

THE MFC ADVISOR
Marine Fisheries Commission Business Meeting
The Clarion State Capitol Hotel in Raleigh, North Carolina
May 12-14, 2010

The Marine Fisheries Commission and the Division of Marine Fisheries continue to look for ways to keep committee advisors and the public informed about commission activities. It is our intent to publish the MFC Advisor 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 Advisor. 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 March 12, followed by a business meeting May 13-14 at the Clarion State Capitol Hotel in Raleigh, 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 – MAY 12

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

Ken Oppenheimer of Raleigh said he has been a recreational fisherman for 50 years in North Carolina. He said like most fishermen he has watched the resources go downhill over the years. Whether they be commercial or recreational, nobody believes the resource is where it was years ago, he said. The Marine Fisheries Commission tends to override the Division of Marine Fisheries on issues, he said, but they should remember that you can't harvest fish that don't spawn. Fisheries resource should come first, Oppenheimer said. He said he understands commercial fishermen make a living fishing, but recreational fishing supports businesses too. He proposed making decisions for the fish.

Dick Brame of Wilmington spoke representing the Coastal Conservation Association regarding a decision by the Marine Fisheries Commission to not adopt a 100-pound commercial trip limit and one-fish recreational bag limit required by an Atlantic States Marine Fisheries Commission Weakfish Plan. He said that as someone who has attended all the ASMFC meetings since 1991, except one when he sick, the decision of that board to find North Carolina out-of-compliance was a foregone conclusion. The ASMFC had no choice, Brame said. It is likely that now that the measures imposed under the non-compliance process may be more draconian than the 100-pound commercial trip limit required by the plan. The state could then easily remedy that situation by going back into compliance. But the discard issue would still be there, and that is what everyone is concerned about. By remaining out of compliance, the commission is delaying a solution to

the discard problem, he said. He advised the commission to rescind its previous decision and come into compliance with the plan. He said he was at the February ASMFC meeting it was a unanimous vote to install the 100-pound trip limit – North Carolina voted for the measure. If the state could get away from the non-compliance issue, those around the table at the ASMFC would be willing to work with North Carolina to resolve the bycatch problem, he said. The ASMFC is not a federal agency; it's a compact of sister states working together, Brame said. A technical committee decides what the goal is and the states agree on the way. He suggested the commission direct division Director Louis Daniel to come up with a solution to take to the technical committee at the August meeting. He said Daniel made a motion for alternative measure to address North Carolina's discard concerns, and he did not get a second. Even if he had succeeded, it could not have been implemented at that meeting. The ASMFC would have had to start an addendum process that includes a public hearing. He said the state should get the legal issue out of the room, so that it can come up with a solution to the problem.

Terry Pratt of Merry Hill spoke representing the Albemarle Fishermen's Association. He said the public comment period was not well attended by commercial fishermen because they think decisions are predetermined and that the commission does not listen to them. He said fishermen see decisions made based on insufficient data and computer models, but the real world doesn't run on computer bites. Pratt said the Spotted Seatrout Fishery Management Plan is unnecessary because the species is doing quite well. He also said flounder harvest does not need to be reduced, because it has already been reduced, and new gill net restrictions will reduce the harvest even more. He said he read about some codfish research in the North, where some say the species is doing well but others say they are doing better but they're not everywhere yet. That's the problem, Pratt said. Fisheries managers are trying to reach levels that they can't reach all at once, he said. Pratt said he agreed with the commission decision to go out of compliance with the ASMFC Weakfish Plan because there is no sense in wasting fish. The ASMFC does not always base its decisions on sound data and they use personal opinions a lot. Pratt said the fishery resource is important, but so are the commercial and recreational fishermen, and they should carry just as much weight as the fish.

David Hilton, president of Ocracoke Seafood (which includes about 35 families), told the commission it needs to better address speckled trout issues. Hilton said data shows spotted seatrout has high recruitment after cold stun years. He said that division trip ticket and citation data shows that commercial and recreational fishermen have been harvesting large fish of an age that the stock assessment says are not there. The commercial fishery is holding steady or declining while the recreational fishery is increasing, he said. That makes it hard for commercial fishermen to accept the reduction in harvests they are being asked to take when there is no mechanism to control recreational fishing effort or the mortality associated with it. The commercial fishery is routinely challenged to mitigate bycatch, he said. Another issue, he said, is the socio-economic data, which shows a \$49 million price tag on the recreational fishery and \$3 million ex-vessel value for the commercial fishery. The recreational estimates include economic

multipliers such as restaurants, gas, etc. that the commercial figure does not. Commercial fishermen keep communities in business during the off season, Hilton said. Hilton said the commission is trying to manage a species that is hard for any computer model to predict. None of the harvest data shows that the fishery is in the decline that the model says it is, he said.

Terry Parker of Four Oaks told the commission he owns a place at Surf City and is a lifetime sportsman who fishes offshore and inshore with hook-and-line. He worked a couple of times with two neighbors in Surf City who are commercial fishermen and he bought a retired commercial fishing license in 2001. Parker said that cutting out net fishing on the weekends will cut him out of the fishery. He said he takes his aunt fishing with him, and they like to set the nets and fish hook-and-line at the same time. He said he has seen an increase in flounder and puppy drum at Surf City over the past year. Parker said he enjoys the outdoors and respects all fishermen, but he has not seen that big of decline in fish. Parker said he has been setting nets for 10 years and during that time he has caught one green turtle. He took a picture and released it. Parker said he still works for a living, and if gill net fishing is eliminated on weekend, his license is useless to him.

Elton Pridgen of Four Oaks said he is a general contractor and electrical contractor and he too owns a house at Surf City. When the night attendance requirement for recreational gill nets came in, he bought a commercial license. He said he enjoys setting nets in the Surf City area and like others, he pays a lot of taxes, as well. He said he has yet to catch a turtle at Surf City. Alligators, yes – we’ve got alligators, he said. Pridgen said he set his net the previous weekend caught four flounder out of 500 yards of nets and two puppy drum, which he released. Pridgen said he respects wildlife and he was not trying to catch 60 fish. Netting is his recreation at the beach, and it is what he looks forward to doing on the weekends. He said his beach house was valued at \$600,000 to \$700,000 and he doesn’t even want to go there if he can’t set his nets. He asked the commission to consider leaving weekends open to netting. He said there is no problem with turtles in the area where he nets. Pridgen also said he doesn’t understand taking the top buoys off the nets, because they will just sink to the ground.

Bill Mandulak, of the Coastal Conservation Association, spoke to the commission on three topics: red drum, weakfish and speckled trout. Mandulak read from the 1997 Fisheries Reform Act regarding the function, purpose and duties of the Marine Fisheries Commission. There has been a lot of discussion about why we’re doing things, but the first should be to have a healthy resource, he said. If we have a healthy resource, other things take care of themselves, he said. Mandulak spoke on the red drum vote from the March meeting to increase the commercial trip limit to 10 fish. He said red drum are recovering but they have not yet recovered and it’s going to take years to repopulate the resource. Those fish need to grow and become mature enough to spawn. He said he was on the red drum advisory committee, and it had agreed to a seven-fish trip limit. He noted in April, even with a seven-fish trip limit, the division had to close the season. He said he suspected that at a 10-fish trip limit, the fishery will hit the cap faster and there will be

excessive waste in that fishery. The initial idea was for these fish to be a non-directed fishery, and what is happening is that they are being targeted. Weakfish, Mandulak said, is down to 3 percent spawning potential ratio. North Carolina accounts for about 30 percent of the coast-wide catch and unless there are controls in North Carolina to the degree that we reduce as much harvest as possible. The one-fish per day, 100-pound trip limit was clearly a compromise and everyone agreed the fishery is in very bad shape. Voting to go out of compliance was a big mistake, particularly when North Carolina had already supported the 100-pound trip limit in a prior vote. Mandulak distributed a handout showing the size of a 10-inch gray trout, currently a legal fish for both pound nets and long haul fishery, and another showing a 13 ½ -inch speckled trout. He said he does not know how to manage a fishery that allows a 10-inch fish on one end and a 14-inch fish on the other. Regarding the Spotted Seatrout Fishery Management Plan, Mandulak said the only way to adequately control the commercial fishery is a season closure from Dec. 1 to Jan 31. He said it would also alleviate dissention between user groups.

Commission Chairman Rob Bizzell asked if there were any questions the audience had for the commission or the Division of Marine Fisheries and there were none.

BUSINESS MEETING - MOTIONS AND ACTIONS – MAY 13-14

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 minutes for the March 2010 MFC business meeting, seconded by Bradley Styron – motion passed unanimously.

Motion by Mac Currin to approve the agenda for the May 2010 MFC business meeting, seconded by Bradley Styron – motion passed unanimously.

Public Comment

John Cidlowski, a part-time commercial fisherman from Chapel Hill and a new member of the commission's Inland Advisory Committee - the only commercial fisherman on that committee. He said he has fished part-time for 28 years. He said he appreciates the commission's effort with the sea turtle issue, but in his opinion, as a part-time commercial fishermen, the proposed rules to limit the gill net fishery to four nights per week and 2,000 yards of net discriminates against the part-time fishermen who fish on weekends. He suggested the commission set the net yardage limit lower and allow the fishery to be maintained throughout the entire period. Limiting gill nets to 1,000 yards per boat, seven nights per week would likely mean less net in the water, although there may be more fishermen. Cidlowski said that as a scientist, the commission must also consider that there may be an increase in the population of turtles.

Bill Mandulak of the Coastal Conservation Association of North Carolina said he wanted to clarify his comments from the previous night relative to his handouts showing sizes of trout. He said he was trying to talk about the difficulty his organization has had trying to come up with regulations that will allow for gear that will catch a 10-inch fish but not catch a 13 ½-inch fish. It would not be as big of a problem if all the fisheries were like gill nets and pound nets, where you can control the fishery by changing the mesh size and require attendance, but the long haul and stop net fisheries presented a real problem, that's why the season closure was proposed, he said.

David Hilton, president of Ocracoke Seafood, told the commission that the proposed sea turtle measures will have significant reduction in effort and bycatch in the spotted seatrout fishery, which were not considered in the fishery management plan because they were not yet implemented. He said it is well documented that speckled trout is a fish that has a great ability to deal with dynamic environments such as hurricanes and cold stuns. Hilton said that ultimately, it will be clean water and habitat that is going to keep a healthy stock. Hilton said that landings are holding steady or increasing, so the data does not support the population decline the computer model says is there. He said Ocracoke fishermen do support the 14-inch size limit. But he noted that with the sea turtle regulations the state will be removing the larger-mesh gill nets which target larger fish. He asked the commission to discuss how these measures will impact the speckled trout fishery.

J.M. Moseley of Sneads Ferry, who is vice president of Surf City Crab, said he is opposed to measures to ban flounder or speckled trout fishing. Moseley said the state has got enough restrictions on these fisheries. He said the recreational fishermen need to be a little more understanding to the commercial fishermen who are out there trying to make a living. The commercial fishermen can't even come up with the gas money to go run their nets and the recreational fishermen have these big boats and the money to buy bait and gas to go out there and have fun. This country needs more agriculture and needs to use our natural resources to feed people and create jobs instead of taking jobs away from them, he said.

Elwood Pierce, who has lived in Sneads Ferry 71 years and has fished for 59 years, said he spent a lot of money already on gear. He said he has not bought the 15-mesh webbing because he doesn't know if will work. He said someone from the National Marine Fisheries once told him that that agency buys its own nets to do the research for 18 months to see if a gear works before passing them down to the public. He said he has \$3,000 worth of nets accumulated and would like to use them. He said if fishermen are going to be done like the farmers, they want to be compensated like the farmers. He said a 15-mesh net will not work and it will put them out of business. He said men and women are fighting overseas for our rights and the fishermen want their rights back. Pierce said he believes that our government owes China and other countries so much money that they are constantly putting pressure on our government with forced imports. He said 90 percent of the seafood in this country is imported and that's why we have plenty of seafood here. He said he does generally catch sea turtles in his area and if he does he releases

them properly. Pierce said he believe the proposed regulations are against his constitutional rights because God put the fish there for everybody and not just for one group.

Steve Etheridge, a commercial fisherman from Wanchese, asked the commission to consider that the 4-inch net is the most popular net used for speckled trout, so the proposed new gill net regulations will result in a reduction in harvest. He also said the commission should address the issue of discard mortality in the recreational fishery, which will increase with the increase to a 14-inch size limit.

Ronnie McArthur, a commercial fisherman from Beaufort, urged the commission to look at license issues where people buy licenses for large sums and that the licenses shouldn't have value. He also said there should be a 50-percent income level from commercial fishing to be eligible for a Standard Commercial Fishing License and that this license should not be allowed to be transferred. He felt we should weed out people who are not true commercial fishermen and this will resolve many of our issues. He said we should cap the number of commercial licenses at 3,000.

Commissioner Mac Currin said he agreed with many of the things Mr. McArthur said and that the commission has tried to define a commercial fisherman before, but that was met with much opposition. He questioned how to verify the percentage of income and asked how Mr. McArthur how he would feel setting a value of fish in addition to the percentage of income.

Mr. McArthur responded he felt providing tax returns would be the best way to determine the percentage of income.

Commissioner Bradley Styron said the Standard Commercial Fishing License should not be a commodity to be sold, but that the license should be allowed to be transferred to other family members when the license holder dies. He also said the standards of the license eligibility pool needed to be strengthened.

Commissioner Edward Lee Mann said everyone who makes a living on the water should have to have a Standard Commercial Fishing License, including guides and charter boats.

Terry Pratt, a commercial fisherman from Merry Hill and a member of several Marine Fisheries Commission advisory committees, discussed North Carolina being found out of compliance with the Addendum IV to Amendment 4 to the Interstate Fishery Management Plan for Weakfish and discussed the lack of alternatives for the state when the management measures were set.

Chairman Rob Bizzell then recognized **Walter Dalton, N.C. Lt. Governor**, who shared his thoughts and concerns about the potential impacts of the oil spill in the Gulf of Mexico. Lt. Governor Dalton discussed the importance of recreational and commercial fishing to the state's coastal heritage and economy, and said it is unsettling to think about the long-term effect this spill will have on our country's coastal and fisheries resources.

Next, Chairman Bizzell called on **Dee Freeman, Secretary of the N.C. Department of Environment and Natural Resources** to address the commission. Secretary Freeman explained he was trying to meet with all the boards and commissions that fall under DENR's umbrella; listening to these groups helps him be a better advisor to the governor, he said. He talked about the state's response to the oil spill in the Gulf and assured the commission that North Carolina would be prepared if the situation threatened our coastal waters. He said he was struck by the many comments he had heard earlier in the meeting regarding economic impacts of regulation and that while it was very important to protect our natural resources we must also be focused on jobs to get through these difficult economic times. He discussed his department's strategic plan and how this important document identifies goals that will support conserving and protecting the state's natural resources, while maintaining a high quality of life and fostering economic development.

Issues from Commissioners

Commissioner Anna Beckwith said the commission needed to consider the number of available Standard Commercial Fishing Licenses, transfer allowances and selling of the license, and the definition of a commercial fisherman. She felt maybe looking at an income threshold of 30 percent, poundage landed and maybe have a specific license for different gears would be a good approach. She said in response to an earlier comment from Commissioner Edward Lee Mann that guides and charter boats should have to have a Standard Commercial Fishing License, that recreational guides are mandated to recreational limits, but if they hold a Standard Commercial Fishing License, then they would be allowed to keep commercial quantities of fish and that could create more competition out on the water.

Division Director Louis Daniel said that he had worked closely with Ronnie McArthur and other fishermen and he felt there were many ways to approach defining a commercial fisherman. He suggested the division putting together an issue paper to explore various scenarios. He said we have reached overcapacity in many of our fisheries.

Commissioner Mac Currin said he thought that was a good idea and he also expressed concerns about shifts in fishing effort from the Gulf oil spill, saying we could have an influx of fishermen moving up the East Coast. He questioned if we were prepared and if they could buy non-resident licenses.

Chairman Rob Bizzell said he would ask that staff investigate the non-resident license and effort shift issues and report back to the commission at a later date.

Commissioner Mac Currin reminded the panel that was the motivation of the Fisheries Reform Act. People were concerned that the Florida net ban would send a multitude of fishermen to North Carolina.

Division Director Louis Daniel said he would have staff put together an information paper forecasting problems and resolutions.

Commissioner Darrell Taylor cautioned that this situation could easily get out of hand and that the state needed to be proactive.

Commissioner Mikey Daniels said he did not see a problem. Fishing boats are being hired in the Gulf to help with the cleanup. He said it would cost \$10,000 to move a large boat up here from the Gulf and another \$10,000 to get it back and he doesn't think that will happen. He said you could put limits on the amount of nets or webbing being towed. He said with oysters, the big problem was the oil.

Commissioner B.J. Copeland pointed out there was a constitutional issue here that would need to be reviewed and that he thought we had reciprocity agreements with other states and we need to put together a list of those. He said the threat of out-of-state fishermen led to the Fisheries Reform Act and he suggested Chairman Bizzell appoint a taskforce comprised of MFC members and commercial fishermen and the DMF to examine the issues and look at consequences. He said if there were too many licenses, get rid of the eligibility pool.

Commissioner Edward Lee Mann said the guide license needs strict criteria and the taskforce needs to look at income for the last three years.

Commissioner Anna Beckwith said she agreed with most of the criteria discussed and said she would like to make it mandatory for charter and guide boats to have liability insurance.

Chairman Bizzell felt if the commission defined a commercial fisherman that it could define a guide also, and examine the liability insurance issue.

Commissioner Mikey Daniels said the commercial fisherman is getting less and less and the recreational fisherman is getting more. He questioned if there was something that could be done to require barbless hooks or a minimum number of fishing poles per boat to help limit recreational discard mortality? He said this was something that needed to be reviewed.

Chairman's Report

Commission Bizzell announced Governor Perdue had reappointed himself, Bradley Styron, and Edward Lee Mann to serve another set of three-year terms on the Marine Fisheries Commission.

Petitions for Rulemaking

Mr. Tony Grant of Snead Ferry submitted a petition for rulemaking to the N.C. Marine Fisheries Commission requesting Opossum Bay and Swan Point in Onslow County be designated as oyster seed management areas. Commission Counsel Frank Crawley advised that the petition was deficient and it did not meet petition requirements set out in the Administrative Procedures Act, G.S. § 150B-20.

Chairman Bizzell said that even though the petition was deemed incomplete, he would like the commission's Southeast and Shellfish advisory committees to consider the issue of designating Opossum Bay and Swan Point as oyster seed management areas. He instructed staff to let Mr. Grant know about the meetings in case he would like to attend.

The commission was also updated on a petition from Mr. James Massengill of Morehead City that was discussed at the commission's March 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. It was reported the division has formed a work group, headed by Michelle Duval, which has begun meeting to explore the ramifications of the proposed changes - several state and interstate fishery management plans will have to be modified and statutes will have to be modified. Issue papers are being developed and are scheduled for completion this fall.

Committee Reports

The commission received reports from all advisory committees and committees that met since the March 2010 business meeting. The following are action items stemming from those reports:

Division Director Louis Daniel updated the commission on the April 23, 2010 meeting of the Joint Marine Fisheries Commission/Wildlife Resources Commission Committee on the Coastal Recreational Fishing License, which he chairs, presenting items to the commission for approval in the form of motions for their concurrence.

Motion by Division Director Louis Daniel to approve no-cost extensions to CRFL grants for the DMF Reef Barge Construction and Operations, the DMF Oyster Reef Construction and the WRC Chowan River Bridge Pier and Edenhouse Access Area – motion passed unanimously.

Motion by Division Director Louis Daniel to approve the no-cost extension for the CRFL Grant - Snow's Cut Boating Access Area (2009-P-007) – motion passed unanimously.

Motion by Division Director Louis Daniel to approve the no-cost extension for the CRFL Grants - Text-Messaging (2009-F-003); and second-year funding for both the Movement and Mortality of Spotted Seatrout (2009-F-001) and the Recreational Fishing Data Collection Program (2009-F-002) Area – motion passed unanimously.

Motion by Division Director Louis Daniel to approve second year funding for the CRFL Grants – Spawning Characteristics of Blueback Herring (2009-H-002), Minimizing Habitat Impacts (2009-H-003), Alternative Designs of Planting Seed Oysters (2009-H-004) and Performance-Based SAV Monitoring (2009-H-005 Area – motion passed unanimously.

Motion by Division Director Louis Daniel to approve and issue the CRFL Request for Proposals for 2010 Area – motion passed unanimously.

Closed Session

The commission held a closed session to consult with its attorney regarding a lawsuit filed by the Duke Environmental Law and Policy Clinic on behalf of the Karen Beasley Sea Turtle Rescue and Rehabilitation Center. The lawsuit claims the state has violated the Endangered Species Act in relation to permitting gill net fishing.

Motion by B.J. Copeland for the Marine Fisheries Commission to go into closed session pursuant to G.S. 143-318.11(3) to consult with counsel regarding the lawsuit filed by the

Duke Environmental Law and Policy Clinic on behalf of the Karen Beasley Sea Turtle Rescue and Rehabilitation Center, seconded by Darrell Taylor – motion passed unanimously.

The commission came out of closed session.

Sea Turtle Settlement

Division Director Louis Daniel reviewed a draft settlement agreement between the Division of Marine Fisheries, the Marine Fisheries Commission and the Karen Beasley Sea Turtle Rescue and Rehabilitation Center to address interactions with sea turtles in the state's gill net fishery.

Director Daniel reviewed various elements of the draft settlement, including the reconstitution of the commission's Sea Turtle Advisory Committee, which will provide advice on various issues related to sea turtles including, but 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.

In addition to the Sea Turtle Advisory Committee, Director Daniel advised that observer coverage would be mandatory in the large mesh gill net fishery – the state would strive to have 10 percent observer coverage, but a minimum of 7 percent is required. If the state is unable to provide the minimum observer coverage, the large mesh gill net fishery must close.

Also, as a result of the settlement, Director Daniel reviewed new regulations that would need to take effect May 15 via proclamation that would apply year-round to all gill nets between 4-inches and 6 ½-inches stretched mesh that are fished as set nets in internal coastal waters, except in the Albemarle and Currituck sounds and their tributaries.

The regulations would not apply to run-around, strike or drop nets that are used to surround a school of fish and then are immediately retrieved. Also, the Pamlico Sound Gill Net Restricted Area will be exempt from these regulations while it operates under an Incidental Take Permit (Section 10 Permit) during the September through December 2010 season.

Under the revised regulations, gill nets would have to meet the following conditions:

- They must be set only on weeknights – set no sooner than one hour before sunset on Monday, Tuesday, Wednesday and Thursday and retrieved no later than one hour after sunrise the following morning;
- They may be no more than 15 meshes in height;
- They may not be fished without a lead core or leaded bottom line;

- They may not have floats or other buoys except those required for identification north of the B. Cameron Langston Bridge on N.C. 58 in Emerald Isle. Floats will be allowed on nets fished south of the N.C. 58 bridge in Emerald Isle;
- No fishing operation may use more than a total of 2,000 yards of net in any combination at one time in any waters impacted by these regulations. No fishing operation may set more than a total of 1,000 yards of net in any combination at one time south of the N.C. 58 bridge in Emerald Isle;
- No more than 100 yards of net may be set in a continuous line; and
- There must be at least 25 yards between separate lengths of net.

Motion by Mac Currin to accept the settlement agreement and implement by proclamation the terms outlined in the settlement agreement, seconded by Bradley Styron – motion passed unanimously.

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

To view the proclamation implementing the restrictions discussed above to go: <http://www.ncdmf.net/procs/procs2k10/M-8REV-2010.html>

Spotted Seatrout Fishery Management Plan

Division biologist Beth Burns presented the draft Spotted Seatrout 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. Her presentation can be found at <http://www.ncdmf.net/mfc/presentations.html>.

The goal of the 2010 Spotted Seatrout Fishery Management Plan (FMP) is to determine the status of the stock and ensure long-term sustainability for spotted seatrout (*Cynoscion nebulosus*) in North Carolina. To achieve this goal, an assessment was conducted using commercial and recreational landings data and information on age, length, weight, sex, and maturity from North Carolina and Virginia. The 2009 stock assessment indicated that the spotted seatrout stock in North Carolina and Virginia has been overfished and that overfishing has been occurring from 1991 to 2008. The population has largely been able to buffer itself against high levels of fishing pressure because spotted seatrout grow quickly, most are fully mature at age 1, and they have a protracted spawning period. These life-history traits should allow the population to recover relatively quickly, assuming there are few significant cold stun events, which appeared to have a large influence on spotted seatrout population dynamics.

The Fisheries Reform Act mandates that fishery stocks be managed to allow for sustainable harvest and prevent overfishing. Management plans must rebuild the spawning stock biomass above the threshold level and end overfishing within ten years of the FMP adoption. The threshold overfishing rate for the NC spotted seatrout stock was based on a fishing mortality rate (F) rate that achieved a SPR equal to 20 percent and matches the SPR objective in the Atlantic States Marine Fisheries Commission Spotted Seatrout Fishery Management Plan's Amendment 1. The current F is more than twice the rate allowable to assure a sustainable harvest and needs to be reduced by 60 percent. The stock assessment also indicated much of the overfishing in recent years occurred when recreational fishing effort and the number of recreational discards has increased. This effort increase in the recreational fishery is concerning because the fishery

selects for smaller, younger fish than the commercial fishery, reducing the spawning opportunity for young spotted seatrout prior to harvest.

The commission discussed the public and advisory committee input to the fishery management plan, and made the following motions to select its preferred management options:

Motion by Darrell Taylor for the preferred management option for the spotted seatrout gig fishery to remain at status quo, seconded by Bradley Styron – motion passed 8 to 0, with Anna Beckwith abstaining.

Motion by B.J. Copeland for the preferred management option for cold stun events in the spotted seatrout fishery to remain at status quo, seconded by Darrell Taylor – motion passed unanimously.

Motion by Mac Currin to utilize mediation to resolve user conflicts, seconded by Darrell Taylor – motion passed unanimously.

Motion by Mac Currin to support development of a law enforcement mutual aid agreement, seconded by Joe Smith – motion passed unanimously.

Motion by Anna Beckwith for the preferred management option for sustainable harvest in the spotted seatrout recreational fishery to be a 14-inch size limit and a six-fish per day bag limit, allowing a maximum of three fish to be over 24 inches, seconded by Mac Currin – motion passed unanimously.

Motion by B.J. Copeland for the preferred management option for sustainable harvest in the spotted seatrout commercial fishery to be weekend closures, seconded by Mac Currin – motion passed, 6 in favor and 3 opposed.

Motion by B.J. Copeland to revisit the spotted Seatrout Fishery Management Plan in three years to determine if the sustainable harvest measures selected by the commission are working, seconded by Darrell Taylor – motion passed unanimously.

Motion by B.J. Copeland to exempt Western Albemarle Sound (Turtle Line) and Currituck Sound from the commercial weekend closure restrictions for spotted seatrout, seconded by Anna Beckwith – motion passed unanimously.

Motion by Anna Beckwith to approve the Spotted Seatrout Fishery Management Plan with the selected preferred management options and forward to the secretary of the Department of Environment and Natural Resources and to the Joint Legislative Commission on Seafood and Aquaculture, seconded by Mac Currin – motion passed.

Later in the meeting, several commissioners expressed concerned about an earlier motion on commercial sustainable harvest measures. It was not clear to them that the motion meant

commercial gear had to be out of the water during the weekends, they thought it meant that fish could not be harvested at that time. Commissioners requested staff investigate the impact of leaving the gear in the water and just not allowing the fish to be landed. Several commissioners expressed concern that the restrictions put in place earlier relative to the sea turtle settlement would greatly restrict commercial fishing activity and they questioned if further restrictions were needed. A discussion followed about requiring attendance of gill nets that would target spotted seatrout.

Motion by Edward Lee Mann to rescind the preferred management option for the sustainable harvest option for the spotted seatrout commercial fishery, seconded by Darrell Taylor – motion passed, with one vote in opposition.

Motion by Bradley Styron for the preferred management option for the sustainable harvest option for the spotted seatrout commercial fishery to be 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, seconded by Edward Lee Mann – motion carries, 6 in favor and 2 opposed.

Motion by B.J. Copeland to send the amended Spotted Seatrout Fishery Management Plan to the secretary of the Department of Environment and Natural Resources and to the Joint Legislative Commission on Seafood and Aquaculture, seconded by Joe Smith – motion passed 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 March 2010 meeting, the commission instructed the director to raise the spotted seatrout size limit from 12 to 14 inches.

Motion by Mac Currin to suspend the 12-inch size limit rule for spotted seatrout, seconded by Bradley Styron - motion passes, 8 in favor and 1 opposed.

Southern Flounder Fishery Management Plan –Amendment 1

Fisheries Management Section Chief David Taylor updated the commission on the progress of this plan. The commission will be asked to approve the draft plan to go out to public meetings at the August 11-13 commission meeting in Wilmington.

Bay Scallop Fishery Management Plan

Central District Biologist Supervisor Trish Murphey explained based on public comment the division had investigated the need for developing adaptive management strategies based on measures of abundance for bay scallop harvest. She discussed building progressive harvest triggers based on varying scallop abundance levels; to set fishery independent sampling targets for Back, Bogue, and Core sounds; and to explore opening options in other areas of the state. Implementing progressive triggers would directly change management strategies in the 2007 Bay Scallop FMP and would require further development through the FMP amendment process.

The commission voted to begin the process to amend the Bay Scallop Fishery Management Plan and send out management options to public meetings and appropriate advisory committees for review and comment.

Motion by Anna Beckwith to approve sending the Bay Scallop Fishery Management Plan Amendment 1 out for public review and comment, seconded by Joe Smith – motion passes unanimously.

Weakfish Compliance

Division Director Louis Daniel advised the commission the state had been found out of compliance with respect to implementation and enforcement of Addendum IV to Amendment 4 to the Interstate Fishery Management Plan for Weakfish. There was discussion about the implications of the out-of-compliance ruling and the need to develop a mechanism to allow a 25 percent bycatch allowance.

Motion by Mac Currin to go back into compliance with Addendum IV to Amendment 4 to the Interstate Fishery Management Plan for Weakfish and implement a 100-pound commercial trip limit and a 1-fish per day recreational limit for weakfish and work with the ASMFC to implement a fast-track amendment to address by catch concerns, seconded by Anna Beckwith – motion passes 5 in favor and 4 opposed.

Coastal Habitat Protection Plan

Coastal Habitat Protection Plan Coordinator Jimmy Johnson gave the commission an overview of 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 view the presentation, go to:

http://www.onencnaturally.org/PDFs/CHPP_Revision_Overview.pdf

Motion by B.J. Copeland to approve sending the 5-year revision of the Coastal Habitat Protection Plan out for public review and comment, seconded by Darrell Taylor – motion passed unanimously.

Striped Bass Fishery Management Plan –Amendment 1

Stock Assessment Biologist Helen Takade-Heumacher and FMP Lead Biologist Charlton Godwin presented the stock assessment for the Albemarle/Roanoke striped bass stock.

The findings of the stock assessment are:

- The stock has significantly increased since the late 1990s.
- Overall recruitment has increased.
- Fishing mortality has increased with total allowable catch increases.
- Fishing mortality has declined since 2004.
- The stock is reaching mortality benchmarks.
- The spawning stock biomass has steadily increased since 1991; however, there is a large margin of error that is a point of concern.
- Overfishing is not occurring and has not been occurring for a few years.

- It is uncertain whether the stock remains overfished.

Northern District Manager Sara Winslow updated the commission on the progress of the plan amendment, including the formation of the advisory committee for the Albemarle/Roanoke areas, and reviewed the timeline, FMP goals and objectives and the public information brochure.

Motion by Mac Currin to approve the goals and objectives for Amendment 1 to the N.C. Estuarine Striped Bass Fishery Management Plan, seconded by Joe Smith - motion passes unanimously.

Notice of Text for Rulemaking

Division Rulemaking Coordinator Catherine Blum reviewed proposed rules and applicable advisory committee input for the following:

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) 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 terminology of fish pot and minnow trap
9. Increase 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 B.J. Copeland to approve all of the proposed rules for notice of text for rulemaking, seconded by Mac Currin – motion passes unanimously.

The meeting adjourned.

2010 Meeting Schedule:

Aug. 11-13 in Wilmington

Nov. 3-5 in New Bern