

**THE MFC ADVISER**  
**Marine Fisheries Commission Called Meeting**  
**Crystal Coast Civic Center in Morehead City, North Carolina**  
**Nov. 22, 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](mailto:nancy.fish@ncdenr.gov) or by phone at 252-808-8021 or 1-800-682-2632.

The commission held a called meeting at 1 p.m. on Nov. 22 at the Crystal Coast Civic Center in Morehead City, North Carolina. The following commission members were in attendance: Rob Bizzell-Chairman, B.J. Copeland-Vice Chairman, Anna Beckwith, Mikey Daniels, Edward Lee Mann, Joseph Smith, Bradley Styron and Darrell Taylor. Mac Currin had an excused absence due to a death in the family.

**BUSINESS MEETING - MOTIONS AND ACTIONS – NOV. 22**

Chairman Rob Bizzell convened the Marine Fisheries Commission business meeting at 1 p.m. with an invocation, followed by the Pledge of Allegiance and a reminder to commissioners of their ethics requirements. All members were present, except Mac Currin.

Chairman Bizzell explained that a meeting of the commission could be called at the request of at least four members and that Bradley Styron, Mikey Daniels, Edward Lee Mann and Joe Smith made the following request:

That the Chairman call a special meeting of the full N.C. Marine Fisheries Commission to discuss the spotted seatrout harvest reductions imposed on the commercial sector and explore other options. Also, at this time we would like to explore the possibility of allowing menhaden fishing in the area from Cape Lookout to the South Carolina line in state waters 0-3 miles.

**Motion by Bradley Styron to approve the agenda, seconded by BJ Copeland - motion passes unanimously.**

Chairman Bizzell said over the last few weeks he had received numerous e-mails from various constituencies commenting on the menhaden and spotted seatrout issues. He provided the division with copies of the 249 e-mails he had received to be kept with the meeting files.

**Public Comment**

**Ken Seigler**, a commercial fisherman from Hubert, said he did not support a commercial closure for spotted seatrout because that made the fish available to only one user group and he did not feel it was right to not allow the harvest of cold stunned fish because if they could not be harvested they would lie in waste. Seigler then read a statement from **Richard Mullis**, a recreational fisherman from Hubert, who felt the commercial rules being proposed for spotted seatrout were unfair; that the consumer would lose access to the fish; and that if the season had to be closed, to close it to all user groups.

**Jill Toler**, a recreational fly fisherman from New Bern, said she was opposed to reopening menhaden purse seining south of Cape Lookout and wanted the commission to approve sustainable harvest measures for spotted seatrout.

**Ernest Humphrey** from Jacksonville said if you closed the season for harvest of spotted seatrout to one group, it should be closed to all groups.

**Jimmy Kellum**, commercial fisherman from Weams, Virginia, said he was the one that requested the menhaden issue be put on the agenda for this meeting. He said he was fishing for crab bait and did not want to capture game fish. Kellum said the current agreement/restrictions for menhaden were too limiting and pointed out there was a severe shortage of crab bait on the market. He said he would be willing to agree to only land his catch in North Carolina and would make it available for only North Carolina and Virginia fishermen. He also pointed out that he and his crews would be buying fuel and supplies here in North Carolina and that would help the local economy. Kellum said he had spoken with Jule Wheatly about this issue.

**Roy Watson**, commercial fisherman from Hobucken, said he does not feel anything needs to be done with spotted seatrout, there are plenty of fish.

**Jerry Warren**, a commercial fisherman from Grantsboro, the majority of spotted seatrout are caught during the times being considered for a closure and that will greatly impact his income.

**Jacob Darna**, a commercial fisherman from Grantsboro, said there are plenty of spotted seatrout and these measures are not needed and will hurt the economy.

**Steve Ammons**, executive director of the Coastal Conservation Association – North Carolina (CCA-NC), said his organization's stance on spotted seatrout has not changed from the last meeting; but, if the commission insists on using half measures for the plan, it should go with the option selected at its Nov. 3-5 meeting. In regard to menhaden, the CCA-NC opposes reopening the harvest south of Cape Lookout.

**Jim Hardin**, a recreational fisherman from Greenville, said he opposes reopening the harvest of menhaden with purse seines south of Cape Lookout.

**Chris Elkins**, a recreational fisherman from Gloucester and Shellfish Advisory Committee member, said he opposes reopening the harvest of menhaden with purse seines south of Cape Lookout and expressed concerns about the potential for red drum bycatch in this fishery.

**Joe Shute**, bait shop owner/guide in Atlantic Beach, said he opposes reopening the harvest of menhaden with purse seines south of Cape Lookout, pointing out the menhaden are forage for the bluefin tuna fishery. Regarding spotted seatrout, Shute supports the recreational recommendations from the advisory committee and said there were plenty of small speckled trout.

**Britton Shackelford**, President of N.C. Waterman's United Association, said his organization was opposed to the spotted seatrout harvest reductions passed at the last commission meeting. He said the spotted seatrout stock assessment was subjective, the wrong model was used and does not reflect reality, and there are plenty of spotted seatrout.

**Buck Cuthrell**, commercial fisherman from Aurora, said if there was a spotted seatrout closure, it should be for all user groups, including inland waters. He also said it was not fair that commercial fishermen can't go into the headwaters and upper reaches of creeks, but that the recreational fishermen can go there in increasingly larger numbers. He handed out photos of a boat ramp at Campbell's creek to show the numbers of recreational trucks/trailers at that site.

**Leland Tetterton**, commercial fisherman from Hobucken and Central Advisory Committee member, said the recreational fishermen are the ones overfishing spotted seatrout and that the proposed commercial spotted seatrout restrictions will destroy livelihoods and impact a food source.

**Kim Sadler**, commercial fishing family from Alliance, said if the spotted seatrout fishery was depleted, then shut the season down for everyone and that it was a form of discrimination to shut it down for just the commercial fishermen. She said commercial fishermen feed the world.

**George Howard** from Jacksonville said he hoped the commission was listening to what the public was telling them.

**Dean Lamont**, recreational guide from Emerald Isle and Central Advisory Committee member, said he supported spotted seatrout measures that were equitable and allowed a sustainable fishery and opposed reopening the harvest of menhaden with purse seines south of Cape Lookout and expressed concerns about the potential for red drum bycatch in this fishery. Lamont closed by saying he would like menhaden harvest to be closed in all state waters because it is such an important forage fish.

**Buzz Frederick**, commercial fisherman from Swansboro, said if the spotted seatrout stock was in such bad shape harvest should be closed to all groups and he expressed concern about the recreational bycatch mortality. He said he had contacted the ACLU regarding the proposed restrictions.

**John Skinner**, a commercial fisherman from Newport, said he would not make it through the winter if there was a season closure for spotted seatrout, but that he could support a weekend closure. He said the commission needs to let people fish and make a living.

**Terry Pratt**, president of the Albemarle Fisherman's Association and Northeast Advisory Committee member, said the spotted seatrout stock is increasing and that it would be impossible to end all overfishing – nature won't allow it. He said the commission should go back to the status quo with spotted seatrout.

**Bill Hooper**, commercial fisherman from Beaufort, questioned the bycatch mortality estimates and said if there is a spotted seatrout closure it should be for all user groups. He also said during a cold stun in Smyrna Creek that nine out of 10 fish were dead and it would be a waste of the resource if they could not be harvested.

**Sean McKeon**, president of the North Carolina Fisheries Association, said regarding spotted seatrout that the stock assessment is flawed, people were putting their pleasure over other people's livelihoods, and the real issue was about user conflicts and loud mouths. With the menhaden issue, he said Omega Protein has nothing to do with the request being considered today.

**Jean Merritt**, commercial fisherman from Jacksonville, said she had a petition with over 8,100 names on it stating that consumers did not want spotted seatrout taken off the market and that she supported the commercial reduction to be a 14-inch fish, and year-round weekend closures.

**Ken Eiler**, recreational fisherman from Harkers Island, said to do what is fair to both user groups but that the commission needed to look at the economics of fishing, and that recreational fishing brings in more money than commercial to the economy of the state.

**George Patrick** from Hubert said there was not a problem with spotted seatrout and he opposed a Dec. 15 – Feb. season closure.

**Eric Harmon**, recreational and commercial fisherman from Avon, said every time there was an FMP, that the commercial fishermen took and cut and never got anything back. He said the spotted seatrout stock assessment needed to be redone.

**Hiram Guidolia**, commercial fisherman from Hampstead, said he did not support a Dec. 15 – Feb. commercial closure and recommended closing the season in August. He also said if you close the season for one user group you should close it for all for spotted seatrout. He also recommended giving certain days to recreational fishermen and others to commercial fishermen to avoid user conflicts.

**Lee Parsons**, guide service in Wilmington, said for spotted seatrout to close the creeks if that's what is needed, reduce the recreational limit to five fish and deal with bycatch in the larger fisheries. He said he did not want menhaden purse seiners here again.

**Buddy O'Neal**, commercial fisherman from Avon, said there were creditability issues with the spotted seatrout stock assessment, which says the stock is depleted but we have had the highest landings on record in the last few years and there are spotted seatrout everywhere. He also said there was a problem with fairness because the commission was considering a season closure for commercial fishermen, while allowing recreational fishermen to still keep six fish and that creel limit was the average number of spotted seatrout anglers typically caught, so it was not a real reduction.

**David Keilmeier**, commercial fisherman from Morehead City, said he supports the request to allow menhaden fishing south of Cape Lookout. He said it is a traditional fishery and how crabbers get bait.

**William Morris**, commercial fisherman from Stella, said the commission must figure out a way to do the right thing for the general public and that the restrictions need to be fair. He said spotted seatrout was the only money fish that many people have right now.

**Chuck Laughridge**, recreational fisherman from Harkers Island, said the commission should abide by the law and there was no reason to exempt spotted seatrout from Session Law 2010-13 (H.B. 1713) – Improve Success of FMPs.

**Willis Warren**, recreational fisherman from Greenville, said the job of the commission was not job creation and that spotted seatrout harvest reductions needed to be equitable and that a recovered resource will help everyone. With menhaden, he said the boats are from Virginia and any revenues produced would go back to Virginia.

**David Hilton**, Ocracoke Working Waterman's Association, said the Spotted Seatrout FMP has done nothing to address the rate of effort in the recreational fishery, that aggregates up in the creeks needed to be protected and that a complete commercial closure is wrong. He did not feel spotted seatrout should be a bycatch fishery and said that commercial effort was minimal.

**Tilman Taylor**, commercial fisherman from Sea Level, said he opposed a commercial closure for spotted seatrout. During the winter spotted seatrout was the only fishery fishermen could count on other than oysters. For menhaden, he said his freezers were empty of crab bait and that bait was very expensive right now and that crabbers are struggling, so he thought opening the water south of Cape Lookout would be helpful.

**Dick Hamilton**, recreational fisherman from Belhaven and representing the N.C. Wildlife Federation, said regarding menhaden, that the current agreement with Omega Protein seemed to be working well and waters south of Cape Lookout should not be reopened to purse seining. He said he Session Law

2010-13 (H.B. 1713) – Improve Success of FMPs and that the new legislature will probably not exempt the Spotted Seatrout FMP from this law. Hamilton closed by saying that spotted seatrout are robust and will come back if given the proper management.

**Maurice Mann**, commercial fisherman from Maysville, said it seemed the commission was trying to put commercial fishermen out of business. He said the commission should let people fish and leave things alone.

**Jerry Warren**, commercial fisherman from Grantsboro, spoke again, and asked how the commission came up with a season closure when the advisory committee recommended a weekend closure.

**Chris Wettberg**, a fishing guide from Harkers Island, said he had previously fished commercially in Alaska. He recommended the commission consider creating fishing zones and have a zone closure when the stock in that area was depleted – this is how they were able to recover several stocks in Alaska. He also said that slot limits protected the bigger fish and allowed them to spawn and that circle hooks might also help in relation to spotted seatrout. He also said the commission might want to consider closing creeks and rivers to spotted seatrout harvest in the winter.

**Ryan Sinclair**, Holly Ridge, said that the commission has not done its job by looking after spotted seatrout and that it was all a money game – the commercial fishermen don't have the money and the recreational fishermen do. He said if the season had to be closed for one group, it should be closed to all.

**Sandra Gaskill**, commercial fisherman from Harkers Island, expressed concern about the local economy if the proposed commercial restricts for sea trout go into effect. She said commercial fishermen need to feed their families.

### **Menhaden**

Division of Marine Fisheries Director Louis Daniel said he wanted to inform everyone that the request to open the menhaden fishery south of Cape Lookout did not come from Omega Protein out of Reidsville, Virginia, as many people have assumed. Rather, the request came from a company called Ocean Bait, also out of Virginia, that wants to come down to fish for bait in much smaller boats than Omega Protein would typically use. Director Daniel advised the commission that the Atlantic States Marine Fisheries Commission has now declared menhaden overfished and the stock is listed as “concerned” and a coast-wide harvest cap is being contemplated. Director Daniel said he had also received many e-mails requesting the menhaden season be delayed until after the bluefin tuna season is over, because tuna feed on menhaden.

B.J. Copeland asked if there wasn't enough room to catch bait under the parameters of the Omega Protein agreement that limited areas and times when the company could fish for menhaden off the N.C. coast. Director Daniel replied that smaller boats, like those that would be used by Ocean Bait, want to be able to fish in the lee of Cape Lookout during bad weather.

Bradley Styron explained that the cost of bait, which is used by crabbers, was very high right now and he felt it would be beneficial to N.C. fishermen and to the local economy to allow the expansion of the menhaden fishery south of Cape Lookout.

B.J. Copeland questioned if we could allow this fishery by permit and require that the bait only be sold in North Carolina. Director Daniel responded by saying that would be considered limited entry and the commission did not have that authority, and the commission could not require that the bait only be sold in North Carolina – that would be interfering in interstate commerce.

Both Anna Beckwith and Darrell Taylor expressed concern about taking this action because the menhaden stock is overfished.

There was discussion about user conflicts between the menhaden purse seines and recreational boats that had occurred in the past and that opening up additional areas to menhaden fishing might rekindle some of those disputes.

It was suggested that a tonnage limit or a restriction on the size of the commercial vessel could help alleviate some of the concerns various commission members had with the request.

After considerable discussion, the commission did not endorse opening the waters south of Cape Lookout to the commercial harvest of menhaden by purse seines.

**Motion by Bradley Styron to accept Ocean Bait’s request to allow the commercial harvest of menhaden by purse seines south and west of Cape Lookout within three miles for vessels up to 140 feet long, exempting Brunswick County, seconded by Mikey Daniels - motion fails 4-3.**

### **Spotted Seatrout Fishery Management Plan**

Chairman Bizzell advised the commission it would take six votes to rescind the motion made at the Nov. 3-5 commission meeting that required a 14-inch minimum size limit and closing the commercial fishery from Dec. 15 – Feb. 28 for the spotted seatrout. Rescinding a motion made at a previous meeting requires a 2/3 majority according to Robert’s Rules of Order.

Division biologist Beth Burns presented an overview of the sustainable harvest measures the commission adopted at its Nov. 3-5 meeting for the draft Spotted Seatrout Fishery Management Plan. She also reviewed a suite of additional options for the commercial fishery that would meet the target of a 28.5 percent harvest reduction, which included a 14-inch minimum size limit, and:

- 150-pound daily trip limit = **32.0 percent reduction**
- 200-pound daily trip limit = **26.3 percent reduction**
- Dec. 1 – Jan. 31 season closure = **29.9 percent reduction**
- Feb. 1 – Aug. 31 season closure = **31.8 percent reduction**

- Dec. 15-Feb. 28 season closure = **28.1 percent reduction**
- Commercial quota/all gear (173,981 pounds) = **28.5 percent reduction**
- Commercial quota/high volume gear (stop nets - 4,595 pounds; beach seines – 5,139 pounds; long haul seines/swipe nets – 22,930 pounds; All other gears – 100 pounds per operation per day or 200 pounds per person per week) = **28.5 percent reduction**
- Annual trip limits/high volume gear (stop nets - >500 pounds per operation per day or 2,100 pounds per person per week; beach seines – 150 pounds per operation per day or 300 pounds per person per week; Long haul/swipe nets – 350 pounds per operation per day or 700 pounds per person per week; All other gears – 100 pounds per operation per day or 200 pounds per person per week) = **28.5 percent reduction**
- Weekly gill net trip limit – 200 pounds per person per week (High volume fisheries have annual quota or trip limit option, All other gears – 100 pound per person per week) = **28.5 percent reduction**
- Gill net seasonal trip limit – (March through Oct. – 25 pounds per operation per day; Nov. through Feb. – 300 pounds per operation per day; High volume fisheries – annual quota or trip limit; All other gear – 100 pounds per person per week) = **28.5 percent reduction**
- Year-round weekend closure – no possession and Nov. through Feb. all gear out of water = **29.7 percent reduction**
- Year-round weekend closure – no possession and gear in water, assumes 25 percent encounter rate and includes 2.8 harvest reduction from the sea turtle settlement agreement = **28.2 percent reduction**

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

Mikey Daniels questioned the spotted seatrout stock assessment, saying it was not right. He asked how the division could tell what was underwater and said the commercial sector was not overfishing with a .23 percent mortality rate. He said the commercial fisherman is getting punished and that the commission had never voted on the stock assessment and that was not right. Mikey Daniels said the commission should support status quo for the commercial sector because commercial fishermen needed money and the commission needs to give something back.

Director Daniel said that stock assessments and population dynamics were hard to explain, but that the division had had the stock assessment peer reviewed by outside stock assessment specialists. In regards to the mortality rate that Commissioner Mikey Daniels had discussed earlier, Director Daniel said a .23 percent mortality rate for the commercial sector simply indicated that commercial fishermen were taking approximately 1/4 of the spotted seatrout harvest. Director Daniel said a 28.5 percent reduction for the recreational sector would be three times greater than a 28.5 percent reduction in the commercial sector because the recreational sector caught roughly 3/4 of the spotted seatrout harvest. Director Daniel said he had great hopes that the 14 inch size limit, which has already been implemented will go a long way in helping the stock recover.

Joe Smith said the commercial sector had been greatly impacted by the sea turtle settlement agreement and questioned what is being taken from the recreational people. Smith said he had been in the commercial industry to over 40 years and it is going down and there are not many fishermen left. He wanted to know who checked the recreational fishermen and if the division knew the numbers of fish recreational anglers were catching. Smith said he thought the division director needed to focus on the recreational fishery and that he thought they should have to complete trip tickets or be required to use tags for recreationally-caught fish.

Bradley Styron responded that the division checked ramp landings and used surveys to determine an estimate of the recreational catch and effort, but that the commercial trip ticket program captures about 95 percent of the commercial catch data. Styron then talked about large amounts of discard mortality in the recreational fishery and said that was not right.

Director Daniel said with all due respect that the advisory committee, which was comprised of recreational and commercial members, was asked was asked to come up with a 28.5 percent reduction and recreationally, they selected the 14-inch fish with a six fish bag limit and that commercially, they selected a weekend closure with all gear out of the water. Director Daniel also reminded the commission they receive a law enforcement update at each commission meeting and citations are being written to both recreational and commercial fishermen. He said the division is trying to develop educational opportunities to make recreational fishermen aware that one out of every 10 spotted seatrout they catch will die.

**Motion by Darrell Taylor to amend B.J. Copeland's motion made Nov. 5, 2010 to close the commercial fishery from Dec. 15 to Feb. 28 by striking the words "from Dec. 15 to Feb. 28" and inserting the words "on weekends from Dec. 1 to Feb. 28 and the gear remains in the water," seconded by Joe Smith - motion fails 5-3.**

After the vote there was discussion about having a year-round weekend closure for the commercial fishery, with the gear staying in the water. Chairman Bizzell questioned division biologist Beth Burns, asking her if this alternative would achieve the needed commercial reduction called for in the plan and she responded that it would.

Bradley Styron questioned what it would be next year. He said people wanted to go fishing. Styron had a former NMFS scientist, Alan Powell, review the assessment and he said the only action that was needed to recover the stock was a 14-inch size limit. Every time we come to a meeting, Styron said, the commercial people lose. He said he was not against the recreational fishermen, but if the numbers were run you would see the recreational mortality is not conservation. He said the commercial fishermen are being persecuted and the recreational sector is exploding. Styron said the actions being taken were not right.

Darrell Taylor said he had heard from numerous commercial fishermen and this was their suggestion to have the weekend closure. These are tough issues he said, but that the commission

has to act. Taylor said he believed in the science and that when a group of people comes to him and are willing to compromise, he was going to listen to them.

Bradley Styron responded that they are telling you the lesser of two evils.

Mikey Daniels said the commission does not have to go with this option, they can reject it.

The commission decided the commercial harvest of spotted seatrout (possession and sale) will be prohibited year-round on weekends (from midnight on Friday to midnight on Sunday each week) and that the current 14-inch minimum size limit will remain in effect in order to meet the harvest reductions required in the Spotted Seatrout Fishery Management Plan. This action replaces the previous vote to close the commercial spotted seatrout season from Dec. 15 through Feb. 28.

**Motion by Darrell Taylor to amend B.J. Copeland's motion made Nov. 5, 2010 to close the commercial fishery from Dec. 15 to Feb. 28 by striking the words "from Dec. 15 to Feb. 28" and inserting the words "on weekends year-round and the gear remains in the water," seconded by Joe Smith - motion passes 7-1.**

**Motion by B.J. Copeland to establish a task force to bring recommendations about how to reduce recreational unintended catch, including consideration of closure two days per week, ethics, barbless hooks, education, limits, etc., to be presented at a 2011 Marine Fisheries Commission meeting, seconded by Joe Smith - motion passes unanimously.**

The meeting adjourned.