



ROY COOPER  
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August 14, 2017

**MEMORANDUM**

**Stocked Species 08-17**

**TO:** Marine Fisheries Commission  
**FROM:** Division of Marine Fisheries  
**SUBJECT:** Summary Information Regarding Stocked Anadromous Species Rulemaking Motion

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At its May 17-18, 2017 meeting, the Marine Fisheries Commission voted to ask the Division of Marine Fisheries to provide information regarding the following motion on potential rulemaking for stocked anadromous species:

- To preserve and restore spawning stocks of anadromous species in NC coastal rivers there will be no sale of stocked striped bass and American shad from any river system where these fish are stocked to restore a naturally spawning population.
- Any large mesh and small mesh gill nets that interact with these stocked anadromous species shall be attended 24 hours a day.
- Recreational limits will be no more than one per day with restricted seasons as needed.
- Both commercial and recreational rules will remain in effect until spawning stock biomass has reached 50 percent of historic levels.

Staff review of the motion raised the following key points for the commission to consider regarding potential rulemaking for this issue:

*Specific to Fishery Management Plan Development*

- The Marine Fisheries Commission approved the schedule change for an early review of the Estuarine Striped Bass Fishery Management Plan to begin July 2017. The joint Division of Marine Fisheries, Wildlife Resources Commission, and U.S. Fish and Wildlife Service plan development team has conducted the first round of data workshops in preparation for stock assessment development. The role and management of stocked fish will be fully evaluated in the upcoming review of the Estuarine Striped Bass Fishery Management Plan.
- Any proposed rule would affect only those stocked anadromous species not within a fishery management plan; currently there are no species that would fall into this category.

Staff is uncertain how a proposed rule of this nature would comply with the principals for rulemaking found in G.S. 150B-19.1 of the Administrative Procedure Act. The legal pathway to remove stocked species from statutory requirements for fishery management plans is unclear.

*Additional points to consider*

- Determining which fish are stocked is only possible by genetic sampling; staff, nor fishermen, cannot visually distinguish stocked from wild fish.
- Clarify if “stocked” includes all stocking, regardless of the funding source or agency.
- Clarify if “river system where these fish are stocked” includes where fish distribute (i.e. American shad stocked in the Roanoke River migrate throughout the Roanoke River, Albemarle Sound and its rivers, into the Atlantic Ocean).
- “Any large mesh and small mesh gill nets that interact” could include gear that has very minimal interaction (such as runaround gill nets).
- Criteria would have to be developed for determining when recreational harvest should be zero or when changes to restrictions or limits are needed.
- Definition of “restricted season” would need to be determined.
- Determining if the spawning stock biomass “has reached 50 percent of historic levels may not be possible; a spawning stock biomass at 50 percent of historic levels may not be appropriate.

Potential management changes for stocked species could include variations of the above motion in the form of reduced harvest limits (for commercial and recreational fisheries), area closures and season closures, either around stocking events or until a recovery target is reached. Although these may be viable options to consider, this issue needs further development and discussion.

The Department of Environmental Quality, the Division of Marine Fisheries and the Wildlife Resource Commission have indicated that a full review of the Estuarine Striped Bass Fishery Management Plan is the best way to address the potentially numerous changes in management goals and strategies that could arise due to the recent discovery of near 100 percent hatchery contribution and lack of natural recruitment of striped bass in the Tar/Pamlico, Neuse and Cape Fear rivers. The division highly recommends this issue be fully vetted through the ongoing fishery management plan process.