

THE MFC ADVISER
Marine Fisheries Commission Business Meeting
Crystal Coast Civic Center, Morehead City, North Carolina
Nov. 7-9, 2012

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 Nov. 7, followed by a business meeting Nov. 8 and 9, at the Crystal Coast Civic Center, Morehead City, North Carolina. The following commission members were in attendance: Rob Bizzell-Chairman, Anna Beckwith, Mikey Daniels, Kelly Darden, Chris Elkins, Allyn Powell, Joe Shute, Joseph Smith and Bradley Styron.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/november-2012-briefing-book>.

PUBLIC MEETING – Nov. 7

The public meeting began at 6 p.m. Chairman Rob Bizzell opened the meeting 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 Nov. 7 or on Nov. 8, but not during both public comment periods. The following individuals spoke:

Jess Hawkins, a fisherman from Morehead City and a former Division of Marine Fisheries biologist and Marine Fisheries Commissioner, welcomed Kelly Darden to the commission. He thanked the commission for its public service and said it was a tough job. Hawkins said he supports a commercial hook and line fishery for striped bass, noting it is a fishery where you can regulate bycatch mortality easier than other fisheries. He commended the commission on the violation point system, saying it is great to see resource violations have greater weight. Regarding the Shrimp Fishery Management Plan, he wanted to share a little bit of history because North Carolina has been leader in shrimp management. He said we were the first state to require finfish excluders, the first state to require Primary Nursery Areas, the first state to close for economic and biological benefit, and the first state to close all bays to shrimp trawling. Hawkins said during development of the first Shrimp Fishery Management Plan the commission took a hard look at restricting areas where finfish bycatch was the highest. He commended the commission on the conservation measures it implemented for speckled trout, and said that hopefully, the next assessment will show recovery, especially with the 14-inch size limit. He said there was a large presence of red drum and flounder in this area and in some of the rivers and he said he would ask the commission to seriously consider only changing recreational size and bag limits twice a year, because people don't know when things change if they change often. He asked the commission to have the director consider only changing the recreational limits unless

it's an emergency. Hawkins said the proclamation is a great tool and most changes are a result of changes with Atlantic States Marine Fisheries Commission and councils. He asked the commission to please take a strong stand for the state with the South Atlantic Fisheries Management Council. He said the federal government and the National Marine Fisheries Service constantly refuse state to state quotas, but the Mid-Atlantic Fishery Management Council has agreed to it and that the federal government has to trust the state to track those quotas. He urged the commission to continue pushing for state by state quotas. Lastly, he cautioned the commission to be careful implementing regulations for Atlantic sturgeon, because of a lack of data on the species.

Kim Tavasso, a recreational fisherman from the Greenville area and a former commission adviser, thanked the commission for its work. He said he was concerned with bycatch associated with gill nets and trawlers. He said he was not against shrimping, but was concerned about the millions of small fish killed each year. He said he had reviewed the numbers on the Division of Marine Fisheries' website for landings, and that 1978 through 1981 seemed to be best years. He said that for the last four years, minus the menhaden, the state's seafood landings were down 67 percent. Tavasso said that's not a cycle, it's a trend. He said the commission needs to address bycatch in shrimp industry, and that he realizes there are other ways to catch the shrimp, but that it will be costly. Nevertheless, he said it still needs to be done to preserve our state's fisheries.

Chuck Laughridge, a recreational fisherman from Harkers Island, said he was not here in an official capacity for the Coastal Conservation Association. He thanked the commission for its service and asked that in any official summaries of meetings that the specific name of groups be used rather than references to conservation groups. He then said he would like to offer kudos to Dr. Louis Daniel and his staff for implementing the first ever moratorium on speckled trout when it needed to be done and that it seems to have worked. He encouraged the commission to listen to Dr. Daniel more than you question him. Laughridge went on to say that he was getting a lot of people telling him that politicians are calling the division and staff is getting raked over the coals. He said Dr. Daniel doesn't need to answer their questions, the commission does. For the Shrimp Fishery Management Plan, he would strongly recommend following the division's recommendation, especially because of the bycatch. This very well could be the missing piece of the puzzle for weakfish. For the shad management plan, he said we need to see that first or second quarter of 2013. He also advised the commission that we are going to see river herring listed as an endangered species soon. He told the commission as far as sturgeon, use the data that is there and do what Dr. Daniel tells you to do and that he has complete faith in him. We are looking at brand new legislature and governor, so prepare yourself for gamefish because it is coming at you like a train coming down hill, he said. Laughridge closed his remarks by saying he think most of the commission has done a great job, and he will miss some of them and some of them he won't.

Bill Mandulak, spoke representing the Coastal Conservation Association-NC. He said his organization was very much in favor of an amendment to the Shrimp Fishery Management Plan, but we don't want to close the shrimp fishery but we would like to take good hard look at the options for minimizing bycatch. He said maybe other places where the commission could require skimmer trawls and he thinks it's time to take a good hard look at that. He encouraged the commission to eliminate some bycatch, particularly when you see the composition of the bycatch. He said he understands the commission has received petition to change weakfish regulations to allow 100 pounds of weakfish per trip limit, rather than a 10 percent bycatch

allowance. His organization would very much like the state to go back to the 100-pound -limit and be consistent with the other states. He said looking at the weakfish data there were several instances of overages with the bycatch allowance and he questioned if citations were issued. Mandulak then said his organization has sent fairly detailed letter to our representatives on menhaden and that we need to make sure to get an adequate split between the bait and reduction fisheries to ensure there is ample supply for the bait fish fishery.

Division of Marine Fisheries Director Louis Daniel responded regarding the question about weakfish citations that there was a transition period where there were a lot of fishermen that didn't understand the new regulations. However, that number has greatly decreased due to educating the fishermen. He said there have been citations, but he did not have that information readily available.

Jack Cox, a commercial fisherman from Morehead City, said he had been snapper grouper fishing since 1980 and was a partner in Blue Ocean Market that supplies seafood to 30 local restaurants. He encouraged the commission to please think about the commercial man. He said people come to the coast not only to fish but to eat fish. He said he had put his name forward to try to get on the South Atlantic Fishery Management Council and he thinks he would do a good job. Cox said state-by-state quotas are needed to ensure a consistent supply of fresh local seafood. He said we need to be able to shrimp; that people like to eat shrimp. He said there isn't much bycatch on the small boats.

Marine Fisheries Commission Chairman Rob Bizzell said politicians shouldn't be calling Dr. Daniel and staff with complaints about commission actions, but in the six years he has been on the commission, not once has he had a politician call him.

BUSINESS MEETING - MOTIONS AND ACTIONS – Nov. 8-9

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.

Motion by Anna Beckwith to approve the November 2012 agenda, seconded by Joe Shute - motion carries without objection.

Motion by Chris Elkins to approve the August 2012 minutes, seconded by Bradley Styron – motion carries without objection.

Public Comment

Joe Albea, with the Coastal Fisheries Reform Group, said his organization had backed off its earlier position of wanting a complete otter trawl ban, and felt this type of trawling could continue with limitations that address bycatch. He said however, that these concerns need to be addressed quickly and he provided the commission with a handout of provisions his organization supported. Albea closed by saying these new options let shrimpers fish and have healthy fish stocks too.

Tim Hergenrader, a recreational fisherman from New Bern, said that shrimp trawls should be limited to a 35-foot headrope length for inshore waters; that tow times should be limited to 45 minutes; that shrimp season should be delayed until the shrimp were 36/41 count; that no-trawl

zones should be established around inlets; and the commission should set easily measured parameters.

Terry Pratt, with the Albemarle Fishermen's Association, said the current Shrimp Fishery Management Plan is working and that bycatch has always been there and there are no studies to indicate this bycatch is having a negative effect on finfish. He said with inlets, the shoulders are too shallow and the current is too strong to trawl there. He closed by saying that he did not think the shad plan followed the proper process.

Sean McKeon, Executive Director of the N.C. Fisheries Association, told the commission there was a new administration with new changes coming and advised that a lame duck commission should not make major changes. He said recreational nets are the biggest problem in Pamlico County and that recreational discard is a big problem too, but still the focus is only on commercial fishermen. He said the commission needed to address recreational discard mortality. McKeon then talked about how the division's position on the Shrimp Fishery Management Plan had evolved and that the division should manage based on science and not by the number of emails received.

Issues from Commissioners

Commissioner Powell asked about a bait shrimp fishery and what size of shrimp would be considered if this proposal went forward. Director Daniel advised that would be covered during the Shrimp Fishery Management Plan.

Chairman's Report

Chairman Bizzell reviewed letters that had been sent by the commission on various issues. He also reminded commissioners of voting procedures, mandatory ethics training, and public comment guidelines.

Shrimp Fishery Management Plan

Division biologists Trish Murphey and Chris Stewart, co-leads of the Shrimp Fishery Management Plan, presented the commission with advisory committee and public comment received on the draft revision of the plan. They explained that after receiving a great number of comments from the public that expressed concern about bycatch in the shrimp trawl fishery, the division shifted its position from doing a revision and is now recommending that the commission begin the amendment process. A fishery management plan revision is a more abbreviated process that involves updating data and fishery information contained in the plan, but does not make any rule or management changes, while an amendment to a fishery management plan is a longer process that requires the formation of an advisory committee and considers changes to rules and management strategies.

The commission then voted to initiate the process of amending the state's Shrimp Fishery Management Plan, but limited the scope of the amendment to focus on addressing bycatch issues.

Motion by Anna Beckwith to amend the Shrimp Fishery Management Plan, but limit the scope of the amendment to bycatch issues in the commercial and recreational fisheries, seconded by Kelly Darden - motion carries 8-1.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=e2f06456-16e1-4d87-be9d-577ba5d5d262&groupId=38337.

Southern Flounder Fishery Management Plan Amendment 1

Division biologist Tom Wadsworth, lead for the Southern Flounder Fishery Management Plan, reviewed advisory committee and public input on sustainable harvest measures for the southern flounder fishery. The commission selected its preferred management measures for the commercial fishery for a draft amendment to the state's Southern Flounder Fishery Management Plan. These draft management measures set minimum regulations for the commercial flounder fishery that, if adopted, will remain in place even if restrictions to protect sea turtles are relaxed. These limit large mesh gill net sets to:

- Four nights per week (Monday -Thursday) north of Beaufort Inlet, excluding Albemarle, Croatan and Roanoke sounds and Pamlico, Pungo, Neuse and Bay rivers;
- Five nights per week (Sunday -Thursday) south of Beaufort Inlet;
- A maximum of 2,000 yards per fishing operation from Croatan and Roanoke sounds to Beaufort Inlet;
- A maximum of 1,000 yards per fishing operation from Beaufort Inlet to the South Carolina line;
- A maximum of 3,000 yards per fishing operation in the Albemarle, Croatan and Roanoke sounds and Pamlico, Pungo, Neuse and Bay rivers.

The above represents the least restrictive management measures that could be in place to end overfishing and rebuild southern flounder stocks. However, more restrictive measures may be put in place to reduce interactions with protected species. For example, regulations restricting the use of large mesh gill nets in Albemarle Sound to 2,000 yards to reduce interactions with endangered Atlantic sturgeon remain in place.

The draft amendment, which already includes previously selected recreational measures, will come back before the commission for final approval at its February 2013 meeting after review by the secretary of the Department of Environment and Natural Resources and a legislative committee.

Motion by Joe Shute to implement Option 1b as the preferred management option for the commercial fishery in the Southern Flounder Fishery Management Plan Amendment 1, seconded by Allyn Powell - motion carries 6-3.

Motion by Mikey Daniels to implement management measures in the recreational southern flounder fishery that will result in a reduction equal to that in the commercial fishery, seconded by Joe Smith - motion fails 3-5.

Motion by Chris Elkins to forward the Southern Flounder Fishery Management Plan Amendment 1 to the Secretary of the Department of Environment and Natural Resources

and to the Joint Legislative Commission on Governmental Operations for review, seconded by Joe Shute - motion carries 6-3.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=42fa793b-7999-4a20-ad97-6a7fa1c60f09&groupId=38337 .

Whelk Information Paper

Division biologist Tina Moore presented the commission with information on the commercial harvest of whelks in North Carolina. The commission requested this information at its May 2012 business meeting after receiving public comment that landings of whelk were expanding considerably in the last few years with no regulations to maintain sustainable harvest. Moore reported that the division had determined that no regulations should be issued for whelk at this time due to data limitations. She advised the commission that the division would assign a lead biologist to coordinate collection and verification of data and that as a time series develops more information will become available to determine the status of whelk in North Carolina.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=3b0d74da-8c60-4c87-ab4d-c4dc965cc87d&groupId=38337 .

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 Anna Beckwith to suspend portions of 15A NCAC 03J .0103 pertaining to gill net yardage restrictions, and portions of 15A NCAC 30 .0501 for Atlantic Ocean Striped Bass Commercial Gear Permit, seconded by Allyn Powell- motion carries without objection.

Motion by Joe Shute to suspend 15A NCAC 03J .0105 pertaining to purse seines, and 15A NCAC 03R .0111 which prohibits Atlantic Ocean purse seines, seconded by Chris Elkins - motion carries 5-4.

Rulemaking

Catherine Blum, the division's rulemaking coordinator, updated the commission on its current rulemaking cycle and reviewed notice of text for six proposed rules, along with three associated fiscal analyses, that were proposed in the N.C. Estuarine Striped Bass Fishery Management Plan, which includes:

- **Albemarle Sound Management Area Southern Boundary Coordinate Change** - 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 land has eroded so that the current boundary point lies in the water. Re-establishing the point on

land will make identifying it easier for fishermen and enforcement officers. 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.

- **Cashie River Joint and Coastal Waters Boundary Line Change** - 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.
- **Allow a Commercial Hook-and-Line Estuarine Striped Bass Fishery** - 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 Marine Fisheries Commission and its advisory committees in association with review of fishery management plans.

The proposed rules also 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.

Blum explained that if the commission approved notice of text for these proposed rules that a public hearing was planned for 6 p.m. on Jan. 15, 2013 at the N.C. Department of Environment and Natural Resources Washington Regional Office, 943 Washington Square Mall, Washington and that public comment will be received through Feb. 15. The draft rules will come back before the commission for final approval at its February 2013 meeting and the rules would have an intended effective date of May 1, 2013.

Motion by Anna Beckwith to approve the six proposed rules and three fiscal analyses for the N.C. Estuarine Striped Bass Fishery Management Plan for notice of text for rulemaking, seconded by Chris Elkins - motion carries 6-3.

Sport Fish Program Review

Division biologists Randy Gregory and Carole Willis gave an overview of the N.C. Governor's Cup and Saltwater Fishing Tournament Programs.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=2ba54466-3ba7-42d4-83df-479b77636830&groupId=38337 .

Oyster Season Update

Central District Manager Mike Marshall provided the commission with an update on the oyster season.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=7c3dd193-25ce-45e9-af15-f58b8f569cb6&groupId=38337 .

Atlantic Ocean Striped Bass

The commission agreed by consensus to manage the Atlantic Ocean striped bass fishery in the same manner as the previous season.

Weakfish

Director Daniel advised the commission that fishermen had requested the commercial trip limit for weakfish be changed back to 100 pounds. The trip limit had been at 1,000 pounds but the weakfish catch could not exceed 10 percent of the total finfish catch. The change was requested by two commercial fishing groups that indicated the gray trout catch has been high in relation to other finfish. The two regulations are considered conservational equivalent by the Atlantic States Marine Fisheries Commission.

Motion by Joe Shute to implement a 100-pound commercial trip limit for weakfish without bycatch requirements, seconded by Bradley Styron - motion carries without objection.

American Shad Sustainable Fishery Plan

Division biologist and Executive Assistant for Councils Michelle Duvall reviewed the division's recommendation for the American Shad Sustainable Fishery Plan and explained that the Atlantic States Marine Fisheries Commission is requiring all states to adopt the plan in order to continue this fishery.

The commission approved the draft American Shad Sustainable Fishery Plan for fisheries in the Albemarle/Roanoke, Tar/Pamlico, Neuse and Cape Fear river systems.

Motion by Anna Beckwith to accept the Division of Marine Fisheries' recommendation for the American Shad Sustainable Fishery Plan, seconded by Chris Elkins - motion carries 8-1.

To view the presentation, go to

http://portal.ncdenr.org/c/document_library/get_file?uuid=bc5d2600-dcf3-46e1-b008-395c78fe1dea&groupId=38337.

South Atlantic Fishery Management Council Nominations

Michelle Duval, the division staff lead for the commission's Nominating Committee, explained the council nominating process and reported that the committee had voted to forward the names of Kenny Fex, Jack Cox and Andy High to the commission for consideration for N.C.'s obligatory seat on the South Atlantic Fishery Management Council, with Kenny Fex being the preferred candidate.

Motion by Joe Shute to approve the Nominating Committee's recommended slate of candidates for N.C.'s obligatory seat on the South Atlantic Fishery Management Council, including the preferred candidate, seconded by Joe Smith - motion carries without objection.

The meeting adjourned.

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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 TBD