



# *Mutilated Finfish Proposed Rule Amendment*

DEPARTMENT OF ENVIRONMENTAL QUALITY

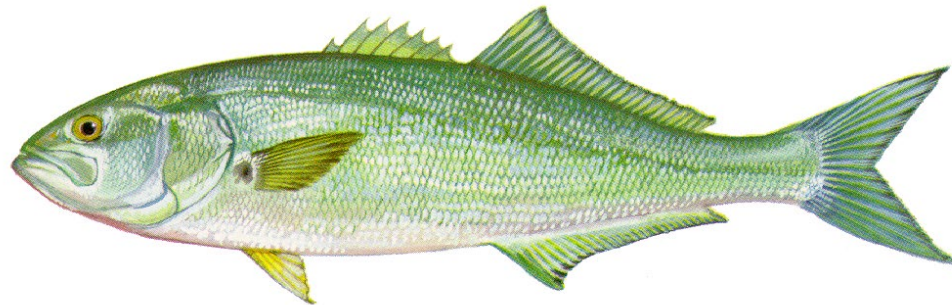
Marine Fisheries

N.C. Marine Fisheries Commission | Morgan Paris | Feb. 25, 2022



# *Presentation Overview*

- Current mutilated finfish rule
- Limitations of current rule
- Issue origination
- Objectives
- Proposed mutilated finfish rule
- Ancillary tasks
- DMF recommendation and next steps



# Current Mutilated Finfish Rule

## **15A NCAC 03M .0101 MUTILATED FINFISH**

It shall be unlawful to possess aboard a vessel or while engaged in fishing any species of finfish that is subject to a size or harvest restriction without having head and tail attached, except:

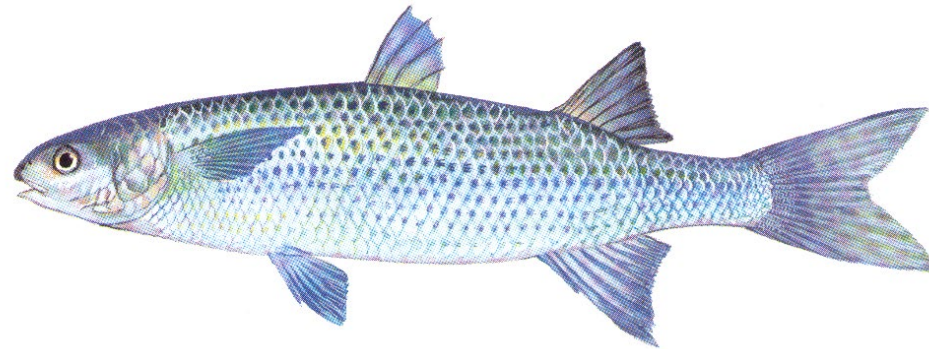
- (1) mullet when used for bait;
- (2) hickory shad when used for bait, provided that not more than two hickory shad per vessel or fishing operation may be cut for bait at any one time; and
- (3) tuna possessed in a commercial fishing operation as provided in Rule .0520 of this Subchapter.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. January 1, 1991;  
Temporary Amendment Eff. May 1, 2001;  
Amended Eff. May 1, 2015; April 1, 2011; July 1, 2006; August 1, 2002;  
Readopted Eff. April 1, 2019.*



# *Limitations of Current Rule*

- Lack of flexibility
- Time-intensive process to amend
- Ambiguous language
- Intent of rule: protect finfish, not manage cut bait



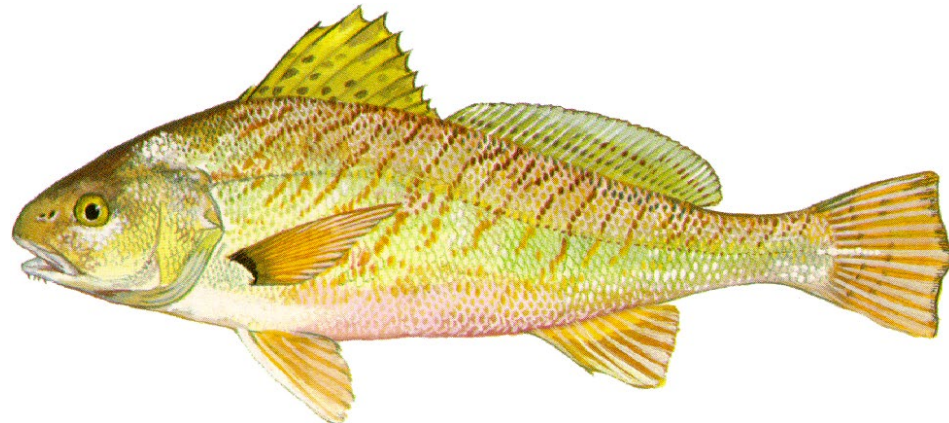
# *Issue Origination*

- Recent issues with public unknowingly violating the mutilated finfish rule
- DMF identified need to potentially amend rule to address:
  - American eel
  - Spot
  - Atlantic croaker
  - Bluefish
  - Striped mullet
- August 2021 MFC motion for DMF to examine mutilated finfish rule
- DMF developed issue paper for rulemaking



# Objectives

- Examine and address the current species exceptions and conflicts
- Amend the rule to provide flexibility
- Manage current conditions
- Manage variable conditions that could occur in the future
- Maintain finfish resource protections



# Proposed Rule

## 15A NCAC 03M .0101 MUTILATED FINFISH

It shall be unlawful to possess aboard a vessel or while engaged in fishing any species of finfish that is subject to a ~~size or harvest restriction~~ possession limit, including size limit, recreational bag limit, commercial trip limit, or season, without having head and tail attached, ~~except:~~ unless otherwise specified in a rule of the Marine Fisheries Commission or a proclamation issued pursuant to a rule of the Marine Fisheries Commission.

- ~~(1) mullet when used for bait;~~
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# Ancillary Tasks

- Species that would continue to be subject to the requirements of the amended mutilated finfish rule:
  - American eel
  - Spot
  - Atlantic croaker
  - Bluefish
- Species currently exempt that would become subject to the requirements of the amended mutilated finfish rule:
  - Mullet
  - Hickory shad
- For each species, a proclamation could be issued if the Fisheries Director decides it is appropriate for the species to be used or continue to be used as cut bait.



# Proposed Rule

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# *DMF Recommendation and Next Steps*

- DMF recommends supporting the management option presented.
- If approved by the MFC, the fiscal analysis would be developed.
- The MFC could vote to begin the rulemaking process in August 2022.
- The earliest possible effective date would be approximately mid-June 2024.
- The MFC is scheduled to vote on the management option and associated language for rulemaking for the mutilated finfish rule.



*Questions?*



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# POCKET SLIDES





# Other Approaches Considered

1. Status Quo: no amendment to the current rule
  - Does not provide flexibility to address bait fish preferences and known conflicts with the rule that exist.
  - Need to amend the rule was identified by MFC and DMF.
2. Amend to add or revise species-specific exceptions
  - Rule would be amended based on management measures currently in place and measures would be subject to change based on based on stock assessment results and FMP requirements.
  - Approach would require some level of proclamation authority.
3. Inverse rule: could write such that only species specifically noted within the rule are subject to the requirements.
  - Approach would require some level of proclamation authority.
4. Use of 'size limit' instead of 'possession limit' to replace 'size or harvest restriction' in current rule.
  - Approach would decrease the enforceability of other regulations.



# Species-Specific Conflicts with Rule

American Eel	9-in TL Size limit and 25 fish recreational bag limit	Cut bait in commercial trotline fishery. Recreational fishery to target trophy catfish.	Stock assessment underway.
Spot	50 fish bag limit Commercial season In place at least 2 years	Popular cut bait in both recreational and commercial	Future TLA may alleviate management measures or indicate more stringent measures
Atlantic Croaker	50 fish bag limit Commercial season In place at least 3 years	Popular cut bait in both recreational and commercial fishery.	Future TLA may alleviate management measures or indicate more stringent measures
Bluefish	3 fish recreational bag limit	Popular cut bait in both recreational and commercial fishery.	In a rebuilding plan
Mullet	200 fish recreational bag limit	Currently allowed to be cut.	Stock assessment underway.



# History of the Rule

**Late 1980s:** Requirement first appeared as...

“It is unlawful to land or possess aboard a vessel any striped bass, red drum, spotted seatrout, or flounder mutilated to the extent that accurate length measurement cannot be made.”

**1991:** New rule was adopted without species-specific exceptions stating...

“It is unlawful to possess aboard a vessel or while engaged in fishing from the shore or a pier any species of finfish which is subject to a size or harvest restriction without having head and tail attached”

**2002:** Amended to exempt blueback herring, hickory shad, and alewife

**2006:** Amended to add mullet as an exemption

**2011:** Tuna was added to as an exception following rule 15A NCAC 03M .0520

**2015:** Blueback herring and alewife were dropped from list of exemptions

**2019:** Current version of rule was readopted. Excepts mullet without specifications, hickory shad provided no more than two are cut at a time, and tuna possessed in a commercial fishing operation.

