

THE MFC ADVISER
Marine Fisheries Commission Business Meeting
Clam Digger Inn, Pine Knoll Shores, North Carolina
Feb. 27-28, 2013

The Marine Fisheries Commission and the Division of Marine Fisheries continue to look for ways to keep committee advisers and the public informed about commission activities. It is our intent to publish the MFC Adviser after each business meeting, summarizing the meeting, and providing a list of motions and rulemaking proceedings. Hopefully this bulletin will keep you better informed about commission activities. Your comments regarding this update are always appreciated – please contact Nancy Fish by e-mail at nancy.fish@ncdenr.gov or by phone at 252-808-8021 or 1-800-682-2632.

The commission held a public meeting on the evening of Feb. 27, followed by a business meeting Feb. 28, at the Clam Digger Inn, Pine Knoll Shores, North Carolina. The following commission members were in attendance: Rob Bizzell-Chairman, Kelly Darden, Chris Elkins, Allyn Powell, Joe Shute, Joseph Smith and Bradley Styron. Anna Beckwith and Mikey Daniels were absent.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/2013-feb-mar-briefing-book>.

PUBLIC MEETING – Feb. 27

The public meeting began at 6 p.m. Chairman Rob Bizzell opened the meeting and advised that anyone who wished to speak to the commission on a fisheries-related matter may do so during this public comment period or at approximately 9:15 a.m. the following day. Bizzell explained that given time constraints individuals may speak only once, either on Feb. 27 or on Feb. 28, but not during both public comment periods. The following individuals spoke:

David Pearson, President of Friends of State Parks and a member of the commission’s Sea Turtle Advisory Committee, reviewed his request to expand the sea turtle sanctuary around Hammock’s Beach State Park to include the water area from the N.C. 58 bridge across the Atlantic Intracoastal Waterway, up the White Oak River to Stella, down the waterway to New River Inlet and offshore three miles along the Atlantic Ocean shoreline of Hammocks Beach State Park. Additionally, he requested an extension of the closure for commercial trawls and large mesh gill nets within the sanctuary from May 1 – Oct. 1 of each year. Pearson was advised via a letter on Feb. 20, 2013 that the actions he was requesting required rule changes and that he would need to submit a petition for rulemaking in order for the commission to consider his request. Pearson said the area and closure time extensions were needed for research purposes and that the biggest problem he was facing was obtaining data. Chairman Bizzell reiterated that the request would have to be handled through a petition for rulemaking.

Bob Lorenz presented the Coastal Conservation Association of North Carolina’s position on shrimp trawling. The organization feels that the major focus of Amendment 1 to the Shrimp Fishery Management Plan should be on substantially reducing unwanted bycatch and protecting

critical bottom habitat in inshore waters by limiting the use of otter trawls. They feel this can be achieved by maximizing the effective use of skimmer trawls in shallow water (less than 12 feet), by expanding the use of channel nets and exploring how shrimp pounds might be deployed within inshore waters. The association also feels that a limit on the number of nets and a maximum headrope length for otter trawls should be part of the amendment. They also believe the Division of Marine Fisheries should take action to maximize the value of shrimp by opening areas to harvest only when the shrimp are of sufficient size to command premium price. On another issue, Lorenz said anytime annual catch limit increases were being considered, that recreational fishermen would prefer a longer fishing season rather than increasing creel or size limits. He said, for example, for black sea bass, we would prefer to fish all year, but only have bag limit of 10 fish. He also asked that the division keep an eye on integrating fisheries, for example, keeping black sea bass reserved so that it could be utilized when snapper fishing is open, then some of the sea bass that would normally be released and die could be kept by anglers.

Ken Seigler, a commercial fisherman from Hubert, talked about Dave Pearson's earlier request to expand the sea turtle sanctuary around Hammock's Beach State Park. He said several of the islands and areas that Pearson wanted included in the sanctuary were inland and turtles don't nest there – they only nest on ocean beaches. Seigler said commercial fishermen only fish their nets at night to avoid interactions and have only had two interactions since law suit restrictions were implemented in that area. He said the division should be transitioning from a bycatch fishery to a directed fishery because striped bass have been recovered for 25 years. He said the commercial fishermen he has talked to do not want a commercial hook-and-line fishery for striped bass. He is concerned the division is saying the sky is falling with nets and sturgeon. He talked about various types of nets that could be used that would not interact with sturgeon and said you can select the mesh size to control the size of the fish you are targeting and catch exactly what you need while everything else passes through.

Commissioner Elkins said the commission was going need information on headrope lengths in order to make an informed decision on bycatch reduction in the shrimp fishery. He then said in relation to Ken Seigler's earlier comments, that there was a harvest moratorium on striped bass in the Cape Fear River and a very small fishery allowed in the Central and Southern areas. He said in the Albemarle Sound area that striped bass was caught as bycatch in the shad fishery. He said he was worried if we had another gear targeting striped bass we would have to be careful not to overshoot that quota and he added fishermen haven't been able to catch that quota for many years.

BUSINESS MEETING - MOTIONS AND ACTIONS – Feb. 28

Chairman Rob Bizzell convened the Marine Fisheries Commission business meeting at 9 a.m. with an invocation, followed by the Pledge of Allegiance and a reminder to commissioners of their ethics requirements. All members were present except Anna Beckwith and Mikey Daniels.

The February 2013 meeting agenda was approved by consensus.

Motion by Joe Shute to approve the November 2012 meeting minutes, seconded by Kelly Darden. Motion carries without objection.

Public Comment

John Ritchie, a Cape Carteret resident representing 200 property owners, wants to ban recreational and commercial nets in Deer and Rocky Run creeks from sunset to sunrise due to conflicts between commercial fishermen and property owners. He said it had been five years since he had raised the issue with the Division of Marine Fisheries and the commission, and that the town had followed all the mediation processes, but there was still no resolution.

Michael King, a Cape Carteret town commissioner, said the conflicts in Deer and Rocky Run creeks had been going on for 14 years. He said these areas had little development, but now they were densely populated and the waterways are narrow and shallow. He said there was little policing and there were a lot of discarded red drum. He requested the area be closed to commercial and recreational nets from dusk to dawn to eliminate conflicts between fishermen and property owners.

Issues from Commissioners

Commissioner Shute said he wanted to discuss shrimp limits during the rulemaking portion of the meeting.

Chairman's Report

Chairman Bizzell reviewed letters that had been sent by the commission on various issues.

Frank Crawley, counsel to the commission, reviewed proposed updates to the commissions bylaws.

Motion by Chris Elkins to approve updated Marine Fisheries Commission bylaws, seconded by Joe Shute. Motion carries without objection.

The commission was reminded about mandatory ethics training requirements and the April 15 deadline for submittal of statements of economic interest to the N.C. Ethics Commission.

Oyster Fishery Management Plan Amendment 3

Mike Marshall, the division's Central District Manager, reported that the Oyster Fishery Management Plan Amendment 3 was sent to both the secretary of the Department of Environment and Natural Resources and the Joint Legislative Commission of Governmental Operations for review and comment. He reported that neither group had comments regarding the amendment. Because there are rule changes associated with the amendment, Marshall explained the next step in the process was for the commission to approve sending the proposed rules contained in the amendment forward for rulemaking.

Motion by Chris Elkins to approve the Oyster Fishery Management Plan Amendment 3 for rulemaking, seconded by Allyn Powell. Motion carries without objection.

Southern Flounder Fishery Management Plan Amendment 1

Tom Wadsworth, the division's flounder biologist, reported that the Southern Flounder Fishery Management Plan Amendment 1 was sent to both the secretary of the Department of Environment and Natural Resources and the Joint Legislative Commission of Governmental Operations for review and comment. He reported that neither group had comments regarding the

amendment. Because there are no rule changes associated with the amendment, Wadsworth explained the next step in the process was for the commission to give final approval to the amendment.

Motion by Joe Shute to approve Southern Flounder Fishery Management Plan Amendment 1 for final approval, seconded by Kelly Darden. Motion carries without objection.

Bay Scallop Fishery Management Plan Amendment 2

Tina Moore, the division's bay scallop biologist, reviewed the timeline for the Bay Scallop Fishery Management Plan Amendment 2 and asked if the commission wanted to add to the list of issues the advisory committee was considering. The commission had no additional issues. Moore then reviewed the goal and objectives of the amendment and asked the commission for approval of these items.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=2991f696-8a20-4610-8481-48c1c7bbf338&groupId=38337

Motion by Allyn Powell to approve the Bay Scallop Fishery Management Plan Amendment 2 goal and objectives, seconded by Chris Elkins. Motion carries without objection.

Shrimp Fishery Management Plan Amendment 1

Trish Murphey, the division's shrimp biologist, reviewed the timeline for the Shrimp Fishery Management Plan Amendment 1.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=f6cd8325-2ce8-47f2-acad-38ea5066a7bc&groupId=38337

River Herring Fishery Management Plan Amendment 2

Will Smith, one of the division's stock assessment scientists, reviewed the Atlantic States Marine Fisheries Commission's stock assessment of blueback herring in the Chowan River. The assessment shows fishing mortality is below all reference points, the stock remains at historically low levels and remains below all reference points, and no stock recovery goals have been met.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=f71d88bb-32c2-4184-975b-682ee503b7d4&groupId=38337

Amy Larimer, the division's river herring biologist, reviewed the timeline for the River Herring Fishery Management Plan Amendment 2 and asked if the commission wanted to add to the list of issues the advisory committee was considering. The commission had no additional issues. Larimer then reviewed the goals and objectives of the amendment and asked the commission for approval of these items.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=35237da5-e84f-484c-9f4e-7677c0ae05f6&groupId=38337

Motion by Allyn Powell to approve River Herring Fishery Management Plan Amendment 2 goal and objectives, seconded by Chris Elkins. Motion carries without objection.

Issue Paper Review

Several issue papers were presented to the commission for consideration in the 2013/2014 rulemaking cycle, which can be found in the online briefing book at <http://portal.ncdenr.org/web/mf/2013-feb-mar-briefing-book>.

Presentations were provided on two of the more complex issues:

New National Shellfish Harvester and Dealer Requirements - To view this presentation, go to http://portal.ncdenr.org/c/document_library/get_file?uuid=ff686fcc-6547-4355-a2cb-00678ebfed53&groupId=38337

Sheepshead Management Options - To view the presentation, go to http://portal.ncdenr.org/c/document_library/get_file?uuid=d2cfa5d4-7051-4ae1-8552-d9af81fccffa&groupId=38337

The commission decided by consensus to forward the sheepshead management options to the commission's regional and finfish advisory committees for consideration.

Quota Monitoring Program

Grace Kemp, who monitors landings of quota-managed species for the division's License and Statistics Section, provided the commission with an overview of the division's Quota Monitoring Program.

To view the presentation, go to http://portal.ncdenr.org/c/document_library/get_file?uuid=d365af65-7a04-412d-846c-343517d180b2&groupId=38337.

N.C. Estuarine Striped Bass Fishery Management Plan Amendment 1 and Rulemaking

Catherine Blum, the division's rulemaking coordinator, reviewed the Jan. 15 hearing and summarized the public comment received on proposed rules contained in the N.C. Estuarine Striped Bass Fishery Management Plan Amendment 1, mandatory electronic reporting for fish dealers and volumetric measurement of shrimp.

The commission then approved Amendment 1 to the Estuarine Striped Bass Fishery Management Plan and accompanying rules that will:

- Remove the prohibition on the sale and purchase of striped bass taken by hook-and-line gear. This will not automatically authorize the use of hook-and-line gear in the commercial striped bass fishery, but it will permit issuance of a proclamation to allow the use of this gear at some future date. It is the intent that such a proclamation would follow discussions by the commission and its advisory committees in association with review of fishery management plans.

- Shift the existing joint/coastal boundary line between the Albemarle Sound Management Area and the Roanoke River Management Area for easier public identification and adherence to striped bass regulations.
- Re-establish a coordinate point on land for Roanoke Marshes Point, which is the western point of the southern boundary for the Albemarle Sound Management Area. The point is used to mark the boundaries for the Albemarle Sound/Chowan River Herring Management Areas, Attended Gill Net Areas and Striped Bass Management Areas.
- Clarify that it will remain unlawful for a commercial fishing operation to possess striped bass taken from waters of the Roanoke River Management Area, which are under the jurisdiction of the N.C. Wildlife Resources Commission.

These rules could go into effect as early as May 1.

Motion by Joe Shute for final approval of the N.C. Estuarine Striped Bass Fishery Management Plan Amendment 1 and permanent approval of the six implementing rules, seconded by Allyn Powell. Motion carries without objection.

The commission also:

- Approved a rule to require electronic reporting of landings from all fish dealers that report an annual average of greater than 50,000 pounds of finfish for the previous three calendar years. The rule could go into effect as early as May 1.
- Approved a rule change that replaces the harvest limit of 100 shrimp per person per day for shrimp taken with a cast net from a closed area with a volume harvest limit of two quarts of shrimp per person per day. The rule could go into effect as early as May 1.

Motion by Kelly Darden to approve as a permanent rule 15A NCAC 03I .0114 (mandatory electronic trip ticket reporting for large-scale finfish dealers), seconded by Bradley Styron. Motion carries without objection.

Motion by Joe Shute to approve as a permanent rule 15A NCAC 03I .0105 (increasing officer safety with volumetric measurement of shrimp) replacing two quarts for one gallon in the text of the rule, seconded by Chris Elkins. Motion ruled out of order.

Motion by Joe Shute to approve as a permanent rule 15A NCAC 03I .0105 (increasing officer safety with volumetric measurement of shrimp), seconded by Chris Elkins. Motion carries without objection.

Motion by Joe Shute to forward issue of increasing recreational harvest limit of shrimp taken with a cast net in closed area to one gallon as previously cited in 15A NCAC 03I .0105 (2) to the Shrimp Fishery Management Plan Advisory Committee for consideration, seconded by Allyn Powell. Motion carries without objection.

Rule Suspensions for Gill Net Yardage Restrictions and Atlantic Ocean Striped Bass Gear Permit Date

If the division director suspends any fisheries rules by proclamation, the commission must re-suspend those rules at the next meeting. At its August 2012 meeting, the commission instructed

the director to suspend the 3,000 yard maximum yardage rule for large-mesh gill nets and implement a 2,000-yard maximum yardage rule by proclamation and the commission suspended the Nov. 1 deadline for the striped bass gear permit.

Motion by Chris Elkins to suspend portions of 15A NCAC 03J .0103 (gill net yardage restrictions) and portions of 15A NCAC 03O .0501 (Atlantic Ocean Striped Bass Gear Permit), seconded by Allyn Powell. Motion carries without objection.

Legislative Update

Division of Marine Fisheries Director Louis Daniel said he has heard a game fish bill will be introduced for red drum, striped bass and spotted seatrout during the current session of the General Assembly. The division's position has not changed from previous game fish bills introduced over the last few years. The division does not support game fish designation because it is inconsistent with the 1997 Fisheries Reform Act.

Director Daniel advised the division has submitted a package of proposed legislation to the Department of Environment and Natural Resources for consideration. Those proposals include license fee increases, restructuring of the For-Hire and Ocean Pier licenses, additional limited entry flexibility, modification of fishery management plan standards for ending overfishing, changes to rulebook distribution requirements, and technical corrections.

The most important proposal the division is putting forward is a 50 percent fee increase for all commercial licenses. The division is also proposing to charge fees for all currently free and low-cost permits to \$50 for issuable permits and \$200 for reviewable permits. These fee increases are needed to fund the division's Observer Program.

Director Daniel said he has talked to quite a few commercial fishermen and has not gotten any negative feedback for the fee increase. He said the response he has received is that commercial fishermen think they should be paying for the observer program. While he is sure there are folks who will not want it, Director Daniel said he thought it was a good thing. He said the division had enough money to get through the year, but after that he does not know how we will be able to achieve the required observer coverage without additional funds. He said the division needs \$1.6 million to fund the program.

Oyster Season Update

The commission received an update from Central District Manager Mike Marshall on sampling results for the current oyster season.

To view this presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=b6f62d49-51c4-46cb-9321-f7481e7822cd&groupId=38337.

Cape Carteret User Conflict Issue

The commission adopted management measures to address conflicts between net fishermen and residents who live along Deer Creek and Schoolhouse Creek (Rocky Run Creek) in Cape Carteret. Cape Carteret residents asked the commission to close these creeks to the use of gill nets and seines at night, complaining that the fishermen were beating oars on docks, shining spotlights into houses, threatening residents and causing a hazard to navigation. Fishermen said

they need to fish for mullet, spotted seatrout and flounder at night and want to avoid increased conflict with daytime boat traffic and recreational fishing.

The parties were unable to agree on a solution through a mediation process. The commission instructed Director Daniel to issue a proclamation pertaining to these creeks that:

- Prohibits gillnets and seines from 8:30 p.m. to sunrise from Oct. 1 to March 31;
- Requires reflectors to be placed on every 50 yards of net;
- Requires that nets be set down the middle of the creeks (parallel to shore);
- Limits net lengths to 200 yards; and
- Requires fishermen to attend their nets at all times and move them as necessary to allow reasonable navigation.

Motion made by Joe Shute and seconded by Bradley Styron to direct the Division of Marine Fisheries director to issue proclamation to prohibit gill and seine nets in Deer Creek and Schoolhouse Creek (Rocky Run) in Carteret County under the following conditions:

- **From 8:30 p.m. until sunrise from Oct 1-March 31,**
- **Reflectors to be attached every 50 yards on nets,**
- **Nets to be set down middle of the creek, and**
- **With a maximum of 200 yards of net to be attended and moved as necessary to allow reasonable navigation.**

Motion carries 5-1.

The division held a public meeting to explain these regulations at 5:30 p.m. March 7 at the division's Central District Office, 5285 Highway 70 West, Morehead City.

Summer Flounder

The commission agreed to allow Director Daniel to transfer some of the state's summer flounder quota reserved for fall fishing to the current fishing season. The move will add a portion of about 600,000 pounds of quota reserved for the fall to the approximately 250,000 pounds remaining of the winter fishing season allocation.

Under Marine Fisheries Commission rule, 20 percent of the state's commercial summer flounder quota each year is reserved for the fall fishery. The regulation reserving a percentage of the quota for fall fishing was put in place in the early 1990s to ensure quota would be available for the smaller fishing operations that operated off the coast of North Carolina in the fall.

Since then, the distribution and migration patterns of the fish have shifted much farther north, and the majority of fishing now occurs off New Jersey, New York and southern New England. While North Carolina's larger commercial fishing fleet travels to these waters to fish, it is not profitable for the smaller vessels to do so.

As a consequence, North Carolina fishermen have not used the state's entire commercial fishing quota since 2007.

Additionally, for the past several years, North Carolina has allowed vessels to land summer flounder at Virginia fish houses because shoaling of Oregon Inlet has made those waters impassible for larger vessels. This requires the state to transfer some of its quota to Virginia.

The combination of not using all of the quota and transferring much of what is used to other states, could result in other states seeking a reallocation of the coast-wide commercial quota.

Summer flounder is a migratory fish that is jointly managed by the Atlantic States Marine Fisheries Commission, a federally-authorized board that coordinates fishery management in state waters between the East Coast states, and the Mid-Atlantic Fishery Management Council, one of eight federal regional councils that manage fisheries in federal waters.

Motion by Joe Shute to suspend the seasonal allocation of summer flounder to the extent allowed by law, seconded by Kelly Darden. Motion carries without objection.

Highly Migratory Species

Randy Gregory, the division's representative on the federal Highly Migratory Species Advisory Panel, reviewed draft Amendment 5 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan.

To view this presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=43e763b8-8aa1-4fc1-99ae-b83bd24d29d0&groupId=38337.

The meeting adjourned.

The briefing book, presentations and audio from this meeting can be found at

<http://portal.ncdenr.org/web/mf/2013-feb-mar-briefing-book>.

2013 Meeting Schedule:

Feb. 27-March 1 in Pine Knoll Shores

May 29-31 in Morehead City

Aug. 28-30 in Raleigh

Nov. 13-15 in the Morehead City Area