FINAL AMENDMENT 4

TO

THE FISHERY MANAGEMENT PLAN

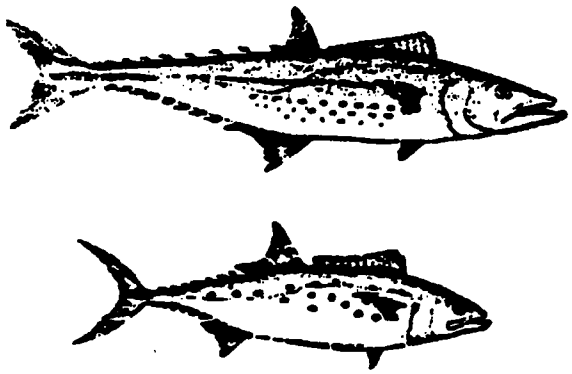
FOR THE

COASTAL MIGRATORY PELAGIC RESOURCES

(MACKERELS)

OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

INCLUDES ENVIRONMENTAL ASSESSMENT AND REGULATORY IMPACT REVIEW



MAY 1989

South Atlantic Fishery Management Council
1 Southpark Circle
Southpark Building, Suite 306
Charleston, South Carolina 29407-4699
(803) 571-4366

Gulf of Mexico Fishery Management Council
Lincoln Center, Suite 881
5401 W. Kennedy Blvd.
Tampa, Florida 33609-2486
(813) 228-2815

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Prepared By The

South Atlantic Fishery Management Council
Gulf of Mexico Fishery Management Council

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I. INTRODUCTION

The "Mackerel" fishery management plan, approved in 1982 and implemented by regulations effective in February 1983, treated king and Spanish mackerel each as one U.S. stock (GMFMC and SAFMC, 1983). Allocations were made for recreational and commercial fisheries, and the commercial allocation was divided between net and hook and line fishermen.

Amendment 1, implemented in September 1985, provided a framework for preseason adjustment of total allowable catch, reduced king mackerel maximum sustainable yield, recognized separate Atlantic and Gulf migratory groups of king mackerel, and established fishing permits and bag limits for king mackerel (GMFMC and SAFMC, 1985). The objectives of the mackerel fishery management plan were also modified.

Amendment 2, implemented in July 1987, reduced Spanish mackerel maximum sustainable yield, recognized two migratory groups of Spanish mackerel, and set commercial quotas and recreational bag limits for Spanish mackerel (GMFMC and SAFMC, 1987). Charterboat permits were required, and it was clarified that total allowable catch must be set below the upper range of acceptable biological catch. In addition, purse seines were prohibited for the Atlantic and Gulf migratory groups of Spanish mackerel and for the Gulf migratory group of king mackerel.

Amendment 3 prohibits the use of purse seines and run-around gill nets for Atlantic migratory group king mackerel and drift gillnets for coastal migratory pelagics. Amendment 3 also added a new objective, added vessel safety considerations, and updated the habitat section of the fishery management plan. Amendment 3 is currently undergoing formal secretarial review.

Amendment 4 (this amendment) addresses the allocation of Atlantic migratory group Spanish mackerel. Because the Spanish mackerel recreational and commercial fisheries were closed early the past two fishing years; the South Atlantic Council feels that the reallocation of Atlantic migratory group Spanish mackerel is a very urgent matter.

II. DESCRIPTION OF FISHERY AND UTILIZATION PATTERNS

Amendments 1, 2, and 3 describe the fishery and landings. Quotas, bag limits, catches, and closure dates for the 1987/88 and 1988/89 fishing years are shown in Table 1. In addition, Table 2 lists recreational and commercial data from the 1960's and 1970's and Table 3 reviews recreational and commercial catch data from 1979 through October 1988. Commercial landings of Spanish mackerel by state are shown in Table 4.

...MENT OF THE PROBLEM

The current 76 percent commercial/24 percent recreational allocation in the Atl group Spanish mackerel fishery does not reflect the allocation that existed during th 1970's when the fishery was not overfished. During the mid to late 1970's, comme increased and contributed to overfishing of the Atlantic Spanish mackerel resource. allocation was based on recreational catch data from 1979-85, a period during which th was overfished and, as a result, recreational catches and participation were low. This inap allocation (76% commercial/24% recreational) has contributed to early closure of the recr fishery, resulting in negative socioeconomic impacts on recreational fishermen. Recent levels have been set low due to the overfished condition of the Atlantic Spanish mackerel res and has also contributed to early commercial closures resulting in negative socioeconomic imp on commercial fishermen.

This amendment does not attempt to correct the overfished status of the Atlantic migrato group Spanish mackerel resource; that is accomplished through the ABC's, TAC's, quotas and ba limits. Rather, this amendment addresses an allocation problem that has arisen as a result of the overfished status of the resource. Shifting the allocation to equal shares will assist cooperative state/federal management, thereby addressing problem number 4 (see Section IV.). In fact, not shifting the allocation towards equal shares will jeopardize existing compatible state/federal regulations.

During the 1987/88 and 1988/89 fishing years both Atlantic migratory group Spanish mackerel quotas were filled (Table 1) resulting in recreational bag limits reverting to zero and closure of the commercial fishery. The recreational fishery closure occurred very early in the season (September 1987 and October 1988) and resulted in negative socioeconomic impacts on the recreational fishery from North Carolina through the Florida East Coast. Similar closures on the commercial sector resulted in negative socioeconomic impacts on the commercial fishery. The Councils concluded that the current allocation does not represent the catch distribution (i.e. recreational/commercial catch ratios) that occurred during the early to mid-1970s when the Spanish mackerel resource was not overfished. As commercial catches increased, the ratio changed and the stock declined. Recreational anglers north of North Carolina on the Atlantic coast virtually stopped fishing for Spanish mackerel for 10 years because so few fish were available and fishing north of Florida decreased dramatically. This trend may have begun to be reversed during the last three fishing years. Recreational anglers in the South Atlantic caught between 225,000 and 2,296,000 pounds of Atlantic migratory group Spanish mackerel from 1979 through 1988 (Table 3). New allocations are proposed to more equitably allocate Atlantic migratory group Spanish mackerel between recreational and commercial users which, in the judgment of the Councils, will result in the greatest overall benefit to the nation.

IV. PROBLEMS IN THE FISHERY

The Fishery Management Plan, as modified by Amendment 1, identified the following problems:

1. Fishing effort is jeopardizing the biological integrity of the king mackerel fishery. That portion of the stock which inhabits the Gulf of Mexico during the summer and supports the winter fishery in southeast Florida appears to be severely overfished, and fishing mortality on this group needs to be reduced. That portion of the stock which inhabits the Atlantic coast has been exploited to a lesser degree, and fishing mortality rate on that group is below the level which will produce maximum yield.

2. Adequate management has been hindered by lack of current and accurate biological, statistical and economic information. The present system does not provide a mechanism which insures rapid incorporation of new data into stock assessments. Further, there is no coordinated plan to generate stock assessment data.

3. Intense conflicts and competition exist between recreational and commercial users of the mackerel stocks; and between commercial users employing different gears.

4. The existence of separate state and federal jurisdiction and lack of coordination between these two makes biological management difficult, since in some instances, the resource may be fished beyond the allocation in state waters.

5. Cobia are presently harvested at a size below that necessary for maximum yield and may be overfished in some areas beyond the management area. Most southeastern states have not yet adopted the recommended minimum size limit. Also, no management action has been taken by states which have jurisdiction over cobia populations in Chesapeake Bay, which appear to have been overfished. Federal enforcement capability is limited and not believed to be very effective in this case.

6. Development of a fishery targeting large, mature king mackerel in the wintertime off Louisiana may eventually reduce recruitment to the resource. Total catch of large, mature king mackerel has greatly increased due to development of a commercial fishery in Louisiana during the winter months. Reported commercial catch increased from zero during 1981-82 to 1.2 million pounds during the 1982-83 winter season. Given the already excessive fishing effort on smaller fish in the Gulf of Mexico, increasing fishing effort on the spawning population could result in recruitment declines.

Amendment 4 includes an addition to this list of problems to reflect changes that have occurred since Amendment 1. (See Action 1)

V. OBJECTIVES

The Fishery Management Plan, as modified by Amendment 1, identified the following objectives:

1. The primary objective of this Fishery Management Plan is to stabilize yield at maximum sustainable yield, allow recovery of overfished populations, and maintain population levels sufficient to ensure adequate recruitment.

2. To provide a flexible management system for the resource which minimizes regulatory delay while retaining substantial Council and public input into management decisions and which can rapidly adapt to changes in resource abundance, new scientific information, and changes in fishing patterns among user groups or by area.

3. To provide necessary information for effective management and establish a mandatory reporting system for monitoring catch.

4. To minimize gear and user group conflicts.

5. Minimize waste and bycatch in the fishery. Waste includes both discarded catch and economic wastage due to product quality. (Note: This objective is included in Amendment 3 which is currently undergoing secretarial review.)

Amendment 4 includes an addition to this list of objectives to reflect changes that have occurred since Amendment 1. (See Action 2)

VI. PROPOSED ACTION

ACTION 1: ADD TO THE LIST OF PROBLEMS IN THE FISHERY

Section 12.3 Problems in the Fishery is modified by adding a new problem as follows:

7. Current allocations of Atlantic migratory group Spanish mackerel do not reflect the distribution (i.e. recreational/commercial ratios) of catches during the early to mid 1970's, which was prior to the development of the deep water run-around gill net fishery and when the resource was not overfished.

Recreational and commercial catch ratios established in Amendment 2 were based on the ratio of catches for all years for which data were available (1979-85), but are based only on a short period and do not reflect the catch ratio during the early to mid 1970's when the resource was not overfished. In addition, commercial effort has shifted from the Florida west coast to the Florida east coast over the time period used to base the allocations. Presumably, this shift in effort was a result of decreased abundance of Spanish mackerel on the Florida west coast.

Distribution in the problem statement refers to utilization of the resource by the recreational and commercial user groups. Allocations currently in effect have resulted in early filling of recreational and commercial quotas and have resulted in social and economic disruption within the recreational and commercial sectors. (See the discussion under Action 3 for more detail.)

ACTION 2: ADD TO THE LIST OF OBJECTIVES

A new objective is added to Section 12.4 Specific Management Objectives to read as follows:

5. Distribute the total allowable catch of Atlantic migratory group Spanish mackerel between recreational and commercial user groups based on the catches that occurred during the early to mid 1970's, which is prior to the development of the deep water run-around gill net fishery and when the resource was not overfished.

This would address the problem of current allocations of Atlantic migratory group Spanish mackerel not reflecting the true distribution (i.e. recreational/commercial ratios) of catches during the early to mid 1970's when the resource was not overfished and the recreational portion had not become artificially depressed. This new objective allows the Councils to address the important issue of Atlantic migratory group Spanish mackerel allocations. (See the discussion under Action 3 for more detail.)

ACTION 3: SPANISH MACKEREL COMMERCIAL AND RECREATIONAL ALLOCATION

Section 12.6.3.3 is modified as follows:

12.6.3.3 Spanish Mackerel Allocation

Reallocate Atlantic migratory group Spanish mackerel between commercial and recreational fishermen.

Atlantic Group: Commercial = 50% ; Recreational = 50%

The original fishery management plan (1983) managed Spanish mackerel as one stock and both maximum sustainable yield and optimum yield were estimated to be 27 million pounds. Amendment 1 (1985) did not change how Spanish mackerel were managed but did specify king mackerel allocations based on the most recent data (1979-80). The Councils had intended that future allocations be based on the largest number of years for which an estimate of both the recreational and commercial catch was available; however, the National Marine Fisheries Service Regional Director did not approve this measure and the king mackerel allocations have remained fixed based on 1979-80 data. In Amendment 1, the Councils clearly indicated their intent to manage the Spanish and king mackerel recreational fisheries with bag limits and the commercial fisheries with a quota and closure, largely due to the timeliness of the data but also due to the negative socioeconomic impacts that would result from a recreational closure. Commercial fisheries data is more accurate and more timely, which when combined with the known seasonal nature of these fisheries, allows commercial fishermen to better plan for the known total allowable catch and thereby minimize the negative impacts associated with quota management and closures.

Amendment 2 (1987) brought significant changes in Spanish mackerel management: (1) the maximum sustainable yield was reestimated as 18 million pounds down from 27 million pounds, (2) the Spanish mackerel stock was split into Gulf and Atlantic migratory groups, (3) recreational and commercial data were available for 1979 through 1985 and resulted in a 76 percent commercial, 24 percent recreational allocation, (4) bag limits of 4 in Florida and 10 in North Carolina, South Carolina and Georgia were established, and (5) a provision reverting the bag limit to zero if the migratory group was overfished was approved. The Councils used this allocation approach for Spanish mackerel because that was the methodology included in the fishery management plan for king mackerel. Atlantic migratory group Spanish mackerel were (and still are) in a state of overfishing, and so when the 1987/88 recreational quota of 740,000 pounds (27% reduction from the prior fishing year) was taken, the fishery was closed (on September 19, 1987; Table 1) which caused negative socioeconomic impacts. The State of South Carolina has compatible regulations and also closed the recreational fishery. Catches reported by the NMFS quota monitoring program through December 31, 1987 were 1,596,170 pounds, a little over twice the recreational allocation. The Councils then began to examine mechanisms to alleviate these impacts. During the 1988/89 fishing year, the total allowable catch was increased to 4 million pounds with a recreational quota of 960,000 pounds. The recreational fishery was closed on

the NMFS quota monitoring program through October 30, 1988 were 2,450,000 pounds or about two and one-half times the recreational allocation.

The Councils concluded that the current allocations (76% commercial and 24% recreational) are inappropriate because:

1. The Atlantic migratory group Spanish mackerel resource was overfished and the resulting recreational catches depressed during the years 1979-85, which were used to establish the current allocation.

2. Commercial catches increased during the mid 1970's and the distribution of the resource between recreational and commercial users changed with more being taken commercially. This is also when the abundance of the resource began to decline and become more compressed. Recreational catches in Georgia, South Carolina and North Carolina were affected and in these states, recreational harvest had previously accounted for the majority of the harvest.

3. The Councils know, based on the expert knowledge of state fishery directors and other Council members directly associated with the fishery (see Appendix A), that recreational catches were higher in the 1970's but quantitative information to support this conclusion is limited. The limited quantitative data from the early 1970's indicates that the Atlantic migratory group Spanish mackerel resource was distributed equally (i.e. 50/50) between the recreational and commercial user groups. Qualitative information such as input from fishermen and the recent reemergence of catches north and south of Ft. Pierce, Florida up into the Mid-Atlantic Fishery Management Council's area extending up to Chesapeake Bay may indicate that Spanish mackerel are now repopulating that area, as they have in the past, thereby lending support to the Councils' conclusion of higher recreational catches during the 1970's.

4. Now that the Atlantic migratory group Spanish Mackerel resource is reduced and harvest capacity and demand of both user groups has expanded to the point that either group could harvest all or most of the available resource, it may be more equitable to allocate the resource equally between users.

5. Based on the above, the Councils concluded that the 50/50 allocation results in benefits greater than costs and maximizes the net socioeconomic benefits available from the Atlantic migratory group Spanish mackerel resource.

Current allocations are based on recreational catch estimates from 1979 forward when NMFS began an intercept and phone survey. However, earlier estimates are available based on phone interviews with selected fishermen at the end of the year but have been subject to some questions

concerning accuracy of the estimates (Austin et al., 1977). Given these shortcomings, these estimates represent the best available information on recreational catches during this time period. Estimates are available for 1960 (Clark, 1962), 1965 (Deuel and Clark, 1968), 1970 (Deuel, 1973), and 1975 (John P. Wise, pers. comm.). Based on these data and commercial data from Amendment 1, the resultant allocations are shown in Table 2. The recreational share declined steadily from 91 percent in 1960 to 80 percent in 1970 and then dropped dramatically to 24 percent in 1975. Coincidentally, this is the current share allocated to the recreational fishery based on 1979-85 data. The 1975 commercial share increased approximately 1.6 million pounds from 1974 to 1975 largely due to the introduction of run-around gill nets. If the average of 1970-74 commercial landings and average 1970 and 1975 recreational data are used, the recreational share was 72 percent. The Councils considered using this as the allocation but concluded that the negative socioeconomic impacts to the commercial fishery would be too great.

The original fishery management plan (GMFMC and SAFMC, 1983) notes that the early recreational data overestimated the actual catches (see p. 5-36) and used local studies to correct these estimates: "The recreational catch estimate is almost certainly inflated. For the king mackerel, the ratio of Deuel's estimate to the alternate estimate using local studies was 1:0.381. For lack of other data, the ratio established for king mackerel was used to adjust Deuel's estimate. On this basis, the recreational catch of Spanish mackerel in 1975 was 2.957×10^6 fish using the corrected data." In Amendment 4, this ratio is used to adjust the recreational catch estimates (pounds) shown in Table 2. If the average of 1970-74 commercial landings and average 1970 and 1975 recreational data are used, the recreational share was 50 percent, precisely the share that the Councils are now attempting to attain. This corrected data provides quantitative support for the new allocation and the Councils concluded that a 50/50 allocation is more fair and equitable to both the recreational and commercial sectors than is the current allocation or any of the alternatives considered and rejected. The 50/50 allocation is further supported by a letter from William H. Stevenson (NMFS SER Regional Director) to James P. Walsh (Deputy Administrator for Fisheries) dated January 30, 1981 where Mr. Stevenson indicated that ". . . Recreational fishermen catch about the same amount of Spanish mackerel as do commercial fishermen and catch more than twice as many king mackerel." (Appendix A). The recent distribution of Atlantic migratory group Spanish mackerel catches is shown in Table 3.

The Councils know of no economic data readily available with which to quantitatively evaluate the benefits and costs of the proposed change in allocation. Recent work on the Gulf of Mexico king mackerel fishery (Milon, 1988) provides information on the impacts of increased catches and changes to bag limits for Gulf king mackerel and more importantly develops a methodology which can now be used to conduct the same type of analyses for Gulf and Atlantic migratory groups of Spanish mackerel and Atlantic migratory group king mackerel. The Councils strongly recommend that these analyses be conducted by the National Marine Fisheries Services'

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information as soon as it is available which will greatly assist in the determining the impacts of our regulations.

Recognizing that the Milon (1988) study addressed Gulf king mackerel, it is possible to speculate (with great care and many assumptions—see Milon study for assumptions) about potential benefits to the recreational sector. Estimates of total annual gains (net economic value) for eastern Gulf of Mexico recreational anglers due to a 50 percent increase in the 1986 king mackerel catch using alternative demand estimation models yielded values ranged from $2.5 to $25.5 million. What these values would be for Atlantic migratory group Spanish mackerel is unknown although they would in all probability be less. Hopefully, this type of information will be available in the very near future.

During the public hearing process, Dr. David B. Rockland, Sport Fishing Institute, presented results of work the Sport Fishing Institute has conducted for the National Marine Fisheries Service estimating retail sales associated with marine recreational fishing in 1985 (Appendix B). He then subdivided the regional estimate with the percentage of trips targeting Spanish mackerel available from the Marine Recreational Fishing Statistical Survey to yield an estimated $12,496,300 in annual retail sales associated with Spanish mackerel in the South Atlantic.

To minimize impacts to the commercial sector while the new allocation is being accomplished, the Councils chose an implementation mechanism (Action 4) that allocates 90 percent of the increase in total allowable catch, above the the total allowable catch that results in a 3.04 million pound commercial quota, to the recreational sector until the recreational sector's allocation equals the commercial sectors allocation; however, the ratio will adjust to 50/50 by 1994. Also, if total allowable catch decreases, the commercial allocation would decrease (see the discussion under Action 4). The Councils' intent is to have this procedure apply to allocating the total allowable catch of 6 million pounds for the current 1989/90 fishing year assuming Amendment 4 is approved. If Amendment 4 is approved, the commercial allocation would be 3.24 million pounds and the recreational allocation would be 2.76 million pounds (54% commercial; 46% recreational). If not approved, the existing allocations of 4.56 million pounds commercial and 1.44 million pounds recreational would continue.

The Councils concluded that this is fair and equitable to the commercial sector because this level of commercial allocation exceeds the average of the 1970-74 catches (3,098,600 pounds; Table 2), the time period prior to the large increase in commercial catches of the mid to late 1970's. The Spanish mackerel resource is believed to have not been overfished during this time period and allocating the commercial sector a base amount equal to what they were catching at that time would be fair to them. Allocating most of the remainder to the recreational sector would also be fair to that user group. In addition, providing 10 percent of the increase to the commercial sector allows them to share in the benefits of rebuilding the resource while still accomplishing the 50/50 allocation.

An economic assessment of the king and Spanish mackerel fisheries was prepared in March 1987 by NMFS (Poffenberger, 1987). While this document presents some general economic information about Spanish mackerel it does not provide an analysis of the impacts of quotas and bag limits. The Councils strongly recommend that these analyses be re-done by the NMFS Southeast Region economists as soon as possible. The Councils will of course make use of this information as soon as it is available, which will greatly assist in the determining the impacts of our regulations. Ex-vessel prices for Atlantic migratory group Spanish mackerel averaged $0.33 per pound during 1978-85 (Poffenberger, 1987). During calendar year 1988, the average price per pound in the South Atlantic was $0.34 (National Fisherman, 1989). Information on the relative portions of gross revenue earned by gill net vessels from various species is not available for recent years (Poffenberger, 1987)

The new ratio would reduce the commercial allocation from 76 percent to 50 percent for Atlantic migratory group Spanish mackerel. For the 1989/90 fishing year, the commercial quota would be 3.24 million pounds and is a reduction of 41 percent from the 1979-86 average catch or a 23 percent reduction from the average of 1981-86 (Table 3). The ratio only represents a reduction of one percent from the 1984-86 average catch but a 13 percent increase over the 1986-87 average catch; there would be a two percent decrease from actual 1987 catches but a six percent increase over the 1987 commercial quota (Table 3). The cost to the commercial sector can be estimated by comparing the 76/24 allocation (4.56 million pounds) to the proposed allocation (3.24 million pounds). The difference is 1.32 million pounds with an estimated ex-vessel value of approximately $450,000. On the recreational side, the methodology to analyze benefits from doubling their allocation has been developed but work in this area has not been conducted. The Councils concluded that the resulting impact on the commercial sector will not be significant during the period when the recreational allocation is allowed to increase to the level of the commercial allocation. In actuality, because of the increase in total allowable catch this fishing year (1989/90), the value of the commercial sector's allocation should increase over last fishing year (1988/89) by approximately $68,000 (3.24 - 3.04 = 0.2 x $0.34 = $68,000).

The number of participants in the Atlantic migratory group Spanish mackerel fishery is unknown; however, available information on the total number of recreational anglers, total number of charter vessels, total number of big and small net boats that target or take mackerel as a bycatch, and number of commercial permits at the beginning of the 1988/89 fishing year are shown in Table 5. These numbers must be used with great caution but are the best available estimates of the number of entities involved in the fishery.

12.6.3.4 Rejected Alternatives to Action 3

Rejected Alternative 1: No change.

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divided between commercial and recreational fishermen based on the average ratio of the catch for the period 1979 through 1985. For the Atlantic group the ratio is 76 percent for commercial fishermen and 24 percent for recreational fishermen.

This is the initial allocation for Spanish mackerel as established by Amendment 2 in 1987. The period 1979-1985 used for the historic ratio of catch was the recent period available for comparable recreational and commercial catches (Table 3). Recreational catches prior to 1979 are limited.

This alternative was rejected because it would continue to allow the negative socioeconomic impacts on the recreational fishery which result from a closure. The recreational fishery closed on September 19, 1987 during the 1987/88 fishing year and on October 3, 1988 during the 1988/89 fishing year. As discussed under Action 3, this allocation is based on a time period when the resource was overfished and the recreational share had become depressed due to the expansion of the commercial fishery; this is inappropriate. Under this alternative it would be unlikely that the States would continue or adopt concurrent regulations. This would result in furthering the problem of protecting the biological integrity of the Atlantic migratory group Spanish mackerel resource. It would, however, benefit the commercial sector by increasing their allocation to 4.56 million pounds, 1.46 million pounds above their average landings during the early 1970's.

Rejected Alternative 2: Reallocate Spanish mackerel between commercial and recreational fishermen based on estimated average ratios of catches from 1967 to 1974 when the U.S. fishery was more or less at equilibrium at a level close to optimum yield (near 16 million pounds). (Note: Current allocations are shown in parentheses.)

Atlantic migratory group: Commercial = 63 (76) percent;

Recreational = 37 (24) percent.

Recreational catch figures are limited prior to 1979, but many Council members, resource managers and fishermen agree that the recreational harvest constituted a larger portion of the catch prior to expansion of the commercial net fishery. In providing estimates of Spanish mackerel maximum sustainable yield for the Councils in 1986, Eldridge provided proxy recreational landings of Spanish mackerel estimated from available commercial landings by regression (Table 6). If the methodology applied to the available data yielded accurate numbers, the above figures would reflect the ratio of the catch in the late 1960's and early 1970's when the fishery was sound. The recreational allocation in the Atlantic would be increased from 24 to 37 percent.

If the Eldridge data were not accurate (or the methodology was inappropriate), then the above percentages would not be meaningful. There is some reason to believe this is true, based on a reanalysis by Paul Hooker (former GMFMC staff). He reestimated Eldridge's model with the 1979-1985 fishing year data. This resulted in estimates which indicated positive correlations of recreational and commercial catches (although the significance and explanatory value of the estimated equations is little better than the Eldridge estimates.) Application of these estimates to the

Eldridge calendar year commercial catch data prior to 1979, yields recreational catch estimates indicated in Table 7. Combining these estimates with the 1979-1985 data indicates no change in the Atlantic allocation (i.e. 24 percent recreational, 76 percent commercial).

The Councils rejected this alternative because the projected recreational catches are not believed to be accurate. If these numbers were correct, this alternative would not be any different from alternative 1 in its practical effect.

ACTION 4: IMPLEMENTATION OF REALLOCATION OF ATLANTIC MIGRATORY GROUP SPANISH MACKEREL

A new Section 12.6.3.8 is added as follows:

12.6.3.8 Implementation of Reallocation of Spanish Mackerel

Implement the reallocation for Atlantic migratory group Spanish mackerel only for the total allowable catch increase above the level which results in a 3.04 million pound commercial quota, by providing 90 percent of the increase to the recreational allocation and 10 percent of the increase to the commercial allocation until the new ratio is established. No reduction in any group's quota would occur unless the total allowable catch were subsequently reduced in which case the then existing ratio would apply. However, the ratio will adjust to 50/50 by 1994.

The Councils have recommended a total allowable catch of 6 million pounds for the 1989/90 fishing year. This implementation procedure establishes a base level of 3.04 million pounds for the commercial fishery which results from a total allowable catch of 4.0 million pounds (1988/89 fishing year); the remaining 0.96 million pounds was allocated to the recreational fishery. The increase in the total allowable catch, in this case 2.0 million pounds, is to be shared with 10% (0.2 million pounds) going to the commercial allocation and 90% (1.8 million pounds) going to the recreational allocation. The resulting allocations for the 1989/90 fishing year assuming Amendment 4 is approved are:

TAC = 6.0 million pounds

Commercial Allocation = 3.24 million pounds (54%)

Recreational Allocation = 2.76 million pounds (46%)

It is the Councils' intent that these allocations take effect when Amendment 4 is approved and implemented. Throughout the procedural development and preparation of Amendment 4, it has been the Councils' expressed intent that the revised allocations be in place prior to the 1989/90 fishing year. Unfortunately, due to procedural delays, this was not possible. However, the Councils have concluded that, based on the current measure of recreation under-harvest

allowable catches, this action is justified and have requested that the notice action specifying total allowable catch and allocations for the 1989/90 fishing year indicate that Amendment 4 proposes to alter these allocations. This action would also provide the public additional opportunity for comment.

The Florida Marine Fisheries Commission has set the Florida east coast Spanish mackerel commercial quota for 1989/90 at 2.6 million pounds. This quota tracks what would be the federal quota if Amendment 4 is approved by providing the difference between 3.24 (federal quota) and 2.6 (state quota) million pounds for the commercial fisheries in North Carolina, South Carolina and Georgia, as well as, providing for the 500 pound trip limit within Florida State waters. Approval of Amendment 4 would make federal regulations consistent with Florida regulations, thereby aiding enforcement.

If Amendment 4 is approved, it should be implemented by the beginning of November. Since the majority of the commercial harvest does not occur until December/January each year, commercial catches should not exceed the 3.24 million pound level prior to implementation of Amendment 4. If unforeseen circumstances were to occur, and the commercial harvest were to exceed the 3.24 million pound level at implementation of Amendment 4, it is the intent of the Councils for the commercial fishery to close and the remaining total allowable catch be applied to the recreational allocation.

If Amendment 4 is not approved, the existing allocations (76% commercial/24% recreational) would apply and the resulting allocations for the 1989/90 fishing year would be:

TAC = 6.0 million pounds

Commercial Allocation = 4.56 million pounds

Recreational Allocation = 1.44 million pounds

Unless total allowable catch is reduced below 4.0 million pounds, this procedure establishes a base commercial allocation at the 1988/89 level (3,040,000 pounds) until the recreational allocation equals the commercial; however, the ratio will adjust to 50/50 by 1994. If total allowable catch were to decrease at some point in time, this method would fix the allocations at whatever allocation ratio was currently in place, thereby avoiding some of the negative aspects of the rejected alternatives. The Councils concluded that this mechanism best moderates any negative socioeconomic impacts the reallocation may have on the commercial sector and provides a gradual redistribution (as long as the total allowable catch increases gradually) without decreasing any groups's existing quota.

The Councils wish to see the 50/50 allocation in place for Atlantic migratory group Spanish mackerel by 1994 at the latest because if the rate of increase in total allowable catch is slow, the negative economic impacts on the recreational sector due to closures would continue. However, if the current rate of rebuilding the Spanish mackerel resource continues, the 50/50 ratio will occur prior to 1994.

Section 12.6.3.9 Rejected Alternatives to Action 4

Rejected Alternative 1: Implement the 50/50 reallocation with the effective date of the amendment relatively late in the fishing year associated with a relatively low total allowable catch.

During preparation of Amendment 4, the Councils expected to have the revised allocations approved prior to the 1989/90 fishing year and that an immediate revision of the allocation late in the 1988/89 fishing year would be made when total allowable catches were relatively low. This could have resulted in a reduced quota for the commercial group if total allowable catch remains the same or has only a slight increase.

The Councils received many comments during the public hearing process to implement the 50/50 allocations this year. However, the Councils rejected this alternative because the potential negative socioeconomic impacts to the commercial sector would be significant.

Rejected Alternative 2: Implement the revised ratios to be effective with the seasonal adjustment for the next fishing year.

The Councils rejected this alternative because the potential negative socioeconomic impacts to the recreational sector of waiting until the 1990/91 fishing year would be significant.

Rejected Alternative 3: Implement the reallocation only as the total allowable catch is increased by providing the increase to the gaining group until the new ratio is established. No reduction in any group's quota would occur unless total allowable catch were subsequently reduced in which case the new ratio would apply to the reduction (i.e. the entire total allowable catch).

The impact of this alternative would provide a more gradual redistribution as total allowable catch increased (Table 8). However, if total allowable catch were to decrease, the new allocation would be 50/50 on the Atlantic migratory group for the commercial and recreational allocation, respectively. Such a rapid change would be disruptive and result in negative socioeconomic impacts to the commercial fishery due to such low total allowable catches and was, therefore, rejected by the Councils.

Rejected Alternative 4: Implement the reallocation only as the total allowable catch is increased by providing the increase to the gaining group until the new ratio is established. No reduction in any group's quota would occur unless total allowable catch was subsequently reduced, in which case the new ratio would apply only to the amount of the reduction (i.e. only the amount of the decrease in total allowable catch).

The impact of this alternative would provide a more gradual redistribution as total allowable catch increased (Table 8). However, if total allowable catch were to decrease, the new allocation would shift considerably with more of the quota being allocated to the commercial fishery. Such a change would be disruptive and result in negative socioeconomic impacts to the recreational fishery

and was, therefore, rejected by the Councils.

ACTION 5: VESSEL SAFETY CONSIDERATIONS

Amendment by P.L. 99-659 to the Magnuson Act requires that a fishery management plan must consider and may provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery regarding access to the fishery, for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting vessel safety.

No vessel will be forced to participate in the fishery under adverse weather or ocean conditions as a result of the imposition of the management regulations set forth in the original fishery management plan, as amended, or in Amendment 4. Therefore, no management adjustments for fishery access will be provided.

1. Fishery access and weather related safety. There are no fishery conditions or management measures or regulations contained in the original Fishery Management Plan, as amended, or Amendment 4 which would result in the loss of harvesting opportunity because of the effects of adverse weather or ocean conditions on the crew and vessel safety. There have been no concerns raised by the Coast Guard or by persons engaged in the fishery that the proposed management measures directly or indirectly pose a hazard to crew or vessel safety under adverse weather or ocean conditions.

2. No Impact Determinations. Vessel safety has not been identified as a relevant or significant issue in the mackerel fishery or in the management measures set forth.

3. Adjustments. There are no procedures for making management adjustments in the original Fishery Management Plan, as amended, or Amendment 4 because no person will be precluded from a fair or equitable harvesting opportunity by the management measures set forth.

4. Coast Guard Evaluation. No vessel safety issues, whether pertinent to fishery access and weather-related vessel safety or to other significant or relevant safety issues, have been identified by the Coast Guard.

5. Procedures. There are no procedures proposed to monitor, evaluate, and report on the effect of management measures on vessel or crew safety, under adverse weather or ocean conditions.

6. Other Safety Issues. There have been no significant and relevant safety issues raised by fishery users, other public, or the Coast Guard; therefore, there are no social or economic implications resulting.

No new habitat information has become readily available to the South Atlantic Fishery Management Council since Amendment 3 was prepared.

VII. ENVIRONMENTAL CONSEQUENCES

Physical Environment

The actions proposed in Amendment 4 will have no adverse impact on the physical environment. The effect of these actions is to add to the statement of problems and objectives and to reallocate the Atlantic migratory group Spanish mackerel quota between recreational and commercial users.

Fishery Resource

The proposed action would have some impact on the fishery resource but is not designed to protect the resource; this is accomplished with the quotas and bag limits. There may be some additional biological protection provided if the States adopt compatible regulations as have South Carolina (bag limit and closure), North Carolina (bag limit) and Florida (bag limit). Without the 50/50 allocation compatible regulations will not be possible.

Human Environment

The proposed action will reallocate Atlantic migratory group Spanish mackerel from the commercial to the recreational sector so as to achieve a more fair and equitable allocation. Impacts to the commercial sector are not expected to be significant since the 1989/90 allocation will be more than the 1988/89 level (3,040,000 pounds) and more than the average of the 1970-74 time period (3,098,600 pounds). This action will have a positive but unquantified socioeconomic impact on the recreational fishery for Atlantic migratory group Spanish mackerel by allocating a more equitable portion to this sector and possibly avoid costly and disruptive closures that occurred during the 1987/88 and 1988/89 fishing years. The cost for the entire development process of Amendment 4 by the South Atlantic Fishery Management Council was approximately $60,000.

The Councils concluded that the benefits exceed the costs for the preferred alternative and the preferred alternative results in the greatest overall net benefit to the nation

Effect on Endangered Species and Marine Mammals

The proposed amendment will have no effect on endangered species and marine mammals.

Effect on Wetlands

The proposed amendment will have no effect on any flood plains, wetlands, trails or rivers.

VIII. CONCLUSIONS

Mitigating Measures Related to the Proposed Action

None.

Unavoidable Adverse Effects

Reallocation of the Atlantic migratory group Spanish mackerel quota will have some impact on the commercial sector. However, the Councils have chosen an implementation mechanism that best minimizes this impact. The commercial sector will be allocated 10% of increases in total allowable catch above the level that results in a commercial quota of 3.04 million pounds until the recreational sector's allocation equals the commercial allocation or 1994, whichever occurs first. If the total allowable catch declines below 4.0 million pounds, then the commercial allocation would decline.

Relation Between Local, Short-Term Users of the Resource and Enhancement of Long-Term Productivity

The Councils concluded that the reallocation will ensure a more fair and equitable long-term use of the resource by allocating equal quantities of Atlantic migratory group Spanish mackerel to the recreational and commercial users, which more accurately reflects the catch distribution during the early 1970's before overfishing. This amendment should not have any negative or positive impacts on long-term productivity since it only allocates total allowable catch among users. The long-term productivity is protected by limiting catches to the total allowable catch.

Irreversible or Irretrievable Commitment of Resources

None.

Enforcement Costs

Enforcements costs will not be impacted since Amendment 4 merely reallocates the resource between user groups.

Finding of No Significant Environmental Impact

Having reviewed the environmental assessment and available information relating to the proposed actions, I have determined that the proposed actions will not significantly affect the human environment.

_____ _____

Assistant Administrator for Fisheries Date

Comments on this Draft are to be received by the responsible agencies before _____, 1989.

RESPONSIBLE AGENCIES

South Atlantic Fishery Management Council
1 Southpark Circle
Southpark Building, Suite 306
Charleston, South Carolina 29407-4699
(803) 571-4366

Gulf of Mexico Fishery Management Council
Lincoln Center, Suite 881
5401 W. Kennedy Blvd.
Tampa, Florida 33609-2486
(813) 228-2815

LIST OF AGENCIES AND PERSONS CONSULTED

In addition to extensive comments received during the 10 public hearings (minutes and list of persons attending are available), 97 letters from individuals, 60 form letters, and petitions with 55 signatures, comments were received from the following organizations and agencies:

Pt. St. Lucie Anglers Club, FL - 200 anglers
Organized Fishermen of Florida
SC Wildlife Federation
Florida League of Anglers, FL
Charolette Offshore Sportfishing Club, NC
Top Sail Offshore Fishing Club, NC
Atlantic Coast Conservation Association of SC
US Open Mackerel Tournament, NC
New Hanover Fishing Club, NC - 400 members
Wrightsville Beach King Mackerel Tournament, NC
Sebastian Inlet Sportfishing Association, FL
Azalea Coast Marine Dealers Association, NC
Stuart Sailfish Club, FL
Central Florida Offshore Anglers - 900 members
Rep. H.E. Pearce, Jr., SC
National Marine Fisheries Service

LIST OF PREPARERS

South Atlantic Fishery Management Council
- Gregg T. Waugh, Fishery Biologist/Statistician

Gulf of Mexico Fishery Management Council
- Terrance R. Leary, Biologist

LOCATION AND DATES OF PUBLIC HEARINGS

October 17, 1988	American Legion Hall	Key West, Florida
October 18, 1988	Ft. Pierce Elementary School	Ft. Pierce, Florida
October 19, 1988	Holiday Inn - Oceanfront	Jacksonville, Florida
October 20, 1988	Quality Inn	Brunswick, Georgia
October 21, 1988	Thunderbolt Town Hall	Thunderbolt, Georgia
October 24, 1988	Murrells Inlet Community Center	Murrells Inlet, South Carolina
	Marine Resource Center	Manteo, North Carolina
October 25, 1988	Island Recreation Center	Hilton Head, South Carolina
	New Hanover County Courthouse	Wilmington, North Carolina
October 26, 1988	Carteret Community College	Morehead City, North Carolina

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TABLE 1. ATLANTIC MIGRATORY GROUP SPANISH MACKEREL QUOTAS, BAG LIMITS, CATCHES, AND CLOSURES.

	MILLIONS OF POUNDS ABC	TAC	ALLOCATIONS	QUOTA	BAG LIMITS (per person per trip)	SEASON BEGAN	REPORTED CATCHES	PERCENT OF QUOTA	REPORTED THROUGH	DATE CLOSED
FISHING YEAR = 1987/88										
SPANISH MACKEREL										
MSY = 18.0 mill lb										
Atlantic Migratory Group	1.7 - 3.1	3.1								
Atlantic Recreational			24%	740,000	4 FL	4/1/88	1,596,170	216%	12/31/87	9/17/87
Atlantic Commercial			76%	2,360,000	10 NC, SC ANDGA	4/1/88	2,515,300	107%	12/28/87	12/28/87
FISHING YEAR = 1988/89										
SPANISH MACKEREL										
MSY = 18.0 mill lb										
Atlantic Migratory Group	1.3 - 5.5	4								
Atlantic Recreational			24%	960,000	4 FL	4/1/88	2,450,000	255%	10/30/88	10/3/88
Atlantic Commercial			76%	3,040,000	10 NC, SC ANDGA	4/1/88	3,046,200	100%	12/30/88	12/30/88

*NOTE: Catch estimates are from the NMFS quota monitoring program.

TABLE 2. COMMERCIAL AND RECREATIONAL CATCHES (POUNDS) OF SPANISH MACKEREL IN THE SOUTH ATLANTIC.

YEAR	COMMERCIAL	YEAR	RECREATIONAL	PERCENTAGE COMMERCIAL	PERCENTAGE RECREATIONAL
1960	2,406,000	1960	24,830,000	9%	91%
1965	3,032,000	1965	18,186,000	14%	86%
1970	3,639,000	1970	14,623,000	20%	80%
1975	5,210,000	1975	1,633,000	76%	24%
VG. 70-74	3,098,600	AVG. 70 & 75	8,128,000	28%	72%

mmercial data is from Exhibit 8-6b in Amendment 1 to the Mackerel FMP and represent landings in the South Atlantic.

creational data is from Table 6 in Trent and Anthony (1979).

YEAR	COMMERCIAL	YEAR	REVISED RECREATIONAL	PERCENTAGE COMMERCIAL	PERCENTAGE RECREATIONAL
1960	2,406,000	1960	9,460,230	20%	80%
1965	3,032,000	1965	6,928,866	30%	70%
1970	3,639,000	1970	5,571,363	40%	60%
1975	5,210,000	1975	622,173	89%	11%
G. 70-74	3,098,600	AVG. 70 & 75	3,096,768	50%	50%

ecreational figures revised by a factor = 0.381 from pg. 5-36 in the original FMP

TABLE 3. SPANISH MACKEREL ATLANTIC STOCK CATCH SUMMARY (APRIL-MARCH FISHING YEAR).

NUMBERS OF SPANISH MACKEREL

FISHING YEAR	MID-ATLANTIC & NEW ENGLAND COMMERCIAL	RECREATIONAL	TOTAL	SOUTH ATLANTIC COMMERCIAL	PERCENT	RECREATIONAL	PERCENT	TOTAL
1979				3,196,000	78%	903,000	22%	4,099,000
1980				4,456,000	81%	1,031,000	19%	5,487,000
1981				4,109,000	76%	1,315,000	24%	5,424,000
1982				2,681,000	65%	1,450,000	35%	4,131,000
1983				1,715,000	93%	137,000	7%	1,852,000
1984	12,000	<500	12,000	2,145,000	65%	1,132,000	35%	3,277,000
1985	11,000	<500	11,000	2,360,000	82%	521,000	18%	2,881,000
1986	155,000	7,000	163,000	1,590,000	69%	722,000	31%	2,312,000
1987	327,000	17,000	344,000	1,311,000	55%	1,087,000	45%	2,398,000
1988	232,000	88,000	321,000	323000	17%	1570000	83%	1,893,000

POUNDS OF SPANISH MACKEREL

FISHING YEAR	MID-ATLANTIC & NEW ENGLAND COMMERCIAL	RECREATIONAL	TOTAL	SOUTH ATLANTIC COMMERCIAL	PERCENT	RECREATIONAL	PERCENT	TOTAL
1979				6,246,000	74%	2,225,000	26%	8,471,000
1980				6,404,000	76%	2,034,000	24%	8,438,000
1981				5,055,000	75%	1,718,000	25%	6,773,000
1982				4,936,000	68%	2,296,000	32%	7,232,000
1983				4,215,000	95%	225,000	5%	4,440,000
1984	10,000	<500	10,000	3,282,000	68%	1,564,000	32%	4,846,000
1985	15,000	<500	15,000	4,055,000	82%	864,000	18%	4,919,000
1986	176,000	8,000	184,000	2,312,000	70%	993,000	30%	3,305,000
1987	381,000	22,000	403,000	3,306,000	67%	1,640,000	33%	4,946,000
1988	313,000	113,000	425,000	518,000	18%	2,283,000	82%	2,801,000

Fishing year 1979 begins on 1 April 1979 and ends on 31 March 1980.
Fishing year 1987 data through October 1987 only.
SOURCE: Fishing Years 1979-1983 from NMFS 1988 Stock Assessment.
Fishing Years 1984-1988(through October 1988 only) from NMFS 1989 Stock Assessment

TABLE 4 in Amendment 4.

Exhibit 8-6a
Commercial Landings of Spanish Mackerel
(1000 pounds and 1000 dollars)

By State

Year	North Carolina		South Carolina		Georgia		Florida (East)		Florida (West)		Texas, Alabama, Louisiana		Mississippi	
	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars
1979[1]	13	4	*	*	2	1	4709	989	1603	335	146	29	30	7
1978[1]	13	4	*	*	*	*	5511	1061	1725	438	47	7	58	14
1977	46	7	-	-	2	*	9708	2078	2000	428	92	12	181	30
1976	31	5	3	1	3	1	9559	1779	7783	1360	179	24	378	82
1975	49	7	10	2	6	1	5145	902	5621	962	292	40	824	38
1974	73	9	2	*	1	*	2546	459	8267	1444	246	30	41	6
1973	64	9	4	*	5	1	3203	538	6194	999	165	14	98	14
1972	96	13	5	1	5	1	3369	426	6532	816	205	20	485	57
1971	95	14	4	1	*	*	2582	308	7383	830	96	8	178	20
1970	63	9	2	*	*	*	3574	459	8100	939	155	28	48	9
1969	39	12	4	1	-	-	2359	253	8175	946	155	12	12	1
1968	69	8	8	1	1	*	4406	382	7066	797	52	14	114	11
1967	73	8	2	*	2	*	1802	153	5867	611	33	3	76	7
1966	78	10	1	*	1	*	2181	232	7004	813	57	6	9	1
1965	117	12	13	2	1	*	2901	290	4883	586	19	2	3	*

By Region

Year	New England		Middle Atlantic		Chesapeake		South Atlantic		Gulf of Mexico		United States	
	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars	pounds	dollars
1980[1]	**	**	**	**	**	**	**	**	**	**	11968	3137
1979[1]	-	-	*	*	2	*	4724	994	1779	371	6505	1365
1978[1]	-	-	*	*	*	*	5524	1065	1830	459	7354	1524
1977	-	-	-	-	22	4	9756	2085	2243	470	12021	2559
1976	-	-	2	*	80	13	9596	1786	8341	466	18019	3265
1975	1	*	4	1	62	12	5210	912	6137	1041	11415	1966
1974	-	-	2	*	24	4	2422	468	8554	1480	11002	1952
1973	-	-	*	*	50	9	3276	548	6457	1027	9783	1584
1972	-	-	*	*	23	4	3475	441	7222	893	10720	1338
1971	*	*	*	*	52	9	2681	323	7658	858	10391	1190
1970	*	*	*	*	201	31	3639	468	8298	972	12138	1471
1969	*	*	-	-	124	18	2452	266	8342	959	10918	1243
1968	-	-	*	*	60	10	4484	591	7232	812	11776	1215
1967	-	-	-	-	30	5	1879	161	5976	621	7885	787
1966	-	-	*	*	142	23	2261	242	7066	819	9469	1084
1965	*	*	-	-	74	11	3032	304	4905	588	8011	903

Note: * = <500 pounds or $500
** = Not Available
[1] Preliminary

Source: U.S. Department of Commerce. Fishery Statistics of the United States (Various Years). Washington, D.C.: Government Printing Office.

SOURCE: GMFMC and SAFMC (1985).

TABLE 5. ESTIMATED NUMBER OF SMALL ENTITIES IN THE ATLANTIC SPANISH MACKEREL FISHERY.

RECREATIONAL PARTICIPATION (THOUSANDS) IN THE SOUTH ATLANTIC (SOURCE: MRFSS)

	NO. ANGLERS	NO. TRIPS
1986		
FLORIDA	2,148	10,298
GEORGIA	122	554
SOUTH CAROLINA	373	1,276
NORTH CAROLINA	660	2,655
TOTAL	3,303	14,783
1987 PRELIMINARY		
FLORIDA	1,286	15,018
GEORGIA	93	789
SOUTH CAROLINA	119	1,457
NORTH CAROLINA	366	3,661
TOTAL	1,864	20,925

NUMBER CHARTER VESSELS WITH PERMITS FROM 4/1/88-7/22/88 BY HOME PORT (SOURCE: NMFS SERO)

FLORIDA	472
GEORGIA	5
SOUTH CAROLINA	64
NORTH CAROLINA	187
OTHER STATES	168
TOTAL	896

NUMBER ATLANTIC SPANISH MACKEREL COMMERCIAL PERMITS BY STATE OF HOME PORT FROM 4/1/88-7/22/88 (SOURCE: NMFS SERO)

	HOOK & LINE	NET AND HOOK & LINE	NET	OTHER	TOTAL
FLORIDA	449	97	42	2	590
GEORGIA	4				4
SOUTH CAROLINA	31	1	1	1	34
NORTH CAROLINA	241	75	1	5	322

BIG AND SMALL NET BOATS THAT TARGET OR TAKE MACKEREL AS A BYCATCH (SOURCE: NMFS SEFC)

	BIG	SMALL
FLORIDA KEYS	22	26
FLORIDA EAST COAST	19	50
NORTH & SOUTH CAROLINA		50
TOTAL	41	126

Table 6. Estimated South Atlantic Total Spanish Mackerel Landings.

	CASE TWO		
Year	Commercial	Recreational	Total
1967	1,879	1,815	3,694
1968	4,484	1,652	6,136
1969	2,402	1,782	4,184
1970	3,639	1,705	5,344
1971	2,681	1,765	4,446
1972	3,475	1,715	5,190
1973	3,276	1,727	5,003
1974	2,422	1,781	4,302
1975	5,210	1,633	6,843
1976	9,627	1,331	10,958
1977	11,035	1,244	12,279
1978	3,465	1,716	5,181
1979	4,901	2,031	6,932
1980	9,895	1,675	11,570
1981	4,227	1,729	5,956
1982	3,951	2,357	6,308
1983	5,989	208	6,197
1984	2,526	1,626	4,153

CASE TWO: Recreational landings estimated from Commercial landings by regression.

$Y = 1,932 - 0.06X$ where X = Commercial Landings
($r = -0.22$)

SOURCE: NMFS 1986 NMFS Stock Assessment.

TABLE 7.
Estimated South Atlantic Total Spanish Mackerel Landings
Based on 1988 Stock Assessment Data*

Year	Commercial	Recreational**	Total
1967	1,879	560	2,439
1968	4,484	1,466	5,950
1969	2,402	742	3,144
1970	3,639	1,172	4,811
1971	2,681	839	3,520
1972	3,475	1,115	4,590
1973	3,276	1,046	4,322
1974	2,422	749	3,171
1975	5,210	1,719	6,929
1976	9,627	3,256	12,883
1977	11,035	3,746	14,781
1978	3,465	1,112	4,577

*Data contained in Table 2, 1979-1985, used to estimate regression equation.
**Estimated from commercial landings with regression equation:
$y = -94 + 0.34x$, where x = commercial landings.
($r = 0.55$)

TABLE 8. IMPACT OF REJECTED ALTERNATIVES 4 AND 5 ON SPANISH MACKEREL REALLOCATION.

E.C. COM 1970-74 CATCH AVERAGED 3,099,000 LB; REC UNKNOWN

REJECTED ALTERNATIVE 3:			REJECTED ALTERNATIVE 4:		
TAC	REC	COM	TAC	REC	COM
3,000,000	1,500,000	1,500,000	3,000,000	460,000	2,540,000
	50%	50%		15%	85%
4,000,000	960,000	3,040,000	4,000,000	960,000	3,040,000
	24%	76%		24%	76%
5,000,000	1,960,000	3,040,000	5,000,000	1,960,000	3,040,000
	39%	61%		39%	61%
6,000,000	2,960,000	3,040,000	6,000,000	2,960,000	3,040,000
	49%	51%		49%	51%

APPENDIX A

Statement
to the
South Atlantic Fishery Management Council
on
Amendment Number 4
to the
Fishery Management Plan
for the
Coastal Migratory Pelagic Resources

My name is David Cupka and I am the Assistant Director of the Office of Fisheries Management for the Marine Resources Division of the South Carolina Wildlife and Marine Resources Department. As a representative of the Marine Resources Division, I wish to speak in favor of the proposed reallocation of the Atlantic Group of Spanish mackerel to the proposed allocation of 50% recreational and 50% commercial. Before giving you the reasons for our position, I want to thank the Council for the opportunity to make this statement today. I also want to preface my remarks by saying that my statements are based in part on the situation which exists and has existed in the waters off South Carolina.

During the period from 1972 through most of 1976, I served as the supervisor of the Marine Recreational Fisheries Program for the state of South Carolina. In this capacity, I had extensive firsthand knowledge of the status of the State's marine recreational fisheries. As Assistant Director of the Office of Fisheries Management, a position I assumed in 1976, my responsibilities continue to include recreational fisheries as well as commercial fisheries. I therefore feel that I am qualified to speak on the situation in regards to the Spanish mackerel resource in South Carolina waters.

During the 1970's, the Spanish mackerel resource was much healthier and recreational catches were higher than they were in the 1980's. Unfortunately these higher levels of abundance and catch rates occurred before the initiation of the National Marine Recreational Fisheries Survey which the National Marine Fisheries Service has been conducting in conjunction with some of the states. Because of my job responsibilities during the period of the 1970's, I can say that Spanish mackerel were more abundant and catch rates by recreational fishermen were higher, although I don't have quantitative information to back up my position. My position is based on my firsthand knowledge of the fishery as an actual participant; on personal observations of Spanish mackerel schools which were more numerous and larger during this period; my coverage of numerous saltwater sportfishing tournaments as weighmaster during this period; and my extensive interaction with numerous members of the saltwater fishing community.

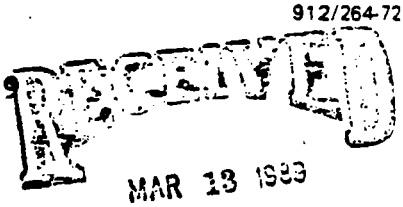
During the 1970's, the commercial sector began to take more and more fish throughout their range, thereby changing the distribution of the catch between the recreational and the commercial sectors. By the time the National Marine Recreational Fisheries Survey was initiated, the commercial catches dominated the fishery and resulted in the allocations currently in place in the FMP. The staff of the Marine Resources Division believes that the proposed 50-50 allocation between commercial and recreational users more closely resembles the historical situation in this fishery before the Atlantic stock of Spanish mackerel declined. Because of this, the Division supports the proposed reallocation contained in Amendment 4 of the Coastal Migratory Pelagic Resources Fishery Management Plan.

David Cupka
David Cupka

2/24/89
Date

Georgia Department of Natural Resources
1200 Glynn Avenue, Brunswick, Georgia 31523-9990
J. Leonard Ledbetter, Commissioner
Duane Harris, Director
Coastal Resources Division
912/264-7218

March 9, 1989



Mrs. Elaine Knight, Chairman
South Atlantic Fishery Management Council
One Southpark Circle
Suite 306
Charleston, South Carolina 29407

Dear Mrs. Knight:

As Director of Coastal Resources Division of the Georgia Department of Natural Resources, I strongly support Amendment No. 4 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (Mackerels) of the Gulf of Mexico and the South Atlantic.

My support for Amendment 4 is based on my personal and professional experience and knowledge gained over the past 18 years in coastal Georgia. I am of the firm belief that 50:50 reallocation of Spanish mackerel between the commercial and recreational fisheries more accurately reflects the historical catch distribution of the fishery throughout the South Atlantic prior to development and expansion of the deepwater gillnet fishery off southeast Florida following the mid-1970s.

The Spanish mackerel fishery off Georgia has historically been and remains entirely recreational, except for incidental take by trawlers. During the 1960s and early 1970s, Spanish mackerel were generally caught within six nautical miles offshore, generally in June through September, with anglers fishing north and south between sea buoys along Georgia's coast. Georgia's small charter fleet then depended on Spanish mackerel as the mainstay of their offshore trips. Although overall fishing pressure was, in early years, limited to a small number of boats, placement of Artificial Reef F off Brunswick in 1974 encouraged coastal anglers to target large schools of Spanish mackerel off St. Simons and Jekyll Islands. Participation in the Spanish mackerel fishery steadily increased.

Based on my personal fishing experience, the stocks in the early and mid-1970s seemed immense, with schools of Spanish mackerel covering "acres" of ocean and anglers catching coolers full of fish. Catches of 100+ fish per trip were not uncommon. A former charter fisherman, South Atlantic Fishery Management Council member Allen Branch (GA) has related his personal experience in this regard during past mackerel deliberations, also.

In my capacities as Artificial Reef Project Leader, Research Unit Leader, Assistant Chief, and Chief of Fisheries from 1976 through 1983, I witnessed the steady disappearance of surface schools of Spanish mackerel in the late 1970s and early 1980s. This decline coincided with the years immediately following development and expansion of the deepwater gillnet fishery off southeast Florida.

Large schools of Spanish mackerel no longer inhabit coastal waters off Georgia. Spanish are generally found in smaller, sparsely distributed schools. However, I am confident that conservation measures implemented in recent years by the South Atlantic Fishery Management Council and the South Atlantic states are restoring the Spanish mackerel stocks so that the fishermen north of southeast Florida will once again enjoy Spanish mackerel fishing. Implementation of Amendment 4 will further assure anglers throughout the region a more appropriate allocation of the stock and enable restoration of a thriving Spanish mackerel recreational fishery in all the South Atlantic states.

Sincerely,

Duane

Duane Harris

DH:kls

cc: Susan Shipman
Allen Branch

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Washington, D.C. 20235

F/SER7:JB

JAN 30 1981

TO: A - James P. Walsh

FROM: F - William H. Stevenson

SUBJECT: Disapproval of the Fishery Management Plan for Coastal Migratory Pelagic Resources—ACTION MEMORANDUM (by February 6, 1981)

This is to advise you that I have disapproved the Fishery Management Plan for the Coastal Migratory Pelagic Resources (FMP). When you have noted my decision, I will inform the Gulf of Mexico and South Atlantic Fishery Management Councils that the FMP is disapproved. The basis of the disapproval is three management measures that are inconsistent with the national standards. I will provide the Councils with a detailed rationale as to why these proposed management measures are not in conformance with the provisions of the Act, and request that the FMP be revised accordingly, and resubmitted.

BACKGROUND

The Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

The FMP addresses the coastal migratory pelagic resources in the Gulf of Mexico and South Atlantic areas. The management unit consists of king mackerel, Spanish mackerel, and cobia. Caro mackerel, bluefish, little tunny, and dolphin are incidental species in the directed fishery for Spanish and king mackerel and are included in the FMP for data collection purposes. Management measures are proposed for king mackerel, Spanish mackerel, and cobia.

The king mackerel inhabits coastal waters of the western Atlantic from the Gulf of Maine to Brazil. The increasing commercial and recreational effort suggest total catch is rising and that the stock is in danger of being overfished.

The Spanish mackerel is restricted to the east coast of the United States and the Gulf of Mexico. The southward extent of its range is the Florida Keys and the northward extent in the Atlantic is normally New York or southern New England, although occasional strays are found as far north as the Gulf of Maine. The Spanish mackerel stock is not overfished. As with king mackerel, commercial and recreational effort is increasing. The estimates of MSY are crude because of poor information on important population characteristics. Based on the Councils' "best estimate," there is an opportunity for some expansion of the fishery that would not result in overfishing.

Commercial landings statistics indicate that cobia may be overfished on the Atlantic coast and is declining in abundance in the Gulf of Mexico. Cobia is a moderately long-lived species with a low natural mortality rate and a l rate of recruitment.

The Fishery for King and Spanish Mackerels and Cobia

The fishery is prosecuted almost exclusively within the management area defined by the Councils (i.e., North Carolina to and including Texas). Annual commercial catches outside of the management area have never equaled two percent of the total catch by weight for either species of mackerel.

Commercial landings of king mackerel during the 1951-1966 period ranged from a low of two million pounds to a high of five million pounds. Since that period there has been a gradual increase in landings, peaking in 1974 when nearly 10.5 million pounds were landed. The primary commercial users are the hook and line fleet (east coast of Florida and the Florida Keys) and the gillnet fleet (Florida Keys and the lower east and west coast of Florida). The same basic trend is evident in commercial landings of Spanish mackerel. During the period 1951 through 1966, commercial landings exceeded 10 million pounds on two occasions. Since 1966, landings have exceeded 10 million pounds on seven occasions. The primary commercial users are gillnet fleets operating on the east and west coast of Florida and the Florida Keys.

Both king and Spanish mackerel are important to recreational fishermen throughout the management area. Recreational fishermen catch about the same amount of Spanish mackerel as do commercial fishermen and catch more than twice as many king mackerel. Estimated recreational catches in 1975 were 8.. million pounds of Spanish mackerel and 23.7 million pounds of king mackerel. Estimated angler expenditures were $35.6 million for Spanish mackerel and $40.2 million for king mackerel in 1977. Recreational fishing is done on charterboats (982 were registered in the management area in 1977) and a variety of private boats ranging from 16 to over 60 feet in length.

Cobia is a popular sportfish, especially in the Gulf of Mexico, but is a secondary species for commercial fishermen. Commercial landings in 1977 were 104,000 pounds. Estimates of recreation catches are imprecise but such catches are thought to exceed greatly the reported commercial landings.

Summary of Problems and Proposed Solutions

In preparing the FMP, the Gulf of Mexico and South Atlantic Fishery Management Councils identified problems in this fishery and proposed solutions that require Federal regulation and support, actions by the eight Gulf and South Atlantic States, and continuous involvement by the two Councils. Thus, the Councils propose measures that are regulatory (i.e., to be implemented by Federal regulation) and administrative. The administrative measures are to be implemented by States singly and jointly, and by the National Marine Fisheries Service (NMFS).

Problem 1. A better data base is needed to maintain the user group allocations and maintain the optimum yield on an annual basis.

The Councils propose a mandatory reporting system for the fishery as follows:

A. Revise the NMFS fishery reporting system to include mandatory trip tickets for selected commercial fishermen.

B. Establish a vessel enumeration system and creel census data system that would provide sufficient information for fishery management. Mechanics of the systems are to be developed by NMFS and appropriate Council committees.

C. Require a reporting system for all seven species in the management unit by all user groups and processors based on statistical sampling, whereby it would be mandatory for a selected respondent to provide answers to the sample questionnaire on a recurring basis that is not of great frequency.

D. For king mackerel, require a mandatory trip ticket system for the "for hire" charter and party boats. All operators would be required to report because this group takes a major share of king mackerel and is involved in many conflicts with other users.

E. For Spanish mackerel, require a mandatory trip ticket system for the "for hire" charter and party boats. This system will be limited to a sample sufficient for fishery management needs.

Problem 2. Conflicts exist between recreational and commercial fishermen and between commercial hook and line and commercial net fishermen.

To minimize user group conflicts, the Councils propose special measures involving regulatory amendments or field orders, depending on the nature of the conflicts. This FMP addresses three conflict situations: (1) a specific user group conflict off the east coast of Florida; (2) potential conflicts that might arise through expansion of the historical fishery; and (3) potential conflicts that might arise through introduction of gear or devices into regions where they have not been historically fished.

Problem 3. Potential overfishing of king mackerel.

There is concern on the part of the Councils that combined recreational and commercial catches of king mackerel may be at, or beyond, the maximum sustainable yield by the time this FMP is implemented. To address this potential problem, the Councils propose the following management system.

A. The optimum yield is established at 37 million pounds per year.

(1) Annual allocations are as follows: 28 million pounds for the recreational fishery and nine million pounds for the commercial fishery.

(2) The commercial allocation is divided between hook and line gears and net gears as follows:

Hook and line	3,877,200 pounds
Net (other than purse seines)	4,722,800 pounds
Purse seines (Gulf only)	400,000 pounds

(3) If the catch of any user group exceeds its allocation, the Secretary shall close the fishery to that group for the remainder of the fishing year.

(4) Commercial and recreational fishermen are defined as follows:

- A commercial fisherman is a person who sells his catch.

- A recreational fisherman is a person who does not sell his catch.

These definitions establish the basis for the allocations between commercial and recreational users which are based on historical catches. These data include fish sold by recreational fishermen who dispose of catches that exceed their personal consumption requirements as well as sales by commercial fishermen.

B. It will be illegal to buy, sell, or process for commercial use, king mackerel under 25 inches fork length, in the area of jurisdiction of the South Atlantic Council. (See Issue No. 1.)

C. The minimum mesh size in the fishery conservation zone (FCZ) for all king mackerel gill nets shall be 4-3/4 inches (stretched measure) in the management area. (See Issue No. 2.)

D. The use of purse seines shall be prohibited in the king mackerel fishery in the FCZ off the South Atlantic coast. (See Issue No. 3.)

E. The Councils recommend that NMFS conduct studies of impacts on both the stocks and user groups resulting from the introduction of the use of purse seines in the fishery. The Councils disagree on the conclusions and interpretations of available information on the impact of purse seines. Therefore, both Councils desire additional scientific information on this subject.

F. The Regional Director, Southeast Region, NMFS, may institute a bag limit for king mackerel taken by recreational or recreational "for hire" users and/or a trip limit for commercial users when supporting data become available and after consultation with the affected Councils.

Problem 4. Potential overfishing of Spanish mackerel.

Because the potential for overfishing Spanish mackerel exists, although to a lesser degree than for king mackerel, the Councils propose the following management system.

A. The optimum yield is established at 27 million pounds per year.

B. The special measures relating to minimizing user group conflicts in the king mackerel fishery also apply to the Spanish mackerel fishery.

C. A 12-inch fork length minimum size limit is proposed on Spanish mackerel in both the commercial and recreational fisheries with an allowance for undersized fish equal to five percent of the total catch by weight of Spanish mackerel on board a vessel in the Spanish mackerel fishery or any other fishery.

D. The purse seine fishery in the Gulf of Mexico is allocated 225,000 pounds of Spanish mackerel during the first fishing year. Thereafter, unless the Gulf Council takes further actions, no limit applies.

E. The use of purse seines for harvesting Spanish mackerel within the FCZ off the South Atlantic coast is prohibited. (See Issue No. 3.)

F. Both Councils recommend that NMFS conduct research programs to determine the impacts resulting from the introduction of the use of purse seines in this fishery. These impacts include both the impacts on the fishery resource and impacts on user groups.

G. The Regional Director, Southeast Region, NMFS may institute a bag limit for Spanish mackerel taken by recreational or recreational "for hire" users and/or a trip limit for commercial users by regulatory amendment when supporting data become available and after consultation with the affected Councils.

H. If optimum yield is taken, the fishery for Spanish mackerel will be closed for the remainder of that fishing year.

Problem 5. Overfishing for cobia.

The optimum yield is established as cobia equal to or greater than 33 inches fork length, rather than a numerical amount. Therefore, rather than an annual quota, the Councils propose a minimum size possession law of 33 inches for cobia to increase yield and protect the resource from overfishing.

SPECIFIC ISSUES

ISSUE NO. 1: Prohibition of sale and processing for commercial use of king mackerel less than 25 inches

In the draft FMP, the management measure prohibiting the sale of king mackerel less than 25 inches applied to both the Gulf of Mexico and the South Atlantic. Prior to holding public hearings, the draft FMP stated, "This measure will have minimal effect on the total yield, but will increase the abundance of larger fish and decrease the possibility of recruitment overfishing." The draft FMP further stated, "That is, decreasing the size at recruitment below the size at age 1.0 (approximately 25 inches fork length and four pounds weight) will not significantly increase total yield. Harvesting large numbers of small fish will decrease the abundance and catch of larger fish. It will also contribute to the possibility of recruitment overfishing by reducing the number of spawners in the population."

Testimony at public hearings indicated that implementation of this management measure would have a substantial adverse impact on the commercial harvesting sector in two ways. First, commercial king mackerel gill netters do have incidental catches of king mackerel of less than 25 inches. Second, Spanish mackerel gill net fishermen often have substantial incidental catches of king mackerel of less than 25 inches, because smaller meshed nets are used in this fishery. As a result of information obtained at public hearings, as well as comments submitted by NMFS, the Gulf Council eliminated this proposed management measure for the Gulf of Mexico. However, the South Atlantic Council chose to retain this measure in the FMP for its geographical area (i.e., North Carolina to the Florida Keys).

I disapprove this measure for the following reasons:

1. The FMP does not contain sufficient information to demonstrate that the measure is necessary and appropriate for the conservation and management of the fishery, as required under section 303(a)(1) (A) of the Magnuson Fishery Conservation and Management (the Act).

The proposed measure is not adequate to rebuild or maintain the stock, because it would apply only to commercial fishermen who traditionally harvest about 25 percent of all king mackerel, but not recreational fishermen who harvest the major share of the resource.

2. King mackerel under 25 inches that would be caught in the South Atlantic could be counted against the commercial quota but could not be sold. This allocation of fishing privileges between commercial and recreational fishermen is unfair to commercial fishermen, who could not benefit from a portion of their legal harvest, and does not promote conservation. Therefore the measure violates national standard 4.

3. The proposal violates national standard 3. Management measures must be uniform throughout the management unit, unless a rationale is established for geographic differentiation. A joint FMP may not have different measures in each Council's area, without justification on biological, social, or economic bases.

4. Having different management measures in the same fishery would pose insurmountable enforcement problems; to prove a violation of the regulation, NMFS would have to show that the undersize fish was taken in the South Atlantic rather than the Gulf. This measure maximizes instead of minimizes enforcement costs, and violates national standard 7.

PROPOSED ACTION

I disapprove the prohibition of the sale and processing for commercial use of king mackerel under 25 inches fork length, because the proposed measure is inconsistent with sections 303(a)(1), 307, and national standards 3, 4, and 7.

ISSUE NO. 2: Minimum mesh size for king mackerel gill nets

The proposed measure establishes a minimum mesh size of 4-3/4 inches for king mackerel gill nets used in the FCZ. The purpose of the measure is to prevent the harvest by gill net of king mackerel below a size of 25 inches or about four pounds in weight, because king mackerel five pounds or greater are desired on the commercial market. Reducing the harvest of king mackerel under 25 inches is expected to increase the abundance of larger and more valuable mackerel as well as increasing the number of mature fish of spawning age in the population. The State of Florida currently has a law requiring 4-3/4 inch mesh for king mackerel gill nets. This measure is related to the measure discussed in Issue No. 1, because both address king mackerel of the same size catagory.

I disapprove this measure because the FMP does not contain sufficient information to demonstrate the measure is necessary and appropriate for the conservation and management of the fishery, as required under section 303(a)(1) of the Act. There is no evidence of a conservation purpose because the proposed measure would apply only to commercial gill netters who traditionally harvest about 13 percent of all king mackerel. This restriction on a small portion of harvesters is an unfair allocation, similar to the violation discussed under Issue No. 1. The FMP rationale for incorporating the State law on minimum mesh size is that king mackerel optimum economic size is 25 inches and there would be no change in gill-net gear currently in use. However, there must be information presented in the FMP that the proposed measure is necessary and appropriate, because consistency with State law is, of itself, an inadequate basis for Federal regulation.

PROPOSED ACTION

I disapprove the minimum mesh size for king mackerel gill nets because the proposed measure is inconsistent with section 303(a)(1) and national standard 4.

ISSUE NO. 3: Prohibition of the use of purse seines in the FCZ off the South Atlantic Coast

The commercial harvest of both king and Spanish mackerel occurs primarily off the lower coasts of the State of Florida. This State currently has a law prohibiting the harvest of foodfish with purse seines and prohibiting the landings of purse-seine caught foodfish at Florida ports.

The use of purse seines is controversial in Florida because the vast majority of current user groups oppose the use of purse seines for the harvesting of Spanish and king mackerel. Recreational fishermen are concerned about adverse impacts on the resource and reduced availability for recreational fishing. Commercial hook and line fishermen and commercial netters share these concerns, as well as the additional concern that the more efficient purse seine gear will provide mackerel at a lower cost and disrupt their traditional markets.

Although recognizing these concerns, I disapprove the management measure for the following reasons:

1. The rationale used by the South Atlantic Council in prohibiting the use of purse seines within its area of authority (North Carolina through the Florida Keys), except for research, is the lack of evidence on the impacts of purse seines. There is no information in the FMP to show that the use of purse seines is harmful to the stocks or to other sectors of the fishery. Without such information, the ban cannot be considered a necessary and appropriate measure under section 303(a)(1).

2. Imposition of this management measure would violate national standard 2, which requires that measures be based on the best scientific information available.

3. Banning purse seines in the South Atlantic but not the Gulf violates national standard 3, because no rationale is given for different treatment of a potentially significant harvesting device.

4. Restricting access to the fishery by purse seiners is an allocation of fishing privileges in favor of users of other gear. With no conservation or other rationale given for the measure, the ban violates national standard 4.

5. The first clause of national standard 5 requires that efficient means of harvest be allowed, unless conservation or social objectives require their restriction. Because no acceptable rationale is given for the South Atlantic ban on purse seines, there is a violation of national standard 5.

6. National standard 7 is also violated by imposing different management measures in the same fishery, because of the enforcement burden involved.

Because the FMP allocates specific amounts to a purse seine fishery (i.e., 400,000 pounds of king mackerel, 225,000 pounds of Spanish mackerel), the management measure pertaining to the prohibition in the South Atlantic of purse seines is nonseverable from the FMP. Therefore, I am required to disapprove the entire FMP.

PROPOSED ACTION

I disapprove the prohibition of the use of purse seines. I will recommend that the South Atlantic and Gulf of Mexico Councils both readdress this issue and come to an agreement on the regulation of purse seine gear through the FMP that is consistent with the national standards.

IMPACT OF PROPOSED ACTIONS

The Councils

In commenting on the draft FMP, this agency advised the Councils that the management measures I have disapproved were unacceptable. Attaining agreement on the controversial issue of purse seines may be difficult, given the Councils' firm positions on this issue.

Domestic Fishermen

There will be no impact on domestic mackerel fishermen except for potential user conflicts for which there will be no Federal intervention as intended under the FMP.

Foreign Fishermen

There has never been a foreign fishery for king and Spanish mackerel in the U.S. FCZ. Therefore, disapproval of this FMP will not impact on foreign fishermen.

The States

State laws will continue to be applicable.

The Fishery Resources

Disapproval of the FMP will not cause overfishing of the two mackerel species. The lack of an FMP will delay the measure intended to prevent overfishing of cobia.

Domestic Processors

There will be no impact on the domestic processors.

Consumers

There will be no impact on consumers.

Marine Mammals and Endangered Species

Disapproval of the FMP will not have any impact on marine mammals or endangered species.

National Marine Fisheries Service

Disapproval will not have any major impact on the operations of this agency. We will work closely with the Councils to assist them in revising the FMP. If Council negotiations on this issue are extended, the Southeast Regional Acting Director and staff will have to devote considerable time to assist both Councils.

RECOMMENDATION

I recommend that you advise me that you are aware of my intention to disapprove the FMP and return it to the Councils for reconsideration of those management measures relating to the sale of king mackerel less than 25 inches in fork length, minimum mesh size for king mackerel gill nets, and prohibition of the use of purse seines. I will advise the Councils of my objections and suggestions for improvement of the FMP. In accordance with Section 304 of the Act, the Councils will have 45 days to provide this agency with substitute management measures. An Information Memorandum to the Secretary is attached for your use, if you believe the Secretary should be advised.

APPROVAL

✓ I have been advised of your intention to disapprove the FMP.

Signed _____

James P. Walsh
Acting Administrator, NOAA

Date 2/9/81

Attachments

CLEARANCES SIGNATURE AND DATE

P/SER:HAllen	Harold Allen by PAL	Jan. 26, 1981
ES:STinkham		MKHeck for 1-30-81
PP:MBelsky		MKB 2/2/81
GC:EGreenberg		M Bullock for 2/3/81
DA:		

Drafted by: J.T. Brawner, F/SER7, NMFS, 826-3721, 9/25/80
Revised by: D.J. Leedy, F/CM5, NMFS, 634-7449, 10/30/80:plj

APPENDIX B

Sport Fishing Institute

1010 Massachusetts Avenue, N.W. (Suite 100), Washington, D.C. 20001 (202) 898-0770

STATEMENT OF THE
SPORT FISHING INSTITUTE

On

AMENDMENTS 3 & 4 TO THE COASTAL MIGRATORY PELAGICS FISHERY MANAGEMENT PLAN

Before

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

By

Dr. David B. Rockland
Secretary/Director of Economics

October 18, 1988
Ft. Pierce Elementary School
Ft. Pierce, Florida

Introduction

Mr. Chairman, I am David B. Rockland, Secretary and Director of Economics of the Sport Fishing Institute (SFI). SFI appreciates the opportunity to comment on the proposed Amendments 3 and 4 to the Coastal Pelagics Fishery Management Plan (FMP). This statement is part of SFI's continuing effort to contribute to the discussion on perspectives and problems regarding mackerels management. Our past participation has included developing a research plan on mackerel economics at the request of the Gulf Council. In addition, we have offered statements and testimony on mackerel management many times over the past several years. The reason for our participation and interest in this fishery is that it represents one of the most important marine recreational fisheries on the East and Gulf Coasts, and results in significant economic and social contributions to recreational fishermen and the sport fishing industry.

SFI is a non-profit, tax-exempt, conservation organization dedicated to the protection and expansion of our Nation's renewable aquatic resources. Our principal objective, by means of professional service, research, and conservation education, is to help develop and promote optimum opportunity to engage in healthful and rewarding recreational fishing. This objective is carried out on behalf of the sport fishing industry, whose interests we represent, and who supports many of our programs.

SFI maintains that proper fisheries management occurs when the management objective is an optimum yield, as called for in the MFCMA and various state laws. Recreational fishermen and the recreational fishing industry are all parts of the equation

needed to develop an optimum yield for a fishery and the regulations necessary to achieve that goal.

SFI Position

SFI supports Amendments 3 and 4 to the FMP. We believe the Council has proposed management measures that conform to the goals of the MFCMA and will guide these fisheries closer to the optimum yields of each fishery. The prohibition of the use of purse seines to harvest the Atlantic migratory group of king mackerel, and the prohibition of the use of drift gillnets to harvest all coastal migratory pelagic resources are sound management measures that will serve to conserve these resources and may create enhanced economic benefits. The prohibition of the use of run-around gillnets to take king mackerel from the Atlantic migratory group is also a sound conservation measure.

The addition of a new Plan objective to "Minimize waste and bycatch in the fishery," is a positive and important addition. This objective is consistent with the prohibitions of the various gear types and will result in reductions in the indiscriminate killing of other valuable species such as bonito, barracuda, and sailfish, while using gillnets for the harvest of king mackerel.

We are in support of the reallocation of the Atlantic migratory group of Spanish mackerel between commercial and recreational fishermen. The 50%-50% proposed allocation between commercial and recreational fishermen is an improvement over the existing 76%-24% commercial-recreational allocation. Spanish mackerel are worth more in a recreational use and this reallocation will create greater economic returns to the Nation

from this public resource. We are not convinced that the proposed allocation is the optimum allocation that could be put in place. Therefore, we call upon the National Marine Fisheries Service (NMFS) and the Councils to use the substantial economic data bases that have been developed on mackerels to determine whether 50-50 is the OY for Spanish mackerel, and whether a different allocation might not produce greater economic returns from this fishery.

Economic Considerations

Inherent in the management measures that are being proposed are economic considerations. Part of the intent of prohibiting the purse seines, drift nets, and run-around gillnets is to avoid adverse economic impacts on existing resource users from allowing these new, destructive gear types. The conservation of king and spanish mackerel is important to recreational fishermen and the sport fishing industry. If unrestricted harvest was allowed on king and spanish mackerel, resulting in greater declines in the populations of these species, significant economic losses would occur in the sport fishing industry.

To understand the potential losses in the sport fishing industry, requires an understanding of the level of economic benefits resulting from sport fishing. For example, SFI is currently preparing analyses of the economic impact of sport fishing in each of the 50 states for the U.S. Fish and Wildlife Service. Preliminary estimates for the State of Florida are that saltwater and freshwater sport fishing in Florida has the following impacts on the State's economy:

Measure	Economic Benefit
Expenditures	$3,062,622,386
Output	$4,228,768,254
Income	$1,445,586,224
Jobs	97,497
Person-Years	86,584

Needless to say, sport fishing has a tremendous economic impact on the State of Florida. The reader should note that these estimates are for both freshwater and saltwater fishing, and are derived from data from U.S. Fish and Wildlife Service data.

Marine recreational fishing also has significant economic impacts. SFI has recently completed an economic assessment of marine recreational fishing for the National Marine Fisheries Service using a variety of state and federal data sources. Estimates of the retail sales associated with marine recreational fishing for various regions and the State of Florida in 1985 are:

Region	Retail Sales
Nation	$4,910,200,000
South Atlantic Region*	$1,015,956,900
Gulf Council*	$1,715,729,900
Florida	$1,586,725,900
Florida (East Coast)	$ 639,735,300
Florida (West Coast)	$ 946,990,600

* Conforms to Regional Council boundaries.

As seen by these estimates, marine recreational fishing has significant economic impacts on the Nation, the jurisdictions of these two Councils, and in the State of Florida. The sport fishing industry is large and employs a great many people.

The estimates presented thus far have been aggregate, in the sense of dealing with sport fishing for all species. To more specifically address the species considered in the Coastal Pelagics FMP, it is necessary to estimate the economic benefits of recreational fishing for king and spanish mackerel. To derive the economic benefits associated with king and spanish mackerel, the aggregate estimates for each Council region are adjusted by the percent of marine recreational fishing trips that target king and spanish mackerel. The following are the estimates of the percent of trips targetting king and spanish mackerel for each Council region, as reported by the Marine Recreational Fishery Statistics Survey, 1979 - 1986:

	South Atlantic		Gulf of Mexico	
Year	King	Spanish	King	Spanish
1979	3.68%	n/a	4.18%	2.54%
1980	3.15%	n/a	2.94%	1.79%
1981	4.42%	1.85%	3.23%	3.09%
1982	3.25%	0.90%	1.61%	2.87%
1983	2.99%	n/a	n/a	1.45%
1984	3.94%	n/a	0.96%	1.83%
1985	2.84%	0.94%	0.78%	1.45%
1986	5.25%	n/a	1.52%	3.16%
Average	3.50%	1.23%	1.87%	2.47%

n/a = not available

The average is computed using the years 1981, 1982, and 1985 because these are the three years where estimates for both species in both regions were reported. It should be noted that

these estimates may be biased downward as much as 50 percent, meaning that the real numbers are twice as large. The reason is that the Survey also included a category called "none reported" for target species. This category on average comprises roughly half of all the responses. These respondents are people who are fishing but do not indicate they are fishing for any single particular species. These fishermen, and their resultant economic impacts, may also be related to king or spanish mackerel, but they do not indicate that they are specifically fishing for these species.

Applying the average percent of fishing trips that target king and spanish mackerel by region results in the following minimum estimates of the retail sales of goods and services in the sport fishing industry attributable to king and spanish mackerel fishing trips:

Region/Species	Annual Retail Sales
South Atlantic, King	$35,558,500
South Atlantic, Spanish	$12,496,300
Gulf of Mexico, King	$32,084,100
Gulf of Mexico, Spanish	$42,378,500

These estimates indicate that the economic impact of recreational fishing for king and spanish mackerel is significant. The estimates are extremely conservative due to the fact that only half of the fishing trips that are taken are used to calculate the portion of trips that target each species. Furthermore, these numbers do not include multiplier effects that would result in approximately a doubling of these numbers.

The point to be understood from reviewing these estimates of the substantial economic impact of marine recreational fishing, is that should significant losses in fish populations occur due to the use of indiscriminate, overly efficient, or incompatible gear types, the result will be significant and wide-spread economic losses. Therefore, the proposed management measures the prohibit the newly introduced, and clearly inappropriate, drift gillnets, as well as the run-around gillnet and purse seines, will result in the maintaining of the significant economic benefits that the recreational fisheries for king and spanish mackerels provide.

The estimates provided thus far only address king and spanish mackerel. The reality is, however, that drift gillnets indiscriminately kill a wide range of other valuable species as well. Losses of bonito, barracuda, and sailfish in drift gillnets also have significant economic effects. The two Councils represented at this hearing, as well as the State of Florida, have taken steps to conserve and protect sailfish in the form of the recently approved Atlantic Billfishes FMP and Florida State law prohibiting the sale of sailfish. These positive steps toward conserving these resources may be jeapordized by allowing the use of drift gillnets, due to the killing of sailfish in drift gillnets. Obviously, a more discriminating gear in the commercial king mackerel fishery, such as hook and line, should be used in preference over drift gillnets.

There are numerous fleets of charterboats and private boats that rely on sailfish, as well as king mackerel, for their existence. One example is the charterboat fishery of the Florida

Keys. There are approximately 133 charterboats in the Keys. Fishing trips on these boats generated $17,241,600 in local expenditures in the Keys in 1987, out of a total of $21,279,100 of expenditures within the State of Florida associated with fishing on the 133 boats in the Keys. These are significant local economic benefits, a portion of which would be lost if the sailfish resource is affected in a significant adverse manner by drift gillnets. Similar economic losses in coastal communties could be expected throughout Florida if the sailfish resource were to be lost or diminished. These losses would be in addition to losses due to continued declines in the king mackerel and spanish mackerel resources.

Spanish Mackerel Allocation

The proposed Amendment 4 includes a reallocation of spanish mackerel in the Atlantic migratory group from 76% commercial -- 24% recreational to an even (50-50) allocation. We support this reallocation and believe that the economic and social benefits from the revised use of this resources will be increased as a result. Clearly, the closures of the recreational spanish mackerel fisheries have created economic and social losses. This reallocation will help mitigate those losses. Furthermore, the fact that closures were necessary implies that the demand for the resource exceeds available supply, and that if the allocation were to be increased, more sport fishing trips and resulting economic benefits would occur. It is not clear, however, whether the proposed allocation is the best or optimum allocation

strategy. The question needs to be addressed: "Does the proposed allocation formula provide an optimum yield from this fishery?"

Inherent in an allocation decision is an economic decision. A choice is being made as to how much the economic benefits are going to be from a fishery and who is going to get them. The question that must be addressed at this time is: "Does this proposed allocation strategy provide for optimum economic benefits, and if not, what allocation strategy will give society the best returns from this public resource?" The consideration process of each possible option is not only to be done on an economic basis; there are other components to the optimum yield equation. However, economic benefits and costs are an important aspect that need to be addressed.

Much of the economics information is available to estimate the economic benefits and costs of different allocation schemes. NMFS, having recently established an Economics Program in the Southeast Regional Office, is in an excellent position to undertake an analysis of the appropriate benefits and costs. Several documents have been prepared that should help NMFS with this process. These are:

1. A Research Agenda for the Economics of the King Mackerel Fishery, prepared by the Sport Fishing Institute for the Gulf Council.

2. "Estimating the Effects of King Mackerel Bay Limits on Charter Boat Captains and Anglers", Environmental Resources Management-North Central, Inc. for NMFS.

3. A MARFIN project at the University of Florida to estimate the value of the recreational king mackerlel fishery.

4. A MARFIN project at Texas A&M addressing the economics of the charterboat fleet and profiling recreational fishermen.

5. "Socio-Economic Study of the Mackerel Purse Seine Fishery, Task I Report", Centaur Associates, Inc. for NMFS.

There are other available documents that would assist in the analysis of the economic benefits and costs of alternative allocation scenarios that are not listed here. The point to be made from this list of studies, is that NMFS has in its hand a research plan on mackerels, studies of the economic characteristics of the recreational fisheries, and studies of the economic characteristics of the commercial fisheries. This information set may not provide all the information needed to generate theoretically perfect analyses. However, there is sufficient focus, data, and analysis to undertake a fairly rigorous economic analysis of the relative benefits and costs of alternative allocation scenarios. We urge that these analyses be undertaken as part of the deliberations on methods to achieve the optimum yield for spanish mackerel.

There often is a desire to choose the historical allocation of a natural resource when establishing an allocation formula. The problem with this approach is that the society for whom the resource is managed is never better off. Any potential gains from alternative allocations are lost. The public bears the costs of maintaining a "status quo". If historical allocations

were applied to all resources, un-regulated timber harvesting, and market hunting for deer, ducks, and geese would be allowed. Society repeatedly has made the hard decision that historical allocation does not always produce the optimum allocation of natural resources.

Conclusion

The Sport Fishing Institute supports proposed Amendments 3 and 4 to the Coastal Pelagics FMP. We believe that drift gillnets are a menace to sound fisheries management and conservation due to their indiscriminate nature. Allowing drift gillnets in the pelagics fishery will not only create economic losses for other users of the mackerels resources, but other species such as sailfish, a protected species. The addition of a FMP objective to minimize waste and bycatch in the fishery is a sound and appropriate objective that follows from the management measures that are proposed. The prohibition of purse seines and run-around gillnets is a positive step as it will better distribute the limited resources among the various users, and eliminate two gear types that are not compatible with these limited fisheries.

SFI supports the reallocation strategy for spanish mackerel as proposed in Amendment 4. However, we do question whether this is the "optimum" allocation, and request that the Councils and NMFS use the significant economic and social data bases created on mackerels to address this question.

Thank you for the opportunity to comment on these important and beneficial FMP Amendments.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR PART 642

[Docket No. _____]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 4 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). This proposed rule would reallocate Atlantic migratory group Spanish mackerel. The intended effect of this proposed rule is to more equitably allocate Atlantic migratory group Spanish mackerel between recreational and commercial users.

DATE: Written comments must be received on or before [Insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments may be sent to, and copies of the draft Environmental Assessment/Regulatory Impact Review may be obtained from: Mark F. Godcharles, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero mackerel,

cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the FMP, prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and its implementing regulations at 50 CFR Part 642, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 4 addresses the inappropriate allocation (76% commercial and 24% recreational) for Atlantic migratory group Spanish mackerel which has contributed to early recreational closures and adverse socioeconomic impacts. For Atlantic migratory group Spanish mackerel, Amendment 4 addresses this problem by establishing a procedure to change the allocation to 50 percent recreational and 50 percent commercial as the total allowable catch increases.

Draft Amendment 4 was prepared and distributed to interested parties in September and October, 1988. Public hearings were held on the draft amendment in 10 cities from Key West, FL to Manteo, NC in October 1988. After consideration of the comments received at the public hearings and Council meetings, written public comments, and comments from their Scientific and Statistical Committees and Advisory Panels, the Councils made their final selection of preferred options at the April 1989 joint Council meeting. The issues, their impacts, and the rationale for the Councils' preferred options are summarized below. A more complete analysis appears in Amendment 4, the availability of which was published in the FEDERAL REGISTER (53 FR ;).

Background

The current allocation of 76 percent commercial and 24 percent

recreational in the Atlantic migratory group Spanish mackerel fishery does not reflect the allocation that existed during the early to mid 1970's when the fishery was not overfished. The current allocation (76% commercial: 24% recreational) was based on recreational catch data from 1979-85, a period during which the resource was overfished and when recreational catches and participation were low due to the status of the resource. This inappropriate allocation has contributed to the early closure of the recreational fishery which results in negative socioeconomic impacts to recreational fishermen.

Issue 1. Atlantic Migratory Group Spanish Mackerel Commercial and Recreational Allocations

Current regulations establish an allocation of 76 percent commercial and 24 percent recreational based on catch data from 1979–85. The Councils concluded that this is inappropriate because the resource was overfished and the recreational share depressed during this time period. New allocations are proposed to more equitably allocate Atlantic migratory group Spanish mackerel between recreational and commercial users.

The Councils considered three options: Option 1 (status quo) – continue with the 76 percent commercial and 24 percent recreational allocation; Option 2 – reallocate based on estimated average ratios of catches in the period from 1967–74; and Option 4 – reallocate 50 percent commercial and 50 percent recreational.

The Councils concluded that the current allocations (76% commercial and 24% recreational) are inappropriate and selected Option 4 because:

1. The Atlantic migratory group Spanish mackerel resource was

overfished and the resulting recreational catches depressed during the years 1979-85 which were used to establish the current allocation.

2. Commercial catches increased during the mid 1970's and the distribution of the resource between recreational and commercial users changed with more being taken commercially. This is also the time when the resource began to decline and become more compressed. Recreational catches in Georgia, South Carolina and North Carolina were affected and in these states recreational harvest had previously accounted for the majority of the harvest.

3. The Councils know, based on the expert knowledge of state fishery directors and other Council members directly associated with the fishery, that recreational catches were higher in the 1970's but quantitative information to support this conclusion is limited. Limited quantitative data from the early 1970's indicates that the Atlantic migratory group Spanish mackerel resource was distributed equally (i.e. 50/50) between the recreational and commercial user groups. Qualitative information such as input from fishermen and the recent reemergence of catches north of North Carolina, indicate that Spanish mackerel are now repopulating this area, as they have in the past, thereby lending support to the Councils' conclusion of higher recreational catches during the 1970's.

4. Now that the Atlantic migratory group is reduced and harvest capacity and demand of both user groups has expanded to the point that either group could harvest all or most of the available resource, it may be more equitable to allocate the resource equally between users.

5. Based on the above, the Councils concluded that the 50/50 allocation results in benefits greater than costs and maximizes the net socioeconomic benefits available from the Atlantic migratory group Spanish mackerel resource.

In order to minimize impacts to the commercial sector while the new allocation is being accomplished, the Councils chose an implementation mechanism (Issue 2) that allocates 90 percent of the increase in total allowable catch, above the total allowable catch that results in a 3.04 million pound commercial quota, to the recreational sector until the recreational sector's allocation equals the commercial sectors allocation; however, the ratio will adjust to 50/50 by 1994. Also, if total allowable catch decreases, the commercial allocation would decrease (see the discussion under Issue 2). The Councils' intent is to have this procedure apply to allocating the total allowable catch of 6 million pounds for the current 1989/90 fishing year assuming Amendment 4 is approved. If Amendment 4 is approved, the commercial allocation would be 3.24 million pounds and the recreational allocation would be 2.76 million pounds (54% commercial; 46% recreational). If not approved, the existing allocations of 4.56 million pounds commercial and 1.44 million pounds recreational would continue.

The Councils concluded that this is fair and equitable to the commercial sector because this level of commercial allocation exceeds the average of the 1970-74 catches (3,098,6000 pounds), the time period prior to the large increase in commercial catches of the mid to late 1970's. The Spanish mackerel resource is believed to have not been overfished during this time period and

allocating the commercial sector a base amount equal to what they were catching at that time would be fair to them. Allocating most of the remainder to the recreational sector, would also be fair to that user group. In addition, providing 10 percent of the increase to the commercial sector allows them to share in the benefits of rebuilding the resource while accomplishing the 50/50 allocation.

This new ratio would reduce the commercial allocation from 76 percent to 50 percent for Atlantic migratory group Spanish mackerel. For the 1989/90 fishing year, the commercial quota would be 3.24 million pounds and is a reduction of 41 percent from the 1979-86 average catch or a 23 percent reduction from the average of 1981-86. The ratio only represents a reduction of 1 percent from the 1984-86 average catch but a 13 percent increase over the 1986-87 average catch. There would be a 2 percent decrease from actual 1987 catches but a 6 percent increase over the 1987 commercial quota. Foregone earnings to the commercial sector can be estimated by comparing the 76/24 allocation (4.56 million pounds) to the proposed allocation (3.24 million pounds). The difference is 1.32 million pounds with an estimated ex-vessel value of approximately $450,000. On the recreational side, the methodology to analyze the benefits from doubling the allocation has been developed but work in this area has not been conducted. However, estimates of total annual gains of between $2.5 and $25.5 million were obtained for Gulf king mackerel by doubling the allocation. Total estimated annual retail sales associated with Spanish mackerel in the South Atlantic was $12,496,300 in 1985. The number of participants in the Atlantic migratory group Spanish

mackerel fishery is unknown; however, the following estimates are the best available: (1) total recreational fishing in the South Atlantic in 1987: 1.9 million anglers making 20.9 million trips; (2) 896 charter vessels with permits; (3) 950 commercial permits for Atlantic Spanish mackerel; and (4) net boats that target or take mackerel as a bycatch: 41 big and 125 small.

The Councils concluded that the resulting impact on the commercial sector will not be significant during the period when the recreational allocation is allowed to increase to the level of the commercial allocation. In actuality, because of the increase in total allowable catch this fishing year (1989/90), the value of the commercial allocation should increase over last fishing year (1988/89) by approximately $68,000.

Issue 2. Implementation of Reallocation of Atlantic Migratory Group Spanish Mackerel

The Councils considered five options: Option 1 — implement the 50/50 reallocation with the effective date of the amendment relatively late in the fishing year, with a relatively low total allowable catch; Option 2 — implement the revised ratios to be effective with the seasonal adjustment for the next fishing year; Option 3 — implement the reallocation only as the total allowable catch is increased by providing the increase to the gaining group until the new ratio is established. No reduction in any group's quota would occur unless total allowable catch were subsequently reduced, in which case the new ratio would apply to the reduction; Option 4 — implement the reallocation only as the total allowable catch is increased by providing the increase to the gaining group until the new ratio is established. No reduction in any group's

quota would occur unless total allowable catch were subsequently reduced, in which case the new ratio would apply only to the amount of the reduction; and Option 5 — implement the reallocation only for the total allowable catch increase above the level which results in a 3.04 million pound commercial quota, by providing 90 percent of the increase to the recreational allocation and 10 percent of the increase to the commercial allocation until the new ratio is established. No reduction in any group's quota would occur unless the total allowable catch were subsequently reduced, in which case the then existing ratio would apply. However, the ratio will adjust to the 50/50 split by 1994.

The Councils selected Option 5 as this mechanism best moderates any negative socioeconomic impacts the reallocation may have on the commercial sector and provides a gradual redistribution (as long as the total allowable catch changes gradually) without decreasing any groups's existing quota. The Councils have recommended a total allowable catch of 6 million pounds for the 1989/90 fishing year. This implementation procedure establishes a base level of 3.04 million pounds for the commercial fishery which results from a total allowable catch of 4.0 million pounds (1988/89 fishing year); the remaining 0.96 million pounds was allocated to the recreational fishery. The increase in the total allowable catch, in this case 2.0 million pounds, is to be shared with 10% (0.2 million pounds) going to the commercial allocation and 90% (1.8 million pounds) going to the recreational allocation. The resulting allocations for the 1989/90 fishing year assuming Amendment 4 is approved are:

TAC = 6.0 million pounds

Commercial Allocation = 3.24 million pounds (54%)

Recreational Allocation = 2.76 million pounds (46%)

It is the Councils' intent that these allocations take effect when Amendment 4 is approved and implemented. Throughout the procedural development and preparation of Amendment 4, it has been the Councils' expressed intent that the revised allocations be in place prior to the 1989/90 fishing year. Unfortunately, due to procedural delays, this was not possible. However, the Councils have concluded that, based on the urgent nature of reallocation under increasing total allowable catches, this action is justified and have requested that the notice action specifying total allowable catch and allocations for the 1989/90 fishing year indicate that Amendment 4 proposes to alter these allocations. This action would also provide the public additional opportunity for comment.

If Amendment 4 is approved, it should be implemented by the beginning of November. Since the majority of the commercial harvest does not occur until December/January each year, commercial catches should not exceed the 3.24 million pound level prior to implementation of Amendment 4. If unforeseen circumstances were to occur, and the commercial harvest were to exceed the 3.24 million pound level at implementation of Amendment 4, it is the intent of the Councils for the commercial fishery to close and the remaining total allowable catch be applied to the recreational allocation.

If Amendment 4 is not approved, the existing allocations (76% commercial/24% recreational) would apply and the resulting allocations for the 1989/90 fishing year would be:

TAC = 6.0 million pounds

Commercial Allocation = 4.56 million pounds

Recreational Allocation = 1.44 million pounds

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended by Pub. L. 99-659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 4, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Councils prepared a regulatory impact review which concludes that this rule will have the economic effects discussed above in the analysis of the management measures of Amendment 4.

A copy of the review may be obtained at the address listed above.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities for the following reasons. The commercial sector will be allocated an amount in excess of their average catch from 1970—74 when the resource was not overfished. In addition, the current allocation represents a 13 percent increase over the 1986-87 average catch. As a result, a regulatory flexibility analysis was not prepared.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, and Florida. Georgia does not have approved coastal zone management programs. This determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

The Councils prepared an environmental assessment (EA) that discusses the impact on the environment and concludes that there will be no significant adverse impact on the human environment as a result of this rule. A copy of the EA may be obtained at the address listed above and comments on it are requested.

This proposed rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing.

Dated:

For reasons set forth in the preamble, 50 CFR Part 642 is proposed to be amended as follows:

PART 642 -- COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In §642.21 the recreational and commercial allocations for Atlantic migratory group of Spanish mackerel would be calculated by establishing a base commercial allocation of 3.04 million pounds which results from a total allowable catch of 4.0 million pounds; the remaining 0.96 million pounds is allocated to the recreational fishery. The increase in the total allowable catch, in this case 2.0 million pounds, is to be shared with 10 percent (0.2 million pounds) gong to the commercial allocation and 90 percent (1.8 million pounds) going to the recreational allocation. The resulting allocations for the 1989/90 fishing year assuming

Amendment 4 is approved are:

TAC = 6.0 million pounds

Commercial Allocation = 3.24 million pounds (54%)

Recreational Allocation = 2.76 million pounds (46%)

Sections (c)(2) and (d)(2) would change with implementation of Amendment 4.