currin  
Duane Harris  
Jessica McCawley  
Tom Swatzel

#### **Council Members**

Robert Boyles  
Dr. Roy Crabtree  
Doug Haymans

LT Robert Foos  
Dr. Wilson Laney

#### **Council Staff:**

Bob Mahood  
John Carmichael  
Dr. Mike Errigo  
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Andrea Grabman  
Myra Brouwer

Gregg Waugh  
Mike Collins  
Dr. Kari MacLauchlin  
Dr. Brian Chevront  
Kim Iverson  
Julie O'Dell

#### **Observers/Participants:**

Lt. Col. Bruce Buckson  
Otha Easley  
Dr. Jack McGovern  
Dr. Carolyn Belcher  
Phil Steele

Monica Smit-Brunello  
Dr. Theo Brainerd  
Doug Boyd  
Andy Strelchek  
Dr. Louis Daniel

Other Participants Attached

The Mackerel Committee of the South Atlantic Fishery Management Council convened in the Roosevelt Ballroom of the Holiday Inn Brownstone Hotel, December 6, 2011, and was called to order at 3:00 o'clock p.m. by Chairman Ben Hartig.

MR. HARTIG: Let's get the Mackerel Committee started. The first order of business is approval of the agenda. Are there any additions to the agenda? Is there any objection to approving the agenda? Seeing none, the agenda is approved. The next item on the agenda is approval of the minutes. Are there any additions or corrections to the minutes? Seeing none, is there any objection to approval of the minutes? Seeing none, the minutes are approved. The next agenda item is status of the commercial and recreational catches versus quotas for king and Spanish mackerel.

DR. McGOVERN: Mr. Chairman, I'll do commercial and Dr. Brainerd will do recreational. The commercial quota landings are in Tab 11, Attachment 1. Earlier today Mike sent out a quota monitoring report that has landings by month for Spanish and king. This is something that you requested, Mr. Chairman, that shows the current landings in the last column there for 2011 and 2012, and then you can see how they can compare to the previous years. You see for king mackerel landings were about a million pounds lower than they were last year; and then for Spanish mackerel you see the mackerel landings are similar to where they were last year but ahead of previous years.

DR. BRAINERD: We have some slides for the recreational landings. Mr. Chairman, this chart shows the updates with the MRFSS data for charterboat, private and shore up to Wave 4, which is still preliminary for 2011. The headboat data is as of 2010. The 2011 data is not available yet. Again, it shows there the preliminary total which is just over half of the 2010 for the MRFSS data. The headboat data, like I said, is still for 2010.

Now, the next slide graphs these figures and also the second one shows the recreational fishing effort. Again, in the graph the headboat data is hardly seen there because there is nothing there for 2011. The next is Spanish mackerel, the same scenario, again for 2011 MRFSS data for charterboat, private and shore, and headboat is still 2010. The one graphs the landings and also the fishing effort. Thank you, Mr. Chairman.

MR. HARTIG: Are there any questions of Jack or Theo? I would just note landings are down in the king mackerel fishery. One of the reasons that we're looking at, we've had a tremendous influx of cold water particularly this year and last year, also. We're also looking for another year class to fill into that fishery, and I think we're starting to see some signs of that and had some reports of that. Just this past week off of St. Augustine one fisherman in particular found a lot of sublegal and just legal fish in a particular area. Hopefully, that will translate into another year class that we'll see in the future, so hopefully the landings will trend up again. Gregg.

MR. WAUGH: Theo, certainly, the headboat landings are not huge for king mackerel and not as important as some of our fisheries; but given that we're moving to these ACLs, when we can anticipate that the headboat data will begin to be entered in real time such that it can be used to track the quotas?

DR. BRAINERD: We're working on that and I believe by early next year that would happen, but we will confirm that.

MR. CURRIN: Everybody noted, I'm sure, that the recreational landings were down. Since you mentioned the commercial landings, I think it's pretty clear as well that the recreational effort is down significantly for mackerel over the last handful of years; not quite two times it appears, and that's more or less reflecting in the landings, probably a little less than two.

MR. HARTIG: All right, no other questions we'll move along to the next agenda item, and that is the status of Mackerel 18/EA and Jack McGovern is going to give that.

DR. McGOVERN: Mr. Chairman, the Notice of Availability for the amendment published on September 29<sup>th</sup> and the comment period ended on November 28<sup>th</sup>. The proposed rule published on October 24<sup>th</sup> and the comment period ended on November 21<sup>st</sup>. The final rule package is being reviewed by general counsel and it is anticipated it could go to headquarters this week or the beginning of next week.

MR. HARTIG: Any questions of Jack about the status of 18? That brings us to Agenda Item 5, items pending for future mackerel amendments, and at this time I'll turn it over to Gregg for an overview of the items. That is Attachment 3 in your decision document in the second briefing book.

MR. WAUGH: You can either use that Attachment 3 or you can look at the revised overview, either one of those. The revised overview just has the actions without all the text associated with it, and Attachment 3 has the discussion as it exists thus far. I'm going to be projecting and working from the revised overview on Page 2.

Again, this is in the Mackerel Tab, Item D; the first item is items for Amendment 19, and this will be a joint amendment with Gulf Council. What we've got are some issues that have been around for a while and some new issues. The Gulf Council has approved these issues to go out to scoping and it's anticipated that we would do the same, and they would go out to scoping at those January/February scoping meetings.

The first item we deal has to do with permits for coastal migratory pelagic species. I talked with the chairman beforehand and the suggestion is that we go through and add any alternatives that we need to add to the list and then we deal with it in one motion at the end to approve that whole list to go out to scoping.

The first item deals with permits, and remember the big intent here is to deal with the sale issue, but cobia doesn't have a permit requirement so we're going through now looking at our alternatives. The current situation is a single commercial king mackerel permit and a single commercial Spanish mackerel permit. There is a Gulf and South Atlantic coastal migratory pelagic permits, one for the Gulf and for the Atlantic.

Option B would create a single commercial cobia permit; C would modify the existing requirements by establishing separate commercial permits for Atlantic and Gulf groups based on

the Gulf and South Atlantic Council boundaries, so you'd have separate permits for king mackerel, Spanish mackerel and cobia.

How do you deal with the current situation where you've got one permit now, you can grandfather in all existing permit holders who have historically landed in both areas through issuance of a dual permit; and then when it's transferred, it becomes either a Gulf or Atlantic permit.

And then the final one, which needs to be renumbered 2-5 is if separate Atlantic and Gulf permits are approved, establish some limited landings qualification to obtain the different permits. D would modify existing requirements by establishing a single coastal migratory pelagic charter/headboat permit. We may want to talk about whether this is appropriate to have in here because the Gulf is under a moratorium right now.

Then E is modify existing requirements for separate commercial permits for king mackerel currently under a moratorium and Spanish mackerel by establishing a single coastal migratory pelagic permit with endorsements for king, Spanish and cobia while retaining the commercial gill net endorsement for Gulf Group King Mackerel.

Again, this is a list that the Gulf Council approved at their last meeting to go out to scoping, so I think it would be fine for us to add to the list. I think we need to be careful about taking anything out of the list; and when we get to Gulf-only actions, I'll point that out and the suggestion would be to leave those alone. That's all the alternatives for dealing with permits, and I think we have a full range of alternatives. Are there any additions or any discussion that we want to have on Action 1?

MR. CURRIN: No additions, certainly, but I just hope we've got the simplest, cleanest possibilities of beginning this cobia permit contained within the options that we have here. I know you guys have thought about that a lot and I don't have any suggestions for you, but don't quit thinking about it. I want to make sure that we've got the simplest and easiest way to go about this.

MR. HARTIG: Anything else on that option? I'll broach one item. One way to deal with this may be a little bit simpler down the line is – and Gregg and I have talked to this and we've gone back and forth with it – is each area – there are a number of areas, I should say, that have a quota associated with them; and you could separate it Gulf and Atlantic but that's going to create a lot of problems.

If what you did was just had an endorsement for each area which had a quota and then had fishermen some kind of qualifier for each one of those endorsements in that particular area where that quota is caught, then you could get away from separating the permits and you would have separate endorsements. I've thought about it in trying to get it simplified for both the region and the council for the number of quotas that we monitor through the king mackerel fishery. Duane.

MR. HARRIS: Well, that sounds good to me. I'd just like to hear some of the pros and cons about doing an endorsement system as opposed to a separate permit system. Off the top of my

head right now I'm not thinking what those pros and cons are. You and Gregg have talked about it. I'd be willing to add it in there as a list of alternatives if it's viable and if it has got the potential to be a better system than what is on the list now.

MR. HARTIG: Well, I'll let Gregg answer that. Like I said, we've had different opinions on this as we've talked about it, but we've settled more on what we have here.

MR. WAUGH: And I think it would be good hear from NMFS in terms of the permit versus an endorsement because to me I think the idea of identifying those areas where we have a quota limited to an area, whether you do it with a permit or an endorsement, is a good idea. Now, that is where our discussions have been to identify the fishermen that are fishing on a specific quota in a specific area. But, whether you do that via a permit or an endorsement, I think we need some guidance from NMFS.

DR. CRABTREE: Well, I don't think there is that much difference in most cases. The only thing with an endorsement, it implies that you have to have some sort of permit and then it is being endorsed; whereas, if it's a separate permit, then you may not have to have anything. I think what I would like to see is this laid out more clearly in terms of this is what the problem is and here is why we want to do something to fix it.

There is some discussion here that you can kind of get at that, but it's not entirely clear to me in each one of these cases what the problem we're trying to solve is. I think a lot of these things are going to have a lot of complications. Separating the Gulf and the South Atlantic king mackerel permits, for example, I think will create a lot of issues. I think to evaluate the endorsement/permit we really need to get at exactly what is it we're trying to – what is the problem we're to solve more clearly.

MR. WAUGH: And again what we're working from here is a list to go out to scoping, and certainly that scoping document will have some of that.

MS. McCAWLEY: Do you need a motion to add that particular item that you were just discussing about a per area permit or endorsement; do we need a motion to add that?

MR. WAUGH: I think based on the discussions I had with Ben, if that's the consensus then we'll add it and then at the end have one motion.

MS. McCAWLEY: Okay, I would like to see it added.

MR. HARTIG: Anything else on this option?

MR. WAUGH: Action 2 deals with the no-sale provision. Right now no action is that no federal permit is required for selling coastal migratory pelagic species. Proper state-issued permits are required to sell coastal migratory pelagic species caught under the bag limit. Item B would prohibit the sale of recreationally caught fish; any fish caught under a bag limit that are under the Coastal Migratory Pelagics FMP. We've been approaching this on an FMP-by-FMP basis. We did this in snapper grouper.

Item C, for a person aboard a vessel to be eligible for exemption from the bag limits to fish under a commercial quota and to sell king mackerel and Spanish mackerel in or from the EEZ of the Atlantic or Gulf of Mexico, a commercial vessel permit endorsement for each species taken must be issued to the vessel and must be on board.

D, for a person aboard a vessel to be eligible to see cobia in or from the EEZ of the Atlantic or Gulf of Mexico, a commercial vessel permit endorsement must have been issued to the vessel and must be on board. E would allow commercial sale of cobia with either a king mackerel or Spanish mackerel commercial permit endorsement.

F would prohibit the sale of recreationally caught coastal migratory pelagics except for allowing for-hire vessels that possess the necessary state and federal commercial permits to sell coastal migratory pelagics harvested under the bag limit in or from the South Atlantic Council's jurisdiction. G would require tournament organizers to obtain a federal permit to sell coastal migratory pelagic fish or prohibit sale of tournament-caught fish.

MR. PHILLIPS: Tournament-caught fish; after talking to Gregg and Mac and a few others, it occurred to me that we might could still sell tournament-caught fish that are getting charged to the commercial TAC and if the recreational people side were willing to give up those amount of fish on the recreational side and give it to the commercial, it's a wash to the commercial, it really won't matter, and it would help the charities that get the money from these fish and it may very well help keep these fish from being wasted.

A lot of these big fish, the people don't want to take them home. I would like to see that in the scoping and see what the recreational people say because I don't think they're catching their TAC now, so they could give that small amount of fish and the states could track it. We could work out the details and stuff, but I would like to see it go to scoping.

MR. WAUGH: So that would be adding an item something along creating a set-aside from the recreational ACL for tournament sales?

MR. PHILLIPS: Yes.

MR. WAUGH: Okay, and we will arrange to have someone come in and give us a presentation on this issue of tournament sales at our March meeting.

MR. BOYLES: Mr. Chairman, I'm not on your committee. We've dealt with this in South Carolina and the state code in South Carolina is that if you buy, sell, barter, trade or your product otherwise enters commerce you're a commercial fisherman. It's clean; it's I believe the right thing to do. I am a little concerned about tournament sales because I think it sends a mixed message. I know we're talking about going to scoping. I talked with Charlie a little bit about this yesterday, but we've been around and around and around about this in South Carolina. I'm just concerned about the mixed message it potentially sends.

MR. HAYMANS: Well, we have been sending that message for a number of years and one way or the other we need to fix it; allow it and have a set of rules for it or not allow it.

MR. HARRIS: Yes, I've struggled with this issue over the years, too, Robert. The thing that I don't want to do is keep these charities from getting the money that's derived from the sale of these fish. It's a significant amount of money in the tournaments in Georgia. At the same time I don't want to count these fish against the commercial quota; that's not fair either.

If we can come up with a way of allowing these tournaments to sell these fish by having a commercial tournament sales permit and take that off of the recreational ACL, that is what I'm in favor of doing. If we can figure out a way to do that that is clean and doesn't dirty things up, that's what I'd like to see.

DR. DUVAL: I would echo Duane's remarks. We also have a lot of sale of tournament-caught fish in North Carolina, but again those count against the commercial quota, and that's not something that we want to continue to support right now. If there is a clean way to track these fish or have some kind of set-aside, then I'd be willing to entertain that.

DR. CRABTREE: Well, I don't see any reason why you couldn't set aside a portion of either the recreational or commercial quota for tournaments and then make provisions to allow them to sell it, but right now they are going to be counted against the commercial quota because when the fish are sold there is a trip ticket filled out.

If it's sold to the dealer who is in the quota monitoring system, he would be required to report those. There has always been a potential for double-counting as a result of that. It's hard to say it's not a commercial sale because clearly under the Magnuson Act if fish are sold, that makes them commercial, but I don't know why you couldn't set aside some portion of the overall total allowable catch and make that available for tournament sales.

MR. CURRIN: This will be an interesting discussion that I think everyone has. I'm not sure I'll be here for all of it, but I'd encourage you to look very closely at the finances of these tournaments. I think what you'll find is that the charities that benefit from these tournaments receive a very small portion of the overall profits of the tournaments.

It's used I think as a feel good thing by a lot of the clubs and the sponsors of the tournaments who are at the same time in many cases stuffing their pockets fairly full of money as a business venture or as a club. Take a look at that. That's important to me because when we looked at this in North Carolina it's a few thousand bucks from most of these tournaments.

It could be up to five depending on how big a tournament it is that may go to a charity out of an overall proceeds from the tournament, if you could ever get all of that information, that would be considerably larger than that. It's certainly a feel good issue, it does benefit charities, I'm not arguing that. They do derive benefit from it, but it's perhaps not as great a magnanimous gesture on the part of these tournament organizers as they'd like for you to believe.

MR. HAYMANS: Mr. Chairman, not being on your committee, but to Mac's point that's probably across the board. There is probably as many different breakdowns of how the proceeds are used as there are tournaments; but if we prohibit the sale, is that going to change the fish that are caught, the number of fish that are caught? I think the only impact this is going to be is it's

going to increase the number of wasted fish. It seems to me that at least you'd put them into commerce.

I'm wondering whether or not we should massage just the generic statement should we have some sort of option that we want to hear back on. In other words, I'm thinking do we take a – well, it may be March before we know a number, but an estimated catch from the recreational side and moving it to the commercial side for tournament sales. I'd like to hear what the public thinks about that.

MR. HARTIG: Well, certainly, we'd have that information go into the scoping document and we can get public comments on it. I think Charlie has got an innovative way of looking at this issue. We've all struggled with it over the years, but I think this is – and with Roy's support of the item I think we should definitely take it to the public, in my opinion, anyway. Charlie.

MR. PHILLIPS: And just as a last thing, I don't think it's going to have the tournament bring anymore fish in. They're doing one-fish weigh-ins from what I see. Once they get a big fish, that's it, they're not going to be catching any fish. The fishermen themselves don't benefit. From what I've dealt with tournaments, my checks go to a Rotary Club. They don't even pass through the tournament organizers; they go straight to the charity.

There is not a pass-through, and, yes, they get a feel good out of it. I had a tournament a couple of years ago and they said, "No, we're not going to sell them to you; we're going to give them to the charity, just give them straight," and a week later, after the charity realized they were going to have to filet them and freeze them and do all this other stuff, they were calling me to come and take the fish so they could get a check.

MR. HARTIG: That's quite a bit of discussion. John, I missed you.

MR. JOLLEY: I just thought I'd wait until the end. Is there any problem in this exemption and then turning around and looking at bag-limit-caught fish in the for-hire fishery again? Do you see what I'm getting at? I certainly don't want to do anything to – I don't want to disagree with what has been said here about the tournaments, but I think I would remind my colleagues there is a 60-plus year history of bag-limit-caught fish in the for-hire fishery making it into commerce, being sold. In these perilous, economic times we ought to be pretty creative in our thinking about what we want to do with these bag limit fish.

MR. WAUGH: Okay, Action 3 deals with future participation in the commercial king and Spanish mackerel fisheryies. 3.1 deals with elimination of latent permits. The first group are Gulf Group King Mackerel gill net sectors, and I would suggest we slide over that since that's just Gulf.

3.1.2, which is on Page 4 of the document, deals with king mackerel hook-and-line sectors, and there are alternatives there to not renew permits for king mackerel hook-and-line vessels if – and then various levels of landings; 5,000 pounds from 2004-2009; 5,000 pounds in at least two of the six years; 5,000 pounds in three of the six. Alternative 3 uses that same variation but the time series is 2001-2009.



Alternative 4, do not renew permits for commercial king mackerel hook-and-line vessels if the permittee did not have landings in the fishing year ending June 30, 2009, in at least one of the five years preceding the June 30, 2009, control date; in two of the five years. That's the range of alternatives for trying to remove latent permits in the king mackerel hook-and-line sector.

MR. CURRIN: It's not on this one; it's back to the previous action. Gregg, you may have done the best job you can but on Item F, prohibit the sale of recreationally caught coastal migratory pelagics, if we can try to avoid using that terminology as we strived in earlier snapper grouper amendments when we did essentially the same thing and use bag-limit-caught fish instead of recreationally caught fish; because if they're sold, they're commercial fish. There is a difference in fishing under a recreational trip and a commercial trip. I think it's a distinction that we need to be real clear with.

MR. WAUGH: And I'll search the document and make sure that doesn't occur in any of the discussion, too, that it's clear we're talking about bag-limit-caught fish. Then moving on to Spanish mackerel, again, removing latent permits in the Spanish mackerel hook and line. These are very similar. The poundage is different. We're talking about 2,500 pounds 2004-2009. Option B is at least two of the six years; three of the six years. Alternative 4 uses the time period of 2001-2009. Alternative 4 tracks the control date similar to king mackerel.

MR. HARTIG: Anything here? The only thing I see here, Gregg, I would add the cast net to the end of the hook and line. They both occur in state waters and they both occur at the same time in the same areas.

MR. WAUGH: So that's for 3.1 for Spanish mackerel –

MR. HARTIG: 3.1.3.

MR. WAUGH: – to talk about removing latent permits in the Spanish mackerel hook-and-line and cast nets sectors, okay. All right, then 3.2 is do not renew permits that were obtained after the 2009 and 2010 control dates. The control date for king mackerel was June 30, 2009; for Spanish mackerel, March 31, 2010.

MR. HARRIS: Mr. Chairman, does that need to say commercial, because it begs the question whether charter permits would be included in that as well.

MR. WAUGH: The intent is for it to refer to commercial so I'll add that.

DR. CRABTREE: So the way this is written – I mean king mackerel permits are under a moratorium, so the only way you could obtain one would be to have bought it from someone; so we're saying if someone bought a king mackerel permit after June 30, 2009, we're going to take it away from him even if that permit had big time landings?

MR. WAUGH: That's what this alternative would say, yes.

DR. CRABTREE: I'm not on your committee, but I would not see this as a viable alternative to move forward. If you want to limit access in these fisheries, you ought to look at qualifying years and landings; but to just strike a date and say anybody who bought permit after that doesn't seem – I'm not really sure what it means with Spanish mackerel because it's open access; so unless you go to limited access with Spanish mackerel, I don't see how this works at all. If your goal is to reduce effort in Spanish mackerel, do it through the limited access. My advice to you would be to eliminate this one. Unless there is something I'm missing, it just doesn't seem very workable or fair.

MR. WAUGH: I would only point out that the Gulf Council has already approved these to go out to scoping.

MS. SMIT-BRUNELLO: And just to be clear, I think if you're going to keep that in there, then you are limiting access further in the king mackerel fishery and you're putting in limited access in the Spanish mackerel fishery, and your eligibility criteria would be March 31, 2010.

MR. HARTIG: Any other comments from the committee? Gregg.

MR. WAUGH: The final one, 3.3, is in order to renew a commercial king mackerel hook-and-line permit, the permittee must possess two valid permits at the time of the transfer and only one permit will be reissued and the other will be retired. Again, this is a way to reduce effort over time using a two-for-one similar to what was done in our snapper grouper fishery.

MR. HARTIG: Gregg, the question I have on that one, the way it's worded, in order to renew a commercial king mackerel hook-and-line permit the permittee must possess two valid permits; that would mean that everyone who was going to renew a permit would have to have a two for one to get their next permit the way this one is worded.

That was the problem I had with this one. I wanted to see the two for one in there but not have – otherwise, you could whittle the fishery down in a hurry. I don't think that was what we talked about when we talked about a two-for-one permit.

MR. WAUGH: So it should be tied to when it's sold or transferred that the two for one, so we'll add that as another alternative given that the Gulf has already approved this.

MR. HARTIG: Okay, given that the Gulf already has that as their preferred.

DR. CRABTREE: Well, Doug, correct me, but I sure don't remember when we went through all of these at the Gulf Council, because I think we started on this at Gulf Council but we wanted more rationale as to why are we doing these things, and I don't remember what we did.

MR. BOYD: I'm making myself my note because I don't remember this.

DR. CRABTREE: It was my intent tomorrow at snapper grouper to talk about potentially getting rid of the two-for-one provision in snapper grouper permits. I think it has created loads

of problems for us, and I sure would hate to see us go down that path again in king mackerel, but I'm not on your committee.

MR. HARTIG: No, and frankly I'd like to hear that discussion tomorrow when you talk about the two for one in snapper grouper and maybe at full council we can revisit this after that.

MR. WAUGH: And I'll certainly follow up with Rick and Sue. My understanding was this list that I was provided after the Gulf meeting was what was approved for scoping, but I'll check with them and see.

Action4 deals with federal regulatory compliance. This would add the requirement that all vessels with federal commercial king or Spanish mackerel permits as well as coastal migratory pelagic charter permits must comply with the more restrictive of state or federal reef fish – and it should say coastal migratory pelagic regulations when fishing in state waters. It adds the requirement that you have to follow the more restrictive of the two.

MR. HARTIG: Any comments on this item. The only comment I would have is that currently in Florida in state waters you do not need a federal permit to harvest Spanish mackerel; so in order for this to be effective and in order to monitor ACLs the way we want to be able to monitor them, you're going to have to require the Spanish mackerel permit to be able to harvest Spanish mackerel in state waters in order for this to work. Roy.

DR. CRABTREE: I guess it's not clear to me how this relates to tracking ACLs, so I don't really understand your comment.

MR. HARTIG: Well, the way I see it as it's currently written, if you have an ACL for Spanish mackerel and you have vessels in Florida without federal permits, they can continue to fish for Spanish mackerel under a trip limit if the state so desires. Currently we have a 500-pound bycatch allowance in state waters now after the quota is closed, so you could have continuing fishing with vessels not federally permitted in state waters, and that would be a problem.

DR. CRABTREE: Well, I agree with you with that, and I think that's true in most all of our fisheries. If the state doesn't close when we close, then fishing could continue. If we have provisions like this in place, then it would only be non-federally permitted vessels that would continue fishing, but they could still continue fishing, but it doesn't affect our ability to track the ACLs. It just affects our ability to close the fishery down.

DR. DUVAL: I also just wanted to register that North Carolina does not require a Spanish mackerel permit in order to land fish caught from state waters. We have a lot of Spanish mackerel that are caught in state waters; and if we required a permit, that would be like 5,500 permits probably given how prevalent these species are in state waters.

Ben and I have had some discussion about this. We do track the landings and NOAA gets that information, so I was glad to hear Roy say that doesn't impact our ability to track the ACL. I just wanted to note for the record that we would not necessarily be in favor of having to force our

fishermen to get a permit in order to land these species that are caught from state waters. I guess I'll leave it at that right now.

MS. SMIT-BRUNELLO: Well, one thing, Gregg, on Alternative 2 it talks about reef fish regulations, so we want to change that to the mackerel. As I read this alternative, to me it doesn't require individuals who just fish in state waters to get a permit. I mean they have to abide by whatever the state says they have to abide by; and if North Carolina doesn't want to issue Spanish mackerel permits to fish in state waters, you wouldn't need to I don't think under this regulation.

DR. DUVAL: And just to follow up to that, Mr. Chairman, we have a rule on the books that allows us to complement federal regulations. We do have a set of rules that are specific to both king and Spanish mackerel; so should things like trip limits change, et cetera, for the species in federal waters, I don't foresee that we would not complement those in state waters.

MR. MUNDEN: Mr. Chairman, I think it would be problematic for most of the Mid-Atlantic states to have to license fishermen to harvest Spanish mackerel in state waters. As an example, we have some fisheries whereby fishermen who do not have the federal permits issued by the northeast region to fish for a species in state waters only if they don't have the permits, such as spiny dogfish.

It becomes problematic if these fishermen want to continue to hold their federal permit and then move into a state waters fishery because the northeast region requires that they surrender those permits. All of our permits other than spiny dogfish are limited access permits; so if you give it up, you don't get it back. We do have some fishermen who have smaller boats who fish only in state waters for some species.

MR. HARTIG: Thank you; I'm convinced.

MR. WAUGH: Action 5 deals with modifying or eliminating the income requirements for Gulf commercial coastal migratory pelagic permits, and again here I suggest we slide over those since that's just Gulf. Action 6, Spanish mackerel gill net endorsement, and this may fit better under number one. I don't think it could be added to 1D but somewhere under 1.

It would establish a Spanish mackerel gill net endorsement with qualifying poundage for a commercial gillnet endorsement based on the new control dates and average landings during the most recent five, ten or fifteen years prior to the control dates. Then we show the control dates, March 31, 2010, for Gulf Group Spanish Mackerel and September 17, 2010, for Atlantic Group Spanish Mackerel. We've got three alternatives in there; 30,000 pounds, 20,000 pounds and 10,000 pounds.

MR. HARRIS: You don't need to add your cast net to that, do you?

MR. HARTIG: Anymore discussion? Gregg.

MR. WAUGH: Then Item 9 is dealer permits, and right now you do not require a dealer permit to buy coastal migratory pelagic permits. B would establish a single coastal migratory pelagic dealer permit. C would establish separate Gulf and South Atlantic coastal migratory pelagic dealer permits based on the Gulf and South Atlantic Council boundaries. D would establish separate king, Spanish and cobia dealer permits.

MR. CURRIN: It seems that we're in the very near future going to be moving towards requiring electronic dealer reporting. If we have an opportunity here and decide to establish a permit, would it not be wise to also require electronic dealer reporting for this permit so we at least don't start adding to the numbers of dealers who are not reporting electronically and then it makes the issue a little bigger and arguments a little longer and more protracted and all that. If that would be appropriate here, and it seems to me that it would be, I would suggest we do that unless someone has got an argument for not doing it.

MR. HARTIG: No, I think that's a good idea, Gregg. Okay, we'll do that. Roy.

DR. CRABTREE: I guess this will come up when we talk about the vermilion snapper quota overrun that has occurred, but I think what we need to do is to do a generic amendment to all of our plans and require dealer permits in all of our fisheries and then shorten up the reporting timeline on those permits. Currently you have 30 days to report.

I know at the Gulf Council meeting we put that on a fast track to work on at Gulf Council. I believe that the Science Center is going to tell you that's one of the things they want us to do as quickly as we can. If we did that, that would kind of make this section moot, I think, but I guess we're going to want to talk about that in snapper grouper tomorrow, Mac, I would think.

MR. HARTIG: Okay. Well, if we do what you said, then we can eliminate it from this discussion. Mac.

MR. CURRIN: Yes, just perhaps as a placeholder make a note here, Gregg, in case something happens and we get waylaid in snapper grouper or we don't we get there, at least we haven't lost that train of thought with respect to that. I agree with Roy, I think if we can do it in one fell swoop, that's the best way to do it and as soon as we can do it, the better.

MR. WAUGH: That's it for Joint Mackerel Amendment 19. Those are the items to go out for scoping; and so the operable option here, we did modify the actions so you would be approving the modified actions – approving the modified draft scoping document for Amendment 19 for scoping in January and February 2011.

DR. CRABTREE: Gregg, I got an e-mail from one of my staff saying that the Gulf Council had not approved this for public hearings yet and that's consistent. I don't remember going through this. Could you check with Steve or with the Gulf Council or you guys figure that out before we come back to it in full council because I think there are a couple of those actions we might want to not proceed with if that's the case.

MR. WAUGH: Okay, and so they said that it was not approved for scoping?

DR. CRABTREE: That's the e-mail I got from my staff but you might want to just check with –

MR. WAUGH: Sure, I'll check with Rick and Sue.

MR. HARTIG: So that's the end of that particular Amendment 19?

MR. WAUGH: Yes, and given what Roy just said maybe we want to wait until full council and sort out where exactly we are before we approve the list to go to scoping.

MR. HARTIG: That makes sense to me and that's what we'll do. Michelle.

DR. DUVAL: But that would be scoping in January and February of 2012, correct, and not 2011?

MR. WAUGH: Yes, thank you.

MR. HARTIG: So we're not going to approve that yet until after we go back and find out where we are with the Gulf Council and we can do that at full council. All right, where does that leave us, Gregg?

MR. WAUGH: The next item is to talk about actions that would potentially go into a joint framework action with the Gulf Council. This is on Page 8 of the overview document. Item 1 is to change Gulf Group King Mackerel commercial trip limit. Here we're looking at the northern and southern subzones of the eastern zone to 1,500 pounds with no step-down; also consider changes to the trip limit in the western zone from 3,000.

We had interest more so talking about spiny lobster, but the fishermen in Key West are interested in having that trip limit raised. At first I thought this alternative would address that, but in talking with Ben it appears that it wouldn't. I think we want to add the potential to raise that trip limit for those guys fishing out of Key West.

MR. HARTIG: Yes, this particular option was pertinent to the fishery in the Gulf and not to that Key West fishery. This was for the summertime fishery and not to the wintertime mixing zone fishery that occurs in the Keys. Yes, they have made that and so we do need to add some kind of a higher trip limit option to go to scoping – not to go to scoping but for consideration under a framework. If someone would make an option somewhere around 3,000 pounds, that may take care of that.

MR. WAUGH: So, again, we can add to this list and then we'll sort it out with the Gulf Council where they are in preparation for this framework. What it would be is consider that changing the trip limit to 3,000 pounds, having that apply for the Key West area, also. Then the second item are changes to the king mackerel size limit. Again, these issues are coming out of a list that we've talked about probably for the last seven or eight years if not longer – but to change the king mackerel size limit – it's currently 24 inches – to lower it to 22 or 23 inches.

MR. HARTIG: Yes, in fact, a number of these options have been approved by both councils although there had never been any analysis done on any of them.

MR. WAUGH: Item 3, then, is the retention of one king mackerel greater than 50 inches, so this allow that. Four looks at commercial trip limits for Spanish mackerel.

MR. HARTIG: And there was an intent to try and simply that – Roy's trying to simplify that to some degree from what it is now.

MR. CURRIN: Ben, back up to number three, and it's not regarding the retention of one king greater than 50 inches, but as noted on the bottom that we discussed and against my better judgment eliminated consideration of a reduction of the recreational Spanish bag limit; and if necessary, I'd make a motion that we analyze that as an alternative under framework here, to consider lowering the recreational Spanish bag limit to ten per person.

MR. WAUGH: So now that would add an item that would look at reducing the Spanish mackerel bag limit, and do you want to just take it out just to ten? At the end of this we need some guidance from you on how you want to proceed with this, whether you want these items to go out to scoping or whether you just want us to bring a framework. We've had lots of input on this so we can draft a framework and take comment at two council meetings as another alternative. We'll talk about that at the end.

MR. CURRIN: Yes, Gregg, to answer your question, the alternative I would be most interested in would be ten. We've got a lot of background and a lot of discussion. If we need a third alternative for NEPA purposes, perhaps we can pull one out of the appendix of 18 to make sure we have a reasonable range.

The point I'd like to make is – and I'm kind of surprised, to be honest with you, that we did remove it. I know we had a handful of people that objected to reducing that bag limit, but we raised it a handful years ago and fifteen Spanish mackerel is just a heck of a lot of Spanish mackerel. When you've got four or five kids or whatever on the boat, it's hard to count that many. I don't think most people want that many Spanish mackerel.

I know there are some that do, but look at what we've been doing with snapper grouper species and with black sea bass, where we started with very, very liberal bag limits of up to 20 fish and now we're down to five and talking about maybe needing to go even lower than that. I don't know that there will ever be a similar problem with Spanish mackerel, but I'm of the opinion that ten Spanish mackerel per person is more than plenty.

MR. HARTIG: Well, we've received just as many comments that they would have liked to keep as ten as we did that people objected to going back to ten. There was a lot of support even in the hearings of why the heck did you ever go to fifteen?

MR. WAUGH: Item 5 would look at increasing the trip limit for the shark drift gill net fishery. This material under here, that should be moved down under Item 7, Item 5 just deals with the trip

limit for the shark drift gill net fishery. Six would eliminate the commercial trip limit reduction at 75 percent of the quota for Gulf eastern zone, southern subzone.

Then finally Item 7, state-by-state quotas for Atlantic Migratory Group King Mackerel, Spanish mackerel and cobia, and we will have a presentation. The chairman has requested a presentation in March on how we might do state-by-state quotas. This is something that is going to be discussed at snapper grouper as well.

Our Snapper Grouper AP has recommended that we proceed with state-by-state quotas. The material up at the top, we've talked about this before, and we've looked at either doing it state by state, also the possibility of combining North Carolina and South Carolina together and Georgia and Florida together.

DR. CRABTREE: So when we talk about state-by-state quotas, is what we're talking about that the state will then monitor the quota and the state will then close down when it is reached or are you talking about state-by-state quotas and the National Marine Fisheries Service monitors then and it shuts down the EEZ off of those states when it's reached.

I think in the discussions I've heard from fishermen where this has come up, they wanted us basically just to let the state track the quota and the state close it. I think we need to be clear on what we're talking about when we talk about state-by-state quotas. It's also I think possible for some states like Georgia that the quota and the landings would be confidential, which is a bit of a problem. I'm just curious as to what we're talking about when we talk about state-by-state quotas.

MR. HARTIG: Well, this is the first time I've heard you put it in that frame where either the states could monitor it or the federal government could monitor it. I don't know that it's that important to the fishermen on how it's monitored although maybe North Carolina may disagree.

MR. CURRIN: Yes, I would disagree.

MR. HARTIG: But for me it's just how we can get it to work the best way. Mac.

MR. CURRIN: Yes, Roy, I felt confident that if NMFS could monitor the quotas as quickly and directly as the states would, it wouldn't matter to me who monitored them. I think the states have the capability of doing it. North Carolina currently does it in a number of fisheries managed by the Mid-Atlantic Council and I think the division is perfectly capable and from what I've heard willing to attempt to do it. At least for the state of North Carolina, that's a conceivable option if you would rather not monitor it.

DR. CRABTREE: And I think you very well may be right and I don't have any doubts that North Carolina is prepared and set up to do that. The problem is I don't think the other states are willing or prepared to do that, and that's where we run into we're talking about North Carolina wants its own state quota that they monitor and then everybody else continues in a different system. I think that has kind of been the problem we've had in the past because it's just not clear



to me that Florida, Georgia or South Carolina would want to take this on or would have the regulatory structure set up to do it.

MR. CURRIN: To that point, Roy, that's certainly an acceptable option to the state of North Carolina. If none of the other states are interested in doing this, that's fine, and we would be happy with having a system where the state of North Carolina had some allocation of the various quotas, in this case king and Spanish mackerel and cobia, and the state would monitor whatever that allocation was and close the fishery or ask you to close the fishery in a timely manner. If that's the way it worked out, that would be suitable to our fishermen from what I've heard; and if the other states didn't want to do that, that's fine.

DR. CRABTREE: And I think if that's the path you want to go down, then staff needs to sit down with the Office of General Counsel and at some point with North Carolina attorneys probably to figure out how we would do that. It would seem to me there would have to be some sort of memorandum of understanding or something in place to do that.

We don't have the equivalent of the ASMFC involved in the fisheries which I think is the case in most instances in the Mid-Atlantic where state-by-state quotas are enforced. We don't have something like that on these fisheries down here, and we'd have to come up with some way as to how we would handle that.

MS. SMIT-BRUNELLO: Since Mac said that North Carolina does this already for some of the fisheries managed in the Mid-Atlantic area, maybe the staff could just look into that. I'd be glad to help or enter into those discussions, but maybe staff could inquire and find out what those are and how it's done and bring back some more information.

MR. BOYLES: Mr. Chairman, I'm not on your committee and I need to be sure that the committee understands that South Carolina is not prepared to do state-by-state quota monitoring. I wish it were the other way, I wish I could tell you we could do it, but I would be – that's wishful thinking and we're just not prepared to do it. The resources just don't exist.

MR. MUNDEN: Mr. Chairman, to address the issue that Monica raised, for summer flounder and bluefish the state-by-state allocations was specified in the fisheries management plan, both the Mid-Atlantic Council FMP and the complementary plan with the Atlantic States Marine Fisheries Commission. For black sea bass and spiny dogfish the state shares are decided or were established by the Atlantic States Marine Fisheries Commission.

But an interesting thing has occurred in the past several years because initially the states looked at allocating the black sea bass commercial quota on a state-by-state basis, and about a year ago ASMFC also allocated the commercial portion of the black sea bass harvest limit on a recreational basis. Just next week the Mid-Atlantic Council will be looking at establishing the recreational allocation of black sea bass because we've had a real disparity between the harvest by the New England states and the southern Mid-Atlantic states. We fully support state quota shares at the Mid-Atlantic level as well as ASMFC and they work extremely well for North Carolina.

DR. CRABTREE: I want to be clear; I don't necessarily have any opposition to this. The problem has been is if it means the Fisheries Service is going to have to monitor all these state quotas, then I might have some opposition with it because we're having enough difficulty monitoring the number of ACLs we have.

If there was some way to let North Carolina monitor its own quota and that's what the council wants to do, I don't necessarily have any problem with that. My impression has always been in the past because the other states weren't prepared to do this, that what we were talking about was the Fisheries Service having to do that.

We've talked about this for years now and we've never gotten anywhere; and so I think if we are going to get anywhere, we just need to be realistic what we're talking about is allowing North Carolina to monitor its own quotas on some of these species, that's a different issue. It's not really state-by-state quotas. I think if we break it down like that, maybe we can actually get somewhere and make a decision about whether it makes sense or not.

MR. HARTIG: Well, king and Spanish mackerel, most of the commercial fishery happens in North Carolina and Florida; so if the two states did them and did a de minimis exemption for the other two states on commercial, I don't know if that's workable or not. Michelle.

DR. DUVAL: We'd be happy to discuss the methods that we use for monitoring the state-by-state quotas that we do have. It's fairly straightforward. We have a couple of biologists who are dedicated to quota monitoring. We require daily reporting from our dealers. They can either send those landings daily electronically by fax, and we keep a log of those landings. We're happy to discuss any further with the Service if needed.

MR. HARTIG: I think we've got that one pretty well discussed so let's move on.

MR. WAUGH: How do we want to proceed time-wise here? Usually when we've done framework actions before, there is guidance that you could do it at one meeting. We've certainly done them with input at one meeting before. What we've laid here is you've refined this list some and we can begin working on a document.

This may be a little too fast; maybe we should look at April and June, but we need some guidance from you to take public comment at the March meeting, have the SSC review it at their April meeting, bring in our AP after the SSC reviews it, then have final comment in June and go forward. That's assuming that we only do actions that are South Atlantic.

If we do actions that are joint with the Gulf, then we're going to have to coordinate with them and this timing would change. Most of these items, as was just stated, have been talked about for years and years, so I don't know that we need to go back out to scoping, but we need some sort of guidance from you in terms of how you want this to work timing-wise.

DR. CRABTREE: Well, first off, it's not clear to me whether we could even tackle the state quota business in a framework because it's going to require allocation decisions, and we're going to have to have alternatives in here for – I guess we would use different historical time periods to

decide if we're going to allocate so many fish to North Carolina or however. I don't know if we can do that under the framework or not, so Monica would have to look into that, but I think it would require some additional alternatives to get to the state-by-state quota issue.

MR. HARTIG: Well, in your opinion it would be more prudent to move this into the other amendment in the scoping document so we can have a lot more time to flesh this out?

DR. CRABTREE: I think it well might be. I've asked Monica whether we could tackle these things through the framework or not and I guess she can look at that and come back to us at full council. My guess is this will take additional alternatives and it's going to take some time to figure out.

DR. DUVAL: I did just want to remind the committee of one item that I had brought up the last time of the potential to throw out there, and that was looking at a possible seasonal regional bycatch limit. We have sort of a rash of undersized Spanish that come through the pound nets in internal waters in August of every year. They're almost all around 11 inches and they end up getting wasted. I went back and checked the minutes to make sure that was in there, and I don't know if that's suitable for inclusion here or what, but I just wanted to bring to everyone's attention.

MR. HARTIG: Yes, I remember Louis had an option that he wanted us to deal with in the pound nets and that's it. I guess we could move that in the other amendment, Gregg?

MR. WAUGH: If we can deal with it here, we could deal with it here, but we can look into that as well and see if it needs to go into a plan amendment.

MR. HARTIG: Anything else; anymore discussion on the options? You will get plenty of more time to look at them. We're going to look at most of them at full council again or some of them, anyway. Is that it; that takes us to the end?

MR. WAUGH: Yes, that's the end. I'll double check with Gulf staff on where they are and we've got a list and I'll put this together, and we'll look at it again at full council.

MR. HARTIG: Okay, that's the plan; is everybody comfortable with that? Is there any other business to come before the Mackerel Committee? Seeing none, we're done.

(Whereupon, the meeting was adjourned at 4:15 o'clock p.m., December 6, 2011.)

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Julie O'Dell  
julie.odell@safmc.net

**SEDAR/ Staff Administrative Assistant**

Rachael Silvas  
rachael.silvas@safmc.net

# PLEASE SIGN IN

and so that your name  
may be included in the minutes, we ask that you sign this sheet for the meeting shown below.

So that we will have a record of your attendance at each meeting  
**MACKEREL COMMITTEE MEETING**  
 December 6, 2011  
 Raleigh, NC 27605

P.O. BOX/STREET  
 CITY, STATE & ZIP

**NAME &  
 ORGANIZATION**

**AREA CODE &  
 PHONE NUMBER**

**EMAIL  
 ADDRESS**

NAME & ORGANIZATION	AREA CODE & PHONE NUMBER	EMAIL ADDRESS	P.O. BOX/STREET CITY, STATE & ZIP
Gretchen Martin (EDF)	(919)	gmartin@edf.org	P Box 322, Macehead Lake, NC
Samantha Post Nunn (ED)	(827) 727-3694	sport-winn@coconawisconsin.gov	Raleigh
Helen Takado-Henricher (EDF)	910 324-1292	htakado@edf.org	Libert + NC
KS KS		KS@MFC	Springton VA
Danielle Crosby	910 222-9206	susan.duprene@att.net	SR Simons Tel GA
Susan Skjerve	Same		
Chris Clark	910-598-5455		CCA
Dick Brance	252 241 7625		ANNA C park eqd. de. com.
ANNA Beckwith			

South Atlantic Fishery Management Council  
 4055 Faber Place Drive, Suite 201  
 North Charleston, SC 29405  
 843-571-4366 or Toll Free 866SAFMC-10



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December 6, 2011  
Raleigh, NC 27605

<u>NAME &amp; ORGANIZATION</u>	<u>AREA CODE &amp; PHONE NUMBER</u>	<u>EMAIL ADDRESS</u>	<u>P.O. BOX/STREET CITY, STATE &amp; ZIP</u>
Ray Zack	321-271-7110	RZack@Yahoo	1905 Edgewater A158 32168 FL Coral Rd
Soshua McCoy	321 960-4885		807 Hamptonway Merritt Island FL

South Atlantic Fishery Management Council  
4055 Faber Place Drive, Suite 201  
North Charleston, SC 29405  
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David Wilford EDF	-		301 S. Congress Ave 206021E 23rd St Ft. Lauderdale FL 33405
Terry Gibson <small>New York State Fishery</small>	92-285-7683	Terry.Gibson@northsuffolk.edu	32120-9351
Terry Gibson	386-239-0918	tsf2009@aol.com	301 Herbert St Ft Oconer E1 3218 Washington DC
Russell Johnson	ECFS (386) 677-1511	HJohnson@HFC.com	1050 N. Hwy 47A Arlington VA 22201
James Nelson	ECFS 386-527-0732	Capt Paul 1966@aol.com	
Paul Nelson	408-761-3967	mcinnwell@peadrustory	
Myrland Grunwell	703-842-0760	mika_calli@ansp.org	
Michael Cole	703-842-0760	peadrustory	
Michael Bealm	305-451-3916	peadrustory	
Angela Cox	252-728-9598	peadrustory	

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