

# Chairman's Report







**NORTH CAROLINA MARINE FISHERIES COMMISSION**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**

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Harkers Island  
**SAM ROMANO**  
Wilmington

June 24, 2019

Roger Bullock  
Deputy Chief of Operations  
Chief of Navigation Branch  
District Diving Coordinator  
USACE Wilmington District  
69 Darlington Ave.  
Wilmington, NC 28403

Dear Mr. Bullock:

It has come to the attention of the North Carolina Marine Fisheries Commission that the channel to and through Barden's Inlet at Cape Lookout will no longer be maintained.

This inlet plays an important role with the optimum utilization of the area's public trust resources. Tourism, commercial and recreational fishing, boating, etc., will be unfairly impacted by the lack of maintenance of this channel, ultimately stopping the access and use of the area. Also Barden's inlet provides a safe passage from the ocean to the sound in times of unexpected bad weather, one I have even used on occasion.

I hope that you will reconsider your decision and maintain the inlet and its channel for the enjoyment and safety of the American boater.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Robert Bizzell".

W. Robert Bizzell, Chairman  
N.C Marine Fisheries Commission



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Wilmington

June 24, 2019

Officer in Charge  
USCG ANT  
Fort Macon Road  
Atlantic Beach, NC 28512

Dear Officer in Charge:

It has come to the attention of the North Carolina Marine Fisheries Commission that the channel to and through Barden's Inlet at Cape Lookout will no longer be maintained.

This inlet plays an important role with the optimum utilization of the area's public trust resources. Tourism, commercial and recreational fishing, boating, etc., will be unfairly impacted by the lack of maintenance of this channel, ultimately stopping the access and use of the area. Also Barden's inlet provides a safe passage from the ocean to the sound in times of unexpected bad weather, one I have even used on occasion.

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A handwritten signature in black ink, appearing to read "W. Robert Bizzell".

W. Robert Bizzell, Chairman  
N.C Marine Fisheries Commission

U.S. Department of  
Homeland Security

**United States  
Coast Guard**



Officer in Charge  
United States Coast Guard  
Aids to Navigation Team Fort Macon

Phone: (252) 240-8440  
Email: [Chris.r.winters@uscg.mil](mailto:Chris.r.winters@uscg.mil)

3531  
July 16, 2019

North Carolina Department of Environmental Quality  
Attn: Chairman Bizzell  
Division of Marine Fisheries  
PO Box 769, Morehead City, NC 28557

Dear Chairman Bizzell:

Thank you for your letter regarding the Coast Guard's proposal to remove several aids to navigation in vicinity of Barden's Inlet. This proposal was driven by survey data provided by the U.S. Army Corps of Engineers (USACE) from July 2018. This survey indicated the channel was shoaled in two places to an extent that it was unsafe for navigation and too shallow for our vessels to service the aids to navigation.

The USACE re-surveyed the area again in May 2019, enabling us to better assess the current condition of the waterway. The new survey indicated a reduction in shoaling, making the waterway viable for navigation up to Buoy 24. The area beyond this point is still heavily shoaled in and the markers in this stretch of the channel were previously removed or converted to danger beacons in October 2016.

The Coast Guard has decided to leave the markers in place from the inlet to Buoy 24, allowing access to the lighthouse and some of the old channel. If the channel deteriorates again, we will re-evaluate at that time. There is no fully marked federal channel from the inlet to Back Sound, which has been the case since 2016.

The Coast Guard's role in the maintenance of channels is limited. We are able to provide navigation markers in the form of buoys and fixed piles as long as waterway conditions remain stable and navigable. For federal channels, the USACE is the entity charged with dredging and maintaining the available depths of water. In the case of Barden Inlet, the National Park Service (NPS) has an interest in keeping access to Cape Lookout National Seashore open.

The NPS, USACE and Carteret County are working together to secure funds and environmental approvals to dredge areas that are currently shoaled. Aids to Navigation Team Fort Macon remains committed to marking safe, navigable waterways for use by the boating public.

Sincerely,

A handwritten signature in black ink, appearing to read "C. R. Winters", written over a horizontal line.

C. R. WINTERS, BMC  
Officer in Charge  
U. S. Coast Guard

Copy: Sector North Carolina, District 5 (dpw)





NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

June 17, 2019

Senator Phil Berger and Representative Tim Moore, Co-Chairs  
Joint Legislative Commission on Governmental Operations  
North Carolina General Assembly  
Legislative Building  
16 West Jones Street  
Raleigh, NC 27601

RE: Draft Southern Flounder Fishery Management Plan Amendment 2

Dear Senator Berger and Representative Moore:

The draft North Carolina Southern Flounder Fishery Management Plan Amendment 2 was submitted to me by the North Carolina Marine Fisheries Commission for review. North Carolina General Statute 113-182.1(e) requires that once I review any proposed fishery management plan, I report that plan to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. The committee then has 30 days to submit comments and recommendations to me on the proposed plan. Additionally, G.S. 113-182.1(c1) requires the department to review any comment or recommendation regarding a plan that a regional advisory committee submits to the department before submission of a plan to the Joint Legislative Commission on Governmental Operations.

The amendment is located at <http://portal.ncdenr.org/web/mf/southern-flounder-topic> and an overview of the plan is enclosed for your convenience. While not formally provided for in statute, if your commission has comments or recommendations on the proposed plan, please send them to me within 30 days of the date of this letter.

Thank you for your assistance in this matter. Please contact Department of Environmental Quality Legislative Affairs Director Joy Hicks at 919-707-8618 or Division of Marine Fisheries Director Steve Murphey at 252-808-8013 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Michael S. Regan".

Michael S. Regan  
Secretary

MSR:cb

Enclosure

cc: North Carolina Marine Fisheries Commission  
Joy Hicks, Department of Environmental Quality Legislative Affairs Director  
Steve Murphey, Division of Marine Fisheries Director



**§ 113-182.1. Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- (5) Specify a time period, not to exceed two years from the date of the adoption of the plan, to end overfishing. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. **Before submission of a plan for review by the Joint Legislative Commission on Governmental Operations, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established**



in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environmental Quality.

(e) The Secretary of Environmental Quality shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environmental Quality shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes.

(g) To achieve sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may recommend that the General Assembly limit participation in a fishery only if the Commission determines that sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.

- (8) Any other relevant considerations. (1997-400, s. 3.4; 1997-443, s. 11A.119(b); 1998-212, s. 14.3; 1998-225, s. 2.1; 2001-213, s. 1; 2001-452, s. 2.1; 2004-160, ss. 3, 4; 2007-495, ss. 6, 7; 2010-13, s. 1; 2010-15, s. 1; 2011-291, ss. 2.27, 2.28; 2012-201, s. 1; 2013-360, s. 14.8(r); 2015-241, s. 14.30(v); 2015-286, s. 4.12(b); 2017-57, s. 14.1(d).)



# Division of Marine Fisheries' Overview of Amendment 2 to the Southern Flounder Fishery Management Plan June 2019



## Issue

The draft Southern Flounder Fishery Management Plan (FMP) Amendment 2 containing the Department of Environmental Quality, Division of Marine Fisheries, FMP Advisory Committee, and Southern, Northern, and Finfish advisory committee positions was presented to the N.C. Marine Fisheries Commission at its special meeting June 6, 2019 for selection of its preferred management strategies. In addition, public comment received from May 23 through June 3, 2019 was provided in a summarized format. The division and advisory committees developed management measures for the commission's consideration to meet statutory requirements to achieve a sustainable harvest\* in the southern flounder fishery, to end overfishing by 2021, and rebuild the spawning stock biomass\* (SSB) by 2028.

## Findings

- The most recent coast-wide stock assessment determined the stock\* is overfished\* and overfishing\* is occurring.
- Reductions in **total coast-wide removals\*** are necessary to end overfishing within two years and recover the stock from an overfished state within a 10-year period.
- To reach the fishing mortality\* ( $F$ ) threshold\* and end overfishing, a 31% reduction in total coast-wide removals is necessary, while a 51% reduction is necessary to reach the fishing mortality target\*. Neither of these levels of reduction would rebuild the spawning stock biomass (SSB) by 2028.
- For the SSB to reach the threshold by 2028 and end the overfished status a 52% reduction in total coast-wide removals will be required. To reach the SSB target by 2028 a 72% reduction in total coast-wide removals will be required.
- Static quota, dynamic quota, slot limits, changes in the size limits, gear changes related to size limit changes, and species-specific management are not considered feasible options to address sustainable harvest in draft Amendment 2 due to the accelerated timeline and the need to implement management measures before the fall 2019 fishing season.

## Overview

Southern flounder is a commercially and recreationally important fishery currently managed under Amendment 1 and Supplement A to Amendment 1, as modified by the Aug. 17, 2017 settlement agreement, of the N.C. Southern Flounder FMP.

### *Amendment 2 Goal and Objectives*

The goal and objectives for draft Amendment 2 to the N.C. Southern Flounder FMP were reviewed and approved by the commission at its May 17, 2019 business meeting. The goal and objectives for the FMP are:

### Goal

Manage the southern flounder fishery to achieve a self-sustaining population that provides sustainable harvest using science-based decision-making processes. The following objectives will be used to achieve this goal.

### Objectives

1. Implement management strategies within North Carolina and encourage interjurisdictional management strategies that maintain/restore the southern flounder spawning stock with multiple cohorts and adequate abundance to prevent recruitment overfishing.
2. Restore, enhance, and protect habitat and environmental quality necessary to maintain or increase growth, survival, and reproduction of the southern flounder population.
3. Use biological, environmental, habitat, fishery, social, and economic data needed to effectively monitor and manage the southern flounder fishery and its ecosystem impacts.
4. Promote stewardship of the resource through increased public awareness and interjurisdictional cooperation throughout the species range regarding the status and management of the southern flounder fishery, including practices that minimize bycatch and discard mortality.

### *Stock Assessment*

Southern flounder is assessed as a single biological unit stock occurring from North Carolina through the east coast of Florida. Based on life history information, a multi-state cooperative group performed a stock assessment with a terminal year\* of 2017 that determined the stock is overfished and overfishing is occurring.

- The stock assessment estimated biological reference points of  $F_{35\%}$  (fishing mortality target) as 0.35 and  $F_{25\%}$  (fishing mortality threshold) as 0.53. Estimated  $F$  in the terminal year of 2017 is 0.91, which is higher than the threshold and indicates overfishing is occurring.
- The stock assessment estimated an SSB target of 5,452 metric tons (approximately 12.0 million pounds) and threshold of 3,900 metric tons (approximately 8.6 million pounds). Estimated SSB in the terminal year of 2017 is 1,031 metric tons (approximately 2.3 million pounds), which is lower than the threshold and indicates the stock is overfished.

### *Statutory Requirements*

North Carolina General Statute 113-182.1 mandates that fishery management plans shall: 1) specify a time period not to exceed two years from the date of adoption of the plan to end overfishing, 2) specify a time period not to exceed 10 years from the date of adoption of the plan for achieving a sustainable harvest, and 3) must also include a standard of at least 50% probability of achieving sustainable harvest for the fishery. Sustainable harvest is defined in North Carolina General Statute 113-129 as “the amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.”

In accordance with North Carolina General Statute 143B-289.52(e1) a supermajority of the commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks.

### *Projections*

To meet statutory requirements, calculations were made to determine reductions in total coast-wide removals necessary to end overfishing within the two-year period and recover the stock from an

overfished state within the 10-year period. These projections estimate necessary changes to  $F$  when compared to the 2017 terminal year fishing mortality estimates identified in the stock assessment. In addition, the projections assumed management would start in 2019 and so the 10-year rebuilding period would need to be met by 2028.

Projections assume all four states implement measures for the reductions required to rebuild SSB. In addition, projections detailing changes in SSB assume the shrimp trawl fleet removals will continue in all scenarios. However, the partial moratorium projection also assumes no removals from the commercial or recreational fisheries, whereas less restrictive scenarios account for the specified volume of removals including harvest and dead discards. These projections provide a mathematically optimistic rebuilding schedule for SSB and are unlikely to be fully achieved given the disparity of regulating commercial and recreational gear removals and without comparable management action from the other southeastern states. For further information on the interjurisdictional nature of this species, please see the *Interjurisdictional Management* sub-section found in Section VI, Management Strategies for Sustainable Harvest of Draft Amendment 2.

To reach the fishing mortality threshold and end overfishing, a 31% reduction in total removals is necessary, while a 51% reduction is necessary to reach the fishing mortality target. However, while both of these reductions are sufficient to end overfishing in two years, neither are sufficient to achieve a sustainable harvest and end the overfished status within the 10-year period.

To reach the SSB threshold and end the overfished status by 2028, as is statutorily required, a fishing mortality of 0.34 achieved via a 52% reduction in total removals is needed. To reach the SSB target by 2028, fishing mortality would need to be lowered to 0.18 by reducing total removals by 72%. All projections are associated with at least a 50% probability of success. Both scenarios for rebuilding SSB meet the requirement to end overfishing in two years.

The projections are based on coast-wide reductions (North Carolina to Florida) necessary for coast-wide rebuilding. However, in developing necessary management measures, the division has applied the reductions for total removals only to North Carolina's portion. To do this, the percent reduction was applied to the total removals for North Carolina from the 2017 terminal year of the assessment. In North Carolina, the commercial fishery accounted for 71.8% of the total removals in pounds while the recreational fishery total removals (from hook-and-line and gigs) accounted for 28.2% in 2017. In addition, commercial removals that occurred through means of "other gears," those non-targeted flounder gear such as fyke nets, crab pots, and trawls are subtracted from the total removals prior to analysis. The impacts from these other gears are approximately 0.6% of the overall removals. While draft Amendment 2 will not impact other states' removals, continued cooperation among the state agencies involved with the stock assessment and their willingness to enact management measures to rebuild the stock within their jurisdictional boundaries is of the utmost importance for the stock.

#### *Proposed Management Options*

The list of proposed management options, including the positives and negatives for each option, can be found in Section VII, Proposed Management Options of draft Amendment 2. Department and Division recommendations are in ***bolded italicized*** font below, and additional information on these recommendations can be found in Section VIII, Recommendations of Draft Amendment 2. The FMP advisory committee recommendations are summarized below and found in Section VIII, Recommendations of Draft Amendment 2.

The Department and the Division recognize that these reductions are significant but necessary to increase the probability of successfully rebuilding this important recreational and commercial resource.

#### Commercial Fishery Options

- A. Establish seasonal closures by area for the commercial fishery to reduce  $F$  to the fishing mortality threshold (31% reduction)
- B. Establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the threshold (52% reduction)
- C. Establish seasonal closures by area for the commercial fishery to increase SSB between the threshold and target (62% reduction)
- D. Establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the target (72% reduction)
- E. Establish a partial moratorium for the commercial fishery

***Establish seasonal closures by area for the commercial fishery to reduce  $F$  and increase SSB to rebuild between the threshold and the target in 2019 (Option C, 62% reduction) and establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the target in 2020 (Option D, 72% reduction).***

#### Recreational Fishery Options

- A. Establish a season for the recreational fishery to reduce  $F$  to the fishing mortality threshold (31% reduction)
- B. Establish a season for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the threshold (52% reduction)
- C. Establish seasonal closures by area for the recreational fishery to increase SSB between the threshold and target (62% reduction)
- D. Establish a season for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the target (72% reduction)
- E. Establish a partial moratorium for the recreational fishery

***Establish seasonal closures by area for the recreational fishery to reduce  $F$  and increase SSB to rebuild between the threshold and the target in 2019 (Option C, 62% reduction) and establish seasonal closures by area for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the target in 2020 (Option D, 72% reduction).***

#### Additional Management Options: Non - Quantifiable Harvest Restrictions

These options can be implemented in conjunction with seasons to minimize the potential for overages in total removals by mitigating probable effort changes due to shortened seasons.

- A. Trip Limits
  - i. Limiting numbers per trip for the commercial gig fishery
  - ii. Limiting pounds per trip for the commercial pound net fishery
- B. Limiting days per week allowed in the Neuse River, Tar/Pamlico River and the Albemarle Sound areas that have previously been exempt from set restrictions
- C. Reducing fishing times allowed in the Neuse River, Tar/Pamlico River and the Albemarle Sound areas that have previously been exempt from time restrictions
- D. Gear Modifications
  - i. Prohibit the use of picks when harvesting fish from pound nets
  - ii. Reducing the maximum yardage allowed in the large mesh gill net fishery

***The NCDMF recommendation includes: Reducing commercial anchored large-mesh gill net soak times to single overnight soaks where nets may be set no sooner than one hour before sunset and must be retrieved no later than one hour after sunrise the next morning in the Neuse, Tar/Pamlico rivers and the Albemarle Sound areas that have previously been exempt; reducing the maximum yardage allowed in the commercial anchored large-mesh gill net fishery by 25% for each Management Unit; by allowing a maximum of 1,500-yards in Management Units A, B, and C, and a maximum of 750-yards in Management Units D and E unless more restrictive yardage is specified through adaptive management through the sea turtle or sturgeon Incidental Take Permits (ITP); and prohibiting the use any method of retrieving live flounder from pound nets that cause injury to released fish (no picks, gigs, spears, etc.).***

***Management measures from Amendment 1 and Supplement A to Amendment 1 will be incorporated into Amendment 2 (see Section VIII, Recommendations in Draft Amendment 2). Additionally, the recreational bag limit of no more than four flounder is maintained in Amendment 2.*** This bag limit is required through the N.C. FMP for Interjurisdictional Fisheries to maintain compliance with the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass FMP Addendum XXVIII. The December commercial closure period from Amendment 1 would no longer be in effect, as it is encompassed by the seasonal closure periods implemented by the adoption of Amendment 2.

***The NCDMF recommendation includes that the adoption of Amendment 2 authorizes continued development of Amendment 3 and more robust management strategies.*** Amendment 3 will be completed as quickly as possible with the ongoing contributions of the Southern Flounder FMP Advisory Committee members. This will best serve to assist the division in development of Amendment 3, by building on the knowledge, expertise, and cooperation already underway and continue the work uninterrupted from meetings that began in January 2018.

#### ***Southern Flounder FMP Advisory Committee Recommendation***

At the June 3, 2019 Southern Flounder FMP Advisory Committee meeting, the following recommendation was approved by the committee for the 2019 and 2020 fishing year and forward. For further information, including proposed seasons, see Section VIII, Recommendations of Draft Amendment 2. The committee voted to establish a season for the commercial and recreational fisheries to reduce *F* and allow the SSB to rebuild to the threshold in 2019 (Option B, 52% reduction) with the following additional modifications.

**Southern Flounder FMP Advisory Committee Management Option for 2019 and forward**  
Starting Jan. 1, 2019 adopt a recommendation for a 52% reduction for the commercial and recreational fisheries with the following changes for the commercial fishery, calculated by the northern, central, and southern areas proposed by the division:

- Commercial pound net fishery, 40% reduction
- Commercial gig fishery, 40% reduction
- Commercial large-mesh gill net fishery, a reduction of approximately 71% would be needed to make up the difference to yield a 52% reduction for the commercial fishery overall. The Southern Flounder FMP Advisory Committee recognizes that the division proposal for the Recreational Commercial Gear License large mesh gill net season of Sept. 15-Sept. 30 may be changed by this final percent reduction.



The committee recommendation also includes that management measures from Amendment 1 and Supplement A to Amendment 1, as stated above in the NCDMF recommendation, be carried forward. The recommendation also maintains regulations from the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII for recreational size and bag limit for flounder and approves the continued development of Amendment 3.

In addition, the committee recommends prohibiting the use of picks, gaffs, gigs, and spears when removing flounder from pound nets. As of Jan. 1, 2020, the committee also recommends implementing a 1,500-yard limit for large mesh gill nets in Management Unit A, a 1,000-yard limit for large mesh gill nets in Management Units B and C, and a 750-yard limit for large mesh gill nets in Management Units D and E.

Finally, the committee recommends a 52% reduction be applied to the recreational fisheries. The season for the recreational hook-and-line and gig fisheries will be July 16 through Sept. 30.

#### *Southern Advisory Committee Recommendation*

The Southern Advisory Committee met on June 3, 2019 and failed to reach consensus on a recommendation for draft Amendment 2.

#### *Northern Advisory Committee Recommendation*

The Northern Advisory Committee met on June 3, 2019 and passed a motion supporting the NCDMF recommendation of the 62% reduction in 2019 and 72% percent reduction from 2020 forward to include management carried forward from Amendment 1 and Supplement A to Amendment 1, maintaining the size and bag limits established by the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII, and the continued development of Amendment 3. In addition, the Northern Advisory Committee passed a motion asking the MFC to consider dividing the allowable days for gill netting amongst allowable fishing months for a given area due to the Sea Turtle ITP.

#### *Finfish Advisory Committee Recommendation*

The Finfish Advisory Committee met on June 3, 2019 and recommended a reduced harvest of 52%, not to exceed 52%, until Amendment 3 is completed. This recommendation includes management carried forward from Amendment 1 and Supplement A to Amendment 1, maintaining the size and bag limits established by the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII, and the continued development of Amendment 3. The committee also recommended that the MFC ask the Secretary of DEQ to allow the Director of DMF to go out of compliance with ASMFC Summer Flounder Plan and adopt a 12-inch size limit and a 4-fish bag limit for southern flounder in North Carolina waters. The committee also requested the Southern Flounder FMP Advisory Committee look at a moratorium on all southern flounder harvest from Nov. 1, 2019 to Sept. 1, 2022.

#### *Summary of Public Comment*

Public comments were accepted through three formats: mail, online, and at the joint advisory committee meeting. This meeting was held on June 3, 2019 and allowed for a maximum of 90 minutes of public comment. Mail and online comments were collected from May 23 through June 3, 2019 at midnight. Eleven comments were received through the mail; all (100%) were opposed to draft Amendment 2. Two hundred and forty-one responses were received through online tools, 91 in favor and 150 opposed to draft Amendment 2. Of those that indicated support for draft

Amendment 2, the option indicated most for 2019 and 2020 was for Option C (62% reduction) in 2019 (38% of responses) and Option D (72% reduction) in 2020 (44% of responses). In addition, trip limits, fishing times, and gear changes received more responses than the option of no preference for the additional non-quantifiable management measures (Table 1). Thirteen comments were received during the public comment period at the joint advisory committee meeting; three (23%) were in favor of and 10 (77%) were opposed to draft Amendment 2. All public comments can be found in Appendices 1-3.

#### *Marine Fisheries Commission Preferred Management Option*

At its June 6, 2019 Marine Fisheries Commission special meeting, the division provided a summary of the advisory committee and public input received. The commission passed a motion to accept the recommendations of the Division of Marine Fisheries and the Department of Environmental Quality, in their entirety, for its preferred management strategy for the draft Southern Flounder FMP Amendment 2. The commission also passed a motion to send the revised draft Amendment 2 to the Department of Environmental Quality secretary for review and comment. The secretary has 30 days to review and will forward it to the appropriate legislative commission and committee.

#### *Timeline*

##### August 2019

The commission will receive any departmental and legislative input provided. The commission is scheduled to vote on final approval of Amendment 2. If approved, management measures will be implemented via the proclamation authority of the division director following the meeting.

#### **\*Definitions**

**Sustainable Harvest** – The amount of fish (in weight) that can be taken from a stock at a given fishing intensity and the stock biomass does not change year to year.

**Spawning Stock Biomass** – Total weight of mature females in the stock.

**Stock** – A group of fish of the same species in a given area. Unlike a fish population, a stock is defined as much by management concerns (jurisdictional boundaries or harvesting locations) as by biology.

**Overfished** – State of a fish stock that occurs when a stock size falls below a specific threshold.

**Overfishing** – Occurs when the rate that fish that are harvested or killed exceeds a specific threshold.

**Total removals** – In the commercial fishery, the sum of the landings and dead discards; in the recreational fishery, the sum of the observed harvest and dead discards.

**Fishing Mortality (*F*)** – Rate at which southern flounder are removed from the population due to fishing.

**Threshold** – The maximum values of fishing mortality or minimum values of the biomass, which must not be exceeded. Otherwise, it is considered that it might endanger the capacity of self-renewal of the stock.

**Target** – The level of fishing mortality or of the biomass, which permit a long-term sustainable exploitation of the stock, with the best possible catch.

**Terminal Year** – The final year of estimates being used in an analysis.

Table 1. Summary of responses from public comment on southern flounder draft Amendment 2.

Issue	Method of Public Comment Received			
		Mail	Online	Public Comment*
		Response (number; %)	Response (number; %)	Response (number; %)
Do you support Draft Amendment 2	Yes	0 (0%)	91 (38%)	3 (23%)
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If you support Draft Amendment 2 which option do you recommend for 2019?	Option A (31%)		8 (9%)	
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	Option D (72%)		39 (44%)	
	Option E (Partial Moratorium)		19 (22%)	
	No Preference		6 (7%)	
	Total		88	
Do you support additional non-quantifiable measures?	Trip Limits		59 (31%)	
	Fishing Times		50 (26%)	
	Gear Changes		74 (38%)	
	None		5 (3%)	
	No Preference		5 (3%)	
	Total		193	

**FOOTNOTES**

3 instances of two entries with the same first and last name

3 instances of apparent fake first and last name

6 instances of entries indicating support of amendment 2, but did not pick any options

4 instances of entries with no name, 1 in support and 3 opposed. No additional comments were included.





NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

June 17, 2019

Senator Brent Jackson and Representatives Jimmy Dixon and Pat McElraft, Co-Chairs  
Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources  
North Carolina General Assembly  
Legislative Building  
16 West Jones Street  
Raleigh, NC 27601

RE: Draft Southern Flounder Fishery Management Plan Amendment 2

Dear Senator Jackson and Representatives Dixon and McElraft:

The draft North Carolina Southern Flounder Fishery Management Plan Amendment 2 was submitted to me by the North Carolina Marine Fisheries Commission for review. North Carolina General Statute 113-182.1(e) requires that once I review any proposed fishery management plan, I report that plan to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources. Your committee then has 30 days to submit comments and recommendations to me on the proposed plan.

The amendment is located at <http://portal.ncdenr.org/web/mf/southern-flounder-topic> and an overview of the plan is enclosed for your convenience.

Thank you for your assistance in this matter. Please contact Department of Environmental Quality Legislative Affairs Director Joy Hicks at 919-707-8618 or Division of Marine Fisheries Director Steve Murphey at 252-808-8013 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael S. Regan".

Michael S. Regan  
Secretary

MSR:cb

Enclosure

cc: North Carolina Marine Fisheries Commission  
Joy Hicks, Department of Environmental Quality Legislative Affairs Director  
Steve Murphey, Division of Marine Fisheries Director



**§ 113-182.1. Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- (5) Specify a time period, not to exceed two years from the date of the adoption of the plan, to end overfishing. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. **Before submission of a plan for review by the Joint Legislative Commission on Governmental Operations**, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established



in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environmental Quality.

(e) The Secretary of Environmental Quality shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environmental Quality shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes.

(g) To achieve sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may recommend that the General Assembly limit participation in a fishery only if the Commission determines that sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.

- (8) Any other relevant considerations. (1997-400, s. 3.4; 1997-443, s. 11A.119(b); 1998-212, s. 14.3; 1998-225, s. 2.1; 2001-213, s. 1; 2001-452, s. 2.1; 2004-160, ss. 3, 4; 2007-495, ss. 6, 7; 2010-13, s. 1; 2010-15, s. 1; 2011-291, ss. 2.27, 2.28; 2012-201, s. 1; 2013-360, s. 14.8(r); 2015-241, s. 14.30(v); 2015-286, s. 4.12(b); 2017-57, s. 14.1(d).)





# Division of Marine Fisheries' Overview of Amendment 2 to the Southern Flounder Fishery Management Plan June 2019



## Issue

The draft Southern Flounder Fishery Management Plan (FMP) Amendment 2 containing the Department of Environmental Quality, Division of Marine Fisheries, FMP Advisory Committee, and Southern, Northern, and Finfish advisory committee positions was presented to the N.C. Marine Fisheries Commission at its special meeting June 6, 2019 for selection of its preferred management strategies. In addition, public comment received from May 23 through June 3, 2019 was provided in a summarized format. The division and advisory committees developed management measures for the commission's consideration to meet statutory requirements to achieve a sustainable harvest\* in the southern flounder fishery, to end overfishing by 2021, and rebuild the spawning stock biomass\* (SSB) by 2028.

## Findings

- The most recent coast-wide stock assessment determined the stock\* is overfished\* and overfishing\* is occurring.
- Reductions in **total coast-wide removals\*** are necessary to end overfishing within two years and recover the stock from an overfished state within a 10-year period.
- To reach the fishing mortality\* ( $F$ ) threshold\* and end overfishing, a 31% reduction in total coast-wide removals is necessary, while a 51% reduction is necessary to reach the fishing mortality target\*. Neither of these levels of reduction would rebuild the spawning stock biomass (SSB) by 2028.
- For the SSB to reach the threshold by 2028 and end the overfished status a 52% reduction in total coast-wide removals will be required. To reach the SSB target by 2028 a 72% reduction in total coast-wide removals will be required.
- Static quota, dynamic quota, slot limits, changes in the size limits, gear changes related to size limit changes, and species-specific management are not considered feasible options to address sustainable harvest in draft Amendment 2 due to the accelerated timeline and the need to implement management measures before the fall 2019 fishing season.

## Overview

Southern flounder is a commercially and recreationally important fishery currently managed under Amendment 1 and Supplement A to Amendment 1, as modified by the Aug. 17, 2017 settlement agreement, of the N.C. Southern Flounder FMP.

### *Amendment 2 Goal and Objectives*

The goal and objectives for draft Amendment 2 to the N.C. Southern Flounder FMP were reviewed and approved by the commission at its May 17, 2019 business meeting. The goal and objectives for the FMP are:

### Goal

Manage the southern flounder fishery to achieve a self-sustaining population that provides sustainable harvest using science-based decision-making processes. The following objectives will be used to achieve this goal.

### Objectives

1. Implement management strategies within North Carolina and encourage interjurisdictional management strategies that maintain/restore the southern flounder spawning stock with multiple cohorts and adequate abundance to prevent recruitment overfishing.
2. Restore, enhance, and protect habitat and environmental quality necessary to maintain or increase growth, survival, and reproduction of the southern flounder population.
3. Use biological, environmental, habitat, fishery, social, and economic data needed to effectively monitor and manage the southern flounder fishery and its ecosystem impacts.
4. Promote stewardship of the resource through increased public awareness and interjurisdictional cooperation throughout the species range regarding the status and management of the southern flounder fishery, including practices that minimize bycatch and discard mortality.

### *Stock Assessment*

Southern flounder is assessed as a single biological unit stock occurring from North Carolina through the east coast of Florida. Based on life history information, a multi-state cooperative group performed a stock assessment with a terminal year\* of 2017 that determined the stock is overfished and overfishing is occurring.

- The stock assessment estimated biological reference points of  $F_{35\%}$  (fishing mortality target) as 0.35 and  $F_{25\%}$  (fishing mortality threshold) as 0.53. Estimated  $F$  in the terminal year of 2017 is 0.91, which is higher than the threshold and indicates overfishing is occurring.
- The stock assessment estimated an SSB target of 5,452 metric tons (approximately 12.0 million pounds) and threshold of 3,900 metric tons (approximately 8.6 million pounds). Estimated SSB in the terminal year of 2017 is 1,031 metric tons (approximately 2.3 million pounds), which is lower than the threshold and indicates the stock is overfished.

### *Statutory Requirements*

North Carolina General Statute 113-182.1 mandates that fishery management plans shall: 1) specify a time period not to exceed two years from the date of adoption of the plan to end overfishing, 2) specify a time period not to exceed 10 years from the date of adoption of the plan for achieving a sustainable harvest, and 3) must also include a standard of at least 50% probability of achieving sustainable harvest for the fishery. Sustainable harvest is defined in North Carolina General Statute 113-129 as “the amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.”

In accordance with North Carolina General Statute 143B-289.52(e1) a supermajority of the commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks.

### *Projections*

To meet statutory requirements, calculations were made to determine reductions in total coast-wide removals necessary to end overfishing within the two-year period and recover the stock from an

overfished state within the 10-year period. These projections estimate necessary changes to  $F$  when compared to the 2017 terminal year fishing mortality estimates identified in the stock assessment. In addition, the projections assumed management would start in 2019 and so the 10-year rebuilding period would need to be met by 2028.

Projections assume all four states implement measures for the reductions required to rebuild SSB. In addition, projections detailing changes in SSB assume the shrimp trawl fleet removals will continue in all scenarios. However, the partial moratorium projection also assumes no removals from the commercial or recreational fisheries, whereas less restrictive scenarios account for the specified volume of removals including harvest and dead discards. These projections provide a mathematically optimistic rebuilding schedule for SSB and are unlikely to be fully achieved given the disparity of regulating commercial and recreational gear removals and without comparable management action from the other southeastern states. For further information on the interjurisdictional nature of this species, please see the *Interjurisdictional Management* sub-section found in Section VI, Management Strategies for Sustainable Harvest of Draft Amendment 2.

To reach the fishing mortality threshold and end overfishing, a 31% reduction in total removals is necessary, while a 51% reduction is necessary to reach the fishing mortality target. However, while both of these reductions are sufficient to end overfishing in two years, neither are sufficient to achieve a sustainable harvest and end the overfished status within the 10-year period.

To reach the SSB threshold and end the overfished status by 2028, as is statutorily required, a fishing mortality of 0.34 achieved via a 52% reduction in total removals is needed. To reach the SSB target by 2028, fishing mortality would need to be lowered to 0.18 by reducing total removals by 72%. All projections are associated with at least a 50% probability of success. Both scenarios for rebuilding SSB meet the requirement to end overfishing in two years.

The projections are based on coast-wide reductions (North Carolina to Florida) necessary for coast-wide rebuilding. However, in developing necessary management measures, the division has applied the reductions for total removals only to North Carolina's portion. To do this, the percent reduction was applied to the total removals for North Carolina from the 2017 terminal year of the assessment. In North Carolina, the commercial fishery accounted for 71.8% of the total removals in pounds while the recreational fishery total removals (from hook-and-line and gigs) accounted for 28.2% in 2017. In addition, commercial removals that occurred through means of "other gears," those non-targeted flounder gear such as fyke nets, crab pots, and trawls are subtracted from the total removals prior to analysis. The impacts from these other gears are approximately 0.6% of the overall removals. While draft Amendment 2 will not impact other states' removals, continued cooperation among the state agencies involved with the stock assessment and their willingness to enact management measures to rebuild the stock within their jurisdictional boundaries is of the utmost importance for the stock.

#### *Proposed Management Options*

The list of proposed management options, including the positives and negatives for each option, can be found in Section VII, Proposed Management Options of draft Amendment 2. Department and Division recommendations are in ***bolded italicized*** font below, and additional information on these recommendations can be found in Section VIII, Recommendations of Draft Amendment 2. The FMP advisory committee recommendations are summarized below and found in Section VIII, Recommendations of Draft Amendment 2.

The Department and the Division recognize that these reductions are significant but necessary to increase the probability of successfully rebuilding this important recreational and commercial resource.

#### Commercial Fishery Options

- A. Establish seasonal closures by area for the commercial fishery to reduce  $F$  to the fishing mortality threshold (31% reduction)
- B. Establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the threshold (52% reduction)
- C. Establish seasonal closures by area for the commercial fishery to increase SSB between the threshold and target (62% reduction)
- D. Establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the target (72% reduction)
- E. Establish a partial moratorium for the commercial fishery

***Establish seasonal closures by area for the commercial fishery to reduce  $F$  and increase SSB to rebuild between the threshold and the target in 2019 (Option C, 62% reduction) and establish seasonal closures by area for the commercial fishery to reduce  $F$  and allow the SSB to rebuild to the target in 2020 (Option D, 72% reduction).***

#### Recreational Fishery Options

- A. Establish a season for the recreational fishery to reduce  $F$  to the fishing mortality threshold (31% reduction)
- B. Establish a season for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the threshold (52% reduction)
- C. Establish seasonal closures by area for the recreational fishery to increase SSB between the threshold and target (62% reduction)
- D. Establish a season for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the target (72% reduction)
- E. Establish a partial moratorium for the recreational fishery

***Establish seasonal closures by area for the recreational fishery to reduce  $F$  and increase SSB to rebuild between the threshold and the target in 2019 (Option C, 62% reduction) and establish seasonal closures by area for the recreational fishery to reduce  $F$  and allow the SSB to rebuild to the target in 2020 (Option D, 72% reduction).***

#### Additional Management Options: Non - Quantifiable Harvest Restrictions

These options can be implemented in conjunction with seasons to minimize the potential for overages in total removals by mitigating probable effort changes due to shortened seasons.

- A. Trip Limits
  - i. Limiting numbers per trip for the commercial gig fishery
  - ii. Limiting pounds per trip for the commercial pound net fishery
- B. Limiting days per week allowed in the Neuse River, Tar/Pamlico River and the Albemarle Sound areas that have previously been exempt from set restrictions
- C. Reducing fishing times allowed in the Neuse River, Tar/Pamlico River and the Albemarle Sound areas that have previously been exempt from time restrictions
- D. Gear Modifications
  - i. Prohibit the use of picks when harvesting fish from pound nets
  - ii. Reducing the maximum yardage allowed in the large mesh gill net fishery

*The NCDMF recommendation includes: Reducing commercial anchored large-mesh gill net soak times to single overnight soaks where nets may be set no sooner than one hour before sunset and must be retrieved no later than one hour after sunrise the next morning in the Neuse, Tar/Pamlico rivers and the Albemarle Sound areas that have previously been exempt; reducing the maximum yardage allowed in the commercial anchored large-mesh gill net fishery by 25% for each Management Unit; by allowing a maximum of 1,500-yards in Management Units A, B, and C, and a maximum of 750-yards in Management Units D and E unless more restrictive yardage is specified through adaptive management through the sea turtle or sturgeon Incidental Take Permits (ITP); and prohibiting the use any method of retrieving live flounder from pound nets that cause injury to released fish (no picks, gigs, spears, etc.).*

*Management measures from Amendment 1 and Supplement A to Amendment 1 will be incorporated into Amendment 2 (see Section VIII, Recommendations in Draft Amendment 2). Additionally, the recreational bag limit of no more than four flounder is maintained in Amendment 2.* This bag limit is required through the N.C. FMP for Interjurisdictional Fisheries to maintain compliance with the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass FMP Addendum XXVIII. The December commercial closure period from Amendment 1 would no longer be in effect, as it is encompassed by the seasonal closure periods implemented by the adoption of Amendment 2.

*The NCDMF recommendation includes that the adoption of Amendment 2 authorizes continued development of Amendment 3 and more robust management strategies.* Amendment 3 will be completed as quickly as possible with the ongoing contributions of the Southern Flounder FMP Advisory Committee members. This will best serve to assist the division in development of Amendment 3, by building on the knowledge, expertise, and cooperation already underway and continue the work uninterrupted from meetings that began in January 2018.

#### *Southern Flounder FMP Advisory Committee Recommendation*

At the June 3, 2019 Southern Flounder FMP Advisory Committee meeting, the following recommendation was approved by the committee for the 2019 and 2020 fishing year and forward. For further information, including proposed seasons, see Section VIII, Recommendations of Draft Amendment 2. The committee voted to establish a season for the commercial and recreational fisheries to reduce *F* and allow the SSB to rebuild to the threshold in 2019 (Option B, 52% reduction) with the following additional modifications.

#### Southern Flounder FMP Advisory Committee Management Option for 2019 and forward

Starting Jan. 1, 2019 adopt a recommendation for a 52% reduction for the commercial and recreational fisheries with the following changes for the commercial fishery, calculated by the northern, central, and southern areas proposed by the division:

- Commercial pound net fishery, 40% reduction
- Commercial gig fishery, 40% reduction
- Commercial large-mesh gill net fishery, a reduction of approximately 71% would be needed to make up the difference to yield a 52% reduction for the commercial fishery overall. The Southern Flounder FMP Advisory Committee recognizes that the division proposal for the Recreational Commercial Gear License large mesh gill net season of Sept. 15-Sept. 30 may be changed by this final percent reduction.

The committee recommendation also includes that management measures from Amendment 1 and Supplement A to Amendment 1, as stated above in the NCDMF recommendation, be carried forward. The recommendation also maintains regulations from the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII for recreational size and bag limit for flounder and approves the continued development of Amendment 3.

In addition, the committee recommends prohibiting the use of picks, gaffs, gigs, and spears when removing flounder from pound nets. As of Jan. 1, 2020, the committee also recommends implementing a 1,500-yard limit for large mesh gill nets in Management Unit A, a 1,000-yard limit for large mesh gill nets in Management Units B and C, and a 750-yard limit for large mesh gill nets in Management Units D and E.

Finally, the committee recommends a 52% reduction be applied to the recreational fisheries. The season for the recreational hook-and-line and gig fisheries will be July 16 through Sept. 30.

#### *Southern Advisory Committee Recommendation*

The Southern Advisory Committee met on June 3, 2019 and failed to reach consensus on a recommendation for draft Amendment 2.

#### *Northern Advisory Committee Recommendation*

The Northern Advisory Committee met on June 3, 2019 and passed a motion supporting the NCDMF recommendation of the 62% reduction in 2019 and 72% percent reduction from 2020 forward to include management carried forward from Amendment 1 and Supplement A to Amendment 1, maintaining the size and bag limits established by the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII, and the continued development of Amendment 3. In addition, the Northern Advisory Committee passed a motion asking the MFC to consider dividing the allowable days for gill netting amongst allowable fishing months for a given area due to the Sea Turtle ITP.

#### *Finfish Advisory Committee Recommendation*

The Finfish Advisory Committee met on June 3, 2019 and recommended a reduced harvest of 52%, not to exceed 52%, until Amendment 3 is completed. This recommendation includes management carried forward from Amendment 1 and Supplement A to Amendment 1, maintaining the size and bag limits established by the ASMFC Summer Flounder, Black Sea Bass, and Scup Addendum XXVIII, and the continued development of Amendment 3. The committee also recommended that the MFC ask the Secretary of DEQ to allow the Director of DMF to go out of compliance with ASMFC Summer Flounder Plan and adopt a 12-inch size limit and a 4-fish bag limit for southern flounder in North Carolina waters. The committee also requested the Southern Flounder FMP Advisory Committee look at a moratorium on all southern flounder harvest from Nov. 1, 2019 to Sept. 1, 2022.

#### *Summary of Public Comment*

Public comments were accepted through three formats: mail, online, and at the joint advisory committee meeting. This meeting was held on June 3, 2019 and allowed for a maximum of 90 minutes of public comment. Mail and online comments were collected from May 23 through June 3, 2019 at midnight. Eleven comments were received through the mail; all (100%) were opposed to draft Amendment 2. Two hundred and forty-one responses were received through online tools, 91 in favor and 150 opposed to draft Amendment 2. Of those that indicated support for draft

Amendment 2, the option indicated most for 2019 and 2020 was for Option C (62% reduction) in 2019 (38% of responses) and Option D (72% reduction) in 2020 (44% of responses). In addition, trip limits, fishing times, and gear changes received more responses than the option of no preference for the additional non-quantifiable management measures (Table 1). Thirteen comments were received during the public comment period at the joint advisory committee meeting; three (23%) were in favor of and 10 (77%) were opposed to draft Amendment 2. All public comments can be found in Appendices 1-3.

#### *Marine Fisheries Commission Preferred Management Option*

At its June 6, 2019 Marine Fisheries Commission special meeting, the division provided a summary of the advisory committee and public input received. The commission passed a motion to accept the recommendations of the Division of Marine Fisheries and the Department of Environmental Quality, in their entirety, for its preferred management strategy for the draft Southern Flounder FMP Amendment 2. The commission also passed a motion to send the revised draft Amendment 2 to the Department of Environmental Quality secretary for review and comment. The secretary has 30 days to review and will forward it to the appropriate legislative commission and committee.

#### *Timeline*

##### August 2019

The commission will receive any departmental and legislative input provided. The commission is scheduled to vote on final approval of Amendment 2. If approved, management measures will be implemented via the proclamation authority of the division director following the meeting.

#### **\*Definitions**

**Sustainable Harvest** – The amount of fish (in weight) that can be taken from a stock at a given fishing intensity and the stock biomass does not change year to year.

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	No Preference		6 (7%)	
	Total		88	
Do you support additional non-quantifiable measures?	Trip Limits		59 (31%)	
	Fishing Times		50 (26%)	
	Gear Changes		74 (38%)	
	None		5 (3%)	
	No Preference		5 (3%)	
	Total		193	

**FOOTNOTES**

3 instances of two entries with the same first and last name

3 instances of apparent fake first and last name

6 instances of entries indicating support of amendment 2, but did not pick any options

4 instances of entries with no name, 1 in support and 3 opposed. No additional comments were included.





ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

STEPHEN W. MURPHEY  
*Director*

June 7, 2019

Michael S. Regan, Secretary  
North Carolina Department of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699-1601

Dear Secretary Regan,

On June 6, 2019 the North Carolina Marine Fisheries Commission approved the draft North Carolina Southern Flounder Fishery Management Plan Amendment 2 for your review. The amendment is located at <http://portal.ncdenr.org/web/mf/southern-flounder-topic> and an overview of the plan is enclosed for your convenience. Please submit any comments or recommendations regarding the plan to my office within 30 days.

The Fisheries Reform Act of 1997 [G.S. 113-182.1 (c1) and (e)] requires that you transmit this fishery management plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources for review. The commission and committee also have 30 days from the date of receipt of the plan to submit comments. Cover letters for your signature are being prepared for that purpose and will be sent under separate cover.

Thank you for your assistance in this matter and please contact me at 252-808-8013 if you have any questions.

Sincerely,

Stephen W. Murphey, Director  
North Carolina Division of Marine Fisheries

Enclosure

cc: North Carolina Marine Fisheries Commission  
Joy Hicks, Department of Environmental Quality Legislative Affairs Director

SWM:cb



**From:** [Garry Stutts](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Concerned about Flounder  
**Date:** Wednesday, July 31, 2019 4:27:26 PM

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Thank You Dana, just a couple of questions.

(1) In regards to Flounder. Why are commercial fisherman and recreational fisherman inclined to the same rules and regulations.? Clearly they are 180 degrees apart. Please explain to me how the recreational fisherman is affecting the Flounder population **AT ALL?** Please be specific.

(2) After your August 21st meeting, I understand you are closing the Flounder season until August 2020 for a short period, How long are you planning on Keeping this guideline in place?

(3) Lastly, I'm 65 and have been Flounder gigging on our North Carolina beaches since the 1960's. The sport I love is being decimated. We have a group, not a large group but a group of about 21 people that go to our coast around 10 times a year just to Flounder gig. It hurts to know that we are going to take all those earned and taxed dollars and move them to South Carolina.

Sincerely

Garry Stutts

**From:** [moneyopoly](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Attn Chairman Bizzell  
**Date:** Sunday, July 28, 2019 1:27:59 AM

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Concerning flounder limits in NC, I would like to see at least a 1 fish per day limit year-round for recreational rod and reel anglers...even if the legal size was raised to 16" or 17".

Personally, I see way more flounder being giggered than caught on rod and reel in recent years. Please ensure that limits are spread fairly across the board.


Thank you,  
Paul Nelson  
Licensed NC Recreational Angler

**From:** [Capt Dave Stewart](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Chairman Bizzell  
**Date:** Friday, July 26, 2019 2:01:46 PM

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Please assure that if we need a closure that it is closure for ALL - just like Rock. Fair to all and only way to make a gain. A summer closed trout season would also be good for that species to spawn out.

Capt Dave Stewart  
KneEDeeP Custom Charters  
Minnesott Beach Bait & Tackle  


**From:** [Brandon Watson](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] flounder proposal.  
**Date:** Friday, July 26, 2019 1:54:20 PM

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My name is Brandon Watson I am a full time commercial fisherman from the new river area here in Jacksonville. I am do some fishing in Swansboro an Bogue sound. I haven't fished as much this year for flounder because of damages too our home during the hurricane, we had 3 foot of water in our place. Floundering is usually makes up about 75 percent of my fishing income an fishing is 100 percent of my income. I have two daughters an a wife too support. Those are beside the facts. One thing is I have seen more fish this year , citation flounder, all over the place . So have other fisherman an tackle shops along our plentiful shores. According too NOAA the flounder are doing just fine, an have made a rebound. I have seen no shortage of fish neither has any charter boat captains. I believe we need accurate numbers on the recreational side you have so many fish being taken an we really have no data on how many they take. I very rarely seen the guys are the ramp measuring an weighing fish, an tons of shore fisherman , guys who have there own docks, private boat ramps. Also the size limit should be moved back down too what it was or even 13 inches, put a slot size no flounder above a certain size because all we are catching are spawning females! That was all by design though by louis b. daniel. Less fisherman, different gear, of course the numbers will be different, not too mention its fishing an it has its lulls like everything. I think we need too make decisions on facts not on political pressures. Thank you God Bless



**From:** [Murphey, Steve](#)  
**To:** [Gillikin, Dana](#)  
**Cc:** [Blum, Catherine](#); [Rawls, Kathy](#)  
**Subject:** FW: [External] We support the flounder ban!  
**Date:** Friday, July 19, 2019 11:44:57 AM

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**From:** Bizzell, Rob <r.bizzell.mfc@ncdenr.gov>  
**Sent:** Friday, July 19, 2019 11:44 AM  
**To:** Murphey, Steve <steve.murphey@ncdenr.gov>  
**Subject:** Fwd: [External] We support the flounder ban!

For the meeting notebooks  
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**From:** Anthony Calabria [REDACTED]  
**Sent:** Thursday, July 18, 2019 11:11 AM  
**To:** Bizzell, Rob; Laughridge, Charles H; Kornegay, K; Boltes, C  
**Subject:** [External] We support the flounder ban!

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Hello,

As an avid inshore/offshore fishing family for 22 years in NC, we all want to thank you for the first steps to maintaining a healthy flounder population. Conservation is needed not only for the flounder, but many other species as well! Too many people kill fish, of all sizes, with little to no regard, especially on piers; I just wish they would understand the damage they are doing.

Please consider a ban or a LIMIT of pufferfish, sharks and stingrays as well. It's embarrassing how many people kill them and to what end? The worst part is that they brag about it on social media.

Please know as a high school English teacher of 22 years and a father of two sons, ages 13 and 11, that we, and our family and friends, all who own beach homes and boats in Atlantic Beach and Morehead, support this 100%. Keep up the good work and thank you for supporting conservation! Every single hunter and fisher should be advocates of conservation!

I'm here to help if needed.

Anthony Calabria

## The future of saltwater fishing in North Carolina ?

The future of saltwater fishing in our state has a very dismal outlook. The Marine Fisheries has almost managed our trout, flounder, strippers and drum into non existence. Now I hear that the politicians want to get into the cause by setting size limits on spots, croakers and some other species. Both groups have missed the point controlling species size or limits does not work when you are killing the babies before they can develop. N.C. allows long haul shrimping and trawling in our inland waters. These methods destroy the grass beds and bycatch kill the juvenile fish of the species we want to protect. Bycatch is the small undersize fish and aquatic animals not wanted. Bycatch for shrimpers and trawles is 20 to 30 lbs/ 1 lb of target species. The simple thing to do is to join all the other states on the east coast and gulf coast by allowing only hook and line harvesting of fish in state waters. The shrimping also needs to be moved outside the inlets. South Caroline was the last state to do this and their pounds of harvest has increased by allowing the shrimp to get larger. The fish in N.C. are a resource to all its citizens and not to just a few people.

N.C. has the most extensive inland waters of any state, 2,220,161 acres. N.C. issued 4,824 standard commercial license last year and 311,652 recreation saltwater license. Those commercial fishermen caught 134,463 lbs of stripped bass, 128,922 lbs of speckled trout, 144,464 lbs of drum. The Marine Fisheries plans to close the flounder to recreational fishermen in August but to allow the commercial industry to fish them for 6 weeks but they say the founders are in distress. They caught 2,560,227 lbs last year. I say if they are in distress; close the flounder season for all. I personally think it will give them a much needed time to recover. Commercial fishing decimates the sea grass and the fish population in our inland waters.

Life does not remain the same, things change. I use to work in the textile industry and it went away. Commercial fishermen in the other states transitioned to other careers, some became fishing guides. I was at Venis, Louisiana; last year fishing. I hired a guide for a 6 hour inshore trip. I caught 20 drum, 20 speckles for fillets and 5 big drum 22 to 27 lbs. The trip cost me \$500 and a tip. I do not believe I could have had that kind of day in N.C. at any cost. It is incomprehensible that 4,824 people dictate to 311,652 people the uses of our state saltwaters. We could have that kind of success in N.C. if the people in government would do what's right and necessary to protect our saltwater resources. The legislature should understand that there is far more income generated by recreational fishing than commercial.

Fred R. Bonar



**From:** [Bizzell, Rob](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** Fwd: [External] Flounder season closure ....  
**Date:** Monday, July 22, 2019 2:30:25 PM

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Sending you several for the books. Thanks, Rob  
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**From:** David Lewis [REDACTED]  
**Sent:** Saturday, July 20, 2019 10:55 AM  
**To:** Bizzell, Rob  
**Subject:** [External] Flounder season closure ....

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Hello Mr. Bizzell,

I'm sure you've already received a lot of feedback on this ... Oddly, I just saw the news today that the commission was going to close flounder season in August and not reopen it until next August for recreational and commercial fisherman (though it looked like season would be re-opened for commercial fisherman in the Fall).

Frankly it's hard to imagine that the recreational fisherman puts too much of a dent in the flounder population. Granted, I only get to fish the OBX while on vacation (from Raleigh), but I do get there for a week in the summer and a month in the Fall. I hardly ever see anyone target flounder from the beach (it's usually just an incidental catch). Most folks are soaking bait on a bottom rig for whatever comes along, or the more "serious" guys target the drum in the Fall.

Of course, I can see the commercial side having a much larger effect and it doesn't really make much sense to me to close the season for recreation, but open the season for the commercial guys to sweep up everything they can. But I'm sure the commercial guys are lobbying hard.

Seems like setting a one or two fish limit on the recreational guys and closing the season for the commercial guys would have the biggest positive effect on the flounder population. But like I say, I'm sure there's a lot of politics involved. Just my 2 cents.

Best,  
Dave Lewis  
Raleigh, NC

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**From:** [Bizzell, Rob](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** Fwd: [External] Flounder fishery  
**Date:** Friday, July 26, 2019 8:51:27 AM

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**From:** Kelly Bordeaux [REDACTED]  
**Sent:** Thursday, July 25, 2019 9:51 PM  
**To:** Bizzell, Rob  
**Subject:** [External] Flounder fishery

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Howdy

I live in Beaufort, NC and fully support the flounder fishery closure planned for August.

Thank you.

Kelly Bordeaux  
[REDACTED]

**From:** [Bizzell, Rob](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** Fwd: [External] Flounder closure in north Carolina  
**Date:** Tuesday, July 23, 2019 1:00:56 PM

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**From:** Jeff Smith [REDACTED]  
**Sent:** Tuesday, July 23, 2019 5:14 AM  
**To:** Bizzell, Rob  
**Subject:** [External] Flounder closure in north Carolina

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Mr. Bizzell,

Hello, i am one of the board members of the Carolina beach got em on fishing club. We currently have more than 300 active club members. We host 5 flounder points tournaments a year from june to October. If flounder closes it will drastically effect the fishing tradition that we have done for over 40 years. We understand when theres a need for change to protect our fishery that we all do our part. But we feel a one fish limit would do that and still allow us to fish, spend money to fish and be good all around. In addition to our 5 tournaments, we travel once a year for our road warriors tournament. This year we are booked for a week at the palm suites in Atlantic beach in September. With the looming closure, our members are preparing to cancel this trip. That's a lot of tackle store, hotel, gas, restaurant, money that's not going to be spent. The effects of just closing flounder effects deeply into the sport and the economy as well.

Jeff Smith  
[REDACTED]

**From:** [Bizzell, Rob](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** Fwd: [External] Flounder Closure  
**Date:** Wednesday, July 24, 2019 3:51:29 PM

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**From:** G Sunderland [REDACTED]  
**Sent:** Wednesday, July 24, 2019 2:43 PM  
**To:** Bizzell, Rob  
**Subject:** [External] Flounder Closure

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Rob,

I am in full agreement that flounder fishing should be closed. The continued over fishing and use of gill nets has greatly reduced the amount of flounder in our waters. When I first came here 5 yrs ago now, I remember being stunned by the amount of bait in the water and by the flounder I was able to catch.

But, each year since then I have seen a noticeable drop off in flounder being caught not only by myself but by other kayak fisherman in the Cape Fear area. Those that I do catch are well below the slot size, and of course I release them back into the water.

My hope is that the flounder will recover and of course if possible I would hope that our State would adopt a ban on gill netting as that technique of fishing has an adverse effect on juvenile fish in our waters

Best regards,

Gerry S.

**Gerard Sunderland**  
*Director, Business Development*  
*Gryphon Financial Group Inc.*

[REDACTED]

[REDACTED]

**From:** [Bizzell, Rob](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** Fwd: [External] Flounder closure  
**Date:** Tuesday, July 23, 2019 1:00:36 PM

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**From:** Bryan Armstrong [REDACTED]  
**Sent:** Tuesday, July 23, 2019 6:55 AM  
**To:** Bizzell, Rob  
**Subject:** [External] Flounder closure

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Hey Rob,

My names Bryan Armstrong I know this may not make much of a difference but on behalf of got-em-on fishing club. A club with over 300 members, and all the other recreational fisherman we believe that making the limit to one fish and even possibly making the size 18 inches... (when they start reproducing ) would maybe be a helpful solution. We hold 5 points tournaments every year and one trip. This has been a 40 year long tradition to Carolina beach. It's just hard to see it be broken with such a dramatic change in laws when we believe it could be approached a completely different route

Thanks, Bryan

Sent from my iPhone

**From:** [Mark Burns](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Aug 21-23 Flounder closure public input / Chairman Bizzell  
**Date:** Thursday, July 25, 2019 11:53:05 AM

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Chairman Bizzell,

I am an inshore recreational fisherman that enjoys occasional fishing trips with my three sons and grandsons. We are basically limited to Flounder, Red or black drum, spotted trout and Sheepshead inshore. If we do catch a keeper, the shared meal, the memories and photos create special bonds.

Instead of going from a limit of 4 flounder per person per day for the whole year to only a 6 week season, I would like to suggest that, at a minimum, the limit be set as per the Red Drum limit, one per person per day for the entire year ( I would prefer a limit of two because one average flounder won't feed many people ). If necessary, even change the length requirement from 15" to 16" or 17".

The flounder stock would still greatly improve with the 50% or 75% reduction and the increase in size limit would increase breeders as well. I have not seen any demographic studies about the aging of the fishing public, but as the baby boomers age, they take fewer and fewer fishing trips. I hope this issue is at least reviewed in your decision, because baby boomers have had an enormous influence on society, and fishing stocks will likely increase naturally as boomers quit fishing or reduce their trips. I don't see the following generations being involved in fishing the way the baby boomers have been.

A reduction to a 6 week season will send numerous vacationing fishermen to S. Carolina or Virginia, putting a dent in tourism dollars and state tax receipts. Some individuals specifically cater to flounder fishermen with gigs, flounder lights, rigs, etc. and will negatively effect North Carolina income tax receipts as well.

In addition, I believe it would help foster goodwill toward the regulating agency, as it is difficult to understand why such a drastic change in rules is necessary in a single year. It was just a few years ago that the limit went from 6 to 4. The new 6 week season rule that is being proposed means that a lot of us older guys just won't be able to catch and eat our own flounder in the state we call home, because we cant always get out and fish when we want, we fish when we are able. A lot of us won't even be alive by the time the stocks gets replenished to the point that a year round season is deemed acceptable by the agency.

I hope you will consider a more moderate response to the issue. All the fishermen I know want healthy fish stocks, but we feel a less drastic approach would benefit everyone.

Sincerely,

Mark Burns  
Hampstead, NC



**From:** [Martha Stovall](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Chairman Bizzell  
**Date:** Friday, July 26, 2019 8:54:39 AM

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I believe ALL public should have access to the public fisheries! Personally I would prefer at least one flounder per person per trip, open season all year, and could even accept a 16" or 17" size limit. Its not ideal, but its better than what they are proposing.

Martha Stovall, recreational fisherman



June 19, 2019

Mr. Rob Bizzell, Chairman  
North Carolina Marine Fisheries Commission  
c/o North Carolina Division of Marine Fisheries  
3441 Arendell Street, Morehead City, NC 28557

**RE: Southern Flounder Fishery Management Plan Amendment 2**

Dear Chairman Bizzell and Marine Fisheries Commission Members,

My name is Don Kirkman, and I am the Economic Development Director in Carteret County. I understand that the public comment period for commenting on the proposed Amendment 2 of the Southern Flounder Fishery Management Plan has closed and you have previously received both a Resolution of opposition from the Carteret County Board of Commissioners and a very thoughtful opposition letter from the Carteret County Marine Fisheries Advisory Board. However, I have a perspective on this issue that I would like to share with you based on nearly 30 years' experience as an economic development professional.

"Economic development" literally means the development of an economy, and fishing has shaped the development of coastal North Carolina economies for hundreds of years. Nowhere in the state is this more apparent than Carteret County, where thousands of families have earned their livelihoods from the water for many generations. Coastal North Carolina has a distinguished maritime and fishing heritage, made possible by hard-working, independent families who risked much to provide for their families and provide fresh seafood for consumers in North Carolina and elsewhere.

Carteret County, like much of coastal North Carolina, has experienced a significant decline in commercial fishing. The factors contributing to this decline are many, but fisheries regulations are a major reason. And regardless of the causes, rural coastal communities that have been historically reliant on commercial fishing have in recent years experienced massive economic and social dislocations—including loss of employment and income, outmigration, declining school enrollment, increased demands on social services, and higher levels of substance abuse and mental health issues.

Fortunately, in Carteret County these adverse economic impacts have been partially offset by increased tourism and second home investment, and a significant component of this growth is directly tied to recreational fishing, which attracts investment and people to the Crystal Coast. Unfortunately, much of the positive economic benefits of tourism and second home investment

Carteret County Economic Development Department  
3615 Arendell Street, Morehead City, NC 28557 | (252) 222-6121 | ED@carteretcountync.gov  
[www.CrystalCoastED.com](http://www.CrystalCoastED.com)

inure to different populations than those adversely impacted by the decline in the commercial fishing industry. Geographically and demographically, most of those adversely impacted by regulations on commercial fishing do not benefit from this new investment and growth.

In Carteret County, for example, we have seen a huge economic downturn and a significant population outmigration in “Down East” Carteret County, where the county’s commercial fishing families are largely concentrated. The eastern half of Carteret County has declined as the western end of the county and the Bogue Banks beach communities have prospered with new investment and jobs. As demand for seafood, and locally caught fresh seafood specifically, continues to grow, there are very serious concerns about how the growing demand can be satisfied given the increasing burdens placed on commercial fishing.

While my concerns transcend the southern flounder fishery and management plan, proposed Amendment 2 crystallizes many of the issues I have attempted to highlight in this letter. In fact, in many ways the proposed southern flounder management plan amendment is worse than other fishery management plans because it would have significant adverse economic impacts on commercial and recreational fisheries. Southern flounder is one of North Carolina’s most popular recreational fisheries, and the proposed amendment will have draconian impacts on both the commercial and recreational effort, with significant adverse economic impacts.

My overarching concern as it relates to proposed Amendment 2 but also more broadly to the structure of fisheries regulations generally is the absence of an economic impact analysis when regulations are proposed. I embrace the need for data-driven decision-making, and I appreciate that proposed Amendment 2 reflects peer-reviewed stock assessment data. There is another data set, however, that is absent in the Commission’s rule-making process. That is consideration of economic impact data that I believe should be part of the Commission’s statutory mandate. An evaluation of economic impacts in addition to fishery stock data would likely result in different outcomes, particularly in the timetable for implementing management plans. This is particularly true in the case of the proposed southern flounder plan, where there is significant disagreement about the data and the impact of a single-state approach to species management in the absence of action by other neighboring states.

Thank you very much for your consideration, and please contact me if you have any questions.

Sincerely,

*Don Kirkman*

Don Kirkman, Director  
Carteret County Economic Development

cc: Carteret County Board of Commissioners and Manager  
Secretary Michael Regan  
Representative Pat McElraft  
Senator Norman Sanderson

**Board of Commissioners**

Earl Pugh, Jr., Chair  
Tom Pahl, Vice-Chair  
Benjamin Simmons, III  
Shannon Swindell  
James Topping

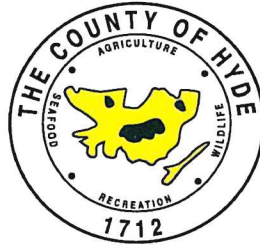
# COUNTY OF HYDE

30 Oyster Creek Road  
PO Box 188  
SWAN QUARTER, NORTH CAROLINA 27885  
252-926-4400  
252-926-3701 Fax

Kris Cahoon Noble  
County Manager

Franz Holscher  
County Attorney

Lois Stotesberry, CMC, NCCCC  
Clerk to the Board



**RESOLUTION Against Southern Flounder Amendment 2 and the North Carolina Division of Marine Fisheries Recommendation to the North Carolina Marine Fisheries Commission  
June 3, 2019**

**WHEREAS**, the Southern Flounder Amendment 2 and the North Carolina Division of Marine Fisheries are recommending cutting the southern flounder harvest by 62% in 2019 and 72% in 2020;

**WHEREAS**, the southern flounder fishery is absolutely a cornerstone of the Ocracoke and Hyde County economy;

**WHEREAS**, Ocracoke Seafood is the only fish house left on Ocracoke Island and is a fishermen owned enterprise that buys fish, oysters and clams from over 30 fishermen;

**WHEREAS**, the income generated by sales to Ocracoke Seafood Company supports fishing families, Ocracoke's local tourism economy and Hyde County's tax revenue and sustainability;

**WHEREAS**, Ocracoke's tourism economy is supported by 12 restaurants which depend on fresh, local seafood to satisfy tourists craving for fresh Ocracoke seafood;

**WHEREAS**, fresh, wild-caught seafood is one of the top tourist attractions on Ocracoke, adding to the \$1 billion of tourist revenues North Carolina gains yearly from the coastal region;

**WHEREAS**, 20% of all tourists visit the coast of North Carolina specifically to eat locally caught seafood;

**WHEREAS**, Ocracoke Seafood Company depends on the diversity of species that the pound net harvest provides throughout the fall to stock the seafood retail and an October 17<sup>th</sup> closure will remove the primary source of wholesale landings in the months of October and November;

**WHEREAS**, the recommendation by the North Carolina Division of Marine Fisheries at the North Carolina Marine Fisheries Commission meeting to cut the southern flounder harvest by 62% in 2019 and 72% in 2020 with an October 17<sup>th</sup> closure to the flounder season will make Ocracoke Seafood Company unprofitable;

**WHEREAS**, Ocracoke Seafood Company's payroll to Ocracoke fishermen averages \$600,000 annually and supports 4 full-time employees;

**WHEREAS**, the income generated at Ocracoke Seafood Company is recycled into the Ocracoke economy making an exceptional impact during the winter months when jobs and tourists are non-existent;

**WHEREAS**, Hyde County is a Tier One, Economically Disadvantaged County and the second most impoverished county in the state of North Carolina generating its sole economic survival from agriculture, commercial fishing and tourism;

**WHEREAS**, the loss of Ocracoke's flounder fishery would eliminate jobs, decrease tax revenue through commercial fishing sales and erase the presence of a fish house on the Ocracoke harbor which is essential to the tourism market that has evolved from this mutually dependent relationship of tourism and fresh seafood;

**WHEREAS**, Ocracoke Village would not be the same without a fish house and enacting Amendment 2 would negatively affect all business on Ocracoke Island, endanger the presence of the fish house, and this is unacceptable to Ocracoke and Hyde County;

**WHEREAS**, the Central Region is too large and diverse in regard to flounder harvest and should be divided into two subregions to allow fishermen on the east and west sides of the Pamlico Sound equal opportunity to participate in the fall pound net fishery;

**WHEREAS**, over the last five years, setting pound nets along Ocracoke and Hatteras have been delayed due to hurricanes and until mid October the catch is primarily summer species including spade, butterfish and pompano;

**WHEREAS**, to be economically feasible, pound net fishermen need a 5-week season starting October 1st and ending after the first week of November, which allows the owner a two week period to recover the expenses of fishing and two - three weeks for the owner and crew to make a profit for the months of work it took to prepare for the fishery;

**WHEREAS**, Ocracoke Seafood Company is recognized as one of the Golden Leaf Foundation's most successful projects in eastern North Carolina and has been studied by multiple national organization and the Food and Agriculture Organization of the United Nations for its unique fishermen owned business model;

**WHEREAS**, Ocracoke Seafood Company ships seafood throughout North Carolina, specifically targets Raleigh markets and is recognized by companies and tourists who purchase seafood as one of the best examples of fresh, local North Carolina seafood;

**WHEREAS**, Amendment 2 and the current North Carolina Division of Marine Fisheries recommendation to the Marine Fisheries Commission will place all of the dedication, hard work and funding to rebuild the Ocracoke fish house over the last twelve years in dire economic jeopardy;

**WHEREAS**, the Southern Flounder Advisory Committee has recommended a 31% reduction in flounder harvest in 2019 and a 52% reduction in 2020 with that recommendation being developed through significant debate of the data and multi stakeholder input and allows commercial fishermen one year to adjust their business models that may keep a portion of the pound net fishery operational;

**WHEREAS**, the average age of a North Carolina commercial fisherman is approaching the mid 50's and those fishermen hold all of the capital and experience in the fishing industry and as they are continually pressured they will retire and move into other fisheries that creates additional stress on those fisheries as well while endangering the commercial fishing industry and damaging the coastal tourism industry;

**WHEREAS**, the mainland portion of Hyde County has already lost approximately 95% of its flounder fishery, flounder fishermen, fish houses and the economy that those supported because of restrictions that have already been placed on the fishery over the past years, skewing the numbers on the mainland to create an illusion of decreased harvests and decreased stocks because regulations have reduced the number of fishermen and the effort within the fishery;

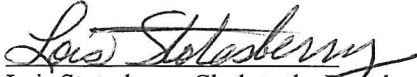
**NOW, THEREFORE, BE IT RESOLVED**, that the Hyde County Board of Commissioners unanimously recommend that Amendment 2 and the current North Carolina Division of Marine Fisheries recommendation to the Marine Fisheries Commission be voted against and that the two entities work to find a compromise that will rebuild the southern flounder stocks and end overfishing without destroying fishing families, fishing communities and the seafood infrastructure needed to get seafood to market in and outside of the Great State of North Carolina.

**NOW, THEREFORE, LET IT FURTHER BE RESOLVED**, the Hyde County Board of Commissioners unanimously recommend the North Carolina Division of Marine Fisheries and the Marine Fisheries Commission consider the adoption of the recommendation of the Southern Flounder Advisory Committee of a reduction of 31% in 2019 and a 52% reduction in 2020 with a 5-week season starting October 1st and ending after the first week of November.

Adopted this the 3rd day of June, 2019.



Earl Pugh, Jr., Chairman  
Hyde County Board of Commissioners



Lois Stotesberry, Clerk to the Board  
Hyde County Board of Commissioners



**From:** [Ginger Midgett](#)  
**To:** [Gillikin, Dana](#)  
**Cc:** [Fish, Nancy](#)  
**Subject:** [External] Proposed Flounder Regulations for NC  
**Date:** Thursday, June 13, 2019 10:00:15 PM

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To whom it may concern,

I can not understand why the NC Marine Fisheries Commission or the Division of Marine Fisheries would want to regulate the flounder fishery in North Carolina any more than it is regulated at the present time, it is already regulated enough. There is no substantial reason other than putting more commercial fisherman out of work. I believe the fishery is not over fished. As consistently mentioned in the proposal, closing the internal coastal waters to flounder fishing or adding more regulations will only create additional hardships for the commercial fisherman and the inshore charter fisheries. I have commercial and recreational fished in Pamlico Sound for more than fifty years. I have observed more small flounder in the sound now than there were twenty five years ago. Closing the inshore waters to flounder fishing will only add more discards and dead flounder being returned to the waters. It is hard enough for the commercial fishermen to make a living with the current regulations in place now. With the tie down rules, mesh depths allowed, turtle closures, no weekend fishing, and sturgeon regulations in place now, it has already put many fishermen out of the fishery. It would be in the best interest of the State of North Carolina (taxes and sustained jobs) to not create any more hardships on the commercial fisherman or the inshore recreational fishery by passing these ridiculous new proposed regulations.

Thank you for your consideration,

Ray Midgett  
Manteo, North Carolina



Virus-free. [www.avg.com](http://www.avg.com)

**From:** [Beverly Grisales](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Chairman Bizzell  
**Date:** Friday, July 26, 2019 6:35:40 AM

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I am sad to hear about the closing of flounder fishing. I feel you should end gill netting instead . I think gill netting kills too many small fish thus lowering the number of adult fish . Increase the size until the numbers come back and 1 fish per person. Thank You, Beverly Grisales



**From:** [John Collier Jr](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] address to Chairman Bizzell  
**Date:** Thursday, July 25, 2019 1:12:54 PM

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I would rather see a restriction on number or even size of flounder rather than have no season at all throughout the year. I just bought everything needed this year for my flounder fishing and gigging this year only to hear that it will be voted to not have a season at all. Please consider the other options.....

-- Thank You;  
John Collier  
Hampstead NC

July 13, 2019

To: North Carolina Div. of Marine Fisheries  
Marine Fisheries Comm.  
3441 Arendell St  
Morehead City, N.C. 28557  
ATTN: Chairman Bizzell

Dear chairman:

As I Plan my next Trip To N.C. East Coast which always includes in shore Flounder Fishing, I can't believe you are considering catch and release Fishing and Further That sport Fishing has any effect on total Population Compared To Commercial net and Gig Fishing. I've seen more Flounder stacked in a Hampstead Fish house Than I believe the entire county kills in a month Sport Fishing.

Anyway, if you think Sport Fishing is a Problem, I would suggest Daily Possession limit Reduction from Present 4 Down To 2 or even 1. I don't recall ever cleaning more than one Flounder from a days Fishing for over 10 years Fishing The N.C. Coast. IT also seems The economic effect on the economy would be much less, guide service, Pier fishing, Tackle shops.

IT would be interesting how you evaluate the effect of Gig Fishing, Catch and release doesn't work. Too well, I wouldn't Think.

I get The N.C. Wildlife Resources Commission E Mail, July 9 last one, and it had no mention of this possible change. For Now, my N.C. Travel Plans and \$1,000<sup>00</sup> budget are on hold until I see what you do.

Respectively yours  
Thomas E. Laisure  
Thomas E. Laisure

**From:** [Ditch](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] Flounder  
**Date:** Friday, June 28, 2019 10:35:18 AM

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Thanks Dana,

I am a recreational fisherman who has been fishing the NC coast for over 50 years. I've seen the flounder stocks drop off over time, but the last 10 years this seems to have accelerated.

A couple years ago DMF proposed a total ban on keeping flounder for 6 months I think. It was opposed and nothing happened but the fish stocks continued to decline.

When the recreational Fishing license was first proposed one claim was that it would give the recreational fisherman a voice in how the fishery is managed. I see no sign of that , it's just another Tax and I'm not alone in this impression.

I know that flounder bring a lot of money to our commercial fishermen but if there are none for them to catch it won't help them. Let's try a total ban for 6 months or a year and see what happens. It will hurt in the short term but if the pain is shared on both sides equally I think we will both be better off in the future. Give them the chance to grow and multiply. It is bound to help in the long run.

Thanks,  
Dick Gray

[REDACTED]

[REDACTED]

**From:** [Pat breeden](#)  
**To:** [Gillikin, Dana](#)  
**Subject:** [External] New proposals  
**Date:** Thursday, June 27, 2019 8:36:27 PM

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**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [report.spam@nc.gov](mailto:report.spam@nc.gov)

I am a 63 year old woman who lives to fish. I catch my own bait. I fish. I crab. I follow the rules. I find it hard to believe that your organization wants to punish us and cut off flounder fishing, tell us we cant use our own bait and out size restrictions on a croacker??? A fish as plentiful and as useful as a pin fish. NC sees this to be necessary. Not SC. Not VA. Maybe if net fishing was outlawed it would help. We recreational fishermen are lucky to get 2 flounders a week. We obey the rules.

Why not put a size limit on flounder instead of stopping. Why not raise the size from 15" to 16" and none over 22"

Dont take our enjoyment if using our water for fishing away from us. PAT BREEDEN.

██████████

[Sent from Yahoo Mail on Android](#)



# NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:  
P.O. Box 27255  
Raleigh, NC 27611-7255

Phone: (919) 814-0700  
Fax: (919) 715-0135

## Ethics & Lobbying Education

The following information applies to public servants, legislators, legislative employees, and ethics liaisons. For information on lobbying education and awareness presentations for lobbyists and lobbyist principals.

**Mandatory Education.** The N.C. State Board of Elections and Ethics Enforcement provides mandatory ethics and lobbying education for *public servants, legislators, legislative employees* and *ethics liaisons*. Topics covered include:

- Filing a Statement of Economic Interest ("SEI")
- Monitoring and avoiding conflicts of interest
- The gift ban and its exceptions
- Prohibition on use of public position for private gain
- Lobbying and how it affects individuals covered by the State Government Ethics Act

Ethics education is the primary way individuals subject to the State Government Ethics Act are made aware of their public duties and responsibilities as well as the consequences for violating the ethics laws.

## Who Must Participate

- **Public Servants & Ethics Liaisons.** All public servants and ethics liaisons are required to attend a Commission-approved basic ethics and lobbying education presentation within six (6) months of the person's election appointment, or employment and attend a refresher presentation at least every two (2) years thereafter.
- **Legislators & Legislative Employees.** The Commission, jointly with the Legislative Ethics Committee, makes mandatory ethics education and lobbying presentations to all legislators within two (2) months of the legislator assuming his or her office. Legislative employees must also participate in ethics education within three (3) months of employment and attend a refresher at least every two (2) years.
- **Education Presentations & Schedule.** Ethics and lobbying education presentations for public servants and ethics liaisons are offered [online](#) and [live at Raleigh-only and distance education sites](#). Completing an online presentation or attending a live session meets either the basic or refresher mandatory education requirements. Visit <https://www.ncsbe.gov/Ethics/Education> to access online and live training options.

Ethics education for **legislators** is conducted in live sessions. Legislative employees may participate in ethics education online through the General Assembly.

- **Consequences for Failure to Attend.** Failure to attend an ethics and lobbying education presentation is a violation of the State Government Ethics Act and may result in the individual being recommended for removal from his or her public position or disciplined in his or her State job.

## Contact Information

For education related questions, contact:

NC State Board of Elections and Ethics Enforcement

Phone: (919) 814-3600

E-mail: [Education.Ethics@doa.nc.gov](mailto:Education.Ethics@doa.nc.gov)



## **2019 STATEMENT OF ECONOMIC INTEREST REMINDERS:**

Completed SEIs must be filed on or before April 15, 2019. If you have already filed a 2019 SEI, do not refile. The forms and instructions can be found at <https://ethics.ncsbe.gov/sei/blankForm.aspx>.

If you filed a 2018 SEI ***and*** you have had ***no changes*** since your 2018 filing, you may file a 2019 SEI No Change Form, located on the website.

### **You must file a 2019 Long Form if any of the following apply to you:**

- a. You filed a 2018 SEI ***but*** you have had changes since your 2018 filing;
- b. You did not file a 2018 SEI; or
- c. You are a first-time filer or have been appointed to a new or additional position/board.

This year, the State Board of Elections and Ethics Enforcement will roll out a new electronic process for filing SEIs. That electronic filing option will be available in **early February**.

You are encouraged to file your SEI electronically. However, if you want to file your SEIs before the updated electronic version is available, hard copies are available for filing now at the link above.

New commissioners will need to file a 2019 SEI; however, if you have not had any changes since you last filed, you can use the No Change Form, which is fairly easy to complete.

Please file by April 15th to avoid fines and other penalties.

## **SEI HELPFUL TIPS**

**1. PUBLIC RECORDS.** The State Board of Elections and Ethics Enforcement (State Board) is required to collect and maintain disclosures from certain persons covered by the State Elections and Ethics Enforcement Act Government Ethics Act (Elections and Ethics Act). By law, the information requested is public record and available to the public upon request. As public records, Statements of Economic Interest (SEI) are available on the Commission's website. Personal contact information, however, is not.

**2. CONTACT INFORMATION PAGE.** The Contact Information page, which includes your personal contact information, will not be available on the Commission's website, but is a public record.

**3. CHILDREN'S INITIALS.** Only list minor children's INITIALS on the SEI. List each child's full legal name on the Confidential Unemancipated Children's Form. If you are filing electronically, the form will be generated at the end of the SEI from the information that you provided on your electronic SEI. The Confidential Form is not a public record, and the State Board will not make it available to the public.

**4. READ EACH QUESTION CAREFULLY.** Read each question carefully and pay close attention to the time periods in each question as they do vary.

**5. ANSWER EACH QUESTION.** It is important to answer each question, including all applicable subparts. Even if your answer is "no" or "not applicable," make certain you answer each question. Many of the questions have "yes" and "no" boxes to check for your convenience. Incomplete SEIs may cause delays and negatively impact your public service on a covered board or as an employee.

**6. WHY ARE YOU FILING.** You must list the complete name of the state board or state agency employer for which you are filing the SEI. Without this information, your SEI may be delayed and negatively impact your public service on a covered board or as an employee.

**7. HOW TO FILE.** The State Board strongly recommends electronic on-line filing as it is secure, allows easy information updates, and gives you access to your electronic SEIs previously filed. Filing your SEI on-line is easy, quick, convenient, and reduces the chance of reporting errors. Getting started is easy. Follow the simple steps to create your own account and get access today: <https://EFILE.ncsbe.gov/> To file a paper version of the SEI, you must provide the State Board with a signed, original SEI form. Each SEI includes an "affirmation" and is a legally binding document. Faxed or emailed copies of your SEI CANNOT be accepted.

SEI Helpful Tips, continued

**8. INCOME.** List each source of income as requested on the SEI. The actual dollar amount is not required. Be sure to list your employer as a source of income in Question # 6 of the SEI.

**9. READ CAREFULLY.** Read each question carefully, as the Elections and Ethics Act requires that you disclose your financial holdings and obligations, personal property, and real property and may also include your knowledge of the holdings of both your immediate family and your extended family. "Immediate family" and "extended family" are defined terms in the Elections and Ethics Act, and those definitions are included with this document.

**10. REFLECT.** Think carefully about WHY you are filing, and whether it has any relationship to your position. Does your board or commission license or regulate you? For many of the boards, a subject matter expert like a licensee is needed. Answering "yes" does not prohibit your service on the board, and your perspective is valued.

**11. MAKE A COPY.** Make a copy of the SEI for your own records, and make a note in your calendar when you submit it, whether on-line or by mail or hand delivery. When you successfully submit your SEI electronically on-line, the final screen will provide a confirmation number and will be proof that you have satisfied your filing obligation. Please print the **confirmation screen for your records.**

**12. ETHICS LIAISON.** Contact your Ethics Liaison to assist you in your obligations under the Elections and Ethics Act. Your Ethics Liaison is good source of information about how to fill out your SEI.

**13. ON-LINE HELP.** The State Board has on-line resources to answer questions you may have about your SEI. For more information, please visit the State Board website which has education offerings.



**14. DEFINITIONS.** As noted above, certain terms are defined in the Elections and Ethics Act (“immediate family”). These definitions may be helpful to you in completing your SEI. A complete list of all definitions used in the Elections and Ethics Act is available on the State Board’s website, under “Ethics”. Some of the more common ones are attached to this document.

**15. YOUR INTERNET BROWSER.** Consider using Internet Explorer or Chrome to submit your SEI. Some users have had trouble using other browsers. **16. WE ARE HERE TO HELP YOU.** In addition to on-line resources and written materials, the State Board has expert staff ready to answer any questions you might have and assist you in completing and filing your SEI. Do not hesitate to contact us at [sei@ncsbee.gov](mailto:sei@ncsbee.gov) (919) 814-3600.



## 2020 Meeting Planning Calendar

January						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
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February						
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March						
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April						
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June						
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November						
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December						
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27	28	29	30			

	MFC
	ASMFC
	SAFMC
	MAFMC
	State Holiday

	Southern Regional AC
	Northern Regional AC
	Finfish AC
	Habitat and Water Quality AC
	Shellfish/Crustacean AC



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019**

**SESSION LAW 2019-37  
SENATE BILL 648**

AN ACT TO PROVIDE FURTHER SUPPORT TO THE SHELLFISH AQUACULTURE  
INDUSTRY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**AUTHORIZE ESTABLISHMENT OF SHELLFISH AQUACULTURE ENTERPRISE  
AREAS**

**SECTION 1.(a)** G.S. 113-201.1 reads as rewritten:

**"§ 113-201.1. Definitions.**

As used in this Article:

- (1) "Natural shellfish bed" means an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.
- (2) "Riparian owner" means the holder(s) of the fee title to land that is bordered by waters of an arm of the sea or any other navigable body of water.
- (3) "Shellfish" means oysters, clams, scallops, mussels or any other species of mollusks that the Marine Fisheries Commission determines suitable for cultivation, harvesting, and marketing from public grounds and private beds.
- (3a) "Shellfish Aquaculture Enterprise Area" means an area established pursuant to G.S. 113-202(s) or G.S. 113-202.1(j).
- (4) "Single family unit" means the husband and wife and any unemancipated children in the household.
- (5) "Water column" means the vertical extent of water, including the surface, above a designated area of submerged bottom land."

**SECTION 1.(b)** G.S. 113-202 is amended by adding a new subsection to read:

"(s) The Secretary may establish Shellfish Aquaculture Enterprise Areas for bottom leasing pursuant to this subsection. The Secretary may establish one or more Shellfish Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection."

**SECTION 1.(c)** G.S. 113-202.1 is amended by adding a new subsection to read:

"(j) The Secretary may establish Shellfish Aquaculture Enterprise Areas for water column leasing pursuant to this subsection. The Secretary may establish one or more Shellfish Aquaculture Enterprise Areas that comply with the requirements of this section, including the notice, public hearing, and public comment requirements; any other State requirements for shellfish leasing; and any applicable federal requirements. Requirements under this section include the notice, public hearing, and public comment requirements of this section. Leases issued in a Shellfish Aquaculture Enterprise Area shall be nontransferable and shall revert to the



State upon relinquishment or termination. The Marine Fisheries Commission may adopt any rules necessary to implement this subsection."

**SECTION 1.(d)** The Division of Marine Fisheries of the Department of Environmental Quality shall identify areas in waters that are under a moratorium for shellfish leasing that could potentially be established as Shellfish Aquaculture Enterprise Areas. The Division shall report its findings to the General Assembly no later than April 1, 2020.

### **ESTABLISH PAMLICO SOUND SHELLFISH AQUACULTURE PILOT PROJECT**

**SECTION 2.** Notwithstanding any other provision of law, the Secretary of Environmental Quality may grant up to three shellfish cultivation leases or water column leases in Pamlico Sound as provided in the pilot project established by this section. Under the pilot project, each lease may be up to 50 acres in size; each lease must be separated from any other lease and from the shoreline by at least 250 yards; and no person, including a corporate entity, or single family unit, may hold more than 100 acres of leases. The Division of Marine Fisheries of the Department of Environmental Quality shall, to the extent practicable, grant leases in different geographic areas of Pamlico Sound. The Division shall study the advantages and disadvantages associated with leasing such areas within Pamlico Sound. In conducting this study, the Division shall consult with shellfish growers, nearby riparian owners, and other users of the public bottoms and waters. The Division shall submit an interim report of its findings, including any recommendations, to the General Assembly no later than January 1, 2025, and a final report of its findings, including any recommendations, to the General Assembly no later than January 1, 2030. In its final report, the Division shall include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. This section shall terminate July 1, 2030, and any leases granted pursuant to this section shall terminate no later than July 1, 2031.

### **INCREASE PRODUCTION AND PLANTING REQUIREMENTS FOR SHELLFISH LEASES**

**SECTION 3.(a)** Definitions. – For purposes of this section and its implementation:

- (1) "Extensive shellfish culture" means shellfish grown on the bottom without the use of cages, racks, bags, or floats.
- (2) "Intensive shellfish culture" means shellfish grown on the bottom or in the water column using cages, racks, bags, or floats.
- (3) "Shellfish Production and Planting Requirements Rule" means 15A NCAC 03O .0201 (Standards and Requirements for Shellfish Bottom Leases and Franchises and Water Column Leases) for purposes of this section and its implementation.

**SECTION 3.(b)** Shellfish Production and Planting Requirements Rule. – Until the effective date of the revised permanent rule that the Marine Fisheries Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Shellfish Production Requirements Rule as provided in subsection (c) of this section.

**SECTION 3.(c)** Implementation. – Shellfish leases shall be terminated unless they comply with the following requirements:

- (1) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall be terminated unless:
  - a. They produce a minimum of 20 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or
  - b. For intensive culture bottom operations, the holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually and for extensive culture bottom operations, the

holder of the lease plants a minimum of 15,000 shellfish seed per acre per year.

- (2) Water column leases shall be terminated unless:
  - a. They produce a minimum of 50 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the lease; or
  - b. The holder of the lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually.

**SECTION 3.(d)** Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Shellfish Production Requirements Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

**SECTION 3.(e)** Applicability and Sunset. – This section and rules adopted pursuant to this section apply to all new and renewal shellfish leases granted after July 1, 2019. This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

#### **FACILITATE THE TRANSITION OF TERMINATED LEASES TO PRODUCTIVE USES**

**SECTION 4.(a)** G.S. 113-202(n) reads as rewritten:

"(n) Upon final termination of any leasehold, ~~the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally.~~ the Secretary may do any of the following:

- (1) Make the bottom available for a new lease application for a period of 18 months.
- (2) Designate the bottom as a Shellfish Aquaculture Enterprise Area.
- (3) Make the bottom open to the public for use in accordance with laws and rules governing use of public grounds generally.

Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned gear and markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned gear and markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned gear and markers and the State may bring suit to recover the costs thereof."

**SECTION 4.(b)** G.S. 113-202(a) reads as rewritten:

"(a) To increase the use of suitable areas underlying coastal fishing waters for the production of shellfish, the Secretary may grant shellfish cultivation leases to persons who reside in North Carolina under the terms of this section when the Secretary determines, in accordance with his duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish in commercial quantities.
- (2) ~~The~~ Except as provided under subsection (n) of this section, the area leased must not contain a natural shellfish bed.

...."

**SECTION 4.(c)** This section becomes effective July 1, 2019, and applies to leases terminated on or after that date.

**ALLOW TRANSPLANTING OF SEED OYSTERS AND SEED CLAMS FROM PERMITTED AQUACULTURE OPERATION NURSERY FACILITIES IN PROHIBITED WATERS**

**SECTION 5.** G.S. 113-203 reads as rewritten:

**"§ 113-203. Transplanting of oysters and clams.**

...  
(a3) ~~It~~Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the ~~restricted-prohibited, restricted,~~ or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

**ADMINISTRATIVE REMEDY FOR SHELLFISH LEASING APPEALS**

**SECTION 6.(a)** G.S. 143B-289.57 is amended by adding a new subsection to read:

"(f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202. The Committee shall include one Commission member, who shall serve as the hearing officer, and two public members. One public member shall have expertise or other relevant experience in shellfish aquaculture, and the other public member shall have expertise or other relevant experience with respect to coastal property or property assessment. The Commission shall adopt rules to establish procedures for the appeals and may adopt temporary rules."

**SECTION 6.(b)** G.S. 113-202(g) reads as rewritten:

"(g) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision ~~or another person aggrieved by the decision~~ may commence a contested case by filing a petition under G.S. 150B-23 within ~~20-30~~ days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary. A person other than the applicant who is aggrieved by the Secretary's decision may file a petition for a contested case hearing only if the Shellfish Cultivation Lease Review Committee established pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made. A determination of the appropriateness of a contested case shall be made by the Review Committee within 90 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

- (1) Has alleged that the decision is contrary to a statute or rule.
- (2) Is directly affected by the decision.



- (3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Review Committee determines that a contested case is appropriate, the petition for a contested case shall be filed within 30 days after the Review Committee makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Review Committee erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

The applicant or another person aggrieved by a final decision under this section may appeal the decision to the superior court of the county where the proposed lease or any part thereof is located, pursuant to the provisions of Chapter 150B of the General Statutes."

**SECTION 6.(c)** This section becomes effective July 1, 2019, and applies to decisions of the Secretary made on or after that date.

### **MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA**

**SECTION 7.** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 13.10221' N -77° 48.79544' W on the mainland side near Wrightsville Beach Bridge; running southeasterly to a point at 34° 12.51584' N -77° 47.81847' W on Wrightsville Beach; following the shoreline southwesterly to a point at 34° 11.121' N -77° 48.848' W at Masonboro Inlet; running southwesterly to a point at 34° 10.927' N -77° 48.771' W at Masonboro Inlet; continuing southwesterly to a point at 34° 05.04108' N -77° 52.08324' W near IWW marker #159 continuing running southwesterly to a point at 34° 03.64140' N -77° 53.41338' W on the mainland adjacent to the eastern mouth of Snow's Cut; running northeasterly along the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

### **MORATORIUM ON SHELLFISH LEASING IN BOGUE SOUND**

**SECTION 8.** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters enclosed by a line beginning at 34° 43.24641' N -76° 41.68436' W; running easterly following the Highway 70 High Rise Bridge to a point at 34° 43.27819' N -76° 41.22259' W; running southerly to a point 34° 42.375275' N -76° 40.80078' W on the southern tip of Radio Island; running southerly to a point 34° 41.98273' N -76° 40.81929' W; following the shoreline westerly to the Emerald Isle Bridge at a point 34° 40.05410' N -77° 03.80531' W; running northwesterly following the bridge to a point 34° 40.77658' N -77° 04.02674' W on the mainland near the Emerald Isle High Rise Bridge; running easterly following the shoreline to the point of beginning. The moratorium shall expire July 1, 2021. For purposes of this section, a new shellfish cultivation lease or water column lease shall include applications for either type of lease received by the Secretary, but not granted as of July 1, 2019.

### **STUDY HOW TO REDUCE USER CONFLICT RELATED TO SHELLFISH CULTIVATION LEASES**

**SECTION 9.** The Division of Marine Fisheries and the Marine Fisheries Commission shall study how to reduce user conflict related to shellfish cultivation leases. The

Division and Commission shall complete this study no later than January 1, 2020, and shall adopt rules and reform internal operating procedures consistent with the findings of the study no later than March 1, 2021.

### **STUDY PENALTIES ASSOCIATED WITH VIOLATIONS OF LAWS REGARDING TAKING SHELLFISH AND SHELLFISH AQUACULTURE OPERATIONS**

**SECTION 10.** The Division of Marine Fisheries of the Department of Environmental Quality, in consultation with the North Carolina Department of Justice and the North Carolina Sentencing and Policy Advisory Commission, shall study the penalties associated with violations of laws regarding taking shellfish and shellfish aquaculture operations. The agencies shall specifically review G.S. 113-207 (Taking shellfish from certain areas forbidden; penalty), G.S. 113-208 (Protection of private shellfish rights), G.S. 113-218 (Protection of private marine aquaculture rights), and G.S. 113-269 (Robbing or injuring hatcheries and other aquaculture operations), and may review other statutes with penalties associated with violations of laws regarding taking shellfish and shellfish aquaculture operations. In their review of the statutes, the agencies shall consider the levels of criminal penalties, fines, and restitution; the consistency and proportionality of the statutes; and whether any of the statutes or their provisions are duplicative. The agencies shall develop recommendations for amendment of the statutes that would make the penalties more consistent and proportional and less duplicative and that would serve to better protect the wild and cultured shellfish resources in the State. The agencies shall report the results of their study, including their recommendations, to the General Assembly no later than March 1, 2020.

### **STUDY OF SHELLFISH LOAN PROGRAM**

**SECTION 11.** The North Carolina Coastal Federation (Federation) shall study a low-interest loan program to provide start-up and expansion capital to shellfish growers in waters of the State. As part of its study, the Federation shall investigate and recommend optimal loan terms, a recommended administrative structure for the program, and limitations on loan amounts and on uses of loaned funds necessary to maximize public economic benefits and target funding support where need is greatest. The Federation may use administrative funds provided to it under S.L. 2018-5 for the study. The Federation shall submit its report, including funding needs and any legislative proposals, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than March 15, 2020.

### **STUDY CROP INSURANCE FOR SHELLFISH AQUACULTURE**

**SECTION 12.** The Department of Agriculture and Consumer Services shall study crop insurance and other risk of loss mitigation and protection programs available to persons engaging in shellfish aquaculture in North Carolina. The Department shall include all of the following in its study:

- (1) An overview and assessment of currently available State or federal programs, including programs offered in other states, and identification of gaps or shortfalls in the coverage provided by those programs.
- (2) The identification of options for insurance or other risk protection programs subsidized or underwritten by the State, including an analysis of feasibility, cost, and whether the option would provide sufficient spread of risk to be an actuarially sound investment of public funds.
- (3) If the Department finds that no program limited to this State is actuarially sound, an assessment of legal, practical, or political barriers to a federal or multistate crop insurance or other risk mitigation program for shellfish aquaculture.

The Department shall submit its report, including recommendations for required funding and any legislative changes needed, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than November 1, 2020.

**SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**SECTION 13.(a)** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**SECTION 13.(b)** Except as otherwise provided, this act becomes effective July 1, 2019.

In the General Assembly read three times and ratified this the 13<sup>th</sup> day of June, 2019.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 2:31 p.m. this 21<sup>st</sup> day of June, 2019

