

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
SOUTH ATLANTIC STATE/FEDERAL FISHERIES
MANAGEMENT BOARD**

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Alexandria, Virginia
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4. **Adjourn by Consent** (Page 11).

ATTENDANCE

Board Members

Tom McCloy, NJ, proxy for D. Chanda (AA)	Bill Cole, NC (GA)
Roy Miller, DE, proxy for P. Emory (AA)	John Frampton, SC (AA)
Bernie Pankowski, DE, proxy for Sen. Venables (LA)	Robert H. Boyles, Jr., SC (LA)
Tom O'Connell, MD (AA)	Spud Woodward, GA (AA)
Catherine Davenport, VA (GA)	Jessica McCawley, FL (AA)
Jack Travelstead, VA, proxy for S. Bowman (AA)	Bob Sadler, NMFS
Louis Daniel, NC (AA)	Wilson Laney, USFWS
Mike Johnson, NC, proxy for Rep. Wainwright (LA)	John Carmichael, SAFMC
	A.C. Carpenter

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Bill Windley, South Atl. Species Adv. Panel Chair
Joe Grist, Spot Plan Review Team

Staff

Vince O'Shea
Bob Beal

Nichola Meserve
Chris Vonderweidt

Guests

Gil Ewing, NJ

*Additional members of the public were in attendance but not recorded.

CALL TO ORDER

CHAIRMAN ROBERT H. BOYLES, JR.: Good morning, everyone. My name is Robert Boyles. I'm Chair of the South Atlantic State-Federal Fisheries Management Board. I would like to call this meeting to order.

APPROVAL OF AGENDA

CHAIRMAN ROBERT H. BOYLES, JR.: The first item on the agenda is seeking board consent on the agenda. The agenda was mailed out in the briefing book. Are there additions or changes to the agenda? Seeing none, the agenda will stand approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN ROBERT H. BOYLES, JR.: We also need to approve the proceedings from our last meeting on October 23, 2008, in Rehoboth. Those also were included on your briefing CD. Any changes to those minutes? Seeing none, is there any objection to approving those minutes as submitted? Seeing none, those minutes are approved.

PUBLIC COMMENT

CHAIRMAN ROBERT H. BOYLES, JR.: Next we have an item on the agenda for public comment for those members of the public who wish to speak on issues that are not on the agenda. I'm not aware of anyone who has expressed interest in making comments at this time. Okay, so we will move on down.

ELECTION OF VICE-CHAIR

CHAIRMAN ROBERT H. BOYLES, JR.: Next we have a vacancy as vice-chair. Bill Sharp from the Florida Fish and Wildlife Commission has moved on down to other avenues with the commission. By the way, Jessica, we welcome you here to your first South Atlantic Board Meeting. We do have a vacancy for vice-chair; is there a nomination?

MR. SPUD WOODWARD: I would like to nominate Dr. Louis Daniel from North Carolina.

MR. JOHN F. FRAMPTON: Mr. Chairman, I will second it and ask for it to be closed.

CHAIRMAN BOYLES: We've had a nomination, a second and a move to close the nominations. Dr. Daniel, is there any objection to closing that? Seeing that, Dr. Daniel is approved as vice-chair by acclamation. Louis, congratulations. Next we're

going to go right into – Joe Grist is going to give us the lowdown on the Spot Plan Review Team report.

SPOT PLAN REVIEW TEAM REPORT

MR. JOE GRIST: This is my annual visit up here for spot. Well, the plan review team has done another annual review, looking at data availability and such. We have what some may call a lengthy presentation, but we're going to go through it fairly quickly, just updates on where we are with the different data and indices that we have for this fishery.

We will give you some fishery-dependent data by sector, some of the harvest information, lengths and discard information, and, of course, independent data that we have available, such as the VIMS Trawl Surveys.

We have commercial data available in the Spot Fishery from NOAA from the 1950s. We have effort data from seven states from the nineties; harvest length-and-age data from the early nineties; discard data; observer program data from '94; a North Carolina Shrimp Trawl Characterization Study from '07, but we don't have much in the discard age data; in fact, none that I'm aware of.

Recreationally, of course, we have MRFSS; that being said, their harvest and effort data; discards from MRFSS and from two limited state programs; discard lengths from one state program. We have no discard age data, either, for the recreational.

From the independent data, we have 22 surveys that do catch spot. Young-of-year indices: there are ten available to us; additionally, maybe two others that we need to look into. Adult indices: there are eight available to the PRT; possibly another two available that we need to look at. For lengths, almost all the surveys collect length data for us. Additional data is also likely available from some other sources that the PDT wants to look at. For age, we have four surveys that are providing us age data.

The commercial landings, the biological data are on par with other species that have already been assessed, but, of course, we have limited discard data, which is not unheard of for many of the species we deal with. Recreationally, comparable to other species that rely on MRFSS, it is the same, so that is nothing new there; limited discard data again from MRFSS. Our indices—numbers, time series, distribution, biological data—all appear adequate for assessment purposes if we ever go down that road, but further review would be necessary as far as what

is a representative sample, so this is something we definitely will be wanting to work on. Life history data has not been reviewed and is likely the limiting factor toward an assessment at this time. A recommendation would be for a report on life histories the next year if the board wants more detailed review possibly at a data workshop.

For stock monitoring, we have reports from Maryland, Virginia, North Carolina and South Carolina and additional indices from New Jersey and Delaware that we will provide to you today. For fishery dependent we have commercial harvest effort and CPUE and recreational harvest and effort and CPUE, also. Independently we have young-of-the-year and adult indices.

Let's walk right through these. A lot of these you have seen each year in the last two or three that I have been here. I am going to walk through them fairly quickly and give you the most recent updates we are seeing. Of course, the overall trend we were seeing up until a few years was declining trends in harvest indices for many of the states.

For Maryland, in their inshore pound net, we did see a bit of an upturn in the actual catch. In 2008 the effort was down a bit. Their CPUE was actually up for 2008. In '08 we will see some good trends in certain indices and certain harvest information. Their inshore gill net, though, was down both in catch – CPUE was kind of holding steady, but their actual catch was down.

Of course, '07 was an interesting year for Maryland and Virginia. We used to have very high catches for spot at that time, especially in our gill net fisheries. The Virginia inshore gill net, '07 again has a bit of a peak there despite the declining trends we saw from '04; and actually without '07, there is still a declining trend through '08, but there was a peak in '07. The PDT discussed this as possibly it was just an availability issue, but we're not quite sure how that matches out with the overall trend to decline that we've seen.

Our CPUEs for the gill net have been holding pretty steady, though, for Virginia. Our Haul Seine Fishery has been a bit interesting for Virginia; a big spike in 2007; and again in '08 it was still up against the average. One of the things we have noticed with our Haul Seine Fishery, we do have a Beach Seine Fishery, but it does not characterize separately from haul seine, so we have haul seiners who will go out and basically setting a beach seine.

It falls under the same category in Virginia, and that activity has been definitely on the upturn the last two years; people trying to put more and more beach seines out in the fall. That is probably adding into this now some change in that fishery that we haven't seen in the past. Haul seiners themselves haven't been doing as much work, but the beach seine portion of that fishery has definitely been on the upturn.

The North Carolina Long Haul Fishery is fairly steady. The harvest has been declining and the CPUE has also been on the decline, so we haven't seen a lot of change there. Their inshore gill net for North Carolina, we were seeing the drop through '07 but a little bit of an upturn in '08 on the harvest. CPUE has been on a slight decline, but it is still on the decline. The ocean gill net is also similar. The harvest has been down and their CPUE has been on a downward trend.

Recreationally in Maryland, MRFSS all over the place may be the best way to characterize that, but very variable data up and down. The last two years in Maryland we have seen basically the trend has been going upward with harvest even though in '08 it was down. CPUE is the same. For Virginia, again variable harvest, but a bit of an upturn in harvest from the MRFSS Survey and through the CPUE that we are provided by MRFSS. So, expect for '08 again, just as in Maryland, we see it drop back down for Virginia in MRFSS.

For North Carolina, '08 again drops down, very variable, upward trends, but '08 was a decline. For South Carolina, very variable again, but for '07 and for '08 we saw the harvest go up. The CPUE did drop in '08 for South Carolina. For commercial, the pound net catch-at-age data, the Maryland pound net has been primarily – watch the decline in the numbers harvested, but the '07 data, which was all that was available for this, a huge peak came through in the pound net data.

Again, we're not quite sure on this, if it was an availability issue what happened in '07, but, boy, it jumped off the chart versus all the other years. For Virginia, not as indicative, but '07 does stand out. For '07 here these peaks for age two and also for age one again stood out. We also had a similar peak that we had noticed back around the '04-05 period.

We're not quite sure what to discern out of this. We are seeing five and six year olds in the past in Virginia; though in the last two years we haven't seen them. For North Carolina, you know, we saw the downward trends in the catch-at-age also, but in more

recent years has picked up a bit in age ones. The age twos have been coming down. The age threes seem to have been picking up a little bit, but overall not a lot of change here.

For pound net length at age, we will have a series of length-at-age data we will provide. Again, downward trends we have seen by age for many of the years such as age two and age three. Age fours have been fairly steady and fives kind of drop out. They did see some sixes back in '05, but just as with Virginia we haven't seen the fives and the sixes in the last two years. The gill net trends; fairly steady with gill net for Virginia; not as much of a drop-off as we have seen with other gears.

The pound net, the same thing. We did see some declines in age ones, twos and threes, but again when '08 came in, it came back up for the '08. '07 had been the year that we were seeing it, but the pound net in Virginia it seemed like the '08 catch-at-data has popped back up a bit, so that was a good sign the committee saw.

Our haul seine data, though, has been a downward trend for ones, a little bit for twos and threes, especially; much smaller sizes that we're seeing at age three and age two. The weight at age, similar patterns – pound net for Maryland; downward trends, age two, age one, age three with a mixed bag for fours and fives.

For Virginia gill net, again you can discern downward trends for age twos and threes with the little upturns we see. This may be also a sampling anomaly. This is something we're trying to get back and look at to make sure some mistake hasn't come up in the data. The same thing with our pound net data; weight at age has been downward trends except for the most recent year in '08, which it is a bit puzzling to the committee on this.

Again, we don't know if this is an anomaly in the data; we don't know if it is something else, but all of a sudden we saw a big increase for '08. But our haul seine weight at age doesn't discern that same uptick. The haul seine stays downward trends age twos and age threes on the weight at age.

For independent indices, for Delaware we have Young-of-Year Indices; fairly variable but in more recent years, which has been the concern, after the late nineties, early 2000 period, where we saw it really on the bottom. We have seen an upturn toward '08. The Chesapeake Bay Young-of-Year Indices, again we had seen it on the decline overall, but in

more recent years we have seen an upturn. '08 again has an upturn in those surveys.

Again for the coastal bays in Maryland, an upturn toward '08 versus the more recent years where we saw it stay at more lower levels. This is the rivers' index for Virginia and we have seen it bottom out, but even then again an upturn toward '08. It is not a great upturn but still we have seen somewhat of a positive sign here.

The same thing is repeated in North Carolina Young-of-Year Index. The South Carolina Young-of-the-Year Index doesn't really match up as well as some of the other states, but still they have seen definitely an upturn in their electroshock survey. Up in New Jersey, their aggregate indexes, they have been fairly down over the time period; similar to the indices we saw in Virginia, but in more recent years again they have seen an upturn in these indices.

Delaware, similar, there had been a downturn through '04 and then all of a sudden from about '05 on they have seen it come back up. The North Carolina Adult Index continues to decline. This is the Pamlico Sound Inshore Gill Net Survey, so that is definitely still on the decline as the adult index.

South Carolina has the Trammel Net Survey. They have been on the upturn, so another mixed message. SEAMAP Aggregated Indices, I just threw them all in here together; overall, except for some peaks from the North Carolina CPUE, the trends have been variable but steady; no great decline and no great increase for this from SEAMAP.

Some of the conclusions from the PRT; in recent years we have come before you and we have been talking about declining indices, but we're definitely seeing some increases in '07 and '08. The thing is we're not confident whether they're going to continue increasing or if we're going to see a decline yet. We definitely have mixed feelings about what is happening with the spot.

We have definitely a concern because this is a short-lived species. We get it up to age six but usually we see it max out at age four. The abundance for the species could change rapidly. The PRT is recommending another year of reporting in 2010, so basically we will come back again next May. We will also update all life history information on the spot. That is something that needs to be done, so we will work on that over the next year.

If we see an improvement in the next year, when we come back next May, our suggestion would be then to slow down on the reporting and come back every two to three years and just continue monitoring. However, if we see a decline, the PRT definitely is leaning toward an assessment recommendation. That's all we have for you today on the PRT Report.

CHAIRMAN BOYLES: Joe, thanks for that. Any questions for Joe on the report. John.

MR. JOHN CARMICHAEL: What might the PRT consider evidence of the condition declining? You have shown weights at age, lengths at age, some downward trends and a huge variability in the indices, and I'm sort of wondering what they might think would be the metric that might convince them that it's time to call for an assessment.

MR. GRIST: The concern from the PRT – the largest concern has been from the indices from the heart of the population such as Virginia where we saw the declines through the nineties into early 2000. We have seen a bit of an uptick, but watching that one, the independent indices, if we see it drop back off again and this uptick that we have seen recently is just a short-lived event, the committee is definitely leaning more toward doing an assessment.

We know the haul seine has been a very good indicator to us coming down. That anomaly that came up with the pound net catches where all of a sudden in '08 we see it back up on the weights and the lengths at age, we want to look into that further. We're not ruling out there could be a data mistake in there.

We've gone through it pretty thoroughly, but again if goes back to the indices and the indices – the long-standing indices that had that downward trend for so long at rock bottom, and it reminded so many people from North Carolina and Virginia, especially, of the River Herring Fishery in North Carolina, and the pattern, if we see it drop back down we're going to probably be asking more for an assessment and not wait any longer. But if it comes up again in another year, take a two- to three-year wait, and keep monitoring.

CHAIRMAN BOYLES: Any other questions for Joe or comments. We've got a recommendation from the PRT that we continue to do this monitoring. Is there consensus among the board to continue that? I'm seeing heads nodding. Louis.

DR. LOUIS DANIEL: I wasn't going to bring this up but I will. Joe, the aging, one of the things I'm probably forced to do, which is probably consistent with a lot of the board members around the table, is we're getting some pretty significant budget cut requests. One of the issues was the spot aging that was put up on the table.

How critical is it that we continue the aging part of this monitoring? Would it be your intent to do an age-based assessment; could we do a length-based assessment? My concern is we're seeing a lot of declining effort in the commercial fishery. I think you're right with the short longevity. I don't know what we're going to do if we do an assessment and find a problem.

I mean I'm kind of concerned there, but anywhere I can cut costs – and one of the suggestions was spot aging. We spend a lot of money each year buying and processing, and I just lost my spot biologist who cannot be replaced because of budget cuts. If we could sort of pare down what is critical; and if the aging is critical, we will continue doing it, but I just wanted to get some cover if it is.

MR. GRIST: The committee itself hasn't talked about which direction they would want to go, whether it be age-based or length-based. It's the old cart before the horse analogy basically. We don't want to get too far ahead of ourselves and start picking the assessment model until we're really sure what we have got.

Dr. Daniel, I definitely understand what you're saying about the aging lab issue you're having from our perspective, too, in Virginia. Our recommendation, being fairly confident to speak for the committee, would be to at least do this one more year and then make the decision next year, but that is an issue I definitely will bring back up through Nichola to the committee and starting talking about if we're leaning toward doing an age-based or a length-based. I would like to at least run that back through and talk about it further before I make something definitive today.

MR. CARMICHAEL: It seems at some level like you're almost going to have to get into doing and exploring assessment models to decide what is the way you're going to do and whether or not you can use a production model or can you rely on a measure that comes out of the surveys or you have to do a catch-at-age model and then figure out what kind of monitoring is actually necessary.

I was kind of surprised that the life history is one of the things lacking because I do recall hearing there is an awful lot of spot age structures collected and a lot of aging effort that goes into that. Certainly in the situation facing the states trying to cut out some things where you're collecting a lot of ages but not seeing any age models come out of it, you have to wonder. And as a short-lived species, is an age model going to be appropriate.

The committee might need to think about getting into evaluating formally the assessment options before them and trying to decide, you know, can those core surveys provide an adequate indicator of this stock?

If so, you could reduce the monitoring overall and then decide what the appropriate sampling levels are; you know, can you aggregate age samples across states; can you use an age-length key as opposed to random aging; can you determine how many ages states actually need to collect. Even if they have to keep collecting ages, they might be able to cut back some. Maybe they're ready to go to the next step and start dealing with some of this to let the states know what they really need to monitor.

MR. GRIST: All good points. On life history, the key there is that it just hasn't been compiled more than anything. There is a lot of data out there but it hasn't been compiled by the committee yet. They felt because we're getting to this critical point on this decision, that we needed to go and put it together.

If we do put this off next year and say we're just going to monitor, well, we will have it all together for the future, but if then we go and say we want to get started on an assessment, basically we're going to be ready to go. We're going to just do all the pre-work ahead of time, but, no, not to say there isn't a lot of life history data.

It's pretty much that we just need to get it all compiled in the one place, which we haven't done yet. We've been serving just as the PRT, which has been somewhat limited. We're not a true technical committee, but in one sense we also have been serving as a mini technical committee on this. So we're definitely pushing our bounds a little bit.

CHAIRMAN BOYLES: Any other discussion? All right, seeing none, Joe, thank you for the great presentation. Let's move on now to talk about Spanish mackerel. Nichola has got a presentation for us.

SPANISH MACKEREL AMENDMENT

MS. NICHOLA MESERVE: I'm going to provide an overview of a Draft Public Information Document that was prepared by the Spanish Mackerel Plan Development Team. The board approved initiating an amendment to the FMP in October of last year. This was based on some recommendations from the PRT in the Annual FMP Review that suggested having some type of mechanism to independently affirm state adoption of regulations consistent with those in federal waters. The PRT also recommended that there be de minimis criteria in place.

Following that meeting, nominations were solicited for a plan development team. Those were Randy Gregory, Pearse Webster, Aaron Podey and Gregg Waugh. The board should consider approving this plan development team, and I could pause for a moment to do that or carry on.

CHAIRMAN BOYLES: You've got the nominations there for the Plan Development Team. Is there a motion to approve those? Spud.

MR. WOODWARD: **Move to approve Randy Gregory, North Carolina DENR; Pearse Webster, South Carolina DNR; Aaron Podey, Florida FWCC; Gregg Waugh, SAFMC to the Spanish Mackerel PDT.**

CHAIRMAN BOYLES: Seconded by Bill Cole. Any discussion? Any objection to that motion? **Seeing none, that motion is approved.** Go ahead, Nichola.

MS. MESERVE: The PDT did get together earlier this year to begin discussion of a timeline for this amendment, and there is a table in the document which was available in your briefing materials that provides the timeline that the PDT discussed. Basically, the most optimistic view would be to have an amendment prepared by May 2010.

That would include approval of the Public Information Document today followed by hearings, a review of the public comments in August, a Draft Amendment being prepared for public comment and approved in November, review of the public comment in February of next year and then final approval in May of 2010.

As I said, though, this is a pretty optimistic timeline for two reasons; first, because it is unlikely that the board is going to meet at each of those meetings; and second, the Action Plan for 2009, which was

approved in October, did not include funds for developing this amendment, so it is somewhat contingent on finances. That being said, the PDT did get together and worked on the Public Information Document to provide something to you today to see if we could not start off on the timeline.

The purpose of the Public Information Document is to inform the public of the Commission's intent to develop an amendment and to solicit comment on issues that the board has identified for the amendment and also collect information on any other issues that the public might want to see in the amendment.

It provides some background information on why the action is being proposed, what actions have already been taken such as putting the PDT together, what the amendment development process includes. It also provides background on the management, resource, fishery, and stock status of Spanish mackerel. Perhaps most importantly, the PID includes the issues that were identified by the board and then also asks questions to help focus the public comment.

The PDT identified four issues to include in the Public Information Document. For each of those there is a bit of background information and then those questions, as I said. The first issue identified by the PDT is compliance. The current FMP for Spanish mackerel includes only recommended measures and essentially assumed that states would be willing to adopt the recommended measures because it would provide for consistency between state and federal waters.

The board also helped out with identifying which of those regulations the states would need to implement in order to be consistent with what is in the EEZ and suggested that is what would be required for compliance if there were compliance measures in the plan. Essentially the system has largely worked with the states choosing to implement regulations consistent with those in federal waters.

The problem identified by the PDT is that there is no guarantee that this would continue to be the case in the future. Under the Atlantic Coastal Fisheries Cooperative Management Act, the Commission could now adopt an amendment to the plan which could have compliance measures for the states.

The questions included in the document to draw public comment are: should states be required to implement the management measures in the Interstate FMP, meaning should the measures be mandatory

and enforceable? Second, are there additional management measures that should be mandatory for the protection of the resource or should there be fewer management measures. The second question is a bit more general; again, to help draw out any other comment from the public.

The second issue identified by the PDT is federal consistency. One of the objectives in the Interstate FMP is to achieve compatible management of Atlantic Group Spanish Mackerel throughout its range, so between state waters and also between federal and state waters. As such, the FMP recommended measures that were consistent with the 1990 version of the South Atlantic Council's Coastal Migratory Pelagic Resources FMP. 1990 was the year that our Interstate FMP was adopted, so it suggested measures consistent with Amendment 5 to the Federal FMP.

It also established a mechanism so as to track the changes in the Federal FMP. This involves an annual review of both the Interstate and the Federal FMP by the plan review team, and the PRT could then recommend to the board that it recommend to the states measures for consistency. As I said, however, the states have generally chosen to adopt consistent regulations, so there have been few recommendations from the plan review team for the states, and there have been no revisions to the FMP at this time.

One thing that the PID does point out is that some changes to the Federal Plan are expected in the future. The Mid-Atlantic, South Atlantic and Gulf of Mexico Councils are working on a joint amendment to the Coastal Migratory Pelagics FMP. This is Amendment 18. It will be responding to assessments for Spanish mackerel and king mackerel through the SEDAR process, SEDARs 16 and 17, and also to new requirements under the Magnuson-Stevens Reauthorization Act.

The South Atlantic Council has identified actions which might be included in this joint amendment, which would be setting annual catch limits, annual catch targets, accountability measures, recreational and commercial allocations, and also regulations to limit total mortality to the annual catch target.

Those regulations could include commercial quotas, recreational allocations, trip limits, vessel limits, size limits, bag limits, closed areas, closed seasons, the fishing year, and permit endorsements. The SSC is expected to provide recommendations on the annual catch limit and target in either June or December of this year.

The Council already has a scoping document put together, and the Gulf Council is working on a scoping document for this amendment as well currently. The expected completion date is 2010 for this amendment.

The stock status that is being responded to in the amendment for Spanish mackerel, as I said, came from SEDAR 17. First, it was accepted as the best available science for the Spanish Mackerel Resource and found that Spanish mackerel was not experiencing overfishing. However, none of the annual F estimates were accepted nor was the overfished status determined because no biomass estimates were accepted. There was some uncertainty in the input data and model assumptions, and this led to these conclusions on the stock status.

However, some of the fishery-dependent data does indicate that there is an increasing biomass trend, except for the last couple of years, and that the current fishing mortality does not seem to be inhibiting stock growth. Although the point estimates for fishing mortality and biomass were not accepted, some of the trends of those compared to their benchmarks do provide some information.

This chart is for the overfishing ratio, and it shows that F increased from the 1970s through about 1991 and then declined, and consequently this trend in biomass was declining but then has increased in recent years. Again, this information is provided to tell the public that if the amendment was to address federal consistency, that there are some changes expected in the Federal Plan.

The questions asked in the Public Information Document are whether the current system of using the PRT to get annual recommendations on measures that need to be changed is working satisfactorily or if it would be better to have a mechanism to ensure state adoption of federal measures as recommended by the PRT. It also asks should the Interstate FMP continue to track the Federal FMP or should the FMP provide more flexibility in the future regarding regulations in state waters.

The third issue identified by the Plan Development Team was alignment with commission standards and procedures. Since the adoption of the Spanish Mackerel FMP, the Commission has adopted an Interstate Fishery Management Program Charter, which includes standards for the contents of fishery management plans, and the Spanish Mackerel Plan

does not align with those standards. For example, no de minimis criteria are included.

The PRT has also discussed this and recommended that there be a de minimis exception in regards to the commercial trip limits and landings limit if a state's commercial landings were less than 5 percent of the target commercial total, which currently is 3.87 million pounds. The questions asked in the document are should de minimis criteria defined and adopted that would exempt some states from specific management requirements.

Below what level of harvest should a state be permitted to request de minimis status? Should de minimis criteria developed in relation to only the commercial management measures or recreational measures as well? Also, should states be permitted to submit proposals for alternative management that is conservationally equivalent to the management program in the Interstate FMP?

Lastly, there is another issue. Essentially the public is encouraged to submit comments on any other issues that they would like to see in an amendment for Spanish mackerel. Are there any questions about the Public Information Document?

DR. DANIEL: Maybe for Nichola and maybe John Carmichael as well, if you go back to the slides with the stock status, I realize that they didn't accept the point estimates or the annual estimates of F, but it looks to me like there has just been a couple of years where you weren't overfishing, but you're clearly overfished based on the biomass estimates.

Is there concern here that the South Atlantic may need to deal with this issue and do something on Spanish mackerel I don't know the answer to that, but if the biomass is only half of Bmsy, I know the Regional Administrator down there wouldn't look at that too favorably.

Then one other point, Mr. Chairman, is on the permit issues. The South Atlantic requires a Spanish mackerel permit for commercial fishermen. We have never done that in state waters in North Carolina because virtually every commercial fisherman in the state of North Carolina interacts with Spanish mackerel. If we required a permit, you know, you're talking about every little gill net operation and every pound net operation and every single commercial fishing operation would have to have a Spanish mackerel permit. I would want to have that exemption. I wouldn't want the plan to require

permits for all commercial fishermen in state waters if we complement the South Atlantic Plan.

MR. CARMICHAEL: At this point the Council hasn't really dug into Spanish mackerel yet. They expect to do it when they do the Comprehensive ACL Amendment and again when they deal with mackerel because there is a potential mackerel amendment to be coming which could be expanded to cover the whole Coastal Migratory Pelagic Unit including Spanish.

The overfished status in the estimates of biomass was fairly uncertain and the reviewers didn't use it. While some of the indications were that potentially it was overfished, they didn't put a lot of confidence in those estimates, and I think part of it is there is not a lot of confidence in what the actual threshold level should be. There is some indication of it but not enough that the SSC suggested overfished was a concern, so we will have to wait and see how it plays out.

MR. A.C. CARPENTER: My question deals with the de minimis threshold. It seems that it is covered in a number of plans and there is a range of percentages, but it seems to me 5 percent is kind of high. Can we compare that to what is in most other plans? I think it is either 1 or 2 percent in most other plans, and is there a particular reason that 5 percent was picked for this one?

MS. MESERVE: With croaker and some other species it is 1 or 2 percent. Red drum doesn't have a specific percentage for de minimis. This recommendation from the PRT has actually been in the document since before I started working for the commission, so I'm not a hundred percent sure why 5 percent was selected. Other options could be fleshed out in an amendment if it were to be initiated.

CHAIRMAN BOYLES: Any other comments or discussion? Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Mr. Chairman, from a process standpoint, building or going through the amendment process is resource intensive both from the staff as well as holding the hearings and all of that. I would suggest that our history or our experience has been that when we have a strong problem statement up front in the amendment, I think at the end of that process we come out with a strong amendment.

Now, Nichola has outlined four issues up here that we have gotten from the PDT, but I would suggest

that the board, in going through this, look at the input that we get from the public and ask themselves are these all the problems that we need to address. She has alluded to why are we doing this, but at the end of the day I think we ought to have a clear understanding of what it is we're trying to solve with this amendment. I think you'd get a stronger end result amendment out of that. It's not to get that problem statement today, but I think that ought to be the first step the next time we come back together again.

CHAIRMAN BOYLES: Good suggestions, Vince, I agree. Other comments from the board? Louis.

DR. DANIEL: Well, Vince just made a point that we might want to consider. I think we're the only board that has plans that aren't ACFCMA compliant. I think that's true. We're not proposing to take any action in this amendment, I don't believe. It is just to complement the South Atlantic's plan.

Would it be cost-effective, would it be reasonable, to do sort of a blanket amendment to bring all of our South Atlantic Board plans into compliance with ACFCMA and just have that be the issue statement; speckled trout, spot, Spanish mackerel, any other plans that we have under our purview that are not ACFCMA compliant – no rule changes. All we're doing is bringing these plans into compliance. It may be a dumb idea but it might work.

CHAIRMAN BOYLES: Other comments or questions? Louis raises a good one.

DR. DANIEL: I didn't mean to stump anybody.

MR. ROBERT E. BEAL: Obviously, the board has the ability to develop an omnibus or amendment to bring all the South Atlantic species up to speed with the ACFCMA standards. The one unique thing to Spanish mackerel is that it is complementary to the South Atlantic Council.

I think you're trying to achieve a few different things to bring it up to speed with ACFCMA and develop the ability to stay complementary to the South Atlantic Council, especially in consideration of ACLs and AMs and everything the South Atlantic Council is going to have to go through.

I think if this board wants to go down that road, we can accomplish all those things for Spanish mackerel in one omnibus amendment to deal with spot and spotted trout and everything else if that is the way this group wants to go. I think we would have to – if

the board wants to go that way, you probably should not approve this PID today, roll all the other species into this document and then come back at a later meeting and consider that for approval for public comment.

Again, as Nichola said, there is not a whole lot of resources set aside to do this either way we're going, with the Spanish mackerel or with a multispecies amendment. At this point if it is just drafting a PID that rolls in the other species, financially it is probably not a big resource drain. The folks that are up on the screen are the folks that are going to have to work the Spanish mackerel part of it anyway. We may need to consider rounding out that group if the other species are going to be rolled in so that there is some expertise on the other species as well. It can be done if that is the course this board chooses to go.

DR. DANIEL: The more I think about it, the more I think it might be a good idea because it also might set the stage if we need to do something on spot. It may end up being cost effective if we put in various addendum options that we may not need to do a whole lot with spot if we don't need an amendment, but we might save a lot of time and effort. We have got a Multispecies Advisory Panel now. I don't know; I think it might be a good route to take and actually save us time and money down the road .

DR. WILSON LANEY: To Louis' point, I was going to ask if there was any efficiency to be gained given that the Council is going to be holding public hearings on Amendment 18 for Spanish mackerel, the changes in there. Since it is the only joint species, I was wondering if ASMFC and the council could hold joint public hearings on that and maybe gain some economy that way.

Louis's suggestion for putting the other four species in there makes a whole lot of sense to me. I don't know how you would work that public hearings' wise because those four species are not joint; right, they're just ASMFC species, but you could still hold public hearings together and maybe save some dollars that way.

CHAIRMAN BOYLES: John, do you know what the schedule is for the South Atlantic Council's road show; are we looking at doing something in August, prior to the September council meeting; do you know?

MR. CARMICHAEL: Not in August; there was talk about doing hearings in September, but I believe they're going to be focused towards snapper grouper

actions. I think the ones for mackerel are farther out. ASMFC may find it a little more economical, when all things are considered, to go ahead and do public hearings on their own and not get too tangled up with the Council, which is a bit more cumbersome process at times. If the timing worked out for mackerel, it might help to maybe have an ASMFC staff person there.

CHAIRMAN BOYLES: What is the board's pleasure? Spud.

MR. WOODWARD: Well, just from my perspective, I don't really have enough information to really say right now. I mean, if it is not an onerous burden on the staff, I think this would warrant staff looking into this thoroughly, sort of thinking it through and maybe even doing something like a white paper on it just to give us context of what we're talking about doing because obviously I'm scared of unintended consequences.

I want to make sure that we think this through. I don't have any problem with postponing approving the PID until a later meeting unless we're going to run into some serious problem by doing that, which it doesn't sound like we will, and then maybe at the next meeting, which I assume will be at the annual meeting, we could possibly have something to look at and review.

CHAIRMAN BOYLES: What I'm sensing from the board, then, is we don't want to move forward with this Public Information Document. Am I getting consensus from the board that what we'd like is staff to develop a white paper for us to look at making these species ACFCMA compliant – the plans for these species ACFCMA compliant; is that what I'm sensing? Louis.

DR. DANIEL: I think so. Just to make sure the record is clear, somebody said four species; as far as I know it is spot, Spanish mackerel and speckled trout, and those are the only three.

MR. BEAL: Well, the other two species under the purview of this board are croaker and red drum. I think red drum probably should be left as a separate species given that there is an assessment coming up to be reported out to this board later this year, I believe, so that may go on a separate track and have separate reactions, I think. Atlantic croaker, I don't remember if that one is completely compliant with ACFCMA. I think it is so we can probably leave that one out, but, yes, just the other species we can

include, but I would probably suggest leaving those two separate.

DR. DANIEL: And just to follow up on that, I think this board has been pretty clear on the record that we don't intend to do anything on speckled trout, but there has also been a concern about leaving it under the ASMFC purview, and that's cool, but I don't want there to be a notion that we're going to do something on speckled trout. It is just to have them all consistent. But I agree with Bob, I think Amendment 2 to Red Drum is ACFCMA compliant and I think Amendment 1 to Croaker is ACFCMA compliant, so those don't need to be discussed in this document.

CHAIRMAN BOYLES: Further comments or discussion? All right, so just so we're clear, we're putting this Public Information Document on hold. We're asking staff to go back and look at spot, Spanish mackerel and speckled trout and what it would take to do a comprehensive omnibus action to make these plans compliant with the Atlantic Coastal Fisheries Cooperative Management Act. Vince.

EXECUTIVE DIRECTOR O'SHEA: I have a suggestion on the timeline for you.

CHAIRMAN BOYLES: Have I got consensus from the board on that? Okay, I'm seeing head nodding. Vince.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, one thing you could consider doing is we could try to do a lot of this by remote correspondence; so as the white paper gets developed, we could let everybody look at it and get your sense. We may be able to get a lot of this moved without necessarily having to wait until the annual meeting.

A couple options would be to do an approval again by correspondence in the interim or the other may be to look at the August meeting as a possibility as well. I think what ought to drive it is us getting you all in your comfort zone, as Spud said, to make sure you understand what the impacts are of doing this.

CHAIRMAN BOYLES: I think that is a good suggestion. I'm going to go back to your comment about making sure we've got a good problem statement. I think from the board's perspective, unless I'm hearing an objection, I think if the staff can handle that timeline to get us something to consider over the summer and maybe perhaps meet, if necessary, in August; does that meet with everybody's approval? Roy.

MR. ROY MILLER: Mr. Chairman, I may be the only one, but I was wondering if Nichola or perhaps you, Mr. Chairman, could just briefly maybe suggest what considerations would be looked at for ACFCMA compliance? Thank you.

MS. MESERVE: My understanding is that for spot and spotted trout it would make the recommended measures in the current FMPs mandatory and possibly include de minimis criteria and other standards.

CHAIRMAN BOYLES: Any other discussion, questions or comments? Okay, we have got a plan of action. Let's move on to Agenda Item Number 7, which is the Atlantic Croaker and Red Drum assessment updates.

ATLANTIC CROAKER AND RED DRUM ASSESSMENT UPDATES

MS. MESERVE: I just wanted to provide the board with a brief update on where we stand with the two assessments that are underway. For red drum, we held a data workshop in February, and the data workshop report is now available. There are a couple of copies on the back table, but I'll also be sending it out to the board for you to see. It essentially provides a thorough review of all the commercial and recreational fishery-independent and life history information that was reviewed at the data workshop.

We're also in the midst of preparing for the assessment workshop in June, and there will be a review workshop in August. This assessment is going through the full SEDAR Process, SEDAR 18.

One thing to note is that there may be a change to one of the terms of reference for the review workshop. This is because the SEDAR Steering Committee is considering a procedural change in which the review panel would not be asked to help develop the assessment summary report. They're still working on the assessment report but perhaps not the assessment summary report because that can have changes made to it after the review workshop, and staff needs the leeway to be able to make that document consistent with what is in the stock assessment report. Essentially I would just like to alert the board to the fact that there might need to be a change to one of the terms of reference because of a procedural reason. It won't change the outcome of the assessment or anything. I could notify the board by e-mail when this occurs. Then following the review workshop,

there would be a report to the board in November of the stock assessment results.

CHAIRMAN BOYLES: Any comments or questions on that potential change to the term of reference? Everybody understands what is going on; is everyone fine with that? Seeing heads nodding yes, okay.

MS. MESERVE: For Atlantic Croaker, a stock assessment subcommittee was recently formed to begin work on the croaker assessment. The SAS met by conference call to develop a timeline and elect the chair and vice-chair and also to initiate a plan for data compilation. The timeline developed by the SAS included a workshop in July, an assessment workshop in November, and the review workshop in March of next year.

The review is going to be going through SEDAR 20; however, the Commission is the lead for the data and assessment workshop. This would lead to a report of the assessment results to the board in May of next year. The technical committee and stock assessment subcommittee chairs are working on terms of reference for this assessment, and it is expected that we will have those for you at the next board meeting to review.

One thing to note is that the technical committee won't be providing you with the assessment triggers which are done on all non-assessment years. They are triggers to determine whether an assessment is needed sooner than currently scheduled, but we're clearly in an assessment year so that won't be presented this year to the board. Thank you.

CHAIRMAN BOYLES: Thank you, Nichola. Any comments or questions on the croaker or red drum assessments? All right, seeing none, we will move to the next agenda item; any other business to come before the board? Louis.

OTHER BUSINESS

DR. DANIEL: Mr. Chairman, I just wanted to give a couple of updates; one on croaker. We just submitted our 2008 Annual Report on landings in North Carolina; and sort of as expected, the croaker have really started taking a nosedive in terms of the landings. I think our landings have declined by 60 or more percent over the last four years. I don't know what that means for the age structure of the population and various other things, but we're starting to see that reduction off the peak.

Also, if you haven't seen that Red Drum SEDAR Report, it is really good, and it has got some really good information in there for folks that are interested in red drum. It is a wonderful compilation of all the information, and it also tells you which ones are usable and that type of thing. So if you haven't seen it, it is a very good report.

And, finally, in North Carolina right now we have got a bill in the House, House Bill 918, which has been introduced by some folks to designate red drum and speckled seatrout game fish in North Carolina. Those of you that have responded to the group – I know they have sent some information out, feelers out to other states, and you have all copied me on the information that you've sent back, and I want to thank you for that.

But we are opposing that bill as inconsistent with North Carolina's Fisheries Reform Act and with the mission of the Division of Marine Fisheries. Just so you are aware, they are two species under our purview, and I just wanted to let you know that activity is going on. It may be heard in a committee next week, and we're just not sure yet what is going to happen to that bill. Just a heads up.

ADJOURN

CHAIRMAN BOYLES: Thank you, Louis. Any other comments; any other business to come before the South Atlantic Board at this time? Seeing none, we are adjourned.