

THE MFC ADVISER

**Marine Fisheries Commission Business Meeting
The Holiday Inn in Wilmington, North Carolina
August 11-13, 2010**

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 August 11, followed by a business meeting August 12-13 at the Holiday Inn in Wilmington, North Carolina. 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 – AUGUST 11

The public meeting began at 6 p.m. and 21 individuals spoke. The public can speak on any fisheries issues they want to address with the commission.

Randy McKinley of McKinley Fisheries, runs a snapper-grouper boat out of Topsail Beach and spoke regarding dive boats out of Florida targeting hog snapper. He questioned if these boats operate at night and use lights to lure the fish. How do they affect the reefs? Do the fish leave and will they come back? What if more Florida boats come? On black grouper, he said the limit should be 700 to 800 pounds instead of 500 pounds.

Tim Hergenrader of New Bern, and a member of the Coastal Fisheries Reform Group, spoke regarding the credibility of the commission and the Division of Marine Fisheries because of controversy over spotted sea trout. He said spotted seatrout was overfished; that red drum and striped bass were in poor shape; that flounder were floundering; and that many other aspects of our fisheries have convinced him the division and the commission are not concerned with the health of the stocks. He said trawlers were killing the small spotted seatrout and recreational discard mortality was being blamed. He said government was broken and jeopardizing a nearly \$50 million recreational industry for sake of \$3 million commercial fishery.

Dean Phillips, of Topsail Beach, said he was speaking for the Coastal Fisheries Reform Group and that when a fishery becomes depleted by overfishing or any reason the commission is obliged by law to take necessary actions to allow the stock to recover. This summer he learned that spotted seatrout was overfished. He said he was calling on commission to take action to

allow recovery of the stock. He said restrictions must be put in place immediately to end overfishing within two years, as required by law. He finished by saying the data has documented the stock is overfished and rules to end overfishing need to be in effect by this fall.

He then referred to statement from the **N.C. Wildlife Federation** that called on the commission to reduce fishing mortality for spotted seatrout from all sources as quickly as possible to allow reproductive recovery that will return the population to sustainability at the targeted level of abundance and growth. They asked the commission to enact restrictions on recreational and commercial fishing to spotted seatrout beginning Oct. 1 for the fall fishing season. The statement said spotted seatrout had been overfished for the past 18 years making the stock depleted and the commission is obliged by law to act immediately and aggressively with restriction on all fishing to ensure overfishing is ended within two years. In addition, the statement said that the restrictions must be fair to both user groups and based on a 50 percent probability of success as required by law.

Joe Albea of Greenville, and a member of the Coastal Fisheries Reform Group, said he did a survey to see what type of activity was going on. He said on Sunday, Aug. 8, around Swan Quarter, there were no fishermen in the area and that he went all around Swan Quarter, about 45 miles, and there were no boats out there because there are no fish. He passed out photos of the Swan Quarter area to show there were no boats. He said we need to take a look at the total picture. Over the past 25 or 30 years, our whole coastal fisheries have gone completely downhill. He said the Coastal Fisheries Reform Group was concerned about inshore trawling and that only skimmer trawls should be allowed inside and that otter trawls should only be allowed three miles off the beach. He said he followed three trawlers in one afternoon and saw a steady progression of dead croaker in their wake.

Kenneth Fex, owner and captain of the snapper-grouper boat **Raw Bar** said that the dive boats think the trip limits are directed at them, but the South Atlantic Fishery Management Council has trip limits. He thinks the state should adopt trip limits too.

Selby Lewis, a commercial fisherman from Wilmington, questioned why 1,500 pound quota was put in effect so quickly and why North Carolina was the only state doing this? Was it because of dive boats? If it was, North Carolina fishermen are losing money while boats that land in South Carolina can catch more.

Division of Marine Fisheries Director Louis Daniel replied he had received many calls about the gag grouper quota being caught in the summer and that North Carolina was losing its shallow water fishery this fall. He said he also had concerns about different techniques being used to harvest hogfish and the large catches that were being made. Director Daniel said he had heard from six or seven dealers and that he had consulted individual commission members and they had concurred with the limits he recommended as a stopgap measure. He said he was trying to

act in the best interest of North Carolina fishermen. He said if the proclamation implementing the quota needed to be changed it could be. Director Daniel said North Carolina fishermen are uninterested in catch shares and the he has fought for state-by-state quotas, but not gotten them from the South Atlantic Fishery Management Council. He said the question right now is to do something or do nothing. Has no authority over who fishes in the EEZ (federal waters), only those who come into North Carolina waters.

Ginger Rose of Carolina Beach, spoke on behalf of Blackburn, Inc. Seafood Market, and said the new gill net rules to protect sea turtles had a negative impact on the business and they were unable to offer their customers the variety of inshore fish they have come to expect. She said they had lost sales of \$2,000 to \$3,000 per week. She said fishermen need to be able to fish depending on the tide and the weather, not the day of the week or time of day. These restrictions may force fishermen to work when not safe. She said the less fish we pack, the fewer employees we utilize and she asked for the commission to keep North Carolina's seafood on the table and reconsider the current gill net restrictions.

David Smith, a commercial fisherman from Carolina Beach, handed out charts showing the tidal fluctuation around Zeke's Island in the Cape Fear River. He said he had been adversely affected by the new gill net fishing restrictions. He said the tidal swing in areas where he fishes varies greatly and sometimes there is no water at all. He said this is how the entire area is down in the southeastern part of the state. With a 15-mesh deep gill net, he said it comes close to having as much water as net and currents can make net stand straight up. When nets stretched out they will not catch fish, like a boat with a stretched rope will not anchor. Smith said the days of week he can fish is further reduced by tides and the new restrictions also require more anchors and floats. He uses a 19-foot Carolina skiff that does not have a lot of room for the additional anchors and floats. He said he cannot fish by the tide and day of the week and that he usually fishes about 238 days per year. Now he can fish about 85 days per year, and that is not allowing for bad weather – that means he can fish less than three months per year. Also, the amount of net used is cut by about 50 percent and the nets are too shallow. He said under the new restrictions he has to double his gas bill and there is additional wear and tear on his boat by having to make two trips per day. Smith closed by saying speckled trout in his area are real good and he appreciates the size limit increase to 14 inches, but he feels it needs to be 15 inches.

Terry Pratt, a commercial fisherman from Merry Hill representing the Albemarle Sound Fishermen's Association, questioned what impact the new gill net restrictions to protect sea turtles were having on the southern flounder fishery?

Division Director Daniel said that the analysis so far, shows that the reduction by settlement agreement achieves the reductions levels required for the southern flounder fishery and that would be discussed later on in the meeting in more detail.

Pratt then said the Spotted Seatrout Fishery Management Plan doesn't need changing, that the stock is doing fine. He said that the commission and the division needed to be looking at the health of the whole ecosystem system and not managing by one fish stock at a time. He said nature does not give highest population of all the fish at one time and thinking that all fish stocks can be healthy at the same time does not fit nature's plan.

Steven Ammons, the executive director of the Coastal Conservation Association - North Carolina, said that speckled trout are subject to overfishing and the stock is being overfished. He said the recreational fishery is worth about \$50 million to the state. Ammons said his organization objected to recent speckled trout preferred options selected by the commission because they were not equitable reductions between the recreational and commercial user groups. He also said the commission ignored its own policy by selecting management measures that put forward a fishery management plan that does not have at least a 50 percent probability of success. Ammons said the commission should ask the Division of Marine Fisheries to determine the reductions necessary to reduce overfishing within a two-year timeframe and then reduce both user groups equally on a percentage-wise basis. He cautioned that the commission must be mindful that the recreational sector contributed 100 times more to North Carolina's economy than the commercial sector. He also said that it was important that the reallocation of this important fishery not occur and the species needed to be restored as soon as possible.

Brett Blackburn of Carolina Beach, whose family has been in the seafood business for 30 years, said restrictions laid upon commercial fishermen are a burden and that it is important to take the time to analyze the decisions the commission is making. He said he loved sea turtles and that commercial fishermen will do what they can to protect them, but they also need to make a living. He expressed concern about opposition to dive boats and said the commission needs to consider that we also have a N.C. dive boat industry. He ended by saying that now we are pricing seafood products so high that the average blue collar man cannot eat seafood.

Tim Barefoot, representing the Recreational Fishing Alliance (RFA), handed out copies of Coastal Angler Magazine that contained a RFA questionnaire regarding fisheries management in North Carolina. He said since the RFA was not able to get anything accomplished through the commission his organization had decided to make fisheries an election issue. Barefoot said he did not want to put any commercial fisherman out of business and he would like to develop a 10-year plan with alternative harvest methods, free of weekend warriors and only available to true commercial fishermen. He compared the fishing industry to the timber industry that has replanted trees over the years to renew their resource and said that large-scale hatcheries for stock enhancement should be built. He said this would not be aquaculture, but stock enhancement, with the fish being released into the wild. He advocated introducing a \$2 inshore stamp for the recreational fishing license, that stamp would be multiplied by 500,000 anglers and would generate over \$1 million per year for the operation of hatcheries. He said this would keep the families that are hard-working, salt of the earth folks, in place through proactive actions.

Caleb Batson of Carolina Beach, said he disagrees with the new grouper limits and they severely limit fishermen's ability to fish economically in a boat equipped to stay offshore safely. He said he is not a day boater and depends on fishing several days at a time to earn a living. The fuel it would take to make numerous trips getting only 150 pounds of hogfish at a time would not make it feasible to continue offloading in North Carolina. He said he had been involved in many fisheries and owns a 40-foot charter/commercial boat. He said he was involved in so many different fisheries because you cannot just do one thing today and make a living fishing. He said in the past six years he has started diving/spearfishing off the North Carolina coast and it is very difficult and there are only a few places where you can dive safely due to depth and currents. Batson said once an area has been dived, the fish know they are being hunted and will scatter. He said he personally landed 14 percent of all hog snapper commercially landed in the state. He indicated the state has no science to back up what it is doing and a 150-pound limit of hogfish is unreasonable. He said it would be better to limit where people can fish rather than have an unreasonable bag limit. These restrictions limit him to what size boat he needs to have to target these species, he said. Instead of a 40 to 50 ft. boat that can stay out for days in different kinds of weather and be able to fish regions 50 to 100 miles away from the dock, he said he would have to stay inside 40 miles on a 25-ft. boats with outboards and no shelter, running in daily to unload, instead of staying three to six days on a big enough boat to safely be able to stay out. He said if North Carolina does not change these restrictions he will have to get a South Carolina license to sell fish there. He also said he believes the state should allow harvest on lobster because he sees 10 to 100 lobsters per dive without even looking for them and he doesn't understand why North Carolina allows two per person recreationally, but none commercially. He concluded by saying new restrictions should be abandoned because they are an unnecessary restriction with no benefit for those with boats equipped to stay more than one day out in the ocean safely.

Chuck Laughridge, a recreational fisherman from Harkers Island, owns North Carolina Waterman website and does a North Carolina coastal fishing report, said he was not speaking representing anyone in particular. He said this past year at the General Assembly in Raleigh there was as close to fisheries referendum as North Carolina will ever have with the passage of House Bill 1713 – Improve Success of Fishery Management Plans (FMP), and that he supported this legislation. Laughridge said the bill, which only contained contained 38 words, one comma and two periods, would greatly improve the state's fisheries. The new law charges the state to end overfishing within two years of the adoption of an FMP. Laughridge conveyed he had heard rumors that speckled trout, southern flounder and river herring will not be subject to this requirement and that was not right. He said if this law had been in place earlier with river herring and southern flounder, those stocks would not be in the condition they are in today and we would not have a problem now. He said if the commission does not feel comfortable doing its job, they should get up from the table and walk away. He encouraged the commission to use the law to

make a difference and restore our fisheries. Laughridge closed by saying ending overfishing in two years will eliminate the conflicts fisheries currently have on daily basis.

Tom Ronner of Wilmington and a commercial hook-and-line and gill net, charter and private boat operator, supports some type of trip limit on snapper-grouper to extend the season. When quota gets caught up, it stacks boats going into the same fishery that is open at that time. He said we need to string seasons along. Ronner recalled in the late 90s when commercial and recreational fishermen butted heads in Washington, and that opened the door for radical environmental groups to put all this stuff that is happening to us now. He said there is a happy medium between commercial and recreational fishermen and we do not have to be at everyone's throats.

Sean McKeon, executive director of the North Carolina Fisheries Association, said regarding speckled trout, that he thinks it is interesting some groups talk about fairness and equity when there is no limit on the number of recreational fishermen that can be involved in the fishery. He said the commercial industry had already taken tremendous hits with recent restrictions. McKeon told the commission they had done their job in regards to spotted seatrout and it was the right thing to do. He said FMPs already in existence were to be exempted from H.B. 1713 and the bill was never intended to be retroactive.

Bert Owens of Beaufort, said maybe the law (H.B. 1713) was not retroactive, but the commission's fishery management plan policy, which is very similar to the language in H.B. 1713, was there before the law. Owens questioned the point of the policy if the commission was not going to follow it. He said anglers wanted to take a cut on spotted seatrout limits and they got to six fish at 14 inches. He also pointed out it was hard for anglers to get to the commission's meetings and that they do care, but their work gets in the way. He said the Spotted Seatrout FMP Advisory Committee was directed by the Division of Marine Fisheries director to make equal reductions for both commercial and recreational users and what the commission passed did not make that happen and was not equitable. He said for the commercial guy to take the weekend off is not very onerous. He said if a gill net ban happens because the commission did not have the guts to make the tough management decisions, they only have themselves to blame. Owens ended by saying it was time for things to happen.

Jim Atack of Oak Island, had questions about dropping his catch off at a seafood dealer after hours and was encouraged to talk with law enforcement about the requirements. He also urged the commission to make equitable decisions for sustainable fisheries. He encouraged the commission to change black sea bass size limit to 12 inches across the board and that would be less confusing and make easier for law enforcement. Atack said he agrees with gag trip limits to extend the season and that 95 percent of the trip catches are that amount or lower, so it would not be a hardship. Winter flounders sold and cut in December or January are full of roe, so why not close the fishery during spawning season? He also supported a minimum limit on dolphin and a

higher limit on hog snapper and said it was good to be able to have a bang stick or power head when you were diving to protect yourself from sharks.

Craig Andrews of Southport, has a dive shop and a wholesale seafood business and said he was both a recreational and commercial fisherman. He said the recent hogfish situation seem to be a knee-jerk reaction and questioned how the commission will protect local North Carolina fishermen without data? He said the new limits could disadvantage North Carolina anglers because South Carolina doesn't have the same rules. He said some size limit on hog snapper was a good idea and the North Carolina stock is in better shape than projected. He feels a 150-pound limit on hog snapper seems excessive, but it probably shouldn't be unlimited and spear diving from 1994-present averaged less than three percent of all snapper-grouper harvest.

Jeffrey Owens of Jacksonville, Florida, said hogfish was a prolific fishery and was not in danger of being overfished and there were vast deepwater areas where the fish occur that are not viable for commercial purposes, so the fish will always be able to reproduce. He said it was basically a dive fishery that few hook-and-line fishermen target. Owens agreed there needs to be a trip limit, but there needs to be a recreational limit, as well. He said recreational fishermen can harvest 20 per person and take more than commercial fishermen with the current proclamation. Owens said the commission should try to get the National Marine Fisheries Service to go along with a gag limit, instead of creating a dirty derby fishery. He said he agrees with a 1,500-pound shallow water limit.

James Jones of Wilmington, said he was a third generation commercial fisherman and that right now the commercial fishermen needs to be able to make a living – that the economy is bad. He said they have families and now is not the time to cut them.

In response to questions asked during the meeting, **Division of Marine Fisheries Director Louis Daniel** responded he did not know if the dive boats operated at night or what the effects diving/harvesting activity have on the reef fish, but he had heard comments that the fish become skittish. He said North Carolina cannot keep people from other states out, but the intent for hogfish is to try to protect our fishery. He said he was concerned about a lot of boats re-outfitting for diving and the effort in this fishery increasing, that's why he feels additional harvest limits were needed for hogfish. He also said from what he hear at the meeting, that most people are okay with a 1,500-pound trip limit on gag, but that he may need to give more consideration to the hog snapper limit and may need to look at a recreational limit. He said there will be some debate about bang sticks later in the meeting.

BUSINESS MEETING - MOTIONS AND ACTIONS – AUGUST 12-13

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 agenda for the August 2010 MFC business meeting, seconded by Bradley Styron – motion passed unanimously

Motion by Mac Currin to approve the minutes for the February and May 2010 MFC business meetings, seconded by B.J. Copeland – motion passed unanimously.

Public Comment

Terry Pratt, a commercial fisherman from Merry Hill representing the Albemarle Sound Fishermen’s Association, said 80 percent of seafood consumed in the United States is imported. He said there was ample seafood available in this country and we do not have to have imports. Pratt said the commission needed to remember commercial fishermen feed people and recreational fishermen fish for pleasure.

Jerry James, co-chair of the Southern Flounder FMP Advisory Committee, said that the committee started out with recreational and commercial factions, but that they ended up as a group. He said that division staff did a good job and that he feels the draft Southern Flounder FMP, that was going to be discussed later in the meeting, is a good plan.

David Plowden said trip limits on grouper were good and would discourage out-of-state fishermen, but South Carolina should have limits too. He said the quota for the southeast was too low for black and red grouper and sampling just a few fish makes it hard to determine what is out there. Plowden said the South Atlantic Fisheries Management Council was using flawed assessments and that the quotas needed to be higher.

Recognition of former Commissioners

Former Marine Fisheries Commission members David Beresoff and Rusty Russ were presented with plaques and recognized for their dedication to conserving and protecting our marine resources and for their service to the state of North Carolina.

Issues from Commissioners

Commissioner B.J. Copeland said he would like to have more discussion on the comments they had received on a proclamation that had been issues for commercial and recreational harvest of snapper-grouper, which can be found at:

<http://www.ncdmf.net/procs/procs2k10/FF-63-2010.html> .

Division of Marine Fisheries Director Louis Daniel reminded the commission that the proclamation was issued after numerous phone calls and e-mails from local commercial and charter boat fishermen regarding out-of-state dive boats that were catching large quantities of gag grouper and hog snapper in the southeast portion of the coast. Controversy had arisen because fishermen, many from Florida, were unhappy with the 150 pound trip limit on hog snapper. Director Daniel said he would discuss the issue in more detail under the Director’s Report.

Commission Bradley Styron said fishermen needed to be encouraged to use the mediation process and policy that the commission has in place and that if disgruntled parties would not come to the table to mediate then the fishery involved in the dispute should be shut down.

Commissioner Bradley Styron said he would like to have the commission discuss southern flounder harvest and the opening of Core Sound and the Pamlico Sound Gill Net restricted area. Commission Styron was advised the topic would be discussed under the Director Report later in the meeting.

Chairman's Report

Commissioners expressed their displeasure that the National Marine Fisheries Service and the U.S. Secretary of Commerce did not select the commission's and Governor Beverly Perdue's preferred candidate, Rita Merritt, for North Carolina's obligatory seat on the South Atlantic Fishery Management Council.

Chairman Bizzell named the following individuals to the commission's newly reconstituted Sea Turtle Advisory Committee:

- Jean Beasley – Director, Karen Beasley Sea Turtle Rescue and Rehabilitation Center, Surf City;
- Marvin Beacham – commercial fishermen, North River;
- Lori Brinn – environmental education specialist, Raleigh;
- Dr. Steve Everhart – CAMA district manager, Wilmington;
- Matthew Godfrey – WRC sea turtle biologist, served on previous Sea Turtle Advisory Committee, Beaufort;
- Dr. Craig Harms – NCSU veterinarian for aquariums and Karen Beasley Sea Turtle Rescue and Rehabilitation Center, Morehead City;
- Roger Harris – commercial fisherman, Atlantic;
- Robert Lorenz - recreational fisherman, Wilmington;
- David Pearson - President of Friends of State Parks, Swansboro;
- Dr. Andy Read – Duke professor, served on previous Sea Turtle Advisory Committee, Gloucester;
- Jerry Schill, former executive director of the N.C. Fisheries Association, New Bern; and
- David Smith, commercial fisherman, Carolina Beach.

The duties of this committee will include, but are not limited to:

- Reviewing sea turtle observer reports;
- Devising means for fishermen to report sea turtle interactions;
- Assisting with fishermen education;
- Determining measures to reduce the incidental take of sea turtles;
- Monitoring observer program issues; and
- Reviewing all future Incidental Take Permit provisions and take calculations prior to submittal of formal applications to the National Marine Fisheries Service.

A tentative 2011 commission meeting schedule was discussed and commissioners were asked to advise staff if they had conflicts with any of the following dates:

Feb. 9-11 in Pine Knoll Shores
May 11-13 in Pine Knoll Shores
Aug. 10-12 in Raleigh
Nov. 2-4 in Pine Knoll Shores

Petition for Rulemaking

The commission was updated on a petition from Mr. James Massengill of Morehead City that was discussed at the commission's March 2010 business meeting. Mr. Massengill submitted a petition requesting rules and/or proclamations be changed to allow the commercial hook-and-line harvest of red drum, speckled trout and weakfish. The division formed a work group, headed by Michelle Duval, which is exploring the ramifications of the proposed changes - several state and interstate fishery management plans will have to be modified and statutes will have to be amended in order to implement this petition. Issue papers are being developed and are scheduled to be discussed at the commission's November meeting.

Motion by Mac Currin to develop a notice of text for rulemaking to address Mr. James Massengill's petition for the 2011-2012 rulemaking cycle, seconded by Darrell Taylor - motion passes unanimously.

Election of Vice-Chair

The MFC re-elected B.J. Copeland as vice chairman of the commission.

Motion by Bradley Styron to nominate B.J. Copeland as vice chair, seconded by Mikey Daniels – no other candidates were put forward - motion passes.

Committee Reports

The commission received reports from all committees that met since the May 2010 business meeting. The following action item stemmed from those reports:

Motion by B.J. Copeland to send a letter to the U.S. Army Corps of Engineers, Department of Navy, and all other appropriate agencies, requesting a full environmental impact statement on the expansion of the bombing ranges at Cherry Point, seconded by Anna Beckwith - motion passes 7-1.

Stock Status Report

Trish Murphey, division biologist supervisor, updated the commission on the 2010 Stock Status Report of Important Coastal Fisheries outlining changes from the previous year. This annual report serves as a general barometer of the overall health of North Carolina fishery resources and is used to prioritize development of fishery management plans and subsequent plan amendments.

Spotted seatrout changed from *Concern* to *Depleted* based on the 2009 N.C. Spotted Seatrout Stock Assessment. The assessment indicated the stock is overfished and undergoing overfishing based on data from 1991-2008.

Spiny dogfish improved from *Recovering* to *Viable*. The Transboundary Resource Assessment Committee (TRAC) conducted a peer-reviewed stock assessment in January 2010. A group of peer reviewers selected new biomass targets based on data from the TRAC assessment. The new biomass targets were exceeded in 2008 and 2009 and were consistent with a rebuilt stock.

Murphey reported species to watch in 2010-2011 are those species that have North Carolina fishery management plans under revision which include striped bass, blue crabs, striped mullet and southern flounder. Other species to monitor are those that have upcoming amendments or assessments through Atlantic States Marine Fisheries Commission or federal councils, including Atlantic Ocean striped bass, reef fish, Atlantic croaker and coastal sharks.

The full stock status report can be found on the division website at:
<http://www.ncdmf.net/stocks/index.html>

FMP Schedule and Timelines

Division Fisheries Management Section Chief, David Taylor, reviewed the status of various state and interjurisdictional fishery management plans and presented the commission with a proposed timeline for the development of fishery management plans through 2015.

To view the schedule, go to <http://www.ncdmf.net/fmps/index.html> .

Motion by Mac Currin to approve the five-year schedule for fishery management plan development, seconded by Anna Beckwith - motion passes unanimously.

Director's Report

Division of Marine Fisheries Director, Louis Daniel, began his Director's Report early because the meeting was ahead of schedule. He discussed challenges the division was facing in hiring a qualified senior stock assessment scientist. Commissioners recommended possibly hiring someone who had retired.

Red Drum - Director Daniel reported on three fish dealers that were found guilty of illegal red drum transactions. Approximately 6,600 pounds of red drum were not reported by these dealers and will have to be subtracted from the fall season. Go to <http://www.ncdmf.net/news/NR2K10/nr-36-2010.html> to view the news release on this matter.

He also advised the commission about overages from the annual commercial red drum cap from the 2009-10 fishing year.

North Carolina's commercial red drum harvest operates under a 250,000-pound annual commercial cap that is divided into two sub-seasons, with 150,000 pounds allocated for Sept. 1 to April 30 and 100,000 pounds reserved for May 1 to Aug. 31. If the cap is exceeded in one harvest year, the overage is deducted from the subsequent harvest year.

Director Daniel told the commission that the 2009-10 red drum landings exceeded the commercial cap by 41,000 pounds. Therefore, the fall sub-season will open Sept. 1 with a 109,000-pound cap.

Weakfish - Director Daniel reviewed a letter he sent to the Atlantic States Marine Fisheries Commission (ASMFC) advising North Carolina had come back into compliance with the Interstate Fishery Management Plan for Weakfish. He reported the ASMFC had agreed to allow North Carolina to replace the current 100-pound commercial trip limit with a conservation equivalency that allows a 10 percent bycatch allowance of weakfish, up to 10,000 pounds. Director Daniel reported a proclamation will need to be issued to implement the bycatch provision.

Motion by B.J. Copeland to support issuing a proclamation to implement a 10 percent bycatch allowance, up to 1,000 pounds, in the weakfish fishery, seconded by Joe Smith - motion passes unanimously.

Bay Scallop Fishery Management Plan – Amendment 1

Division biologist, Tina Moore, presented the draft Amendment 1 to the Bay Scallop Fishery Management Plan, providing the commission with summaries of public input and management options selected by the various advisory committees and the Division of Marine Fisheries.

Every year, division biologists sample the abundance of bay scallops in different water bodies. Currently, bay scallop season opens only if the annual sampling shows the abundance of bay scallops in a given water body is at 100 percent of where it was in 1984-85.

Under the proposed new management method, limited harvesting could occur when division sampling indicates bay scallop abundance in a given water body is at 50 percent of the level it was in 1984-85. Trip limits and fishing days would progressively increase if sampling showed bay scallop abundance was at 75 percent or 125 percent of 1984-85 levels.

After approval of the draft amendment, the plan goes to the secretary of the N.C. Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture for review. It is scheduled to come back to the commission for final adoption in November, in time for the 2011 bay scallop season.

A copy of the draft amendment can be downloaded at the N.C. Division of Marine Fisheries website at:

http://www.ncdmf.net/fmps/downloads/Amendment1_BayScallopFMP-FinalNov2010.pdf

Moore's presentation can be found at <http://www.ncdmf.net/mfc/presentations.html>.

Motion by Mac Currin to approve adaptive measures for the Bay Scallop Fishery Management Plan Amendment 1 as recommended by the Division of Marine Fisheries and Bay Scallop Fishery Management Plan Advisory Committee, except that the 50 percent trigger not be included to open the commercial fishery and the recreational fishery not open until the 75 percent trigger is met, seconded by B.J. Copeland - motion fails, 7-1.

Motion by B.J. Copeland to implement the Division of Marine Fisheries and Bay Scallop Fishery Management Plan Advisory Committee's recommended management options for

the Bay Scallop Fishery Management Plan Amendment 1, seconded by Mikey Daniels - motion passes, 6-2.

Motion by Anna Beckwith to approve the draft Bay Scallop Fishery Management Plan Amendment 1, seconded by Darrell Taylor - motion passes, 7-1.

Motion by Anna Beckwith to send the approved draft Bay Scallop Fishery Management Plan Amendment 1, to the secretary of the Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture for review and comment, seconded by Darrell Taylor - motion passes, 7-1.

Oysters

Director Daniel announced after many efforts to set up a meeting with Hyde County Commissioners regarding their request to increase the harvest limits for oysters so each licensee can take a harvest limit rather than each fishing operation taking only one limit regardless of the number of licensees on board. The meeting has been scheduled for Aug. 18 at 11 a.m. at the courthouse in Swan Quarter.

The recent resurgence of oyster landings to pre-red tide levels of the late 1980s and higher market demand for oysters have resulted in increased requests for raising the daily harvest limit for mechanically harvested oysters which is set in the Oyster Fishery Management Plan.

Director Daniel reported that a new fishery management plan supplement process that was authorized by Session Law 2010-15, that created an expedited process by which the Marine Fisheries Commission may supplement fishery management plans, allowing temporary management measures to be implemented until a fishery management plan amendment can be completed. The supplement process could possibly be used to increase the harvest of oysters Director Daniel explained. The division is currently developing guidelines for the supplement process and will present them to the commission at an upcoming meeting.

Motion by Mikey Daniels to increase oyster limit to 30 bushels per fishing operation, seconded by Bradley Styron - motion declared out of order because the current oyster limit is set in the FMP.

Motion by Mikey Daniels to authorize Division of Marine Fisheries Director Louis Daniel to seek approval from the secretary of the Department of Environment and Natural Resources to supplement the Oyster Fishery Management Plan Amendment 2, seconded by B.J. Copeland - motion passes unanimously.

Southern Flounder Fishery Management Plan –Amendment 1

Division biologist, Chris Batsavage, reviewed the draft Southern Flounder FMP – Amendment 1, which is an update to the N.C. Southern Flounder Fishery Management Plan adopted by the Marine Fisheries Commission in 2005. That plan was developed after a 2004 southern flounder stock assessment found the stock was overfished and overfishing was occurring.

While the terms “overfished” and “overfishing” are similar, they have distinctly different meanings in fisheries management. “Overfished” refers to the actual condition of the stock when the population falls below an acceptable level. “Overfishing” means that fish are being removed from the fishery at a rate that the fishery cannot sustain or rebuild itself.

Under a new state law passed this summer, the commission must end overfishing within two years of adopting a fishery management plan for an overfished species. Another state law, on the books since 2004, requires the commission to rebuild overfished fish stocks within 10 years of adoption of a plan.

The 2004 stock assessment called for a 30 percent overall harvest reduction to rebuild the southern flounder stock, but the commission adopted measures in 2005 that were projected to achieve only a 17.2 percent reduction, with the intent of reassessing the stock after three years.

A 2009 stock assessment found that while the southern flounder stock had improved since 2005, it is still overfished, and further harvest reductions of 20.5 percent are needed to end overfishing and achieve sustainable harvests within the legally required timeframes.

Batsavage reported that both the Southern Flounder Fishery Management Plan Advisory Committee and the division recommended that the commission make no changes to existing commercial fishing regulations on southern flounder because recently implemented management measures to protect sea turtles are projected to result in an overall commercial southern flounder harvest reduction of 22.2 percent.

For the recreational fishery, both the advisory committee and the division recommended an increase in the minimum size limit to 15 inches and a decrease in the creel limit to six fish per day, which will result in an overall recreational harvest reduction of 20.2 percent.

At this stage of the fishery management plan process, the commission approves the draft plan to go out to its regional advisory committees and public meetings for review. The Southern Flounder Fishery Management Plan Advisory Committee will meet with division staff again, after all the meetings, to consider public comment received before making their final recommendations to the Marine Fisheries Commission in November. The commission will then tentatively approve the plan and send it to the secretary of the N.C. Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture for review.

A copy of the draft amendment can be downloaded at the N.C. Division of Marine Fisheries website at:

[http://www.ncdmf.net/fmps/downloads/DRAFT-Amendment%201 %20SouthernFlounderFMP_PublicMeetings.pdf](http://www.ncdmf.net/fmps/downloads/DRAFT-Amendment%201%20SouthernFlounderFMP_PublicMeetings.pdf)

Batsavage’s presentation can be found at <http://www.ncdmf.net/mfc/presentations.html>.

Motion by Mac Currin to send the draft Southern Flounder Fishery Management Plan Amendment 1 to public meetings, seconded by Darrell Taylor - motion passes unanimously.

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 2010 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 the 12-inch minimum size limit for spotted seatrout, seconded by Anna Beckwith - motion passes, 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 2010 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 3J 103 (3,000-yard maximum yardage rule for large-mesh gill nets), seconded by Darrell Taylor - motion passes, 7-1.

License Eligibility Pool Report

The commission voted to keep the cap on the number of standard commercial fishing licenses that can be issued to 8,896, the maximum allowed by law. There are 1,420 of these licenses available through the Eligibility Board for 2010-2011.

Motion by B.J. Copeland to approve 1,420 licenses be available to the eligibility pool subject to the changes that may be recommended by the Commercial Fishing License Review Taskforce, seconded by Joe Smith - motion passes unanimously.

Coastal Habitat Protection Plan

Coastal Habitat Protection Plan Coordinator, Jimmy Johnson, gave the commission an overview of the public comment received regarding the 2010 revision to the plan. The draft updated plan follows the same organizational format as the initial plan, with additional focus on fisheries ecosystems management. He then highlighted new information, status, accomplishments and priority needs contained the draft plan.

To access information about the Coastal Habitat Protection Plan visit:

http://www.onencnaturally.org/pages/CHPP_Overview.htm

Motion by B.J. Copeland to approve the Coastal Habitat Protection Plan as amended and to send it to the secretary of the Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture for review and comment, seconded by Anna Beckwith - motion passes, 7-1.

Director's Report (continued)

Legislative Update - Director Daniel reviewed the status of various fisheries-related bills that were introduced in the 2010 legislative session that passed, which includes:

Session Law 2010-15 (HB 1710/S 1277) – Fishery Management Plan Supplements -

This bill provides an expedited process by which the Marine Fisheries Commission may supplement fishery management plans, allowing temporary management measures to be implemented until a fishery management plan amendment can be completed.

HB 1711/S 1271 – Study FMP Process - This bill directs the Division of Marine Fisheries to study the fishery management plan process for efficiencies, without impairing the public input process. This language was included in **S 900 - The Studies Act of 2010. Part XX, Section 20** - The division shall study the FMP development process and shall specifically consider how the process could be made more efficient without impairing public input into the process. The division shall report its findings and recommendations, including any legislative proposals, to the JLCSA no later than October 1, 2010.

HB 1712/S 1272 – Extend Credit for Oyster Shell Recycling - This bill extends the sunset provision for tax credit for oyster shell recycling to Jan. 1, 2013. The sunset had previously been Jan. 1, 2011. This language was included in **HB 1973 – Modification of Existing Economic Development Incentives**.

Session Law 2010-13 (HB 1713/S 1275) – Improve Success of FMPs - This bill requires each fishery management plan specify time periods for ending overfishing (two years) and achieving a sustainable harvest (10 years) and includes a standard of at least 50 percent probability of achieving a sustainable harvest.

HB 1714/S 1269 – Suspension and Revocation of Fishing Licenses – The bill gives the Marine Fisheries Commission authority to create rules to refine the current fishing license system to enhance license suspensions, revocations, and re-issuances for both commercial and recreational fishermen.

S 900 - The Studies Act of 2010, Part XI, Section 11.1. - The Joint Legislative Administrative Procedure Oversight Committee may study the impact of exempting the Wildlife Resources Commission and the Marine Fisheries Commission from the legislative disapproval process under the Administrative Procedure Act. In conducting the study, the Committee may consider the number of bills to disapprove rules adopted by either of the two Commissions that have been introduced since 2003, the effect of the delayed effective dates on the enforcement capabilities of the two Commissions, and alternatives available to the public for objecting to rules adopted by either of the two Commissions. The Joint Legislative Administrative Procedure Oversight Committee may report its findings and recommendations to the 2011 General Assembly.

Spotted Seatrout FMP Conflict with Session Law 2010-13 (H.B. 1713) - Director Daniel reported that in the fall of 2009, the Marine Fisheries Commission unanimously supported passage of a bill to improve the success of fishery management plans (FMP), which ultimately became HB 1713 – Improve the Success of FMPs. At that time, the Spotted Seatrout FMP was

mid-way through its development process. This FMP was delayed for several months due to additional stock assessment work that was requested and state-mandated budget and travel restrictions.

The commission adopted the draft Spotted Seatrout Fishery Management Plan on May 13, 2010 to send forward to the Department of Environment and Natural Resources secretary and the Joint Legislative Commission of Seafood and Aquaculture (JLCSA) for review and comment; however, the JLCSA was not scheduled to meet until the fall to review this FMP. For all intents and purposes, this step typically concludes the development phase of a fishery management plan and it then moves into the administrative processing phase, where rulemaking is conducted.

On June 23, 2010, Governor Perdue signed Session Law 2010-13 – An Act to Improve Success of FMPs. The act was effective when it was signed into law and provides each fishery management plan must:

- End overfishing within two years of adoption of a plan;
- Achieve sustainable harvest within 10 years of adoption of a plan; and
- Include a standard of at least 50 percent probability of achieving a sustainable harvest.

After review of the legislation, and as the FMP was being prepared to be sent to Department of Environment and Natural Resources for the initial review, Director Daniel realized there would be a conflict between the Spotted Seatrout FMP and Session Law 2010-13, because management measures contained in the FMP were not designed to end overfishing within two years of final adoption of the plan.

Director Daniel discussed the need for a clarifying amendment to exempt the Spotted Seatrout FMP from the requirement to end overfishing in two years. He said if this standard was to apply to the Spotted Seatrout FMP, the two-year FMP development process would essentially have to start over and he did not feel that was not the intent of the legislation.

Motion by B.J. Copeland to send a letter to the Joint Legislative Commission on Seafood and Aquaculture requesting clarification on Session Law 2010-13 – Improve Success of Fishery Management Plans (H.B. 1713), seconded by Darrell Taylor - motion passes, 6-3.

Sea Turtles – The commission authorized Director Daniel to delay opening Core Sound and modify the opening of Pamlico Sound Gill Net Restricted Area to large mesh gill net fishing to maximize harvest of southern flounder.

Core Sound may reopen Sept. 1 to large mesh gill net fishing under specific gear and harvest time restrictions detailed in a lawsuit settlement agreement. These restrictions include the use of low-profile nets of no more than 15 meshes in height that may be set only at night on Monday, Tuesday, Wednesday and Thursday, and retrieved the following morning. The restrictions limit fishermen to a total of 2,000 yards of gill net per vessel that may be set in 100-yard lengths with at least 25 yards between the separate lengths of net.

The Pamlico Sound Gill Net Restricted Area may open Sept. 1, with less restrictive gear measures, under provisions of a federal Incidental Take Permit (Section 10 Permit).

Director Daniel expressed concern that if he opened these areas as soon as allowed, the number of interactions with sea turtles would result in a quick closure of both areas so that fishermen missed the more productive flounder harvest that typically occurs later in the month.

The commission authorized Director Daniel to adjust the seasons based on his analysis of historical flounder landings in the areas, with the caveat that the Pamlico Sound Gill Net Restricted Area would remain open under the lawsuit settlement measures.

Motion by Joe Smith to accept the modifications to the sea turtle settlement agreement, seconded by Anna Beckwith - motion passes unanimously.

Motion by B.J. Copeland to authorize adjusting the opening of the Core Sound and Pamlico Sound Gill Net Restricted Area, under the settlement agreement conditions, based on sea turtle presence and trip ticket information, seconded by Darrell Taylor - motion passes unanimously.

Snapper-Grouper/Hog Snapper – The commission recommended Director Daniel implement trip limits on certain snapper/grouper species in an effort to extend North Carolina’s commercial snapper/grouper fishing season.

The snapper/grouper fishery in the South Atlantic is under stringent federal regulations. Waters off southern Georgia and northern Florida are closed to all hook-and-line snapper/grouper fishing. Strict aggregate quotas are in place for other waters, so that if the limit on one species is caught, fishing closes for the entire shallow water grouper complex.

The commission asked Director Daniel to reissue an earlier proclamation implementing a 1,500-pound per day commercial trip limit on shallow water snapper/grouper species, of which 500 pounds per day can be gag or black grouper, and amend the commercial hog snapper harvest restrictions in the proclamation to allow a 150-pound per day commercial limit, up to 750 pounds per multi-day trip. The commission also asked Director Daniel to lower the recreational bag limit on hog snapper.

Motion by B.J. Copeland to recommend the Division of Marine Fisheries director re-issue a proclamation to limit hog snapper to 150 pounds per day, up to 750 pounds per trip, and to lower the recreational bag limit to two fish, seconded by Mac Currin - motion passes unanimously. **(see below)

The meeting adjourned.

2010 Meeting Schedule:
Nov. 3-5 in New Bern

** Before the above referenced proclamation was issued, the Division of Marine Fisheries received many phone calls from recreational divers who target hogfish questioning why the proposed actions were being taken. Many people were unaware the issue was going to be deliberated and voted on at the commission meeting and they expressed they would have like to have commented, but felt they were not given adequate notice that the issue was being discussed. They also questioned why we were being more restrictive than Florida, which has a five-fish bag limit, and if we had stock assessment information and data that indicated such restrictive actions needed to be taken.

After much consideration Division of Marine Fisheries Director Louis Daniel decided to issue a proclamation allowing a five-fish recreational limit – go to <http://www.ncdmf.net/procs/procs2k10/FF-65-2010.html> to view the proclamation. During the commission meeting there was discussion of having the limit fall anywhere between two fish and five fish, but the motion was ultimately for two fish. Director Daniel felt that the five-fish limit still affords the stock protection and is more defensible given the lack of assessment data.