



Division of Marine Fisheries Response to NCWF/SELC Petition for Rulemaking

DEPARTMENT OF ENVIRONMENTAL QUALITY

Marine Fisheries

MFC Meeting - Raleigh | Steve Murphey | August 2019



← 2019

Amendment 2 Shrimp FMP



Amendment 1 Shrimp FMP bycatch reduction measures put into place

← July 2019



Background: Timeline of Shrimp FMP Amendment 1

- February 2015 – MFC gave final approval to Shrimp FMP Amendment 1. Implementation of management strategies included:
 - March 2015 – Shrimp Bycatch Reduction Industry Workgroup began meeting to undertake three-year study.
 - May 2015 – Implementing rules became effective for Shrimp FMP Amendment 1.
- August 2017 – MFC passed motion to open the Shrimp FMP as soon as the three-year shrimp trawl bycatch study was complete or no later than February 2018.
- February 2018 – Division provided memo to MFC:
 - Recommendations on bycatch reduction, if adopted, do not require an amendment to the Shrimp FMP.
 - Measures can be implemented by existing proclamation authority.
 - The division does not recommend a review of the Shrimp FMP at this time due to existing plans and workload.



Background: Timeline of Shrimp FMP Amendment 1 (cont.)

- May 2018 – Issue paper and Shrimp Bycatch Reduction Industry Workgroup recommendations provided to MFC, resulting from three-year study under Amendment 1. MFC passed a motion to:
 - *Continue the NC shrimp industry workgroup and explore funding options;*
 - *Require shrimp trawls, with the exception of skimmer trawls, fishing the inside waters where greater than 90-foot headrope length is required to use a gear combination that has been studied and achieves at least a 40 percent finfish bycatch reduction (to be implemented July 1, 2019);*
 - *Following peer review of workgroup study, re-evaluate results and continue bycatch reduction study with industry workgroup;*
 - *Task the division to implement a survey to gather information on current bycatch reduction devices used by the industry; and*
 - *Begin development of Amendment 2 to the Shrimp FMP.*
- Recommendations from the industry workgroup adopted by the MFC were implemented by existing proclamation authority and became effective July 1, 2019.
- June 2018 – MFC Chair sent letter to DEQ Secretary to request change to FMP review schedule to begin development of Amendment 2 to the Shrimp FMP.



Further MFC Action on the Schedule for Shrimp FMP Amendment 2

- August 2018 – MFC passed motions to begin development of Amendment 2 and to include the following general focus areas:
 - *Continue minimizing waste and enhance economic value of the shrimp resource by promoting more efficient harvesting practices.*
 - *Further reduce mortality of non-target species of finfish and crustaceans and protected, threatened and endangered species.*
 - *Promote the protection, restoration and enhancement of habitats and environmental quality.*
 - *Encourage research and education to improve the understanding of the overall cumulative impacts of shrimp trawl bycatch on fish population dynamics.*
- November 2018 – The division notified the MFC development of an amendment would not start before the middle of 2019 due to staff limitations and other plans currently underway.



More MFC Action for Shrimp FMP Amendment 2 to Address Provisions of 2016 NCWF Petition for Rulemaking

February 2019 – MFC passed a motion to:

Refer the [November 2016] NCWF's Petition for Rulemaking (excluding spot and croaker) to the Shrimp FMP Advisory Committee for consideration in developing Amendment 2 to the FMP and to consider the following goals and objectives for the Shrimp FMP:

- Reduce takes and interactions of non-targeted species and threatened species.*
- Improve the survival of non-target and threatened species at the population level.*
- Continue to minimize bycatch and enhance the economic value of shrimp.*
- Promote habitat enhancement and provide environmental quality necessary to improve the shrimp resource.*
- Review nursery areas with an updated look at secondary nursery areas. [*]*
- Implement research and education programs to allow a better understanding of the public, industry and consumers of shrimp bycatch impact on fish population dynamics.*

* This was also a recommendation of Amendment 1 and the division has an issue paper in development.



New NCWF Petition for Rulemaking Submitted/ Development of Shrimp FMP Amendment 2 on Hold

- May 20, 2019 – A new Petition for Rulemaking was submitted to the MFC from NCWF/SELC.
- The director put a hold on appointing staff to the Shrimp Plan Development Team pending outcome of the new petition.
- The MFC Chairman and counsel reviewed the NCWF's May 20, 2019 Petition for Rulemaking and the Chairman deemed it complete. The petition was scheduled for the August 2019 MFC meeting.
- July 1, 2019 – Proclamations requiring shrimp trawl bycatch reduction devices were implemented in Pamlico Sound and portions of the Pamlico, Bay, and Neuse Rivers. This was the last management measure from Amendment 1 put into place.



Position of the Department of Environmental Quality and Division of Marine Fisheries on the May 20, 2019 NCWF Petition for Rulemaking

We respectfully oppose the petition on the following procedural grounds:

- Statutory mandate to the division to develop FMPs for adoption by the MFC for all commercially or recreationally significant species
- The Fisheries Reform Act in NCGS 113-182.1 specifically charges DEQ (DMF) to develop FMPs, including habitat considerations and goals and objectives to guide the plan development.
- The intent of the Act was these plans would form the basis for future regulations for species, species groups, fishing gears, and geographic areas.
- Amendment 2 to the Shrimp FMP is scheduled to begin this year pending Secretarial approval pursuant to NCGS 113-182.1(d).
- The MFC also directed the division to include in its goals and objectives and to consider many of the measures included in the 2016 and 2019 NCWF petitions for rulemaking.



Position of the Department of Environmental Quality and Division of Marine Fisheries on the NCWF Petition for Rulemaking (cont.)

- From the Division FMP guidelines for the development of plans:
 - Management measures shall be designed to minimize waste of fishery resources, including both target species and bycatch.
 - Management measures shall be designed to protect finfish, crustacean, and shellfish habitats.
- MFC approval to initiate rulemaking proceedings with a fiscal analysis will delay division work on the Shrimp FMP Amendment 2 until a resolution is reached on the petitioned rules, to avoid duplication of effort.
- The Shrimp Plan Development Team would be spending significant time developing issue papers that might be nullified if the petitioned rules were adopted.



- Review Goal/Objectives
- Review Timeline

- Draft Developed by Division/Advisory Committee

- Approve Draft for Public/Advisory Committee Review

- Review Public/Advisory Committee Input
- Select Preferred Management Options
- Approve Draft for Review by DEQ and legislative committee

- Approve Sending Fishery Management Plan Forward for Rulemaking

- Publication of Notice of Text for Rulemaking/Public Hearings

- Final Approval/Final Approval of Rules

- Implement Strategies/Recommendations



Shrimp FMP Amendment 2

*Division Next Steps
if MFC Denies
Petition for
Rulemaking*



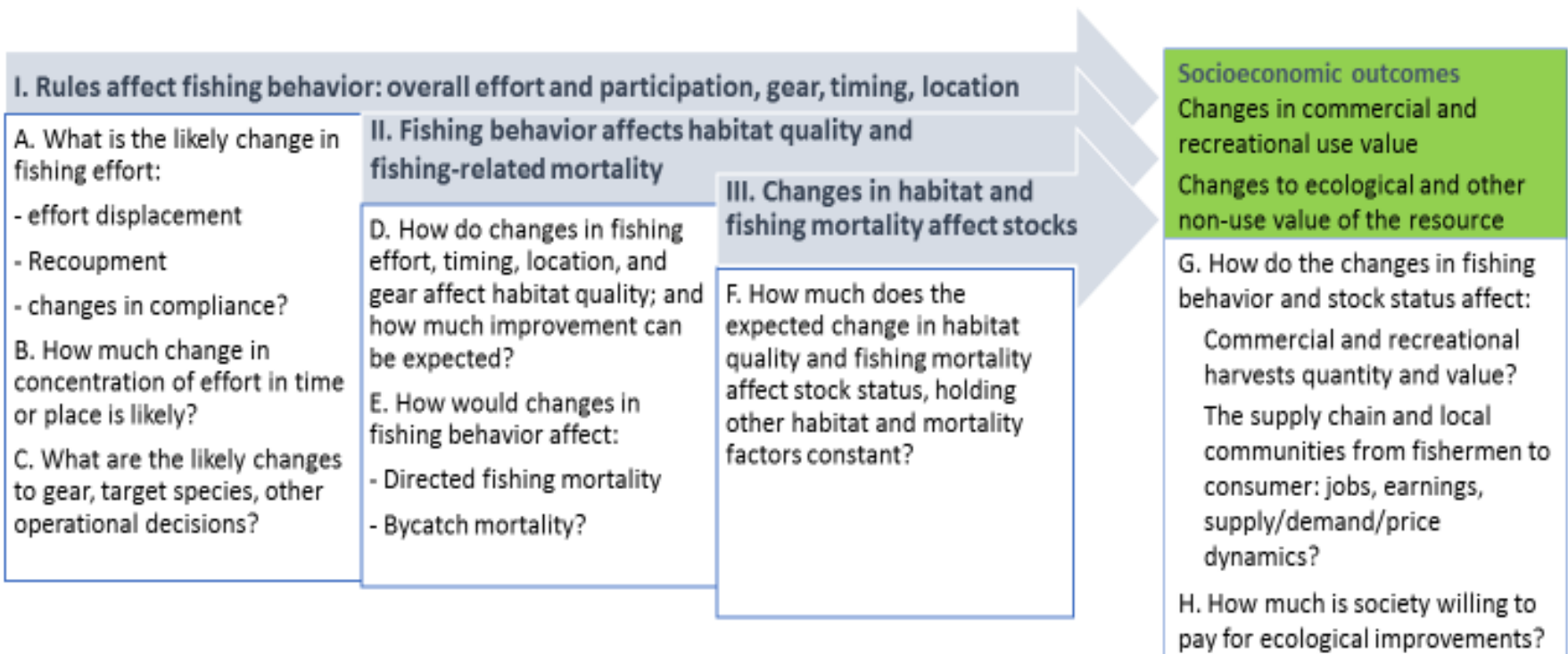
Division Next Steps if MFC Approves Petition for Rulemaking

- Meetings with the Office of State Budget and Management (OSBM) to discuss fiscal analysis strategies for this petition
- New fiscal analysis is required for this petition for rulemaking.
 - We can use elements of last fiscal analysis.
 - Uncertainty from the petitioned rules impacts are based on fishermen's behavior and effort changes.
 - We need to answer those questions.
- The Division approach will be to:
 - Work with OSBM to develop a comprehensive Request For Proposal and;
 - Contract development and implementation of surveys and fiscal analysis to determine the socioeconomic impact to meet the requirements of the Administrative Procedure Act.
- The Division will work closely with OSBM and the contractor to provide data and information.



Potential Approach to Ascertain Outcomes

Regulatory impact logic model with research questions to estimate likely changes in outcomes



MFC Next Steps

Marine Fisheries Commission vote to:

- Initiate the rulemaking process for the May 20, 2019 NC Wildlife Federation's petition for rulemaking; or
- Deny the May 20, 2019 NC Wildlife Federation's petition for rulemaking.

