



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

STEPHEN W. MURPHEY
Director

March 4, 2019

Dear Chairman Bizzell,

At the February 2019 Marine Fisheries Commission (MFC) meeting the MFC passed Supplement A to Amendment 1 of the Estuarine Striped Bass Fishery Management Plan. As approved, Supplement A specifies a no-possession limit, essentially a closed season for striped bass, in the Central Southern Management Area (CSMA). There are, however, complicating jurisdictional issues between MFC and the Wildlife Resources Commission (WRC).

Last week, Department of Environmental Quality (DEQ) and Division of Marine Fisheries (DMF) staff met with the Director and staff of the WRC. The WRC Director indicated that because of the joint jurisdictional language in N.C.G.S. §113-132 that the Supplement A measure would be inconsistent with existing WRC recreational limits in joint waters of the CSMA. After consulting with WRC and with legal counsel for both Commissions and DEQ it was decided that the best approach forward would be to convene a special meeting of the MFC to formally request that the WRC implement management measures consistent with Supplement A for the joint coastal waters of the CSMA to harmoniously resolve the jurisdictional conflict. I think this could be done over the phone with at least one listening station and it would be up to you to decide if any additional public comment would be warranted.

If a special meeting is not called, then it is important to have this on the May agenda for the MFC meeting. The recreational season closes April 30 by rule (15A NCAC 03M .0202) so if we do hold a special meeting it would only buy a brief period with the no-possession limit was in place for the recreational spring season. However, it is important to address it to implement the no-possession limit in the fall recreational fishery. The next regularly scheduled meeting of the WRC is in April.

Considering this, I plan to issue proclamations this week to implement the following:

1. Close the remainder of the recreational season on striped bass in the coastal waters of the CSMA. This closes the season year-round.
2. Allowing the joint coastal water recreational season to remain open with current catch limits until the MFC can request from concurrence from the WRC and they concur.
3. Implementing in the coastal and joint coastal waters 36-inch tie-down and 50-yard distance from shore regulations in the western Pamlico Sound including the Tar-Pamlico and Neuse rivers and their tributaries. This is required under the management measures of the FMP whenever the striped bass season is closed. The MFC, in the adoption of the Supplement confirmed that action.
4. The CSMA commercial season which opens by proclamation will not be opened due to the adoption of Supplement A.

This will present a situation where our coastal waters include stronger recreational conservation measures for striped bass than the joint coastal waters until this consistency issue is resolved. It

is likely the recreational season for spring 2019 will close before this can happen (April 30). Because WRC does not regulate any commercial gear, there is not an inconsistency with existing rule to prevent our implementing the commercial no-possession and gill net measures in the joint coastal waters as well.

Finally, after the passage of Supplement A, the MFC approved a motion to “ask” the DMF Director to issue a proclamation, effective in conjunction with the supplement, that restricts the use of gill nets that interact with striped bass upstream of the ferry lines and requires attendance of gill nets that interact with striped bass upstream of the tie-down lines. I have received dozens of emails supporting this measure both in form letters and in original letters.

While I respect the concerns of both the public and the MFC, after careful consideration I have concluded that such a measure is not supported by the scientific data that support gill nets as the primary or even the most significant source of discard mortality. As you are aware, recreational effort will not be controlled under the Supplement and catch and release will be a source of discard mortality as well. The motion to remove nets was also not a part of the supplement measure approved by the DEQ Secretary. The DMF Director’s proclamation authority acts within the bounds of the FMP.

Therefore, I respectfully decline to act on this request to issue a proclamation further restricting gill nets beyond those measures outlined in Supplement A. I would, however, like to provide some supporting information underlying the basis for this decision.

SUPPORTING INFORMATION FOR DECISION

The journal article by Rachels and Ricks (2018), explores causal factors of spawning stock mortality sources in the N.C. riverine striped bass fishery, and notes that their inability to include recreational angling as an exploitation factor reduces the amount of variability in spawning stock mortality that can be accounted for in their study. The authors go on to include that it is likely that the inclusion of recreational harvest and discard would perform comparably to the results of the commercial harvest in their modeling.

In Supplement A, the DMF used the CSMA creel survey data, (not a part of MRIP), to determine recreational harvest, discards and discard mortality. From 2012-2017 all but the last two years’ total removals of striped bass (harvest + dead discards) were nearly equal between the recreational and commercial sector. The increase in recreational discard mortality in the last two years is due to what appears to be a successful natural spawning event in the rivers during 2014 and possibly 2015.

Moreover, the following is a list of gill net regulations that are either already in place or will be implemented by proclamation in the areas upstream of the tie down lines. The purpose of these regulations is to reduce regulatory discards of striped bass and important estuarine finfish and protected species. On-board observer data and empirical *in-situ* field studies by the DMF has shown these large mesh regulations have decreased striped bass discards significantly (potentially up to 75%) compared to pre-2008 estimates of striped bass discards before the tie-downs and distance from shore regulations were implemented. Striped bass gill-net discards mortality estimates for 2012-2017 in the Tar-Pamlico and Neuse rivers combined, range from 507 to 986 fish annually.

Regulations for gill nets with stretched mesh of 5 inches and greater:

- It is unlawful to fail to equip gill-nets with tie-downs spaced no farther apart than 10 yards to restrict the vertical distance between the top and bottom lines to 36 inches or less. If the vertical height of the net (distance between the top and bottom line) is 36 inches or less, no tie-downs are required. Nets must be set to fish on the bottom and not exceed a vertical height of 36 inches. (Tie-down regulation see map)
- It is unlawful for any portion of the net to be within 50 yards of any point on shore when set or deployed in the following river areas: (distance from shore regulation - see map)

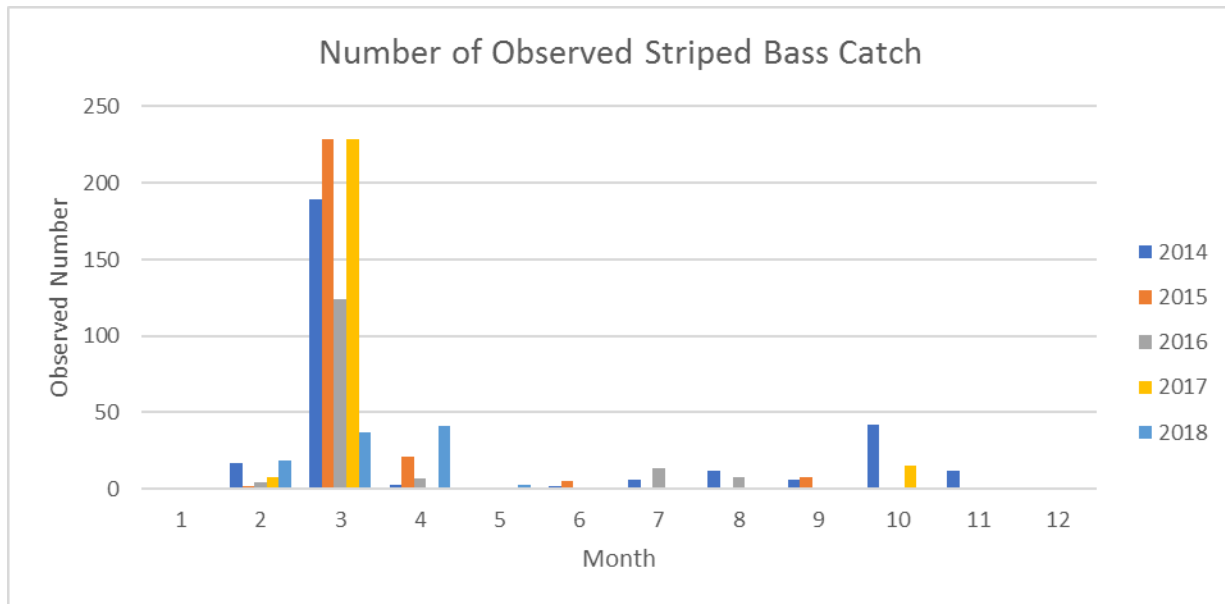
The previous years estuarine striped bass commercial seasons in the CSMA have been as follows:

Year	Day Open	Day Closed*
2014	03/01/14	03/20/14
2015	03/01/15	03/18/15
2016	03/01/16	03/21/16
2017	03/01/17	04/03/17
2018	03/01/18	04/30/18

*Closings before 4/30 of a year are early closures due to the 25,000 lb. quota being met or exceeded.

In the figure below, interactions with striped bass drop significantly in the large mesh gill net fishery above the tie-down line following the closure of the commercial striped bass season. Remember that the tie-down requirement and distance from shore requirements are not in place when the commercial season is open. With a no possession limit under Supplement A, the commercial season will not open and tie-down and distance from shore requirements will be in effect year-round. Gill net bycatch is anticipated to be more reflective of the May-February figures.

Figure 1. All striped bass (striped bass and hybrid bass) observed during Program 466 trips on the Pamlico, Neuse, Trent, and Pungo rivers. Data are from the previous 5-year period, 2014 to 2018. These data were selected to mirror the area that would be affected by the Proclamation requested at the February 2019 MFC meeting.



Regulations for gill nets with stretched mesh of less than 5 inches:

- Attendance of small mesh gill-nets (<5 ISM) is required year-round in the following areas

based on NCMFC rule 15A NCAC 3R.0112 (a):

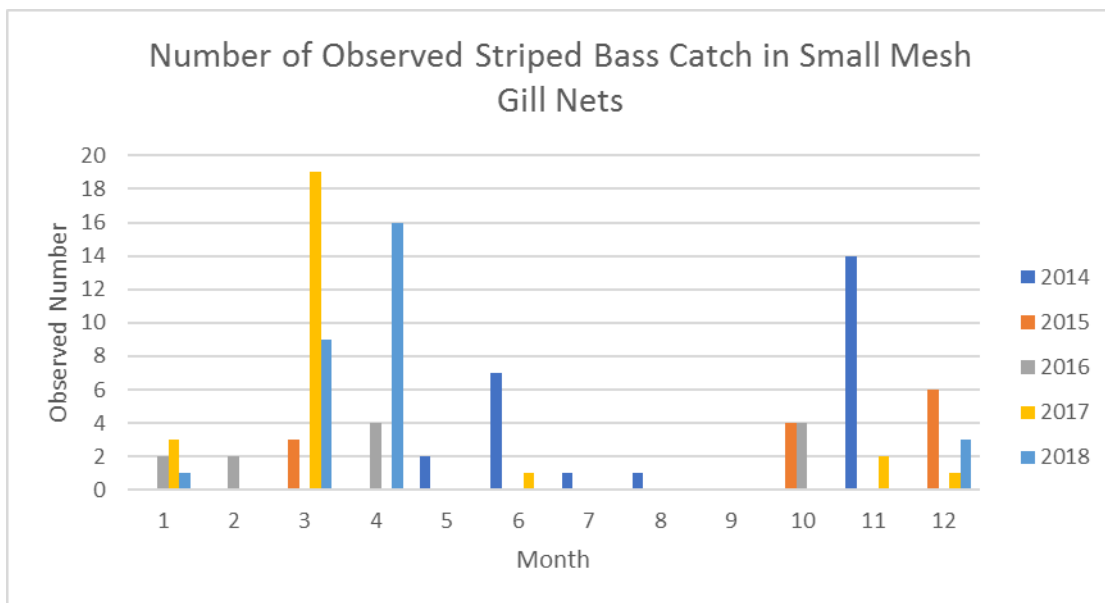
- Upper portions of the Pamlico, Pungo, Neuse, and Trent rivers
- Within 200 yards of shore in the lower portions of the Pamlico, Pungo, Neuse, and Trent rivers

Regulations in effect statewide, large and small mesh gill nets:

- All unattended gill-nets ≥ 5 ISM must be at least 10 feet from shore from June through November (NCDMF 2008).
- Gill-nets with a mesh size ≥ 5 ISM and $< 5 \frac{1}{2}$ ISM is prohibited from April 15 through December 15 (NCDMF 2005).
- 2,000 yard/vessel limit on gill-nets ≥ 5 ISM (NCDMF 2005).
- Gill-nets with a mesh size < 5 ISM must be attended in all primary and secondary nursery areas and no-trawl areas described in NCMFC Rule 15A NCAC 3R.0106(2), (4), (5), (7), (8), (10), (11), and (12) from May 1 through November 30 (NCDMF 2001).
- It is unlawful to set gill-nets in joint waters from midnight on Friday to midnight on Sunday each week, except in Albemarle Sound and Currituck Sound north of the Highway 158 Wright Memorial Bridge (NCDMF 2012).
- The use of gill-nets $> 6 \frac{1}{2}$ ISM stretch mesh is prohibited in all waters.
- It is unlawful to use gill-nets with a mesh size $< 2 \frac{1}{2}$ inches ISM stretch mesh.

In the figure below, interactions with striped bass are more mixed in the small mesh gill net fishery above the tie-down line. This data is less robust due to lower observation numbers in the small mesh fishery and these data do not indicate whether fish were alive or dead. However, there are attendance requirements in place for small mesh nets above the tie-down line which are put in place to reduce dead discards in the small mesh fishery as outlined above (see map – attachment 1).

Figure 3. Data included are all striped bass (striped bass and hybrid bass) observed during Program 466 trips on the Pamlico, Neuse, Trent, and Pungo rivers. Data are from the previous 5-year period, 2014 to 2018 and are for small mesh gill nets. These data were selected to mirror the area that would be affected by the Proclamation requested at the most recent MFC meeting.



In conclusion, the implementation of gill net restrictions is best served through the continued development of the Estuarine Striped Bass Fishery Management Plan. The Supplement A measures will certainly not stop discards and dead discards from occurring in the commercial or recreational fishery. However, the DMF's data supports that Supplement A will reduce the overall number of fish being removed from the stock, thereby providing additional and more conservative protection to the two successful spawning year classes moving through the area of the CSMA. Observer coverage will continue, and we will try to increase observer coverage as much as is feasible during 2019. If significant spikes of discards are observed, I certainly reserve the right to consider additional measures if warranted.

Sincerely,

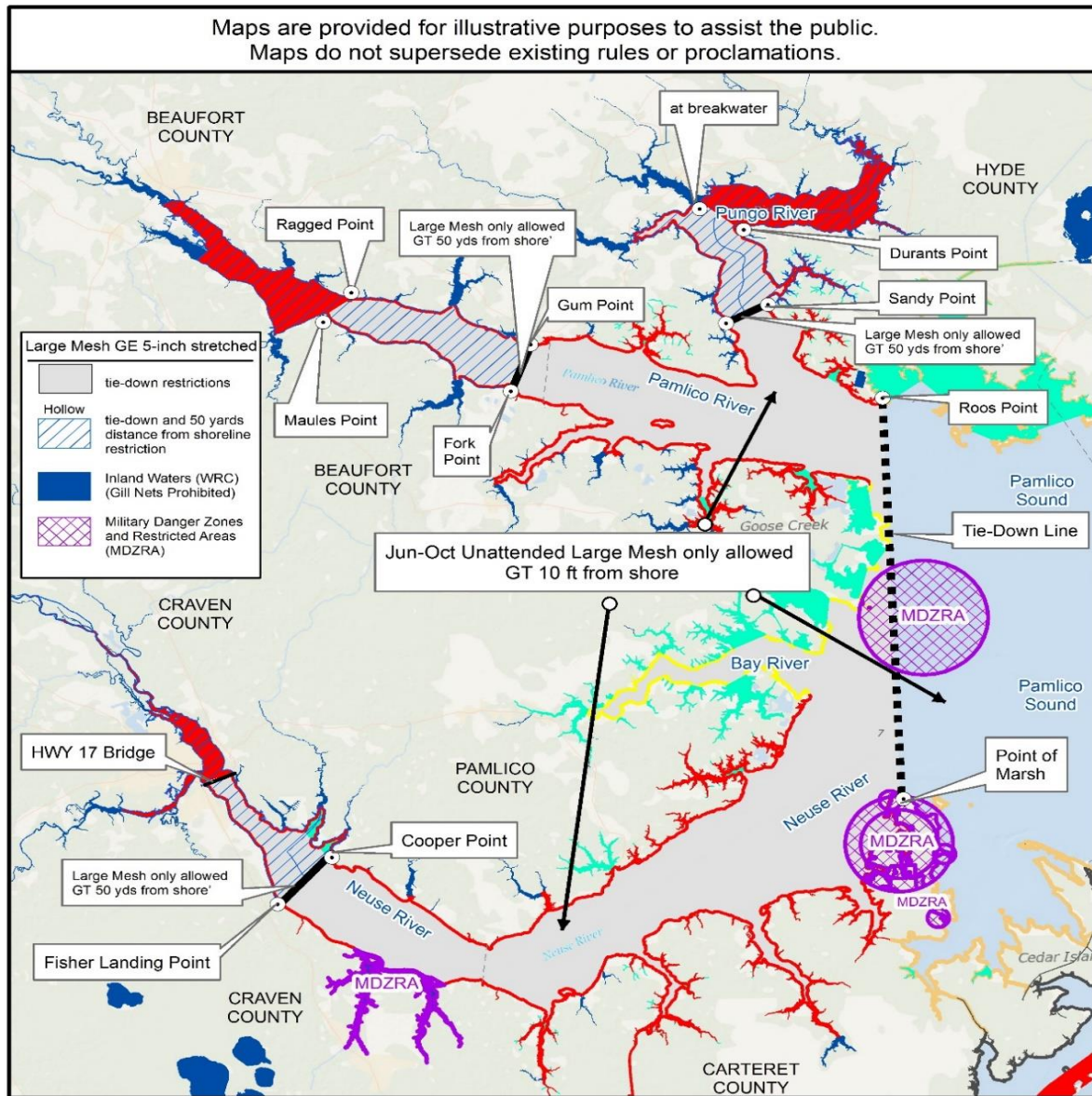
A handwritten signature in black ink, appearing to read "Steve Murphey". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Steve Murphey, Director
NC Division of Marine Fisheries

Cc: Marine Fisheries Commission
John Nicholson
Shawn Maier
John Batherson
Gordon Myers

Attachment 1

Gill-net regulation map for various gill-net types and seasons in the Central Southern Management Area.



Small Mesh (LT 5-inch stretched)

- WRC Waters - Gill net prohibited
- Attendance area and 200 yards attendance from shore year round
- Attendance May - September - 50 yards from shore
- Attendance May - November
- Attendance May - November - 200 yards from shore
- Attendance May - November 50 yards from shore

