

THE MFC ADVISER

**Marine Fisheries Commission Business Meeting
The Sheraton in Atlantic Beach, North Carolina
May 11-12, 2011**

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. Visit <http://www.ncdmf.net/mfc/advisor.html> to view this and past issues of the Adviser. 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 May 11, followed by a business meeting May 12 at the Sheraton in Atlantic Beach, North Carolina. The business meeting had been slated to last two days, May 12 and 13; however, the commission was able to proceed through the agenda more quickly than anticipated and the meeting adjourned at the end of the day on May 12. The following commission members were in attendance: Rob Bizzell-Chairman, B.J. Copeland-Vice Chairman, Anna Beckwith, Mac Currin, Mikey Daniels, Edward Lee Mann, Joseph Smith, Bradley Styron and Darrell Taylor.

PUBLIC MEETING – MAY 11

The public meeting began at 6 p.m. Chairman Rob Bizzell advised that anyone who wishes to speak to the commission on a fisheries-related matter may do so during this public comment period or at 9:15 a.m. on May 12. Bizzell explained that given time constraints individuals may speak only once, either on May 11 or on May 12, but not during both public comment periods. The following nine individuals spoke:

Sonny Davis, owner of the Captain Stacy Fishing Center and headboat, and member of North Carolina Watermen United, said the state should have more say with federal quotas. He said the federal government was destroying the economy and he pointed to beeliner quotas that were caught in record time, saying that Morehead City fishermen were not able to go out because of bad weather, so they missed out on those fish. Davis also said he did not think it was right that people come down to the coast and pay money to go out fishing and then would have to throw back most of their catch. Davis thought it would be inadvisable to open the commercial and recreational black sea bass fisheries at the same time, that it would just create chaos, and he felt state-by-state quotas would be the better way to manage the federal fisheries. He closed by saying federal regulations are taking rights away from the American people.

Jess Hawkins, a recreational fisherman, educator and fisheries scientist, urged the commission to fully engage itself in federal fisheries issues that affect our state. He said the regional management councils and the Atlantic States Marine Fisheries Commission's actions are having tremendous impacts on our state's fisheries. Hawkins said there was confusion about recreational size/bag limits and asked that these limits only be allowed to be changed twice a year. He urged the commission to engage the General Assembly and educate them about the

fisheries management process. He closed by asking the commission to consider a request by people in Carteret County to use Coastal Recreational Fishing License money to assist in the purchase of a vessel to sink offshore as an artificial reef to attract divers and fishermen.

Sara Winslow, of Merry Hill and recently retired from the Division of Marine Fisheries after 32 years of service, spoke about the proposal for a commercial Atlantic Ocean hook-and-line fishery for striped bass. She asked if a hook-and-line fishery was allowed, who will you take the quota from - the trawler, the gill netters or the beach seiners? Winslow cautioned if this fishery was approved it will allow the potential for nearly 6,700 people (all Standard Commercial Fishing License holders) to participate in that fishery and there was simply not enough quota to handle that kind of increase in fishing effort. She said the current permit system was not working and limited entry is needed in this fishery – then you would not have to worry about the gear types. Winslow closed by asking if the commission was trying to protect the striped bass fishery in the ocean and if so, she said, allowing hook-and-line gear is not the way to go.

Bert Owens, a recreational fisherman from Beaufort, said he was there to read a statement from the Coastal Conservation Association N.C., but first he had a personal question. He asked if the commissioners in recreational seats had to vote based on what the recreational community wanted and he was advised that was not the case. He then read the CCA statement saying the group did not support H 136, a bill that would exempt the current Spotted Seatrout Fishery Management Plan from the requirements of S.L. 2010-13 (H 1713) to end overfishing within two years of final adoption of a fishery management plan. The CCA asks that the commission act tomorrow to bring the Spotted Seatrout Fishery Management Plan into compliance with the law and to rescind the 50 pounds of spotted seatrout bycatch allowed in the commercial fishery during the closed season. He also said the CCA was upset about the increase in the commercial red drum trip limit from seven to 10 fish that the commission approved, because it causes more directed fishing. Owens said the CCA also felt the commission turned a deaf ear to concerns expressed about the waste in the striped bass trawl fishery that occurred this past winter. He said the game fish bill originated because of the actions of the commission and he closed by saying the commission's future actions will determine if similar bills will be introduced. Division of Marine Fisheries Director Louis Daniel clarified that under S.L. 2010-13 (H 1713) overfishing must be ended within two years of final adoption of a fishery management plan and the Spotted Seatrout Fishery Management Plan had not gone through final adoption yet, so the plan was not out of compliance.

Tony Austin, a commercial fisherman who has been fishing in North Carolina for 23 years, said he supported a commercial hook-and-line fishery for striped bass and was in favor of getting rid of the gill nets and trawlers in that fishery. He said fishermen cannot control what they catch with these gears and equated catching a small number of striped bass with a trawl to shooting a fly with a big gun. Austin said a limited entry system was needed for this fishery, and if you combined good weather with limited entry, then fishermen would be able to catch the quota.

Carol Lohr, Carteret County Tourism Authority Executive Director, talked about the impact of tourism, recreational fishing and shipwreck diving on Carteret County and the state's economy. She asked the commission to consider funding \$300,000 from the Coastal Recreational Fishing License (CRFL) to help bring the USS Mohawk to Carteret County to be sunk and used as an artificial reef. She said she realized the request did not meet the timeline for the normal

distribution of CRFL funds, but said this was a once in a lifetime opportunity. She asked the commission to grant the request by June 1. Chairman Rob Bizzell explained that expenditure of CRFL funds was done jointly between the Marine Fisheries Commission and the Wildlife Resources Commission and the deadline had already passed for the use of CRFL funds for the current grant cycle and there was no way for funds to be approved by June 1.

Chuck Laughridge, a recreational fisherman from Harkers Island, who owns North Carolina Waterman website and does a North Carolina coastal fishing report, said he found Sara Winslow's previous comments very educational and he thought she was an amazing, knowledgeable individual and congratulated her on her retirement from the Division of Marine Fisheries after 32 years of employment with the state.

Noel Bouquet, a Ph.D. student at Duke Marine Lab, introduced herself to the commission and said she is a human geographer looking at the cultures and politics of fishing. She told the commission she would like to interview them as part of her research.

Terry Pratt, President of Albemarle Fishermen's Association and a commercial fisherman from Merry Hill, said he thought crab management was working and that the Blue Crab Fishery Management Plan Advisory Committee needed to leave the system that is in place alone, saying if it is not broke than don't fix it. He said that sturgeon should not be listed as an endangered species and that sea turtles should be delisting as an endangered species. Pratt then said he felt it was more advisable to keep management measures in proclamation rather than putting them in rule, because proclamations can be changed within 48 hours and are more responsive to changes in the fisheries, compared to rule changes that can take up to 18 months. He said there was a moratorium on river herring, but the rivers are full of herring. He talked about the game fish bill, saying this legislation would take fish away from 95 percent of the population and give them to just 5 percent of the population. He said the Lord put those fish here for food and they are not toys. Pratt also said that the more that local fishing effort is reduced, the more increase there would be on imported seafood that comes from questionable sources. He closed by saying he wanted to keep fishing, and to keep fishing, you have got to accept that we are going to kill some fish.

BUSINESS MEETING - MOTIONS AND ACTIONS – MAY 12

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 Mac Currin to approve the May 2011 agenda, seconded by Darrell Taylor - motion carries without objection.

Motion by Mac Currin to approve February 2011 minutes, seconded by Darrell Taylor - motion carries without objection.

Public Comment

Chris McCafferty, a commercial fisherman from Morehead City, talked about the ethical treatment of fish. He said fish are gifts from God and he recommended the commission remove all size limits because size limits result in dead discards. He said the commission should use annual quotas and seasons for commercial and recreational harvest and let fishermen keep whatever size fish they caught and once the quota was reached the fishery should close. He said he thought discarding fish was torture and that we should treat fish honorably.

Terry Pratt, President of Albemarle Fishermen's Association and a commercial fisherman from Merry Hill, said fish are food and his association supports the N.C. Fisheries Association's position on allowing commercial fishermen to be able to land striped bass from the Atlantic Ocean by hook-and-line.

Sean McKeon, president of the N.C. Fisheries Association, said his organization opposed a commercial striped bass hook-and-line fishery for two reasons; first, the commission needed to wait and see the outcome of legislation that would make striped bass a game fish. He said until this legislation was resolved, it would be premature to take any action regarding striped bass. Secondly, McKeon said there was too much uncertainty in the recreational harvest numbers for this fishery and fishery managers needed to get a better handle on amount of recreational discard mortality before attacking traditional fisheries. McKeon also challenged the idea that the commercial trawler *Jamie Lynn* caught and discarded between 3,000 to 4,000 fish during a fish spill that happened over the Martin Luther King holiday off of Dare County, saying that he did not think the boat in question could even pull that much weigh. McKeon also expressed concerns about dialogue with the commission. He said that there were too many law enforcement officers, that the public was told they could be hauled out of meetings and there were threats of felonies. He said that it seemed to be a battle for some commissioners to get motions on the floor and that after six years in his position, the commission meetings had become adversarial and that was not the way to manage fisheries.

Issues from Commissioners

Commissioner Mac Currin questioned why there were two slots for *Issues from Commissioners* on the agenda and Chairman Bizzell explained the second slot was added at the request of several commissioners.

Commissioner Mikey Daniels said he would like to have a copy of Chris McCafferty's earlier remarks. McCafferty provided a copy to Commissioner Daniels.

Chairman's Report

Chairman Bizzell reminded the commission they were required to attend at least 75 percent of all commission meetings, as set out in Executive Order 34, issued by Governor Bev Perdue on Dec. 9, 2009. Chairman Bizzell also said he would be holding the commission's advisory committees to this attendance standard.

The commission reviewed the response from the U.S. Marine Corps regarding a Freedom of Information Act request regarding BT-9 and BT-11 and any fuel dumping, lead leveling sampling and the amount and type of ordinance/munitions/flares released on these bombing targets between 2007 and 2010. Commissioner Anna Beckwith said she would like to have advice from the commission's attorney on how to proceed with this issue.

Chairman Bizzell reviewed letters that had been sent by the commission on various issues. He expressed dismay at the number of advisers he has had to remove because of fisheries violations.

Commissioner Daniels said he wanted to send a letter to the South Atlantic Fisheries Management Council opposing the 40-fathom closure. Division of Marine Fisheries Director Louis Daniel said the division had been working very closely with the N.C. Fisheries Association and the N.C. congressional delegation on this issue and more details will be provided during the South Atlantic update later in the meeting.

Committee Reports

The commission received reports from all committees that met since the May 2010 business meeting. Commissioner Currin said he felt the Coastal Recreational Fishing License Advisory Committee was not being utilized as fully as possible and that the commission and the division were missing valuable input from this panel.

Atlantic Ocean Striped Bass Commercial Hook-and-Line Issue Paper

Michelle Duval, who is one of the division's Executive Assistants for Councils and Commissions, presented the commission with various options it could consider to allow commercial hook-and-line harvest of striped bass in the Atlantic Ocean. At its February meeting, the commission directed the division to examine a commercial hook-and-line fishery for ocean-caught striped bass to help avoid waste. The directive came after the commission reviewed incidents of dead discards of striped bass in the ocean trawl fishery this winter.

To view this presentation go to <http://www.ncfisheries.net/mfc/presentations.html>.

The commission has not yet decided if it wants to create this fishery and decided to send the issue out for review by the public and its advisory committees to ask for input about a commercial hook and line fishery for ocean-caught striped bass.

Currently, North Carolina's share of the coast-wide commercial ocean striped bass annual quota is split evenly between three commercial fisheries: the trawl fishery, the gill net fishery and the beach seine fishery. A commercial striped bass hook-and-line fishery has been prohibited since 1985.

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Duval presented several options to the commission ranging from keeping the status quo to adding hook-and-line as a fourth gear under the current permit system to replacing the trawl fishery with a hook-and-line fishery.

The commission was also advised that simply adding a commercial hook-and-line fishery, with no other limitations, could result in an influx of fishermen into the fishery because of the relative inexpensiveness of hook-and-line gear.

Currently, anyone holding a standard commercial fishing license or retired standard commercial fishing license can receive an ocean striped bass permit for specified gears. There are about 6,700 of these license holders. In the 2010-2011 season, the division issued 844 commercial ocean striped bass permits, and only 207 of these permit holders actually participated in one of the fisheries.

One option to avoid such an influx would be to establish a limited entry system for this fishery.

Motion by Mac Currin to proceed with development of a hook-and-line commercial striped bass fishery in the Atlantic Ocean, seconded by Anna Beckwith. Substitute motion by B.J. Copeland to take the hook-and-line issue out to the Finfish and regional advisory committees for input from the fishing public and consider the input at the commission's August business meeting, seconded by Edward Lee Mann - motion carries 6-3 to allow substitute motion. Substitute motion then voted on and carries 6-3.

Striped Bass Fishery Management Plan Amendment 1

The commission received information on the ongoing development of Amendment 1 to the Estuarine Striped Bass Fishery Management Plan.

Blue Crab Fishery Management Plan Amendment 2

David Taylor, who is the division's Fisheries Management Section Chief, presented the commission with management issues for consideration in development of Amendment 2 to the Blue Crab Fishery Management Plan. The commission had no additions to the list of issues. Taylor also advised the commission the presentation of the draft plan would be moved from the August commission meeting to the November meeting due to delays in the process.

Southern Flounder FMP Amendment 1

Chris Batsavage, the division's flounder biologist, updated the commission on commercial harvest reductions in the southern flounder commercial fishery to see if the 2010 landings met the required reduction of 20.5 percent in numbers of fish for the commercial fishery. The number of southern flounder landed by the commercial fishery in 2007 was 1,142,159 fish and the number of fish landed by the commercial fishery in 2010 was 849,455 fish. The 2010 landings in numbers of fish were a 25.6 percent reduction from 2007 landings, which meets the required reduction. The management measures from the sea turtle lawsuit settlement agreement contributed to the reduction, but not all of it. Other reasons include a higher proportion of large (2-4 pound) market grade flounder in 2010 landings, very low landings in Albemarle Sound and its tributaries in 2010, and various sources of effort reduction.

In summary, Batsavage said the required commercial southern flounder landings reduction was met in 2010, but factors besides the sea turtle management measures played a role in this reduction. Predicted landings reduction estimates cannot account for changes in fishermen's behavior or in fish availability, which both have a considerable impact on landings. Therefore, the magnitude of future landings reductions is inherently uncertain.

To read the full report got to <http://www.ncfisheries.net/mfc/presentations.html>.

Rule Suspension for Spotted Seatrout

If the division director suspends any fisheries rules by proclamation, the commission must re-suspend those rules at the next meeting. At its May 2011 meeting, the commission instructed the director to suspend the 12-inch spotted seatrout size limit rule and implement a 14-inch size limit for spotted seatrout by proclamation.

Motion by Mac Currin to suspend spotted seatrout size limit rule 15 NCAC 03M .0504 b, seconded by Anna Beckwith – motion carries 7-1.

Rule Suspension for Gill Net Yardage Restrictions

If the division director suspends any fisheries rules by proclamation, the commission must re-suspend those rules at the next meeting. At its May 2011 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.

Motion by Mac Currin to suspend to suspend gill net rule 15 NCAC 03J .0103, seconded by Darrell Taylor – motion carries without objection.

Notice of Text for Rulemaking

Catherine Blum, the division's Rulemaking Coordinator, reviewed proposed rules and applicable advisory committee input for the following:

1. **15A NCAC 03M .0504 - Repeal rule and continue management of the spotted seatrout fishery via existing proclamation authority**
2. **15A NCAC 03M .0519 - Incorporate the current, long-standing proclamation closure of the American shad ocean fishery into rule**
3. **15A NCAC 03O .0111 - Streamline the service of process for the surrender of fishing licenses by allowing service to licensees by certified mail**
4. **15A NCAC 03O .0114 - Establish requirements for the suspension, revocation and reissuance of licenses**

Motion by Mac Currin to approve Notice of Text for 15A NCAC 03M .0504, 15A NCAC 03M .0519, 15A NCAC 03O .0111, and 15a NCAC 03O .0114 by for the 2011/2012 rulemaking cycle, seconded by Edward Lee Mann - motion carries without objection.

Federal Aid Report

Kelly Price, the division's Federal Aid Coordinator, gave an overview of the Sportfish Restoration federal aid process and ongoing Division of Marine Fisheries projects.

To read the full report got to <http://www.ncfisheries.net/mfc/presentations.html>.

Director's Report

Legislative Update - Director Daniel reviewed the status of various fisheries-related bills that were introduced in the 2011 legislative session.

The commission voted to go on record opposing a bill in the N.C. General Assembly that would designate spotted seatrout, red drum and striped bass as coastal game fish. The bill would

prohibit the sale of these fish by commercial fishermen. The commission's stated reason for opposing the bill is that it circumvents the process provided for in the Fisheries Reform Act, which is the standing law for marine fisheries management in North Carolina.

Motion by Bradley Styron for the commission to oppose the H 353 – Designation of Coastal Game Fish, stating it circumvents the correct process as provided in the Fisheries Reform Act, seconded by Mikey Daniels - motion carries 7-1, with 1 abstaining.

The commission also decided to reconvene the Spotted Seatrout Fishery Management Plan Advisory Committee so that it can begin looking at options for ending overfishing in two years.

A new law passed last year requires all fishery management plans to end overfishing within two years of final adoption. A draft Spotted Seatrout Fishery Management Plan, which was tentatively approved in November, does not meet this criteria. A bill in the N.C. General Assembly to clarify that the Spotted Seatrout Fishery Management Plan is exempt from this law has not been heard in committee.

Division Director Louis Daniel clarified for the commission that even if the game fish bill passes, there would still need to be reductions in the recreational fishery for spotted seatrout to end overfishing in two years.

Don Hesselman, the division's License and Statistics Section Chief, gave a preliminary report explaining the pros and cons of mandatory electronic reporting for seafood dealers that can be found at <http://www.ncfisheries.net/mfc/presentations.html>.

The commission voted to ask division staff to further explore what would be needed to implement mandatory electronic reporting for commercial seafood dealers who deal with 50,000 pounds of finfish or greater per year.

Motion by Anna Beckwith to implement mandatory electronic dealer reporting for dealers that handle 50,000 pounds of finfish or greater per year, seconded by Mac Currin - motion withdrawn.

Motion by Anna Beckwith for division staff to draft an issue paper to explore implementing mandatory electronic reporting for dealers that handle 50,000 pounds of finfish or greater per year, seconded by Mac Currin - motion carries 8-1.

Audio of this meeting, along with the 2010 Annual Fish Dealer Report and the and the 2010 Annual Fisheries Bulletin can be found at <http://www.ncfisheries.net/mfc/presentations.html>.

The meeting adjourned.

2011 Meeting Schedule:

Feb. 10-11	Pine Knoll Shores
May 11-13	Atlantic Beach
Aug. 10-12	Raleigh
Nov. 2-4	Atlantic Beach

