

Atlantic States Marine Fisheries Commission

South Atlantic State/Federal Fisheries Management Board

May 1, 2012
1:00 p.m. – 2:00 p.m.
Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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| 1. Welcome/Call to Order (<i>L. Daniel</i>) | 1:00 p.m. |
| 2. Board Consent | 1:00 p.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from February 9, 2012 | |
| 3. Public Comment | 1:05 p.m. |
| 4. Elect Vice Chair Action | 1:15 p.m. |
| 5. Consider approval of modified Black Drum Public Information Document for Public Comment (<i>D. Chesky</i>) Action | 1:20 p.m. |
| 6. Review and approve Spanish Mackerel Implementation Plans (<i>D. Chesky</i>) Action | 1:30 p.m. |
| 7. Review and populate Black Drum Technical Committee and Stock Assessment Subcommittee membership (<i>D. Chesky</i>) Action | 1:40 p.m. |
| 8. SEAMAP Funding update for FY2012 (<i>M. Paine</i>) | 1:50 p.m. |
| 9. Other Business/Adjourn | 2:00 p.m. |

The meeting will be held at the Crowne Plaza, 901 N. Fairfax Street, Alexandria, VA 22314; 703-683-6000

Healthy, self-sustaining populations for all Atlantic coast fish species, or successful restoration well in progress, by the year 2015

MEETING OVERVIEW

South Atlantic State/Federal Fisheries Management Board Meeting

Tuesday, May 1, 2012

1:00 p.m. – 2:00 p.m.

Alexandria, Virginia

Chair: Louis Daniel (NC) Assumed Chairmanship: 02/10	Technical Committee Chairs Atlantic Croaker: Joe Grist (VA) Red Drum: Mike Murphy (FL)	Law Enforcement Committee Rep: Stephen Adams (GA)
Vice Chair: *****Xcecpv	Advisory Panel Chair: Bill Windley (MD)	Previous Board Meeting: February 9, 2012
Voting Members: NJ, DE, MD, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS, SAFMC (12 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from February 9, 2012

3. Public Comment – At the beginning of the meeting, public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Elect Vice Chair (1:15 p.m. - 1:20 p.m.) Action

Background

- The previous Vice Chair was Jessica McCawley (FL). Florida's Administrative Commissioner is now Aaron Podey.

Presentations

- None.

Board actions for consideration at this meeting

- Elect Vice Chair.

5. Black Drum Public Information Document (1:20 p.m. - 1:30 p.m.) Action

Background

- The Board initiated development of a Public Information Document for an Interstate Fishery Management Plan for Public Comment in November 2011.
- At the February 2012 meeting, the Board tasked the Plan Review Team with including additional information and visual representations in the Public Information Document (**Briefing CD**).

Presentations

- Overview of modified Public Information Document for Public Comment by D. Chesky.

Board actions for consideration at this meeting

- Approve the Public Information Document for Public Comment.

6. Spanish Mackerel Implementation Plans (1:30 - 1:40 p.m.) Action

<p>Background</p> <ul style="list-style-type: none"> • The Board approved the Omnibus Amendment for Spot, Spotted Seatrout and Spanish mackerel for management at the August 2011 meeting. • States' Spanish mackerel implementation plans were due March 15, 2012 (Briefing CD). • The implementation plans were reviewed by the Spanish Mackerel Plan Review Team and the Omnibus Amendment Plan Development Team in April.
<p>Presentations</p> <ul style="list-style-type: none"> • Overview of recommendations on implementation plans by D. Chesky.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • Approve state Spanish mackerel implementation plans.

<p>7. Review and Populate Black Drum Technical Committee and Stock Assessment Subcommittee Membership (1:40 - 1:50 p.m.) Action</p>
<p>Background</p> <ul style="list-style-type: none"> • At the November 2011 meeting, the Board initiated a stock assessment and development of an interstate fishery management plan simultaneously, anticipating beginning both processes in 2012. • Jurisdictions from New Jersey to Florida and the National Marine Fisheries Service were asked to submit nominations to the Black Drum Technical Committee and Stock Assessment Subcommittee by March 30, 2012 (Briefing CD).
<p>Presentations</p> <ul style="list-style-type: none"> • Nominations by D. Chesky.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • Approve Black Drum Stock Assessment Subcommittee Nominations.

<p>8. SEAMAP Funding update for FY2012 (1:50 - 1:55 p.m.)</p>
<p>Background</p> <ul style="list-style-type: none"> • Proposed funding allocations for SEAMAP-South Atlantic projects and received funding for FY2012 (Briefing CD).
<p>Presentations</p> <ul style="list-style-type: none"> • Review of project funding by M. Paine.
<p>Board actions for consideration at this meeting</p> <ul style="list-style-type: none"> • None.

9. Other Business/Adjourn

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
February 9, 2012

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Adjournment 10

These minutes are draft and subject to approval by the South Atlantic State/Federal Fisheries Management Board. The Board will review the minutes during its next meeting.

INDEX OF MOTIONS

1. **Approval of Agenda by Consent** (Page 1).
2. **Approval of Proceedings of November 2011 by Consent** (Page 1).
3. **Move to approve the Black Drum Public Information Document for public comment** (Page 3). Motion by Robert Boyles; second by Wilson Laney. Motion carried (Page 3).
4. **Move to approve the Technical Addendum 1A to Amendment 1 of the Spanish Mackerel Fishery Management Plan** (Page 9). Motion by Aaron Podey; second by Pat Augustine. Motion carried (Page 9).
5. **Adjourn by Consent** (Page 10).

ATTENDANCE

Board Members

Russ Allen, NJ, proxy for D. Chanda (AA)
Tom Fote, NJ (GA)
Stew Michels, DE, proxy for D. Saveikis (AA)
Roy Miller, DE (GA)
Russell Dize, MD, proxy for Sen. Colburn (LA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Jack Travelstead, VA, proxy for S. Bowman (AA)

Robert H. Boyles, Jr., SC (LA)
Patrick Geer, GA, proxy for S Woodward (AA)
John Duren, GA (LA)
Aaron Podey, FL (AA)
Jack McGovern, NMFS
Wilson Laney, USFWS
A.C. Carpenter, PRFC

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Danielle Chesky
Kate Taylor

Guests

The South Atlantic State-Federal Fisheries Management Board of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel, Alexandria, Virginia, February 9, 2012, and was called to order at 11:42 o'clock a.m. by Chairman Louis Daniel.

CALL TO ORDER

CHAIRMAN LOUIS DANIEL: Welcome to the South Atlantic Board. You should have all of your meeting materials in front of you. We've got a few things to go over today.

APPROVAL OF AGENDA APPROVAL OF PROCEEDINGS

CHAIRMAN LOUIS DANIEL: You should have had a chance to look over the agenda and our proceedings from our previous meeting. Would anyone like to add any other business, correct the agenda or correct the minutes? Seeing no interest, we will consider those approved.

PUBLIC COMMENT

CHAIRMAN LOUIS DANIEL: I don't see anybody from the public, but I will ask just in case if there is anyone from the public that would like to speak on issues not on our agenda? We will provide that opportunity before we take any action. With that, we will move into Item 4 on our agenda. Danielle is going to go over the Black Drum Public Information Document for our approval for public comment.

DISCUSSION OF BLACK DRUM PUBLIC INFORMATION DOCUMENT FOR PUBLIC COMMENT

MS. DANIELLE CHESKY: At our last meeting the South Atlantic State/Federal Fisheries Management Board decided to initiate an Interstate Fishery Management Plan for Black Drum. The first step in that process is putting together a public information document and putting it out for public comment.

What you see currently on your slide is the current timeline. Following the schedule, the final FMP should be ready for review by fall of 2013. In terms of the background on this document, this actually began with the policy board. In August of 2011 the policy board accepted the recommendations of the Black Drum Working Group to initiate an FMP.

The policy board then delegated the task to the South Atlantic Board. At that time there were concerns that had been raised about the unknown status of the

black drum stock and the directed fishing that occurs on the juveniles. One of the main questions that we looked to address was why should there be an Interstate FMP for Black Drum.

Some of the reasons included having consistent coast-wide management in addition to having a framework ready to implement management measures should they be needed now or in the future as well as to confront issues, as I said, that may face the fishery. In terms of Reason 1, there is currently a lack of consistent coast-wide regulations.

There was concern from the working group that this may negatively impact the black drum population as fishing pressure may shift from other stocks to the black drum. It is a migratory stock and so thus one state's actions likely will impact another state's fishery. Currently the stock status is unknown. In terms of the second reason for developing an FMP, black drum populations currently are not subject to any of the protections or benefits gained from an Interstate Fishery Management Plan. The plan itself having something in place allows for quick action should it be needed.

Finally, Reason 3 that is cited in the document, I think one of the things that the PID really wanted to emphasize is that the stock currently is not considered to be in trouble. That was a point that they made and wanted to make sure that we get across to the public. However, there is currently no framework or forum for states to confront issues that may arise, especially due to the migratory nature of the stock.

Having an Interstate Fishery Management Plan in place will give managers better tools to address these issues as they come up. Some of the key questions that are presented in the document for the public include what is the public's current perception of the health of the fishery, what trends or issues they may be seeing or not seeing currently, what should be some of the objectives of the Black Drum Management Plan moving into the future.

There are questions about monitoring for black drum; what monitoring should be included; should it be mandatory or not; and then also what habitat issues. As I said before, the PDT wanted to stress that although there may not be any issues that are currently perceived by the public, to get the public thinking about what may be some potential issues that can be included in the framework that the management board could address in the future.

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Reviewing the current recreational harvest numbers, I've included both MRFSS in black and MRIP in white and then also the commercial harvest numbers that you've seen before that have been presented by the working group at the policy board. The main point of the PID is to ask the question of the public how would you like the black drum fisheries to look in the future. That is the overriding question that we present. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Questions on our move forward with this PID? Jack.

DR. JACK McGOVERN: I have a question for Danielle. One of the issues that was brought up as the reason for having a fishery management plan for black drum was catching juveniles. I was wondering if there was any information on trends and mean length or that sort of thing that could maybe be incorporated into this document. I don't know if there are or not.

MS. CHESKY: I think we have some information from the working group that we can include in terms of current management measures, in terms of minimum sizes or whatnot. I can see what we have in that document; and if there is anything in there, if the board wished, we could include it.

CHAIRMAN DANIEL: Yes, that's a good question, Jack. I think if you look at North Carolina's landings, that 99 percent of it is juvenile fish. Virginia is going to be different and the northern states are going to be different, but for the southern states I think the majority of the landings are juvenile fish. Robert.

MR. ROBERT H. BOYLES, JR.: Danielle, I was wondering is there any data out there that we could put in here or is it appropriate to put in the public information document tagging data that documents interjurisdictional movement.

MS. CHESKY: Certainly, there is some information that was used in the working group document that is cited, but we can see if we can included anything that is a little bit more visual to sort of emphasize that point if that's what you're thinking.

MR. BOYLES: I think it would help certainly our constituents in South Carolina to kind of get a grasp on why we're going down this road.

CHAIRMAN DANIEL: Any other suggestions for any additions? Those are good suggestions.

DR. WILSON LANEY: Mr. Chairman, picking up on Robert's point, if we have tag-return data and we could use those to produce a GIS-based map that we could stick in the document, I think that would be very effective. That brings to mind, too, the results of the recent North Carolina Spotted Seatrout Study, which you may want to mention, that showed considerably more movement than we had anticipated or at least that some of us had anticipated for that species.

CHAIRMAN DANIEL: I know Charlie tagged a lot. We tagged a lot of black drum out of South Carolina back in the eighties. We had one fish that traveled 175 miles in three days. It went from Charleston Harbor to Georgia, so they are migratory. Stew.

MR. STEWART MICHELS: I'm not sure if this is an appropriate time, but I just have a slight editorial change. Under description of management it says that all states in the range currently have some level of regulations for black drum except Delaware. Then it refers to Table 1, and we do have regulations in place and they are accurately reflected in Table 1. Thanks.

MS. CHESKY: My apologies about that Stew; I think that's supposed to say North Carolina. Thank you for catching that.

CHAIRMAN DANIEL: I was about to say it should be North Carolina. Adam.

MR. ADAM NOWALSKY: Mr. Chairman, the paper under Issue 3 references that no indices or warning signs have materialized according to the working group paper. Would there be some relevant graphs that could be included in that for the public to see or some other way for them to reference the working group paper so that the public could look at these things and offer their own comments with regards to that assumption.

MS. CHESKY: The short answer is yes. The long answer would be we can look to see – I know we've included the landings for commercial and recreational. We can look at some of the potential indices or other graphs that are included in there to see if those will give a better idea of that, if that will help.

MR. NOWALSKY: Yes, specifically some indices from coastal trawl surveys on a state-by-state basis would certainly be beneficial I think as a minimum or other similar items that would be available.

CHAIRMAN DANIEL: Thank you, Adam. Anything else from anyone? **If not, I would accept a motion to approve the PID for public comment.**

MR. BOYLES: **So moved, Mr. Chairman.**

CHAIRMAN DANIEL: Motion by Robert Boyles; seconded by Wilson Laney. Is there any further comment on the motion? The motion is to accept the PID for public comment. Motion by Mr. Boyles; second by Dr. Laney. Do we need to caucus? I don't think so. All in favor raise your right hand; opposed; null votes; abstentions. **Seeing none, the motion carries unanimously.** All right, our next item on our agenda is the State/Regional Quota White Paper and Danielle will run us through that. You should all have copies of that either back on the table or on your disk.

REVIEW OF STATE/REGIONAL QUOTA WHITE PAPER

MS. CHESKY: In terms of the background on the development of this paper and why you have it before you, in November a motion was made and passed by the board to charge staff to look into potential implementation options or plans for state or regional quotas for snapper grouper species.

As a result of that, I attended the December 2011 South Atlantic Council Meeting where there was some discussion about potential regional or state quotas for both snapper grouper and coastal migratory pelagic species. In forming this paper you will see that there are some potential problems to be addressed and they're a little bit more far-reaching.

This is some of the feedback that I've heard from states in terms of being able to fully utilize the quota, have an extended fishing season or a full fishing season while still having sufficient monitoring control. One of the options to address some of these issues could be state or regional quotas. The white paper outlines some possible management measures that could be used by the board along with some key questions and specific concerns that were raised.

You will note that allocation is not included in the document. This document focused on the process and the potential challenges that may come from it and not the end result, which would be an allocation. The first management option – and I present four in this document – would be a joint plan.

Under this, measures must comply with both the Atlantic Coastal Fisheries Cooperative Management Act as well as the Magnuson-Stevens Act. The joint

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plan would be passed by both the South Atlantic Council and our board. It can accommodate aspects that are solely within an ASMFC plan and not within the council plan.

We have some examples of that that already occur in the Mid-Atlantic and northeast, including scup and black sea bass. Summer flounder would be an example of where state quotas are included in both the federal plan and the commission plan. Under these plans and using the examples that we have currently within the commission, it is known that the National Marine Fisheries Service would be the lead on monitoring the quotas.

However, states would still be responsible for closing the waters when the quota is met. In terms of the total annual catch limit, that's allowed coastwide and that level would have to be agreed upon by both the council and the commission. The next option would be a complementary plan. We have an example of that currently within our commission, which is spiny dogfish.

The plan is formed by the board under ACFCMA only, although many of the measures are timed to mirror what is in the federal plan. As this is formed solely by the states and is not jointly managed officially with the council or the federal government, states are specified as the lead in both monitoring and enforcement of state water closures. The federal plan quota level would likely still apply as a coast-wide limit.

The third possible implementation option would be an emergency action by the board. It would require a two-thirds vote of all the members. It's a relatively short-term plan. It's instituted relatively quickly, but is only valid for 180 days and can be extended up to two years, but does require ongoing action towards developing more permanent management measures.

Again as with a complementary plan, states are specified as the lead in both monitoring and enforcement of the closures. In the specific case of snapper grouper, with the new accountability measures, an ACL is required under the Magnuson-Stevens Act. The federal plan overall quota level for the coast would likely still apply.

Lastly, we put forth for the board a plan that would be just an informal agreement among the states. As indicated in the title, it's neither formal nor binding. The decision could be made using the South Atlantic Board as a forum for discussion. Monitoring and the closures would be the responsibility of the states, again emphasizing the fact that it is nonbinding and

the federal plan quota would likely still apply coastwide.

Some key questions that the paper addressed under each of these options include the monitoring responsibilities and closing; in terms of some other practical measures such as overages or underages, how those could potentially be addressed; transfers and management flexibility. The two questions that you see bolded here, monitoring and closing of the fishery, these tended to cause the most concern and awareness from the states of their ability to appropriately monitor to handle the state quotas, as well as to close the fishery and enforce those quotas so that their fishery and processors and dealers would not be impacted by accountability measures in the following year.

Finally, I put on the slide here some future work. The South Atlantic Council will be meeting in early March in Savannah, Georgia. They will be receiving a presentation from North Carolina on their interactions with state quotas as they've had them already with some of the Mid-Atlantic fisheries. In addition, it's going to be an opportunity for additional feedback to staff at the March meeting to look at scoping options.

In terms of the board's future options, they range quite a bit. I've put forth a couple of questions here in terms of what the board may like to see and/or potential initiation of something. Thank you, Mr. Chairman. My apologies; there is one typo in the document. It states that current federal dealer reporting is weekly. I apologize; it is currently federal dealers reporting on a biweekly basis. Thank you.

CHAIRMAN DANIEL: Okay, I think we have a split house here on this issue. Does anybody want to get us started? Robert.

MR. BOYLES: Mr. Chairman, perhaps my comments are predictable. I'm not quite sure we've – I don't quite understand the problem we're trying to address here. I think the struggle that I've got is that we're talking about the snapper grouper species that are very clearly managed under the authority of the Magnuson Act. Perhaps it's my inexperience with jointly managed species like we see in the New England and Mid-Atlantic Regions that gives me great pause here.

I guess NMFS is about to implement the Comprehensive ACL Amendment for the South Atlantic, and in that process I think we turned loose of 13 species and turned those back to the states, if

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the states choose to manage these things. I guess where I'm struggling is I'm afraid we're setting up expectations that in my case, for instance, South Carolina is going to be given X percent of the black sea bass quota to manage as we see fit.

I think folks are under the impression that the provisions of the Magnuson Act with ACLs and AMs suddenly will go away, and I think it's a very, very dangerous concept to get out there. I don't think that that is an option. I can tell you were it left up to the state of South Carolina to try to manage these quotas, right now we're getting monthly dealer reports; and when you've got a six-week commercial black sea bass season, we're just not going to get the data quickly enough to manage at that level. Thank you.

CHAIRMAN DANIEL: Thank you; and I think those are good points from that perspective. I'll give you mine. Right now we're being terribly disadvantaged with the coast-wide quotas in the South Atlantic, and I think this is primarily a North Carolina, South Carolina, Georgia, Florida issue; maybe a little Virginia.

We have fisheries that are closing in six weeks with no trip limits and the fisheries are occurring at times when we would never fish for these things, and so it has become such a derby fishery in North Carolina and throughout South Atlantic that – and we can't get any interest from the National Marine Fisheries Service to go in the direction of state-by-state quotas for these South Atlantic fisheries, but we do them in the Mid-Atlantic and it's very successful.

What we do in North Carolina is we work with our fishermen, we set up a trip limit, we set up a season, and we can have the fishery occur when we want it to occur. It's extremely advantageous to us to be able to do it that way. For example, with a black sea bass state quota we would open January the 1st as opposed to being forced to fish June 1st when the prices are as bad as they get. That is part of the problem with the fishing year that we've got set.

For grouper, the same thing, everybody coastwide has to rush out and try to catch their fish when they can catch them and hope that the quota doesn't get closed down. Vermilion snapper is the same way; the lifeblood of our snapper grouper fishery really is the vermilion snapper at least for South Carolina and North Carolina.

We're seeing these closures are happening and they're happening much more frequently. I don't think anybody believes this is going to have any impact on the ACLs and the AMs. We're going to

get a quota share and we're going to have to monitor that fishery and we're going to have to close it when we catch the quota.

If we go over, because all of these are overfished and overfishing, we're going to have to pay back. It works just like dogfish, it works just like summer flounder, it works just like black sea bass, all these stocks where we have these quotas. I think recognizing that we're unlikely to get very far – at least we've not been very successful so far in state-by-state quotas with the council.

I think the idea was, well, we could do it through this board and set the quotas up. That's kind of the issue that we're facing I think, but it's going to be up to all the states, and certainly the four South Atlantic states that are involved on the South Atlantic Council are going to have to either agree or disagree that this is a good idea in order to move forward.

Certainly, my feeling is there is no difference – everybody wants ITQs, the feds want ITQs. Well, what is the difference between having an ITQ that goes to the state in a lump sum or individuals? There are certain things that we can try to do internally. The only other option I would know is to make it voluntary, but I'd like to hear from Georgia and I'd like to hear from Florida on what they think about it. I don't know how far this is going to go, and so I think it's very important to hear from all the constituents here at the table today so that we know do we fish or cut bait here on this issue?

MR. PATRICK GEER: Louis, one of the concerns I have is that if a state meets its quota – and we hear this from our fishermen all the time, if an area is closed off of North Carolina, those boats are just going to come south to Georgia to fish. Where do those landings go? Where are they going to land their catch?

Are they going to land it in Georgia or are they going to try to land it in North Carolina? I guess the concern with a lot of our fishermen is it's an offshore fishery for us and these boats can move around so easily that if one state is closed they're just going to move to a different area. That is what some of our fishermen are concerned about, those kinds of issues.

CHAIRMAN DANIEL: I don't know and maybe someone involved with the – we haven't run into those problems with spiny dogfish and flounder and the like. A lot of the issues that we have is like if North Carolina is closed and Georgia is open, then, yes, they would have to land in Georgia. Like for us, you'd have to come to North Carolina in January to

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be involved in our black sea bass fishery; and once we close, we close. It's a valid point and it's a concern that I've heard as well. I don't know how big of a problem that would be for us trying to manage them. I don't believe we've run into those problems in the Mid-Atlantic but we may have. Vince.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I think there are two important issues here. One is the state-by-state commercial quotas for summer flounder are authorized under the federal plan, and the state-by-state black sea bass quotas are authorized under an ASMFC plan. I think Jack is still at the table here, but I think that on the black sea bass plan the states are controlling that by requiring people to have a permit from the state to land in that state.

CHAIRMAN DANIEL: Yes, and that's what we've done and you can limit it to Georgia fishermen or North Carolina fishermen and the like if that is a problem. It's just like any other ITQ Program, it's all on how you set it up front to make certain that you don't run into those types of problems. Does Florida want to express an opinion on this?

MR. AARON PODEY: I think we're apprehensive. We have some of the same concerns that Patrick brought up. With licenses, I guess one of the questions that just came to mind is out-of-state licenses. Do you require in-state licenses for those holders for black sea bass or do you stop people from out of state buying a North Carolina commercial license?

CHAIRMAN DANIEL: No. I was talking with New Jersey earlier this week, and we've got New Jersey boats that have North Carolina licenses to land flounder. There are Virginia boats that have licenses to land in North Carolina. You can limit that if you – I mean, right now we've got 163 licenses to land flounder, so it's limited based on participation in the past.

You can't come to North Carolina right now and buy a license to land flounder, so you would have to limit it to the current snapper grouper permit holders, which you have to have in order to land, so that's limited from the get-go. The folks that have a history of landing in North Carolina would get a permit. If somebody from South Carolina has a history through a trip ticket program of landing in North Carolina, I would assume that they would be allowed to get that permit as well because they contributed to the percentage that the state is getting. In a federally managed fishery I think that would be the fair way to construct something like that. Robert.

MR. BOYLES: Mr. Chairman, I'm sympathetic to the problem as I understand it at least. I think where I'm having a tough time getting my hands and my mind around this is like black sea bass, six-week commercial season. The South Atlantic Council has just approved Amendment 18A in an effort to limit effort there.

It just doesn't seem to be a very viable commercial fishery to support 30-some-odd boats for six weeks of the year. There is clearly a biomass issue, there is clearly a capital issue. Certainly, the South Atlantic Council is struggling with how best deal with this. I think we ought to let that process work itself out. I just think that this is just a lot of concerns.

I share Pat's concerns about the mobility of the fleet. We have got border areas. My folks leaving Little River, those get landed against your quota in North Carolina or against my quota. It depends on what dealer they go to. I just think there are some real, real things that we need to be very, very careful about before we go too far down the road.

CHAIRMAN DANIEL: Thank you, Robert. Other comments on the issue? I don't hear a burning desire to move forward with this. Michelle.

DR. MICHELLE DUVAL: Mr. Chairman, I'm not on your board but I am your proxy on the South Atlantic Council. I hear all the concerns that are being expressed around the table right now. I think Danielle has told everyone that there will be a presentation that is being given by our License and Statistics Section Chief who deals with the quota monitoring in North Carolina at the next council meeting in March.

Given that many of the people sitting around the table here will also be sitting around that people, perhaps once that information has been presented and maybe the council has had a chance to sort of chew on this idea of how a state quota could be implemented or managed or state or regional quota or what have you, that information, as Danielle indicated, could come back to this board as a report and you all could make a decision as to whether or not you'd like to consider this down the road. I just put that out there for everyone's consideration. Thank you.

CHAIRMAN DANIEL: Thank you, Michelle. Is that a reasonable approach and way to move forward? I think that's a good suggestion and it would give us an opportunity to hear more from our partners with the South Atlantic. There are a lot of other folks that are on the council that aren't here.

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It would give Jack and Roy a chance to talk about it to try to come up with something. We're not trying to usurp the council's power or any of those types of things. What I'm trying to do is figure out a better way to manage these fisheries so that we can account for the spatial and the temporal differences that occur from Key West to the Virginia line. Something needs to change.

This was an option that I think has merit and something we can talk about maybe at the next meeting briefly. If there is a change of heart amongst the board members to moving forward with this, I think it would be great. If not, we'll continue to operate the way we have and try to make changes at the council level. Is there any opposition to moving in that direction? Okay, thank you.

DISCUSSION OF FUTURE RED DRUM ASSESSMENT AND MANAGEMENT

The next item on our agenda is an issue that I asked for information to be put together, and that is where we are with our Red Drum Fishery Management Plan and what our plans are for the future. There are a lot of folks that are now looking at the possibility of a recovered status on red drum. I don't know what the sense of the board is on that, and so I wanted to have a chance to at least bring up – I mean, in the northern region we're not overfished and we're not overfishing.

We haven't been overfishing for a long time. We've seen a pretty substantial increase in our spawning stock biomass just based on anecdotal reports. We've got the longline work that is being done, but I don't know if that is ready yet to provide us with any population abundance estimates. One of the questions is are we happy with our current management strategy for red drum; are we comfortable with the current bag and size limits; are we comfortable with the current commercial management measures where we have commercial fisheries.

Is there some idea around the table and maybe around the commission when do you declare a stock recovered when it lives to be 60 years old? Do you wait until you've got a full complement of age classes? Is 20 years enough? Where are we headed because those are questions that are being asked in North Carolina now.

I'm sure they've being asked in other states, especially those of you that have the very low bag

limits; how will we manage this fishery in the future. We're pretty daggone close after 15 or 16 years. I bring that up for discussion. If you don't want to do anything, we won't do anything, but I just thought we needed to have some discussion. Robert.

MR. BOYLES: Mr. Chairman, I salute for the discussion. I think these are very, very important things to consider. The data we've got from trammel net surveys suggests again high variation in recruitment. I think the last time I looked – and I don't have the data in front of me – we were below a ten-year average; not much below a ten-year average on our CPUEs.

I think the question that I get from time to time looks at the possibility of a trophy fishery. I think that at one point maybe Florida managed that way or the Gulf has managed that way; I don't know. You mentioned the longline survey. I think those results are going to be very, very important as we look to those kinds of questions.

I will tell you anecdotally we hear from a number of recreational fishermen – and again I remind the board that in South Carolina red drum are a game fish. We hear from tackle shop owners, from guides, from anglers who are very, very thankful for the progress that we have made collectively in managing this fishery, and I'm told in no uncertain terms by some that were it not for our healthy inshore fisheries, and red drum specifically, with all the federal regulations, ACLs and AMs that have seen these long closures, that they would really be hurting if not out of business.

From that perspective I think I'm reluctant to kind of let go because I don't think we've yet set the full effects of implementation of our Comprehensive ACL Amendment in the South Atlantic. At this point and absent the stock assessment, I am really comfortable with status quo.

DR. LANEY: Mr. Chairman, another possible source of data is the new NMFS Southeast Fishery Independent Survey. Jack and I were just talking and neither one of us knows off the top of heads whether they're picking up much red drum data from that survey, but that's certainly a question we could pose to Todd Kellison and the folks at Beaufort.

MR. GEER: Similar to what Robert was saying, our juvenile surveys are very variable. 2011 it was a little bit above average. We don't have game fish status. We're looking at some of the same considerations. A lot of our fishermen are saying lower the creel limit and let us have a trophy fish.

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Those are some of the things and I would probably recommend the same thing Robert did with maintaining status quo.

MR. PODEY: I would say that we're fairly happy with the flexibility that the amendment gives us right now to manage to where we want to be within that. We actually just changed some of our regulations, which we'll be sending in the compliance report on that. We're able to do what we need to do and follow the Atlantic states plans.

CHAIRMAN DANIEL: Are the Mid-Atlantic states seeing any increased abundance in red drum since – you know, one of the thoughts was that by protecting these fish in North Carolina and Virginia, we'd start to see more fish up in the Maryland and Delaware area. Are we not seeing that? Stew.

MR. MICHELS: Not that I'm aware of.

CHAIRMAN DANIEL: You'd know. A.C.

MR. A.C. CARPENTER: We saw an increase I think it was two years ago of stuff that was this size (indicating), all of it less than our size limit, but it was a regular occurrence that summer. I'm pretty sure it was two years ago. We didn't see any last summer or at least we didn't encounter or didn't hear about them as much. For what it is worth, that is all that we've gotten.

CHAIRMAN DANIEL: I share the same thoughts on maintaining status quo, but I just felt like – you know, we haven't talked about red drum much. It's in the forefront. It is a critically important fishery. We're seeing the same things in North Carolina that you are seeing. We see variable recruitment. I think this year – well, we've got good year class coming.

This year wasn't really good but we've got a better year class coming next year. With all the discussions on game fish in North Carolina and all those types of things, I felt like we should get a sense of how the board feels the plan is going. I think it's working and it's going fine and don't need to make any changes. Pat.

MR. GEER: Louis, I wish Lee was still here because he has been extremely successful on the longline survey. I know it's only a six-year data set. Is he still here? Oh, I'm sorry, I didn't see him back there, but their survey has been very successful. He may want to comment about that a little bit.

MR. LEE PARAMORE: Yes, we've had good success with the longline, but the issue we have is

similar to what South Carolina had the last time. By the next benchmark assessment they're going to be in pretty good shape because they're going to have I guess ten or fifteen years of data, and we're going to be at the point where we've probably got four to six years.

We've got four right now so add a couple more years. We'll have six years of data on an adult stock that lives sixty years. In terms of trends or being able to say a whole lot, we're not going to be able to talk about the trends in the adult population, which is what we really are after. We are seeing a lot of what appears to be a pretty healthy age structure.

We've seen a tremendous increase in the numbers of what I would call young adult fish that I think corresponds directly to some of the regulations that were put in place in North Carolina in the late 1990's. We've had a volunteer tagging program in place for a long time. I've looked at length frequency distributions of the fish that those guys are tagging.

We have one guy in particular out of Ocracoke, North Carolina, who tags five to six hundred fish a year. You can distinctly see a shift in the length frequency distribution of his fish where he was primarily tagging older adult fish and now a large proportion of his fish are those young adult fish, which to me basically says what we were seeing – as those fish would move through that stock limit, we just weren't seeing those fish graduate to the adult stock.

They weren't making it through and that is where we got really low escapement rates and everything. Now that we're up around 40 percent SPR or 40 percent escapement, we're seeing that translate into the fishery and what people are actually seeing on the water, so that has been a real positive sign.

CHAIRMAN DANIEL: Thank you, Lee. Wilson, final word on this.

DR. LANEY: Mr. Chairman, just one quick question to Robert. I haven't heard anything lately – or to Lee, either one because I don't know whether the technical committee has discussed it or not, but could you just give us a brief update on the South Carolina Stocking Program. Are you still continuing that, are you planning to continue it, and do you think any of those fish are making a contribution to the offshore spawning stock?

MR. BOYLES: Wilson, yes, in a word we are continuing our stocking research program. As you all know, the focus in South Carolina is not on

production and distribution, but it is asking questions about life history, recruitment bottlenecks and some of these other things. Just for the record, it's not a dump-and-run stocking program. I need to be clear about that.

To that question, we have seen – based on some of our trammel net work, the juveniles inshore, we are seeing places where there is a substantial contribution of stocked fish in the estuary, but keep in mind we're stocking very, very small fish. I don't know what red drum life history is – Lee, you can help me – but we're assuming maturity at 28 – well, what was it, 80 percent of the fish at 24 inches or something like that are mature. Given the life history of these fish, it is probably going to be a long time before we see recruitment into that adult spawning population offshore. I don't know that we've seen anything yet. Lee, can you correct my technical missteps?

MR. PARAMORE: I'm not sure about maturity down in South Carolina but in North Carolina it's about 30 inches, 30 or 32 inches for a hundred percent maturity. It's a little different the further south you go.

DRAFT TECHNICAL ADDENDUM 1A TO AMENDMENT 1 FOR SPANISH MACKEREL

CHAIRMAN DANIEL: All right, anything else on red drum? We've got a technical addendum for Spanish mackerel that shouldn't take long. Danielle.

MS. CHESKY: Not to draw you guys all back into the Omnibus Amendment, but here we go – what we will be presenting on today is Spanish Mackerel Technical Addendum 1A to Amendment 1. Amendment 1 was the Omnibus Amendment for Spanish mackerel. As a reminder, the commission did approve the Omnibus Amendment for Spanish mackerel, spot, and spotted seatrout in August 2011.

The intent there was to update the ASMFC's plan. It had not been changed since 1987, 1984 or 1991 when the original three plans were passed. The Spanish Mackerel Implementation Plans are, as a reminder, due March 15th and this is where some of the discussion about why this technical addendum was needed came up.

The problem is that the original draft of the Omnibus Amendment erroneously listed the commercial trip limit requirements for Florida. Currently it states that once 75 percent of the adjusted quota has been taken, Florida's trip limit is set at a thousand pounds. The

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current Florida requirements list actually 1,500 pounds.

Technical Addendum 1A corrects this error. As the original intent of the Omnibus Amendment was to update the plan to the current state regulations, the technical addendum changes the reference to the commercial trip limit to reflect the commercial Florida requirements, so it will say 1,500 pounds once 75 percent of the adjusted quota is taken instead of the current 1,000 pounds. Thank you, Mr. Chairman.

CHAIRMAN DANIEL: Thank you. That might be the simplest one we ever have to do.

MR. PODEY: I'd like to offer a motion. **I move the board approve the Technical Addendum 1A to Amendment 1 of the Spanish Mackerel Fishery Management Plan.**

CHAIRMAN DANIEL: Motion by Aaron and seconded by Pat. Discussion. Any objection to that motion? **Seeing none, the motion carries.** All right, any other business? Robert.

OTHER BUSINESS

MR. BOYLES: Mr. Chairman, just one thing and I apologize I didn't give you a heads-up about this at the beginning of the meeting. Very briefly, I just want to let the board know and maybe by way of explanation explaining some of my concerns over state-by-state quotas and other things. Many of you know that South Carolina has run the Marine Resource Monitoring Assessment Prediction Program for the last 40 years, being prior to two years the only long-term data set on fishery-independent monitoring on snapper grouper species.

Just FYI, as the congress deals with spending caps and spending restraints, I want to let the board know that the mark for MARMAP for Fiscal Year 12 that we're in is we got whacked pretty considerably; some \$300,000. We're working and scrambling desperately to try to maintain the continuity of that program, working with the Service to try to find other ways to support that long-term data collection program.

I think it's certainly something that I want the board to be aware of as we seek calls for increased and better science. MARMAP has been on the water for a long time. Jack certainly knows a lot about it. Many of you have looked at that data in one form or fashion over the years, but it's certainly something

we're very concerned about not only in South Carolina but I think in the South Atlantic. Thanks.

CHAIRMAN DANIEL: I would just echo those concerns from Robert and the need to try to help any way we can. I know NMFS knows the need. We need more data and not cuts to our data collection programs. Thank you for bringing that up. That is a good topic for the state directors' meeting with NMFS next week or whenever that comes up. Wilson.

DR. LANEY: Not business, Mr. Chairman, but just to mention to the board that there is a new U.S. Fish and Wildlife Service Report out on the economic value of recreational and commercial fisheries, I believe, to the U.S. If you haven't seen it, I believe it's on the Service website. If you can't find it there, send me an e-mail and I'll make sure you get it.

The linkage is – and I was prompted to let everybody know about it based on what Robert just said – it is extremely important to continue to have the funding to be able to run the management program as well as to underwrite the science that is behind it. I think often in discussions sometimes it may get overlooked by congress as to how significant those fisheries are from an economic standpoint in addition to their cultural and ecological value.

This new report that the Service has produced, there is a technical report but there is also a very short glossy version. I don't have those with me but I do have a lot of copies of that and I'm sure we could provide them to anybody that would like to use those as an information tool. If you need them, just shoot me an e-mail and Jaime and I will get them to you.

CHAIRMAN DANIEL: Thank you. One piece of information that Wilson talking brought to my mind is North Carolina – and I know this isn't the Striped Bass Board, but there are a lot of folks in the room that are involved with striped bass management and involved in coast-wide research.

We successfully secured funding for the Striped Bass Winter Tagging Cruise for next year, which will allow us to continue with that time series. We've also been able to secure a 50 percent match for the following year if other states will step up and help North Carolina. I wanted to start giving everybody as much of a heads-up prior to, what is, Wilson, 2014?

DR. LANEY: Yes, Mr. Chairman, actually it was for two more years, right, 2014 and 2015. If we can get a 50 percent match, North Carolina Coastal

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Recreational Fishing License Grant Program will match the other half.

CHAIRMAN DANIEL: Right, but just as an FYI because important data collection programs are important for all us up and down the beach. Whether we've got the fish or not, it's important for us to have that information because it does generate data for other things and not just striped bass, and sturgeon comes quickly to mind.

ADJOURNMENT

Any other business to come before the South Atlantic Board? If not, we are adjourned.

(Whereupon, the meeting was adjourned at 12:35 o'clock p.m., February 9, 2012.)

Atlantic States Marine Fisheries Commission

**PUBLIC INFORMATION DOCUMENT
FOR AN INTERSTATE FISHERY MANAGEMENT PLAN
FOR BLACK DRUM**



ASMFC Vision Statement:

Healthy, self-sustaining populations for all Atlantic Coast fish species or successful restoration well in progress by the year 2015.

February 2012

**The Atlantic States Marine Fisheries Commission seeks your comment
on an Interstate Fishery Management Plan for Black Drum**

The public is encouraged to submit comments regarding this document during the public comment period. Comments will be accepted until **5:00 PM (EST) on XX, XXX 2012**. Regardless of when they were sent, comments received after that time will not be included in the official record. The South Atlantic State-Federal Fisheries Management Board will consider public comment on this document when developing the first draft of the Interstate Fishery Management Plan.

You may submit public comment in one or more of the following ways:

1. Attend public hearings held in your state or jurisdiction.
2. Refer comments to your state's members on the South Atlantic State-Federal Fisheries Management Board or South Atlantic Species Advisory Panel, if applicable.
3. Mail, fax, or email written comments to the following address:

Danielle Chesky
1050 North Highland St., Suite 200 A-N
Arlington, VA 22201
Fax: (703) 842-0741
dchesky@asmfc.org (subject line: Black Drum)

If you have any questions please call Danielle Chesky at (703) 842-0740.

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***YOUR
COMMENTS
ARE INVITED***

The Atlantic States Marine Fisheries Commission (Commission) is developing an interstate fishery management plan for black drum. Management authority for this species within internal waters and from zero to three nautical miles offshore currently lies with the coastal states. This plan would act to coordinate state management throughout the management unit through the Commission.

This is your opportunity to inform the Commission about changes observed in the fisheries, actions you feel should or should not be taken in terms of management, regulation, enforcement, research, and any other concerns you have about the resources or the fisheries, as well as the reasons for your concerns.

***WHY IS THE
ASMFC
PROPOSING
THIS ACTION?***

In November 2009, the Commission's Interstate Fishery Management Program Policy Board (Policy Board) tasked staff with assessing the feasibility of developing a stock assessment and coastwide fishery management plan. Members of the Policy Board raised concerns that the fishery targets juveniles and have greatly expanded in recent years. Staff reported back at the February 2010 meeting, briefly summarizing that the data may be sufficient for a stock assessment, although significant deficiencies likely existed. The Policy Board formed a Black Drum Working Group and tasked the group with developing an in-depth data review on black drum as well as recommendations on the feasibility of conducting a coastwide stock assessment in anticipation of a potential interstate fishery management plan. The working group reported to the Policy Board in August 2011, with recommendations on the status of the data, feasibility of a stock assessment, and management recommendations. The Policy Board accepted the working group's recommendations and voted to initiate an interstate fishery management plan (FMP) for black drum and tasked the South Atlantic State-Federal Fisheries Management Board (Management Board) with developing and implementing the FMP. At its November 2011 meeting, the Management Board voted to initiate the FMP and a stock assessment concurrently.

***WHAT IS THE
PROCESS FOR
DEVELOPING
AN
INTERSTATE
FISHERY
MANAGEMENT
PLAN?***

The publication of this document and announcement of the Commission's intent to develop an interstate FMP for black drum is the first step of the FMP development process. Following the initial phase of information gathering and public comment, the Commission will evaluate potential management alternatives and the impacts of those alternatives. The Commission will then develop a Draft FMP, incorporating the identified management alternatives, for public review. Following that review and public comment, the Commission will specify the management measures to be included in the FMP, as well as a timeline for implementation. The proposed timeline for completion of the FMP is as follows:

August 2009	Policy Board forms Working Group	
February 2010	Policy Board receives first report and further tasks Working Group	
August 2011	Policy Board receives second report and initiates FMP	
November 2011	Management Board initiates FMP	
February 2012	Management Board reviews PID for public comment	
Spring/Summer 2012	Public comment on PID	← Current step
Summer/Fall 2012	Management Board reviews public comment and initiates Draft FMP	
Fall 2012	Management Board reviews and approves Draft FMP for public comment	
Winter 2012/2013	Public comment on Draft FMP	
Spring/Summer 2013	Management Board reviews and approves FMP	

WHAT IS THE PURPOSE OF THIS DOCUMENT?

The purpose of this document is to inform the public of the Commission’s intent to gather information concerning the black drum fisheries and to provide an opportunity for the public to identify major issues and alternatives relative to the management of this species. Input received at the start of the FMP development process can have a major influence in the outcome of the FMP. This document is intended to draw out observations and suggestions from fishermen, the public, and other interested parties, as well as any supporting documentation and additional data sources.

To facilitate public input, this document provides a broad overview of the issues already identified for consideration in the FMP; background information on the black drum population, fishery, and management; and a series of questions for the public to consider about the management of the species. In general, the overarching question on which the ASMFC is seeking public comment is: **“How would you like the black drum fishery to look in the future?”**

WHAT GENERAL ISSUES WILL BE ADDRESSED?

Reasons for developing an interstate FMP for black drum:

1. To provide for consistent coastwide management for the migratory black drum population;
2. To provide a framework to implement management measures for black drum, should it be necessary for the conservation of the stock; and
3. To confront issues that may face the fishery now or in the future.

ISSUE 1: CONSISTENT COASTWIDE MANAGEMENT OF A MIGRATORY STOCK

Background: Black drum are currently managed on a state-by-state basis. Within its primary harvest range (New Jersey to Florida), some states have not implemented management measures while other states have implemented size limits, creel limits, and total quotas. The minimum size requirements in effect range from 10” to 16”, though some states are currently considering a 32” minimum size. Maximum sizes range from 24” to 26”, and creel limits range from 1 to 15 per person/day and 500 to 10,000 pound commercial trip limits. The working group expressed concern that, although the stock has generally appeared healthy throughout the past, increased fishing pressure, due to more restrictive regulations on other species, may negatively impact the stock.

Past tagging efforts have shown black drum to be migratory. Music and Pafford (1984) found that most black drum tagged in Georgia did not move far from the area of release. However, in Georgia 13% of all returned fish had moved more than 100 km, reaching as far south as West Palm Beach, Florida (619 km), and as far north as Murrells Inlet, North Carolina (437 km) (Table 1). Further, migration is not necessarily related to size, as the two black drum that had travelled the farthest from their release sites in Georgia were less than 350 mm TL. Within the South Carolina Marine Game Fish Tagging Program, the majority (99.6%) of recaptures were caught within 1-2 miles of the initial tagging location (WG Report 2011). Nine specimens were recaptured out of state from 9 to 381 miles from the initial tagging location for these fish. Seven of these specimens were recaptured in North Carolina and two were recaptured in Florida. Additional tagging efforts within Virginia and Maryland showed similar

trends of a majority of recaptures occurring nearby with some far-traveling migrants (Table 2, Table 3).

Statement of the Problem: Lack of consistent coastwide regulations may negatively impact the black drum population as fishing pressures shifts from other stocks.

Objective: Develop coastwide management measures for black drum to provide consistent protection for the stock along the coast.

Considerations:

- What is the status of the fishery?
- What precautionary measures may be necessary for continued conservation of the stock until the stock status is known?
- Are there regional differences in the fishery and/or in the black drum stock that need to be considered when implementing management measures?
- What are the recent trends in the recreational and commercial fisheries, in terms of landings and effort (see Figure 1 and Figure 2)?
- How accurate are the recreational data due to how the fishery is conducted?
 - If accuracy of the data is an issue, how can it be improved?

***ISSUE 2:
ESTABLISH A
FRAMEWORK
TO QUICKLY
IMPLEMENT
MANAGEMENT
MEASURES, IF
NECESSARY
FOR THE
CONSERVATION
OF THE STOCK***

Background: The Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) was enacted for the purpose of supporting and encouraging the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources. Enforcement of state compliance with mandatory plan provisions is carried out by the Secretary of Commerce, who, upon recommendation by the Commission, has the authority to declare a moratorium in a state's fishery if that state has not implemented and enforced the plan as required and if doing so is necessary for the conservation of the fishery in question. Under the ACFCMA, the Commission is responsible for:

- Preparing and adopting coastal FMPs to provide for the conservation of coastal fishery resources,
- Specifying the requirements necessary for states to be in compliance with the plan and identifying each state that is required to implement and enforce the plan,
- Reviewing, at least annually, each state's implementation and enforcement of the plan to determine whether each state is effectively implementing and enforcing the plan within established timeframes, and
- Notifying the Secretaries of Commerce and the Interior if it determines that a state is not in compliance with the plan.

Additionally in 1995, the Commission adopted an Interstate Fisheries Management Program (ISFMP) Charter to establish standards and procedures for the preparation and required elements of coastal fishery management plans (ASMFC 2009). Such elements include compliance requirements, criteria for

designating a state as de minimis and related exemptions, procedures for conservation equivalency, if applicable, and adaptive management measures.

Statement of the Problem: Black drum populations are not subject to any of the protections or benefits gained from an interstate fishery management plan. Fishing effort has increased on the stock since the 1980s and is expected to continue to increase due to restrictions on other fisheries. The framework of an FMP affords managers tools to react quickly to changes in the population and the fishery and provide protection across the range of the migratory stock.

Objective: Develop an interstate FMP for black drum that is consistent with ACFCMA and the ISFMP Charter's standards and procedures, providing states with a management framework.

Considerations:

1. Recommended versus mandatory management measures: All to none of the new measures selected by the Management Board could be recommended or mandatory measures. These possibly include:
 - Size limits
 - Creel limits
 - Trip limits
 - Closed seasons/areas
 - Monitoring requirements
 - Biomass or fishing level targets and thresholds
 - Annual, seasonal, or area-specific quotas
 - Methods to limit entry into the fishery
 - Management or assessment triggers
2. De minimis criteria: A state may be granted de minimis status (exempting it from certain, specified requirements) if, under existing conditions of the stock and scope of the fishery, conservation and enforcement actions taken by the state would be expected to contribute insignificantly to a required coastwide conservation program (ASMFC 2003). Other Commission FMPs use a de minimis range from 0.1% to 2% landings limit compared to coastwide total landings (or commercial and recreational landings separately or jointly).
3. Overfishing definition: An overfishing definition is a standard element within the Commission's FMPs. Assessment results are compared to the overfishing biological reference point(s) to determine stock status. Black drum has yet to undergo a stock assessment, which is projected to occur concurrently during the development of the interstate FMP and be finalized in Fall 2013.
4. Adaptive management measures: Adaptive management provides the flexibility to implement management changes through the addendum process. Addendums, in contrast to amendments, are defined within the FMP and can be an efficient way to institute management measures, while still providing public input opportunities, in response to changes in the fishery or stock population. Measures subject to the addendum

process can be defined within the FMP. Contrasting the two methods, an amendment generally takes 12-18 months to complete, whereas an addendum takes 6-12 months.

***ISSUE 3:
CONFRONT
ISSUES THE
FISHERY MAY
FACE NOW AND
IN THE FUTURE***

Background: Currently, the black drum fishery has not been assessed, but no indices or warning signs have materialized to indicate that the stock is in jeopardy. Although the catch-per-unit-effort calculated from the Maryland Charter Boat fleet indicates a downward trend (Figure 3), most other indices, including Delaware's bottom trawl surveys (Figure 4), North Carolina's gill net survey (Figure 5), the trammel surveys in South Carolina (Figure 6) and Georgia (Figure 7), and Florida's young-of-year and post-young-of-year survey (Figure 8) relay little to no trend. Although most surveys do not suggest an unhealthy population level, the Black Drum Working Group noted their concerns that the targeted size range of the fishery tends to be on immature juveniles. Black drum have been shown to begin maturing at 450-499 mm total length (TL) for males, with 50% of them reaching maturity at about 590 mm (age 4 or 5) (Murphy and Taylor 1989). Females begin maturing at 450-550 mm TL, with 50% reaching maturity at 650-699 mm (age 5 or 6). As depicted in length frequency charts of the recreational and commercial harvests (Figure 9 - Figure 14), the majority of fish caught have yet to reach maturity and spawn for the first time. Coupled with the migratory nature of the stock (Music and Pafford 1984, Table 1 - Table 3) and that the actions or lack of action by one state may impact the fishery of another state, coastwide management could be a viable option for ensuring the ability to react to future changes.

Statement of the Problem: Although the stock is not currently considered to be depleted or in trouble, there is currently no framework or forum for states to confront issues relating to the migratory black drum population and/or their black drum fisheries.

Objective: Develop an interstate FMP to provide a framework for addressing issues that may arise in the fishery, both in the near- and long-term.

Considerations:

- What issues face the fishery now?
- What issues has the fishery faced in the past? Have these issues involved interactions with the fishery of another state?
- What potential issues could arise in the fishery in the near-term?
- What potential issues could arise in the fishery in the long-term?
- What tools should be included in the FMP for managers to address these issues? Should these all be included under adaptive management, which would require an addendum (6-12 month process), or should some of these tools require an amendment (18-24 month process)?

**BACKGROUND
INFORMATION
ON BLACK
DRUM AND
CURRENT
MANAGEMENT**

Description of the Resource: Black drum range from the Gulf of Maine to Argentina, spanning the entire Commission jurisdiction (Figure 15). Atlantic coast black drum conduct an age-specific inshore migration, northward in the spring and southward in the fall (Jones and Wells 2001). Some genetic work has suggested clinal variation in the Gulf of Mexico (Gold and Richardson 1998), but little other differentiation has been shown (Gold and Richardson 1991). Further, tagging work has suggested migration of some parts of the stock over long distances (Music and Pafford 1984, Table 1 - Table 3).

Black drum are the largest members within the family Sciaenidae, reaching over 46" and 120 lbs. The species is long-lived, reaching up to 60 years of age (Murphy et al. 1998). Black drum are known to spawn during the winter and early spring, with females maturing at 4-6 years and produce on average 32 millions eggs each year (Fitzhugh et al. 1993).

Description of the Fisheries: Recreational harvest of black drum has increased along the Atlantic coast in the last decade. In 2009-2010, harvest was down from the time series peak observed in 2008 (Figure 1). Although New Jersey, Delaware, Virginia, Georgia, and Florida have experienced apparent increases in black drum harvested by anglers, the majority of the recent coastwide increase in harvest comes from North Carolina; increased harvest in South Carolina also occurred until harvest restrictions were enacted in 2007. Florida and North Carolina fisheries comprise the majority of black drum harvested along the Atlantic Coast.

Coastwide commercial landings of black drum reported by NMFS averaged approximately 368,000 lbs in the 1950s and 60s, then declined to an average of approximately 211,000 lbs in the 1970s and 80s (Figure 2). Since 1990, landings have slowly increased to an average of approximately 270,000 lbs. Since 2000, the majority of black drum harvested coastwide are landed in North Carolina and Virginia. A smaller portion of the coastwide black drum harvest is landed in Delaware, Florida, New Jersey, and Maryland. Landings reported from South Carolina are generally low and indicative of reported bycatch rather than a targeted fishery. Georgia, New York, Connecticut, Rhode Island, and Maine occasionally report small amounts of black drum landings as well; however, the magnitude of these landings is so small that the total annual state landings records are confidential. In recent years, gill nets and pound nets have been the primary gear used coastwide.

Description of Stock Status: To date, a coastwide stock assessment has not been performed for black drum. Two regional stock assessments have been completed in the past for black drum on the Atlantic Coast. An assessment of black drum in Florida indicated that the static spawning potential ratio was at least 26%–36% under fishing mortalities estimated for the mid to late 1980s. This observation suggests that the black drum stock in Florida could sustain the level of fishing occurring during the early 1990s (Murphy and Muller 1995). In 2001, yield-per-recruit and catch curve analyses were conducted for black drum that suggested

fishing mortality in the Chesapeake Bay was below F_{MSY} and would likely stay below F_{MSY} , unless fishing on animals 5 years in age or greater in other areas along the coast increased (Jones and Wells 2001). F_{MSY} is defined as the level of fishing that can sustain the stock level to provide the maximum yearly yield to the fishery.

Further, recent survey indices, in general, do not indicate any upward or downward trends (Figure 3 - Figure 8).

Description of Management: Black drum is managed by state fisheries agencies from New Jersey to Florida. All states in this range currently have some level of regulations for black drum except for North Carolina (Table 4). The minimum size requirements in effect range from 10" to 16", and New Jersey is currently proposing to raise the minimum size to 32". Maximum sizes range from 24" to 26", and creel limits range from 1 to 15 per person/day and 500 to 10,000 pound commercial trip limits.

Catch is tracked by states and the federal government for the commercial fishery and through the Marine Recreational Information Program (MRIP) for the recreational fishery. One concern with MRIP estimates of weight and length is that black drum angling in some states (e.g., Delaware) is conducted during the evenings and nighttime; if these times of day are not adequately sampled, dockside intercept samples may not be representative of the population. Also, black drum seasons in some states (e.g., Maryland and Virginia) are of short duration, so the number of angler intercepts during these periods may not be adequate to characterize these pulse fisheries.

**WHAT ISSUES
DO WE WANT
YOUR INPUT
ON?**

A series of questions is provided to help facilitate the public comment process. Please also provide any general comments on the black drum population or management.

- What is your perception of the health of the black drum population, and what trends and/or issues do you see in the fishery?
- What should be the objectives for the black drum management program?
- Should there be biological reference points, such as fishing mortality and biomass targets and thresholds, for black drum?
- Should managers be prompted to revise the management program when a target is met (more conservative) or not until a threshold is met (less conservative)?
- What should be the management measures for the black drum commercial and recreational fisheries? For example, should there be minimum size limits, maximum size limits, creel limits, trip limits, quotas, bycatch limits, closed seasons, closed areas, permit requirements, and/or limited entry into the fishery?
- Should fishery regulations be implemented coast-wide or state-by-state?
- Should any or all of the fishery regulations be mandatory for states to adopt? If a state delays implementation, what should be the penalty?
- What recommendations should be made for federal regulations?
- Should de minimis criteria be defined and adopted that would exempt some states from specific management requirements because the states' landings are insignificant to the coastwide total? Below what level of harvest should a state's harvest be considered insignificant?
- Should states be permitted to submit proposals for alternative management that is conservationally equivalent to the required management program (e.g., a less restrictive bag limit given a more restrictive minimum size limit)?
- What adaptive management measures should be included in order to use the more efficient addendum process?
- Should the FMP include monitoring measures (such as research surveys and biological sampling from the fisheries) for black drum? Should state adoption of monitoring measures be recommended or mandatory? If a state delays implementation, what should be the penalty?
- What habitat issues are present for black drum? How should these issues be addressed or evaluated further?

References

- ASMFC. 2009. Interstate Fisheries Management Program Charter. Washington (DC): ASMFC. 27 p.
- Fitzhugh, G., B. Thompson, and G. Snider, III. 1993. Ovarian development, fecundity, and spawning frequency of black drum *Pogonias cromis* in Louisiana. *Fishery Bulletin*, 91: 244-253.
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- Murphy, M.D., D.H. Adams, D.M. Tremain, and B.L. Winner. 1998. Direct validation of ages determined for adult black drum, *Pogonias cromis*, in east-central Florida, with notes on black drum migration. *Fishery Bulletin* 96:382-387.

*Tables***Table 1.** Number tagged, number and percent recaptured, days at large and distance traveled for black drum in 50 mm length groups. Taken from Music and Pafford (1984).

Length Group	Number tagged	Number recaptured	Percent returned	<u>Days At Large</u>		<u>Distance Traveled (km)</u>	
				Avg	Max	Avg	Max
101 - 150	1	0	0.0				
151 - 200	37	5	13.5	226	359	4.8	24
201 - 250	165	28	17.0	173	529	29.3	445
251 - 300	66	27	40.9	126	424	18.2	165
301 - 350	62	26	41.9	100	321	77.5	619
351 - 400	17	5	29.4	138	455	88.4	217
401 - 450	4	1	25.0	331	331	0.0	0
Total	352	92	26.1	141	529	41.2	619

Table 2. Number of tagged and recaptured black drum (2007-2009) and cumulative recapture rates in the Virginia Game Fish Tagging Program.

State	Number of Returns	Percent of Returns
Virginia	145	%
Maryland		%
North Carolina	36	19.7%
Delaware Bay	1	0.5%

Table 3. Number and percent of tag returns by state from the Maryland black drum tagging survey.

State	Number of Returns	Percent of Returns
Maryland	45	83.3%
Florida	5	11.1%
Virginia	2	3.7%
New Jersey	1	1.9%

Table 4. Current state regulations for black drum.

State	Recreational		Commercial			Notes
	Size limit	Bag limit	Size limit	Trip Limit	Annual Quota	
ME->NY	-	-	-	-	-	
NJ	16" min	3/person/day	16" min	10,000 lbs	65,000 lbs	
NJ Proposed	32" min	2/person/day	32" min	5,000 lbs	50,000 lbs	
DE	16" min	3/person/day	16" min	10,000 lbs	65,000 lbs	
MD	16" min	1/person/day 6/vessel (Bay)	16" min		1,500 lbs Atlantic Coast	Ches Bay closed to commercial harvest
VA	16" min	1/person/day	16" min	1/person/day*	120,000 lbs	*without Black Drum Harvesting and Selling permit
NC	-	-	-	-	-	
SC	14" min 27" max	5/person/day	14" min 27" max	5/person/day		Commercial fishery primarily bycatch
GA	10" min	15/person/day	10" min	15/person/day		
FL	14" min 24" max	5/person/day	14" min 24" max	500 lbs/day		One fish >24" allowed for recreational fishers

Figures

Figure 1. State trends in estimated recreational harvest (Type A + B1; in numbers) of black drum from 1981-2010 (MRIP, June 2011). Note differences in scale.

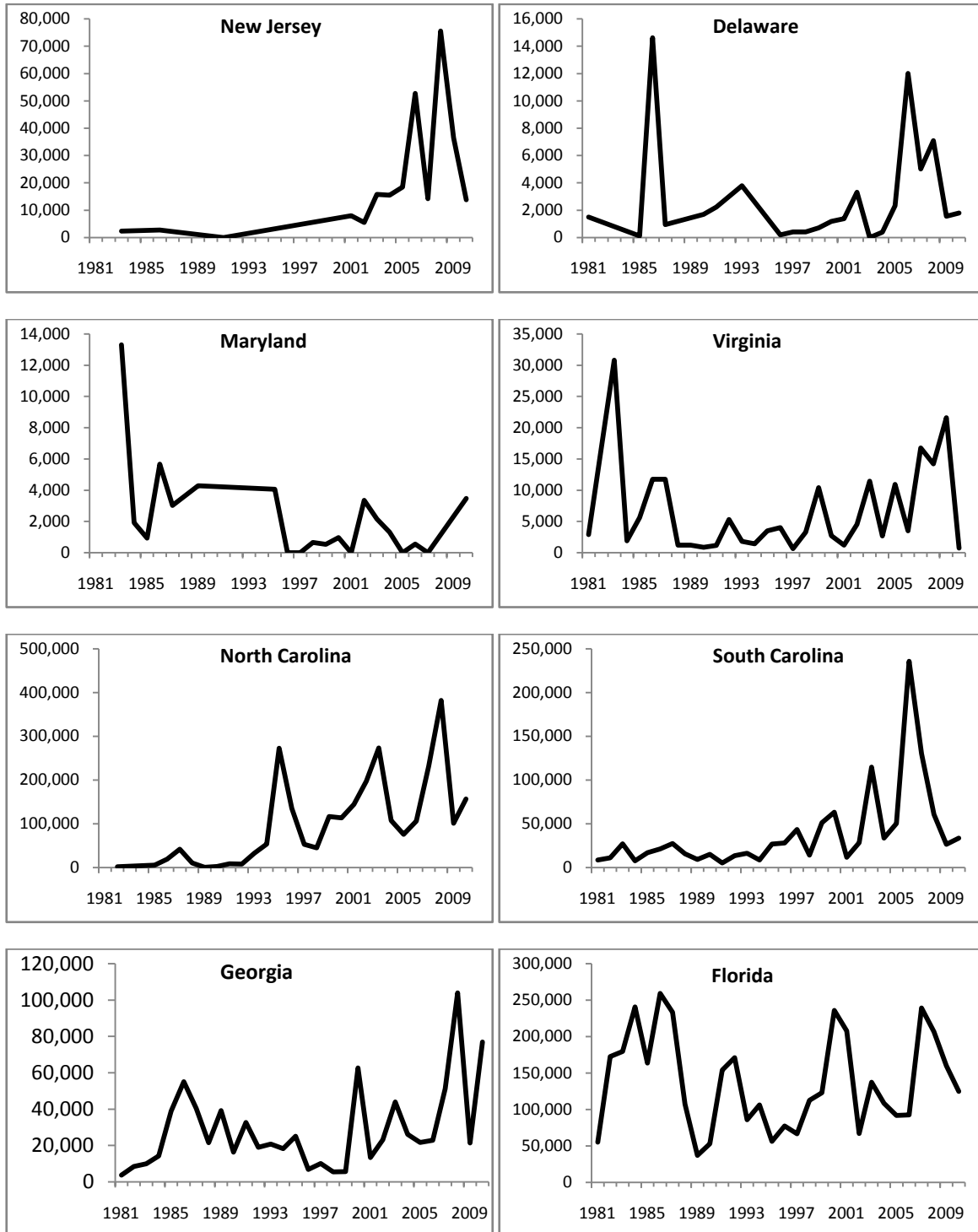


Figure 2. State trends in commercial harvest (in pounds) of black drum from 1950-2010 (NMFS Statistics). Note that South Carolina and Georgia landings are not graphed beginning in 1993 and 1999, respectively; South Carolina designated black drum as a game fish and Georgia landings are confidential. Additionally, Maryland prohibited a Chesapeake Bay commercial fishery since 1998. Note differences in scale.

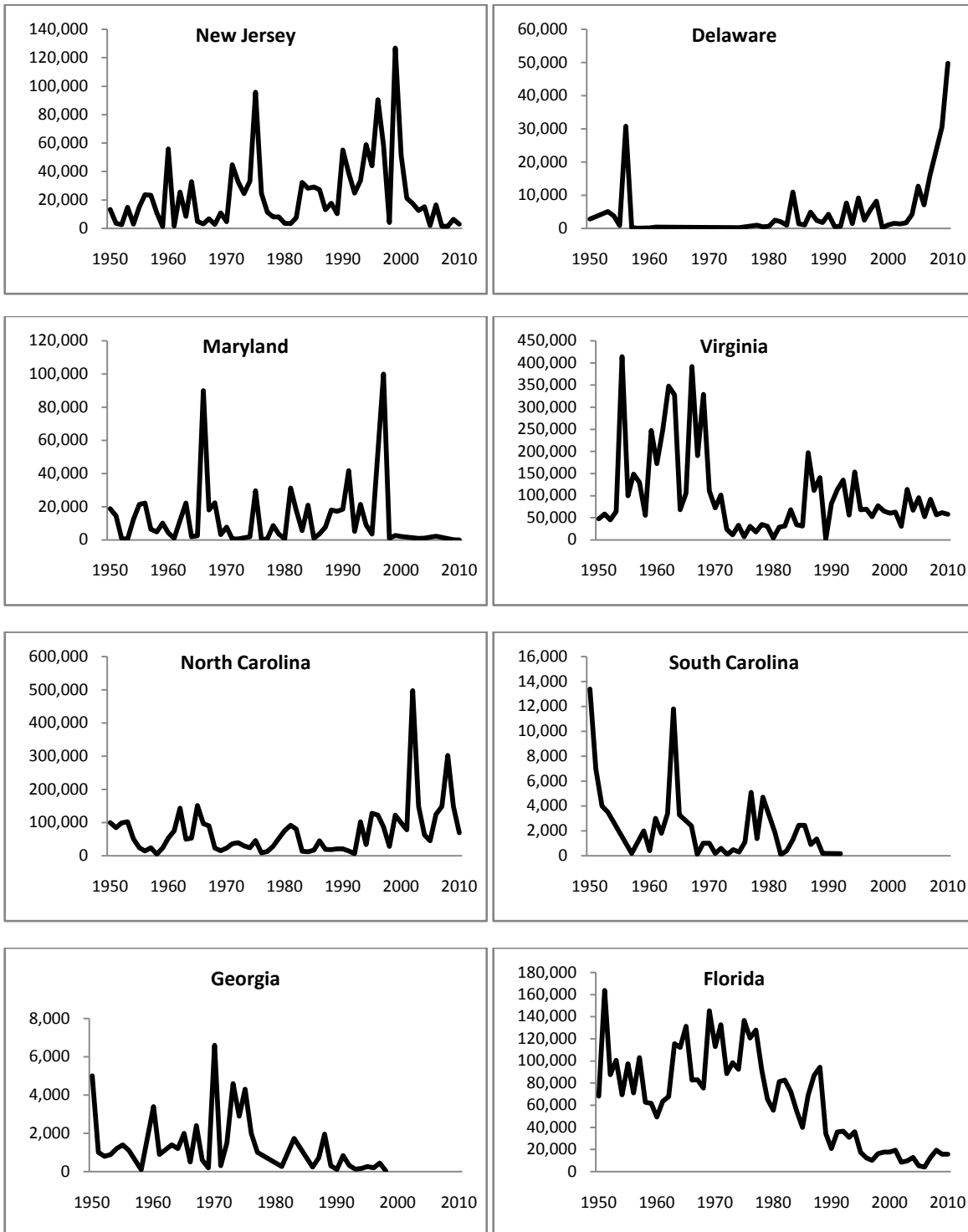


Figure 3. Maryland charter boat black drum harvest per angler CPUE (number of fish caught per day and only days on which black drum were caught), 1993-2010.

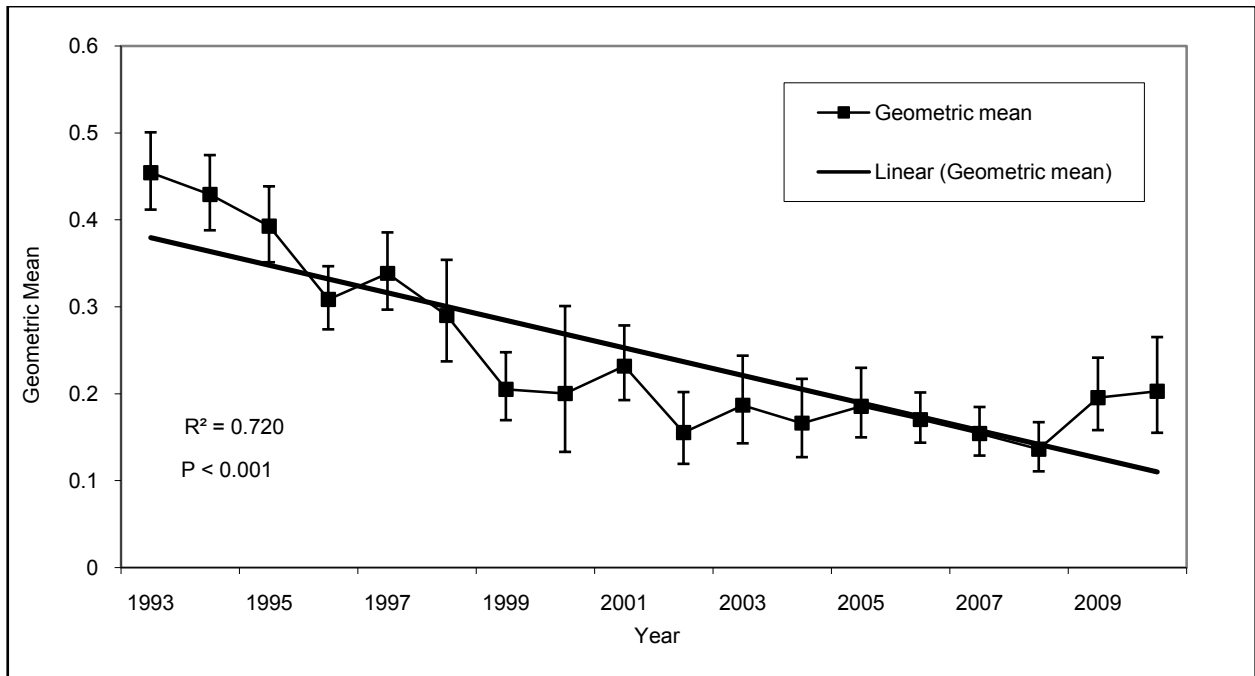


Figure 4. Mean catch per tow of juvenile black drum in the 16- and 30-foot Delaware bottom trawl surveys, 1990-2010.

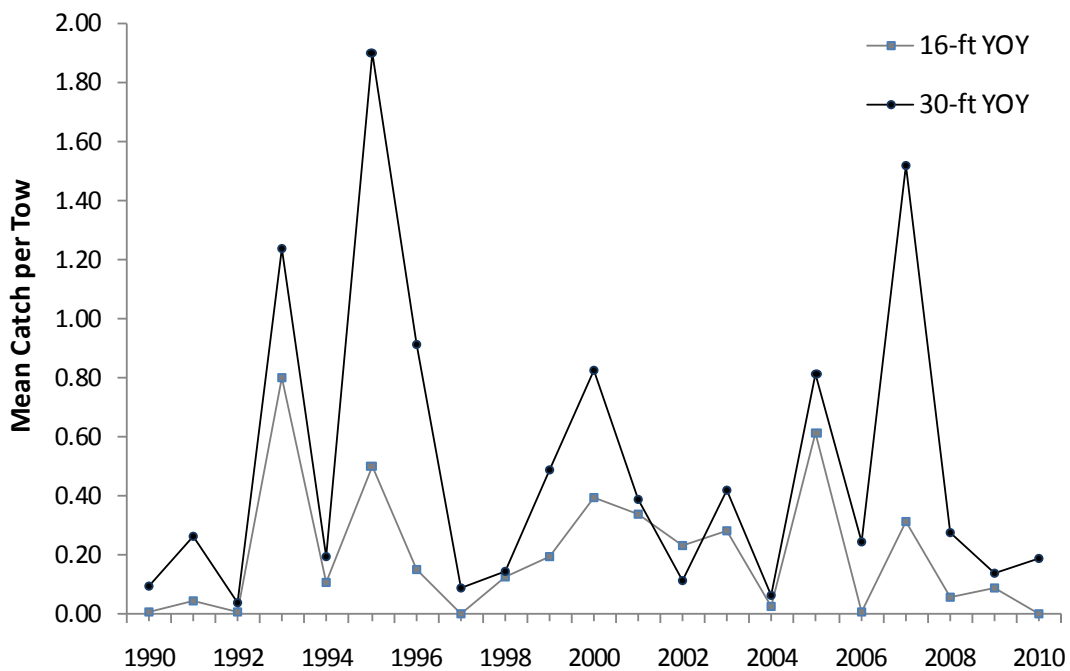


Figure 5. Annual arithmetic and geometric abundance indices for black drum from Program 915 (NC Independent Gill Net Survey). CPUE is number of individuals in a 12 hour gill net set.

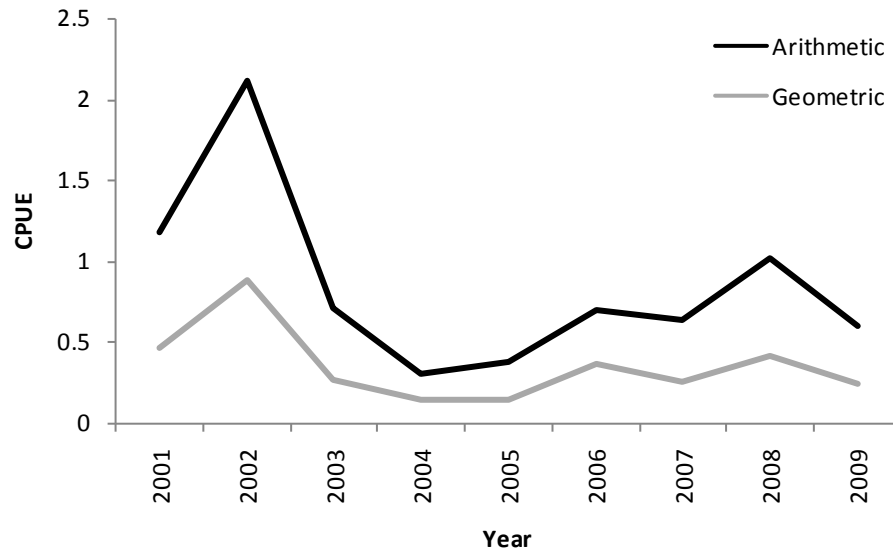


Figure 6. Mean annual CPUE (black drum per 10-minute set) of black drum for SCDNR trammel survey.

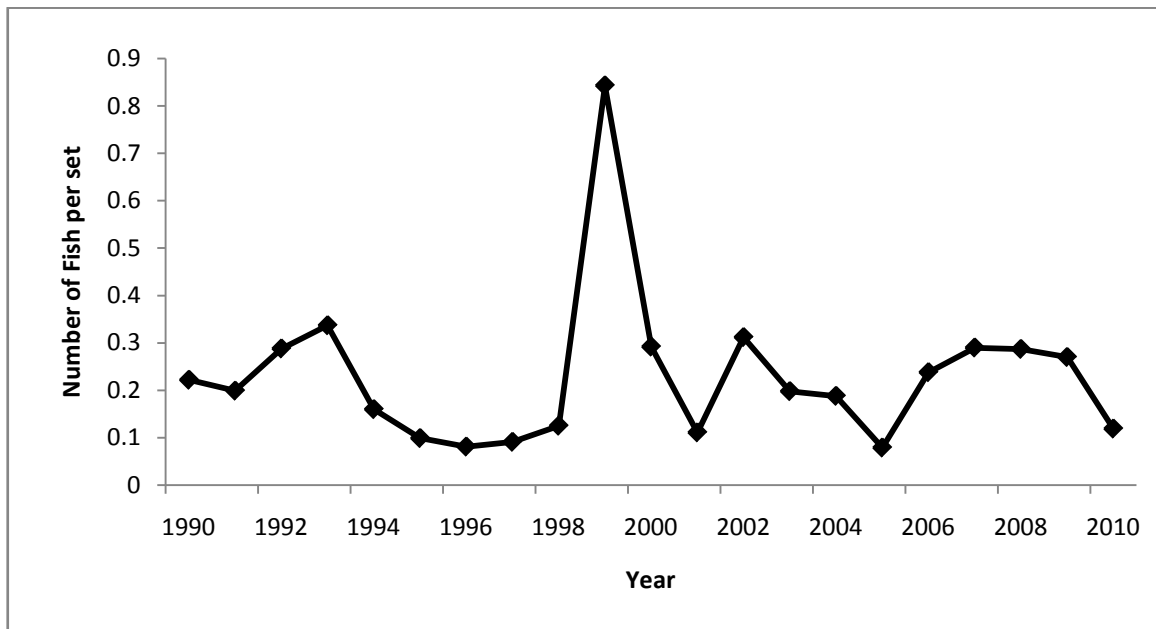


Figure 7. CPUE of black drum in the GA DNR Altamaha River trammel net survey.

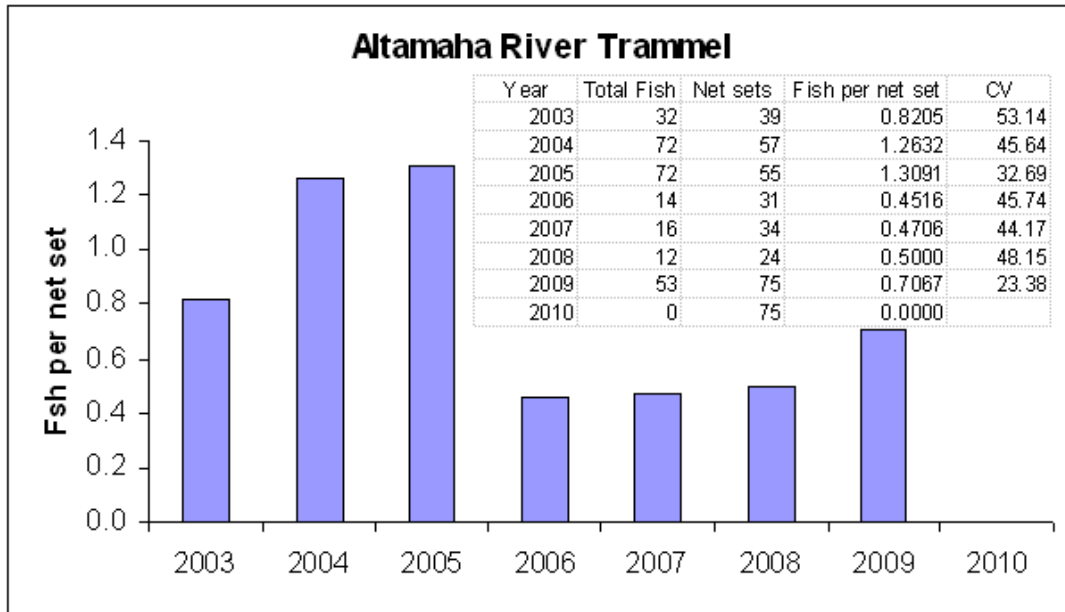
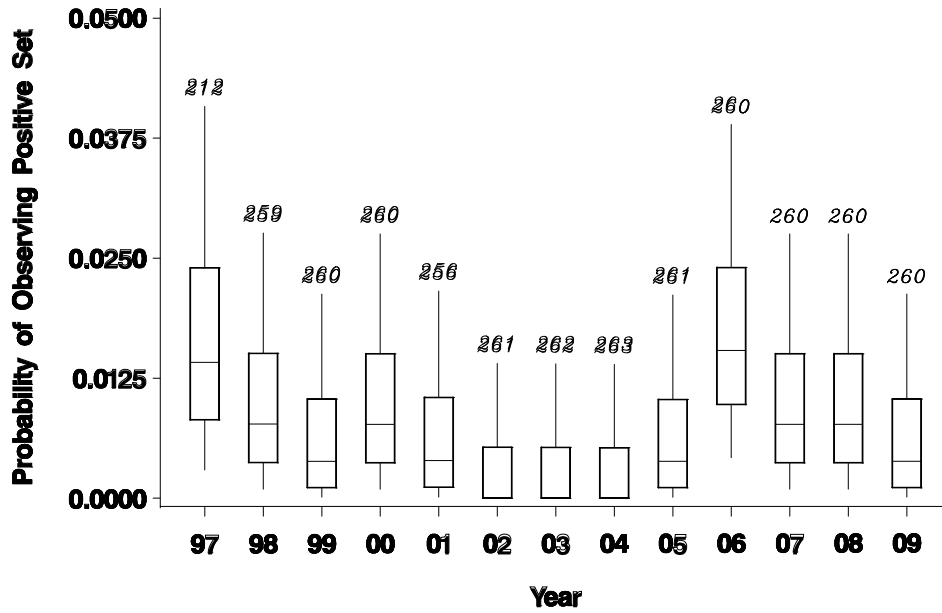


Figure 8. Proportion of fishery-independent-monitoring sets that captured black drum from 1997-2009. (a) Young-of-the-year; (b) Post-YOY.

a. Atlantic coast YOY



b. Atlantic coast post-YOY

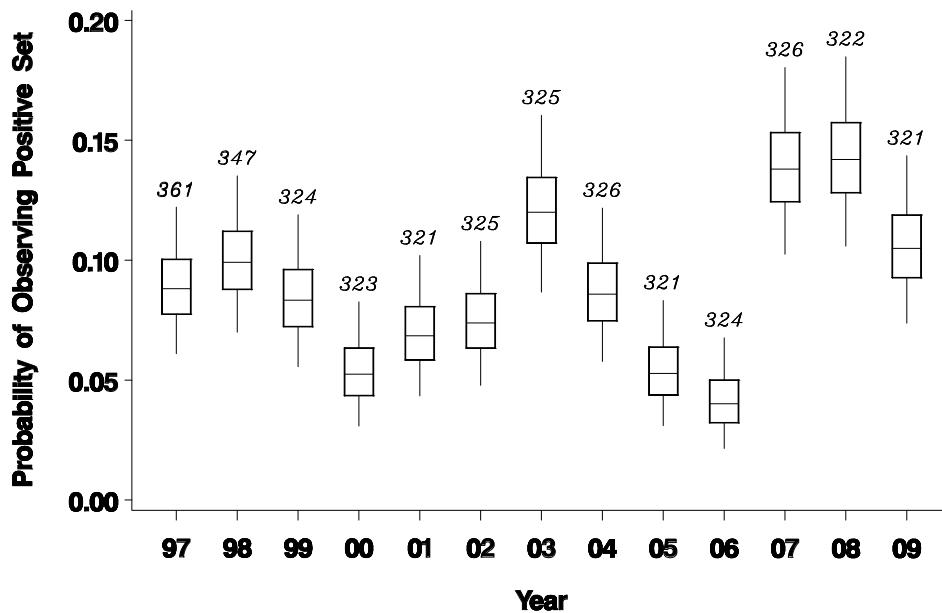


Figure 9. Length distribution of recreational and commercial black drum harvest in Delaware, 2009-2010.

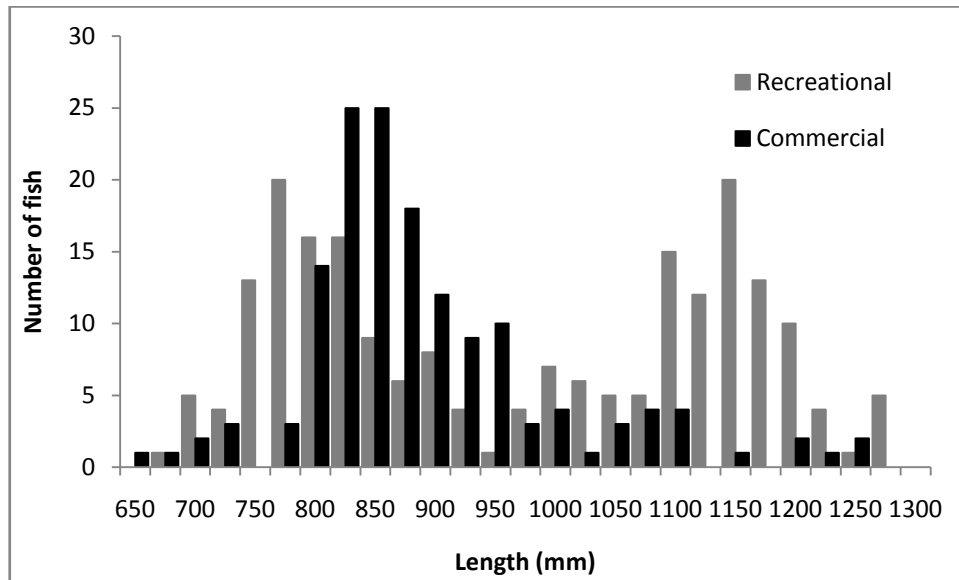


Figure 10. Total length distribution of black drum sampled in the VMRC Biological Sampling Program, 1998-2010.

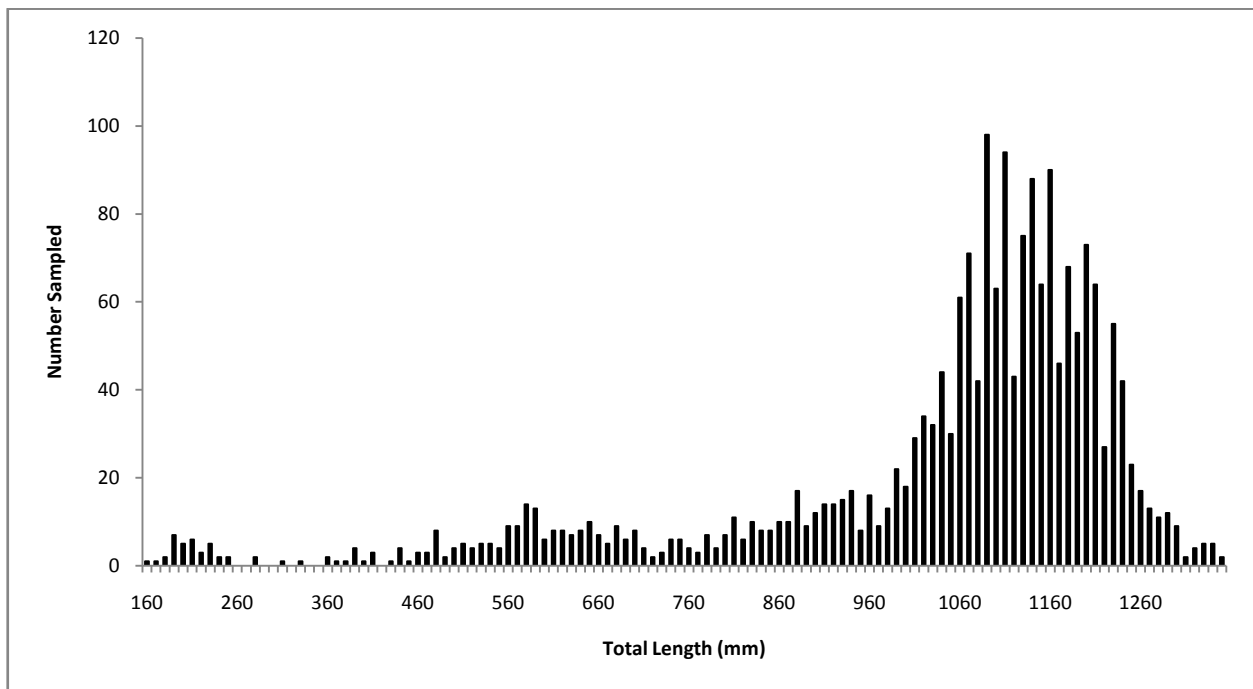


Figure 11. Length frequency distribution for black drum in North Carolina for the recreational (1982-2010) and commercial (1990-2009) fisheries.

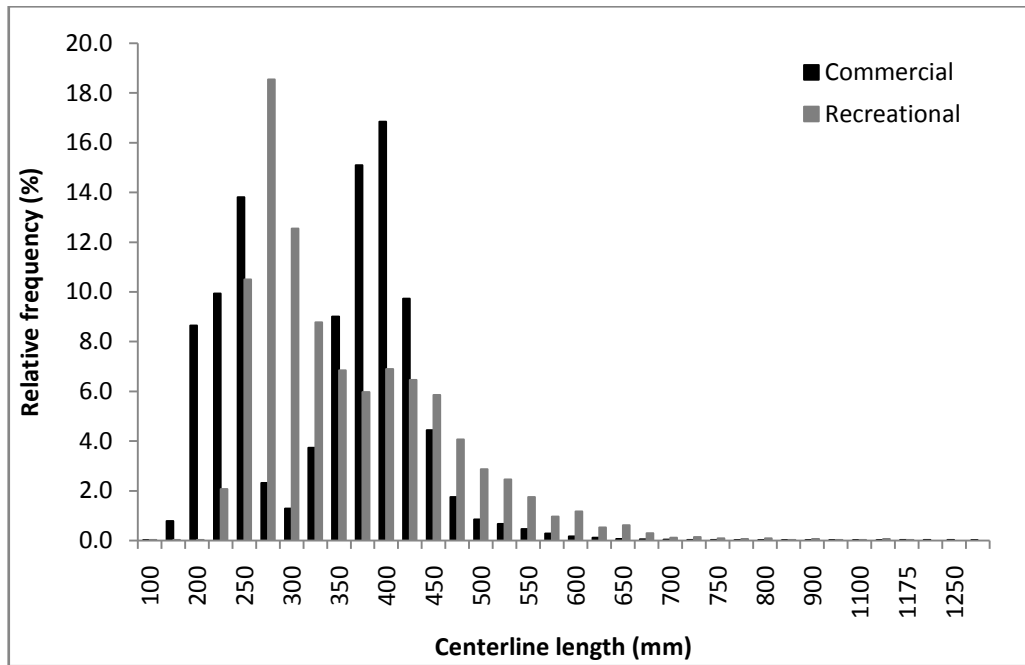


Figure 12. Fishery dependent length frequency distribution for black drum in South Carolina by data source, 1986-2010.

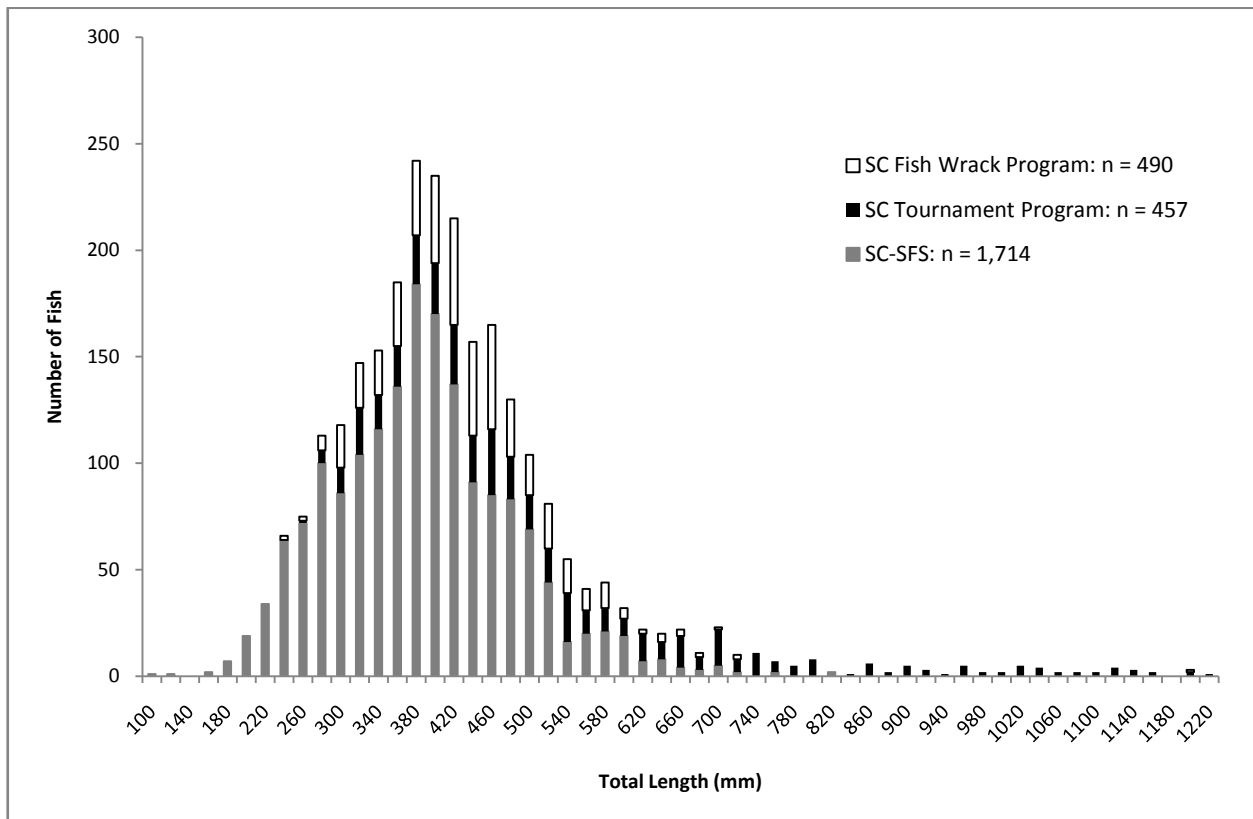


Figure 13. Length distribution of black drum in the Georgia MRFSS survey, 2005 to 2010 and angler carcass donations.

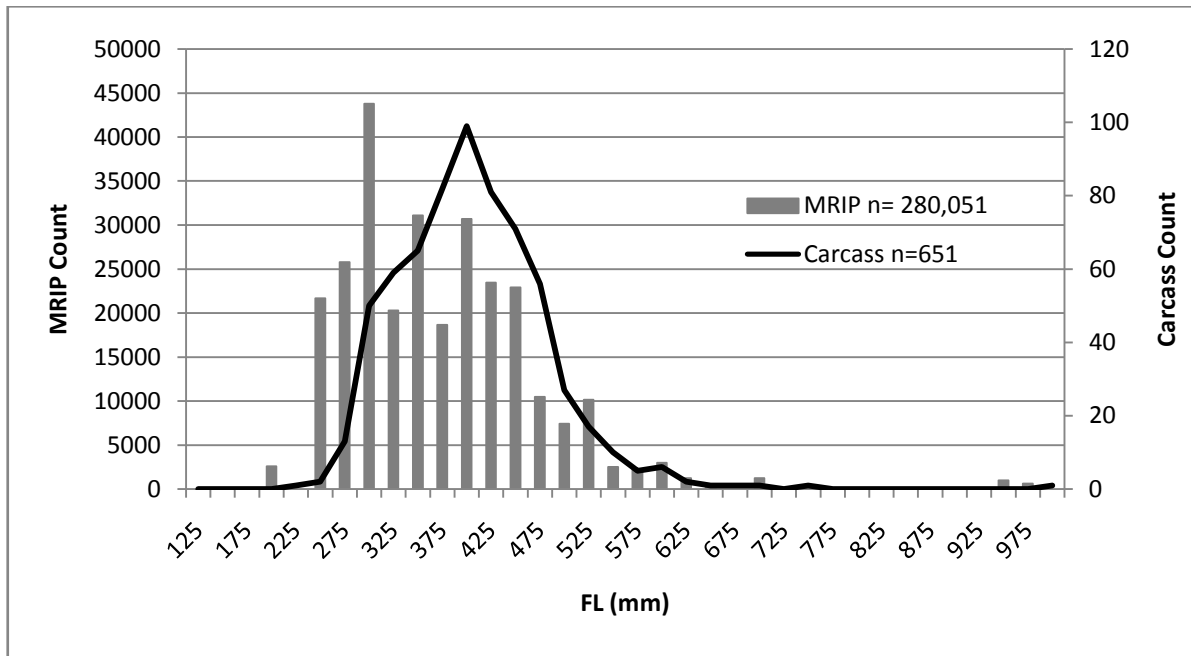


Figure 14. Estimated length frequencies for the total seen catch (Type A) of black drum during the periods 1982-1989 (gray) and 1990-2009 (black) from the Atlantic coast of Florida.

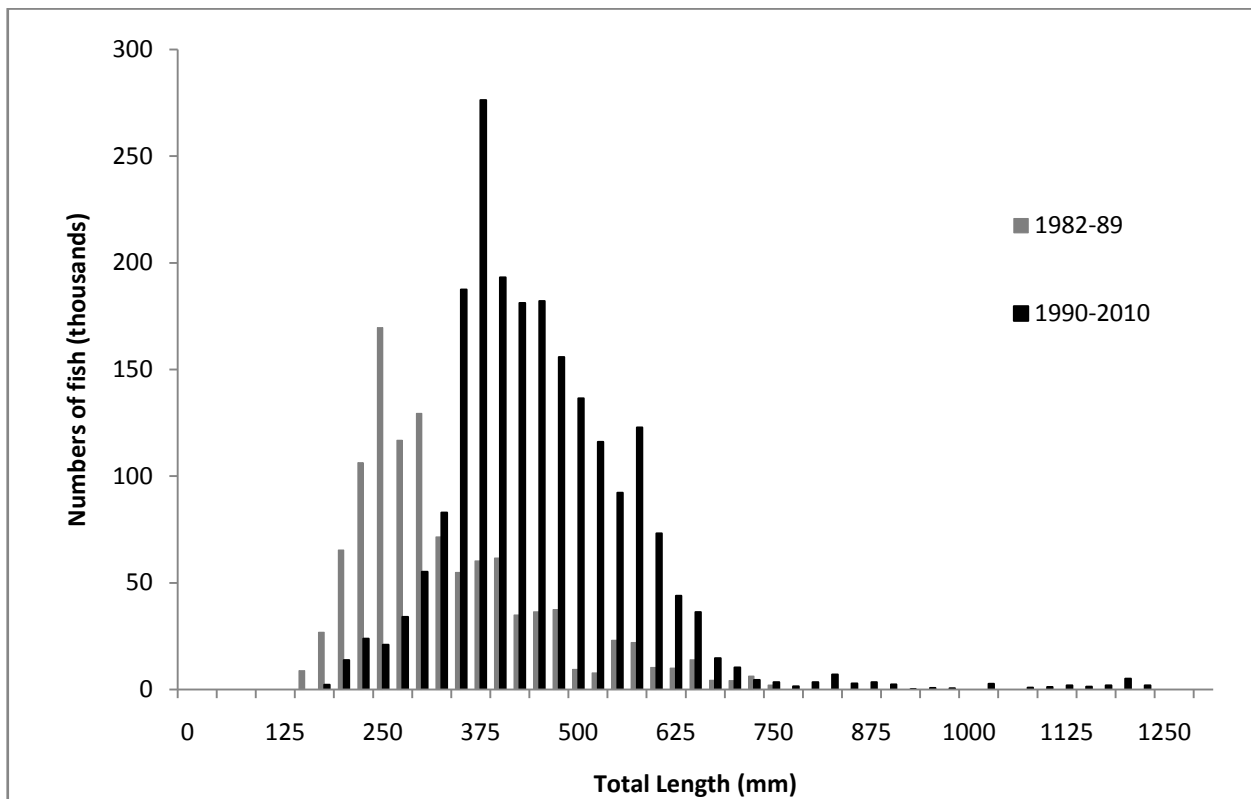
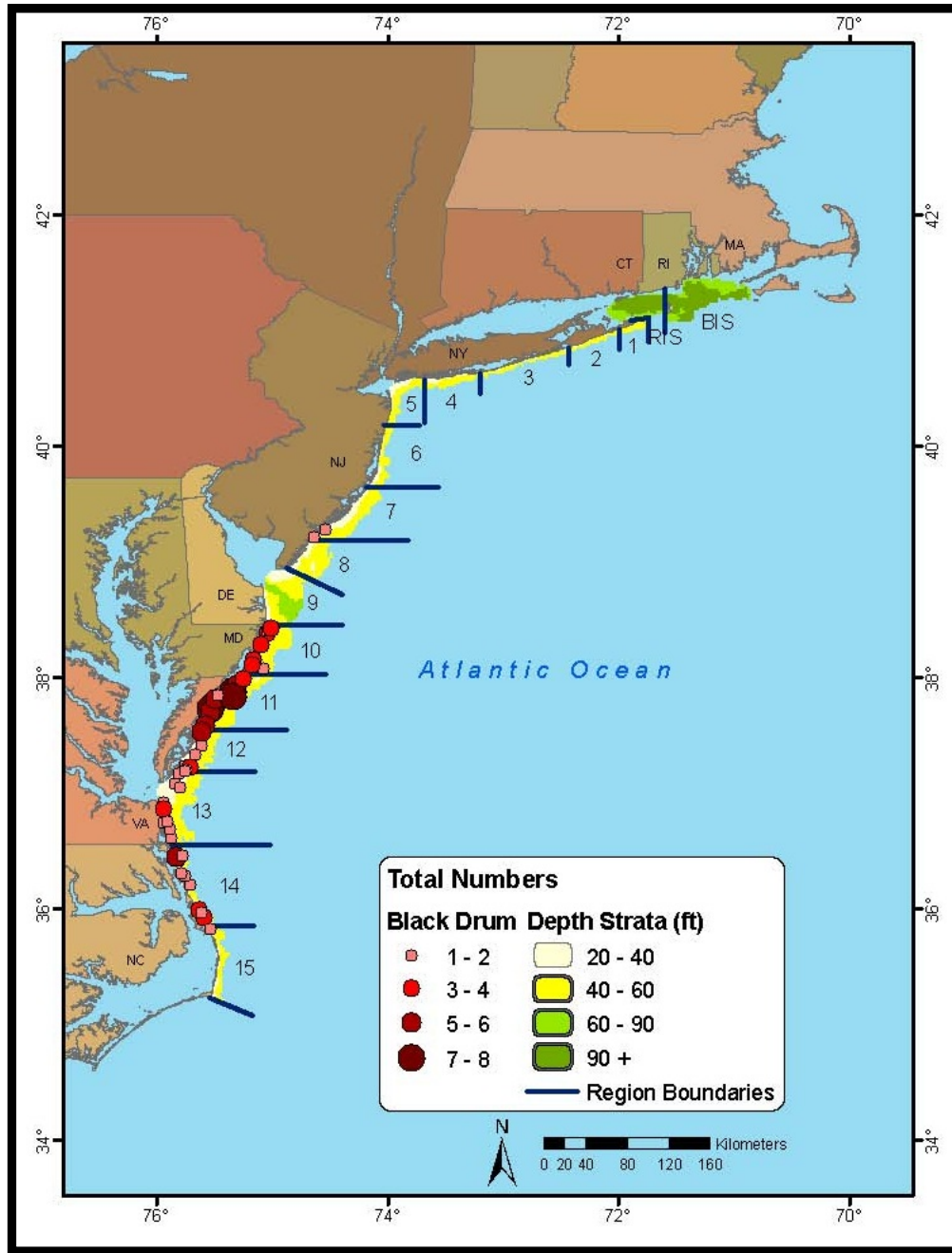


Figure 15. Spatial distribution of black drum catches in the NEAMAP survey.



State of New Jersey Department of Environmental Protection
Division of Fish and Wildlife
March 2012

Implementation Plan for Spanish Mackerel

In accordance with the ASMFC Omnibus Amendment to the Interstate Fishery Management Plans for Spanish Mackerel, Spot and Spotted Seatrout (FMP), the State of New Jersey submits the following Implementation Plan for Spanish Mackerel.

All regulatory options are expected to be reviewed and adopted by New Jersey's Marine Fisheries Council at their May 2012 meeting. All new regulatory issues will be in place by the July 1, 2012 implementation deadline.

Recreational Fishery

A possession limit of ten fish at a minimum total length of 14 inches is already in place and will not change. New Jersey currently allows filleting at sea as long as the fillet is at least 10 inches in length. Since the Amendment requires that all fish must be landed with head and fins attached, New Jersey will remove Spanish Mackerel from our current list of fillet species.

Commercial Fishery

New Jersey already has a minimum total length of 14 inch size limit in place for commercial fisheries. That size limit will remain in effect. New Jersey will enact a 3500 pound per vessel per day quota with an open season from March 1 to the end of February. All fish must be landed with head and fins attached.



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
89 Kings Highway
Dover, Delaware 19901

To: Danielle Chesky, ASMFC FMP Coordinator

From: Stewart Michels, Program Mgr. – Fisheries

Date: March 1, 2012

Re: Spanish Mackerel Implementation Plan

The State of Delaware intends to fully implement the requirements for Spanish mackerel as outlined in the Omnibus Amendment for Spot, Spotted Seatrout and Spanish Mackerel. As such, we have initiated modification of our existing Spanish mackerel regulation. The regulatory process is expected to be completed prior to July 1, 2012. Please find attached a copy of Delaware's proposed regulatory changes for Spanish mackerel as it appeared in the March 1, 2012 Monthly Register of Regulations (Volume 15 - Issue 9). Should you have any questions or concerns regarding our proposed regulatory changes, please do not hesitate to contact me at (302) 735-2970.





Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor
John R. Griffin, Secretary
Joseph P. Gill, Deputy Secretary

Maryland's Plan for Implementing Requirements Pertaining to Spanish Mackerel within ASMFC's Omnibus Amendment for Spot, Spotted Seatrout, and Spanish Mackerel

Prepared by

Harry W Rickabaugh Jr.

March 2012

Introduction

The Atlantic States Marine Fisheries Commission (ASMFC) Omnibus Amendment for spot, spotted seatrout and Spanish mackerel (Amendment) was passed in August of 2011. The plan was developed to bring the three species up to the standards of the Atlantic Coastal Fisheries Cooperative Management Act and the ASMFC Interstate Fishery Management Program Charter. The amendment covers all three species with management requirements being set by species. This document details how Maryland will implement Amendment requirements pertaining to Spanish mackerel.

Monitoring Program Requirements

There are no species specific monitoring requirements for Spanish mackerel within the Amendment.

Management Program Requirements

The Amendment requires both recreational and commercial management measures for Spanish mackerel.

Recreational Requirements include:

- 1 - 12" FL or 14" TL minimum size limit
- 2 - 15 fish creel limit
- 3 - Must be landed with head and fins intact
- 4 - Calendar year season
- 5 - Prohibited gear: Drift gill nets prohibited south of Cape Lookout, NC
- 6 - Recreational quotas decreased, via reduced bag limits, the following year if Total ACL is exceeded and stock is overfished

Commercial requirements include:

- 1 - Prohibited: purse seines; drift gill nets south of Cape Lookout, NC
- 2 - 12" FL or 14" TL minimum size limit
- 3 - March 1 – end of February season
- 4 - Trip limits (per vessel, per day)
 - NY-GA: 3500 lbs
 - FL: 3500 lbs, 3/1-11/30;
 - 3500 lbs Mon-Fri & 1500 lbs Sat-Sun, 12/1 until 75% adjusted quota taken;
 - 1000 lbs, when 75% adjusted quota taken until 100% adjusted quotas taken;
 - 500 lbs after 100% of adjusted quotas taken (the adjusted quota compensates for estimated catches of 500 lbs per vessel per day to the end of the season)
- 5 - Commercial quotas decreased the following year if Total ACL is exceeded and stock is overfished

The Amendment requires all jurisdictions to meet these management requirements by July 1, 2012. Current regulations in Maryland (as of March 30, 2012) meet most of the required management measures that apply to Maryland waters, with the exception recreational management measure 3 (Must be landed with head and fins intact), commercial management measure 4 (trip limits) and the season dates in recreational and commercial management measures 5 and 3, respectively. These differences will be corrected with passage of the revised Spanish mackerel regulation listed below. This regulation will need to pass through Maryland's Administrative, Executive, and Legislative Review (AELR) process. The time line for adoption of the revised Spanish mackerel regulations is as follows:

March 30, 2012	Date the regulation proposal will be submitted to the Joint Committee on Administrative, Executive, and Legislative Review
May 5, 2012	Date the proposal will appear in the Maryland Register
June 6, 2012	Date the public comment period ends
June 16, 2012	Date the Department can adopt the proposal
June 29, 2012	Date the final action (adoption) will appear in the Maryland Register
July 9, 2012	Expected Effective Date

Purse seines are not a legal gear in Maryland waters, therefore language excluding them for Spanish mackerel is not include in the following regulations submitted to AELR:

08.02.05.14 Spanish Mackerel.

A. Recreational Fishery.

- (1) Minimum Size. An individual may not catch or possess a Spanish mackerel less than 14 inches total length.
- (2) Catch Limit. An individual may not catch or possess more than 15 Spanish mackerel per day.
- (3) Season. The recreational season for catching Spanish mackerel is January 1 through December 31.
- (4) All Spanish mackerel harvested by a recreational angler shall be landed with the heads and fins attached naturally.

B. Commercial Fishery.

- (1) Minimum Size. An individual licensed to catch fish for commercial purposes may not catch or possess a Spanish mackerel less than 14 inches total length.
- (2) Catch Limit. No more than 3500 pounds of Spanish mackerel may be landed per vessel per day or trip, whichever is longer, regardless of the number of licensees on board the vessel.
- (3) Season. The commercial season for catching Spanish mackerel is March 1 through the last day of February.

C. General.

- (1) The Secretary may modify catch limits, size limits or open or close a season as required by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spanish Mackerel by publishing notice in a daily newspaper of general circulation at least 48 hours in advance of the modification, stating the effective hour and date.
- (2) The Secretary shall make reasonable effort to disseminate public notice through various other media so that an affected person has reasonable opportunity to be informed.



MARYLAND - VIRGINIA
"Potomac River Compact of 1958"

Potomac River Fisheries Commission

222 Taylor Street
P.O. BOX 9

Colonial Beach, Virginia 22443

TELEPHONE: (804) 224-7148 · (800) 266-3904 · FAX: (804) 224-2712
www.prfc.state.va.us prfc@verizon.net



Spanish Mackerel Implementation Plan January 3, 2012

The Potomac River Fisheries Commission has the following in place for Spanish mackerel for 2012 via:

Order #2012 -03 Recreational Manage Measures

- 14" TL minimum size limit
- 15 fish creel limit
- No person shall alter the natural state of any fish such that its length cannot be measured
- Open season – Jan. 1 to Dec. 31
- All gill nets deemed commercial gear (no recreational use)
- Size, creel and season limits are set annually as needed

Order #2012-04 Commercial Management Measures

- 14" TL minimum size limit
- Open season - Jan. 1 to Dec. 31
- Trip limit – as set by ASMFC, and with season closure by Order when both MD & VA fishery is closed
- Purse seines and drift gill nets are prohibited in Potomac River
- Trip limits are set annually as needed



COMMONWEALTH of VIRGINIA

*Marine Resources Commission
2600 Washington Avenue
Third Floor
Newport News, Virginia 23607*

Douglas W. Domenech
Secretary of Natural Resources

Steven G. Bowman
Commissioner

March 13, 2012

TO: Danielle Chesky, ASMFC Fisheries Management Plan Coordinator

FROM: Jack Travelstead,
Deputy Commissioner / Chief, Fisheries Management

RE: Spanish Mackerel Implementation Plan

The Virginia Marine Resources Commission (VMRC) has regulations providing size and possession limits for the commercial and recreational harvest of Spanish mackerel in Virginia's marine waters. It is unlawful for any recreational or commercial harvester to possess any Spanish mackerel less than 14 inches in total length. It is unlawful for any recreational harvester to possess more than 15 Spanish mackerel, and any commercial vessel to land any amount of Spanish mackerel in excess of 3,500 pounds per vessel per trip. Regulation 4 VAC 20-540-10 et. seq. "Pertaining to Spanish and King Mackerel" is enclosed.

JGT:jt
FM(PS)

An Agency of the Natural Resources Secretariat

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"PERTAINING TO SPANISH AND KING MACKEREL "**CHAPTER 4 VAC 20-540-10 ET SEQ.****PREAMBLE**

This chapter establishes possession limits, minimum size limits, and trip limits, on the harvest of Spanish mackerel and king mackerel. These chapters are established to prevent overfishing and to assist the further recovery of Spanish mackerel and king mackerel along the Atlantic Coast. This chapter is promulgated pursuant to authority contained in §§28.2-201 of the Code of Virginia. This chapter amends previous Chapter 450-01-0070, which was adopted March 28, 1995 and effective April 14, 1995. The effective date of this chapter is January 1, 2001.

4 VAC 20-540-10. PURPOSE.

The purpose of this chapter is to prevent overfishing of the Spanish mackerel and king mackerel stocks found in Virginia waters and along the Atlantic Coast. This chapter supports the goals and objectives of federal and interstate management measures for Spanish and king mackerel.

4 VAC 20-540-20. DEFINITIONS.

The following word and term, when used in this chapter, shall have the following meaning unless the context indicates otherwise.

"Trip" means that period during which the vessel shall have left a dockside landing place, relocated to waters where fishing for Spanish mackerel by the vessel is legally permitted, and returned to a dockside landing place.

4 VAC 20-540-30. POSSESSION LIMITS ESTABLISHED.

- A. It shall be unlawful for any person fishing with hook and line, hand line, rod and reel, spear, or gig or other recreational gear to possess more than 15 Spanish mackerel or more than three king mackerel.
- B. When fishing from a boat or vessel, where the entire catch is held in a common hold or container, the possession limits shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 15 for Spanish mackerel or multiplied by three for king mackerel. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.
- C. The possession limit provisions established in this section shall not apply to persons harvesting Spanish mackerel or king mackerel with licensed commercial gear.

"PERTAINING TO SPANISH AND KING MACKEREL "

CHAPTER 4 VAC 20-540-10 ET SEQ.

4 VAC 20-540-40. MINIMUM SIZE LIMITS ESTABLISHED.

- A. Minimum size limit for Spanish mackerel is established at 14 inches total length.
- B. Minimum size limit for king mackerel is established at 27 inches in total length.
- C. It shall be unlawful for any person to take, catch or possess any Spanish mackerel less than 14 inches in total length.
- D. Except as provided in F of this section it shall be unlawful for any person to take, catch or possess any king mackerel less than 27 inches in total length.
- E. Total length shall be measured in a straight line from the tip of the nose to the tip of the tail for the purposes of this chapter.
- F. Nothing in this section shall prohibit the taking, catching, or possession of any king mackerel less than 27 inches total length, by a licensed pound net.

4 VAC 20-540-50. TRIP LIMIT ESTABLISHED.

It shall be unlawful for any person to land in Virginia any amount of Spanish mackerel in excess of 3,500 pounds per vessel per trip.

4 VAC 20-540-60. PENALTY.

As set forth in 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

* * * * *

This is to certify that the foregoing is a true and accurate copy of the chapter passed by the Marine Resources Commission, pursuant to authority vested in the Commission by 28.2-201 of the Code of Virginia, duly advertised according to statute, and recorded in the Commission's minute book, at meeting held in Newport News, Virginia on October 24, 2000.

"PERTAINING TO SPANISH AND KING MACKEREL"

CHAPTER 4 VAC 20-540-10 ET SEQ.

COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION

BY: _____
William A. Pruitt
Commissioner

Subscribed and sworn to before me this _____ day of _____, 2000.

My Commission expires December 31, 2000.

Notary

North Carolina Spanish Mackerel Implementation Plan

Randy Gregory

The Atlantic States Marine Fisheries Commission (ASMFC) approved the Omnibus Amendment for Spot, Spotted Seatrout, and Spanish Mackerel on August 4, 2011. The Amendment updates all three plans with requirements under the Atlantic Coastal Fisheries Cooperative Management Act (1993) and the Interstate Fishery Management Program Charter (1995). The updates to the plans include commercial and recreational management measures and recommendations, adaptive management options, *de minimis* thresholds and exemptions, and monitoring recommendations. The Omnibus Amendment will be implemented July 1, 2012.

The ASMFC Spanish Mackerel Fishery Management Plan (FMP) was intended to achieve compatible management throughout the species range, including both state and federal waters. The management measures recommended in the Spanish mackerel FMP are not consistent with current federal Spanish mackerel requirements, which are determined by the South Atlantic Fishery Management Council (SAFMC). North Carolina has implemented management measures that are consistent with the current SAFMC Coastal Pelagic FMP.

North Carolina's regulations for Spanish Mackerel in commercial and recreational fisheries are as follows:

15A NCAC 03M .0301 SPANISH AND KING MACKEREL

(a) Spanish Mackerel:

(1) It is unlawful to possess Spanish mackerel less than 12 inches fork length.

(2) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.

(3) It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.

(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the Spanish mackerel and king mackerel possession limits established in Subparagraphs (a)(2) and (b)(2) of this Rule when fishing with more than three persons (including the captain and mate) on board.

(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;

Eff. January 1, 1991;

Amended Eff. March 1, 1996;

Temporary Amendment Eff. January 1, 2000; July 1, 1999;

Amended Eff. October 1, 2008; August 1, 2002; April 1, 2001.

15A NCAC 03M .0302 PURSE GILL NET PROHIBITED

It is unlawful to have a purse gill net on board a vessel when taking or landing Spanish or King Mackerel.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;

Eff. January 1, 1991.

The rule 15A NCAC 03M .0512 would be used to implement (via proclamation) any regulations deemed necessary by the ASMFC in the future.

15A NCAC 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS

(a) In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans or to implement state management measures, the Fisheries Director may, by proclamation, take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means and methods; and
- (6) Require submission of statistical and biological data.

(b) Proclamations issued under this Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to G.S. 113-221.1.

History Note: Authority G.S. 113-134; 113-182; 113-221; 113-221.1; 143B-289.4;

Eff. March 1, 1996;

Amended Eff. October 1, 2008.

Rules have been enacted that reduce bycatch of Spanish Mackerel and minimize harvest of undersized individuals.

G.S. 113-185 It is unlawful to engage in trash or scrap fishing (the taking of young of edible fish before they are of sufficient size to be of value as individual food fish) for commercial disposition as bait, for sale to any dehydrating or nonfood processing plant, or for sale or commercial disposition in any manner. The MFC's rules may authorize the disposition of the young of edible fish taken in connection with the legitimate commercial fishing operations, provided it is a limited quantity and does not encourage "scrap fishing".

15A NCAC 03J .0104 TRAWL NETS

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or codend modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual food fish by reason of size. (Currently required through Proclamation SH-3-2001)

15A NCAC 03J .0109 LONG-HAUL FISHING OPERATIONS, IDENTIFICATION REQUIREMENTS

It is unlawful to tow or pull a net in a long-haul or swipe net fishing excluding operations with nets made entirely of monofilament and having a mesh length of three inches or greater:

(3) In the internal coastal waters south and west of a line beginning on the west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N - 76° 09.3333' W; running southeasterly to Ocracoke Island to a point 35° 08.0000' N - 75° 55.0000' W, without escape panels as follows:

(a) For long haul operations, two panels four feet deep and six feet long shall be installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed. The panels shall be in the water while fish are harvested.

(b) For swipe net operations, two panels three feet deep and five feet long shall be installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed. The panels shall be in the water while fish are harvested.

(c) The upper edge of one panel shall be installed within 12 to 24 inches of the float line and the lower edge of the other panel shall be installed within 12 to 24 inches of the lead line.

(d) The panels shall be constructed of unobstructed trawl rings with an inside diameter no less than one and nine-sixteenth inches (1 9/16"). The rings shall be fastened together at a maximum of four points per ring.

South Carolina Department of Natural Resources



John E. Frampton
Director

Robert H. Boyles
Deputy Director for
Marine Resources

January 11, 2012

Danielle Chesky
Atlantic States Marine Fisheries Commission
Fishery Management Plan Coordinator
1050 N. Highland Street, Suite 200A-N
Arlington, VA 22201

Dear Danielle,

This is to verify that through existing state law South Carolina is currently in compliance with the management requirements of the ASMFC Management Plan for Spanish mackerel. Under SC Code Section 50-5-2730, applicable regulations promulgated by the federal government pertaining to size and bag limits; landing requirements; seasons; fishing periods; gear restrictions; and commercial or recreational catch limits for Spanish mackerel and other federally managed species are declared to be the law of the state of South Carolina and apply in all state waters. Continued synchronization of federal regulations and management requirements within the ASMFC Spanish Mackerel Management Plan will ensure South Carolina's ability to constantly remain in compliance with all management measures without need for additional action on the part of the SCDNR or the South Carolina State Legislature.

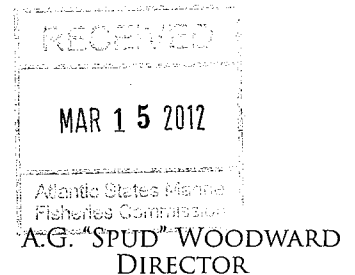
If you have any questions or require any additional information please let me know.

Sincerely,

A handwritten signature in black ink that reads "Melvin Bell". The signature is written in a cursive, flowing style.

Melvin Bell
Director,
Office of Fisheries Management

cc: Robert Boyles
Pearse Webster
Wallace Jenkins



MARK WILLIAMS
COMMISSIONER

March 12, 2012

Danielle Brzezinski
Atlantic States Marine Fisheries Commission
1050 N. Highland St, Suite 200A-N
Arlington, VA 22201

Dear Danielle:

By way of this letter I am responding to your August 10, 2011 email regarding the Omnibus Amendment to the Interstate Fishery Management Plans for Spanish Mackerel, Spot, and Spotted Seatrout. The State of Georgia is notifying the Atlantic States Marine Fisheries Commission that Georgia's current fishery management practices for Spanish Mackerel meet or exceed requirements of the Omnibus Amendment.

The Omnibus Amendment indicates that in order for a state to be in compliance for Spanish Mackerel, the recreational fishery must have a 12" fork length or 14" total length minimum size limit, a 15 fish creel limit, and the ability to change bag limits in the following year if the stock of Spanish mackerel is overfished and the Total ACL is exceeded in a given year. Currently, Georgia statutes include a 12" fork length minimum size limit and a 15 fish creel for the recreational fishery. Georgia also manages Spanish mackerel with an open season from March 16th to November 30th. As the Board of Natural Resources has the authority to change the size, creel or season for Spanish mackerel, the creel limit can be modified in timely enough fashion to address ACL overages in the following year. As Georgia does not have a directed finfish trawl fishery, commercial trips are limited to the recreational season, creel and size limits. [O.C.G.A. 27-4-130.1].

General state regulations that affect the catch of Spanish Mackerel include: all food shrimp trawls with a headrope length of greater than 16 feet are required to have a certified Bycatch Reduction Device (BRD) [GA Board of Natural Resources Rule 391-2-4-.08], whelk trawls are required to have a minimum mesh size of 4" stretched [O.C.G.A. 27-4-133], and gillnets are prohibited for all species except shad [O.C.G.A. 27-4-7].

We will continue to monitor catches of these species with our fishery-independent and -dependent surveys and provide estimates of abundance from these surveys along with relevant information.

D. Brzezinski
March 12, 2012
Page 2

In summary, Georgia statutes and regulations for Spanish mackerel in state waters meet or exceed those required by the Omnibus Amendment. Also, Georgia meets all BRD requirements for the shrimp trawl fishery. Thus, the State of Georgia submits that we are in compliance with the Omnibus Amendment. Copies of the above-referenced statute and regulations are attached. Please notify me if you require another copy.

Sincerely,

A handwritten signature in black ink, appearing to read "A. G. Woodward". The signature is fluid and cursive, with a long horizontal stroke at the end.

A. G. "Spud" Woodward

cc: Carolyn Belcher
Brad Gane
Pat Geer
Doug Haymans

TITLE 27. GAME AND FISH
CHAPTER 4. FISH
ARTICLE 1. GENERAL PROVISIONS

O.C.G.A. § 27-4-7 (2011)

§ 27-4-7. Use of gill nets; seizure of illegal nets

(a) Except as otherwise provided by law or rule and regulation, it shall be unlawful for any person to use a gill net in any of the fresh waters or salt waters of this state at any time, provided that it shall be lawful for properly licensed fishermen to use such nets in the taking of shad and sturgeon in accordance with Code Section 27-4-71, subsection (d) of Code Section 27-4-91, and all other laws and rules and regulations applicable to the taking of such fish. All nets violative of this Code section found in the fresh waters or salt waters of this state or in the possession of any person on or around fresh water or salt water shall be seized by conservation rangers or other peace officers of this state. Nets so seized shall be confiscated and shall become the property of the department and shall be disposed of as the commissioner shall direct.

(b) Except for sturgeon taken in accordance with subsection (d) of Code Section 27-4-91, it shall be unlawful to land in this state any of the species of fish enumerated in Code Section 27-4-130.1 which were taken by means of a gill net. For purposes of this subsection, "to land" fish means to bring the fish to shore in this state in the boat or vessel utilized in taking the fish by means of a gill net, regardless of the jurisdiction from which the fish were taken.

HISTORY: Ga. L. 1957, p. 93, §§ 1, 2; Code 1933, § 45-712, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2000, p. 1290, § 1.

TITLE 27. GAME AND FISH
 CHAPTER 4. FISH
 ARTICLE 4. SEAFOOD
 PART 1. GENERAL PROVISIONS

O.C.G.A. § 27-4-130.1 (2011)

§ 27-4-130.1. Open seasons, creel and possession limits, and minimum size limits for certain finfish species

(a) After October 1, 1989, it shall be unlawful to take the following salt-water finfish species at any time during the periods set forth below:

Species	Closed Season
(1) Spanish mackerel	December 1 -- March 15
(2) King mackerel	No closed season
(3) Cobia	December 1 -- March 15
(4) Red snapper	No closed season
(5) Gag grouper	No closed season
(6) Amberjack	January 1 -- March 15
(7) Black sea bass	No closed season
(8) Bluefish	December 1 -- March 15
(9) Sheepshead	No closed season
(10) Sailfish	No closed season
(11) Blue marlin	No closed season
(12) White marlin	No closed season
(13) Tarpon	December 1 -- March 15
(14) Atlantic sturgeon	July 1 -- December 31
(15) Spotted sea trout	No closed season
(16) Red drum	No closed season
(17) Dolphin	No closed season
(18) Sand tiger shark	January 1 -- December 31
(19) Small sharks composite (Atlantic sharpnose, bonnethead, and spiny dogfish)	No closed season
(20) Sharks	No closed season
(21) Red porgy	No closed season

(b) The board shall establish open seasons and creel and possession limits within the maximums specified in this subsection and shall establish minimum sizes within the range specified in this subsection; provided, however, that it shall be unlawful to have in one's possession or take from the salt waters of this state any red drum in excess of 23 inches in total length. After October 1, 1989, it shall be unlawful to take the following salt-water finfish species at any time except during the open seasons so established for such species or to take or possess the following salt-

water finfish species except in accordance with the creel and possession limits and minimum sizes so established for such species:

Species	Maximum Open Season	Maximum Daily Creel and Possession Limit	Minimum Size
(1) Spanish mackerel	Mar. 16 -- Nov. 30	40	10 - 18 inches
(2) King mackerel	All year	15	15 - 35 inches
(3) Cobia	Mar. 16 - Nov. 30	10	20 - 40 inches
(4) Red snapper	All year	20	12 - 20 inches
(5) Gag grouper	All year	20	12 - 36 inches
(6) Amberjack	Mar. 16 -- Dec. 31	10	20 - 50 inches
(7) Black sea bass	All year	35	8 - 15 inches
(8) Bluefish	Mar. 16 -- Nov. 30	25	12 - 20 inches
(9) Sheepshead	All year	50	8 - 16 inches
(10) Reserved			
(11) Reserved			
(12) Reserved			
(13) Tarpon	Mar. 16 -- Nov. 30	5	65 - 90 inches
(14) Atlantic sturgeon	Jan. 1 -- June 30	5	24 - 86 inches
(15) Red drum	All year	25	14 inches
(16) Dolphin	All year	15	12 - 24 inches
(17) Sand tiger shark	No open season	1	87 - 140 inches
(18) Small sharks composite (Atlantic sharpnose, bonnethead and spiny dogfish)	All year	4	30 - 54 inches
(19) Sharks	All year	2	48 - 120 inches
(20) Red porgy	All year	10	12 - 28 inches

(c) It shall be unlawful to take the following salt-water finfish species at any time except during the open seasons so established for such species or to take or possess the following salt-water finfish species except in accordance with the creel and possession limits and minimum sizes so established for such species; provided, however, that trawlers fishing for shrimp for human consumption pursuant to Code Section 27-4-133 shall be exempt from the creel and possession limits for whiting, spot, and Atlantic croaker and provided, further, that hook and line anglers shall be exempt from the creel and possession limits for whiting:

(d) In accordance with current sound principles of wildlife research and management and the factors thereof set out in subsection (a) of Code Section 27-4-130, the board is authorized to promulgate rules and regulations establishing open seasons, creel and possession limits, minimum size limits, and possession and landing specifications on a state-wide, regional, or local basis as provided in subsections (b) and (g) of this Code section.

(e) In accordance with current sound principles of wildlife research and management and the factors thereof set out in subsection (a) of Code Section 27-4-130, the board is authorized to promulgate rules and regulations to prohibit the sale of any or all of the salt-water finfishes from subsection (b) of this Code section.

(f) Nothing in this Code section shall prohibit those individuals fishing with a valid commercial federal permit in federal waters from exceeding the creel and possession limits, provided that the waters are open for commercial fishing with specified gear and said individual complies with the minimum sizes as set by the board and provided, further, that the commercial quota for the species has not been reached and the board has not prohibited the sale of the species.

(g) All fish subject to minimum size and creel and possession limits pursuant to subsections (b) and (c) of this Code section may be possessed in state waters or landed only with the head and fins intact. It shall be unlawful to transfer at sea in state waters from a fishing vessel to any other vessel or person any fish caught which are subject to the creel and possession limits and minimum size limits pursuant to subsections (b) and (c) of this Code section.

HISTORY: Code 1981, § 27-4-130.1, enacted by Ga. L. 1989, p. 1406, § 1; Ga. L. 1992, p. 1651, § 1; Ga. L. 1994, p. 605, § 1; Ga. L. 1998, p. 570, § 1; Ga. L. 2001, p. 4, § 27; Ga. L. 2001, p. 325, § 1; Ga. L. 2002, p. 809, § 1; Ga. L. 2002, p. 1232, § 3; Ga. L. 2006, p. 219, § 1/ HB 1085; Ga. L. 2007, p. 47, § 27/SB 103; Ga. L. 2010, p. 952, § 10/SB 474.

TITLE 27. GAME AND FISH
CHAPTER 4. FISH
ARTICLE 4. SEAFOOD
PART 1. GENERAL PROVISIONS

O.C.G.A. § 27-4-133 (2011)

§ 27-4-133. Lawful nets; opening and closing waters; identification on boats fishing for shrimp

(a) Except as otherwise specifically provided, it shall be unlawful for any person to use a power-drawn net in any of the salt waters of this state for commercial shrimping for human consumption. All sounds shall be closed to such fishing, except that the commissioner may open Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, or Ossabaw sounds or any combination of such sounds at any time between September 1 and December 31, provided that he or she has determined that the shrimp in the waters of each sound to be opened are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close each sound so opened when he or she has determined that the shrimp in the waters of the sound exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside, on the seaward side, of the sounds between May 15 and December 31, provided that he or she has determined that the shrimp in such outside waters are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close the waters so opened when he or she has determined that the shrimp in such outside waters exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside the sounds during the months of January and February, provided that he or she has determined that the shrimp in such outside waters are 50 or fewer shrimp with heads on to the pound; and the commissioner shall close such outside waters so opened when he or she has determined that the shrimp in such outside waters exceed 50 shrimp with heads on to the pound. The department shall conduct inspections for such shrimp count, and a determination by the commissioner shall be conclusive as to the count. The commissioner shall provide public notice of the opening and closing of such waters, as provided in this Code section, by posting a notice of all openings and closings at the courthouse and on all shrimp docks and by such other means as may appear feasible. The notices shall be posted at least 24 hours prior to any change in the opening and closing of any such waters, provided that such notice is required only when waters are opened or closed by action of the commissioner.

(a.1) (1) It shall be unlawful to fish for shrimp for human consumption with any trawl or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall be measured from brail line to brail line, first tie to last tie on the bottom line. The provisions of this subsection shall not apply to vessels having a maximum draft of seven feet or less when fully loaded. The department is authorized to exempt trawls used by persons holding a valid scientific collection

permit granted by the department.

(2) A vessel operator who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$500.00 nor more than \$2,500.00 or imprisoned for not longer than 30 days or both, and any trawl on board the vessel shall be contraband and may be seized.

(b) Reserved.

(c) Except as otherwise specifically provided, it shall be unlawful to fish with nets other than cast nets in any of the tidal rivers or creeks, except to fish for shad or sturgeon, provided that nothing contained in this Code section shall be construed so as to prohibit any person from using a beach seine along any public beach.

(d) The department shall have the power to close all or any portion of the salt waters of this state to commercial and recreational fishing in the event of a disaster likely to cause seafood to be unfit for human consumption or in the event of any other emergency situation.

(e) Nothing contained in this Code section shall be construed to prohibit any person from fishing in the salt waters of this state for shrimp to be used or sold for live bait pursuant to Code Sections 27-4-170 and 27-4-171, provided that it shall be unlawful to fish for shrimp for bait with any trawl equipment which has been used to fish for shrimp pursuant to this Code section.

(f) In accordance with current, sound principles of wildlife research and management, as provided by Code Section 27-4-130, the commissioner is authorized to authorize any person to fish for crabs or whelks with power-drawn nets of four-inch stretched mesh from any waters outside, on the seaward side, of the sounds at any time during the year, or from the waters of Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, and Ossabaw sounds during the months of January, February, and March, when the commissioner has determined that fishing for crabs or whelks within such waters will not be detrimental to the conservation of crabs or shrimp. Possession of any net with mesh smaller than that provided in this subsection while taking crabs or whelks shall be prima-facie evidence of the violation of this Code section.

(g) It shall be unlawful for any person fishing for shrimp for commercial purposes pursuant to this Code section to fail to have positioned on the bow or cabin of the boat taking such shrimp a board with a background color of daylight fluorescent orange and with such numerals and letters painted or affixed thereon as are specified by the department for the boat. The numerals and letters shall be at least 16 inches in height, black in color, of block character, and spaced so as to be readable from the air from left to right.

(h) Any determination to open or close the salt waters pursuant to this Code section shall be made in accordance with current, sound principles of wildlife research and management.

HISTORY: Ga. L. 1924, p. 101, § 34; Code 1933, § 45-512; Ga. L. 1952, p. 77, §§ 1-4; Ga. L. 1953, Jan.-Feb. Sess., p. 491, §§ 1-7; Ga. L. 1955, p. 483, § 94; Ga. L. 1956, p. 590, §§ 12, 13, 20; Ga. L. 1964, p. 174, § 1; Ga. L. 1966, p. 270, § 1; Ga. L. 1968, p. 202, § 3; Ga. L. 1970, p. 961, §§ 1, 2; Ga. L. 1971, p. 221, § 1; Ga. L. 1974, p. 1170, § 1; Ga. L. 1974, p. 1175, § 1; Code 1933, § 45-902, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1552, § 3; Ga. L. 1979, p. 678, § 36; Ga. L. 1981, p. 688, § 1; Ga. L. 1982, p. 3, § 27; Ga. L. 1998, p. 1133, § 11; Ga. L. 2001, p. 1069, § 1; Ga. L. 2002, p. 797, § 1; Ga. L. 2007, p. 93, § 11/HB 100.

391-2-4-.08 Bycatch Reduction Specifications. Requirement for use of Bycatch Reduction Devices. Amended.

(1) **Purpose.** The purpose of these Rules is to implement the authority of the Board of Natural Resources to promulgate rules and regulations to regulate the times, methods, ways, means, and devices of taking wildlife which are necessary to conserve living marine resources.

(2) **Definitions used in this rule.**

(a) "Centerline" means the seam that runs along the top center of the trawl net. In the absence of a seam, the centerline runs from the center point of the length of the head rope to the furthest distance on top of the cod end of the trawl.

(b) "Certified bycatch reduction device" or "BRD" means a device specified in subsection 3(a)(i, ii, and iii) or a device certified by the National Marine Fisheries Service.

(c) "Cod end" means the end of a trawl net which acts as the receptacle for fish and other organisms caught in the net. It is closed and secured, at the extreme end, with a line.

(d) "Functional tailbag length" means that portion of the cod end forward of the tail rope tie off rings toward the mouth of the trawl net.

(e) "Headrope" means a rope that is attached to the upper lip (top edge) of the mouth of a trawl net along the forwardmost edge.

(f) "Headrope length" means the straight line length of that portion of the top rope of a trawl net from which the net is hung measured between the outermost hanging points.

(g) "Try net" means a net pulled for brief periods of time just before, or during, deployment of the primary net(s) in order to test for shrimp concentrations or determine fishing conditions (e.g. presence or absence of bottom debris, jellyfish, bycatch, seagrass, etc.).

(3) **Vessels Required to use Bycatch Reduction Devices.**

(a) Effective June 1, 1996 all shrimp trawlers which trawl for shrimp for human consumption in Georgia saltwaters as permitted by O.C.G.A. 27-4-133 must have a certified bycatch reduction device (BRD) installed in each net, other than an exempt shrimp trawl or try net, at all times of the year. Effective July 1, 1997, all shrimp trawlers must have a certified BRD installed in trawl nets and trynets with a headrope length of greater than sixteen feet. A BRD shall be deemed to be certified if it is one of the types specified here in or is certified by the National Marine Fisheries Service.

1. Fish Eye BRD - This device shall consist of at least one rigid exit opening frame sewn into each trawl net. This frame is to be constructed of no more than four bars creating an apex to orient the exit opening. Each frame shall have an exit opening in the shape of an oval and a minimum of nine inches in length and a minimum of four and one half inches across the opening in the shortest dimension, creating an unobstructed opening with a surface area equal to or greater than twenty square inches facing the direction of the mouth of the trawl net. Each frame shall be installed in the cod end of the trawl net no further forward than seventy two percent of the functional tailbag length from the tail rope tie off rings. The frame shall be installed along the centerline on the top side of the cod end of the trawl net.

2. Eight-Inch Expanded Mesh/Extended Funnel BRD - This device consists of a funnel of small mesh netting within a cylinder of large mesh netting, held open by at least one

semi-rigid hoop, and is installed in the trawl net behind a certified Turtle Excluder Device as defined in Rule 391-2-4.05. One side of the funnel is extended vertically to provide passage for shrimp to the cod end and to create an area of reduced water flow to allow for fish escapement through the larger mesh outer netting. This BRD shall meet the following specifications:

- (i) The small mesh funnel and large mesh section shall be positioned within extension sections constructed of no smaller than one and five eighths inch stretched-mesh nylon netting, no less than one hundred twenty meshes in circumference. The extension section in front of the large mesh section shall be no less than six and one half meshes long, and the extension section behind the large mesh section shall be no shorter than twenty three meshes in length.
- (ii) The small mesh funnel shall be constructed of no less than one and one half inch stretched-mesh netting. This component shall have a circumference of no less than one hundred twenty meshes at the leading edge and no more than one hundred four meshes at the trailing edge. The short side of the funnel shall be at least thirty-six inches long, while approximately half of the opposite side of the funnel shall extend at least twenty-two inches further toward the trailing edge of the funnel. The leading edge of the funnel shall be attached no less than three meshes forward of the leading edge of the large mesh. At least seven meshes of the short side of the funnel shall be attached to the back section of extension webbing on the top and bottom at least eight meshes back from the trailing edge of the large mesh section.
- (iii) The larger mesh outer section shall consist of no smaller than eight-inch stretched-mesh netting and shall be hung on the square. This section shall have a circumference no smaller than nineteen meshes and a length of at least four meshes.
- (iv) The leading edge of the large mesh section shall be attached to the trailing edge of the front extension section. One semi-rigid hoop constructed of plastic-coated trawl cable with a minimum diameter of thirty inches shall be installed at least five meshes behind the trailing edge of the large mesh section. If a second hoop is used, it shall be installed in the front extension section at least three meshes ahead of the large mesh section.

3. Ten-Inch Expanded Mesh/Extended Funnel BRD - This device consists of a funnel of small mesh netting within a cylinder of large mesh netting, held open by at least one semi-rigid hoop, and is installed in the trawl net behind a certified Turtle Excluder Device as defined in Rule 391-2-4.05. One side of the funnel is extended vertically to provide passage for shrimp to the cod end and to create an area of reduced water flow to allow for fish escapement through the larger mesh outer netting. This BRD shall meet the following specifications:

- (i) The small mesh funnel and large mesh section shall be positioned within extension sections constructed of no smaller than one and three eighths inch stretched-mesh nylon netting, no less than one hundred twenty meshes in circumference. The extension section in front of the large mesh section shall be no less than three meshes long, and the extension section behind the large mesh section shall be no shorter than eighteen and one half meshes in length.
- (ii) The small mesh funnel shall be constructed of no less than one and one half inch stretched-mesh netting. This component shall have a circumference of no less than eighty meshes at the leading edge and no less than eighty meshes at the trailing edge. The short side of the funnel shall be at least twenty-seven inches long, while approximately half of

the opposite side of the funnel shall extend at least fifteen inches further toward the trailing edge of the funnel. The leading edge of the funnel shall be attached no less than one half mesh forward of the leading edge of the large mesh. The short side of the funnel shall be attached to the back section of extension webbing on the top and bottom at least two meshes back from the trailing edge of the large mesh section.

(iii) The larger mesh outer section shall consist of no smaller than ten inch stretched-mesh netting and shall be hung on the square. This section shall have a circumference no smaller than nineteen meshes and a length of at least three meshes.

(iv) The leading edge of the large mesh section shall be attached to the trailing edge of the front extension section. One semi-rigid hoop constructed of plastic-coated trawl cable with a minimum diameter of thirty inches shall be installed at least one and a half meshes behind the trailing edge of the large mesh section. If a second hoop is used, it shall be installed in the front extension section at least three meshes ahead of the large mesh section.

4. Diamond Fish Eye BRD - This device shall consist of at least one rigid exit opening frame sewn into each trawl net. This frame is to be constructed of no more than four bars creating an apex to orient the exit opening. Each frame shall have an exit opening in the shape of a diamond and a minimum of six and one half inches in length and a minimum of five and one half inches across the opening in the shortest dimension, creating an unobstructed opening with a surface area equal to or greater than nineteen square inches facing the direction of the mouth of the trawl net no further forward than seventy two percent of the functional tailbag length from the tail rope tie off rings. The center of the exit opening of the frame shall be installed no more than nineteen meshes offset from either side of the centerline on the top side of the cod end of the trawl net.

(b) Bycatch reduction devices are required in try nets having a headrope length of greater than sixteen feet used for purposes of food shrimping pursuant to O.C.G.A. 27-4-133.

(c) A BRD shall be used in conjunction with a certified Turtle Excluder Device when such a device is required pursuant to 50 C.F.R. Section 227.72(e)(4)(i, ii and iii) and Section 227.72(e)(2)(ii)(A)(1).

(4) Exemptions.

(a) A trawl net being used as part of a public or private experimentation authorized by the Department of Natural Resources, as provided in O.C.G.A. 27-2-12, is exempt from the BRD requirement provided written authorization shall be maintained aboard the shrimp trawler with such a trawl at all times.

(b) Reserved.

(c) Reserved.

Authority Title 12; O.C.G.A. Sec. 27-1-4. **History.** Original Rule entitled "Bycatch Reduction Specifications. Requirement for Use of Bycatch Reduction Devices" adopted, F. Jan. 25, 1996, eff. Feb. 14, 1996. **Amended:** F. Jun. 2, 1997; eff. Jun. 22, 1997. **Amended:** F. Dec. 3, 1997; eff. Dec. 23, 1997.



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March 12, 2012

Danielle Chesky, Fishery Management Plan Coordinator
Atlantic States Marine Fisheries Commission
1050 N. Highland St., Suite 200A-N
Arlington, VA 22201

Re: Florida's Spanish Mackerel Implementation Plan

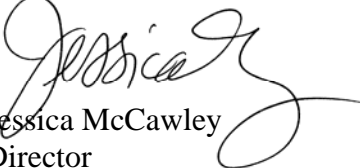
Dear Mrs. Chesky:

This letter is intended as Florida's implementation plan for Spanish mackerel as outlined in the Omnibus Amendment to the Interstate Fishery Management Plan for Spanish Mackerel. Please find listed in Enclosure #1 the specific compliance criteria in which Florida has already implemented within its Spanish mackerel regulation, 68B-23 Florida Administrative Code (F.A.C.).

The allowed commercial and recreational gears, bag, and size limit for Spanish mackerel, as well as, the recreational requirement to land in whole condition apply statewide in Florida, along both the Atlantic and Gulf coasts. The commercial season and trip limits apply along the East Coast Region of Florida, which includes Florida state waters north of the Dade-Monroe County line. I have enclosed the Florida Administrative Code (regulations) for Spanish mackerel with the sections mentioned above highlighted in Enclosure #2.

Please contact Aaron Podey at (850) 487-0554 or Aaron.Podey@MyFWC.com if you have any further questions.

Sincerely,


Jessica McCawley
Director

jm/ms/ap
Enclosure

cc: Aaron Podey
Nick Wiley

Enclosure #1: Compliance Table

	Florida in Compliance	Florida Regulation	Notes	F.A.C Rule #
Commercial				
Prohibited: Purse Seines; drift gill nets south of Cape Lookout, NC	Yes	Only gears allowed are beach or haul seine, cast net, hook and line, and spearing		68B-23.003
12"FL or 14"TL min size	Yes	12"FL min size		68B-23.0035
March 1-end of Feb season	Yes	March 1-end of Feb season		68B-23.004
Trip limits for Florida (per vessel, per day) 3/1-11/30 = 3500 lbs	Yes	Trip limits for Florida (per vessel, per day) 3/1-11/30 = 3500 lbs		68B-23.004
12/1 until 75% adjusted quota taken = 3500 lbs Mon-Fri & 1500 lbs Sat-Sun	Yes	12/1 until the date the unlimited harvest in adjacent EEZ is closed = 3500 lbs Mon-Fri & 1500 lbs Sat-Sun		68B-23.004
When 75% adjusted quota taken until 100% adjusted quotas taken = 1500 lbs	Yes	From date unlimited harvest is closed in adjacent EEZ until the date the commercial vessel limit in such federal waters is reduced to 500 lbs = 1500 lbs		68B-23.004
After 100% of adjusted quotas taken = 500 lbs	Yes	From date the 1500 lb season ends until the end of Feb = 500 lbs		68B-23.004
Quotas decreased following year if Total ACL is exceeded and stock is overfished	Yes	N/A	Florida will implement consistent quota if ACL is exceeded	N/A
Recreational				
12"FL or 14"TL min size	Yes	12"FL min size		68B-23.0035
15 fish creel limit	Yes	15 fish bag limit		68B-23.005
Must be landed with head and fins intact	Yes	must be landed in whole condition		68B-23.0035
Calendar year season	Yes	Not defined	Florida will define consistent calendar year if/when necessary	N/A
Prohibited gear: Drift gill nets south of Cape Lookout, NC	Yes	Only gears allowed are beach or haul seine, cast net, hook and line, and spearing		68B-23.003
Quotas decreased, via reduced bag limits, the following year if Total ACL is exceeded and stock is overfished	Yes	N/A	Florida will implement consistent bag limit if ACL is exceeded	N/A

Enclosure #2: Chapter 68B-23 Florida Administrative Code, Spanish Mackerel

68B-23.001 Purpose, Intent and Repeal of Other Laws; Designation as Restricted Species

68B-23.002 Definitions

68B-23.003 Gear Specifications and Prohibited Gear

68B-23.0035 Size Limit

68B-23.004 Commercial Fishing Season for Spanish Mackerel; Commercial Vessel Limits

68B-23.005 Recreational Bag Limit for Spanish Mackerel

68B-23.006 Other Prohibitions

68B-23.001 Purpose, Intent and Repeal of Other Laws; Designation as Restricted Species.

(1) The purpose and intent of this chapter are to protect, manage, conserve and replenish Florida's Spanish mackerel resource, species *Scomberomorus maculatus*. Accordingly, this chapter is intended to repeal Section 370.08(7), F.S (1985).

(2) If any provision of this chapter is held to be an invalid exercise of delegated legislative authority, it is the intent of the Commission that the invalidity not affect other provisions of the chapter which can be given effect without the invalid provision, and to this end, the provisions of this chapter are declared to be severable.

(3) Spanish mackerel are hereby designated as a restricted species pursuant to Section 379.101(23), F.S. (1985).

Rulemaking Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 11-28-85, Amended 10-30-86, 12-10-87, 10-1-88, 10-19-89, 9-30-96, Formerly 46-23.001.

68B-23.002 Definitions.

(1) “Charter vessel” means a boat or vessel, including what is commonly known as a “headboat”, whose captain or operator is licensed by the U.S. Coast Guard to carry passengers and whose passengers fish for a fee. The “crew” of a charter vessel means those individuals who receive monetary or other compensation from the vessel owner, captain, or operator or from the passengers who are engaged in fishing from the vessel as anglers.

(2) “Commercial harvest,” “harvest for commercial purposes,” or words of similar import, when used in connection with the harvest of Spanish mackerel, means the taking or harvesting of any Spanish mackerel for purposes of sale or with intent to sell. Spanish mackerel harvested from state waters in excess of the recreational bag limit shall constitute harvest for commercial purposes.

(3) “Commission” means the Florida Fish and Wildlife Conservation Commission.

(4) “East Coast Region” means state waters along the east coast of Florida north of the Dade-Monroe County line in the Atlantic Ocean.

(5) “Harvest” means the catching or taking of a fish by any means whatsoever, followed by a reduction of such fish to possession. Fish that are caught but immediately returned to the water free, alive and unharmed are not harvested.

(6) “Land”, when used in connection with the harvest of a fish, means the physical act of bringing the harvested fish ashore.

(7) “Person” means any natural person, firm, entity or corporation.

(8) "Recreational harvester" means a person harvesting Spanish mackerel for other than commercial purposes.

(9) "Spanish mackerel" means any fish of the species *Scomberomorus maculatus*, or any part thereof.

(10) "Spearing" means the catching or taking of a fish by bow hunting, gigging, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear or by snagging (snatch hooking).

(11) "Vessel" means and includes every description of water craft used or capable of being used as a means of transportation on water, including nondisplacement craft and any aircraft designed to maneuver on water.

(12) "West Coast Region" means state waters of the Atlantic Ocean south and west of the Dade-Monroe County line in the Atlantic Ocean and all state waters of the Gulf of Mexico.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-28-85, Amended 10-30-86, 10-1-88, 10-1-90, 11-29-93, 9-30-96, 1-1-98, Formerly 46-23.002.

68B-23.003 Gear Specifications and Prohibited Gear.

The harvest or attempted harvest of any Spanish mackerel by or with the use of any gear other than a beach or haul seine, a cast net, hook and line gear, or by spearing, is prohibited.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 11-28-85, Amended 10-30-86, 12-10-87, 10-1-88, 2-16-93, 11-29-93, 9-30-96, 1-1-98, Formerly 46-23.003.

68B-23.0035 Size Limit.

(1) No person shall harvest from state waters, possess while in or on state waters, or land any Spanish mackerel with a fork length less than 12 inches, measured from the tip of the snout to the rear center edge of the tail.

(2) All Spanish mackerel harvested in or from Florida or adjacent federal Exclusive Economic Zone (EEZ) waters shall be landed in a whole condition. The possession, while in or on state waters, on any public or private fishing pier, on a bridge or catwalk attached to a bridge from which fishing is allowed, or on any jetty, of a Spanish mackerel that has been deheaded, sliced, divided, filleted, ground, skinned, scaled, or deboned is prohibited. Mere evisceration or "gutting" of Spanish mackerel, or mere removal of gills before landing is not prohibited.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-1-99, Formerly 46-23.0035.

68B-23.004 Commercial Fishing Season for Spanish Mackerel; Commercial Vessel Limits.

(1) East Coast Region.

(a) Persons harvesting Spanish mackerel for commercial purposes from waters of the East Coast Region shall have a season that begins on the regional season opening date of March 1 of each year and continues through the end of February the following year. These persons shall be subject to commercial vessel limits effective during segments of the season as follows (consistent with the Federal Standards established in 50 C.F.R. §622.44(b)):

1. Beginning on March 1 and continuing through November 30 of each year, no person harvesting Spanish mackerel for commercial purposes shall harvest or land from a single vessel in any one day more than 3,500 pounds of Spanish mackerel. During this season segment, the possession of more than 3,500 pounds of Spanish mackerel aboard a single vessel in or on state waters at any time, is prohibited.

2. Beginning December 1 of each year, until the date the unlimited harvest of Spanish mackerel in adjacent federal Exclusive Economic Zone (EEZ) waters is closed:

a. On Monday through Friday during this period, no person harvesting Spanish mackerel for commercial purposes shall harvest in any one day from state waters of this region, or possess at any time while fishing in state waters of this region, more than 3,500 pounds of Spanish mackerel.

b. On Saturday through Sunday during this period, no person harvesting Spanish mackerel for commercial purposes shall harvest in any one day from state waters of this region, or possess at any time while fishing in state waters of this region, more than 1,500 pounds of Spanish mackerel.

3. A limit of 1,500 pounds of Spanish mackerel per vessel per day shall apply from the date the unlimited harvest of Spanish mackerel is closed in adjacent federal Exclusive Economic Zone (EEZ) waters until the date the commercial vessel limit in such federal waters is reduced to 500 pounds of Spanish mackerel. During this season segment, no person shall possess while in or on the waters of the state, or land from a single vessel in any one day within this region, more than 1,500 pounds of Spanish mackerel.

4. A limit of 500 pounds of Spanish mackerel per vessel per day shall apply from the date the 1500-pound season segment ends until the end of February each year. During this season segment, no person shall possess while in or on the waters of the state, or land from a single vessel in any one day within this region, more than 500 pounds of Spanish mackerel.

(b) For purposes of this subsection:

1. A “day” starts at 6:00 a.m., local time, and extends for 24 hours. For example, Monday starts at 6:00 a.m. on Monday and extends until 6:00 a.m. on Tuesday. A person aboard a vessel terminating a trip prior to 6:00 a.m., but who possesses Spanish mackerel aboard the vessel after that time shall not be considered to possess Spanish mackerel in excess of the daily limits provided the vessel is not underway after 6:00 a.m. and such Spanish mackerel are unloaded prior to 6:00 p.m. following termination of the trip.

2. Transfer of Spanish mackerel harvested for commercial purposes between vessels within this region is prohibited.

(2) West Coast Region. Persons harvesting Spanish mackerel for commercial purposes from waters of the West Coast Region shall have a season that begins on the regional season opening date of April 1 of each year and continues through March 31 of the following year.

If at any time during the season, adjacent federal Exclusive Economic Zone (EEZ) waters are closed to commercial harvest of Spanish mackerel, a limit of 500 pounds per vessel per day shall apply for the remainder of the season. During this period, no person shall harvest from state waters or land from a single vessel in any one day within this region more than 500 pounds of Spanish mackerel.

(3) Notice of the closure of each season segment described in paragraph (1)(a) or subsection (2) of this rule shall be given by the Executive Director of the Fish and Wildlife Conservation Commission in the manner provided in Section 120.81(5), F.S.

(4) For purposes of subsection (2) of this rule, the total regional commercial harvest of Spanish mackerel during a particular commercial fishing season shall consist of those Spanish mackerel harvested for commercial purposes by all forms of gear from the waters of the West Coast Region and the Exclusive Economic Zone of the United States (EEZ) contiguous to such waters, based on projections from official statistics collected and maintained by the Commission pursuant to Florida's Marine Fisheries Information System, Chapter 68E-5, F.A.C., and the National Marine Fisheries Service (NMFS). The count shall be conducted by the Fishery Statistics Section of the Florida Marine Research Institute, and shall commence with Spanish mackerel commercially harvested on and after the regional season opening date of each year and continue until the regional season closing date of the following year.

(5) Nothing in this section shall be construed to permit the harvest of Spanish mackerel from any area, during any time, or utilizing any form of gear where same is otherwise prohibited by law.

68B-23.005 Recreational Bag Limit for Spanish Mackerel.

(1) No recreational harvester shall harvest more than 15 Spanish mackerel per day from waters of the state.

(2)(a) No recreational harvester shall possess, while in or on the waters of the state or on any dock, pier, bridge, beach, or other fishing site adjacent to such waters, more than 15 Spanish mackerel, whether harvested from state waters or from adjacent federal waters.

(b) The captain or crew of a charter vessel may each temporarily possess more than the applicable possession limit for Spanish mackerel, once the vessel is docked, for the limited purposes of transporting, cleaning, or storing fish for customers, so long as the fish are segregated in bags or other containers by customer and the customer has given written authorization to the captain to temporarily possess the fish for such limited purposes. The authorization shall remain attached to the bag or container containing the fish until they are returned to the customer.

(3) No recreational harvester, while on any vessel in state waters, shall transfer any Spanish mackerel to any other vessel.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-30-86, Amended 12-10-87, 10-1-88, 10-1-90, 11-26-92, 2-14-94, 1-1-98, Formerly 46-23.005, Amended 7-1-00.

68B-23.006 Other Prohibitions.

(1) It is unlawful for any person to possess, transport, buy, sell, exchange or attempt to buy, sell or exchange any Spanish mackerel harvested in violation of this chapter.

(2) The prohibitions of this chapter apply as well to any and all persons operating a vessel in state waters, who shall be deemed to have violated any prohibition which has been violated by another person aboard such vessel.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-30-86, Amended 10-1-88, Formerly 46-23.006, Amended 6-1-99.