

Marine Fisheries Commission Business Meeting Minutes
Hilton Garden Inn
Kitty Hawk, North Carolina
Nov. 16-18, 2016

The commission held a public meeting on the evening of Nov. 16, followed by a business meeting Nov.17-18, at the Hilton Garden Inn in Kitty Hawk, North Carolina.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/11-2016-briefing-book> .

PUBLIC MEETING – NOV. 16

Chairman Sammy Corbett called the meeting to order at 6 p.m. The following individuals spoke:

Lee Forbes, from the Martins Point area of Kitty Hawk, talked about an ongoing conflict he had been having with a fisherman that was setting gill nets around his dock. He reported that he had tried mediation, as laid out in the commission's conflict resolution policy, but the other party would not participate. He advised that the issue was on the agenda for this meeting and asked for the commission's support.

Bill Gorham, a lure manufacturer in Southern Shores, thanked the commission for not complimenting the federal closure of cobia and working with the South Atlantic Fishery Management Council on corrective measures. He said the issue is allocation of poundage on the East Coast vs. Florida, and he asked for reversal of allocation. Gorham asked that the South Atlantic Fishery Management Council request emergency action. He asked that the commission not compliment the closure again, if same situation occurs next year.

Andrew Berry, with N.C. Watermen United, had reviewed the petition for rulemaking from the N.C. Wildlife Federation, and he keeps hearing that shrimping and oystering are destroy the bottom, but he feels working the bottom alleviates sedimentation. He said you don't hear about bad water in Pamlico Sound, just up the rivers where no trawling is allowed. He talked about commercial fishermen's frustration with the commission. He said North Carolina has a great recreational fishery, pointing out that our red drum stocks are better than South Carolina's, even though they have gamefish status and stocking programs. Getting commercial gear out of the water is not the answer, he said.

Terry Stewart, with TW's Bait and Tackle, said he appreciated that there was not a complete cobia closure, but that the restricted days of fishing definitely affected his business. He said he would like for private boats to go back to being able to fish for cobia seven days a week.

BUSINESS MEETING - MOTIONS AND ACTIONS – NOV. 17- 18

Chairman Sammy Corbett convened the Marine Fisheries Commission business meeting at 9 a.m. and reminded commissioners of their conflict of interest and ethics requirements.

The following commission members were in attendance: Sammy Corbett-Chairman, Joe Shute - Vice Chairman, Mark Gorges, Chuck Laughridge, Janet Rose, Rick Smith, Mike Wicker and Alison Willis. Newly-appointed commission member, Brady Koury, was absent due to a previous commitment.

Commission Liaison Nancy Fish reported that the State Ethics Commission had evaluated Koury's Statement of Economic Interest and did not find an actual conflict of interest or the potential for a conflict of interest.

**Motion by Chuck Laughridge to approve the agenda. Second by Joe Shute.
Approved with no opposition.**

The minutes from the August meeting were approved by consensus.

Petition for Rulemaking by the North Carolina Wildlife Federation – Blakely Hildebrand, with the Southern Environmental Law Center, presented the commission with a petition for rulemaking, on behalf of the N.C. Wildlife Federation.

The petition asks the commission to designate all coastal fishing waters (including the ocean out to three miles) not otherwise designated as nursery areas as special secondary nursery areas; establish clear criteria for the opening of shrimp season; and define the type of gear and how and when gear may be used in special secondary nursery areas during shrimp season.

Specific requests of the petition include:

- Limiting shrimp trawling to three days a week in the daytime only in special secondary nursery areas
- Limiting the total trawl head rope to 90 feet (which will limit the size of the net) in all state waters
- Limiting tow times to 45 minutes in special secondary nursery areas
- Opening shrimp season once the shrimp count in Pamlico Sound reaches 60 shrimp per pound, heads on
- Implementing an 8-inch size limit for spot and a 10-inch size limit for Atlantic croaker
- Requiring all fishermen to use two Division of Marine Fisheries-certified bycatch reduction devices when trawling in state waters

View a copy of the petition [here](#).

Public Comment

Robby Midgett, a commercial shrimper from Stumpy Point, said he was the ninth generation of his family that had commercially fished. He already has to use two bycatch reduction devices. In his family there are two commercial licenses, and five recreational fishermen. It is not an “us” against “them” scenario – he both commercially and recreationally fishes. He closed by saying the habitat is there and has been there all these generations.

Joey Daniels, said he was not a shrimper but has made a livelihood off of shrimp boats. He said he has sandblasted, painted, and hauled catch. He said a lot of other people rely on the decisions that the commission makes besides the shrimpers. He asked if the recreational sector would be okay with limiting their catch to three days a week? He said make sure decisions are based on true science.

James Fletcher, with the United National Fishermen's Association, said there is science out there that supports what these fishermen have said and that studies in Japan prove it. Water quality in North Carolina and what we have designated as Primary Nursery Areas is now listed as poor water quality. Is it possible that agitating the bottom is beneficial, he asked? Fletcher said the commercial fishing industry has most at stake and he asked the commission to consider science that is not agenda-based. He also said look at the Chesapeake Bay, trawling is banned there and it is in decline.

Mike Blanton, a commercial fisherman from Albemarle Sound, said the petition is another circumvention of real fisheries management. He encouraged the commission to look at the collaborative study the division was doing with industry to reduce bycatch. To say the petition is to protect habitat by designating all waters as special secondary nursery area is not true, it just allows more dictation to the fishermen. He encouraged the commission to work with the fishermen involved in this industry.

David Bush, with the N.C. Fisheries Association, said he had just been at a Habitat and Ecosystem Advisory Panel meeting in Florida and there is a lot of work going on with shrimp trawl bycatch reduction. He encouraged the Division of Marine Fisheries to speak to their counterparts in Florida about this work. He said if trawling is affecting the habitat the way they say, you wouldn't be fishing at all. Can it be better, he asked? Yes, that's why the commercial industry is participating in this study.

Chris Elkins, with the Coastal Conservation Association-NC, talked about Central Southern Management Area striped bass, saying it is a depleted fishery since there are no mature fish, little to no natural reproduction and the wild native fish have been extirpated. His organization disagrees that the Marine Fisheries Commission cannot compel the Division of Marine Fisheries to issue a proclamation. Elkins asked the commission to declare intent on conservation measures for this fishery, including a 5,000 pound commercial total allowable catch, a 5-fish commercial trip limit, require net attendance, allow possession and sale of lawful striped bass taken in shad nets, compliment recreational size limits in inland waters, and implement an education program for recreational fishermen encouraging release of all striped bass taken by hook-n-line, stresses best release practices and discourages catch and release of striped bass when water temperature is above 77 degrees.

Jerry Schill, with the N.C. Fisheries Association, said he was disappointed because a letter that went to legislators with licensing recommendations from the commission's Standard Commercial Fishing License Criteria Committee did not contain an overview of public comment received at the committee's Sept. 30, 2016 meeting. He said many commercial fishermen attended that meeting and commented that they opposed any changes to the existing commercial license structure. In regards to the N.C. Wildlife Federation's petition for rulemaking, Schill said the public was not notified about the petition in an effective manner and that the impetus for the petition was not about limiting bycatch or protecting habitat. He said the ultimate goal was to

ban shrimping and gill nets in North Carolina waters. He said the issue is based on an agenda and not on science.

Commissioner Mike Wicker said he felt some bycatch reduction issues could be solved by better communication if we could get good honest people from the recreational and commercial sectors to come together.

Schill responded it is not a commercial vs. recreational issue and that most commercial folks fish recreationally too. He said trying to get folks with strong opinions to come together doesn't work because everyone comes in with pre-conceived ideas. Most legislators don't understand much about it and say learn to compromise. Schill also said that there has been no acknowledgement of the strides that have been made in the past with bycatch reduction and that is frustrating.

Bud Abbot, with the Coastal Conservation Association-NC, talked about nets being placed so close to docks in creeks that his organization feels numerous future conflicts could be prevented if the buffer being proposed in the Martin's Point situation were expanded to all waters in all counties. Abbott also said the Coastal Conservation Association-NC supports the N.C. Wildlife Federation petition and that 10 stocks are listed as depleted or unknown and that 75 percent of state-managed fisheries are in trouble. He said the petition was not intended to put people out of business, but to restore stocks. North Carolina is the last state to allow gill nets and over 50 feet of headrope in inside waters. He wants everyone to enjoy fisheries and he wants the state to move forward.

Brent Fulcher, chairman of the N.C. Fisheries Association and owner of several seafood houses, said regarding the Martin's Point conflict, that all commercial fishermen should not be punished because of one guy's actions. Regarding the N.C. Wildlife Federation petition, these issues were all discussed in the 2015 Shrimp Fishery Management Plan and if the commission accepts this petition for rulemaking, it undermines the fishery management plan process. He said there was a South Atlantic study that could not find any significant evidence of shrimp trawl impacts on weakfish, or other stocks. Fulcher questioned the cost factors of restrictions the petition proposed, stating that people would be greatly impacted by these proposed rule changes.

David Knight, speaking on behalf of the N.C. Wildlife Federation's Sound Solutions Campaign, said he did not represent the commercial or recreational fishery but wants both to continue. He said action is needed on behalf of the Central Southern Management Area striped bass resource for the 2017 season. Regarding the N.C. Wildlife Federation petition, he looks forward to working with the commission on the petition. He closed by saying the petition was not about banning anything, rather it was about how and when to allow catch.

Ralph Craddock, a Dare County commercial fisherman and charter boat captain, talked about income levels being considered as a requirement to hold a commercial fishing license. He said his wife uses her license periodically, but has another job and that sometimes he will assign his license to his son, but that you just can't make 90 percent of your living from commercial fishing anymore. He said many of the regulations now in place are killing more fish than they are saving and he used the example of having to throw back 14-inch flounder. He said the same recreational people come to every meeting, because the true recreational guys are working and that they just want to go out after work and catch something to take home to eat. He closed by talking about the impact of cormorants and dogfish on other stocks.

David Snead, executive director with the Coastal Conservation Association-NC, offered support for the N.C. Wildlife Federation petition. He said they had asked for recreational participation in the shrimp trawl gear study, , but were told only industry was allowed. He said if recreational and conservation group support is wanted, then there needs to be more transparency and participation allowed.

Commissioner Alison Willis clarified that the industry workgroup meetings are all open to the public, and public comment has been taken at all of its meetings, and that the division was only acting on the management strategy approved by the commission in the formation, scope and purpose of the workgroup.

Britton Shackelford, with N.C. Watermen United, said he had sworn off these meetings because it was a stacked deck. He said to look at the reason Gov. Pat McCrory lost the election – the pay to play on the Marine Fisheries Commission was not lost on the voting public, he said. This discussion on banning trawling is not lost on the voting public, either. He said so many working people here had to give up their time to come listen to mindless dribble from the Southern Environmental Law Center, who are the same people that wanted to hold up a bridge. He said science is getting ready to be vetted in a court of law.

Chairman’s Report

The commission decided to modify its 2017 meeting schedule by shortening its meetings, going from three-day to two-day meetings. The new schedule is:

Feb. 15-16

May 17-18

Aug. 16-19

Nov. 15-16

The commission was reminded the commission of its ethics training requirements.

Mid-Atlantic Fishery Management Council Nomination

Division staff reported that the commission’s Nominating Committee voted to forward the names of Dewey Hemilright, Chris Hickman, Jeff Oden and Brent Fulcher to the commission for consideration as nominees to North Carolina’s obligatory seat on the Mid-Atlantic Fishery Management Council. The commission is required to submit to the governor a minimum of three candidates for consideration for this seat. Bios were reviewed for each of the potential nominees.

The commission voted to forward the names recommended by the Nominating Committee to the Governor’s Office for consideration as nominees for North Carolina’s Mid-Atlantic Fishery Management Council obligatory seat.

**Motion by Alison Willis to forward the names of Dewey Hemilright, Chris Hickman, Jeff Oden and Brent Fulcher to the Governor’s Office for consideration for nominees to the Mid-Atlantic Fishery Management Council obligatory seat. Second by Joe Shute.
Motion carries 7-1.**

Standard Commercial Fishing License Criteria Committee Recommendations

Division staff updated the commission on the Sept. 30 meeting of the Standard Commercial Fishing License Criteria Committee meeting, reviewing recommendations the committee made to go to Rep. Jimmy Dixon for consideration in the upcoming legislative session, and to the full commission for its deliberation. The commission voted to send an additional letter to Rep. Dixon endorsing changes in the criteria for receiving a Standard Commercial Fishing License in North Carolina, which is the main license required for a fisherman to commercial fish and sell his catch. Recommended changes include limiting this license to full-time commercial fishermen and creating part-time and heritage commercial fishing licenses for other purposes.

Motion by Chuck Laughridge to send a letter from the full commission, the same as the Oct. 7 letter to Rep. Jimmy Dixon, regarding Standard Commercial Fishing License criteria. Second by Alison Willis.

Motion carries 6-1.

Martins Point Conflict Resolution

Division staff briefed the commission on an ongoing user conflict between Leigh and Janine Forbes and Mark Evanoff in the Martins Point community on Currituck Sound in Kitty Hawk. The Forbeses submitted a user conflict resolution package to the division on March 14, 2016. In accordance with North Carolina Marine Fisheries Commission User Conflict Resolution Rule 15A NCAC 03I .0122, the division reviewed the information submitted and determined that user conflict resolution was necessary and that mediation would be the next step. While the Forbeses agreed to mediation, the division was unsuccessful in its attempts to have Mr. Evanoff participate in mediation.

After receiving the briefing, the commission authorized the issuance of a proclamation to prohibit gill nets within 200 feet of a specific dock in the Martins Point area of Currituck Sound to address a user conflict. The commission also authorized further proclamations prohibiting gill nets within 200 feet of docks in a 2 ½-mile area of southern Currituck Sound from Martins Point to Wright Memorial Bridge should other user conflicts occur.

Motion by Alison Willis to authorize the issuance of a proclamation by prohibiting gill nets within 200 feet of Mr. Leigh Forbes' dock to address a user conflict and to authorize further proclamations prohibiting gill nets in a 2 ½-mile area of southern Currituck Sound Joint Waters from Martins Point, running south along the shoreline to Wright Memorial Bridge to address user conflicts. Second by Janet Rose.

Motion carries 6-0 with one abstention.

Substitute motion by Chuck Laughridge to adopt the draft proclamation as provided by the division. Motion fails for lack of second.

Albemarle Roanoke Striped Bass Stock Assessment

Division staff updated the commission on the most recent stock assessment of Albemarle/Roanoke striped bass, which is managed jointly between the Division of Marine Fisheries and the Wildlife Resources Commission. The estimate of fishing mortality (F) in the terminal year of the assessment (2014) was 0.06, below the fishing mortality threshold of 0.41, suggesting the stock is not experiencing overfishing, as outlined in the November 2014 Revision to Amendment 1 to the North Carolina Estuarine Striped Bass Fishery Management Plan. The spawning stock biomass (SSB) in 2014 was estimated at 2,028,837 pounds, above the spawning

stock biomass threshold of 772,588 pounds, suggesting the stock is not overfished – this threshold was also set out in the 2014 revision to the plan.

Central Southern Management Area Striped Bass Genetics Study

Division staff reported that recent genetic analysis of striped bass collected in the spring of 2016 show varying percent hatchery contribution across systems. The overall contribution was 84.5 percent hatchery/15.5 percent “wild.” Percent hatchery contribution for each system was: Pamlico 86.3 percent hatchery/13.7 percent “wild;” Pungo 39.0 percent hatchery/61.0 percent “wild;” and Neuse 95.3 percent hatchery/4.7 percent “wild.” There are several ongoing and proposed research projects designed to better understand the distribution of hatchery-raised vs. “wild” and hybrid striped bass in the Central Southern systems. This type of information will be incorporated in the drafting of the next fishery management plan amendment.

The presentation can be found at:

http://portal.ncdenr.org/c/document_library/get_file?uuid=4e874a18-f635-418a-b8ff-79b1debb8a41&groupId=38337

Motion by Chuck Laughridge to postpone discussion on Central Southern Striped Bass to the February commission meeting with the intent for possible action on a proclamation or request for a supplement. Second by Rick Smith. Motion carries 5-1 with one abstention.

Collaborative Shrimp Trawl Gear Study Update

Division staff updated the commission on a three-year shrimp trawl gear study the division is conducting, working collaboratively with an industry stakeholder workgroup and in partnership with North Carolina Sea Grant and the National Oceanographic and Atmospheric Administration Harvesting Systems Unit. This study was a management measure selected by the commission in the 2015 Shrimp Fishery Management Plan to address bycatch issues. The study is scheduled to conclude at the end of 2017.

The presentation can be found at:

http://portal.ncdenr.org/c/document_library/get_file?uuid=1bf42b06-be27-490d-aa88-e2772490252c&groupId=38337

Rulemaking

Division staff updated the commission on its 2016/2017 rulemaking cycle and gave an overview of the periodic review and expiration of existing rules.

The presentation can be found at:

http://portal.ncdenr.org/c/document_library/get_file?uuid=1d634e7d-3302-48f7-ad94-0e3b9b1463f6&groupId=38337

Sustainable Fishery Management Plan for Shad

Division staff reported that for the Albemarle Sound/Roanoke system one of the sustainability parameters exceeded the threshold in 2016 and landings declined considerably since 2014. The Wildlife Resources Commission Roanoke River electrofishing parameter for female abundance exceeded the threshold for the first time since 2010. This parameter is only used in conjunction with a second index from either the female relative abundance from the Division of Marine Fisheries Albemarle Sound independent gill net survey or the female relative fishing mortality,

for triggering management action. Since these other two indices were below their respective thresholds, no additional management action was triggered. It is critical to note that although the commercial seasons for American shad in 2014, 2015, and 2016 were the same (March 3 – March 24 for a total of 22 days), landings declined from 109,539 pounds in 2014 to 40,775 pounds in 2016, a reduction of approximately 63 percent from 2014 landings. It must be recognized that even though the American Shad Work Group recommended continuing with the same commercial season for 2017 in the Albemarle Sound/Roanoke system of March 3 – March 24, it is difficult to predict what landings will be in 2017. Annual American shad harvest is highly variable due to environmental conditions during the spring, gill net effort, gear restrictions, area closures, and relative strength of the year classes in the run. This is evident by the extremely high inter-annual variation in landings from 1994 to 2013, although the commercial seasons were practically unchanged for the time period.

None of the sustainability parameters in the other systems exceeded any of their thresholds. Therefore, the American Shad Work Group agreed to maintain the 2016 American shad regulations for the 2017 season in all systems. The American Shad Work Group is scheduled to conduct a five-year review of the entire American Shad Sustainable Fishery Plan in 2017, at which time they will decide on management measures for the 2018 season in all systems.

The presentation can be found at:

http://portal.ncdenr.org/c/document_library/get_file?uuid=2d8993fc-4b65-412b-9401-c65f4e792f96&groupId=38337

The meeting adjourned.