

**Marine Fisheries Commission Business Meeting Minutes**  
**Doubletree by Hilton Riverfront**  
**New Bern, North Carolina**  
**May 16-17, 2018**

The commission held a business meeting May 16-17 at the Doubletree by Hilton Riverfront in New Bern, North Carolina.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/05-2018-briefing-book> .

Actions and motions from the meeting are listed in **bolded** type.

**BUSINESS MEETING - MOTIONS AND ACTIONS**

Chairman Sammy Corbett convened the Marine Fisheries Commission business meeting at 2 p.m. on May 16 and reminded commissioners of their conflict of interest and ethics requirements.

The following commission members were in attendance: Sammy Corbett-Chairman, Cameron Boltes, Mark Gorges, Pete Kornegay, Brady Koury, Chuck Laughridge, Janet Rose, Rick Smith, and Alison Willis.

**Agenda was approved by consensus.**

**Minutes from the February 2018 meeting were approved by consensus.**

**Chairman's Report**

Marine Fisheries Commission Liaison Nancy Fish reviewed correspondence that had been sent and received by the commission since the last business meeting.

Commissioners were reminded of their ethics training requirements and their annual requirement to submit their Statement of Economic Interest form by April 15 to the State Board of Elections and Ethics Enforcement.

Commissioners were reminded of their 2018 meeting schedule:

Feb. 14-15

May 16-17

Aug. 15-16

Nov. 14-15

**Director's Report**

Division of Marine Fisheries Director Steve Murphey updated the commission on division activities occurring since the February 2018 business meeting, including:

- Upcoming changes to the division's stock status report indicating if the stock is overfished or not, if overfishing is occurring or not, or whether information is not sufficient to make such determinations using nationally accepted fishery management principles. Arbitrary terms such as "viable" and "concern" that are not measurable in fisheries science will no longer be used.

- Issues with the Observer Program regarding safety concerns and low observer coverage resulting from fishermen avoiding observers are challenging the division to stay in compliance with incidental take permits.
- Development of the fiscal note for proposed rules associated with the N.C. Wildlife Federation's petition for rulemaking is continuing, with a goal of submitting to the Office of State Budget and Management by July 1.

Beth Govoni, the division's chief budget officer, gave a presentation on Coastal Recreational Fishing License Fund disbursement procedures.

To view the presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=31843509&name=DLFE-138210.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=31843509&name=DLFE-138210.pdf)

The commission voted to request that the chairman appoint an advisory committee, consisting of the three recreational seats of the Marine Fisheries Commission and the science seat of the Marine Fisheries Commission, to provide advice on projects and grants issued using Coastal Recreational Fishing License trust funds.

**Motion by Chuck Laughridge to request the chair appoint an advisory committee consisting of the three recreational seats of the Marine Fisheries Commission and the science seat of the Marine Fisheries Commission to provide advice on the projects and grants issued using Coastal Recreational Fishing License trust funds. This committee should be involved from the beginning to the end of the grant process. Second by Rick Smith.**

**Motion carries 8-0.**

Next, the division's Deputy Director, Dee Lupton, presented information on the Land or Sell License in response to a request from the commission to determine if vessels with a homeport in North Carolina that take fish outside the territorial waters of the state can land or sell catch in the state through a purchase of a Land or Sell License.

The commission voted to send a letter to the governor and the legislature asking that they institute a Land or Sell Permit for North Carolina residents who hold federal permits that costs no more than a N.C. Standard Commercial Fishing License. The Land or Sell License is a commercial, non-transferable fishing license for vessels fishing beyond territorial waters (more than three miles in the ocean), allowing non-resident vessels not licensed in North Carolina the opportunity to come to port and land and sell their catch.

**Motion by Chuck Laughridge to send a letter to the governor and the legislature asking that they institute a land or sell permit for NC residents who hold federal permits. We recommend that the amount not exceed the total cost of a standard commercial fishing license. Second by Cameron Boltes.**

**Motion carries 6-0 with 2 abstentions.**

Lupton then reviewed information on how the division processes assignments and transfers of the Standard Commercial Fishing License, which is an annual license for commercial fishermen

who harvest and sell fish, shrimp, crabs or any marine species, except for industrial menhaden and shellfish.

The commission requested the division begin rule development to clarify requirements for Standard Commercial Fishing License assignments and transfers and report back at its August meeting on the progress of this request. It was asked if the division could take immediate action on assignments and transfers, possibly not issuing transfers, while rules were being developed; Director Murphey said he would seek legal counsel on this request.

Stephanie McInerny, the head of the division's License and Statistics Section, reviewed several previous commission motions regarding recording additional landings information on trip tickets to capture target/bycatch species and to record catch kept for personal use. She explained how the division had added fields to the trip tickets to capture this data, but that legislative action would be needed to further facilitate mandatory reporting of catch kept for personal use or to require catch of target species and bycatch be sold at to the same dealer.

### **Stock Assessment 101**

Laura Lee, the division's senior stock assessment scientist, gave a presentation on the fundamentals of the stock assessment process.

To view the presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=31843509&name=DLE-138213.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=31843509&name=DLE-138213.pdf)

### **NCFA vs. NCMFC Litigation**

The commission went into closed session to consult with its counsel regarding ongoing litigation in the matter of NCFA vs. NCMFC.

**Motion by Chuck Laughridge that the commission go into closed session pursuant to GS 143-318.11(a)(3) to consult with the commission's counsel regarding ongoing litigation in the matter of NCFA vs. NCMFC, et. al. Second by Pete Kornegay.  
Motion carries with no opposition.**

**Motion by Chuck Laughridge to go back into open session. Second by Alison Willis.  
Motion carries with no opposition.**

### **Public Comment Period**

The following individuals spoke:

**Ron McCoy**, a recreational fisherman from Hampstead, said the state had failed to manage fisheries in a sustainable manner based on his analysis of landings data. He talked about a slogan he saw in Alaska that read "No fish; no fishermen" and said that was something that needed to be kept in mind in North Carolina.

**Bud Abbott**, a recreational fisherman from Harkers Island, said the rhetoric of recreational vs commercial must stop, you are either pro resource or anti-resource. North Carolina is the last

state to allow inshore trawling and the Incidental Take Permit costs more to operate than the value of southern flounder. Abbott said there has been almost 60 years of studies and the bycatch to shrimp ratio is still 4-1. He urged the commission to think about the future of the stocks and stop kicking the can down the road.

**Donald Willis**, owner of Custom Marine Fabrication in New Bern, told the commission to do their job and that they are supposed to be for the resource. He said he is ready to take the hard cuts to make the resource better and the commission is either part of the solution or part of the problem.

**Tim Hergenrader**, a conservationist from Pamlico County, complimented the new division director, Steve Murphey, saying he feels a spirit of cooperation and that staff was more friendly. The pro-resource members of the commission finally have a clear majority, but they inherited a mess from former commissions that kicked the can down the road, and now crabs are overfished. He said the new stock status page online looks nice, but the website is still confusing.

**Gary Ahlberg** said he represented watermen, recreational fishermen and boaters in Masonboro Sound and he asked the commission to continue the moratorium on new shellfish leases from Bogue Sound south. He said proposed leases should not be posted in the winter when many people aren't there or out on the water to be aware of what was happening. He talked about riparian rights being usurped and the impact of leases on people who live on the water or use the water for recreation.

**Sandi Fisher**, from Wilmington, strongly opposes shellfish leases in the Myrtle Grove area of Masonboro Sound. She said the shoreline is under attack by oyster growers and that residents were not made aware of the proposed leases. She said this area is heavily used for boating and swimming and that PVC pipes stuck in the water in December and January was their only notice. There have been seven shellfish lease applications filed in the area that takes up about one-third of the sound. The leases cause continuous obstruction, she said, because of the floats at high tide.

**Jan Willis**, from Morehead City, said raising the Coastal Recreational Fishing License fee was briefly discussed at the commission's February 2018 meeting to match fishing license fees charged by the N.C. Wildlife Resources Commission. She opposes any fee increase because she feels license funds have been misused. She questioned funding approved by the commission for research that is unrelated to recreational fishing and for positions at the division. She feels mismanagement of license funds has led to reductions in creel limits and increases in minimum size limits and that the division has failed to improve the condition of coastal fish stocks since the inception of the license.

**Peggy Heminway**, who lives in The Tides community on Masonboro Sound, said there were three proposed shellfish leases in front the subdivision. She said there was little to no notice about the lease hearing and that she only learned about it two or three days in advance and she was out of state. There are a lot of water activities in her community including kayaking, water skiing, paddle boarding, sailing that will be impacted by the leases.

**Bert Owens**, from Beaufort, said he was speaking on behalf of the resource, and that catch has declined since the 1997 Fisheries Reform Act. He is concerned that blue crab numbers are going

down. He asked the commission to start saving some of the fish for the future. Owens said commercial fishermen will be out of business in 20 years if current trends continue.

**Scott Burrell**, with the N.C. Shellfish Grower's Association, said despite the commission's previous vote to temporarily stop issuing shellfish leases and accepting shellfish lease applications from Bogue Sound south, the division is still accepting shellfish applications. He understands the division received legal guidance that it cannot stop accepting applications. He knows no other industry that is so good for the environment because oysters filter and clean the water. He understands some homeowners are upset, but his leases are one-fourth mile from the nearest homes. He feels the commission's previous vote was overreaching and asked them to resume issuing leases.

**Jay Styron**, president of N.C. Shellfish Grower's Association and lease owner, asked the commission to lift moratorium on issuing leases and accepting applications. He said these are public trust waters and shellfish growers have rights too. Leases are not allowed to impede navigation and do not do any more than existing docks and piers. Also, oysters can help offset low water quality in the waters in the southern part of the state. He realizes we must be good stewards of the resource, but it is a public resource, he advised.

**David Sneed**, executive director of the Coastal Conservation Association-NC, said the state has a lot of problems with its fisheries. Southern flounder is overfished, blue crab is overfished, and the division is spending millions of dollars on incidental take permits. He said there is a common thread in this – that states with progressive fisheries reform measures in place still have thriving seafood industries.

**Nivia Jacobs** has a lot in the Patalanda subdivision off of Masonboro Sound that she bought so her family could enjoy the water, she feels that oyster farming will be bad for them and will interfere with their recreational activities.

**Thomas Newber**, owns a waterfront lot in the Patalanda subdivision that is approximately 400 feet wide. There are two proposed leases in front of his property and they are a hazard because they are too close to the waterway. He asked the commission to keep the moratorium on issuing leases and accepting lease applications in place.

The meeting recessed at 6:42 p.m.

### **May 17**

The meeting reconvened at 8:30 a.m.

### **Atlantic States Marine Fisheries Commission**

Chris Batsavage, the division's special assistant for councils and commissions, gave an overview of the April 30 – May 3, 2018 Atlantic States Marine Fisheries Commission meeting held in Arlington, Virginia.

### **Fishery Management Plan Update**

Catherine Blum, the division's fishery management plan coordinator, updated the commission of the status of ongoing fishery management plans.

### **Blue Crab Stock Assessment**

Division stock assessment scientist Dr. Yan Li presented the commission with the findings of the most recent quantitative stock assessment for the North Carolina blue crab stock. Peer reviewers accepted the sex-specific two-stage model as appropriate for management use, with results of the model indicating that the stock is overfished and overfishing is occurring.

To view the presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_1\\_id=1169848&folderId=31843509&name=DLFE-138212.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=31843509&name=DLFE-138212.pdf)

### **Shrimp Bycatch Reduction Industry Workgroup Results and Recommendations**

Kevin Brown, the division's gear development specialist, gave a presentation on the fundamentals of shrimp trawling and bycatch reduction devices. He then reported on the findings of a three-year study between the division, NOAA Fisheries, N.C Sea Grant and the commercial shrimp trawl industry that identified four new gear configurations that reduce finfish bycatch by at least 40 percent.

The study came about from a management strategy adopted by the commission in February 2015 as part of the Shrimp Fishery Management Plan. The strategy called for three years of industry testing of various gear configurations to reduce bycatch to the greatest extent practicable, with a 40-percent target reduction goal. The testing was to be conducted by a stakeholder group consisting of fishermen, net and/or gear manufacturers and scientific and/or gear specialists.

To view the presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_1\\_id=1169848&folderId=31843509&name=DLFE-138214.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=31843509&name=DLFE-138214.pdf)

The commission voted to require fishermen to use one of the four gear combinations identified by the collaborative study that achieve at least 40 percent finfish bycatch. The new gear configurations will be required in all shrimp trawls, except skimmer trawls, used in inside waters where greater than 90-foot headrope length is allowed (Pamlico Sound and portions of Core Sound, Pamlico River and Neuse River). The division director will issue the requirement via proclamation to take effect July 1, 2019.

The four new gear configurations that achieved at least 40 percent finfish bycatch without significantly reducing shrimp catch were:

- Double federal fisheyes used with a 1 7/8-inch stretch mesh tailbag and a 4-inch spaced bar turtle excluder device
  - Achieved a 40.8-percent finfish bycatch reduction with a 1-percent increase in shrimp
- Double federal fisheyes used with a 1 3/4-inch stretch mesh tailbag and a 4-inch spaced bar turtle excluder device
  - Achieved a 57.2-percent finfish bycatch reduction with a 12.1-percent decrease in shrimp
- Double federal fisheyes used with a 1 3/4-inch stretch mesh tailbag and a 3-inch spaced bar turtle excluder device

- Achieved a 44.9-percent finfish bycatch reduction with a 4.9-percent decrease in shrimp
- A single state fishery used with a 1 3/4-inch stretch mesh tailbag and a Virgil Potter bycatch reduction device
  - Achieved a 44.3-percent finfish bycatch reduction with a 5.5-percent decrease in shrimp

The commission voted to continue the shrimp industry workgroup and explore funding options for more studies; to survey fishermen to determine what bycatch reduction devices the shrimp trawl industry currently uses; and to begin development of Amendment 2 to the Shrimp Fishery Management Plan. The commission's counsel reminded the commission that the Fishery Management Plan Guidelines stipulate the commission can approve or modify the fishery management plan schedule at its first meeting after July 1 of each year. The guidelines further specify the commission must request the Secretary of the Department of Environmental Quality approve any modification to the schedule occurring outside of this time frame.

The commission also instructed the division to acquire independent peer reviews of all reports on the three-year study, which the division is already in the process of doing, and re-evaluate the results following the peer reviews.

**Motion by Pete Kornegay to direct the director of the Division of Marine Fisheries to acquire independent peer reviews (from peer reviewers who have had no association with the study whatsoever) of all reports on the three-year study which considered gear modifications to reduce bycatch in the North Carolina shrimp trawl fishery. Second by Cameron Boltes.**

**Motion carries 5-0 with 3 abstentions**

**Motion by Cameron Boltes 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**
- **Begin development of Amendment 2 to the Shrimp Fishery Management Plan**

**Second by Chuck Laughridge.**

**Motion carries 8-0.**

Due to a shortage of time, Chairman Corbett advised the commission would not receive presentations on **Potential Solutions to Address Shellfish Lease Conflicts and Triploid Oysters**. He advised the commission to let the division know if they had any questions.

#### **Region 4 Strategic Habitat Areas**

At its November 2017 meeting, the commission voted to seek input from its advisory committees on nominations for Strategic Habitat Areas in Region 4 to be included in North Carolina's Coastal Habitat Protection Plan. Region 4 includes the Cape Fear River system and estuarine waters from Surf City through Brunswick County.

Casey Knight and Anne Deaton with the division's Habitat Enhancement Section reported that the commission's Southern and Habitat and Water Quality advisory committees recommended approval of the nominations for Region 4 Strategic Habitat Areas.

The commission then approved nominations for Region 4 Strategic Habitat Areas for inclusion in the North Carolina Coastal Habitat Protection Plan.

**Motion by Janet Rose to approve the nominations for Region 4 Strategic Habitat Areas for inclusion in the Coastal Habitat Protection Plan. Second by Pete Kornegay.  
Motion carries 7-0 with one abstention.**

### **Rulemaking**

Catherine Blum, the division's rulemaking coordinator, provided the commission with an update on recent actions for the Periodic Review and Expiration of Existing Rules process and then asked the commission to approve the following proposed rules and associated fiscal analyses for Notice of Text for Rulemaking to readopt rules per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules:

- Conforming Changes to For-Hire Licenses, 15A NCAC 03O .0112; and
- Readoption of a Portion of Rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03O, and 03R.

**Motion by Chuck Laughridge to approve the proposed rules and associated fiscal analyses for Notice of Text for Rulemaking to readopt rules per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules for Conforming Changes to For-Hire Licenses. Second by Alison Willis.  
Motion carries with no opposition.**

**Motion by Janet Rose to approve the proposed rules and associated fiscal analyses for Notice of Text for Rulemaking to readopt rules per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules for Readoption of a Portion of Rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03O, and 03R. Second by Rick Smith.  
Motion carries with no opposition.**

The meeting adjourned at 1 :04 p.m.