

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

MACKEREL COBIA COMMITTEE

**Westin Jekyll Island
Jekyll Island, GA**

March 8-9, 2017

SUMMARY MINUTES

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Jessica McCawley
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Other Observers/Participants attached.

The Mackerel Cobia Committee of the South Atlantic Fishery Management Council convened at the Westin Jekyll Island, Jekyll Island, Georgia, Wednesday afternoon, March 8, 2017, and was called to order by Chairman Ben Hartig.

MR. HARTIG: We are going to call the Mackerel Cobia Committee to order. The first order of business is Approval of the Agenda. Are there any changes to the agenda? Seeing none, the agenda is approved. I would say something about the agenda. The agenda in the main agenda for the meeting -- We moved things around just a little bit, and so you'll see that as we move through it.

The next item of business is Approval of the Minutes. Are there any changes or corrections to the minutes? Seeing none, the minutes are approved. I will take this opportunity, before I go to the next item, to say who is on this committee. It's myself, Michelle Duval, Anna Beckwith, Mel Bell, Zack Bowen, Mark Brown, Roy Crabtree, Doug Haymans, Jessica McCawley, Robert Beal, Rob O'Reilly, Tony DeLernia, and Dewey Hemilright.

Here is where we have a little bit of a change. The next item of business is the ASMFC Update on the Interstate Cobia Plan, and Bob Beal is here to give us that, and that's Attachment 1 in your briefing book.

MR. BEAL: Great. Thank you, Mr. Chairman. I don't have a PowerPoint put together, but I will just kind of wing it here and give you a verbal update on where we are. Louis Daniel came down at the December meeting of this council and gave an update on the status of things at ASMFC. Since then, we've held a round of public hearings, kind of equivalent to scoping hearings for the council, and we got feedback from sixty or so participants in those hearings, and so not a big turnout, and twenty or so written comments, and so relatively light comments, which isn't unusual for scoping. It's kind of theoretical, and folks don't know exactly what it might mean to them. Once we get into the details, we'll get a lot more comments, I'm sure.

The bottom line is we are on track to finish the interstate FMP for implementation in 2018. Following our ASMFC meeting in February, or at that meeting, the management board said to move forward with the document and try to pull together a draft fishery management plan for our May meeting, which will be the second week of May in Alexandria, Virginia, if anyone wants to come up and see what that looks like.

That is sort of the easy part, is the timing and the plan, or the timeline to draft the plan, and the tricky part is I think we're transitioning from sort of the theoretical to reality, and that's always harder. We are trying to -- As we go into drafting the fishery management plan, and Dr. Daniel has taken the lead on that as well, but, as we go into drafting of that, we kind of -- That's when you get into a lot of questions on exactly how you want it to look, what things you want to include, and some of the issues that have popped up are -- One sort of overarching premise is, just because ASMFC is involved, it's not going to create more cobia that can be harvested.

I think the quota that this council approves is going to be the ceiling for the east coast, and that's what it's going to have to be. Really, our plan, if and when it is approved, is an allocation plan. How do we chop up that really small pie of fish and not disadvantage anyone along the coast and provide somewhat equal fishing opportunities, primarily from Georgia through Virginia. There are some fish caught north of Virginia, all the way up through New York, but those are kind of on

the fringes, and, really those landings haven't had a significant impact on the overall harvest of cobia. They're kind of spotty from year-to-year, and so how do we chop up the available fish for those four states, primarily?

Moving forward with it, there's two issues that we're spending a fair amount of time on. One is sort of what are viable options that the commission can put in our FMP that actually would work and would mesh with what this council is doing and actually would also be approved or would mesh with what the Southeast Regional Office is doing through this council, and so we've got to make sure that -- We don't want to include options in the document that we take out to public hearing that aren't viable and aren't realistic to approve, and so we're trying to sort of groundtruth some of the ideas that are out there and see if we can really do that.

The second issue is with MRIP data. The ASMFC traditionally has used the MRIP data that comes out of the MRIP program and is reported through Headquarters. This council, understandably, uses the MRIP estimates or the recreational harvest estimates that come out of the Southeast Fisheries Science Center, and Headquarters of NOAA Fisheries and the Southeast Fisheries Science Center calculate the average fish of the animals differently, and so you end up with different overall harvest estimates for -- There is two different cobia harvest estimates, which makes life tricky.

We've got folks that come to our hearings that hold up a piece of paper and say, hey, we just went into the database and it says this many fish were landed. However, your draft document says this many fish were landed, and they don't match up. We are trying to figure out how to sort through that, and I've interacted with the folks at Headquarters, and they are looking at what the Southeast Region is doing. In fact, there is a little bit of momentum to switching to that approach for some of the other South Atlantic species, and so we're trying reconcile that, or at least be able to fully describe that as we go out to public hearings with the options at the commission.

I guess a third issue, even though I said there were only two, but a third issue swirling around in the background is what happens as we go through this MRIP transition. We've got a new effort survey coming online. There is some pilot information and some early data collection that says some of the recreational species can have multiples, that the landings will go up by 100, 200, 300, or even 600 percent, and so the whole world may change, as far as cobia landing estimates, and then that gets complicated by the next cobia stock assessment, which may consider that new stream of MRIP landings isn't scheduled to be fully completed until about 2020, I think, and so how does this council and ASMFC want to handle the disconnect between new MRIP numbers and the sort of time lag to get a new assessment and how do we sort through those issues, which are going to be pretty complicated?

Thinking a little bit more about the first issue that I mentioned, about what is viable and what could be approved by ASMFC that would work with this council, one of the ideas that is out there, and I apologize to anyone who sits through the Mid-Atlantic Council meetings, is kind of the summer flounder approach to management. Anyone who has been through those meetings knows -- Tony is shaking his head already, but the way summer flounder works is there's an overall quota for the recreational fishery.

That quota is then divvied up amongst the states, and we do it somewhat regionally now, but it was based on historically earlier, and it has evolved a little bit, but the way it functionally works

now is that each state, from North Carolina through Massachusetts, come up with a suite of measures, and, when you look at those measures collectively, they have to hold the recreational fishery to the recreational harvest limit along the east coast.

Once we at ASMFC verify that those measures have a reasonable chance of achieving the recreational harvest limit and not exceeding it, we send a letter to NOAA Fisheries, to GARFO, the Greater Atlantic Regional Office, and GARFO endorses that and extends those state regulations out into federal waters. We have had one quick call with the folks in the Southeast Regional Office, trying to figure out if something like that is viable down here and, in fact, would that be something that this council and the public would want. Again, as Michelle said earlier, this is just staff reporting out and not lobbying for any approach.

It's an option that's out there. It's got some bumps and warts, and it's not perfect, and it's cumbersome and other things, but it works a lot better than one set of coast-wide measures across the range, because the fish are available at different times, and different sizes are available and those sorts of things, and so we're looking at that summer flounder option as one of the ways we could allocate this limited quota through an interstate fishery management plan.

It's complicated, and, if we went down that road, in talking with Michelle and Gregg, I think it would take probably, at a minimum, a framework action by this council to kind of recognize that ASMFC is doing. The Mid-Atlantic has it memorialized in one of their FMPs, because there is action that is required by the Regional Office to recognize those state regulations and extend them into federal waters.

The way it works is if Tony is leaving New York and goes fishing, and he leaves New York waters and he's in federal waters off of New York, he is still bound by those New York regulations. When he comes home, he's got to comply with that. When he's in federal waters, there are no differing federal regulations. It's whatever state you leave from and come home to, and so it's not perfect, but it functionally works. We've got a situation here where we've got, again, a small quota and trying to maximize the benefits out of this, and that may be one option.

There is a lot of others. The commission also intends to include options in the document that may have standard size limits, standard bag limits, standard boat limits, those sorts of things, up and down the coast. We're trying to have some consistency through that four-state range, but allow the states to vary certain things, maybe just vary season or maybe vary -- Just some different ways of looking at it, so there is some consistency, but enough flexibility to allow those states to work and to meet the needs of their fishermen.

Any time you're doing allocation, one of the big questions is what historic periods are you using. For cobia, the landings stream has changed a whole lot, as you get into recent years, and so is it more appropriate to use recent years or should we go back farther in history, and I think that's all up for discussion at this point. The commission hasn't decided what range of years to settle in on, but we're going to likely include a number of different scenarios that go out to public hearing once we get the draft together.

Even though I said earlier that we're going to try to have a draft FMP ready for the May meeting, I think some of these other complicating factors, like what's viable and how do we handle the MRIP data and what do we do with this MRIP effort transition, we may not be able to approve our

document at our May meeting for public comment. It may have to wait until our August meeting, but that still allows us to approve it before the end of the calendar year and implement for 2018.

We can get really complicated and say, well, if we approve something like summer flounder, when would this council have time to react and put together a framework that would recognize what the commission has done, and so there is kind of all these moving parts. Some of them need to go in parallel and some of them need to go in sequence, and I think ASMFC is going to keep pushing.

We will keep interacting with leadership down here, and we want to make sure that whatever we do is compatible with what this council wants to see, since, frankly, you guys asked us to get involved. We don't want to go too far out on our own. We want to make sure that our system meshes with the federal system and there is no loopholes in cobia and we get out the other end what we want, which is a set of regulations that help the fishermen and equitably allocate the resource up and down the coast. That is my quick summary of where we are. There's a couple of folks that were at our last meeting, and they can chime in if they want, but I'm happy to answer any questions you have, Mr. Chairman.

MR. HARTIG: Thanks, Bob. Are questions for Bob? I've got Zack, and then I've got Tony.

MR. BOWEN: Thank you, Mr. Chairman. Bob, thanks for being here. As I was listening, and you got into the allocation talks, and you mentioned about historical landings. As we all at the table and in this room understand, in most cases, MRIP numbers are, for the most part, overestimated, we feel like, but there are some cases where they're underestimated, and this happens to be true in the case of landings for Georgia for cobia.

Wave 3 and Wave 4, for example, in 2016 show zero landings, and that may be because of -- Who knows why, lack of intercepts or -- I don't think it was lack of fish, but there's multiple reasons that that could be underestimated by MRIP. Do you or can you enlighten us on how that would be accounted for, because, if we went with that, then Georgia would get the short end of the stick.

MR. BEAL: I can't exactly tell you how the commission would account for it, but I can say the commission usually recognizes deficiencies in data and lets the states work together. Our black sea bass allocation started out linked to some number of years, but the states kind of said, well, we think we're high or we think we're low, and they horse-traded a little bit and we ended up with an allocation that folks felt is fair enough, and I think I can envision that again.

When you do look at the data, the MRIP data for cobia, there is some pretty high PSEs in there. There are some state-specific waves that look kind of funny, like you're talking about, and so I think the four states would have to get together and look at that data and sort of do some horse-trading and figure it out. I don't know what that outcome would look like. At ASMFC, we're not bound to pick a suite of years and use exactly those numbers. If they want to vary off of those, just because they think there is some deficiencies or the fish are moving in different patterns or whatever it is from that historic period, the states can come to an agreement and implement that.

What that looks like, I don't know, but we do have some flexibility to work around that, and the commission gets creative at times, and I mean that in a positive way. It gets creative, and we'll say, okay, here is a ten-year span, and we're going to take the five best years for each of the states

within that ten-year span, so you get rid of the real low numbers in there that some states may have occasionally and those sorts of things.

Without really digging into the data or having a big spreadsheet in front of me, I am not sure what a scenario like that might look like, but those are some of the things we can try to come up with a number that seems reasonable.

MR. DILERNIA: I raised my hand to say one thing, but I just can't resist this. If you had mandatory reporting in the for-hire fleet, you would know exactly what was being caught for cobia.

MR. BOWEN: I am advocating for it.

MR. DILERNIA: I'm sorry. I just couldn't let that go by. To add to what Bob was saying, in 1996, when the Atlantic Coast Cooperative Fisheries Management Act was passed, there was language in there specifically that said, in the absence of a federal fishery management plan, the aspects of an ASMFC plan could be extended out into the EEZ, and that's what happens with us with summer flounder, and it works pretty well with us, and I encourage you folks to consider that. Thank you.

DR. DUVAL: I think something like what Bob has laid out could certainly address the differences in where the fishery occurs up and down the coast. I mean, obviously, Georgia's landings are pretty much all in federal waters. A good chunk of South Carolina's landings have transitioned from state to federal waters over, I think, the past eight years or so. In North Carolina, the proportion of recreational harvest in state versus federal waters has gone up and down a bit. There has been a couple of years where the proportion of harvest coming from state waters has actually been fairly low. In Virginia, I think it's almost all entirely state waters. Something like what Bob has laid out, that kind of pushes those regulations out into federal waters, I think, would address some of those concerns. Thanks.

MR. HARTIG: Okay. Any more questions of Bob? Monica.

MS. SMIT-BRUNELLO: One quick one, and I guess I can talk to you after the meeting too, Bob, but in the situation which you described, that Tony leaves his dock and he's a New-York-registered vessel, and, by the time he gets out in federal waters, in essence, New York state regulations are good in federal waters as well, they're extended to federal waters.

If there is a New-Jersey-registered boat and it goes into New York waters, how is that dealt with? New Jersey regulations are extended out into federal waters off of New Jersey for New-Jersey-registered vessels? In other words, I am just wondering, do those extensions that go out into federal waters, are they just applicable for that state's registered vessels?

MR. BEAL: It's essentially based on where you come back to. If Tony, for example, and sorry to pick on you, Tony, but if he leaves his dock and starts fishing under New York regulations, but then, if he travels into New Jersey waters, the state waters, within three miles from the beach, then he is bound by New Jersey regulations while he is in New Jersey waters. The New York regulations don't -- The state regulations don't sort of follow the vessel into other state's waters. They only follow the vessel out into federal waters, and so it's a big complicated, but, as Tony said, it works. There is some bumps and warts, but it works.

MR. DILERNIA: Monica, when we had state-by-state regulations, the scenario that you were describing became contentious in Border States, in shared waters. An example, and what really precipitated what we're going to call regional management, which I will get to in a moment, but we had gotten to the point where the minimum size limit in New York waters was twenty-one inches and the minimum size limit in New Jersey waters was eighteen inches.

As a matter of a fact, I had my friend, Captain Hemilright, sitting right alongside me one day when I showed him the dividing line, and two boats literally could be sitting next to each other, one with a twenty-one-inch minimum size limit and one with an eighteen-inch minimum size limit, and so, naturally, the more restrictive states with the more restrictive measures, in this case the State of New York, the fishermen there were quite upset by that, and so what has evolved over time is what we call regional management, in which border states have consistent regulations.

What has happened is the states, in a sense, have pooled their individual state quotas, and so, if you're in say the waters of New York Harbor, which is New Jersey on one side and New York on the other side, all of the regulations in that body of water are the same, consistent, and so a region -- The individual states have evolved into the development of regions, so that shared waters have consistent regulations.

MR. HARTIG: No other questions? Thank you, Bob. I appreciate that. The next item of business is the Atlantic Cobia 2017 Recreational Fishing Season, the state reports. The first thing we will do is get a SERO presentation on the 2017 federal water cobia fishing season. Who is going to give us that? Jessica.

DR. STEPHEN: First of all, I just want to remind you of some of the management changes that occurred with cobia. In March of 2015, Amendment 20B changed the cobia ABC, ACL, and ACTs based on SEDAR 28, but the accountability measures did not change. Following SEDAR 28, Amendment 20B also changed the cobia stocks that we had of a New York through Georgia stock, versus the Florida East stock.

First of all, I want to show you the recreational landings for 2014 through 2016. The dashed red line is the 2016 ACL limit, but you can see, in 2015 and 2016, we were over the limits. Next, I want to show a breakdown of these landings in 2016, going by state, and we have each of the states here. You can see the bulk of the landings occurred in Virginia and North Carolina, and we also show the number of MRIP intercepts, so you have an idea of where that information was coming from. South Carolina and Georgia had to be combined, due to confidentiality measures.

The graph on the bottom is showing you what the average weight of cobia was throughout the entire region for each of the different years, and then, if you see kind of in the upper-right-hand corner, what we're showing there is the average number of cobia harvested per person in the different years, and one thing I want to point out to you is that, in 2016, the average number of cobia harvested per person dropped from 2015 and 2014. Now, that number is more consistent with what we've seen in 2010 through 2012.

When we look at how many trips were targeting cobia, what we did is we looked at the trips that listed cobia as a primary or secondary target species, and you can see that the number of trips targeting it, or the effort, has increased over time, from 2014 through 2016.

Before I go further, I kind of want to explain again what the accountability measure is. Remember I said that it did not change with Amendment 20B, and the accountability measure gets a little bit complicated. When we look at it, we take the first three-year average of the recreational landings, and the question is did it exceed the ACL? If it didn't, we don't have to go further. If it did exceed the ACL, we have a next question of did the total landings, and this is commercial and recreational together, exceed the total ACL? If that did occur, we then get to the accountability measure. In the following season, we shorten the recreational season to account for that. The other thing to keep in mind is, if the ACL has changed, you can't use a three-year running average and you get stuck using a single year for that year or from that point of change onward.

To remind you, the ACL was changed in 2015, and, therefore, for 2015 and 2016, we can only use those two years and not 2014 to 2016, to determine the accountability measure. Here, it shows you the average recreational landings, what the ACL was, and the proportion over the ACL.

What happens with the accountability measures in 2017? The AM requires us to shorten the recreational season, based on projections. We cannot use the three-year running average, and so we do use the -- What we need to do is use the 2014 through 2016 to estimate the 2017 landings, and that's what you see in the graph below, and you can see that that would exceed the ACL. One thing to keep in mind is that, if only state waters were open and federal was closed, you would still exceed the ACL. That's all I have for now, and I will take any questions.

MR. HARTIG: Are there questions for Jessica? Man, that was a good report. No questions.

DR. STEPHEN: I like that.

MR. HARTIG: Thank you very much, Jessica. I appreciate that. All right. We will go right into the state reports, and I just think I will start with Rob and just go around. The next state person we will hit will be Doug.

MR. O'REILLY: Thank you, Mr. Chairman. I'm Rob O'Reilly, Virginia Marine Resources Commission. It's a pleasure to be here, and it's a little early to give you a final answer on which direction the commission in Virginia is going to end up for the 2017 season. I will just briefly, again, say what we did in 2016, which was to maintain the one personal fish, one personal cobia, which has been in effect since 2002.

The commission adopted a two-vessel limit, with only one of the two cobia allowed to be over fifty inches. The season ended August 30, which you can tell by the data that you've been seeing that Wave 4 is pretty powerful, as far as the landings went. We also had a no gaffing rule, and the size limit was increased from thirty-seven inches total length to forty inches total length, and so probably just a little different than a thirty-six-inch fork length, maybe a little bit more in size, but not much.

What we have done recently is we had our Finfish Management Advisory Committee meeting, and that was on February 27. It's very refreshing, because, in the last several years, when you have public hearings, you wonder how many of the public will show up, and that is maybe systematic of the electronic age, but we really don't get very many of the public at some of the hearings.

In this case, no worry about having the public. We had thirty-five to forty in attendance. Some of the information that is still pervasive is the upset over the zone boundary. That continues from last year. We had a lot of questions on that and the timing of the assessment. I think you heard Bob Beal say, by the time everything concludes, it's going to be a few more years. That is a point of contention with the anglers and the charter fishermen.

The other thing is that they are still confused, even though we constantly try and explain about Virginia's role in the South Atlantic Fishery Management Council, which is zero. We don't have a role in the council, but the Mid-Atlantic Council, as you know, does allow for seats at your meeting, and so that's very good, and on the committee overall.

In terms of some of the projects that are going on, the Virginia Institute of Marine Science has three ongoing projects that were funded by our recreational license sales, and one of them is a tagging project, which includes pop-up satellite tags, and so we'll be hearing more about that.

What's coming up will be that, probably the 13th, Monday, we will have a public notice, and the types of options that we'll have will be to look at a vessel limit from one to four fish, and keep in mind it's been two in 2016, and no change to the minimum size. That is not a source of contention that we have found with anyone. Certainly no change to the personal limit of one cobia. In terms of the season, that is sort of the part that the commission will discuss earnestly. I think, last year, there was a four-and-a-half hour meeting for cobia. This year, I don't think it will be that extensive, but there is pretty good debate and discussion on the part of the commission.

The notice will also have different seasons, starting a little bit later, a start date of June 1, perhaps, and ending a little bit early. Those will be several options. Nothing will be bound to the commission, because, in the public notice, we will have -- What should be there is that the commission will have the latitude to choose one or a combination of options or choose a different option than what is advertised, but that does have to be spelled out in the notice.

I think, from the meeting we had with the advisory committee, even though we had a large public gathering, we didn't have a quorum of committee members, and so, nonetheless, there was lots of information from the public and I think one of the ideas was someone asked at one point for a show of hands to maintain status quo in 2017 to 2016, and I would say half or a little more of the attendees seemed to want to push the status quo option. Then, later on in the meeting, there was talk of having the four-fish vessel limit, and that seemed popular as well, and so those things have to be worked out at the March 28 VMRC meeting.

Some of the other things that are important right now are the fact that we have been advising, everywhere we can, that the complementary management that the Atlantic States Marine Fisheries Commission is going forward with will be a different situation for Virginia, in that, again, the ACL is not expansive, and, when you think about providing equity and providing fairness, it's going to be an interesting task for the federal South Atlantic Management Board to work out these allocation options and how they will be, whether they will seasons or whether they will actually be wired back, and they probably will be, to fish and how that all will go.

It's still a work in progress, and I think that summer flounder that Bob Beal mentioned, I think, these days, you are much better, in terms of having sophisticated technical people, than when that

process started out. Conservation equivalency started in 2001, and it took many years, but I think it has been a good approach. That's not to say that there aren't problems with projections from the past year or the past few years, where they use, for example, 2014 to 2016, but you're always going to have some discrepancies, because no one can predict ongoing effort or availability or timing of the movement of the stock.

With cobia at least, different from summer flounder, perhaps, I think we're getting to a situation where anyone who has been interested and involved in cobia is there, and so that might make things a little bit better, but keep in mind, on these projections, that last year, after we adopted our measures, the projections said that there would be about 330,000 pounds, based on the measures that we put in place.

MRIP says 900,000-plus pounds, and so, at some point, you hope that those projections are a lot closer, but that's one of the situations that a lot of the states will be undergoing and facing, and I think the technical committee will be pretty rigid in how they look at these proposals once we get down the road a little bit.

In terms of the difference of the two sets of data, it really falls on the average weight data, and so SERO is using an average weight different than MRIP, and I hope that's resolved one way or the other, because that has a lot to do with how we go forward with complementary management, and so, if you have some questions, that would be really good.

The last thing I will mention would be, in keeping with some of the earlier conversations, we do have a mandatory reporting program in place in Virginia for cobia. At the March 28 meeting, we will refine it a little bit, to make it simpler. Right now, it really comes down to, if you have two boats, you have to have two permits, and that is going to cause some confusion, and so what we're going to do on March 28 is simply have one permit. The operator or the captain is responsible for reporting, and, yes, there is a tag that, if you have a permit and you don't report, you will not get your permit the following year, regardless of whether you caught and kept or released or just didn't even fish. You still have to report.

With any new system, the first year is the trial balloon, but we'll certainly be able to see, as we go on, whether this has some utility to help MRIP, to help with the assessment. Those are the goals, I think, and I think that the good part is that the recreational community is backing this very strongly. They are very involved, and so we'll see how that all plays out as we go through the 2017 season. That's all I have, Mr. Chairman, and thank you very much.

MR. HARTIG: All right. Any questions of Rob? Seeing none, I appreciate the efforts that Virginia is pursuing in this effort. Thank you. Now we've got Doug.

MR. HAYMANS: I am supposed to follow that?

MR. HARTIG: I know.

MR. HAYMANS: From the haves to the have-nots. At the moment, we don't have any plans to change our regulations from two-fish per person, thirty-three inches. We're going to wait and see what happens at the Atlantic States Commission before we react to any changes.

As Zack has already told you, last year, our MRIP had zero, and so we've gone from somewhere in the 200,000 range to zero across the span, and so that certainly needs work, but we don't have any plans to change anything, at the moment. We have been working cooperatively with other states on a sonic tagging telemetry program. Both Zack and DNR staff have been doing that work as well, but that's it for a report from us.

MR. HARTIG: Thanks, Doug. Questions of Doug? Seeing none, Michelle.

DR. DUVAL: Thank you, Mr. Chairman. I will sort of follow Rob a little bit. Just as a reminder, last year, our state marine fisheries commission implemented measures -- First of all, at their February commission meeting last year, they moved down to a one-fish per person bag limit. Then, at their May commission meeting, they implemented a few more management measures. They went to a thirty-seven-inch fork length minimum size limit and, for charter vessels, it was one-fish per person, up to four-fish per vessel, with harvest allowed seven days per week.

Then, for private vessels, they did a one-fish per person, two-fish per vessel, but limited harvest to Monday, Wednesday, and Saturday. Then shore-based measures -- We do have a significant pier fishery, I would say, in comparison to other states, but that was one-fish per person, and I would just also remind folks that we have a recommendation from the department that was to either complement the June 20th closure or implement one of eight size and vessel limits that the National Marine Fisheries Service staff had analyzed for both Virginia and North Carolina. The commission had asked for some additional analysis, looking at this days per week type of approach, and that is what they ended up selecting, and so that was last year.

We got quite a bit of negative feedback from private anglers, in terms of the lack of opportunity with regard to the days per week. I don't think that many people were as upset about the two-fish per vessel limit as they were about simply not having the same number of days per week. Again, it was Monday, Wednesday, and Saturday, and so that cut out the opportunity quite a bit. In terms of this year, staff did not analyze any measures that looked at days per week.

Instead, the measures that we analyzed were focused on trying to capture the core of the season, based on stakeholder input. We looked at May 1 through August 31 as the season and then we also kept the analysis consistent with the actions that were taken by the council with regard to a thirty-six-inch minimum fork length and one-fish per person per day action, and so that played into the analysis that we did.

Both the private boat fishery and the charter fishery are definitely -- They are very different components. They operate differently, and we have differences in those fisheries, both north of Hatteras and south of Hatteras. The charter industry north of Hatteras has an earlier increase in their trips. That starts right at the beginning of May. South of Hatteras, that doesn't occur until the last half of May.

The private boat fishery south of Hatteras tends to be more impacted by the federal season closure than north of Hatteras, and so we have a lot of differences within the state, but what we did was we tried to -- In recognition of the fact that the majority of harvest is coming from the private boat sector, we disaggregated those data, and, again, we don't have access to the Science Center data, in terms of catch estimates, and so our staff was pulling from the raw MRIP estimates from the MRIP website, and so to provide the commission with options for different vessel limits and

options that could possibly help to constrain the private boat fishery, since it ramps up so quickly during the month of May and then drops off really pretty quickly towards the end of June.

We looked at different season start dates and different vessel limits. For both charter vessels and private vessels, we analyzed a May 1 to August 31 season and May 15 to August 31 season. Then we looked at a May 1 through July 31 season and then moving down to a one-fish vessel limit for the month of August, and so we provided this information to the commission, and we urged them to keep in mind that this is a coast-wide public trust resource and that, while cobia may be a small component of the fishery off of other states, simply because of their access, it certainly was equally important.

The commission elected to establish a May 1 through August 31 season with a one-fish per person limit, to four-fish per vessel for the charter fleet, inclusively of the captain and mate, and then the same measures for the private boat fishery of four-fish per vessel, and so you had actually a decrease from last year, in terms of the charter boat fishery, where the season didn't end until September 30, but it was still limited to four-fish per vessel, whereas, for the private boat fishery, it's actually, unfortunately, in my mind, and I am not obligated to defend the actions of my commission, but an increase in access for the private boat fishery. I think staff presented the different alternatives that the commission could have considered to try to constrain that private boat harvest, but they elected to keep everything the same, and so that's where we stand for 2017.

One additional thing is I will just note that the motion that the commission made also included a requirement for reporting, stating that all cobia harvested shall be recorded and tagged at a current or future North Carolina citation station location. Length and weight shall be recorded, to help provide a more accurate harvest by number and weight, for future reference.

We are working with the citation stations, and so this is citation being the good kind of citation that you get for a fish of a particular weight or length, and so we're working with the citation stations to do the best that we can to try to implement this. Obviously I think any information that we can capture, in terms of length and weight, is useful information. I think we've tried to explain to our commission that that doesn't mean that this is a replacement for MRIP numbers, but we're just trying to move down the road towards implementing that, and I think most folks tend to be onboard with collecting that information at this point, and so thank you.

MR. HARTIG: Any questions of Michelle? Seeing none, thank you, Michelle. Mel Bell.

MR. BELL: We went to have, have-not, have, and now have-not.

DR. DUVAL: How about love me, love me not, love me, love me not?

MR. BELL: Right. To explain 2017, let me go back to 2016 briefly, where we adjusted our state laws pertaining to cobia last year. What we did last year was established a southern cobia management zone in South Carolina, which is basically from about Edisto Island south. The majority of our cobia fishery historically had been in state waters, and primarily in the southern sounds and rivers, and, as Michelle mentioned earlier, there was a shift. In around 2009 or so, it shifted to a predominantly federal waters fishery.

In part, that was due to what effectively I think was a crash in our population, which was established as a distinct population segment within the cobia on the Atlantic coast, and there were just getting to be fewer and fewer of those fish. They weren't showing up as they had before, and we had documented, over the years, that what they were doing each year, peaking in the month of May, was coming into these sounds and rivers and spawning.

We were basically fishing very heavily on a spawning aggregation for a long time, and I think we suffered the consequences of that eventually, because, in the fishermen's own words, the fish just were gone, and so that is action we took last year, and so, basically, what that southern management zone did was to basically allow that distinct population segment to rebuild. We instituted a catch-and-release only during the month of May, which was the peak of their presence, and so no retention during the month of May in state waters.

Outside of that, throughout the whole year, it's a one-fish per person bag limit, and no more than three people per boat, year-round. North of Edisto Island, basically, we just mirrored the federal regulations, and so it was two-fish per person, and we also -- By state law, South Carolina adopts the federal regulation and so we automatically do that. When the federal season would close or something would change, we would just adopt that automatically, and so that brings us to this year.

In January, the recreational fishery, of course, basically isn't there, and, therefore, in all state waters, we adopt that as well. The other thing is, earlier than 2016, we had already established, in state waters, that cobia was a gamefish and could not be sold, and so that did away with the commercial fishery in state waters several years ago.

Where we are right now, in 2017, is there is no federal waters fishery, and there is no state waters fishery, in terms of recreational. Of course, since the commercial fishery is open in federal waters at the moment, then potentially there could be commercial landings from federal waters into South Carolina, and so those would be the only cobia that could be retained, would be commercial landings. That is where we are.

In terms of what we're doing, we've done a good bit of work with genetics over the years. We are continuing the genetics work, the sampling analysis associated with that, and also we've ramped up some of our tagging programs associated with cobia, and it's certainly preliminary data, and I can't share it, but we've seen some interesting results recently related to some of the tag information, and that will be coming out in due time.

We will continue tagging, and we will continue basically doing any research that we can do, but we're certainly not catching cobia right now, and we don't anticipate any change of state law right now pertaining to cobia. We're just holding what we've got and going through the process here and hoping for good results out of the ASMFC process, but that's where we are.

MR. HARTIG: Thanks, Mel. Are there questions? Michelle.

DR. DUVAL: Not actually a question, but I just realized that I forgot to mention that we also just recently -- We have two studies that were proposed that were funded. One is to add cobia to our state agency tagging program, conventional tagging program, and then also a sonic tagging study by Dr. Jeff Buckel has been funded, and so there will be fin clips collected from that, working with

South Carolina DNR to do that genetic analysis, but also hoping to provide information into the next stock assessment on movement and mortality, and so thank you.

MR. HARTIG: Seeing no more questions, Madam Chairman, it is -- We are at our time for our committee, and what would you like to do?

DR. DUVAL: Since we caught ourselves up a little bit yesterday or the day before, you will have a little extra time tomorrow morning. We will reconvene tomorrow morning at 8:00, and so that's just a change for everybody. We start at 8:00 tomorrow morning, but we are going to get ourselves set up for the public comment session, and so we'll just need about five minutes to do that, and we will reconvene tomorrow morning at 8:00.

(Whereupon, the meeting recessed on March 8, 2017.)

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MARCH 9, 2017

THURSDAY MORNING SESSION

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The Mackerel Cobia Committee of the South Atlantic Fishery Management Council reconvened at the Westin Jekyll Island, Jekyll Island, Georgia, Thursday morning, March 9, 2017, and was called to order by Chairman Ben Hartig.

MR. HARTIG: We're going to bring the Mackerel Committee back to order this morning. The next order of business we have is the Status of Commercial Catches, and that's behind Attachment 3, and I think Mr. DeVictor is going to give us that, if I'm not mistaken.

MR. DEVICTOR: Thank you, Mr. Chairman, and good morning. I am going to go through commercial landings for king mackerel, Spanish mackerel, and cobia. As you know, for king mackerel and Spanish mackerel, the fishing year just ended at the end of February, and so I will give 2016 landings and landings through February of 2017. This is Attachment 3 in your briefing book. That version you have did not have landings by month, because we are looking into confidential data at that time, and we found there were no confidential data, and so what I have on the screen here are set by month, as we normally do.

Just going through king mackerel, these are landings through March 2. If you look at the Northern Zone, 498,308 pounds were landed, and that's 38.6 percent of the quota. Then, in the Southern Zone, just over a million pounds was landed, and that's 41.4 percent. Again, that's landings through March 2.

Moving on to Spanish mackerel, which has the same fishing year as king mackerel, 584,779 pounds were landed for the Northern Zone, and that's 88.2 percent. Then the Southern Zone, about just over 2.5 million pounds, and that's 106 percent of the ACL was reached.

Moving on to cobia, that's a little bit different, because that has a January 1 start date, and so we have landings for 2015 and 2016 and then, so far, for January and February for 2017. As you can see, for 2017, 3,149 pounds of have been reported as being landed. That concludes my report.

MR. DEVICTOR: Thank you, Rick. Any questions of Rick about the commercial landings? Michelle.

DR. DUVAL: Thank you, Mr. Chairman, and thanks, Rick. I did notice that, and I realize that the attachment that we had in our briefing book is a little bit different, but, for Spanish mackerel, the cumulative Northern Zone quota had been listed at 1.2 million pounds as what had been landed, and so that's what went in our briefing book, and I was a little concerned about that, since the Northern Zone quota is 662,000 pounds.

We will get into this a little bit more, and weights are as reported, and I checked in with our staff, just to see what North Carolina's landings of Spanish mackerel had been, and just recall that we report everything in pounds whole weight when we do our report out of pounds, and so we have like around 600,000 pounds whole weight of Spanish mackerel landed. That's just some discrepancy, I guess, in what was included in the attachment that we originally got, and I was just wondering if there was some double-counting or something.

I know that we'll talk about this a little bit more at the end of the agenda, and I know it's a little difficult and that most Spanish mackerel are landed within state waters, and so there is not necessarily the requirement to have the federal dealer permit if you're purchasing fish that have been harvested in state waters, and I would suspect that that's probably the same for some other states as well. Not to put my counterpart from Virginia on the spot, but, Rob, I didn't know if you had a sense of what Virginia's Spanish mackerel harvest is like this year, or for this past fishing year.

MR. O'REILLY: Not at this time. I could find out for you. Mostly lower bay pound net is our harvest.

DR. DUVAL: But you guys see what I am looking at in the original Attachment 3, where it had like 1.2 million pounds for the Northern Zone quota.

MR. DEVICTOR: We're bringing it up now, but we can certainly look into that and try to find out what the reason for the change was. Of course, what we have on the screen right now is more up-to-date landings, and they change, as you know, but we can look into that and get back to you.

DR. DUVAL: Thanks. I appreciate it. It just scared me when I saw that number, and so thank you.

MR. HARTIG: All right. Any more questions for Rick? Seeing none, you're on deck again, Rick, with Status of Amendments Under Formal Review.

MR. DEVICTOR: Okay. Thank you. I have three amendments to report on the status, that are in rulemaking. That's CMP Amendment 26, Framework Amendment 4, which deals with cobia, and Framework Amendment 5.

Starting with CMP Amendment 26, as you know, this responds to SEDAR 38 and sets king mackerel ACLs and the allocations and the stock boundaries. The notice of availability on the amendment published on December 14, and the comment period ended on February 13. The proposed rule published on December 29, and the comment period on that ended on January 30, and so we're working on the final rule right now on Amendment 26.

Moving on to Framework Amendment 4, which sets management measures for cobia, again, the council voted to approve to send it to NMFS at the September council meeting. The proposed rule published on February 21, and the comment period ends on March 23. Finally, Framework Amendment 5, where it removes the restriction where a vessel with a commercial king or Spanish mackerel permit may not possess a bag limit if the commercial season for a zone is closed. The council voted to approve to send that to NMFS at the September meeting. We received the framework amendment from the Gulf of Mexico Council on December 2, and we just published the proposed rule on March 1, and that comment period ends on March 31. That concludes my report of the three amendments.

MR. HARTIG: Thank you, Rick. Any questions for Rick? We appreciate it. The next item of business is Tracking Coastal Migratory Pelagic Landings in a Common Unit, and I am going to start off with Kari, and I think we'll meld into Michelle here pretty quick.

DR. MACLAUHLIN: There is not an attachment for this agenda item, but, in the overview, there is an explanation of the discussion that Michelle had brought up before, and we put together a table in there, that I also have on the screen now. It's page 3 in the overview, if you want to look it up.

What this discussion is about is that CMP stocks are the only managed stocks that are not always managed in a common unit. For Atlantic king mackerel commercial, the ACL tracking is as reported, and that is -- It doesn't specify if it's gutted or whole weight. The stock assessment provided an OFL and ABC in whole weight. The amendment language that set the ACL set it ACL equal to ABC, but without the -- The units for the ACL are not specified. In the CFR, the language is that the ACL is round and eviscerated weight combined. Atlantic king mackerel recreational though, the ACL tracking is in whole weight, and then it's the same with the stock assessment, amendment, and CFR. Spanish mackerel commercial is as reported, and the ACL tracking. Then the Atlantic Spanish mackerel recreational is whole weight. Then Atlantic cobia, commercial and recreational, are all as reported.

Without a common unit for these, especially for the ones, in particular, that are as reported, the landings may not -- We may not have the most accurate number for the landings that year, depending on how much were counted as gutted and how much were counted as whole weight, and so we wanted to bring this up and let you guys have a discussion about if there is a way to track them as whole weight or gutted weight and have a common unit.

DR. DUVAL: This came up at our September meeting last year, when there was a discrepancy in the commercial cobia harvest numbers, and we found out that the mapping of North Carolina commercial landings information into the ACCSP data warehouse -- Basically, ACCSP has one additional field that North Carolina doesn't have, and so our landings reported as whole weight were getting mapped into a different field, and that is the field that the Science Center staff were

pulling from in order to get all of the cobia commercial landings for reporting, and it ended up being the wrong field.

It's a mapping error from one data field to another is what it amounts to, but it ended up with staff, unfortunately, pulling from a different field and using whole weights instead of the as reported weights, but I think this is a confusing thing for -- I think it's a confusing thing for us, and it definitely makes it difficult for the staff at the Science Center to track these things when you're dealing with as reported and that different states may have different means of how they report out their weights.

In North Carolina, whether fish are coming in -- We record the condition of the fish as it's coming in, whether it's gutted or whole, and then we have a conversion factor that we use to convert everything to pounds whole weight, and so, when we are reporting out our final numbers, the way we report out everything is in pounds whole weight, regardless of whether it comes in whole or gutted, and so I just want to have this discussion, because I am also concerned about the fact that we're getting our ABC recommendations in pounds whole weight and where we're setting those ABCs equal to the ACL and then we're using as reported.

I think I am concerned about potential overharvest, I guess, and I know this might be a longer conversation than right here, because these species are managed jointly with the Gulf Council and it might require a cross-council discussion on this, but I think, by recording things as landed just leads to potential for confusion, and it makes the job of the Science Center staff that are trying to track all of these quotas that much more difficult, and so I would just advocate for one or the other, like we do with all the rest of our species, either pounds whole weight or pounds gutted weight. For most of the deepwater species, they come in gutted, and so we track everything in gutted weight. I don't really have a preference, but I just think it should be consistent, and so I don't know what the thoughts are around the table from other folks.

MS. MCCAWLEY: I don't have a preference, but I agree. I think it should be consistent. It is kind of confusing.

MR. HARTIG: Basically, what comes out of the stock assessment is whole weight, correct?

DR. DUVAL: I believe so. The ABCs and the OFLs are in whole weight, and I think that, if it would be the council's preference to set our ACLs in gutted weight that we could do that. We would ask the assessment team to provide that conversion from pounds whole weight to pounds gutted weight based on the information in the stock assessment.

MR. HARTIG: Yes, and I don't have any druthers. Basically, king mackerel are gutted, as far as every one that I have ever seen sold, and Spanish mackerel are whole, and so, making a determination one way or the other which way you want to go, I don't have a problem with that, as long as, like you say, we just use common units and we don't have these problems with staff accessing wrong fields when they're trying to figure out how many pounds of fish were caught.

I would probably go the way that it comes out in the assessment. I would probably lean towards the pounds that come out of the assessment in whole weight and use whole weight across the board for all coastal migratory pelagic species. I mean, the recreational fishery is already in whole

weight. Spanish is already in whole weight for both, and so you would have a little bit of conversion for cobia and for king mackerel, but that would be the only two.

DR. DUVAL: Anybody else? I mean, I recognize that this was a problem sort of special to North Carolina, just because of the data fields that we have in our trip ticket database and how those have mapped into the ACCSP data warehouse, and we've got that straightened out now. It's been identified, thanks to the work of Dave Gloeckner in Bonnie's shop tracking that down, and so we've been able to apply a fix to that, but I just know that, for the Science Center staff, with everything that they're having to track, all of these different ACLs, I think the easier we can make it, the better.

MR. HARTIG: The only question I had with king mackerel is that, if you're tracking it in gutted weight and you're shutting off the ACL at gutted weight, there is poundage left over from the conversion factor from gutted to whole weight, and am I not mistaken? Am I going the wrong way? Is it the other way? Okay. So we would have to take that into consideration.

DR. DUVAL: If your ACL is based on an ABC that is in whole weight, and you are tracking things as landed, and the fish are coming in gutted, then you're getting an extra bump-up there.

MR. HARTIG: Okay.

DR. DUVAL: I don't know what the next step is, in terms of how we would do that. Bonnie is not here right now, but it might be a question for her, in terms of is this just something that the council can express its desire to track landings of these critters in a common unit that might require some conversions on the frontend or the backend? Do we need to modify the regulations? The CFR does say, at the very top of the ACL section, that landings are tracked as reported, and so I am looking over to the Fisheries Service end of the table, and I don't know if Monica or Jack have any thoughts on if we would have to do a framework or something to do that.

DR. MCGOVERN: I think the regulations would have to be changed. I think Monica and I would have to look at what would need to be done, whether it would have to be a framework amendment or something else, what mechanism it would have to be, but I think it also has to be discussed with the Gulf Council, because it's been like this since the 1980s, and so I think it needs to be -- They need to express how they feel about the whole thing as well.

DR. DUVAL: That was why I wanted to have this discussion here and why I brought it up and suggested that I know that this would probably need to come to the Gulf Council as well, but I think we just need to start that conversation.

MR. HARTIG: Would it be appropriate to send a letter to the Gulf Council and the appropriate agencies, the Science Center and to NMFS, asking this is what we want to try and do? I mean, we would like to move in this direction, if possible, based on the complexities of what we would have to do to change it.

DR. DUVAL: I think we could send a letter like that and just note that, even though this is the way we've done things all the time, it does create some difficulties in terms of tracking harvest when things are coming in as landed and making sure that the data are being pulled from the appropriate fields and what would it take to track things in a common unit, and I would expect that

Bonnie's staff at the Science Center might have a few thoughts on what that common unit should be. Again, this would just be to start the conversation, and really the goal is just to make sure that we're getting accurate accounts of harvest, and that's all. It's not to try to cheat anybody out of any pounds or anything like that. Lord knows I don't want to be responsible for that.

MR. HARTIG: No, I understand that, and so, staff, do you have enough information to go ahead and move forward with that?

DR. MACLAUHLIN: Yes, and we will include that in the tasks and timing motion.

MR. HARTIG: Okay. If there isn't any more discussion on that, what's next, the Gulf Council Meeting Report, Kari? I will turn that over to Kari. Leann, chime in any time you would like.

DR. MACLAUHLIN: Attachment 4 is the Gulf Council Meeting Report for their Mackerel Committee, but really the -- They received some projections for their king mackerel, but their SSC had not recommended using those at this time, but then they discussed Amendment 29, which is the Gulf king mackerel quota sharing, and they approved a motion to postpone indefinitely Amendment 29.

MS. BOSARGE: You know that was kind of something that I had put forth, and the council was so sweet, because you know it was in the last amendment that we worked on before that, and, for timing purposes, we couldn't take any action or change our action at that point. Anyway, the council promised that we would look at it again, and we did. We put it in a separate amendment, after we finished the other one, and we took a look at it.

I guess it could have been worse. I mean, we didn't vote it down and send it off and say no, but we did postpone it indefinitely, for the moment. There was just a lot of moving parts. We are going to have these MRIP recalibrations, which, as you all know, that's probably going to increase some of those recreational numbers, and so we don't really know what the wiggle room is.

Having said that, I think we're leaving like four-million pounds in the water, and so we're probably still going to have some wiggle room, but there was just a lot of uncertainty, and there was a lot of hesitation on the recreational side to do that right now, and so we just -- What do you all call it? A marina? We have kind of parked it for the moment, and so that's where we're at on that.

MR. HARTIG: Thanks for that. Any other questions about the Gulf Council report? Seeing none, we will move into the next agenda item, which is Coastal Migratory Pelagic Amendment 29. You have actually heard what the Gulf did with Amendment 29. It was a Gulf-centric amendment, and is there any sentiment on this committee to move forward with Amendment 29? Jessica.

MS. MCCAWLEY: No, I don't want to move forward, but I didn't know if you wanted a motion.

MR. HARTIG: If we had a motion, it would be appropriate.

MS. MCCAWLEY: Is the motion to suspend work on Amendment 29? What is the proper way to say it?

DR. MACLAUHLIN: I think postpone Amendment 29 indefinitely.

MS. MCCAWLEY: Okay. **I move that we postpone Amendment 29 indefinitely.**

MR. HARTIG: Thank you. Second by Chester. Is there any discussion on this, any more discussion? **Is there any objection to this motion? Seeing none, that motion is approved.**

That brings us to the Spring Mackerel Cobia Advisory Panel Meeting. You had an overview of the agenda items that Kari presented, and is there any other thing that the committee would like to see the AP discuss during their meeting? Are you going to go ahead and go through it?

DR. MACLAUHLIN: Yes, and we've been putting these together and getting some input from the Chair and some of the AP members. First of all, you, at recent meetings, had created the Cobia Sub-Panel, and so what we are proposing to do is to bring everybody in, the AP and the sub-panel together. We have a day-and-a-half of time allocated to them, and I have sent out a save-the-date, so everybody can put it on their calendar.

We want to bring everybody in. We have some new folks, and so we wanted to do kind of an orientation for people that it's their first time on an AP and just have everybody together. Even though it won't be specific to cobia, but everybody can comment on everything if they want to at this time, and then we'll decide, at the next meeting, when you would want to bring in all of them together or just the Cobia Sub-Panel, if that sounds okay with everybody.

We have some of just the general amendment status updates, so we can give them updates on landings and things like that, and then the suggestions for cobia would be commercial permit requirements, and that was a suggestion from our Chair, our AP Chair, and then a bag limit reduction for the Florida East Coast, to make it consistent with the Florida state waters bag limit.

For Atlantic Spanish, one item is modifying the minimum gillnet mesh size, limited entry for the federal Spanish commercial permit, which you have considered in Amendment -- I think it was Amendment 19, which turned into 20A, and then maybe an endorsement for Spanish gillnet. That's just things to talk about for them.

Then king mackerel, addressing latent effort permits, which you did discuss for Amendment 20A, and then another suggestion was allowing a limited hook-and-line harvest for king mackerel when Spanish gillnet is onboard, and that's just an idea that one of the AP members brought up. One thing I wanted to get from you is if you have any additional items, specifically for cobia, that you would want the Cobia Sub-Panel to discuss, that you've heard from constituents, or any other topics.

I would love to get, from I think the Cobia Sub-Panel specifically -- We've talked about sort of fishery performance reports, and there has been lots of stakeholder concern about the decisions that were made in SEDAR 28 with boundary line issues, and so I think one thing that might be nice to do is to both inform the sub-panel about some of the ongoing studies that we have that are looking at trying to clarify where that stock boundary is and then also I think if we could get from those folks sort of their perspective on how the fishery performs off of their states and what they're seeing. I think that would be really valuable as we move forward, especially thinking about the stock ID conversations that are going to have to happen in advance of the research track assessment, and so I think having that kind of perspective would be good.

MR. HARTIG: Do you want to have questions beforehand that you want to ask them? They are telling me the webinar is off for the moment. I will get Jessica next, but I will shut up. To the public, we had a webinar glitch, and so we're back online now, so you all can hear us. Jessica.

MS. MCCAWLEY: Those two bullets that we just put up there, can they not be just for that Cobia Sub-Panel? Remember we don't have a person from Florida on the sub-panel, and I think that the discussion of the mixing zone and all of those things -- I was really hoping that that could be discussed by the full AP, since we don't have anybody on the Cobia Sub-Panel.

DR. DUVAL: Aren't they all meeting together? Everybody is in one big meeting, and so I think the whole group would have the benefit of that discussion.

MS. MCCAWLEY: Thanks. I was just unsure whether they were separate meetings or the whole group or what.

DR. MACLAUHLIN: For this first meeting, we're going to just bring everybody together. Everybody can comment on everything, and then we will figure out if you want to do smaller meetings down the road.

DR. DUVAL: Ben had asked if there were some specific questions that I would want to ask, and, yes, I think there are some leading questions that you could ask folks, in order to try to get the information that you want.

I am not sure that my brain is fully equipped to come up with those at this point, but I think things like what types of changes have you seen in the fishery over the past several years, and I know that fishermen from North Carolina have talked to me about like typically the water temperature at which the fish show up and how they show up, with like bigger fish showing up first and then smaller fish coming at the end of the period, but have there been changes in how the distribution of fish showing up has occurred over the past several years and things of that nature.

Are people seeing fewer larger fish, or are they seeing fewer small fish, and are there certain conditions under which they are seeing those types of things? I think that's all important information, but I can certainly spend some time with you and Kari and try to gin up some of those questions. If anybody else on the committee has specific questions that they think would be helpful in that regard, that would be great.

MR. HARTIG: Yes, and I think we ought to send that out to the committee members, at least, and let them comment on it. If they have any other comments -- That way, we can keep everybody in the loop and everybody gets a chance. Go ahead, Bob.

MR. BEAL: Thank you, Mr. Chairman. Just a question on timing. When is the AP getting together? I think the answer to some of these questions would help the ASMFC a whole lot too, and it would sort of help us make sure that we're all working off the same sheet of music here.

DR. MACLAUHLIN: It's April 19 and 20.

DR. DUVAL: So then that information, in terms of feedback, would be available in time to be communicated at the commission's May meeting.

MR. BEAL: Is that appropriate? If it's not reported back to this group before it comes to the commission, is that fine? Will the summary be sort of a public document that we can share with our commissioners before it's reported out to this group? I don't want to get the order messed up and cause some problems.

DR. MACLAUHLIN: Like an AP report? When is the meeting for the commission?

MR. BEAL: The first week in May.

DR. MACLAUHLIN: Yes, we can get that to you.

MR. HARTIG: Great. Anything else on the AP meeting? Go ahead, Wilson.

DR. LANEY: I was just wondering if the AP has been briefed, Kari, on all the genetic work that is going on with cobia? Also, given the discussion yesterday of some of the new tagging work that's going on, I wonder if it would be good to maybe brief them on some of the work that is just starting. I think they would find that of interest.

DR. MACLAUHLIN: They have received, in past years, the South Carolina study and some briefings on that, but we can probably put that under just letting everybody know about the ongoing studies, including the new tagging, some of the newer tagging, and Jeff Buckel's project. Everything that we can find that's going on, we will give them a briefing about.

MR. HARTIG: Yes, and certainly how the stock assessment, the timing of how all that is going to work, will be included, and so we can probably tie some of that together. All right. Mel.

MR. BELL: Kari is right that I think, since the location of the meeting and all is pretty convenient, we can talk to our folks, under just the heading of what's been going on and that sort of thing, some interesting stuff, and so I can reach out to our staff, or you can, just to Mike or whatever, but I think they would be glad to come over and share whatever they can.

MR. HARTIG: That's probably a good idea, with the additional people that are coming for this one. That would be very helpful. All right. Is there any other business to come before the Mackerel Committee? Michelle.

DR. DUVAL: Thank you, Mr. Chairman. I know, and this might be a Monica question, but I know we've talked about this in the past, but we've had stakeholders ask about emergency action and whether or not that might be appropriate for reconsideration of the boundary between the stocks that came out of SEDAR 28 and just looking at the emergency rule policy that the Fisheries Service has put together.

I think one of the questions that has come forward from stakeholders is what might constitute new information that would meet the emergency rule policy, and so that might allow for reconsideration of something like a stock boundary line, and so what meets the standard of new information, I guess? How would that be determined?

MS. SMIT-BRUNELLO: Well, it's really a factual thing that depends on a case-by-case basis, right? I mean, it depends on the facts you have before you for an individual kind of action. I don't know, other than I can read you the kinds of things that the Fisheries Service's emergency guidelines talk about. It's limited to extremely urgent, special circumstances where substantial harm to or disruption of the resource, the fishery, or the community would be caused in the time it would take to allow standard rulemaking procedures.

Also, an emergency action may not be based on an administrative inaction to solve a long-recognized problem. I don't know if this would fall into that, but I can't give you an exact definition of what kind of information rises to the level of an emergency, because, really, that's a factual thing that we discuss based on each individual circumstance that comes up.

In this case, people are asking, as I understand it, whether there is grounds for an emergency action to change the boundary for the two cobia stocks, and so what kind of -- We could just talk about it. What kind of facts do we have before us that would make us think that it rises to the level of an emergency?

DR. DUVAL: I am just asking the question on behalf of stakeholders, and so I think if there are some of these studies that are underway, looking at sonic tagging efforts, that might better inform where that boundary should be -- I think the question is, if we get that information in, would that justify the use of this tool to revisit that boundary designation? I am just asking the question.

MS. SMIT-BRUNELLO: No, I understand, and it's just kind of a hard question to answer, because you're asking me about information we may get in the future that I don't know what it is, and so you kind of build the record for your emergency. Remember that it's supposed to be used for really unique kinds of circumstances in which there is going to be substantial harm if you don't go through the regular course of rulemaking, and so we could certainly look at that information when it comes in and see if it -- We could have a discussion about it and see if it rises to the level where we think it's possible to justify an emergency action.

DR. CRABTREE: I think you would have to look at it in the context of what are the implications. If we had new science that indicated moving the boundary, then what would that mean the ABCs were and what would the implication be to the fishery? If we didn't move quickly, would it cause overfishing of one stock or the other or would it have severe economic impacts on one group or the other?

If you got it and moving the boundary didn't really change the situation all that much, I think you would be hard-pressed to say there's an emergency, but, if you got it and there were some significant implications of moving it, that would be another situation, and so I think you would have to look at it in the context of the bigger picture and what impact it had on the catch levels and all the rest of those.

MR. BELL: I think science should inform us as to where the proper boundary is, and, as the science or the picture improves, that decision can be made at some point. Something to keep in mind about this boundary is that, and looking at the landings for the two years that we have issues, particularly the last year, if the boundary had actually been farther south, all the way to Key West, it wouldn't have made any difference. We still would have closed.

The assumption is that if the boundary is farther south that there is more fish available in the ACL, but people in Florida are catching fish too, and so, when you actually look at the landings, and you say, okay, let's assume that the boundary was all the way to Key West and the ACL was this much bigger, it wouldn't have made any difference. I mean, the numbers that I ran, we would still be in the same situation, is what I'm saying, but it just wouldn't be necessarily quite the excess, but we would still be where we are right now.

Moving the boundary, I think, should be -- The boundary should be in the proper place, based on where the science says is the best place for the boundary, but moving it as a remedy to make what's been happening for a couple of years stop, it wouldn't make any difference. That is not going to fix the problem, if you will.

MR. HARTIG: To that point, Roy?

DR. CRABTREE: I think Mel makes a really good point. To me, if they come back in now and want to move the boundary yet again, then the message to me is going to be the bar is much too low for when we move these boundaries, because we cannot afford to have the boundaries move every couple of years, and so we've got to have a much higher level of certainty about what we're doing before we shift these boundaries around, because it's too disruptive to have these things continually moving around.

MR. BOWEN: Do we have, for lack of a better term, a completion date on the studies that's been going on with the fin clips and the sonic tagging? Do we know when that new science will be updated or completed?

MR. HARTIG: I don't see anybody chiming in that they know, but go ahead, Mel.

MR. BELL: There is different things going on in different places, and so there's not one specific answer. I know, some of the tagging stuff that I mentioned yesterday, I've seen the preliminary data. The data hasn't actually gone through the proper process and been reported back to NOAA and all, but I'm not sure what that date on that is, but that one may be more ready than some things.

Whether it's the genetics work, tagging work, or whether it's work being done in this state or that state, it's the full suite of it, and I think that would be something that we would learn perhaps for the AP, that here is the full suite of what's going on and projected dates for completion, but there is no magic one date for completion of everything, that I know of.

MR. BOWEN: Maybe I should have been more clear. I have actually been involved with some of those tagging studies, and I have some of the preliminary data as well, and that's kind of what I was asking, what kind of completion date.

MR. HAYMANS: I am not necessarily in favor of moving the boundary one way or the other, although, Mel, the opposite is true. If you move it north, there is more people fishing, but, more to the argument of the emergency and the economic harm for the emergency rule, I can't imagine much more of an emergency than two states being completely shut out of the fishery and the economic harm that is placed on those two states because of the action that has occurred. To me, that rises to the height of an emergency action, and so anyway.

MR. O'REILLY: That's part of what I wanted to say as well, that I know that, with blueline tilefish, GARFO was able to enact an emergency action measure, and the reason was stock-related, and so there was, in 2014, with blueline tilefish, a fairly high commercial harvest, and so GARFO did, on the basis of the stock consideration, enact that emergency. Now, whether or not -- How the future of blueline tilefish goes, it's another question, but, with the situation with cobia, Georgia and South Carolina, and even North Carolina and Virginia, are in a situation where, for better or for worse, they are held to MRIP.

MRIP is about to change, in 2018, and so I have some concern about that direction, but also the direction it's taking once all the ACLs and all the stock assessments and everything essentially is thrown into a pretty chaotic situation, once we head into 2018 and after, and the timing that I heard the last meeting here, with the South Atlantic Fishery Management Council, I guess the stock ID workshop has been pushed off, and my understanding, and I would like some clarification at some point, is that, when the stock assessment process is being undertaken, that's when the stock ID information will be looked at as well.

I hope that is still the case. I heard yesterday that it might be 2020 before all the information is available from the stock assessment and the stock ID, and so we're in a holding pattern, all of us, at least for cobia, and I too think the -- Unlike blueline tilefish, here we're in a situation where we have economic considerations, and I know that, in Virginia, some of the thoughts are that this is a year of grace, where, as I mentioned yesterday, perhaps status quo to 2016 is what our commission wants to go forward with.

Perhaps there is a difference. We don't know yet, until March 28, but certainly I think, even though Virginia, if you have looked at 2015 and 2016, has had extraordinary harvests, the like of which haven't happened under the MRIP regime, because, if you go back to 2005 and 2006, that is the MRFSS data that has been calibrated, for lack of a better word, to the MRIP standard.

It does cause a lot of heartburn all around, and I know, at the ASMFC Board Meeting, I stated I'm a little bit uncomfortable sitting here knowing that federal waters have closed, and that is the message that I still want to convey, that it's a very awkward situation that we all need to work out, and maybe three years might be a little bit too much, but that's the way the process is.

I mean, I am fully aware of what it's like, from many meetings, to try and do multiple stock assessments at the drop of a hat. It's just not possible, and so I guess we do wait, but I like what Michelle has asked, and I understand the case-by-case, but I guess there will be more case information, is what I am thinking.

I think what will happen is that some of this tag-based information will become more prevalent. I know VIMS has some more studies going on, and there are other studies, such as Zack has mentioned, and so I think that it's good to hear that, and I think the recreational community may not understand that, that it does take a preponderance of evidence. What the recreational community in Virginia keeps saying is that they're not really certain how this zone changed, because it seems that it's part genetic, part tagging, part management convenience, and that's what we're hearing all the time. Thank you for taking that into account.

For Mel, I know I had a brief conversation with you yesterday, and I am not positive -- If you've looked at the data, that's good. I think 2015 was a low point for east Florida, where they were somewhere in the 330,000 to 360,000 pounds, and probably it would have made a difference, but I agree that it's a question now not of the line, but it's a question of the impacts in 2017 and where they are felt the most, and so thank you very much for the time.

MR. BOWEN: Mr. Chairman, I am prepared to make a motion, if that's okay.

MR. HARTIG: Go ahead.

MR. BOWEN: I would like to make a motion for the emergency rule to be -- I need maybe some help wording this properly. The reasoning for this emergency rule -- I need some help here, but I'm looking for a motion that would try to help Georgia and South Carolina with our economic hardship for the emergency rule, and so I am asking for help around the table, maybe from Doug, because he kind of said it how I would like to say it a while ago, but, Doug, please help me.

MR. HARTIG: Roy wanted to chime in.

DR. CRABTREE: I just have a difficult time right now imaging how there would be an emergency rule. I mean, every analysis we have is that we will exceed the ACL this year, and the reason for that is decisions being made at the state levels, and so I mean what emergency rule? Anything you come up with that says let's open federal waters off of Georgia is going to mean that we exceed the ACL by even more.

MR. BOWEN: Not according to MRIP, because we didn't have any landings last year or the year before.

DR. CRABTREE: Then there's no emergency. If you didn't catch any fish last year, you're not going to catch any fish this year and there's no change, and so what's the emergency? I mean, we know you did catch fish, and so I don't think that argument carries us very far, and it's not clear to me how we could take an emergency action that would cause the ACL overrun to go more.

Now, if we got to a point where we had the ASMFC plan teed-up and ready to go and that's going to bring more equity to the states, maybe we could do an emergency action at the council level to get that implemented more quickly. I don't know. We'll just have to see how that comes out, but, just given where we are right now, I am not sure what we do. We talked about moving the stock boundary, but it's not clear to me what moving the stock boundary would even do, and so it's hard for me to know whether that addresses an emergency or not.

I agree that having Georgia close down is a real problem and that it might create circumstances that would lead to some sort of emergency, but I just can't come up with a remedy that could be done through an emergency rule that doesn't violate a whole host of other parts of the statute, and that's kind of where I'm stuck in figuring out what to do.

MR. BOWEN: I understand that, and I'm just trying to do everything I can for my stakeholders and constituents off my coast. It is a true, true economic hardship for our guys, recreational and for-hire. I mean, it's devastating.

MR. HARTIG: I mean, we've had a number of public comments about this in our document, and Michelle has brought it up. I think what we ought to do is have a white paper on why or why not we can't do an emergency action, and at least inform the public that we've had the discussion at the council meeting and bring in some of the things that you all have discussed here.

Then we could lay out how the numbers won't work for an emergency, based on there is just not enough fish to keep the fishery open, based on the latest numbers we've had, and so I think if we explain to the public at least what they're asking for -- I think that's the least we could do to bring forward -- To at least tell them that we've looked at this and we've heard you and now here is why we may not be able to do it. Michelle.

DR. DUVAL: Thank you, Mr. Chairman. Yes, I like that idea, and so it's the economic concerns, I think which is why stakeholders have brought this forward, and the difference here is that it's sort of a two-part thing. You have a science decision that was made that there is some uncertainty in that science decision, and that is impacting -- That is the root of the economic impact that stakeholders are bringing forward.

I think the issue is having what type of new information there might be in the near-term that would potentially modify that scientific decision and when that's coming forward and how that might play into whether or not an emergency rule to deal with the economic impact could come forward, and I think, as I have thought about this, and harkening back to what Mel said about, okay, if you were to just do some simple math and add together the Atlantic cobia ACL and the Florida East Coast Sub-Zone ACL, and then you add together those landings, which I have done.

I think it was roughly closely to 500,000 pounds over, if you were to add those two together, in 2015, and I think a couple hundred thousand pounds over for 2016, but I think the thing -- What stakeholders have brought forward to me is like, well, if that boundary hadn't been moved and you were still using the three-year average to determine whether or not an overage has occurred, then the overage would have been smaller, because you would have been averaging from 2014 to 2016.

I think the thing in there though is that, whenever we -- This is part of the fishery management plan, part of the plan amendment that came forward in Amendment 18, is that, whenever you get a new stock assessment, that three-year moving average resets. It still would have been -- Even if you hadn't had any boundary change as a result of SEDAR 28, you would have been getting a new stock ACL. Even if it was very similar to what it had been previously, that 1.5 million pounds, you would still be stuck on resetting your three-year moving average with 2015.

I think, as Ben said, that's one of the things that could be explained, and I may be wrong, and I certainly stand to be corrected, but I am just thinking off the top of my head here, but I agree that I think that we owe stakeholders an explanation as to why or why not this could be done.

MR. O'REILLY: I make it a point not to denigrate MRIP, because I understand some of the people who have been working on that for many years and their efforts in moving forward, and it has improved, and there will be a time when everyone is going to be more comfortable with the approach of MRIP.

At the same time, when the Mid-Atlantic Council, in 2013, went forward with a recreational omnibus, I had suggested that we should really look at a low standard deviation, and so one

standard deviation covering 68 percent of the spread around the mean, and take the lower part of that. That was rejected by NOAA at the time, but it's been talked about again at the ASMFC, in both the Black Sea Bass and the Summer Flounder Monitoring Committee and Technical Committees, in earnest, so that they will plan to have a proposal for how to treat the MRIP data and the variability and the type of statistics that can be used.

I think that's one direction that should go forward, and I am hoping that, when that process plays out through the ASMFC, and then eventually, since it's also a joint plan with National Marine Fisheries Service, with the Mid-Atlantic Council, that that also can be something that is thought about elsewhere.

I think we are, like it or not, we are sort of held a little bit by the MRIP data, and that's causing some problems, but I think now the economic impact that we're talking about for Georgia and South Carolina is going to be magnified, once we go forward with the ASMFC, and that's what we're trying to tell the recreational community in Virginia, that -- Just like yesterday, we hear from lots of young people who have invested in the cobia fishery and purchased boats and purchased equipment and started ventures and are so dedicated to it that I really worry once we get into 2018.

I don't think there's a way out, other than ASMFC, at this point, to stay within the standards that have been built by the plan, but, at the same time, I just want everyone to sort of reflect upon the economic and social upheaval that will occur with the cobia fishery. There is no doubt about it.

I am just, off the top of my head, going to say that Virginia may be lucky to have a 250,000-pound allocation, and whether that's done in a season or whether that's done in actual amounts -- That is just rough, and so, when we get to the management board, don't hold me to that, but this is what we're looking forward to.

You're going to back off Virginia from a 900,000 and a 700,000-plus harvest to a pretty parsimonious harvest amount, and it's going to be more for us along the coast, regardless of which council, to really have to cope with, and so I guess, in a way, I do think part of the white paper should focus on what is going to occur in 2018, what has progressed with the ASMFC, and certainly that is a factor here, because I do understand the problems with the projections of being over the ACL, and I do understand that it would be very uncomfortable to say, well, we can just let it go a little bit more, but, at the same time, this is a year in between really two management systems, despite the fact that the South Atlantic Fishery Management Council and SERO will still be involved greatly in the specifications. The ASMFC, next year, will be involved with figuring out how to have fairness and equity, and so thank you very much.

MR. BEAL: I agree that the stock ID and boundary issue has the potential to be classified an emergency. I think the other thing that I talked about briefly yesterday that seems, to me, to be sort of the 800-pound-gorilla-type emergency would be the MRIP numbers. If the 1.4 million pounds that we think was landed in 2016 turns into 2.8 million or four million or whatever, and I don't know.

I haven't seen any preliminary data, and so I'm just making up numbers, but, if we've got 2.8 million, and that's still compared to a 620,000-pound harvest limit until we get our 2020 assessment, then we've got a number of years with a pretty big disconnect between what's going

on in the fishery and what the new harvest numbers are and what the assessment says and everything else, and so I don't know.

Without a new assessment, I am not sure how to reconcile all of those things, but I think that has the potential to turn this on its head as much, or more, probably a lot more, than the border boundary issue that we're trying to sort out, and so we're going to have to think through all of those problems as well.

MR. HARTIG: Zack, and unless anybody else has anything, I am going to wrap this up.

MR. BOWEN: Yes, sir. Thank you for giving me the opportunity to speak, Mr. Chairman. With those last two comments right there, those two statements on the record, if you're a for-hire guy targeting cobia, I do not see how you cannot understand the importance of having our own allocation of fish and getting away from being linked to the recreational sector. To me, that's just more evidence that, once we go to reporting, which can't come soon enough, we need our own allocation of fish, the for-hire sector does, and, with those last two comments, it's just more evident to me. Thank you.

MS. SMIT-BRUNELLO: One thing I would like to do at the next meeting, and I'm assuming this is going to be on the agenda at the next meeting, is bring forward some ideas on, okay, the ASMFC is going forward with this compatible, and I think that's what it's called, or complementary plan, but what does that mean for this council? What do you have to do, if anything, for your FMPs to embrace that plan, if you will? I thought that we would bring that at the next meeting, because you probably will have to work on some sort of amendment. I don't know what it would be, if it would be a framework or a plan amendment or what, but we need to get that going too, and so I will bring that forward at the next meeting.

MR. HARTIG: I appreciate that, because it would be horrible to get to that point and to go, oh, you have to have another amendment to get this done, and so thank you. All right. Is there any other business to come before the Mackerel Committee? Seeing none, we are adjourned.

(Whereupon, the meeting adjourned on March 9, 2017.)

Certified By: _____ Date: _____

Transcribed By:
Amanda Thomas
April 3, 2017

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