



Mid-Atlantic Fishery Management Council
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Richard B. Robins, Jr., Chairman | Lee G. Anderson, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: July 28, 2016
To: Council
From: Julia Beaty
Subject: August 2016 briefing materials on Unmanaged Forage Omnibus Amendment

The following materials are attached:

- 1) Staff memo, including staff recommendations for final action
- 2) Summary of public hearings
- 3) Summary of July 6, 2016 Ecosystems and Ocean Planning (EOP) Advisory Panel meeting
- 4) Additional comments from EOP advisors
- 5) Council member Jeff Kaelin's recommendations for EOP Committee meeting
- 6) Summary of July 7, 2016 EOP Committee meeting
- 7) Letter from Dr. John Graves on the importance of small scombrids in the diets of tunas and billfishes in the Mid-Atlantic

The following materials are not included in the briefing book, but are available at <http://www.mafmc.org/actions/unmanaged-forage>:

- 1) Detailed [list of species](#) which may be included in the amendment
- 2) [Public hearing document](#)
- 3) [Full public comment summary](#), including individual written comments and transcripts of public hearings; complete lists of signees on petitions submitted by the Pew Charitable Trusts and the Wildlife Conservation Society; and images of poems, drawings, and a pledge wall submitted by the Wildlife Conservation Society.



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MEMORANDUM

Date: July 28, 2016
To: Council
From: Julia Beaty
Subject: Staff Recommendations for Final Action on the Unmanaged Forage Omnibus Amendment

Summary

This document summarizes staff recommendations for final action on the Unmanaged Forage Omnibus Amendment. Staff considered the over 21,000 comments provided during the public hearing period as well as recommendations from the Ecosystems and Ocean Planning (EOP) Advisory Panel (AP) and EOP Committee when developing these recommendations. Public comments and EOP AP and EOP Committee recommendations are summarized in more detail in separate documents included in the briefing materials for the August 2016 Council meeting.

Staff recommend the following courses of action. Justification for each recommendation is provided in later sections of this document.

- 1) Include all of the taxa listed in table 1, with the exception of false albacore and sharptail shortfin squid, in the amendment.
- 2) Consider development of a new management action for false albacore when setting priorities for 2017.
- 3) Designate all taxa in table 1, with the exception of chub mackerel, false albacore, and sharptail shortfin squid, as ecosystem component species and limit possession of those species in Mid-Atlantic federal waters to 1700 pounds of all of those species combined.
- 4) Consider development of a separate amendment to add chub mackerel to the Mackerel, Squid, and Butterfish Fishery Management Plan (MSB FMP) as a stock in the fishery when setting priorities for 2017. Implement a landings cap of 2.86 million pounds per year through the Forage Amendment until new management measures can be implemented through a separate amendment to the MSB FMP based on an allowable biological catch (ABC) recommendation from the Scientific and Statistical Committee (SSC).
- 5) Define the management unit of the Forage Amendment as Mid-Atlantic federal waters, bounded by state waters to the west, the EEZ to the east, the Connecticut/New York

boundary extended seaward to the north, and Cape Hatteras, North Carolina to the south.

- 6) Identify the list of taxa included in this amendment, as well as any possession or landings limits implemented through this amendment, as frameworkable items.

Taxa to be Included in the Amendment

In April 2016 the Council approved a list of taxa (i.e. species, families, orders, and other taxonomic groupings) for possible inclusion in the Unmanaged Forage Omnibus Amendment (table 1). This list is meant to include species that are ecologically important as forage and those that could become the target of large-scale directed commercial fisheries. The list includes nine families, one order, five species, and two other groupings. In total, the list contains over 50 currently unmanaged species that are found in the Mid-Atlantic. Council staff recommend that the Council include all taxa listed in table 1, with the exception of false albacore and sharptail shortfin squid in the amendment.

The question of whether to include false albacore in the amendment has generated much debate among members of the public, advisors, Committee members, and Council members. This debate centers on whether false albacore can be considered a forage species. False albacore stand out from all the other taxa under consideration due to their large size and high trophic level. Council staff, as well as the NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO) and some AP and Committee members believe that the large size and high trophic level of false albacore disqualify them from being considered forage. Several members of the public, as well as some advisors, disagree with this statement and have argued that false albacore should be included in the amendment due to their role in the ecosystem as prey for large sharks, tunas, and billfish. The Council also received many public comments describing the importance of the recreational false albacore fishery and concern that this species may become the target of large-scale commercial fisheries if it is not included in the Forage Amendment. Council staff acknowledge the strong public concern for this species and the strong desire to protect the recreational false albacore fishery. However; Council staff do not believe there is sufficient justification for including false albacore in the Forage Amendment. In response to this public concern, Council staff recommend that the Council consider development of a new management action for false albacore when setting priorities for 2017.

Sharptail shortfin squid (*Illex oxygonius*) fall under the category of “pelagic molluscs” (table 1). In March 2016, a few members of the EOP AP recommended that this species not be included in the amendment due to similarities in appearance with *Illex* squid (*Illex illecebrosus*, a managed species), which could pose challenges for enforcement. For this reason, Council staff advise against including sharptail shortfin squid in the Forage Amendment.

Table 1: List of taxa approved by the Council in April 2016 for potential inclusion in the Unmanaged Forage Omnibus Amendment. The list is meant to include only those species which are found in Mid-Atlantic federal waters and are not managed by the New England, Mid-Atlantic, or South Atlantic Fishery Management Councils, or by the Atlantic States Marine Fisheries Commission.

- Anchovies (family Engraulidae)
- Argentines (family Argentinidae)
- Greeneyes (family Chlorophthalmidae)
- Halfbeaks (family Hemiramphidae)
- Herrings, sardines (family Clupeidae)
- Lanternfish (family Myctophidae)
- Pearlsides (family Sternoptychidae)
- Sand lances (family Ammodytidae)
- Silversides (family Atherinopsidae)
- Cusk eels (order Ophidiiformes)
- Chub mackerel (*Scomber colias*)
- Bullet mackerel (*Auxis rochei*)
- Frigate mackerel (*Auxis thaxard*)
- False albacore/little tunny (*Euthynnus alletteratus*)
- Atlantic saury (*Scomberesox saurus*)
- Pelagic molluscs (pelagic members of the phylum Mollusca)
- Copepods, Krill, Amphipods & other species < 1 inch as adults

Alternatives for Species other than Chub Mackerel

The Council approved a range of alternatives for the taxa in table 1, with the exception of chub mackerel, in April 2016 (table 2). The Council approved a separate range of alternatives for chub mackerel, which are described in the next section of this document.

There was strong support among the public, the AP, and the EOP Committee for alternative 2Bii, which would designate the taxa in table 1 (with the exception of chub mackerel) as ecosystem components (ECs) in all of the Council's FMPs and limit possession of those species in the Mid-Atlantic to 1700 pounds combined weight of all species. This value is approximately the 99th percentile of federal dealer-reported landings per trip of bay anchovy, argentine, sand eel, harvestfish, octopus, and Atlantic silverside¹ from 1996 through 2015. Several members of the public, as well as AP and Committee members, supported this alternative because it is based on historical landings data and accommodates 99% of the historical landings of these species as reported in federal dealer data. A 1700 pound possession limit is expected to have minimal impacts on existing fisheries for those species. This alternative is also favored by some because the aggregate limit of 1700 pounds would only require enforcement agents to sort

¹ This value was calculated at the March 2016 EOP AP meeting. At that time, the Council was considering including harvestfish (*Peprilus paru*) in the amendment. The Council removed harvestfish from the list under consideration in April 2016. The calculation of the 99th percentile excluded available landings data on frigate mackerel and false albacore because, at the time, several AP members recommended that those species not be included in the amendment. There are no federal dealer reported landings of several of the species listed in table 1.

through the catch if the weight exceeded 1700 pounds, which, according to some advisors and members of the public, would be a rare occurrence.

Due to the strong support among the public, advisors, and the Committee, as well as the basis in historical landings and expected minimal impacts to existing fisheries, Council staff recommend that the Council select alternative 2Bii as a preferred alternative.

Table 2: Alternatives for species other than chub mackerel, as approved by the Council in April 2016.

Alternative	Sub-Alternative
2A: Designate forage species (other than chub mackerel) as ECs and prohibit possession	--
2B: Designate forage species (other than chub mackerel) as ECs and implement an incidental possession limit	2Bi: Incidental possession limit of 1500 pounds per EC species
	2Bii: Incidental possession limit of 1700 pounds for all EC species combined

Alternatives for Chub Mackerel

There was strong support among members of the public, the AP, and the Committee for management of chub mackerel as a stock in the fishery (either in the MSB FMP or in its own FMP) with interim management measures to restrict landings while the requirements for a stock in the fishery (e.g. ABCs) are developed. There was some confusion as to how such a course of action would fit into the structure of the alternatives approved by the Council in April 2016 (table 3). Council staff believe this course of action would be best characterized as a combination of alternative 3C (manage chub mackerel as neither an EC nor a stock in the fishery) in the short-term and alternative 3B (stock in the fishery) in the long-term.

Staff recommend that the Council implement an annual chub mackerel landings limit of 2.86 million pounds through the Forage amendment and consider initiating a new amendment to add chub mackerel to the MSB FMP as a stock in the fishery when setting their 2017 priorities. Council staff recommend a 2.86 million pounds a landings limit because this represents average landings in the northeast over the past three years (i.e. 2013-2015) and is in line with the alternatives discussed by the EOP Committee in July 2016.² A three year average is a more appropriate landings limit than a longer-term average because the recent chub mackerel fishery is a different fishery than it was in the past in some important ways. Specifically, in recent years, a small number of vessels and dealers have worked to develop a market for chub mackerel and to expand the fishery. These vessels targeted chub mackerel in recent years to a greater extent than they did in the past. Some of the captains of these vessels have said that chub mackerel is now an important fishery for them when *Illex* squid are not available. Chub mackerel landings are highly variable. These captains and other fishing industry advisors have said that landings are variable because the availability of both chub mackerel and *Illex* squid varies based on environmental

² The Committee did not agree on a recommended landings limit but discussed options of either 2.86 or 4 million pounds. See the Committee meeting summary in the August 2016 Council Meeting briefing materials for more information.

conditions. A 2.86 million pound landings limit is more than two million pounds lower than the fishery’s historic high; however, it accommodates landings in all but one of the past 20 years. Given the variable nature of the fishery, it is unlikely that the fishery would consistently land 2.86 million pounds per year. If the Council pursues a separate amendment to add chub mackerel as a stock in the fishery in the MSB FMP, this 2.86 million pound limit would be temporary until the SSC recommends an ABC, after which new landings limits could be implemented based on the best scientific information available and the Council can incorporate ecosystem concerns through the specification of optimum yield (OY).

Table 3: Alternatives for chub mackerel, as approved by the Council in April 2016. (Continued on next page.)

Alternative	Sub-Alternative
3A: Manage chub mackerel as an EC	3Ai: Prohibit possession once an annual fishery-wide landings limit is met Landings limit alternatives: <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Aii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met Landings limit alternatives: <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds Possession limit alternatives: <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds
3B: Manage chub mackerel as a stock in the fishery	3Bi: ³ Prohibit possession once an annual fishery-wide landings limit is met Landings limit alternatives: <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Bii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met Landings limit alternatives: <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds Possession limit alternatives: <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds

³ The Council cannot implement management measures for chub mackerel as a stock in the fishery until an ABC recommendation from the SSC is available; therefore, depending on the recommended ABC, the proposed landings limits shown in table 3 may not be appropriate if the Council selects alternative 3B.

Table 3, continued: Alternatives for chub mackerel, as approved by the Council in April 2016.

3C: Manage chub mackerel as neither an EC nor a stock in the fishery through the Council's discretionary authority under MSA Section 303(b)(12)	3Ci: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds 	
	3Cii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds 	

Alternatives for New Fisheries and Expansion of Existing Fisheries

As described in the goal statement for the amendment, the Council does not intend to prohibit new commercial fisheries and expansion of existing commercial fisheries for (currently) unmanaged forage species indefinitely, but only until the Council has had the opportunity to consider scientific information and assess potential impacts to existing fisheries, fishing communities, and the marine ecosystem. In April 2016 the Council approved a set of alternatives relating to how the Council might consider new fisheries and expansion of existing fisheries (table 4).

Council staff have no recommendations related to these alternatives. With the exception of alternative 4B, which would not allow new or expanded fisheries, any of the alternatives under consideration would allow the Council to meet the goal of the amendment.

Table 4: Alternatives for development of new fisheries for forage species and expansion of existing fisheries, as approved by the Council in April 2016.

Alternative	Sub-Alternative
4A: No action on new fisheries and expansion of existing fisheries	--
4B: No new or expanded fisheries for EC species	--
4C: Require EFP prior to development of new or expansion of existing fisheries for ECs	4Ci: <i>Status quo</i> EFP process
	4Cii: New policy for Council review of EFP applications relating to ECs
4D: Consideration of stock in the fishery designation prior to new fisheries or expansion of existing fisheries for ECs	--

Administrative Alternatives

The Council approved a range of administrative alternatives in April 2016 (table 6). Council staff have only two recommendations related to these alternatives.

Staff recommend that the management unit of the amendment be defined as Mid-Atlantic federal waters, bounded by state waters to the west, the EEZ to the east, the Connecticut/New York boundary extended seaward to the north, and Cape Hatteras, North Carolina to the south (alternative 5Dii).

Staff recommend that the list of taxa included in the amendment, as well as any possession or landings limits implemented through the amendment, be listed as frameworkable items (alternatives 5Ei and 5Eii). The list of species and possession and landings limits may warrant slight modifications in the future. Modifying these measures through amendments, rather than through frameworks, would be an inefficient use of Council resources.

Council staff recommend that spatial and seasonal closures and recreational fishing regulations not be listed as frameworkable items. These measures were not approved as independent alternatives and therefore will not be analyzed as part of this amendment. Without sufficient supporting analysis, these measures could not be implemented through a framework and would instead require an FMP amendment.

Table 6: Administrative alternatives, as approved by the Council in April 2016.

Alternative	Sub-Alternative
5A: Update list of fisheries and authorized gear types (50 CFR 600.725)	--
5B: Require GARFO permit for possession of EC species	--
5C: Monitoring /reporting	5Ci: Develop a process that provides the Council with data on landings of EC species in its jurisdiction
	5Cii: Add EC species to required reporting mechanisms (e.g. SAFIS, VTRs)
5D: Management unit	5Di: Federal waters, bounded by seaward lines extending from CT/NY boundary and VA/NC boundary
	5Dii: Federal waters, bounded by seaward lines extending from CT/NY boundary and Cape Hatteras, NC
5E: Frameworkable items	5Ei: List of EC species
	5Eii: Possession limits and landings limits
	5Eiii: Spatial and seasonal closures
	5Eiv: Recreational fishing regulations



Unmanaged Forage Omnibus Amendment

Public Hearing Summary

This document contains a summary of comments received during public hearings on the Unmanaged Forage Omnibus Amendment. All comments, including written comments, transcripts of public hearings, and submitted images, will be posted to www.mafmc.org/actions/unmanaged-forage.

Demographics

- The Council received 130 written comments from individuals, 29 letters from organizations, 21,052 signatures on three separate petitions, 437 poems and drawings, and images of a “pledge wall” with 228 drawings. Sixty-eight members of the public attended public hearings.
- 130 individuals submitted personal written comments and 31 individuals provided comments during public hearings. Of these,
 - 33 individuals identified themselves as recreational anglers
 - 1 individual identified himself as a recreational and a commercial fisherman
 - 3 individuals identified themselves as commercial fishermen
 - 7 individuals identified themselves as “fishermen” without specifying if they were commercial or recreational fishermen
 - 10 individuals identified themselves as employees of environmental NGOs
 - 3 individuals identified themselves as scientists
 - 2 individuals identified themselves as retired fishery managers
- 71 organizations submitted 29 comment letters
 - American Fisheries Society
 - Brooklyn Urban Anglers Association
 - Coastal Conservation Association Maryland
 - Delaware River Shad Fishermen’s Association
 - DelMarVa Fisheries Association, Inc.
 - Earthjustice
 - Fish Hawks Salt Water Anglers
 - Greater Egg Harbor Watershed Association and River Council
 - Garden State Seafood Association

- Herring Alliance (submitted a single letter signed by 43 organizations)
- Herring Ponds Watershed Association
- Hi-Mar Striper Club
- Ipswich River Watershed Association
- Jersey Coast Anglers Association
- Manasquan River Marlin and Tuna Club
- Mystic River Watershed Association
- National Marine Fisheries Service Greater Atlantic Regional Office (GARFO)
- The Nature Conservancy
- New England Aquarium
- New York Aquarium, Mystic Aquarium, The Maritime Aquarium at Norwalk, and the Virginia Aquarium and Marine Science Center (co-signed a single letter)
- New Jersey Council of Diving Clubs
- North Carolina Marine Fisheries Commission
- The Pew Charitable Trusts
- Recreational Fishing Alliance
- The Safina Center
- Seafreeze Ltd.
- The Town Dock
- Virginia Saltwater Sportfishing Association
- Wild Oceans
- 16,198 individuals signed an online petition created by the Pew Charitable Trusts, 1,415 of whom personalized their comments.
- 4,156 individuals signed an online action alert created by the Wildlife Conservation Society. Ninety-four of these individuals submitted edited versions of this action alert.
- The Wildlife Conservation Society submitted a petition signed by 698 visitors to their four parks (i.e. the New York Aquarium, Central Park Zoo, Queens Zoo, and Prospect Park Zoo).
- The Wildlife Conservation Society submitted images of “pledge walls” with 228 drawings, as well as 437 poems and drawings made by visitors to their four parks.

General Comments

- 77 individuals and four organizations expressed general support of the amendment but did not provide recommendations on any of the alternatives under consideration.
- One organization opposed the amendment as a whole.
- One individual supported the no action alternative, but recommended that the Council work to ensure that catches are more accurately documented.

Species to be Included in the Amendment

- 41 individuals (including 30 who submitted virtually identical comments) and six organizations recommended that the Council **not remove any species** from the list of

species currently under consideration for inclusion in the amendment.

- One individual thought the list of species under consideration was too restrictive and should include more species.
- 48 individuals (including 30 who submitted virtually identical comments) and 10 organizations stressed that **false albacore** should remain on the list. Three organizations recommended that false albacore be removed from the list.
- Four individuals and four organizations requested that **frigate mackerel and bullet mackerel** remain in the amendment. Three organizations recommended that the Council not include these species in the amendment.
- One organization recommended that the Council initiate a separate management action for frigate mackerel, bullet mackerel, and false albacore if these species are not included in the Unmanaged Forage Omnibus Amendment.
- One organization recommended that the amendment only include forage species which are found in the diet of Council-managed species.
- Three organizations argued that a nexus to a Council Fishery Management Plan is not needed and that any ecologically important forage species can be included in the amendment.
- Four individuals and one organization requested that **Atlantic bonito** be included in the amendment. Atlantic bonito are not on the list of species under consideration.

Alternatives for species other than chub mackerel

- Eight individuals supported alternative 2A, which would **prohibit possession** of all forage species listed in the amendment (with the exception of chub mackerel).
- 21,008 individuals and 22 organizations supported an **incidental possession limit** for all species included in the amendment (except chub mackerel).
 - 36 individuals (including 30 who submitted virtually identical comments) and three organizations supported an incidental possession limit for all the species included in the amendment (with the exception of chub mackerel; i.e. alternative 2B) but did not specify what the incidental possession limit should be.
 - The 16,198 individuals who signed the letter submitted by the Pew Charitable Trusts recommended a “limit on the combined catch of these species for each fishing trip (without any loopholes that could allow the limit to be easily changed)”, but they did not recommend a specific amount of pounds for the limit.
 - Two organizations expressed support for alternative 2Bi, which would implement an incidental possession limit of **1500 pounds per species**.
 - 4,767 individuals (including 4,062 who signed the online pledge created by the Wildlife Conservation Society and 698 who signed a Wildlife Conservation Society petition at a park or zoo) and 16 organizations supported alternative 2Bii which would implement an incidental possession limit of **1700 pounds for all of the species listed in the amendment combined** (with the exception of chub

mackerel).

- Six individuals and one organization supported a combination of alternatives 2Bi and 2Bii, which would create an incidental possession limit of **1500 pounds per species up to a total amount of 1700 pounds for all species combined**.
- One individual requested that the 1700 pound possession limit apply on a per-species basis, rather than to all species combined.
- One organization recommended that the Council implement an annual landings limit per vessel in addition to incidental possession limits for the forage species included in the amendment.
- Two organizations requested that the language of alternative 2B be modified to say “prohibit directed fishing and implement an incidental possession limit”.

Alternatives for chub mackerel

- Eight individuals and seven organizations recommended that chub mackerel be managed as an **ecosystem component** (EC; alternative 3A).
- One individual and seven organizations requested that if the Council manages chub mackerel as an EC, this be considered a temporary measure while the supporting analysis and decision-making process are carried out to determine if chub mackerel should be managed as a stock in the fishery.
- 16,240 individuals (including 30 who submitted virtually identical comments and 16,198 who signed a letter submitted by the Pew Charitable Trusts) and 48 organizations (including the 43 which signed the letter submitted by the Herring Alliance) either recommended that chub mackerel be managed as a **stock in the fishery** (alternative 3B) or implied support for managing chub mackerel as a stock in the fishery with phrases such as “initiate full federal management now”.
- One individual and three organizations supported alternative 3C, which would manage chub mackerel under the Council’s **discretionary authority** under the Magnuson-Stevens Act without designating chub mackerel as either an EC or a stock in the fishery.
- **Annual landings limit for chub mackerel**
 - 16,207 individuals (including the 16,198 individuals who signed a letter submitted by the Pew Charitable Trusts) and 53 organizations (including the 43 which signed the letter submitted by the Herring Alliance) either recommended an annual landings limit of **900,127 pounds** of chub mackerel (which is equivalent to the average landings from 2006-2016), or they recommended “the lowest level being considered”.
 - 30 individuals (all of whom submitted nearly identical comments) and two organizations recommended an annual landings limit of **1.75 million pounds** of chub mackerel, which is equivalent to the average landings from 2011-2015.
 - One individual recommended an annual landings limit of **2.86 million pounds per year**, which is equivalent to the average landings from 2013-2015.

- One individual and three organizations supported an annual landings limit of **5.25 million pounds** of chub mackerel, which is the amount landed in 2013 and the maximum reported chub mackerel landings in the northeast over the past 20 years.
- 8 individuals and 45 organizations (including the 43 which signed the letter submitted by the Herring Alliance) said that **once the annual landings limit is met, possession of chub mackerel should be prohibited.**
- 35 individuals (including 30 who submitted nearly identical comments) and six organizations recommended that **an incidental chub mackerel possession limit be enforced either after the annual landings limit is met or when landings approach the limit**
 - Three individuals and three organizations recommended that the incidental possession limit be 10,000 pounds.
 - One individual and three organizations recommended an incidental possession limit of 40,000 pounds.
- 34 individuals (including 30 who submitted nearly identical comments) recommended that the Council implement landings and/or possession limits for chub mackerel in the near term but carry out further biological analysis to determine if these limits should be revised in the future.

New fisheries and expansion of existing fisheries

- Four individuals and one organization supported alternative 4B, which would **not allow any new fisheries or expansion of existing fisheries.**
- 38 individuals (including 30 who submitted nearly identical comments) and 51 organizations (including the 43 which signed the letter submitted by the Herring Alliance) supported alternative 4C, which would **require use of an exempted fishing permit (EFP)** before any new fishery is allowed or any existing fishery could expand. Of these, 36 individuals and 50 organizations expressed support for alternative 3Cii, which would establish a process for **Council review of EFP applications.**
- 16,205 individuals (including the 16,198 who signed the letter submitted by the Pew Charitable Trusts) and 47 organizations (including the 43 which signed the letter submitted by the Herring Alliance) recommended a combination of alternatives 4C and 4D, which would **require both use of an EFP and consideration of whether the stock should be a stock in the fishery** before a new fishery is allowed to develop or an existing fishery is allowed to expand.
- Two organizations thought Council review of EFP applications was not necessary and the Council would be better served to review the data collected as part of the EFP.
- One organization recommended that if the Council were to require use of an EFP prior to allowing any new fisheries or expansion of existing fisheries, that they specify the steps to be taken after the EFP has been used.

Administrative alternatives

- 33 individuals (including 30 who submitted nearly identical comments) and five organizations expressed support for alternative 5A, which would **update the list of authorized fisheries and gear types** at 50 C.F.R. 600.725. One organization requested that the Council allow public comment on any changes to the list and also reach out to sport divers if the list is updated.
- 16,240 individuals (including 30 who submitted nearly identical comments and the 16,198 who signed the letter submitted by the Pew Charitable Trusts) and 50 organizations (including the 43 which signed the letter submitted by the Herring Alliance) expressed support for alternative 5B, which would require individuals to obtain **a federal commercial fishing permit from GARFO** in order to retain any of the species included in the amendment as ECs.
- 33 individuals (including 30 who submitted nearly identical comments) and 52 organizations (including the 43 which signed the letter submitted by the Herring Alliance) recommended that the Council work with GARFO to develop a process to provide the Council with regular updates on landings of ECs within the Mid-Atlantic (alternative 5Ci).
- 35 individuals (including 30 who submitted nearly identical comments) and 50 organizations (including the 43 which signed the letter submitted by the Herring Alliance) recommended that the Council work to ensure that all of the species included in the amendment are visible in all relevant electronic reporting systems (alternative 5Cii).
- 44 individuals (including 30 who submitted nearly identical comments) and 52 organizations (including the 43 which signed the letter submitted by the Herring Alliance) recommended that **Cape Hatteras** be the southern boundary of the management unit for the amendment (alternative 5Dii).
- **Frameworkable items**
 - Three individuals and three organizations expressed support for the entire list of frameworkable items.
 - Two individuals recommended that recreational fishing regulations not be implemented through future framework actions.
 - Six organizations recommended that the list of species included in the amendment be frameworkable. One individual and four organizations thought frameworks should only be allowed in order to add species to the list and that removing species should require an amendment.
 - Four individuals and 45 organizations (including the 43 which signed the letter submitted by the Herring Alliance) recommended that possession and landings limits not be modified through future frameworks. One organization recommended that frameworks only be allowed if the landings and/or possession limits were to decrease and that an amendment be required in order to increase the landings and/or possession limits.

- Three organizations supported the use of framework actions to implement spatial and seasonal closures to protect unmanaged forage species. Three organizations thought spatial and seasonal closures should not be implemented through framework actions.
- One organization did not think any of the proposed items should be listed as frameworkable.

Other comments

- One individual and one organization asked if the Council intended to include transit provisions in the amendment for vessels which catch forage species outside of the Mid-Atlantic but travel through Mid-Atlantic waters to reach a port to land their catch.
- Two individuals and two organizations criticized the Council for developing this amendment with a limited amount of supporting scientific analysis.
- One organization argued that the amendment will have severe negative economic impacts.
- One organization recommended that NMFS add the forage species included in the amendment to their port-side biological sampling program.
- One organization recommended that laminated booklets with species identification keys for the species included in the amendment be sent to all potentially affected fishermen and seafood dealers.
- GARFO reminded the Council that they have not yet determined which level of analysis will be required to comply with the National Environmental Policy Act. If GARFO determines that an Environmental Impact Statement is required, then the timeline for development of the amendment will need to be extended.



Ecosystem and Ocean Planning Advisory Panel Meeting

July 6, 2016

Meeting Summary

Advisory Panel members in attendance: Fred Akers, Bonnie Brady, Greg DiDomenico, Joseph Gordon, Meghan Lapp, Carl LoBue, Pam Lyons Gromen, Peter Moore, David Wallace, Judith Weis

Others in attendance: Katie Almeida, Carly Bari, Julia Beaty (Council staff), Warren Elliot (Council member), Emilie Franke, Anne Hawkins, Aaron Kornbluth, Mallory Richardson, Rick Robins (Council chair), Tom Rudolph, David Sikorski, Kate Wilke

The Ecosystem and Ocean Planning (EOP) Advisory Panel (AP) met in Linthicum Heights, Maryland on July 6, 2016 to develop recommendations for the EOP Committee and the full Council for final action on the Unmanaged Forage Omnibus Amendment. The AP's recommendations are based on the range of alternatives approved by the Council in April 2016. These alternatives are described in detail in the public hearing document for the amendment and are only briefly summarized here. The AP also considered the comments received during public hearings when making their recommendations. The public hearing document and a summary of comments received during public hearings are available at www.mafmc.org/actions/unmanaged-forage.

Species to be included in the amendment

The AP discussed the list of species which may be included in the amendment (table 1). The discussion largely focused on false albacore; however, a few AP members discussed false albacore, frigate mackerel, and bullet mackerel as a group based on their similar biological and ecological characteristics. The AP was evenly divided between those who recommended that the Council include false albacore in the amendment and those who recommended that false albacore not be included in the amendment. AP members who opposed the inclusion of false albacore argued that it does not meet the definition of forage agreed upon by the Council's Science and Statistical Committee (SSC) due to its large size and high trophic level. Several AP members argued that the SSC's definition should be used as a set of scientific criteria for determining which species should be included in the amendment. Other AP members disagreed, arguing that the SSC developed that definition before the amendment was initiated and that other species should be included to address broader ecosystem considerations. One AP member argued that the rumors of large-scale directed fisheries for false albacore for cat food, as described in

several public comments, are false, arguing that false albacore are difficult to capture with trawl nets but are currently harvested with gillnets in quantities low enough to be minimally impacted by the 1500 and 1700 pound possession limits proposed under alternative 2B (described in the next section). The AP members who supported inclusion of false albacore in the amendment described its importance for recreational fisheries; the lack of a viable near-term management alternative outside of the forage amendment; its ecological importance, which may not be captured in traditional diet studies; and its schooling behavior and low value as a human food item, which some believe predispose it to large-scale commercial fisheries for low-value products.

One AP member recommended that if the Council includes false albacore in the amendment that they also include Atlantic bonito. Atlantic bonito are not on the list of species approved by the Council; however, the Council did receive a few comments during public hearings recommending that they be included.

Table 1: List of taxa approved by the Council in April 2016 for potential inclusion in the Unmanaged Forage Omnibus Amendment. The list is meant to include only those species which are found in mid-Atlantic federal waters and are not managed by the New England, Mid-Atlantic, or South Atlantic Fishery Management Councils, or by the Atlantic States Marine Fisheries Commission.

- | |
|---|
| <ul style="list-style-type: none"> ▪ Anchovies (family Engraulidae) ▪ Argentines (family Argentinidae) ▪ Greeneyes (family Chlorophthalmidae) ▪ Halfbeaks (family Hemiramphidae) ▪ Herrings, sardines (family Clupeidae) ▪ Lanternfish (family Myctophidae) ▪ Pearlsides (family Sternoptychidae) ▪ Sand lances (family Ammodytidae) ▪ Silversides (family Atherinopsidae) ▪ Cusk eels (order Ophidiiformes) ▪ Chub mackerel (<i>Scomber colias</i>) ▪ Bullet mackerel (<i>Auxis rochei</i>) ▪ Frigate mackerel (<i>Auxis thazard</i>) ▪ False albacore/little tunny (<i>Euthynnus alletteratus</i>) ▪ Atlantic saury (<i>Scomberesox saurus</i>) ▪ Pelagic molluscs (pelagic members of the phylum Mollusca) ▪ Copepods, Krill, Amphipods & other species < 1 inch as adults |
|---|

Alternatives for species other than chub mackerel

In April 2016 the Council approved a range of alternatives for the species in table 1, with the exception of chub mackerel. The Council approved a separate range of alternatives for chub mackerel, which are described in the next section. The alternatives for species other than chub mackerel would designate those species as ecosystem components (ECs) and either prohibit possession of those species (alternative 2A) or implement an incidental possession limit of either 1500 pounds per species (alternative 2Bi) or 1700 pounds for all species combined (alternative

2Bii; table 2). Most AP members favored alternative 2Bii, which would implement a 1700 pound possession limit for all of the species combined. This number was initially recommended by the AP in March 2016 and is approximately the 99th percentile of federal dealer-reported landings of bay anchovy, argentine, sand eel, harvestfish¹, octopus, and Atlantic silverside in the northeast region from 1996 through 2015. A few AP members spoke in support of this alternative due to its basis in historical reported landings. Some AP members said 1700 pounds was a reasonable distinction between large-scale directed fishing and both incidental harvest and small-scale directed fishing. Several AP members supported alternative 2Bii partly because it would only require enforcement agents to sort the catch to the species level if the retained catch exceeded 1700 pounds.

A few AP members supported alternative 2Bi, which would implement a possession limit of 1500 pounds per species. This alternative was also initially proposed by the AP in March 2016 and is based on the experience and knowledge of AP members. One AP member requested that this limit be increased to 1700 pounds per species. One AP member said the enforcement concerns related to distinguishing between the many species under consideration would likely not materialize with a 1500 or 1700 pound per species possession limit because it would be very unlikely for a vessel to catch 1500 pounds of more than one of the species under consideration at a time.

Table 2: Alternatives for species other than chub mackerel, as approved by the Council in April 2016.

Alternative	Sub-Alternative
2A: Designate forage species (other than chub mackerel) as ECs and prohibit possession	--
2B: Designate forage species (other than chub mackerel) as ECs and implement an incidental possession limit	2Bi: Incidental possession limit of 1500 pounds per EC species
	2Bii: Incidental possession limit of 1700 pounds for all EC species combined

One AP member recommended that the wording of alternative 2B be modified to say “prohibit directed fishing and implement an incidental possession limit”. This recommendation was not meant to prohibit directed fishing at levels lower than 1500 or 1700 pounds, but rather to prevent a potential interpretation that the regulations only apply to incidental catch and do not apply to directed fishing (i.e. that there would be no limit on directed fishing). Some AP members thought such a change in language was not necessary because it is clear from the goal statement and other amendment documentation that the possession limit would apply to all harvest in mid-Atlantic federal waters. The AP also briefly discussed the idea of removing the word “incidental” from alternative 2B to help clarify that the possession limits would apply to instances of both directed and incidental catch.

¹ The Council removed harvestfish from the list of species in April 2016.

Alternatives for chub mackerel

In April 2016 the Council approved a range of alternatives for chub mackerel (table 3). All AP members present agreed that the best long-term management strategy for the chub mackerel fishery is to designate chub mackerel as a stock in the fishery, either in its own FMP or in the Squid, Mackerel, and Butterfish FMP. Many AP members thought management measures for the chub mackerel fishery should be based in science, as required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for stocks in the fishery. Some AP members said the SSC should take ecosystem considerations into account when recommending an allowable biological catch (ABC) and that the Council should do the same when considering Optimum Yield.

Most AP members recommended that the Council implement temporary landings limits while the analyses and decision-making process required for a stock in the fishery are completed. A few AP members suggested that the Council implement landings limits using the discretionary provisions of FMPs allowed for under the MSA (alternative 3C) with strong sunset provisions to ensure that these are temporary measures while the Council pursues a stock in the fishery designation as a longer term solution.

The AP discussed the annual chub mackerel landings limit and possession limit alternatives approved by the Council in April 2016 (table 3). The AP was roughly evenly split between members who supported the lowest proposed annual landings limit (900,127 pounds per year) and possession limit (10,000 pounds) and those who supported the highest proposed landings limit (5.25 million pounds per year) and possession limit (40,000 pounds). No AP members spoke in favor of prohibiting possession once the annual landings limit is met (alternatives 3Ai, 3Bi, and 3Ci).

The AP members who spoke in favor of a landings limit of 900,127 pounds per year supported that amount because it is equivalent to the average annual landings in the northeast over the past ten years. Some AP members argued that in the absence of science on ecosystem impacts, a ten year average was a reasonable landings cap for the fishery. The 5.25 million pound per year landings limit alternative is equivalent to landings in 2013, the year with the highest reported chub mackerel landings. The AP members who supported this option argued that 5.25 million pounds is low compared to chub mackerel landings in other parts of the world and compared to landings of other species in the mid-Atlantic with similar life histories.

Ten thousand pounds is roughly equivalent to average chub mackerel landings per trip over the past 20 years; however, it also accounts for the majority of trips because the average is highly influenced by a small number of high-volume trips. The AP members who supported the 10,000 pound possession limit argued that, based on the data, this would likely account for incidental catch rates. Some AP members argued that the 40,000 pound possession limit alternative went against the spirit of the amendment. Those who spoke in favor of the 40,000 pound possession

limit argued that it would discourage discarding because it would allow vessels to land enough chub mackerel to fill a bait truck. A smaller amount, they argued, would be difficult to sell and therefore would lead to discards.

All AP members were in favor of a possession limit coming into effect once 90% of the annual landings limit is met, as opposed to when the entire landings limit is met.

The AP briefly discussed spatial and temporal management as potential future tool for managing the chub mackerel fishery. One AP member argued that because the chub mackerel fishery largely takes place during the summer in offshore canyon areas, spatial and temporal management could be used to mitigate potential conflicts between the commercial fishery and recreational fisheries for species such as white marlin which feed on chub mackerel in the same areas and during the same time of year when the commercial fishery takes place. Another AP member was strongly opposed to spatial and seasonal management of the chub mackerel fishery, arguing that the fishery is spatial and seasonal by nature and that spatial and seasonal closures would effectively eliminate the chub mackerel fishery in the mid-Atlantic.

Table 3: Alternatives for chub mackerel, as approved by the Council in April 2016. *(Continued on next page.)*

Alternative	Sub-Alternative
3A: Manage chub mackerel as an EC	3Ai: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Aii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds
3B: Manage chub mackerel as a stock in the fishery	3Bi: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Bii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds

Table 3, continued: Alternatives for chub mackerel, as approved by the Council in April 2016.

Alternative	Sub-Alternative
3C: Manage chub mackerel as neither an EC nor a stock in the fishery through the Council’s discretionary authority under MSA Section 303(b)(12)	3Ci: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Cii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds

New fisheries and expansion of existing fisheries

The AP discussed the alternatives approved by the Council regarding how new fisheries for forage species could develop and existing fisheries could expand (table 4). Several AP members supported alternative 4Cii, which would require use of an exempted fishing permit (EFP) as a first step and would develop a new policy to encourage individuals to submit their EFP applications to the Council for review prior to submitting them to the National Marine Fisheries Service’s Greater Atlantic Regional Fisheries Office (GARFO). The Pacific Council has a similar policy for review of EFP applications, which the AP briefly reviewed.² One AP member noted that the Pacific Council requires a much more detailed EFP application than does GARFO and argued against making the process for obtaining an EFP more cumbersome. This individual and other AP members did not support alternative 4Cii, arguing that the process for obtaining an EFP is already long and involved and that the Council would be better served to review the data collected after the EFP has been used, rather than reviewing the EFP application.

A few AP members supported a combination of alternatives 4Cii and 4D, which would require use of an EFP as a first step in development of new fisheries or expansion of existing fisheries, would create a policy for Council review of EFP applications, and would require that the Council consider managing the stock as a stock in the fishery before allowing a new fishery or expansion of an existing fishery. These AP members saw management as a stock in the fishery as a long-term goal and a requirement for large-scale directed fisheries, while EFPs should only be used on a short-term, experimental basis to help inform future management decisions. One AP member recommended that the Council use language similar to that included in the environmental assessment for the Pacific Council’s forage amendment, which stated: “Shared EC Species could continue to be taken incidentally and landed or discarded... No long-term directed EEZ fisheries would be possible for these species without some future FMP amendment to specify the targeted

² Available at <http://www.pcouncil.org/wp-content/uploads/2015/12/cop24.pdf>

species as an FMU³ species and to meet [MSA] requirements for FMU species, which include: developing harvest specifications, identifying essential fish habitat for the species, and providing gear specifications for the fishery.”

Table 4: Alternatives for development of new fisheries for forage species and expansion of existing fisheries, as approved by the Council in April 2016.

Alternative	Sub-Alternative
4A: No action on new fisheries and expansion of existing fisheries	--
4B: No new or expanded fisheries for EC species	--
4C: Require EFP prior to development of new or expansion of existing fisheries for ECs	4Ci: <i>Status quo</i> EFP process
	4Cii: New policy for Council review of EFP applications relating to ECs
4D: Consideration of stock in the fishery designation prior to new fisheries or expansion of existing fisheries for ECs	--

Administrative alternatives

The Council approved several administrative alternatives in April 2016 (table 5). No AP members spoke in support of alternative 5A, which would update the list of authorized fisheries and gear types in 50 C.F.R. 600.725. One AP members requested clarification on alternative 5B, including clarification on whether individuals who already possess a GARFO permit would be required to obtain a new permit and if the alternatives relating to possession limits would apply to all GARFO permit holders. Most AP members were supportive of alternatives 5Ci and 5Cii. One AP member requested that 5Ci apply to landings of all unmanaged species rather than only those listed as ECs in the amendment to help ensure that the Council is aware of new and expanding fisheries as they develop.

After some discussion, most AP members present recommended that the Council not include a list of frameworkable items in the amendment. Some AP members argued that most of the measures currently listed as frameworkable could have serious implications and should only be changed through amendments. One AP member said that if an urgent change is needed, the Council could initiate an emergency action or industry members could take voluntary action while an amendment is developed.

³ An FMU species, or fishery management unit species, is analogous to a stock in the fishery.

Table 5: Administrative alternatives, as approved by the Council in April 2016.

Alternative	Sub-Alternative
5A: Update list of fisheries and authorized gear types (50 CFR 600.725)	--
5B: Require GARFO permit for possession of EC species	--
5C: Monitoring /reporting	5Ci: Develop a process that provides the Council with data on landings of EC species in its jurisdiction
	5Cii: Add EC species to required reporting mechanisms (e.g. SAFIS, VTRs)
5D: Management unit	5Di: Federal waters, bounded by seaward lines extending from CT/NY boundary and VA/NC boundary
	5Dii: Federal waters, bounded by seaward lines extending from CT/NY boundary and Cape Hatteras, NC
5E: Frameworkable items	5Ei: List of EC species
	5Eii: Possession limits and landings limits
	5Eiii: Spatial and seasonal closures
	5Eiv: Recreational fishing regulations

Other topics

One AP member requested that the amendment include transit provisions to allow vessels to harvest forage species outside of the mid-Atlantic and transit through the region to reach ports of landing in other regions. Another AP member said the Council could request that GARFO implement transit provisions through rulemaking, as was done with the Deep Sea Corals Amendment.

Beaty, Julia

From: Joseph Gordon <jgordon@pewtrusts.org>
Sent: Monday, July 18, 2016 5:19 PM
To: Beaty, Julia
Subject: RE: Meeting summary - please review by 9 am next Monday, July18

Julia,

Thanks for these notes, and more importantly for your great work in managing the meeting and keeping the amendment on track! I want to follow up after the meeting and clarify for the record that as an AP member, and in my role as a representative of Pew, where I do not support what is being presented as a consensus AP recommendation (on the chub mackerel possession limit). To be specific, I support Alternative 3Bi (which would prohibit possession after an annual fisheries wide landings limit is reached), and oppose Alternative 3Bii which would allow incidental catch to be retained after the interim cap has been reached and directed fishing would close. Allowing for catch after an annual cap or limit is reached is contradictory -- no other fishery managed by the council allows for incidental possession after a cap is met and chub mackerel should be managed the same way. Bycatch should be accounted for within the annual limit as it is in other fisheries, not as addition that effectively raises the cap to a higher limit. Thanks!

Best wishes,

Joseph

Joseph Gordon

Manager, U.S. Oceans, Northeast | The Pew Charitable Trusts
o: 202-887-1347 | c: 240-672-2045 | e: jgordon@pewtrusts.org

From: Beaty, Julia [mailto:jbeaty@mafmc.org]
Sent: Monday, July 11, 2016 5:35 PM
To: Advisors - Ecosystems
Cc: Elliott, G. Warren; Robins, Rick
Subject: Meeting summary - please review by 9 am next Monday, July18

Dear EOP AP,

Please review the attached meeting summary and send me any suggested edits by 9 am next Monday, July 18th.

For those of you who were unable to attend last week's meeting, remember that you are welcome to send comments to me via email and I will include them with the briefing materials for the August Council meeting along with this meeting summary and a summary of comments received during public hearings.

Thanks,

Julia

Julia Beaty
Fishery Management Specialist
Mid-Atlantic Fishery Management Council

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Email to: jkaelin@lundsfish.com

June 30, 2016

To: Mr. Warren Elliot, Chairman & Members
MAFMC Ecosystem and Ocean Planning Committee
From: Jeff Kaelin
Re: **Comments on Unmanaged Forage Omnibus Amendment, for July 7, 2016 meeting.**

Dear Warren and fellow Committee members:

Unfortunately, I will miss the July 7, 2016 Committee meeting, due to a long-scheduled family conflict, so am taking time today to provide each of you with my comments on the Amendment, which follow the format of the May 2016 Public Hearing Document (PHD) and address the discussion topics identified in the memo Julia sent to AP and Committee members earlier this week. Julia deserves the thanks of the Committee for her pulling this amendment together in record time and in a very thorough and balanced process.

5.0 Introduction / Definition of Forage Fish

The definition of forage fish developed by the Ecosystems Subcommittee of the Council's SSC is comprehensive, reasonable, and should be the foundation for the Council's selection of preferred alternatives for the Omnibus Amendment. Also, staff has provided important language in this section of the PHD, offering clarifying guidance to the region's commercial fishery sector, stating that "the Council does not intend to prohibit development of new and expansion of existing fisheries for unmanaged forage species indefinitely, but rather only until the Council has had an adequate opportunity to assess the scientific information relating to any new or expanded fisheries and consider potential impacts to existing fisheries, fishing communities, and the marine ecosystem." Consequently, I support using this amendment to begin to manage chub mackerel catches since a limited directed fishery has occurred on this emergent species during summer and fall months in recent years, when local water temperatures are at their highest annual levels.

5.1 Goal of the Amendment

While moving ahead with this amendment is certainly important as part of the Council's commitment to move towards Ecosystem Approaches to Fishery Management, transitioning from single species management by incorporating an understanding of environmental drivers, habitat and climate change¹ in managing fisheries within the Council's jurisdiction, I do not

¹ Gaichas SK, Seagraves RJ, Coakley JM et al (2016) A Framework for Incorporating Species, Fleet, Habitat and Climate Interactions into Fishery Management, *Frontiers in Marine Science* 3:105, page 2.

agree, however, that the action is needed today “to protect the structure and function of marine ecosystems in the (region) from the potential threat of unregulated, unsustainable levels of commercial harvest.”

In fact, of the 48 unmanaged forage species, families and orders that would be protected by the Amendment, only one – chub mackerel – has been harvested in Federal waters in recent years in any significant numbers. These catches have been regularly reported to GARFO, as currently required, and to this point, the Agency has not suggested that current catch levels are approaching unsustainable levels. In fact, in 2004, a Saltonstall-Kennedy fishery development project was funded by the National Marine Fisheries Service “to develop an alternative summer fishery to the *Illex* squid fishery.”²

Chub mackerel are taken at times of the year and in areas when *Illex* (summer) squid are not available. Since most squid vessels use refrigerated seawater (RSW) to hold their catch, and since squid and chub cannot be held in the same RSW tank without compromising the quality of the more valuable squid, there are only 4 vessels in the *Illex* fishery landing the majority of chub mackerel today. These vessels freeze their catch on board, providing them with the flexibility to land both frozen chub mackerel and fresh *Illex* in RSW on the same trip.

Two of these vessels are home ported in RI and are operated by Seafreeze, Ltd. and two are homeported in Cape May and are operated by the Axelsson family. Another factor limiting the size of the fleet capable of landing any significant quantities of chub mackerel is horsepower...only the larger vessels can generate the speed to be successful in harvesting these fast-moving fish.

While chub mackerel are not a high value species, as compared to *Illex* squid, these catches are important to these vessels’ ability to realize some income from trips when *Illex* are not available. These fish have value as bait in crab and other trap fisheries on the east and west coast and as food in West Africa (along with Atlantic menhaden) where protein sources are scarce and hunger is widespread.

Finally, this species, like blueline tilefish, are likely in the category of new species coming into the area from climate change distribution from the south.³ In both cases, I support the Council’s response to begin to manage these species, with advice from the SSC, and am personally convinced that the chub mackerel being found in Mid-Atlantic-region canyons during the summer and fall are the northernmost portion of an emerging population of chub mackerel that is distributed southward in the Atlantic Ocean through South America.

5.2. Classification of Forage Species

5.2.1 Ecosystem Component Species

It seems appropriate to list the species, families and orders that would be protected under the Amendment – with the exception of chub mackerel – as Ecosystem Component (EC) species

² Rutgers, The State University, Haskin Shellfish Research Laboratory (2004) Development of the ‘Chub’ Mackerel Fishery, An Underutilized Species

³ Frontiers in Marine Science 3:105, page15.

since the National Standard One (NS1) guidelines tell us that “(t)o be designated as an EC species, a species or stock should 1) be a non-target species, 2) not be subject to overfishing, not be overfished or approaching overfished, 3) not be likely to become subject to overfishing or overfished in the absence of conservation and management measures, and 4) not generally be retained for sale or personal use.

Relative to chub mackerel, the PHD reminds us that these NS1 guidelines also recommend that when deciding whether a fishery needs conservation and management “(t)he economic condition of a fishery and whether an FMP can produce more efficient utilization” and “(t)he needs of a developing fishery, and whether an FMP can foster orderly growth” are important criteria to be considered.

5.2.2 Stock in the Fishery

Whether or not the Council manages chub mackerel as a ‘stock in the fishery’ or through its MSA discretionary authority seems to make little difference since both approaches lead to the same outcome; it is my understanding that both approaches require the Council, in consultation with the SSC, to evaluate and describe MSY, develop status determination criteria, OY, a control rule for ABC, mechanisms for specifying ACLs in relation to the ABC, and AMs for when the ACLs may be exceeded. These criteria are described on page 36 of the PHD where it is also stated that it would take more analysis and time to implement Alternative 3B (chub mackerel as a stock in a fishery – likely the *Illex* fishery?) then it would to implement Alternative 3C (managing chub mackerel through the Council’s discretionary authority under the MSA.) Given this fact, I do not support utilizing the stock in the fishery approach relative to the Council managing chub mackerel. (My preferred management alternatives, for this decision and others, are provided in more detail below.)

5.3 Forage Species Under Consideration

The PHD clarifies for us that “GARFO has advised the Council that any forage species included in the amendment must be linked to the species and fisheries in the FMP which are amended (by the Omnibus Amendment).” Also, the forage fish definition used in the Amendment is specific to the small size of the prey, especially including adult stages, extensive predation by other fishes, marine mammals and birds throughout its lifespan, and has a high number of trophic linkages as both predator and prey, among other things. The PHD tells us in this section of the document that neither frigate mackerel nor halfbeaks in the family hemiramphidae could be linked to FMP species as prey or linked to FMP species as being caught in those fisheries. Consequently, the Council should remove these species from the list of forage species under consideration by the Omnibus amendment when it takes final action on the Amendment in August.

Similarly, the PHD tells us, at page 25, that bullet mackerel “were not identified in the stomachs of Council-managed species caught in NEFSC bottom trawl survey tows in Mid-Atlantic or southern New England offshore strata.” Therefore, bullet mackerel should also be removed from the list when the Council takes final action on the Amendment in a few weeks.

Also, little tuna/false albacore should be removed from the list of forage species under consideration as they were not identified in the stomachs of Council managed species in bottom trawl tows from regional strata. In addition the size of these fish as adults in no way meets the forage fish definition used in the Amendment. These fish are directed on by both recreational and commercial fishermen in the region so they also do not meet the EC species definition and, in addition, HMS management, not Council management, would be most appropriate in managing this species since HMS manages tuna species in this region. Finally, this amendment should not be used to provide exclusive access for the recreational fishing community to this shared resource.

6.0 Management Alternatives – *my suggested preferred alternatives listed below:*

6.2 Alternative Set 2: Alternatives for species other than chub mackerel

6.2.2 Alternative 2B: Designate as ECs and implement an incidental possession limit (except chub mackerel)

With this option, commercial landings of any EC species under consideration in this Amendment (besides chub mackerel) would be limited to 1,500 lbs. Exceeding this limit would be an extremely rare occurrence. This option is superior to the other sub-options provided in this section; a prohibition on possession and limiting landings to 1,700 pounds of all ECs on any trip, since it will lead to reduced discards and maximize the potential for all of these forage species caught being reported.

6.3 Alternative Set 3: Alternatives for Chub Mackerel

6.3.3.2 Alternative 3Cii: Manage chub mackerel as neither an EC nor a stock in the fishery and enforce an incidental possession limit once an annual fishery-wide landings limit is met.

The PHD informs us that this approach would be the fastest method available to the Council to begin to manage the chub mackerel fishery under sustainable limits. The annual landings limit should be no less than 5.2 million pounds (an amount that could easily be caught in the future as local waters continue to warm) and the incidental possession limit should be no less than 40,000 pounds per vessel. Again, these options would minimize the potential for discards and maximize the potential for the harvest of chub mackerel to be accurately reported. The 40,000 pound possession limit would work to minimize discards and would enhance dealers' ability to get these fish to market since the volume of a typical truck used in the industry is 40,000 pounds.

6.4 Alternative Set 4: New Fisheries and Expansion of existing fisheries for Unmanaged Forage Species

6.4.3.2 Alternative 4Cii: Council review of EFP applications relating to ECs

The Council would require the use of an Exempted Fishing Permit prior to allowing new fisheries for ECs, or landings of ECs beyond any landings limits implemented through this

amendment. Although the public is already given the opportunity to review and comment on EFPs that have been proposed to GARFO, since they are regularly published in the Federal Register, in the context of this amendment I do support additional Council review of forage fishery-related EFPs that may be proposed in the future.

6.5 Alternative Set 5: Administrative Alternatives

6.5.1 Update the list of authorized fisheries and gear types

I am not convinced this is an important element of this Amendment. The EFP process would be expected to evaluate the gear type to be used in the development of any future forage fishery that may be proposed.

6.5.2 Permitting

I am in support of requiring a Federal commercial fishing permit from GARFO in order to retain any forage species included in the Amendment and support a requirement that a new permit be created for individuals who catch forage species in Mid-Atlantic Federal waters but do not have a GARFO permit for other species. Mandatory reporting and VMS should be required before issuing these new permits.

6.5.3.1 Alternative 5Ci: Council notification of EC landings

The Council would work with GARFO to develop a process that provides the Council with data on the annual catch of EC species in its jurisdiction on a regular basis.

6.5.3.2 Alternative 5Cii: Reporting of EC landings

The Council would require that the SAFIS codes for all species included in the amendment be added to SAFIS and other platforms used to report landings.

6.5.4.2 Alternative 5Dii: Southern boundary at Cape Hatteras

The management unit for this amendment would consist of the EEZ from the state line separating New York and Connecticut (extended seaward) to Cape Hatteras, NC. The management unit would not include state waters, although I continue to favor the Council working with the States, through the Commission process, to limit state water catches of EC species that would be conserved by this Amendment.

Many of these species are directed on for bait in state waters and, at this point, this Amendment creates two classes of U.S. fishermen – those with Federal permits that are subject to the restrictions in the Amendment and those with State permits that are not. On the other hand, I do not support the Council developing an exemption program for vessels with Federal permits that fish in state waters.

Relative to transit provisions, I do support the development of provisions that would allow vessels which may catch forage species outside of the proposed management unit but transit through Mid-Atlantic Federal waters to reach a port to land their catch. Gear stowage should be required using language already in related, existing Federal transit regulations in other fisheries. A VMS should also be required in this provision.

6.5.5 Frameworkable Items.

Because of the potential to seriously affect ongoing commercial fishing operations in the Mid-Atlantic region, I do not support the creation of any frameworkable items in this Amendment. Future changes should only be developed through a following Amendment.

Finally, I believe the Omnibus Amendment would be improved if a 2 year review of the effect and benefits of the Amendment would be added by the Council upon final action in August.

Recusal Statement – Since my employer, Lund’s Fisheries, Inc. purchases more than 10% of the chub mackerel harvested and landed in the region, on an annual basis, I will be recusing myself from voting on final action on this Amendment when the Council convenes in August.

Thank you for the opportunity to provide you with my comments on this important amendment, since I will be unable to attend the July 7 Committee meeting.

I sincerely appreciate your attention to and consideration of my comments and concerns.

With best regards,

Jeff Kaelin

Jeff Kaelin
MAFMC Council Member and
Government Relations
Lund’s Fisheries, Inc.



**Ecosystem and Ocean Planning Committee Meeting
July 7, 2016
Meeting Summary**

Committee members in attendance:¹ Warren Elliott (Committee chair), John McMurray (Committee vice chair), Lee Anderson, Patricia Bennett (via webinar), Peter deFur, Mike Luisi, Laurie Nolan, Adam Nowalsky, Rob O'Reilly (via webinar), Sara Winslow

Others in attendance: Fred Akers, Katie Almeida, Carly Bari, Julia Beaty (Council staff), Greg DiDomenico, Pam Lyons Gromen, Anne Hawkins, Aaron Kornbluth, Carl LoBue, Mallory Richardson, Rick Robins (Council chair), Tom Rudolph, David Sikorski, David Wallace

The Ecosystem and Ocean Planning (EOP) Committee met in Linthicum Heights, Maryland on July 7, 2016 to develop recommendations for final action on the Unmanaged Forage Omnibus Amendment. The Committee's recommendations are based on the range of alternatives approved by the Council in April 2016. These alternatives are described in detail in the public hearing document for the amendment and are only briefly summarized here. The Committee also considered the comments received during public hearings and recommendations from the EOP Advisory Panel (AP) when making their recommendations. The public hearing document and a summary of comments received during public hearings are available at www.mafmc.org/actions/unmanaged-forage.

Species to be included in the amendment

The Committee discussed the list of species which may be included in the amendment (table 1). This discussion largely focused on false albacore and the definition of forage fish agreed upon by the Ecosystems Subcommittee of the Council's Science and Statistical Committee (SSC; table 2). Some Committee members argued that false albacore should not be included in the amendment because it does not meet the SSC's definition of forage due to its large size and high trophic level. The Council did not intend for the SSC's definition to be a binding set of criteria for determining which species to include in the amendment; however, most Committee members agreed that it should be used as a set of guidelines. The Council Chair said the Council should

¹ Two Committee members joined the meeting via webinar and therefore did not vote on any motions. The Committee chair abstained from all motions. Committee member Jeff Kaelin was unable to attend the meeting but provided detailed written comments prior to the meeting. These comments are available at: www.mafmc.org/council-events/2016/eop-committee-july-7

provide justification for including any species in the amendment which do not meet the SSC's definition of forage.

One Committee member argued that including false albacore would diminish the credibility of the amendment. He said the arguments for including false albacore appeared to be a "back door" attempt to protect recreational fisheries, which was not the intent of the amendment. A few other Committee members agreed that including false albacore would "weaken the intent" of the amendment.

Other Committee members supported the inclusion of false albacore, citing strong public support for doing so, the economic importance of recreational fisheries for this species, and their schooling behavior and low value as a food item, which one Committee member argued predisposed them to large-scale commercial fisheries for low-value products. One AP member who attended the Committee meeting said false albacore could not support a large-scale commercial fishery because they are difficult to capture in large quantities. He said there are existing directed gillnet fisheries for this species which could continue under the 1500 and 1700 pound possession limits under consideration (described in the next section). One Committee member argued that if there is limited potential for a large-scale commercial fishery, then there would be little harm in including false albacore in the amendment.

The Committee discussed the possibility of initiating a new, separate management action, such as a new fishery management plan (FMP), for false albacore if the Council decides not to include them in the forage amendment. The Committee recommended that if the Council decides not to include false albacore in the amendment that they consider a new action for false albacore as one of their 2017 priorities.

After a lengthy discussion, the Committee voted on whether or not to recommend including false albacore in the amendment. The Committee was evenly split between those who recommended keeping false albacore in the amendment and those who recommended removing it.

The Committee briefly discussed bullet mackerel and frigate mackerel. There was some debate as to whether these two species adequately meet the SSC's definition of forage. Most, though not all, Committee members agreed that there is sufficient justification to include bullet and frigate mackerel in the amendment. The Council Chair summarized a conversation with Dr. John Graves, Chancellor Professor of Marine Science at the Virginia Institute of Marine Science and an expert on billfish and tuna. Based on this conversation, the Council Chair argued that there is sufficient justification for defining bullet and frigate mackerel as forage species. He also cited a paper which used genetic techniques to identify nine samples of bullet mackerel in the stomachs of billfish.²

² Paine, M. A., J. R. McDowell, J. E. Graves. 2007. Specific identification of Western Atlantic Ocean scombrids using mitochondrial DNA cytochrome C oxidase subunit I (COI) gene region sequences. *Bulletin of Marine Science*. 80(2):353-367.

Table 1: List of taxa approved by the Council in April 2016 for potential inclusion in the Unmanaged Forage Omnibus Amendment. The list is meant to include only those species which are found in mid-Atlantic federal waters and are not managed by the New England, Mid-Atlantic, or South Atlantic Fishery Management Councils, or by the Atlantic States Marine Fisheries Commission.

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| <ul style="list-style-type: none"> ▪ Anchovies (Engraulidae) ▪ Argentines (Argentinidae) ▪ Greeneyes (Chlorophthalmidae) ▪ Halfbeaks (Hemiramphidae) ▪ Herrings, sardines (Clupeidae) ▪ Lanternfish (Myctophidae) ▪ Pearlsides (Sternoptychidae) ▪ Sand lances (Ammodytidae) ▪ Silversides (Atherinopsidae) ▪ Cusk eels (order Ophidiiformes) ▪ Chub mackerel (<i>Scomber colias</i>) ▪ Bullet mackerel (<i>Auxis rochei</i>) ▪ Frigate mackerel (<i>Auxis thazard</i>) ▪ False albacore/little tunny (<i>Euthynnus alletteratus</i>) ▪ Atlantic saury (<i>Scomberesox saurus</i>) ▪ Pelagic molluscs (pelagic embers of the phylum Mollusca) ▪ Copepods, Krill, Amphipods & other species < 1 inch as adults |
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Table 2: Definition of forage fish developed by the Ecosystems Subcommittee of the Council’s Scientific and Statistical Committee.

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| <p>Forage is defined as a species that:</p> <ul style="list-style-type: none"> • Is small to moderate in size (average length of ~5-25 cm) throughout its lifespan, especially including adult stages; • Is subject to extensive predation by other fishes, marine mammals, and birds throughout its lifespan; • Comprises a considerable portion of the diet of other predators in the ecosystem in which it resides throughout its lifespan (usually >5% diet composition for > 5 yrs.); • Has or is strongly suspected to have mortality with a major element due to consumptive removals; • Is typically a lower to mid trophic level (TL) species; itself consumes food usually no higher than TL 2-2.5 (typically zooplankton and or small benthic invertebrates); • Has a high number of trophic linkages as predator and prey; serves as an important (as measurable by several methods) conduit of energy/biomass flow from lower to upper TL; • Often exhibits notable (pelagic) schooling behavior; • Often exhibits high variation in inter-annual recruitments; and • Relative to primary production and primary producers, has a ratio of production and biomass, respectively, to those producers not smaller than on the order of 10^{-3} to 10^{-4} |
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Alternatives for species other than chub mackerel

In April 2016 the Council approved a range of alternatives for the species in table 1, excluding chub mackerel. The Council approved a separate range of alternatives for chub mackerel, which are described in the next section. The alternatives for species other than chub mackerel would designate those species as ecosystem components (ECs) and either prohibit possession of those species (alternative 2A) or implement an incidental possession limit of either 1500 pounds per species (alternative 2Bi) or 1700 pounds for all species combined (alternative 2Bii; table 3). After a brief discussion, the Committee agreed to recommend alternative 2Bii (incidental possession limit of 1700 pounds for all species combined) as the preferred alternative for species other than chub mackerel. This recommendation is supported by most AP members and many (i.e. nearly 5,000) individuals and organizations who provided public comments.

Table 3: Alternatives for species other than chub mackerel, as approved by the Council in April 2016.

Alternative	Sub-Alternative
2A: Designate forage species (other than chub mackerel) as ECs and prohibit possession	--
2B: Designate forage species (other than chub mackerel) as ECs and implement an incidental possession limit	2Bi: Incidental possession limit of 1500 pounds per EC species
	2Bii: Incidental possession limit of 1700 pounds for all EC species combined

Alternatives for chub mackerel

In April 2016 the Council approved a range of alternatives for chub mackerel (table 4). The Committee agreed that the Council should pursue a stock in the fishery designation for chub mackerel and use interim management measures to restrict landings while the requirements for a stock in the fishery are developed. There was some debate as to how this recommendation fit within the structure of the alternatives approved by the Council (table 4). Specifically; the Committee discussed whether the Council could select alternative 3B (designate chub mackerel as a stock in the fishery) as the preferred alternative and implement interim management measures before receiving an allowable biological catch (ABC) recommendation from the SSC. Council staff argued that such a course of action may be more accurately characterized as a combination of alternatives 3C and 3B.

The Committee discussed interim management measures based on the annual landings limit alternatives approved by the Council in April 2016 (table 4). The highest landings limit under consideration is 5.25 million pounds per year, which is equivalent to the federal dealer reported landings in the northeast in 2013. Some Committee members argued that the Council should select this landings limit as a temporary measure until an ABC is available. One Committee member argued that chub mackerel landings are highly influenced by market and environmental

conditions and that the vessels which target them in high volumes are capable of retaining hundreds of thousands of pounds at a time. A 5.25 million pound cap, he argued, would allow the directed fishery to continue until new management measures can be implemented based on an ABC. Other Committee members argued that 5.25 million pounds is too high and could have negative ecosystem impacts; therefore, the interim limit should be lower. One Committee member said a high interim landings limit could encourage smaller boats to start targeting chub mackerel, thus effectively allowing the fishery to expand before an ABC is established.

The Committee could not agree on a recommended annual landings limit for chub mackerel. One Committee member recommended a 4 million pound limit, which is not an approved alternative, but falls between the two highest alternatives (i.e. 5.25 million pounds and 2.86 million pounds). The Committee was evenly split between those who voted in favor of a 4 million pound landings limit and those who voted against it. The Committee was also evenly split between those who voted in favor of a 2.86 million pound (equivalent to average landings during 2013-2015) annual landings limit and those who opposed it. No other annual landings limit alternatives were discussed.

The Committee briefly discussed the possession limits under consideration, but ultimately decided not to recommend possession limits since they could not agree on a recommended annual landings limit. The highest possession limit under consideration is 40,000 pounds, which was included as an alternative because it is roughly the amount of chub mackerel needed to fill a bait truck. A few Committee members argued that this amount would discourage discards because it would give fishermen an incentive to land chub mackerel that they catch incidentally. If the possession limit were any less than 40,000 pounds, they argued, then fishermen would not be able to make a profit and they would discard their catch. Other Committee members argued that since 40,000 pounds is the amount necessary to make a profit, it should not be considered an incidental level of harvest. Some Committee members thought that 10,000 pounds would be a more appropriate limit.

Table 4: Alternatives for chub mackerel, as approved by the Council in April 2016. (Continued on p. 6.)

Alternative	Sub-Alternative
3A: Manage chub mackerel as an EC	3Ai: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Aii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds

Table 4, continued: Alternatives for chub mackerel, as approved by the Council in April 2016.

3B: Manage chub mackerel as a stock in the fishery	3Bi: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Bii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds
3C: Manage chub mackerel as neither an EC nor a stock in the fishery through the Council's discretionary authority under MSA Section 303(b)(12)	3Ci: Prohibit possession once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds
	3Cii: Enforce an incidental possession limit once an annual fishery-wide landings limit is met <i>Landings limit alternatives:</i> <ul style="list-style-type: none"> - 900,127 pounds - 1.75 million pounds - 2.86 million pounds - 5.25 million pounds <i>Possession limit alternatives:</i> <ul style="list-style-type: none"> - 10,000 pounds - 40,000 million pounds

New fisheries and expansion of existing fisheries

The Committee discussed the alternatives approved by the Council regarding new fisheries and expansion of existing fisheries for unmanaged forage species (table 5). The Committee did not recommend a detailed process for the development of new fisheries or expansion of existing fisheries, but they did make a few recommendations related to the alternatives under consideration.

Many Committee members agreed that the Council should play some role early in the process of the development of new or expansion of existing fisheries, for example by reviewing applications for Exempted Fishing Permits (EFPs). The Committee recommended alternative 4Cii as a preferred alternative. Alternative 4Cii would require use of an EFP prior to development of new or expansion of existing fisheries and would create a new process for Council review of EFP applications. The Council has discussed a policy for review of EFP applications similar to that used by the Pacific Fishery Management Council. The Pacific Council's policy encourages individuals to submit their EFP applications to the Council prior to submitting them to the NOAA Fisheries West Coast Regional Office. One Committee member suggested that the Mid-Atlantic Council could review EFP applications along the same timeline as the NOAA Fisheries Greater Atlantic Regional Fishery Office (GARFO), rather than prior to

review by GARFO. Another Committee member said that Council review of EFP applications could help prevent issues like those that arose during the Council’s Research Set-Aside program. The Council Chair suggested that a new Council policy for review of EFP applications could be added to the Council’s Statement of Organization, Practices, and Procedures or it could be included in the Council’s Ecosystem Approaches to Fisheries Management Guidance Document.

The Committee recommended that the language of alternative 4D be modified to say “consider a stock in the fishery designation and/or use of discretionary management measures prior to allowing any new fisheries or expansion of existing fisheries”. One Committee member expressed concern about the language change, but agreed to put it forward as a recommendation. The Committee did not reach an agreement on whether alternative 4D should be a preferred alternative.

The Committee debated whether the Council should define what it means to consider a stock in the fishery designation and/or use of discretionary management measures. A few Committee members argued that if that Council did not define “consideration”, then the process for considering new fisheries or expansion of existing fisheries could be vulnerable to lawsuits. A few Committee members argued that it was not necessary to define “consider” because the goal statement lists several considerations. Specifically, the goal statement says that the Council will “assess the scientific information relating to any new or expanded directed fisheries and consider potential impacts to existing fisheries, fishing communities, and the marine ecosystem”.

Table 5: Alternatives for development of new fisheries for forage species and expansion of existing fisheries, as approved by the Council in April 2016.

Alternative	Sub-Alternative
4A: No action on new fisheries and expansion of existing fisheries	--
4B: No new or expanded fisheries for EC species	--
4C: Require EFP prior to development of new or expansion of existing fisheries for ECs	4Ci: <i>Status quo</i> EFP process
	4Cii: New policy for Council review of EFP applications relating to ECs
4D: Consideration of stock in the fishery designation prior to new fisheries or expansion of existing fisheries for ECs	--

Administrative alternatives

The Committee discussed the administrative alternatives approved by the Council in April 2016 (table 6).

Under alternative 5A, the Council would request that GARFO update the list of authorized fisheries and gear types in 50 CFR 600.725. No Committee members spoke in favor of alternative 5A.

Table 6: Administrative alternatives, as approved by the Council in April 2016.

Alternative	Sub-Alternative
5A: Update list of fisheries and authorized gear types (50 CFR 600.725)	--
5B: Require GARFO permit for possession of EC species	--
5C: Monitoring /reporting	5Ci: Develop a process that provides the Council with data on landings of EC species in its jurisdiction
	5Cii: Add EC species to required reporting mechanisms (e.g. SAFIS, VTRs)
5D: Management unit	5Di: Federal waters, bounded by seaward lines extending from CT/NY boundary and VA/NC boundary
	5Dii: Federal waters, bounded by seaward lines extending from CT/NY boundary and Cape Hatteras, NC
5E: Frameworkable items	5Ei: List of EC species
	5Eii: Possession limits and landings limits
	5Eiii: Spatial and seasonal closures
	5Eiv: Recreational fishing regulations

The Committee recommended alternative 5B as a preferred alternative. Alternative 5B would require vessels to have a GARFO permit in order to retain any of the species listed as ECs in the amendment. Several Committee members saw this as beneficial because it would help to ensure accurate reporting of landings of EC species. The Committee agreed that this alternative should not require individuals with GARFO permits for other fisheries to obtain new permits. It would, however, require vessels to obtain a new GARFO permit if they possess EC species in federal waters and do not have a GARFO permit for another fishery. One Committee member said this alternative should not require vessels which possess EC species in state waters, but not federal waters, to obtain a new GARFO permit.

The Committee was generally supportive of alternatives 5Ci and 5Cii; however, they raised some concerns about these alternatives. One Committee member suggested that if the Council approves a 1700 pound possession limit for all ECs combined, that vessels should be able to report their landings as an aggregate of all EC species. Another Committee member said VTRs already require species-level reporting of all catch and this amendment would not change that requirement. Alternative 5Cii would make it easier to report catch and landings of EC species, but it would not change the reporting requirements. Another Committee member said paper VTRs come with multiple pages of species codes and adding the codes for all the ECs in this amendment would make those lists considerably longer. A few Committee members recommended a grace period related to reporting of landings of ECs and any enforcement related to self-reported landings, arguing that this amendment will require fishermen to familiarize themselves with dozens of species which they may not have previously been able to identify.

The Committee recommended alternative 5Dii as the preferred alternative for the management unit of the Amendment. Alternative 5Dii would define Cape Hatteras as the southern boundary of the management unit.

Several AP members recommended that no items be listed as frameworkable. No Committee members were strongly opposed to this recommendation. Some Committee members agreed with the AP that it may be preferable to make any changes through an amendment rather than through a framework. One Committee member argued that amendments can be done efficiently if they are kept simple. Other Committee members supported this recommendation because amendments require greater public involvement than frameworks.

Other topics

One AP member requested clarification on which vessels this amendment would apply to. Specifically, this AP member requested that the Council clarify that any possession limits implemented through the amendment would not apply to GARFO-permitted vessels fishing in New England. In response to this request, one Committee member said there could be enforcement challenges related to possession limits that apply in the Mid-Atlantic but not in New England. For example, if a vessel is thought to have forage species on board in excess of the possession limit and moves from one region to the other, it could be unclear where those fish were caught and how to enforce the possession limit.

Committee motions

I move to remove false albacore from the list
Nowalsky/Luisi (3/3/0) Motion fails for lack of majority

Move the list
McMurray/deFur
Motion withdrawn

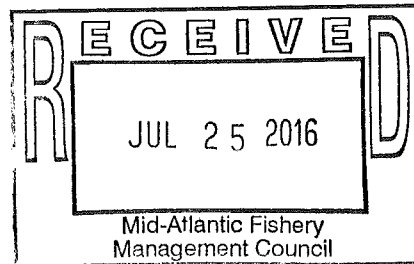
Move to recommend to the Council the preferred alternative of 2B
Luisi/McMurray
Motion approved by consent

I move to recommend to the Council preferred alternative 2Bii.
Luisi/Anderson
Motion approved by consent

Move that the committee recommend to the Council a 4 million pound cap on the chub mackerel fishery
Luisi/Nowalsky (3/3/0) Motion fails for lack of majority

Move to substitute 2.86 million pounds (3 year average)
McMurray/Anderson (3/3/0) Motion fails for lack of majority

Mr. Richard B. Robins, Chairman
 Mid-Atlantic Fishery Management Council
 800 North State Street, Suite 201
 Dover, DE 19901



8 July 2016

Dear Rick:

I would like to provide a few insights regarding the Mid-Atlantic Council's Unmanaged Forage Omnibus Amendment. In particular, I would like to highlight the importance of small scombrids in the diets of tunas and billfishes in the Mid-Atlantic region.

For more than 25 years I have had the opportunity to investigate the stomach contents of large tunas and billfishes landed at Mid-Atlantic fishing tournaments. Small scombrid fishes represent the major dietary component of the tuna and billfishes that I have dissected, although in some years at some tournaments, various squid species have comprised the major food item. Based on field identifications of those scombrids that were relatively undigested, bullet and frigate tunas (*Auxis rochei* and *A. thazard*) are the dominant prey item(s), and chub mackerel (*Scomber colias*) also occurs in high frequency. In fact, just a few weeks ago at the 2016 Virginia Beach Tuna Tournament, the large tuna stomachs were full of chub mackerel. We have also morphologically identified small blackfin tuna (*Thunnus atlanticus*), skipjack tuna (*Katsuwonus pelamis*), and little tunny (*Euthynnus alletteratus*) in tuna and billfish stomach contents at Mid-Atlantic Tournaments.

I am not aware of any comprehensive food web analyses of pelagic fishes off the U.S. Mid-Atlantic coast. However, I have read or heard many anecdotal observations of colleagues that have investigated stomach contents at Mid-Atlantic offshore fishing tournaments, and their observations have been consistent with my mine. Often, it is difficult to identify a fish's stomach contents based on morphological characters due to the state of digestion of the prey items. Melissa Paine, a former M.S. student in my lab, applied sequence analysis of the mitochondrial DNA cytochrome oxidase I (COI) gene region (now known as the DNA barcode) to identify western Atlantic scombrids (Paine et al. 2007. *Bulletin of Marine Science* 80:353-367). To demonstrate the efficacy of her technique, Melissa applied it to identify several "unidentifiable" (too small or too mangled to be identified) scombrid larvae from the Florida Straits as well as well digested stomach contents from marlin landed at the Mid-Atlantic Tournament in Cape May, NJ. Six of the eight "unknown" fish from billfish stomach contents were positively identified as bullet tuna.

I am currently serving my 11th consecutive two-year term as chair of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas (ICCAT). In the past the committee has charged me to write letters to federal management councils considering management measures for forage species, to emphasize the importance of forage species to the United States' fisheries for Atlantic highly migratory species. It should be noted that the forage species not only provide the energetic basis that ultimately limits the "carrying capacity" of the higher trophic levels, but in sufficient numbers (and density), the forage species attract and hold those highly migratory species, making them available to our commercial and recreational fisheries.

The United States has worked tirelessly at ICCAT to conserve and rebuild tuna and billfish stocks, and U.S. fishers, both commercial and recreational, have made substantial sacrifices to promote

international conservation of these species. It is important that domestic management be mindful of these efforts and not compromise the forage basis upon which these fish rely.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Graves". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

John E. Graves
Chancellor Professor of Marine Science
Chair, Department of Fisheries Science