

Marine Fisheries Commission Business Meeting Minutes
Hilton Garden Inn
Kitty Hawk, North Carolina
November 15-16, 2017

The commission held a business meeting Nov. 15-16 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/11-2017-briefing-books> .

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 Nov. 15 and reminded commissioners of their conflict of interest and ethics requirements.

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

Joe Shute was not present.

**Motion by Rick Smith to approve agenda with amendment that delays vote on cobia management to Thursday morning. Second by Mike Wicker.
Motion carries with no objection.**

The minutes from the August 2107 business meeting were approved by consensus.

Chairman Corbett recognized Department of Environmental Quality Chief Deputy Secretary John Nicholson, who talked about the search for a new Division of Marine Fisheries Director and the status of the Marine Fisheries Commission appointment process.

Chairman's Report

Marine Fisheries Commission Liaison Nancy Fish reviewed letters that had been sent and received by the commission.

Commissioners were reminded of their ethics training requirements and their annual requirement to submit a Statement of Economic Interest form to the N.C. Ethics Commission.

Commissioners were reminded of their 2018 meeting schedule:

Feb. 14-15

May 16-17

Aug. 15-16

Nov. 14-15

Director's Report

Division Director Braxton Davis updated the commission on division activities occurring since

the August 2017 business meeting, including:

- Division employee Cindi Hamilton received the Governor's Award of Excellence for donation of a kidney to a fellow employee;
- New materials added to the Artificial Reef-430, which is offshore of Oak Island in partnership with the Long Bay Artificial Reef Association;
- Initial development of Artificial Reef-491 in the Cape Fear River in partnership with the N.C. Coastal Federation; and
- Updates were provided on the division's State Fair exhibit, the status of development of the fiscal analysis for the rules contained in the NCWF petition for rulemaking, processes and procedures for the administration of the Coastal Recreational Fishing License funds, the development of a memorandum of understanding between the N.C. Commercial Fishing Resource Fund committees and the upcoming Southern Flounder Stock Assessment Workshop.

Director Davis also provided the commission with a letter from Department of Environmental Quality Secretary Michael Regan, regarding the commission's request for authorization to develop a supplement to the Estuarine Striped Bass Fishery Management Plan. Secretary Regan was unable to grant the commission's request for a supplement at this time, pointing out that the plan was expedited in 2016 to address concerns about striped bass. The letter said there is insufficient data and analysis currently in existence to change course and that granting the requested authorization would cause further delay in the development of the plan. In closing, Secretary Regan said this decision does not foreclose the ability to take future action if supported by reliable data and analyses conducted as part of the ongoing plan review, and that would not otherwise impede the continued development and implementation of long-term management strategies for this important fishery.

The division provided an overview of recent actions from the Atlantic States Marine Fisheries Commission, the South Atlantic Fishery Management Council and the Mid-Atlantic Fishery Management Council, along with a review of the American Shad Fishery Management Plan and 2018 management measures for that fishery.

To view the presentation on American shad, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=31095918&name=DLFE-135237.pdf

Interstate Management Plan for Atlantic Migratory Group Cobia Presentation

Division biologist Steve Poland provided an overview of the Interstate Management Plan for Atlantic Migratory Group Cobia and state-specific management options.

He reported that under the interstate plan, regulations for the commercial fishery for cobia will complement the measures from Framework Amendment 4, which include a 33-inch fork length minimum size and a two fish per person bag limit, not to exceed six fish per vessel per day. The commercial fishery will be managed under the commercial Annual Catch Limit of 50,000 pounds, which is allocated to the entire commercial fishery from Georgia through New York, and will close once the catch limit has been met.

The recreational fishery will be managed with a 36-inch fork length size limit and a one fish per person bag limit, not to exceed six fish per vessel per day. Each state will be free to set their own

seasons and vessel limits, but must constrain harvest to state-specific soft targets based on the coastwide 5-year/10-year average proportion of landings for each state of the Federal Annual Catch Limit. Under soft targets, overages from one year will not be deducted from the targets for the next. Overharvest will be evaluated over a three-year period. If overages occur, then states will be required to implement new management measures to reduce harvest to the state-specific target over the next three-year period. The North Carolina recreational landings target is set to 236,316 pounds starting in 2018.

The commission has previously discussed a desire to require mandatory reporting of recreational cobia landings. Poland reported that the division continues to have concerns about the authority to require mandatory reporting. Currently, it is not clear if the Fisheries Director or the commission has authority to require recreational anglers to report their harvest.

Poland advised that the division recommends a one fish per vessel limit for private boats and a three fish per vessel limit for charter boats, with no season closure. These measures will constrain landings below the recreational harvest limit for North Carolina and allow for landings in the fishery throughout the year. He also provided the commission with recommendations from the regional and Finfish advisory committees on the issue.

The timeline for implementation plan was reviewed. States are required to submit an implementation plan to the Atlantic States Marine Fisheries Commission by Jan. 1, 2018 for technical committee review. The South Atlantic State/Federal Fisheries Management Board will review the technical committee comments and approve each state's management measures and final approval of the plan at its February 2018 meeting with management measures effective April 1, 2018.

The commission decided to postpone their deliberation and vote to provide input on recreational seasons and vessel limits for cobia until later in the meeting.

To view the presentation on cobia, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=31095918&name=DLFE-135234.pdf

Fishery Management Council Nominations

Division staff reported that the commission's Nominating Committee voted to forward the names of Anna Beckwith, Robert Lorenz and Thomas Roller to the commission for consideration as nominees to North Carolina's at-large seat on the South Atlantic Fishery Management Council and to forward the names of Sara Winslow, Roger Rulifson and Joseph Smith to the commission for consideration as nominees to North Carolina's at-large 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 each 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 Chuck Laughridge to recommend Anna Beckwith, Robert Lorenz and Tom Roller for the South Atlantic Fishery Management Council at-large seat. Second by Brad Koury.

Motion carries unanimously.

Motion by Chuck Laughridge to recommend Sara Winslow, Roger Rulifson and Joseph Smith for the Mid-Atlantic Fishery Management Council at-large seat. Second by Rick Smith.

Motion carries unanimously.

Draft Region 4 Strategic Habitat Area Nominations

Division biologists Anne Deaton and Casey Knight gave a report on Region 4 Strategic Habitat Area nominations. The Coastal Habitat Protection Plan has a goal to identify and delineate strategic habitat areas, which are comprised of individual fish habitats or systems of habitats that provide exceptional habitat functions of that are particularly at risk due to imminent threats, vulnerability or rarity. The Region 4 area encompasses southern region of the coast, including Pender, New Hanover and Brunswick counties and the watersheds and river basins that feed into those areas.

Motion by Mike Wicker to send draft Region 4 Strategic Habitat Area report out for public comment at advisory committees. Second by Mark Gorges.

Motion carries unanimously.

To view the presentation on draft Region 4 Strategic Habitat Area Nominations, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=31095918&name=DLFE-135236.pdf

Public Comment Period

The following individuals spoke:

David Bush, with the N.C. Fisheries Association, asked the commission to consider sending a letter the Atlantic States Marine Fisheries Commission opposing reallocation of the summer flounder quota that could have negative impact on both North Carolina and Virginia.

Bud Abbott, with the Coastal Conservation Association – N.C., cautioned that overages in the recreational cobia fishery needed to be avoided and the commercial harvest be monitored to ensure that harvest was being tracked. He said the work of the Shrimp Fishery Management Plan and the Bycatch Workgroup were needed to kick start the recovery of other stocks that had declined significantly in the last 20 years due to impacts from unlimited inshore trawling. Abbott closed by urging that the Southern Flounder Fishery Management Plan Advisory Committee complete its work as quickly as possible to aid in the recovery of that stock.

Jerry Schill, Director of Government Affairs for the with the N.C. Fisheries Association, said that typically there would be more members of his organization at this meeting, but they are not here due to a lack of faith in the process because the commission is not fair and equitable. Schill said he

was encouraged by DEQ Chief Deputy Secretary John Nicholson's remarks and that public participation will resume if the commission is viewed as fair and equitable.

David Sneed, Executive Director of the Coastal Conservation Association – N.C., discussed two initiatives the CCA is working on to promote marine habitat creation and restoration. In Back Sound are building 32 new experimental oyster reef and monitoring systems and they are also working with the New River Oyster Highway that is utilizing a “stepping stone” technique to build more shellfish bottom and promote reef restoration. These efforts will help clean the water and provide excellent fish habitat and he hopes they will be considered for future funding from the Coastal Recreational Fishing License Grant Program.

David Knight, with the Sound Solutions, a project of the N.C. Wildlife Federation, thanked Director Davis for his earlier remarks about the status of the fiscal analysis for the federation's petition for rulemaking and that the federation appreciated the complexity of the petition. However, he said it had been a year since the petition was submitted and the petitioners hoped the division was moving at an appropriate pace. He suggested the division consider comparative economic analyses from other states that have banned trawling when conducting the fiscal analysis. Knight said the federation looked forward to working with the commission on the next amendment to the Shrimp Fishery Management Plan and offered to assist the department and division in getting more funding by working with the General Assembly to restructure permit and licensing fees.

Bill Gorman, a lure manufacturer from Southern Shores, he talked about cobia and said he and others were against complementary management with the Atlantic States Marine Fisheries Commission. He said one fish per boat would kill the fishery and recommended the commission support an April 15 season start, with 3 or 4 fish per boat, and dropping that limit to one fish per boat on July 1.

Travis Kemp, a recreational fisherman from Currituck, said for cobia that one fish per boat would kill the fishery and recommended the commission support an April 15 season start, with 3 or 4 fish per boat, and dropping that limit to one fish per boat on July 1 for both recreational and charter boats.

Chris McCaffity, a commercial fisherman from Morehead City, asked the commission to support allowing federal permit holders to select representative on the South Atlantic Fishery Management Council. He supports mapping offshore oil and gas deposits once and then making those results public to see if offshore drilling is worth the risk and he wants states to be given the right of first refusal for leases off of their coasts. McCaffity also wants the commission to support a moratorium on fish farming because of the pollution, parasites and diseases from these operations. He encouraged the commission to support using hatcheries to stock fish, which would be a benefit to all user groups.

Riley Williams, a commercial fisherman from the Albemarle Sound area, expressed concern about the membership of the Southern Flounder Fishery Management Plan Advisory Committee, saying there were no representatives north of Hatteras and that the division needs to reconsider how it advertises advisory committee solicitations. He said that more catch should be allowed in the American shad fishery because landings were still above the threshold and he said he was not

reapplying for the commission's Northern Advisory Committee because the commission does not listen to their advice.

Aaron Kelly, a charter operator from the Hatteras area that specializes in sight-casting for cobia, said the cobia season should be open all year long, with four fish per boat and that cobia caught in net fisheries as bycatch should be allowed to be sold.

Douglas Hyburn, a recreational fisherman from Nags Head, said he had just gotten into cobia fishing last year and he sees a lot of red flags. The management measures being considered are not really about the fish, but they are an assault on the recreational industry and the people who want to catch cobia.

Bobby Smith, who is a charter captain, said the cobia management was not just an assault on recreational fishing, but on common sense and that he felt the cobia season should be open year-round with two fish per person.

Joe Wilson, a commercial fisherman from Dare Count, said he wanted spotted seatrout and striped bass added to the list of species where red drum could be harvested as bycatch. He said this would help better utilize the species.

Commissioner Laughridge clarified that the state Fisheries Reform Act says that the commission must be fair, not fair and equitable. He felt some commenters were confusing state laws with the federal Magnuson-Stevens Act that requires fair and equitable management.

2018 Recreational Cobia Limit and Season Recommendations

The commission continued its deliberation on recreational cobia limits and season recommendations and then voted to propose management measures for 2018-2020 to the Atlantic States Marine Fisheries Commission as follows:

- One fish per person, not to exceed four fish per vessel, for charter boats.
- One fish per person, not to exceed two fish per vessel, for private boats.

The commission also asked the Division of Marine Fisheries to study developing a mandatory reporting program for recreational cobia catch.

Motion by Alison Willis to adopt the Northern Advisory Committee's recommendation for recreational bag limits for the 2018 cobia season:

- **One-fish per person, not to exceed 4-fish per vessel, for charter vessels;**
- **One fish per person, not to exceed 2-fish per vessel, for the private sector;**
- **No closed season**

Also, to ask the Division of Marine Fisheries to study development of a mandatory reporting program for recreational cobia catch. Second by Chuck Laughridge.

Roll call vote:

Gorges - no

Koury - yes

Laughridge - no

Rose - yes

Smith - no

Wicker - no

Willis - yes
Corbett - yes

Motion fails for lack of majority.

Motion by Rick Smith to adopt recreational management measures for cobia as follows:

- **April 15-July 1 season,**
 - **One-fish per person, 3-fish per vessel for charter vessels**
 - **One-fish per person, 2-fish per vessel for private sector**
- **July 2-Oct 1,**
 - **One fish per person per vessel for charter and private**
 - **Closed season Oct. 1-April 14**

Motion fails for lack of second.

Motion by Alison Willis to adopt recreational bag limits for cobia as follows:

- **One-fish per person, not to exceed 4-fish per vessel, for charter vessels;**
- **One fish per person, not to exceed 2-fish per vessel, for the private sector;**
- **May 15 to Labor Day season for private sector**

Also, to ask the Division of Marine Fisheries to study development of a mandatory reporting program for recreational cobia catch. Second by Chuck Laughridge.

Roll call vote:

Gorges - no
Koury - yes
Laughridge - yes
Rose - yes
Smith - no
Wicker - no
Willis - yes
Corbett - yes

Motion carries 5-3.

Motion by Chuck Laughridge to reconsider the motion offered by Alison Willis related to cobia and approved by the commission. Second by Mark Gorges.

Roll call vote:

Gorges - yes
Koury - yes
Laughridge - yes
Rose - no
Smith - yes
Wicker - no
Willis - yes
Corbett – did not vote

Motion carries 5-2.

Motion by Mark Gorges to amend the motion by striking the following phrase as below. Second by Chuck Laughridge.

Motion by Alison Willis to adopt recreational bag limits for cobia as follows:

- **one-fish per person, not to exceed 4-fish per vessel, for charter vessels;**
- **one fish per person, not to exceed 2-fish per vessel, for the private sector;**
- **May 15 to Labor Day season for private sector**

Also, to ask the Division of Marine Fisheries to study development of a mandatory reporting program for recreational cobia catch. Second by Chuck Laughridge.

Motion to amend carries 6-1.

Commissioner Willis' cobia motion as amended carries 6-1.

Shellfish Mariculture

Tom Looney with the N.C. Economic Development Council gave the commission an update on the work he and others are doing to promote shellfish mariculture in North Carolina.

Steve Murphey and Anne Deaton, with the division's Habitat and Enhancement Section, gave an overview of the shellfish lease and aquaculture program, providing a brief history of the program and highlighting benefits, challenges and potential solutions related to the increasing interest in shellfish leases and number of leases.

To view the presentation on the shellfish lease and aquaculture program, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=31095918&name=DLFE-135235.pdf

Commission Chairman Corbett asked the division to report back at its February 2018 meeting with recommendations and potential solutions to address issues with the rapidly expanding lease program.

Striped Mullet Data Analysis Update

Division biologists Dan Zapf and Tracey Bauer provided the commission with recommendations and an update on striped mullet data analysis

Amendment 1 to the Striped Mullet Fishery Management Plan established minimum and maximum commercial landings triggers of 1.13 and 2.76 million pounds, respectively. Under Amendment 1, if a trigger is activated, further analysis of striped mullet data will be completed to identify causes of increased or decreased striped mullet commercial landings. If, upon completion of the data analysis, it is determined that additional management is needed, adaptive management will be used to implement management measures needed to maintain sustainable harvest. Any management measures will be developed by the division, in conjunction with an advisory committee, and approved by the commission prior to implementation using the proclamation authority of the division director.

Striped mullet commercial landings in 2016 were 964,348 pounds, which is below the minimum commercial landings trigger (1.13 million pounds). The division initiated further analysis of available fishery dependent and fishery independent striped mullet data to determine if the decline in commercial landings was the result of decreased fishing effort or a possible stock decline.

The division's Striped Mullet Plan Development Team met Oct. 2, 2017 to discuss the draft analysis of fishery dependent and fishery independent striped mullet data. Observations from the team included:

- No other state fishery management plan has a review trigger based on a single year. There is always some uncertainty regarding the status of any stock (including striped mullet) that can only be addressed through a stock assessment.
- Fishery independent indices of striped mullet relative abundance should be standardized to account for the impact environmental factors may have in limiting or enhancing the availability of striped mullet.
- In the northern area (Core Sound and north), there is a declining trend in striped mullet commercial landings that is mirrored in fishery independent indices, which includes those used in the 2013 striped mullet stock assessment.
- In the southern area (Bogue Sound and south) striped mullet commercial landings have generally declined, but not to the extent of northern areas, and fishery independent indices in the south increased in 2016.
- Success in other fisheries in 2016, particularly shrimp, may have impacted participant numbers and associated effort in the striped mullet fishery. To better understand the impact shifts in effort may have had on 2016 striped mullet commercial landings, further analysis needs to be completed examining commercial fishing trips that specifically targeted striped mullet.
- Since 1972, hurricanes have had minor impacts on striped mullet landings, but may have significantly impacted landings in 2016.
- The striped mullet commercial fishery in North Carolina is primarily a roe-based fishery targeting spawning females and is susceptible to overfishing, potentially leading to poor recruitment.
- There is currently no fishery independent survey that provides a juvenile abundance index for striped mullet; therefore, there is no way to monitor annual year class strength.
- Results of the 2013 striped mullet stock assessment indicated both recruitment and spawning stock biomass were declining in the last few years (2007-2011) of the assessment period.

The division recommended further analysis of commercial landings from trips that specifically targeted striped mullet and standardization of fishery independent indices to account for the impact environmental factors may have in limiting or enhancing the availability of striped mullet needs to occur in early 2018. The addition of commercial landings and fishery independent data through 2017, a year with no major hurricane, will allow for better assessment of trends in the striped mullet fishery and striped mullet stock abundance.

The division recommended the commission wait until its February 2018 meeting to take action so that the division can incorporate the additional 2017 data into the analysis. Since most of the striped mullet commercial harvest occurs in October and November the regulatory impact window will have passed for 2017. With the commission's 2018 meeting schedule, there is sufficient time to enact management measures to have an impact on the 2018 striped mullet harvest and beyond.

To view the presentation on striped mullet, go to:

Coastal Habitat Protection Plan

Jimmy Johnson, the department's Coastal Habitat Protection Plan Coordinator, provided the commission with the 2018-1010 biennial implemental plan for the Coastal Habitat Protection Plan for approval. He reminded the commission that the legislative goal of the Coastal Habitat Protection Plan is the long-term enhancement of coastal fisheries associated with coastal habitats. North Carolina's environmental agencies and commissions have been working together to achieve this goal through the initial completion of the plan in 2004 and the development of subsequent biennial implementation plans. Johnson explained that over the next two years the implementation focus will be on four identified priority areas:

- Restoring oyster reef habitat;
- Encouraging the use of living shorelines
- Reducing sedimentation impacts in estuarine creeks; and
- Developing metrics on habitat trends and management effectiveness.

Motion by Chuck Laughridge to approve the 2018-2020 Biennial Implementation Plan to the Coastal Habitat Protection Plan. Second by Janet Rose.

Motion carries unanimously

Reporting Commercial Landings That Are Not Sold

The commission asked the Division of Marine Fisheries to study reporting issues concerning finfish landings that are caught with a Standard Commercial Fishing License and not sold, and to report to the commission in February with proposals for resolutions of the issues.

Motion by Rick Smith to ask the Division of Marine Fisheries to study reporting issues concerning finfish landings that are caught with a Standard Commercial Fishing License and not sold, and to ask the division to come back to the commission in February 2018 with proposals for resolutions of the issues. Second by Chuck Laughridge.

Motion carries 5-0 with 2 abstentions.

Definition of Commercial Fisherman

The commission asked the chairman to appoint a committee of commission members to develop a definition of a commercial fisherman, with staff support from the Division of Marine Fisheries, and to update the commission at its February meeting.

Motion by Chuck Laughridge to ask the chairman to appoint a committee of commission members to develop a definition of a commercial fisherman, with staff support from the Division of Marine Fisheries, to bring an update back to the commission at its February 2018 meeting. Second by Mike Wicker.

Motion carries 7-1.

Summer Flounder Letters

The commission voted to send a letter to the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council highlighting the importance of the summer flounder fishery in North Carolina and requesting that proposed management concerning quota

allocation include a broad range of options that considers the historic fisheries of the member states.

Motion by Alison Willis to send a letter to the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council highlighting the importance of the summer flounder fishery in North Carolina and requesting that proposed management concerning quota allocation include a broad range in options that considers the historic fisheries of the member states. Second by Chuck Laughridge. Motion carries 7-0 with one abstention.

The meeting adjourned.

DRAFT