

THE MFC ADVISER
Marine Fisheries Commission Business Meeting
The Hilton Riverfront Hotel in New Bern, North Carolina
November 3-5, 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 November 3, followed by a business meeting November 4-5 at the Hilton Riverfront Hotel in New Bern, 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 – NOVEMBER 3

The public meeting began at 6 p.m. and 16 individuals spoke. The public can speak on any fisheries issues they want to address with the commission.

Seth Vernon, a guide and charter boat captain out of Wilmington and a member of the commission's Southeast Advisory Committee, talked about southern flounder and spotted seatrout being overfished and encouraged the commission to make science-based decisions. He said if the commission did not subscribe to science-based decision making that our fisheries will face eventual collapse and the jobs and enjoyment our waters provide will be lost to everyone. He said too many stocks were overfished and there were not enough viable stocks. He said it would be bad to ask the General Assembly to overturn Session Law 2010-13 (H.B. 1713) and that the commission should manage for the benefit of all user groups and make the right decisions now.

Dick Hamilton, of the N.C. Wildlife Federation (NCFW), said this year the NCWF reaffirmed its concern and intention to participate in decisions related to the well being of our marine fishery resources in a resolution adopted on May 8, 2010. He said the NCFW calls 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. The federation asked the commission to enact restrictions on recreational and commercial fishing to spotted seatrout 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. Hamilton said the NCWF supports the management option to reduce the daily

bag to two fish with a size limit of 14 inches for recreational fishermen and a 50-pound trip limit for commercial fishermen as presented in the draft Spotted Seatrout Fishery Management Plan.

Joe Albea of Greenville, and a member of the Coastal Fisheries Reform Group, said his organization supports reducing fishing mortality in the spotted seatrout fishery by 57 percent to end overfishing within two years and put the stock on the road to recovery and sustainability. To achieve this they support a 14-inch size limit, a two-fish recreational bag limit and a 50-pound commercial daily trip limit. Albea says his group does not support ending overfishing by $\frac{3}{4}$ or $\frac{1}{2}$ for the spotted seatrout fishery and those are not proper options for the commission to consider. The option of limiting commercial fishing to week days only is unpredictable and should not be used as a management option. Albea told the commission to do their job as required by law and end overfishing in two years or face the consequences of breaking the law and endangering our valuable spotted seatrout fishery. He then talked about a letter the commission had agreed to send requesting a full environmental impact statement on BT-9 and BT-11, saying that letter had been watered down. He ended by telling the commission people are watching what you are doing.

Bert Owens of Beaufort, questioned why the commission would want to exempt the Spotted Seatrout Fishery Management Plan from the two-year requirement to end overfishing found in Session Law 2010-13 (H.B. 1713). He told the commission they take an oath when they accept the position as a Marine Fisheries Commissioner that that will protect the fishery resources and they need to keep that vow.

Bill Mandulak, representing the Coastal Conservation Association of North Carolina (CCA-NC), said his organization had concerns regarding spotted seatrout and they feel the proposed harvest restriction are insufficient to end overfishing in two years and are illegal under Session Law 2010-13 (H.B. 1713); that the proposed reductions are insufficient to attain a sustainable harvest in 10 years; the proposed reductions are contradictory to the commission's FMP policies and the law that say FMPs must have 50 percent chance of success and that the proposed reductions are inequitable between commercial and recreational fisheries. The CCA-NC does not support exempting the Spotted Seatrout FMP from Session Law 2010-13 (H.B. 1713). Mandulak reported his organization does support equitable harvest reductions for both sectors; reductions that will end overfishing in two years followed by a stock assessment; supporting the Division of Marine Fisheries director authority to close or modify harvest for cold stun events; implementation of near real-time trip ticket data of commercial harvest and establishing of a TAC to prevent overharvest. In regard to southern flounder the current FMP does not take into account the various shifts in commercial effort and gear and the fishery must be carefully monitored to end overfishing and there are inequities in size limits for user groups. The CCA-NC supports a recreational bag limit of three fish at 14 inches; a 14-inch commercial size limit; the current FMP and turtle settlement rules for the gill net fishery; implementation of near real-time trip ticket data of commercial harvest and establishing of a TAC to prevent overharvest; the expense of an sea turtle observer program to be borne by affected gill net fishermen; and annual

monitoring of flounder harvest and immediate adjustments in response to overfishing. In regards to oysters the CCA-NC is opposed to any increase in the deep water dredge fishery and feels an integrated program is needed to expand oyster seed management areas and that conservation agencies should have access to public oysters for sanctuaries.

Chuck Laughridge, a recreational fisherman from Harkers Island, told the commission they had the opportunity to manage our fisheries properly under the new Session Law 2010-13 (H.B. 1713) and said this was the most appealing fishery laws since the 1997 Fisheries Reform Act. He asked the commission why they would not want to end overfishing of spotted seatrout. He said he felt that the plan would not have to start over from scratch if the commission were to go ahead and move forward with ending overfishing in two years. He urged the commission to do their job and abide by state law and rescind its request for a clarifying amendment to Session Law 2010-13 (H.B. 1713) that would exempt the Spotted Seatrout Fishery Management Plan from the requirement to end overfishing within two years of the final adoption of the plan.

Tim Hergenrader of New Bern, said overfishing in the spotted seatrout fishery has been occurring for the last 18 years and the fishery management plan recommended equitable reductions from both user groups. He said the option the commission selected for the commercial fishery is not equitable. He also indicated that none of the recommendations will achieve the 57 percent reduction needed to end overfishing. He told the commission they could not cherry-pick the laws they wanted to abide by and they were morally obligated to uphold the law.

Sean McKeon, executive director of the North Carolina Fisheries Association, said he had received many calls from fishermen regarding the need to extend the flounder season for pound nets and gill nets and he encouraged the commission to extend the season like they did the previous year. He also said in regards to equitable reductions proposed in the Spotted Seatrout FMP, a 20 percent harvest reduction for both the commercial and the recreational sectors would not be equitable because there were no restrictions on the number of recreational fishermen that could participate in the fishery. McKeon called for the number of recreational anglers to be limited. He also said Session Law 2010-13 (H.B. 1713) was never intended to pertain to the Spotted Seatrout FMP. In regards to equitably, he asked why recreational fishermen could target red drum and commercial fishermen could not.

Dewy Hemilright, a commercial fisherman from Dare County, talked about the fishing economy. He said over 250,000 pounds of striped bass quota had not been harvest, there were many issues with small coastal sharks and black-nosed sharks that were unfair, that the 17-B closure will kill many livelihoods, and the potential threatened or endangered listing for bluefin tuna would have a great impact. He pointed out that North Carolina did get an exemption for four months for smooth dogfish, but that for several of those months the fish were not here. He said gill net closures to protect sea turtles are happening in areas where there have never been any interactions with turtles and these areas should be opened up. Hemilright said if these issues could be resolved it would mean several million dollars to North Carolina's economy.

Larry Gill, an oysterman from Hyde County, talked about a request to raise the oyster limit from 15 bushels per vessel to 30 bushels per vessel. He also said it would be good to require the oystermen to have their gear out of the water by 2 p.m. each day. He said part-time fishermen would follow him when he went oystering and it would not take him long to catch his limit and he would have to go back to the dock and then they would then to go the area where he was fishing. He said this was not fair and that should be able to stay there and harvest the oysters longer and make a day's work out of it. He said the division could closely monitor the fishery to ensure the area was not being overharvested. He said it was too easy to people to buy a shellfish license and the commission needed to look after the full-time professional.

Vernon Sadler, an oysterman from Hyde County, said he supported what Mr. Gill had said and that there needed to be a 30 bushel limit per vessel. He said the current limit was too low and the people watched where he went oystering and then went to that area when he left and he questioned why they should be able to do this to supplement their income.

Lyle Cahoon, an oysterman from Hyde County, supported what the previous two oystermen said and then told the commission there were serious safety concerns. He advised the commission that with the oyster limits so low you could not afford to pay a crew member to go out with you creating a dangerous situation because you are out there all alone. If you increase the limit allow per vessel, Cahoon said, you resolve the safety issue and keep that crew member employed.

John Hislop of Hubert, talked about how he has seen the commercial industry change over the years and there are so many fewer boats now. He also said the recreational industry is growing and that the economic impact of the recreational sector is greater than the commercial sector. He said the commission should follow the law and he compared the harvest of spotted seatrout between recreational and commercial fishermen, saying it was like the recreational fishermen were using a teaspoon to take fish out of the population, while the commercial fishermen were using a back hoe. Hislop then questioned the equity of allowing commercial fishermen to keep 10 red drum a day, while the daily limit for recreational fishermen is one red drum. He also said spotted seatrout needed to be brought back and most recreational fishermen will support this and that they are primarily catch and release people. Hislop closed by saying the commission needed to follow the law and do what it was charged to do.

Donald Willis, Jr., operates Custom Marine in New Bern, said he makes most of his money from recreational fishermen. He told the commission they needed to take steps to bring back all of our fisheries and they needed to make fair and equitable decisions.

Lee Parsons, who has an educational background in marine technology and biology, said he has nothing against commercial fishermen and in order to bring back spotted seatrout stocks all fishermen, commercial and recreational, needed to take a hit and the quicker that happened the better. He recommended a 16-inch minimum size limit for everyone. A five fish recreational bag limit with only two of those fish allowed to be over 24 inches, a June through September spawning season closure, bent barbs on treble hooks, and keeping commercial fishermen from

setting nets in the upper reaches of creeks when the water temperature is cold and the fish are concentrated. Parsons does not feel that the division is accurately capturing the amount of gigging effort that is taking place and he encourage the commission to do something fast.

Ray Brown of Goldsboro, said he was a recreational angler and a N.C. citizen said the commission was not predictable to the public. He said he had talked to his newly elected state senator and told him that fisheries are a natural resource of the state and we should not allow these assets to be overspent. He urged the commission to follow the law.

In response to inquiries raised during the public comment, **Chairman Rob Bizzell** said the issues related to BT-11 would be discussed later in the meeting, but that no firm decision had been made yet on that issue. Bizzell also said the commission was asking for a clarifying amendment to Session Law 2010-13 (H.B. 1713) because either the commission or the Division of Marine Fisheries realized that the Spotted Seatrout Fishery Management Plan would fall under this new law and that the commission would discuss the issue in more detail during the business session.

BUSINESS MEETING - MOTIONS AND ACTIONS – NOVEMBER 4-5

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

Motion by Anna Beckwith to approve the agenda, seconded by Mac Currin – motion passes unanimously.

Public Comment

Steve Etheridge, a commercial fisherman from Wanchese, said he was unsure of the specifics of the management options in the Spotted Seatrout FMP and he questioned if the commercial management option selected called for all commercial gear to be out of the water on the weekends and if that would include run-around gill nets. He was advised it would include all gears. Etheridge then asked that the commission please allow run-around or circle gill nets to be used on the weekends through November because they do not catch spotted seatrout in that fishery. He also questioned the percentage of harvest reduction commercial fishermen were taking because of the sea turtle settlement agreement.

Terry Pratt, a commercial fisherman from Merry Hill representing the Albemarle Sound Fishermen's Association, said that federal management agencies can be three, four or five years behind in their data and a fish stock can be recovered within this timeframe. He talked about fish harvest numbers fluctuating greatly and that this is due to environmental and climate conditions. He said federal fishery managers do not acknowledge this because they cannot control it and do not understand it. Pratt said the only reason the FMPs for spotted seatrout and southern flounder are continuing is to justify positions and budgets. The fisheries will be fine if we continue with the status quo, he said, but the Division of Marine Fisheries does not want to acknowledge that because it would lose positions and money. Pratt concluded saying the

Endangered Species Act will put fishermen out of business and it needs to be repealed and that critters were not more important than people.

Jerry Schill, of Cove City and co-chair of the Sea Turtle Advisory Committee, requested his name be withdrawn from consideration as a candidate for a seat on the Mid-Atlantic Fisheries Management Council. He said he did not want to lose friends over this and there were many qualified candidates already being considered. He talked about how North Carolina gained this seat on the council and said he felt this was an issue the commission could have taken up at its Feb. 2011 meeting.

Jimmy Ruhle, third generation commercial fisherman from Wanchese, with 46 years of fishing experience, said he would like to be considered as a candidate for North Carolina's obligatory seat on the Mid-Atlantic Fishery Management Council (MAFMC). He served 12 years on various MAFMC advisory committees and then served as one of North Carolina's representative on the MAFMC for nine years from 1999-2008. He also has been a member of the North Carolina Fisheries Association for over 20 years and is president of the Commercial Fishermen of America. Ruhle said he did an awful lot for North Carolina when he previously served on the MAFMC seat and that he worked hard to get monkfish permits for North Carolina fishermen. He said he knows the system and knows how to work it and that he has a very simple philosophy – do what is right for the resource and the rest is easy. He said he was sorry he was late in expressing interest in the seat, but several things had happened recently that made him feel like he would like to serve again: 1) The U.S. Secretary of Commerce has announced that he is going to be directing \$15 million for more cooperative research, which needs to happen, and 2) Pres Pate has been commissioned to do a full blown report on the councils and the regional processes and that indicates to him that there will be good changes made to the council process. He is currently participating in an inshore trawl survey and had the MAFMC on his boat to show them his work and both council members and the staff voiced how much they missed his knowledge and expertise on the council. He also cautioned the commission that catch shares are coming and they are agenda driven, not need-based. He said North Carolina could be totally disenfranchised by this process based on the years the MAFMC used to set up the system for its fisheries. Because North Carolina is on the edge of the range for MAFMC species, there are some years due to weather and other factors when our state has no significant landings for MAFMC species. If those particular years are used in setting up a catch share system, North Carolina could lose. He said you need someone who knows the system and the issues in that seat. Ruhle indicated he made a mistake by not letting the North Carolina Fisheries Association know he was interested in the seat and he was sorry for that. He reported that another fisheries organization had asked him to withdraw his name from consideration, but he had told them he would not.

Benny Bright of Chocowinity, said he had questions he'd like to ask the commission. He wanted to know if it was fair to give one group the right to fish all the time and take that right away from another group. Bright said if you give recreational fishermen seven days to fish and only give commercial fishermen three days to fish it was not fair. He reported there were gigged flounder laying all over the bottom of Courthouse Bay and that people were taking their limit to shore and then going back out and getting additional limits.

Gary Dubiel, who runs a guide service, said the recreational creel limit for spotted seatrout should be reduced and he asked that the commission have equitable harvest reductions among

user groups in this fishery in the FMP. He said he had seen an increase in the sub-legal spotted seatrout and that the commission should consider temporary means to protect that year class so it can rebuild.

Jean Merritt, a commercial fisherman from Jacksonville, said in regards to the Spotted Seatrout FMP that she agreed that the recreational creel limit should be reduced to six fish and that the size limit should be 14 inches for everyone. She said commercial fishermen target the larger fish and recreational fisher catch the smaller fish and there is much discard mortality when they highgrade. She said she would like to see a rule that say you cannot continue fishing once you have caught your limit. Merritt said the Spotted Seatrout FMP says the increase in overfishing is due to increased recreational pressure, so she does not understand why the plan recommends cutting back on the commercial harvest. The plan seems to be an effort to get commercial fishermen out of the way on the weekends so recreational fishermen can have full use of the water then. She said she would agree to a weekend closure if it was closed for everyone, commercial and recreational alike. She also felt recreational boats should only be allowed to catch two limits per boat. She did not see how the weekend small mesh net attendance from December through February would protect the stock and she ended by saying guides and charter boats are commercial enterprises and should have to follow the same rules as commercial fishermen – they are all making money off of the fish.

Ernest Humphrey, a commercial fisherman, said he would go along with laws to keep a species viable, but it seems the commercial fisherman is being targeted as the problem and that is not fair - there are many more recreational fishermen. He questioned why recreational fishermen could fish in nursery areas and not commercial fishermen. He said we should close the month of December for gigging. He asked the commission to remember that commercial fishermen are human and they have to make a living.

Issues from Commissioners

Briefing Books - Mikey Daniels said he would like to get his briefing book for the meetings earlier and he wants to have all the presentations and data in the books when they are mailed.

Hogfish - Commissioners questioned why the hogfish proclamation, issued after the August meeting in Wilmington, was different than what the commission directed. Director Daniel said that a motion had been made and passed recommending that he issue a proclamation implementing a two-fish per day recreational bag limit for hogfish. But before the proclamation was issued, the division received many phone calls from recreational divers who target hogfish questioning why we were going to take the proposed actions. Many were unaware the issue was going to be deliberated and voted on at the Wilmington meeting and they expressed they would have liked 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.

Director Daniel explained that after much consideration, and after consultation with the commission chairman, he decided to issue a proclamation allowing a five-fish recreational limit.

He reminded the commissioners that during the August meeting there was discussion of having the limit fall anywhere between two fish and five fish, but the motion by B.J. Copeland, and seconded by Mac Currin, was ultimately for two fish. Director Daniel said he feels the five-fish limit still affords the stock protection and is more defensible given the lack of assessment data.

Legislation - Mac Currin suggest with the recent changes in the General Assembly that the commission look carefully at bringing the joint enforcement agreement issue back up to see if it might be more palatable to the legislature now.

Chairman's Report

Executive Order 34 - The commission was reminded that Executive Order 34 mandates commissioners are required to attend at least 75 percent of all regularly scheduled meetings during the board's calendar year. Chairman Bizzell indicated there has not been an issue with attendance, but that he wanted to make sure the commission was aware of this requirement.

BT-11 Letter – Chairman Bizzell reported regarding the BT-11 letter the commission approved sending at the August MFC meeting, he had gotten a call him the Department of Environment and Natural Resources saying it was not the right time to send a request for an environmental impact statement to the Corps of Engineers and the department would notify him when the commenting period was open. There was discussion about still asking the Navy to do environmental impact statement.

Motion by B.J. Copeland to send a letter to the U.S. Army Corps of Engineers, as edited, commenting on issues and send a separate letter to the Secretary of the Navy and the Commandant of the Marine Corps requesting full environmental impact statement on BT-9 and BT-11 bombing, seconded by Anna Beckwith - motion passes 7-1.

Motion by B.J. Copeland to rescind the previous motion and vote from August 2010 meeting in reference to request for an environmental impact statement on the expansion of BT-9 and BT-11, seconded by Anna Beckwith - motion passes unanimously.

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:

CHPP - Coastal Habitat Protection Plan (CHPP) coordinator Jimmy Johnson reviewed the annual progress report in implementing the CHPP recommendations from September 2009 through August 2010.

Motion by Anna Beckwith to approve the Coastal Habitat Protection Plan annual report, seconded by B.J. Copeland - motion passes unanimously.

Habitat and Water Quality - During review of the Bay Scallop FMP Amendment 1, the Habitat and Water Quality Advisory Committee had concerns regarding the use of detergents used as dispersants by fishermen to clear the water so bay scallops could more easily be seen.

Motion by B.J. Copeland to exclude the use of household detergents in the Bay Scallop Fishery Management Plan Amendment 1, seconded by Mac Currin - motion passes unanimously.

Commercial Fishing License Taskforce - The final report of the Commercial Fishing License Taskforce was presented by Don Hesselman, the division's License and Statistics chief. The taskforce recommended no changes to the commercial and the recreational commercial gear licenses and there was no recommendations to implement minimum qualifications to maintain a license, restrict transfers, implement species-specific endorsements or adjust the number of licenses in the Eligibility Pool. The taskforce did recommend to the commission that the division conduct a survey of commercial license holders who do not report any sales of seafood and also conduct a stakeholder meeting to discuss restructuring the for-hire license system.

Chairman Bizzell accepted the report and asked the division to begin the process of investigating the restructuring the for-hire license system and report back to the commission at the May meeting regarding its progress.

To view the Commercial Fishing License Taskforce report, go to <http://www.ncdmf.net/mfc/presentations.html>.

Nominating - The Nominating Committee decided by consensus to nominate the following individuals, without priority, to the commission for consideration for North Carolina's obligatory seat on the Mid-Atlantic Fishery Management Council:

- Jule Wheatly – the incumbent candidate
- Dewey Hemilright
- Sean McKeon
- Rita Merritt
- Jimmy Ruhle
- Jerry Schill

There was discussion about the need to make the nominations at this meeting, but it was explained to the commission that the nominations were always done at the last meeting of the year and that the application process was lengthy and the candidates needed to be able to begin working on their nomination packages as soon as they were available.

Mr. Schill withdrew his name from consideration earlier in the meeting.

Motion by Bradley Styron to include Jule Wheatley, Dewey Hemilright, Rita Merritt, and Sean McKeon as candidates for nomination to the Mid-Atlantic Fishery Management Council's obligatory seat with no preferred candidate, seconded B.J. Copeland. Motion by

Anna Beckwith to amend the motion and include Jimmy Ruhle and remove Sean McKeon, seconded by Mac Currin – amended motion fails 5-3. The original motion passes, 5-3.

Fishery Management Plan Guidelines

The division's Central District Manager, Mike Marshall, reviewed amendments to the commission's fishery management plan guidelines that incorporate new supplement criteria, as set out in S.L. 2010-15 (H.B. 1710) which provides an expedited process by which the commission may supplement fishery management plans, allowing temporary management measures to be implemented until a fishery management plan amendment can be completed.

To view the commission's Fishery Management Plan Guidelines, go to <http://www.ncdmf.net/mfc/presentations.html>

Motion by Darrell Taylor to approve the modifications of the Marine Fisheries Commission's fishery management plan guidelines including the supplement criteria, seconded by Mac Currin - motion passes unanimously.

Oyster Fishery Management Plan Supplement A to Amendment 2

The division's Central District Manager Mike Marshall, reviewed the advisory committee and public comment on the proposed supplement, and reviewed the suite of management options. The commission voted to give the director of the Division of Marine Fisheries authority to set the daily trip limit for mechanical harvest in Pamlico Sound up to 20 bushels per day and the authority to increase or decrease the daily mechanical harvest trip limit based on abundance of oysters and other factors. It also instructs the director to close harvest in an area when the number of legal-sized oysters in an area declines to 26 percent of the live oysters sampled.

To view the Oyster Fishery Management Plan Supplement A to Amendment 2, go to http://www.ncdmf.net/fmps/downloads/Supplement_A_to_Amendment2_to_Oyster_FMP.pdf .

Motion by Mac Currin to adopt status quo plus establish the 26 percent threshold for closing the mechanical harvest season as provided in the oyster supplement, seconded by B.J. Copeland seconded, but the second was later withdrawn - motion fails for lack of second.

Motion by Mikey Daniels to allow the Division of Marine Fisheries director proclamation authority in the mechanical harvest oyster fishery to allow up to 25 bushels with a season closure trigger of 26 percent harvestable oysters remaining, for the oyster supplement, seconded by Joe Smith seconded. Motion by Anna Beckwith to amend the motion to 20 bushels, seconded by BJ Copeland - amended motion fails 5-2 with one abstention. The original motion fails 4-5.

Motion by Anna Beckwith to allow the Division of Marine Fisheries director proclamation authority in the mechanical harvest oyster fishery of up to 20 bushels with season closure

trigger of 26 percent harvestable oysters remaining, for the oyster supplement, seconded by Mac Currin - motion passes 6-3.

Bay Scallop Fishery Management Plan Amendment 1

Division biologist, Tina Moore, reported to the commission there were no comments from either the Department of Environment and Natural Resources or the Joint Legislative Commission on Seafood and Aquaculture on the draft of Amendment 1 to the Bay Scallop Fishery Management Plan. The commission discussed and then adopted the amendment to the Bay Scallop Fishery Management Plan implementing a new way to determine when to open waters to bay scallop harvesting.

The amendment sets up progressive management triggers based on sampling data from 1984-85, prior to a red tide event in 1987-88. Under this new management method, the division director will open a water body to limited bay scallop harvesting when sampling indicates bay scallop abundance is at 50 percent of the level it was in 1984-85. Trip limits and fishing days will progressively increase if sampling shows bay scallop abundance is at 75 percent or 125 percent of 1984-85 levels.

There were no rule changes associated with this fishery management plan amendment, so the date of approval of the final plan is Nov. 4, 2010.

A copy of the amendment can be found at the N.C. Division of Marine Fisheries website at: http://www.ncdmf.net/fmps/downloads/Amendment1_BayScallopFMP-FinalNov2010.pdf

Motion by B.J. Copeland to adopt the draft Bay Scallop Fishery Management Plan, Amendment 1, seconded by Joe Smith - motion passes unanimously.

Southern Flounder Fishery Management Plan –Amendment 1

Division biologist, Chris Batsavage, reviewed the draft Southern Flounder FMP – Amendment 1, providing the commission with summaries of public input and management options selected by the various advisory committees and the Division of Marine Fisheries. The commission approved a draft amendment to the Southern Flounder Fishery Management Plan to send to the secretary of the N.C. Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture for review. The draft amendment calls for increasing the recreational minimum size limit to 15 inches and decreasing the daily creel limit to six fish per person.

The draft amendment 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.

A 2009 stock assessment found that while the southern flounder stock has 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 legally required timeframes.

The proposed size and bag limits are projected to reduce the recreational harvest by 20.2 percent.

No changes are proposed for the commercial fishery because existing commercial fishing regulations on southern flounder, implemented this past summer to protect sea turtles, are projected to result in an overall commercial southern flounder harvest reduction of 22.2 percent.

A copy of the draft amendment can be found 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) .

Motion by Darrell Taylor to adopt the advisory committee and Division of Marine Fisheries' recommendations for achieving sustainable harvest in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Mikey Daniels - motion passes unanimously.

Motion by B.J. Copeland to adopt the advisory committee and Division of Marine Fisheries' recommendations for gear requirements in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Darrell Taylor - motion passes unanimously.

Motion by Anna Beckwith to adopt the advisory committee recommendation for gear requirements in the pound net fishery in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Mac Currin - motion passes unanimously.

Motion by Mac Currin to adopt the advisory committee and Division of Marine Fisheries' recommendations for the large mesh gill net related conflict in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Anna Beckwith - motion passes unanimously.

Motion by Bradley Styron to adopt the Division of Marine Fisheries' recommendation on the minimum distance between pound nets and gill nets in the Currituck Sound in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by B.J. Copeland - motion passes with one abstention.

Motion by Bradley Styron to adopt the Division of Marine Fisheries' recommendation to explore the elimination of the recreational commercial gear license in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Mikey Daniels - motion passes unanimously.

Motion by Mac Currin to adopt the Division of Marine Fisheries' recommendations for the incidental capture of protected species in the southern flounder gill net and pound net fisheries in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Edward Lee Mann - motion passes unanimously.

Motion by Mac Currin to adopt the advisory committee and Division of Marine Fisheries' recommendations on the southern flounder bycatch in the crab pot fishery issue, in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Bradley Styron - motion passes unanimously.

Motion by Edward Lee Mann to adopt the advisory committee and Division of Marine Fisheries' recommendations on the southern flounder discards in the recreational hook and line fishery in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by B.J. Copeland - motion passes unanimously.

Motion by Edward Lee Mann to adopt the advisory committee and Division of Marine Fisheries' recommendations on the ocean harvest of southern flounder in the draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by Darrell Taylor - motion passes unanimously.

Motion by Mac Currin to approve the full draft Southern Flounder Fishery Management Plan, Amendment 1, seconded by B.J. Copeland - motion passes unanimously.

Motion by B.J. Copeland to forward the draft Southern Flounder 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, seconded by Mac Currin - motion passes unanimously.

Spotted Seatrout Fishery Management Plan

Division biologist Beth Burns presented an overview of the draft Spotted Seatrout Fishery Management Plan and the management options the commission adopted at its May 2010 meeting. Director Daniel reported on comments and concerns from the Department of Environment and Natural Resources and the Joint Legislative Commission on Seafood and Aquaculture on the FMP, many of which focused on the need for fair and equitable harvest reductions for both the commercial and recreational sectors.

Director Daniel also discussed the need for a clarifying amendment exempting the Spotted Seatrout Fishery Management Plan from Session Law 2010-13 (H.B. 1713) – Improve the Success of FMPs. The point of contention was that the new law requires overfishing to be ended within two years of adoption of a plan. Director Daniel reported it was never his intent for this plan to fall under the mandates of this legislation, but that timing issues in the plan development delayed its final adoption, making the plan subject to the new law. The commission questioned Director Daniel on actions that would need to be taken if the plan was not exempted and he responded there would have to be a 57 percent reduction in harvest to end overfishing within two years of final adoption of the plan.

In reviewing the sustainable harvest options, Bradley Styron voiced concerns with the commercial preferred management option selected at the commission's May 2010 meeting. This

option called for an extension of the small mesh gill net attendance requirement on weekends (5 p.m. Fridays through 5 p.m. Sundays) from December through February and allow no retention of spotted seatrout on weekends year-round. Commissioner Styron felt this option impacted too many fisheries and wanted to explore other options.

Other commercial options that would meet the needed 28.5 percent reduction were:

- A 150-pound trip limit
- Dec. 1 – Jan. 31 season closure
- Feb. 1 – Aug. 31 season closure
- Weekend closure with all commercial gear that could catch spotted seatrout out of the water

However, the commission was reminded that the advisory committee did not want a seasonal closure or a trip limit. There was additional discussion about allowing a 20 percent bycatch allowance of spotted seatrout in the beach seine, haul net and spot net fisheries.

The commission voted to require a 14-inch minimum size limit and closing the commercial fishery from Dec. 15 – Feb. 28.

The following day Bradley Styron asked the commission to reconsider the commercial harvest reductions it had approved the previous day because he felt the closed season would freeze a lot of people out and he wanted to make the reductions as painless as possible. He put forward a motion to amend the earlier commercial reductions and require a 150-pound trip limit with 20 percent bycatch provision in stop net, long haul, and beach seine fisheries and eliminate the season closure; but, the motion failed and original motion of a 14-inch minimum size limit and closing the commercial fishery from Dec. 15 – Feb. 28 was re-approved.

Ultimately, the commission adopted a fishery management plan for spotted seatrout that includes the following measures to address sustainable harvest:

- A 14-inch size limit for both commercial and recreational fishermen
- A recreational bag limit of six fish, with a maximum of two fish over 24 inches
- A Dec. 15-Feb. 28 season commercial closure.

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/01032011SPTFMPDRAFT.pdf>.

Motion by B.J. Copeland to maintain status quo in the spotted seatrout gig fishery, seconded Darrell Taylor - motion passes 6-2.

Motion by Mac Currin to adopt the advisory committee and Division of Marine Fisheries' recommendation to address user group competition in the draft Spotted Seatrout Fishery Management Plan, seconded by B.J. Copeland seconded - motion passes unanimously.

Motion by Mac Currin to develop a mutual aid agreement between Marine Patrol and Wildlife Resources Commission enforcement in the draft Spotted Seatrout Fishery Management Plan, seconded by Darrell Taylor - motion passes unanimously.

Motion by Anna Beckwith to conduct more extensive research and to adopt the Marine Fisheries Commission's recommendation on the cold stun issue in the draft Spotted Seatrout Fishery Management Plan, seconded by B.J. Copeland - motion passes unanimously.

Motion by Anna Beckwith to adopt the Division of Marine Fisheries' recommendation and to add the Marine Fisheries Commission's recommendation of allowing a maximum of two fish over 24 inches in the recreational fishery for the sustainable harvest issue in the draft Spotted Seatrout Fishery Management Plan, seconded by B.J. Copeland - motion was withdrawn.

Motion by B.J. Copeland to close the spotted seatrout commercial fishery from December 15 to February 28 and implement a 14-inch minimum size limit for the sustainable harvest issue in the draft Spotted Seatrout Fishery Management Plan, seconded by Bradley Styron - motion passes 7-2 (Voted on Nov. 4, 2010). Motion by Bradley Styron to reconsider earlier motion by B.J. Copeland, and seconded by Bradley Styron, to close the spotted seatrout commercial fishery from Dec. 15 to Feb. 28 and implement a 14-inch minimum size limit, seconded by Mikey Daniels - motion passes 5-3 (Voted on Nov. 5, 2010). Motion by Bradley Styron to amend to the 150-pound trip limit with 20 percent bycatch provision in stop net, long haul, and beach seine fisheries and eliminate season closure, seconded Joe Smith - motion to amend fails 5-3, (Voted on Nov. 5, 2010). Motion as originally stated passes 5-3.

Motion by B.J. Copeland to implement a six-fish creel limit with up to two fish over 24 inches and a 14-inch minimum size limit in the recreational spotted seatrout fishery in the draft Spotted Seatrout Fishery Management Plan, seconded by Edward Lee Mann - 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 Anna Beckwith to suspend rule 15 NCAC 03M .0504 (12-inch minimum size limit for spotted seatrout), seconded by Mac Currin - motion passes unanimously.

Motion by Mac Currin to approve the draft Spotted Seatrout Fishery Management Plan, seconded by Darrell Taylor - motion passes unanimously.

The division also presented information on the impact of the 2010 cold stun event on spotted seatrout to determine if further management actions were needed . The commission decided to give the FMP recommendation an opportunity to work in rebuilding the stock to a 20 percent

spawning potential ratio so that the spawning stock biomass is large enough to recover more easily from cold stun events.

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

Motion by Mac Currin to request the Division of Marine Fisheries Director to implement the measures from the draft Spotted Seatrout Fishery Management Plan by proclamation, seconded by Joe Smith - motion passes unanimously.

Motion by Mac Currin to approve the draft Spotted Seatrout Fishery Management Plan recommended management measures, including a 14-inch minimum size limit, 6 fish recreational bag limit, and a commercial closure from Dec. 15- Feb. 28, for the cold stun event 2010, seconded by Joe Smith - motion passes unanimously.

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 unanimously.

Hook-and-Line Work Group Report

Division biologists Michelle Duval, Kathy Rawls and Clark Gray presented information on the feasibility of developing a commercial hook-and-line fishery in North Carolina for various species.

This report and presentation can be found at <http://www.ncdmf.net/mfc/presentations.html>.

CFRL Committee Processes

In an effort to streamline processes associated with the Coastal Recreational Fishing License Grant Program the commission decided to ask its advisory committee to only review “People” projects, which primarily include access and education proposals, because oftentimes the scientific proposals for research and habitat concerns were out of that committee’s realm of expertise. The commission also decided to allow its three members on the Joint Marine Fisheries Commission/Wildlife Resources Commission CRFL Committee to make the final decision on grant funding, rather than bringing the proposals back to the full commission for its concurrence.

Motion by B.J. Copeland to direct the Marine Fisheries Commission’s Coastal Recreational Fishing License Advisory Committee to make recommendations on the Coastal Recreational Fishing License Grant “people” projects only, including prioritizing projects, seconded by Anna Beckwith - motion passes unanimously.

Motion by B.J. Copeland to authorize the three commissioners on the Joint Marine Fisheries Commission/Wildlife Resources Commission Coastal Recreational Fishing License Committee to give final approval for the funding of Coastal Recreational Fishing License grant proposals, seconded by Darrell Taylor - motion passed 7-1.

Bang Sticks – At its August 2010 meeting the commission asked the division to investigate prohibiting the use of bangsticks to harvest fish, similar to the ban that is in place in South Carolina. The division reported that South Carolina had put the prohibition in place and then asked the South Atlantic Fisheries Management Council to mirror those restrictions in the EEZ.

Motion by B.J. Copeland to initiate the rulemaking process to prohibit the sale of fish landed using bangsticks, seconded by Anna Beckwith - motion passes unanimously.

Executive Order No. 70

David Knight, DENR Assistant Secretary for Natural Resources, gave an overview of Executive Order No. 70, the Rules Modification and Improvement Program.

2010 Rulemaking Cycle

Division Rulemaking Coordinator, Catherine Blum, reported that no one attended the public hearing that was held on Sept. 30 at 6 p.m. in New Bern and that she had not received any written comment on the proposed rules. She advised the commission the content of the proposed rules was the same as what it had approved in May 2010 for the notice of text and that the earliest effective date for these rules is April 1, 2011. It was also noted any action on these rules was subject to review and interpretation of Executive Order No. 70, issued Oct. 21, 2010.

The commission approved the following rules:

1. Classify Eastham Creek and Long Creek Gut (Pamlico District) as Primary Nursery Areas
2. Classify a portion of Chadwick Bay (Southern District) as a Special Secondary Nursery Area
3. Move Gibbs Shoal Oyster Sanctuary (Northern District) regulation from proclamation into rule and make coordinate corrections
4. Remove out-of-date cross-reference to definitions in Rule 03I .0101
5. Update list of cross-references to no-trawling areas in Rule 03R .0106
6. Remove repetitive or non-regulatory language in Subchapter 03H and relocate maps and marking regulations to another subchapter
7. Define corkline, headrope and lead
8. Clarify that only those holding a Recreational Commercial Gear License that use pots authorized by the license are required to mark their pots with hot pink buoys.
9. Broaden proclamation authority to ensure compliance with the ASMFC Interstate Fishery Management Plan for Horseshoe Crab
10. Modify rules for consistency with federal regulations for commercially-caught tunas
11. Capture angler effort from ocean fishing piers to maintain state exemption to the National Angler Registry
12. Require shellfish culture training certification for new lease applicants and transferees
13. Remove requirement to notarize signatures on permit renewal applications.

Motion by Mac Currin to approve permanent rules for all proposed rules in the 2010-2011 annual rulemaking cycle, seconded by Darrell Taylor - motion passes unanimously.

Southern Flounder Season Extension

At the end of the meeting Mikey Daniels said it was tough times economically for commercial fishermen and he asked the commission to consider keeping the souther flounder season in internal water open until Dec. 15 to allow fishermen more opportunity to catch flounder; however, there was not adequate support for this request.

Motion by Mikey Daniels to extend the internal southern flounder season to Dec. 15, seconded by Bradley Styron - motion fails 5-4.

The meeting adjourned.