



# CHAIRMAN'S REPORT

2022 MFC Meeting Planning  
Calendar

Ethics Education Requirements

2022 SEI Reminder

Letters and Emailed Comments

MFC Committee Assignments

Committee Reports

# 2022 Meeting Planning Calendar

January						
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<table style="border: none;"> <tr><td style="background-color: blue; width: 15px; height: 15px; display: inline-block;"></td><td>MFC</td></tr> <tr><td style="background-color: green; width: 15px; height: 15px; display: inline-block;"></td><td>ASMFC</td></tr> <tr><td style="background-color: red; width: 15px; height: 15px; display: inline-block;"></td><td>SAFMC</td></tr> <tr><td style="background-color: purple; width: 15px; height: 15px; display: inline-block;"></td><td>MAFMC</td></tr> <tr><td style="background-color: lightgreen; width: 15px; height: 15px; display: inline-block;"></td><td>ASMFC/MAFMC Joint Meeting</td></tr> <tr><td style="background-color: gray; width: 15px; height: 15px; display: inline-block;"></td><td>State Holiday</td></tr> </table>		MFC		ASMFC		SAFMC		MAFMC		ASMFC/MAFMC Joint Meeting		State Holiday	<table style="border: none;"> <tr><td style="background-color: cyan; width: 15px; height: 15px; display: inline-block;"></td><td>Southern Regional AC</td></tr> <tr><td style="background-color: yellow; width: 15px; height: 15px; display: inline-block;"></td><td>Northern Regional AC</td></tr> <tr><td style="background-color: yellow; width: 15px; height: 15px; display: inline-block;"></td><td>Joint Regional AC</td></tr> <tr><td style="background-color: magenta; width: 15px; height: 15px; display: inline-block;"></td><td>Finfish AC</td></tr> <tr><td style="background-color: lightblue; width: 15px; height: 15px; display: inline-block;"></td><td>Habitat and Water Quality AC</td></tr> <tr><td style="background-color: orange; width: 15px; height: 15px; display: inline-block;"></td><td>Shellfish/Crustacean AC</td></tr> <tr><td style="background-color: pink; width: 15px; height: 15px; display: inline-block;"></td><td>Finfish/Shellfish/Crustacean AC</td></tr> </table>		Southern Regional AC		Northern Regional AC		Joint Regional AC		Finfish AC		Habitat and Water Quality AC		Shellfish/Crustacean AC		Finfish/Shellfish/Crustacean AC
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## EDUCATION REQUIREMENTS FOR PUBLIC SERVANTS

Public Servants must complete the Ethics and Lobbying Education program provided by the N.C. State Ethics Commission within **six months** of their election, appointment, or employment. We recommend that this be completed as soon as possible, but the training must be repeated every two years after the initial session.

Since Adobe Flash was terminated on December 31, 2020, our online program is not available. A new and shorter online program will be available in the near future. The new program will be compatible with portable devices such as phones and tablets.

Live webinar presentations are being offered monthly and registration information for the live presentations can be found [here](#). These presentations are about 90 minutes long and give you the opportunity to ask questions of the speaker.

For questions or additional information concerning the Ethics Education requirements, please contact Dottie Benz at (919) 389-1383.

## **2022 STATEMENT OF ECONOMIC INTEREST REMINDERS:**

Completed SEIs must be filed on or before April 18, 2022. If you have already filed a 2022 SEI, do not refile. The forms and instructions can be found at <https://ethics.ncsbe.gov/sei/blankForm.aspx>.

If you filed a 2021 SEI **and** you have had **no changes** since your 2021 filing, you may file a 2022 SEI No Change Form, located on the website.

### **You must file a 2022 Long Form if any of the following apply to you:**

- a. You filed a 2021 SEI **but** you have had changes since your 2021 filing;
- b. You did not file a 2021 SEI; or
- c. You are a first-time filer or have been appointed to a new or additional position/board.

This year, the State Board of Elections and Ethics Enforcement will roll out a new electronic process for filing SEIs. That electronic filing option will be available in **early February**.

You are encouraged to file your SEI electronically. However, if you want to file your SEIs before the updated electronic version is available, hard copies are available for filing now at the link above.

New commissioners will need to file a 2022 SEI; however, if you have not had any changes since you last filed, you can use the No Change Form, which is fairly easy to complete.

Please file by April 18th to avoid fines and other penalties.

## **SEI HELPFUL TIPS**

**1. PUBLIC RECORDS.** The State Board of Elections and Ethics Enforcement (State Board) is required to collect and maintain disclosures from certain persons covered by the State Elections and Ethics Enforcement Act Government Ethics Act (Elections and Ethics Act). By law, the information requested is public record and available to the public upon request. As public records, Statements of Economic Interest (SEI) are available on the Commission's website. Personal contact information, however, is not.

**2. CONTACT INFORMATION PAGE.** The Contact Information page, which includes your personal contact information, will not be available on the Commission's website, but is a public record.

**3. CHILDREN'S INITIALS.** Only list minor children's INITIALS on the SEI. List each child's full legal name on the Confidential Unemancipated Children's Form. If you are filing electronically, the form will be generated at the end of the SEI from the information that you provided on your electronic SEI. The Confidential Form is not a public record, and the State Board will not make it available to the public.

**4. READ EACH QUESTION CAREFULLY.** Read each question carefully and pay close attention to the time periods in each question as they do vary.

**5. ANSWER EACH QUESTION.** It is important to answer each question, including all applicable subparts. Even if your answer is "no" or "not applicable," make certain you answer each question. Many of the questions have "yes" and "no" boxes to check for your convenience. Incomplete SEIs may cause delays and negatively impact your public service on a covered board or as an employee.

**6. WHY ARE YOU FILING.** You must list the complete name of the state board or state agency employer for which you are filing the SEI. Without this information, your SEI may be delayed and negatively impact your public service on a covered board or as an employee.

**7. HOW TO FILE.** The State Board strongly recommends electronic on-line filing as it is secure, allows easy information updates, and gives you access to your electronic SEIs previously filed. Filing your SEI on-line is easy, quick, convenient, and reduces the chance of reporting errors. Getting started is easy. Follow the simple steps to create your own account and get access today: <https://EFILE.ncsbe.gov/> To file a paper version of the SEI, you must provide the State Board with a signed, original SEI form. Each SEI includes an "affirmation" and is a legally binding document. Faxed or emailed copies of your SEI CANNOT be accepted.

SEI Helpful Tips, continued

**8. INCOME.** List each source of income as requested on the SEI. The actual dollar amount is not required. Be sure to list your employer as a source of income in Question # 6 of the SEI.

**9. READ CAREFULLY.** Read each question carefully, as the Elections and Ethics Act requires that you disclose your financial holdings and obligations, personal property, and real property and may also include your knowledge of the holdings of both your immediate family and your extended family. "Immediate family" and "extended family" are defined terms in the Elections and Ethics Act, and those definitions are included with this document.

**10. REFLECT.** Think carefully about WHY you are filing, and whether it has any relationship to your position. Does your board or commission license or regulate you? For many of the boards, a subject matter expert like a licensee is needed. Answering "yes" does not prohibit your service on the board, and your perspective is valued.

**11. MAKE A COPY.** Make a copy of the SEI for your own records, and make a note in your calendar when you submit it, whether on-line or by mail or hand delivery. When you successfully submit your SEI electronically on-line, the final screen will provide a confirmation number and will be proof that you have satisfied your filing obligation. Please print the **confirmation screen for your records.**

**12. ETHICS LIAISON.** Contact your Ethics Liaison to assist you in your obligations under the Elections and Ethics Act. Your Ethics Liaison is good source of information about how to fill out your SEI.

**13. ON-LINE HELP.** The State Board has on-line resources to answer questions you may have about your SEI. For more information, please visit the State Board website which has education offerings.

**14. DEFINITIONS.** As noted above, certain terms are defined in the Elections and Ethics Act (“immediate family”). These definitions may be helpful to you in completing your SEI. A complete list of all definitions used in the Elections and Ethics Act is available on the State Board’s website, under “Ethics”. Some of the more common ones are attached to this document.

**15. YOUR INTERNET BROWSER.** Consider using Internet Explorer or Chrome to submit your SEI. Some users have had trouble using other browsers. **16. WE ARE HERE TO HELP YOU.** In addition to on-line resources and written materials, the State Board has expert staff ready to answer any questions you might have and assist you in completing and filing your SEI. Do not hesitate to contact us at [sei@ncsbee.gov](mailto:sei@ncsbee.gov) (919) 814-3600.



## NORTH CAROLINA MARINE FISHERIES COMMISSION DEPARTMENT OF ENVIRONMENTAL QUALITY

### COMMISSIONERS

**ROY COOPER**  
Governor

**ELIZABETH S. BISER**  
Secretary

**ROB BIZZELL**  
Chairman

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Wilmington  
**ROBERT McNEILL**  
Wilmington  
**TOM ROLLER**  
Beaufort  
**SAM ROMANO**  
Wilmington

March 21, 2022

Rulemaking Coordinator  
N.C. Wildlife Resources Commission  
1701 Mail Service Center  
Raleigh, NC 27699-1701  
[regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**RE:** NCMFC Comments on North Carolina Wildlife Resources Commission proposed rules in 15A NCAC 10C

The North Carolina Marine Fisheries Commission (“MFC”) appreciates the opportunity to comment on the North Carolina Wildlife Resources Commission (“WRC”) proposed amended and adopted rules in 15A NCAC 10C as published in the January 18, 2022, issue of the *N.C. Register*. The Marine Fisheries Commission (“MFC”) and WRC exercise concurrent jurisdiction with respect to joint fishing waters. The MFC and WRC may make joint regulations as may be necessary for rational and compatible management of the marine, estuarine and wildlife resources in these waters. In cases of conflicting regulations, the MFC and WRC are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of the conservation of the marine, estuarine and wildlife resources of the State. Please accept this letter as MFC comments on WRC’s proposed rules.

WRC’s Executive Director has indicated via email that WRC anticipates withdrawing the proposed amendments to 11 joint rules in 15A NCAC 10C and proposed new rules 15A NCAC 10C .0701 and .0702 and will proceed with readopting the 11 joint rules as without any changes in order to meet the re adoption deadline for both commissions of June 30, 2022. We appreciate that these changes will be withdrawn as both commissions work towards updating the joint rules. We look forward to continued collaboration with WRC on updating the joint rules and view the

current public comment period as an opportunity to do so by providing feedback on the WRC's draft revisions.<sup>1</sup>

### Authority for Hook and Line Fishing in Joint Waters

Many of the proposed changes, including those to WRC's set of joint rules, are premised on the assertion that WRC has exclusive authority over hook and line fishing in joint fishing waters, regardless of the species being caught. As we have previously expressed, the MFC does not view the language in 15A NCAC 03Q .0106 as having granted exclusive authority over hook and line fishing in joint waters. Rather, the commissions continue to share concurrent jurisdiction in joint waters. See N.C. Gen. Stat. § 113-132(d).<sup>2</sup> To the extent that the proposed changes are grounded in WRC's assertion of exclusive hook and line authority for joint waters, the MFC is concerned that the changes will create confusion for the regulated public and further complicate efforts to update the joint rules.

The MFC has several concerns with WRC's interpretation regarding its authority in joint waters. First, the WRC's position represents a significant departure from the manner in which marine and estuarine resources have been managed both currently and historically. WRC has not previously exercised the authority it now asserts over hook and line, which is evident by the sheer number of rule changes related to marine and estuarine species in the proposed changes.

This approach is also inconsistent with the commissions' respective management mandates. WRC is charged with management of freshwater fish. The MFC, on the other hand, is responsible for managing marine and estuarine resources. Moreover, joint fishing waters represent a mutually agreed upon subset of the MFC's coastal fishing waters in which a significant number of freshwater species are found. N.C.G.S. § 113-132(e). The approach advanced in the proposed rules grants WRC authority to manage marine and estuarine resources in joint waters, which remain coastal waters by statutory definition<sup>3</sup>, despite such authority not being agreed to by the MFC. Asserting exclusive authority over the taking of marine and estuarine resources through hook and line fishing is not only contrary to current law, but also has the potential to create significant compliance conflicts with interjurisdictional fishery management plans for federally managed species.

The issue of authority over hook and line fishing in joint waters has been addressed previously through an Advisory Opinion issued by the Attorney General's Office in 1995. The Advisory Opinion concluded that the two commissions share jurisdiction in joint fishing waters and "the MFC's jurisdiction remains in place in those waters, unless expressly ceded to the WRC by the joint rules," which the MFC has not done. The Advisory Opinion specifically considered

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<sup>1</sup> These comments are not intended to address the ongoing discussions between the commissions regarding the delineation of joint waters. The MFC considers delineation to be a separate issue upon which both commissions must agree. The MFC is also aware that there are additional regulatory impacts to other programs that the Department of Environmental Quality has identified in its comments on these rules.

<sup>2</sup> "To the extent that the grant of jurisdiction to the Marine Fisheries Commission and the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the Wildlife Resources Commission are granted concurrent jurisdiction."

<sup>3</sup> "Those **coastal fishing waters** in which a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, may be denominated joint fishing waters." N.C. Gen. Stat. § 113-132(e).



the rule language that the WRC cites as proof that it has exclusive hook and line authority, 15A NCAC 03Q .0106(b)(3), and expressly concluded that “it would be improper to read 03Q .0106 as vesting the WRC with exclusive jurisdiction over hook-and-line fishing for shad in joint waters, absent such an express statement of intent.”

The MFC’s position has been and continues to be that the two commissions share authority for hook and line fishing in joint fishing waters and that the basis for exercising that jurisdiction should be the resource regulated, rather than the method of harvest. A resource-oriented approach is consistent with the Advisory Opinion and with how the respective commissions have approached management in joint fishing waters to this point. Future amendments to the joint rules should clarify the respective authorities of the commissions in joint waters and should be guided by the principle that the commissions are tasked with managing based upon the resource.

### Species Specific Rules

By statute, the MFC relies on DMF to administer and enforce the management decisions of the MFC, and to provide scientific and technical expertise to support and inform the Commission’s decisions. The MFC understands that DMF has compiled a detailed analysis of the proposed rule changes related to the remaining rules published in the January 18, 2022 Register. The MFC supports and echoes the concerns detailed by DMF in its comments regarding these rules.

The MFC is particularly concerned that inconsistent management actions between commissions that could lead to an inability to meet the statutorily mandated sustainable fishery requirements in the Fisheries Reform Act. While the proposed rules match the current regulations and proclamations, the effect is to decouple WRC’s management actions from any future updates to the Fishery Management Plans adopted by the MFC or from the federal management plans. Furthermore, by adopting what is in effect a snapshot of the current management measures for each species, the proposed rules remove the flexibility inherent in referring to a Fishery Management Plan. This inability to adapt to changing conditions short of engaging in the full rulemaking process may jeopardize the state’s capacity to meet requirements in the Fisheries Reform Act and has the potential to cause the State to fall out of compliance with requirements for stocks managed jointly with federal commissions such as the Atlantic States Marine Fisheries Commission, South Atlantic Fishery Management Council, and Mid-Atlantic Fishery Management Council.

Sincerely,



W. Robert Bizzell, Chairman  
North Carolina Marine Fisheries Commission

Enclosure: AG Advisory Opinion re: shad



## State of North Carolina

MICHAEL F. EASLEY  
ATTORNEY GENERAL

Department of Justice  
P. O. BOX 629  
RALEIGH  
27602-0629

REPLY TO: J. Allen Jernigan  
Environmental Division  
Tel: (919) 733-7247  
Fax: (919) 733-0791

June 13, 1995

Major Doug Freeman  
North Carolina Marine Patrol  
Post Office Box 769  
Morehead City, North Carolina 28557

**RE:** Advisory Opinion: Closure of Shad Season - Conflict between Marine Fisheries Commission and Wildlife Resources Commission Rules; N.C.G.S. §113-132

Dear Major Freeman:

You have asked for advice on the following question regarding a conflict between Marine Fisheries Commission ("MFC") and Wildlife Resources Commission ("WRC") rules governing the hook-and-line season for shad in joint fishing waters. We thank you for your inquiry and are pleased to provide this reply.

**QUESTION PRESENTED:** Does 15A N.C. Admin. Code §10C.0401(a), the WRC's rule allowing year-round taking of shad by hook and line, supersede the closed season for shad adopted by the MFC in joint waters, by operation of 15A N.C. Admin. Code §3Q.0106?

**ANSWER:** No. Both rules are effective, as the two commissions have overlapping, concurrent jurisdiction in joint waters. However, the conflict between the MFC rule, 15A N.C. Admin. Code §3M.0513, and the WRC rule, 15A N.C. Admin. Code § 10C.401(a), creates a significant problem for the N.C. Marine Patrol in enforcement of the season closure.

### DISCUSSION

The WRC has authority to regulate hook-and-line fishing for shad in inland fishing waters under N.C.G.S. §§113-132(b), and 113-136(c)(3). The WRC classifies shad as a non-game fish (*see* 15A N.C. Admin. Code §10C.0301), for which it has established a year-round open season for hook-and-line fishing in inland waters. 15A N.C. Admin. Code §10C.0401(a). Similarly, the MFC has regulatory jurisdiction over the taking of shad in coastal waters, including hook-and-line fishing, per N.C.G.S. §§113-132(a) and 113-182. The MFC recently adopted a closed hook-and-line season for shad in 15A N.C. Admin. Code §3M.0513, which was effective March 1, 1995. The MFC rule provides:



It is unlawful to take blueback herring, alewife, **American shad and hickory shad** by any method from April 15 through January 1. (Emphasis added.)

The conflict between the two rules arises only in joint fishing waters, which are defined as coastal fishing waters "in which there are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and Wildlife Resources Commission...." N.C.G.S. §113-132(e). The joint waters designation remains effective for so long as each commission maintains its joint rules. To the extent that the jurisdiction of the MFC and the WRC overlap in joint waters, the legislature has granted them concurrent jurisdiction, and empowered them to make joint rules delimiting the scope of their respective authority. N.C.G.S. §113-132(d). This is the source of the WRC's jurisdiction in joint waters. As joint fishing waters are coastal fishing waters in which the two commissions have agreed to exercise joint regulatory authority, the MFC's jurisdiction remains in place in those waters, unless expressly ceded to the WRC by the joint rules. The MFC and WRC have adopted joint rules in 15A N.C. Admin. Code 3Q. We examine those joint rules to determine the extent to which, if any, the MFC has relinquished its jurisdiction over shad in joint waters.

In 15A N.C. Admin. Code §3Q.0101, the two Commissions set forth the "Scope and Purpose" of the joint rules, as follows:

In addition to the classification of the waters of the state **these joint rules set forth guidelines to determine which fishing activities in joint waters are regulated by the Marine Fisheries Commission and which are regulated by the WRC.** Finally, the joint rules set forth special fishing regulations applicable in joint waters that can be enforced by officers of the Division of Marine Fisheries and the Wildlife Resources Commission. **These regulations do not affect the jurisdiction of the Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those specifically set out.** (Emphasis added.)

In 15A N.C. Admin. Code §3Q.0104 the joint rules provide that, "[t]he regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106." 15A N.C. Admin. Code §3Q.0106, captioned "Applicability of Rules: Joint Waters" states:

(a) All coastal fishing laws and regulations administered by the Department of Environment, Health, and Natural Resources and the Marine Fisheries Commission apply to joint waters **except as otherwise provided**, and shall be enforced by fisheries enforcement officers.

**(b) The following inland fishing laws and regulations administered by the Wildlife Resources Commission apply to joint waters and shall be enforced by wildlife enforcement officers:**

- (1) all laws and regulations pertaining to inland game fishes,
- (2) all laws and regulations pertaining to inland fishing license requirements for hook and line fishing,
- (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided. (Emphasis added.)**

Paragraph (a) establishes that coastal fishing laws, and regulations adopted by the MFC for coastal waters, remain effective in joint waters, "except as otherwise provided." Thus it is necessary to look to the joint rules for any which "otherwise provide" that the MFC's rule closing the hook-and-line season for shad in coastal waters does not apply to joint waters. Paragraph (b) operates as a limited grant of jurisdiction to the WRC to enforce in joint waters the inland fishing laws and regulations specified in subparagraphs (b)(1), (b)(2) and (b)(3). The words "except as hereinafter provided" in subparagraph (b)(3) refer only to the joint rules which follow that provision (*i.e.*, the remainder of subchapter 3Q). However, none of those rules address hook-and-line fishing for shad in joint waters. Instead, they pertain principally to another migratory saltwater fish, striped bass, which was the subject of similar conflict a decade ago. The present joint rules evolved from that controversy, as in the absence of such joint rules resolving the jurisdictional conflict, a migratory saltwater fish is subject to regulation by both commissions in joint waters. Under .0106(b)(3) the WRC's a year-round open season for taking shad by hook-and-line fishing in inland waters also applies in joint waters.

Significantly, while § .0106(b) provides that certain types of inland fishing rules apply to joint waters, it does not state that the WRC's rules apply exclusively, so as to oust MFC jurisdiction over migratory saltwater fish.. Where the joint rules intend to supersede inconsistent rules, or to grant exclusive jurisdiction to one commission, the rules expressly state that intent. *See* 15A N.C. Admin. Code §3Q.0107 (special striped bass rules for joint waters "supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint waters under the provisions of 15A NCAC 3Q .0106"). That joint rule clearly contemplates that inconsistent rules could be applicable to joint waters under §3Q.0106. Likewise, §3Q.0109 expressly confers "exclusive authority" to open and close seasons for striped bass to WRC for Roanoke River and MFC for Albemarle Sound, regardless of classification. Thus it would be improper to read §3Q.0106 as vesting the WRC with exclusive jurisdiction over hook-and-line fishing for shad in joint waters, absent such an express statement of intent.

The Legislature, in creating the present regulatory scheme, recognized that conflicts may occur from time to time between the commissions, and established in N.C.G.S. §113-132(d) a mechanism for resolving such conflicts. The statute provides:

(d) To the extent that the grant of jurisdiction to the Marine Fisheries Commission and the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the Wildlife Resources Commission are granted concurrent jurisdiction. **In cases of conflict between actions taken or regulations promulgated by either agency, as respects the activities of the other, pursuant to the dominant purpose of such jurisdiction, the Marine Fisheries Commission and the Wildlife Resources Commission are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of the conservation of the marine and estuarine and wildlife resources of the State.** In the event the Marine Fisheries Commission and the Wildlife Resources Commission cannot agree, the Governor is empowered to resolve the differences. (Emphasis added.)

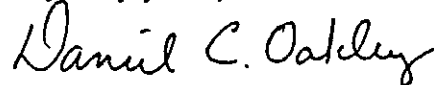
N.C.G.S. §143B-289.11 contains substantially similar provisions. Thus the MFC has the option of proceeding under this provision by reaching an agreement with WRC regarding the shad closure, or sending the matter to the Governor for resolution.

A second option is a rule change to make the MFC's shad season consistent with the WRC's. This would require public notice and hearing, as the requirements in N.C.G.S. §150B-21.1 for adoption of a temporary rule are absent.

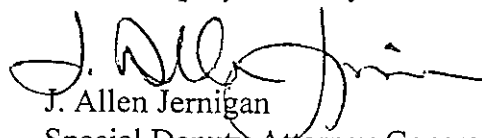
Ultimately, this situation confronts the Marine Patrol with a serious enforcement dilemma. While the closed season remains in force and citations may be issued for violations, as a practical matter prosecution will be difficult in the face of the WRC's conflicting rule.

Thank you for your inquiry. Please advise if we may be of further assistance.

Very truly yours,



Daniel C. Oakley  
Senior Deputy Attorney General



J. Allen Jernigan  
Special Deputy Attorney General

Advisory Opinion To: Major Doug Freeman

June 13, 1995

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cc: Bruce Freeman  
Fentress Munden  
Bob Lucas  
Colonel Fred Swain  
Captain Pete Rivenbark  
Lieutenant Dale Hewett  
Ann Reed  
Virginia Gibbons

EP\3141

Monty R. Crump, Chairman

April 29, 2022

Chairman Rob Bizzell  
N.C. Marine Fisheries Commission  
3441 Arendell Street  
Morehead City, NC 28557

Dear Chairman Bizzell,

The North Carolina Wildlife Resources Commission (WRC) unanimously voted to adopt our preferred management options for the draft Amendment 2 to the North Carolina Estuarine Striped Bass Management Plan at our April 14, 2022 business meeting. The WRC's Fisheries Committee reviewed the options in detail the previous day and recommended their preferred options to the full WRC. I have attached a copy of the voting exhibit, Exhibit H, that lists the WRC's preferred management options as adopted. In the exhibit, the preferred option for Striped Bass harvest in the Cape Fear River is mistakenly labeled as Option 1A and should be Option 1B; however, the description listed is accurate. Please share with the other members of the Marine Fisheries Commission (MFC) for consideration as they determine their preferred management options.

It is my understanding that the Plan is expected to be jointly adopted by both the WRC and MFC. Therefore, I request the WRC's preferred management options be listed in the same manner in the draft Plan as the MFC's preferred management options are listed. If there are differences in the preferred management options between the WRC and MFC, I look forward to the opportunity to formally discuss and hopefully resolve them prior to the Plan's final adoption scheduled for August.

Respectfully,



Monty R. Crump  
Chairman, NC Wildlife Resources Commission

cc: Cameron N. Ingram, Executive Director, NC Wildlife Resources Commission  
Kathy Rawls, Director, Division of Marine Fisheries

# EXHIBIT H

April 14, 2022



## **Preferred Management Options for Amendment 2 to the North Carolina Estuarine Striped Bass Fishery Management Plan**

### Achieving Sustainable Harvest for the Albemarle Sound-Roanoke River Striped Bass Stock

- Option 1. Manage for Sustainable Harvest through harvest restrictions
- A. Status quo: continue to use stock assessments and stock assessment projections to determine the Total Allowable Landings (TAL) that achieves a sustainable harvest for the Albemarle Sound-Roanoke River Striped Bass stock.
- Option 2. Management of striped bass harvest in the commercial fishery as a bycatch fishery
- A. Status quo: continue managing the Albemarle Sound Management Area commercial Striped Bass fishery as a bycatch fishery.
- Option 3. Accountability measures to address TAL overages
- Do not support any options as written; support the following modified option:
- If the landings in any one of the three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceed their allocated TAL by 5% in a calendar year, any landings in excess of their allocated TAL and 5% buffer will be deducted from that fishery's allocated TAL the next calendar year. If the payback for a fishery exceeds the next year's allocated TAL, the fishery will be closed the subsequent year with no additional payback required.
- Option 4. Size limits to expand the age structure of the stock
- C. In the Albemarle Sound Management Area, implement a harvest slot of a minimum size of 18 inches total length to not greater than 25 inches total length in the commercial and recreational sectors.
- E. In the Roanoke River Management Area, maintain current harvest slot limit of a minimum size of 18 inches total length to not greater than 22 inches total length with no harvest allowed on fish greater than 22 inches.
- Option 5. Gear modifications and area closures to reduce striped bass discard mortality
- A. Status quo: continue to allow commercial harvest of Striped Bass with gill nets in joint and coastal waters of the Albemarle Sound Management Area and continue recreational harvest and catch-and-release fishing in the Albemarle Sound and Roanoke River management areas, including the Striped Bass spawning grounds in the Roanoke River.



- E. Implement a requirement to use non-offset barbless circle hooks when fishing with live or natural bait in the inland waters of the Roanoke River (upstream of Hwy 258 bridge) from May 1 through June 30.

Option 6. Adaptive Management

- A. Use peer reviewed stock assessments and updates to recalculate the Biological Reference Points (BRP) and/or TAL. Stock assessments will be updated at least once between benchmarks. Increases or decreases in the TAL will be implemented through a Revision to the Amendment. A harvest moratorium could be necessary if stock assessment results calculate a TAL that is too low to effectively manage and/or the stock continues to experience spawning failures.
- B. Use estimates of fishing mortality (F) from stock assessments to compare to the  $F_{BRP}$ , and if F exceeds the  $F_{Target}$ , reduce the TAL to the  $F_{Target}$  through a Revision to the Amendment (ASMFC requirement under Amendment 6 to the Interstate FMP for Atlantic Striped Bass).
- C. Ability to change daily possession limits in the commercial and recreational fisheries to keep landings below the TAL.
- D. Ability to open and close recreational harvest seasons and commercial harvest seasons and areas to keep landings below the TAL and reduce interactions with endangered species.
- E. Ability to require commercial and recreational gear modifications including, but not limited to, the use of barbless or circle hooks, area closures, yardage limits, gill net mesh size restrictions and setting requirements to reduce Striped Bass discards.

Achieving Sustainable Harvest for the Tar-Pamlico and Neuse Rivers Striped Bass Stocks

Option 1. Striped Bass Harvest

- A. Continue the no-possession measure in Supplement A to Amendment 1.

Option 2. Gear Restrictions/Limits

- A. Maintain gill net closure above the ferry lines and maintain the 3-foot tie-downs below the ferry lines.

Option 3. Adaptive Management

- A. In 2025, review data through 2024 to determine if populations are self-sustaining and if sustainable harvest can be determined. In addition, adaptive management should be considered to allow changing management strategies to put-grow-take fisheries before the next comprehensive FMP review if progress toward self-sustaining populations is not occurring.

Achieving Sustainable Harvest for the Cape Fear River Striped Bass Stock

Option 1. Striped Bass Harvest

- A. Allow seasonal harvest in all Cape Fear River fishing waters (open season March 1–April 30; minimum size of 18 inches total length; 2 fish daily creel limit).

Option 2. Adaptive Management

- A. Continue young of year (YOY) surveys and Parentage Based Tagging (PBT) analysis after the adoption of the FMP.
- B. If YOY surveys and/or PBT analysis suggest levels of natural reproduction have increased or decreased compared to what was observed up to the time of FMP adoption, then management measures may be re-evaluated using this new information.
- C. Management measures which may be adjusted include means and methods, harvest area, as well as season, size and creel limit.

The Use of Hook and Line as a Commercial Gear in the Estuarine Striped Bass Fishery

Option 1. Hook and line as a commercial gear

- A. Do not allow hook and line as a commercial gear in the estuarine striped bass fishery.

Option 2. Adaptive management

- A. If hook and line is allowed for the commercial harvest of striped bass and Marine Patrol enforcement activity or License and Statistics data suggest significant amounts of unreported commercial striped bass catch is occurring, then additional tagging or reporting requirements may be developed and implemented.
- B. Management measures that may be adjusted include means and methods, harvest area, as well as season, size, and limit.



## COUNTY OF CURRITUCK

### **Resolution of the Board of Commissioners Regarding North Carolina Division of Marine Fisheries Estuarine Striped Bass Fishery Management Plan-Amendment 2**

*WHEREAS*, the North Carolina Department of Marine Fisheries (NCDMF) is considering Amendment 2 to the Estuarine Striped Bass Fishery Management Plan; and

*WHEREAS*, The North Carolina Fisheries Reform Act of 1997 requires the North Carolina Division of Marine Fisheries prepare fishery management plans for adoption by the North Carolina Marine Fisheries Commission for all commercially and recreationally significant species or fisheries that comprise state marine or estuarine resources, with the goal of these plans being to ensure the long-term viability of the fisheries; and

*WHEREAS*, North Carolina is the only state that allows fishing of the striped bass species during spawning season and in spawning areas during spawning season; and

*WHEREAS*, the NCDMF data shows catch and release mortality in the Roanoke River Management area (RRMA) as 182,481 dead discards since 1997, while there have been only 53,880 in the Albemarle Sound Management Area (ASMA) since 1997; and

*WHEREAS*, the ASMA is 667,674 acres with a six-month season that is not during the spawning season, and the RRMA is 6,420 acres with a one-three week season that is during and on the spawning grounds; and

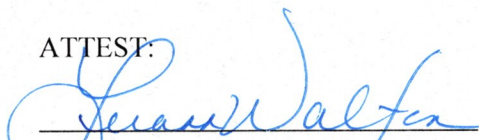
*WHEREAS*, the RRMA catch and release is March 1 through June 30 with an open harvest April 24 through April 30, and spawning season for the striped bass is March through April; and

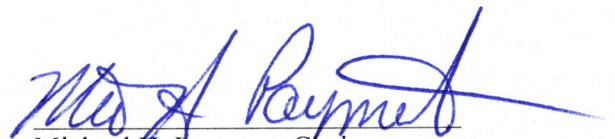
*WHEREAS*, the ASMA's six-month season quota was cut in 2021 by 81.376 percent and finished the season at 4,546 pounds under quota, while the RRMA's 1-week season went 14,742 pounds over quota.

***THEREFORE, BE IT RESOLVED***, that the Currituck County Board of Commissioners hereby endorses shifting a greater allocation of the striped bass quota to the ASMA in order to protect and preserve the striped bass stock – thus, increasing the striped bass species' chances of spawning and growing the stock.

This the 10<sup>th</sup> day of March, 2022.

ATTEST:

  
Leeann Walton, Clerk to the Board

  
Michael H. Payment, Chairman





**HALIFAX COUNTY**  
**CONVENTION AND VISITORS BUREAU**

260 Premier Blvd.  
Roanoke Rapids, NC 27870

visithalifax.com  
800-522-4282

March 25, 2022

NC Marine Fisheries Commission  
Draft Estuarine Striped Bass FMP  
Amendment 2 Comments  
PO Box 769  
Morehead City, NC 28557

Dear NC Marine Fisheries Commission:

On behalf of the Halifax County Convention & Visitors Bureau and the over 2,000 people employed in the tourism industry in Halifax County, I am writing you regarding any consideration of closing fishing of the Roanoke River spawning grounds of the Striped Bass or reallocation of quota from the Roanoke River Management Area.

The Roanoke River is the greatest asset the citizens of Halifax County have. For many, the outdoor sporting enjoyment it provides is their reason for choosing to stay in this area to live, work and raise their families. I speak to visitors often who have come here to enjoy the fishery and many who chose to retire here because of the outdoor recreational opportunities offered along The Roanoke.

The Striped Bass Fishery has sustained our community over the years by feeding our families and creating jobs to support recreational fishing and the visitors that come to this area to enjoy this one-of-a-kind sport fishery.

Closing recreational fishing of the Striped Bass would cause harm to the residents and diminish the impact of tourists on our economy.

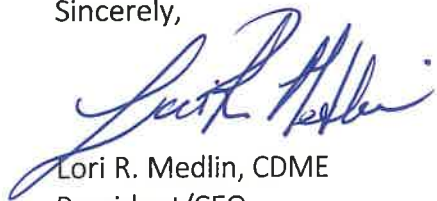
Reallocation of quota from the Roanoke River Management Area would not be equitable to all parties concerned.

We support and have confidence in the existing plans that have been put in place by the NC Wildlife Resources Commission to protect the spawning fish as they migrate up the Roanoke River to spawn in the spring. We feel that continued cooperation between the Corp of Engineers and the NC Wildlife Commission on proper water flow during the spring spawning season could help increase the Striped Bass population tremendously. Supplemental stocking, especially in years of poor recruitment, could also help the population increase.

NC Marine Fisheries Commission  
March 25, 2022  
Page 2

Thank you for your kind consideration of this matter and its impact on our community and thank you for all you are doing to preserve the Striped Bass fishery for generations to come.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori R. Medlin".

Lori R. Medlin, CDME  
President/CEO

LRM/scw

cc: WRC Fisheries Committee Chairman John Stone  
Ben Ricks  
Coastal Region Supervisor  
Inland Fisheries Division  
Representative Michael Wray

Received  
3/28/2022

From: James Siebold [REDACTED]  
Subject: Gill nets Neuse/pamlico  
Date: Mar 21, 2022 at 5:10:47 PM  
To: [REDACTED]

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James siebold and Suzanne siebold requests MFC allow the use of gillnets above the ferry lines in the Neuse and Pamlico Rivers, with the same policies that were in place prior to the 2019 net ban, in these areas.

Sent from my iPhone

April 29, 2022

To: The Department of N.C. Marine Fisheries  
(Conservation Department)

Subject: For several years I have heard that you are considering closing part or all of Roanoke Sound as a conservation move. To do this, you would be discriminating against a certain class of commercial fishermen that works out of Manteo and Wanchese. They work in smaller boats and fish way less gear than other sounds, but is just as important and needful to them and their families. We know there will be no end to rules and regulations until every fisherman and crabber is out of his boat. If you have to make another restriction then the next move might be something that is more fair and reasonable. One thing could be the amount of pots allowed per boat, which I don't know a good way to monitor. Maybe the best would be limit of bushels per boat each day. This could keep the market price better also. Everyone needs a fair chance to continue to work and provide for their families. Closing part or all of Roanoke Sound is like picking on the little guy. Thank you

# Town of Parmele



MAYOR  
JERRY M. MCCRARY

TOWN CLERK / FINANCE OFFICER  
CYNTHIA T. McNALLY

parmelecityhall@suddenlinkmail.com  
www.parmelenc.com

1065 JAMES STREET  
POST OFFICE BOX 98  
PARMELE, NC 27861  
PHONE: 252-795-4600  
FAX: 252-795-4242

## COMMISSIONERS

KENNETH W. ANDREWS  
GLENDA K. BARNES  
MARY ANN MORNING  
WANDA H. SMITH  
DUSTIN S. WILLET (MAYOR PRO TEMP)

March 31, 2022

NC Marine Fisheries Commission  
Draft Estuarine Striped Bass FMP  
Amendment 2 Comments,  
PO Box 769  
Morehead City, NC 28557

Dear NC Marine Fisheries Commission,

On behalf of the Town of Parmele and the many employees of the Martin County tourism industry, I am writing you regarding any consideration of closing fishing of the Roanoke River spawning grounds of the Striped Bass or reallocation of quota from the Roanoke River Management Area.

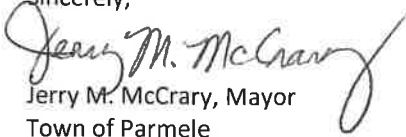
The Roanoke River is the greatest asset the citizens of Martin County have. For many, the outdoor sporting enjoyment it provides is their reason for choosing to stay in this area to live, work and raise their families. Visitors often come here to enjoy this one-of-a-kind sport fishery and many choose to retire here because of the outdoor recreational opportunities offered along the Roanoke.

The Striped Bass Fishery has sustained our community over the years by feeding our families and creating jobs to support recreational fishing and the visitors that come to this area to enjoy. Closing recreational fishing of the Striped Bass would cause harm to the residents and diminish the impact of tourists on our economy. Furthermore, reallocation of quota from the Roanoke River Management Area would not be equitable to all parties concerned.

We support and have confidence in the existing plans that have been put in place by the NC Wildlife Resources Commission to protect the spawning fish as they migrate up the Roanoke River to spawn in the spring. We feel that continued cooperation between the Corps of Engineers and the NC Wildlife Commission on proper water flow during the spring spawning season could help increase the Striped Bass population tremendously. Supplemental stocking, especially in years of poor recruitment, could also help the population increase.

Thank you for your kind consideration of this matter and its impact on our community, and thank you for all you are doing to preserve the Striped Bass fishery for generations to come.

Sincerely,

  
Jerry M. McCrary, Mayor  
Town of Parmele

Cc:  
WRC Fisheries Committee Chairman John Stone  
Ben Ricks - Coastal Region Supervisor, Inland Fisheries Division



From: Tyler Egan [REDACTED]  
Subject: Comment regarding gill nets above ferry lines  
Date: Mar 25, 2022 at 8:47:05 PM  
To: [REDACTED]

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My name is Tyler Egan. I'm a commercial fisherman out of New Bern, North Carolina. My residency is on the Neuse River. I have worked these waters enough to understand the factors that come into play. This is a body of water that has its tide change strictly related to the wind. Should never be compared to any other place that has moon driven tides that are predictable. These waters are brackish. The further you go up the fresher it gets. The Neuse river runs to Raleigh, NC. The Falls lake Reservoir Dam to be exact. The Neuse river is roughly 270 miles long with New Bern only being roughly 30 miles from the Atlantic Ocean. On a southerly blow that fresh water from the western part of the state pulls down stream killing the oxygen content in the water. We call it dead water. It's when you see all the hard crabs swimming on top of the water along with menhaden floating dead in schools. It kills everything and what it doesn't kill it pushes them out to better water. This body of water runs on its own ecosystem. An ecosystem, well let's start at the bottom where first things first, water filtration. We haven't had quality oysters in years. They have died off tremendously. A good fact that's not shared is that 1 single 3" oyster will filter 50 gallons of water a day. There's about 100-150 oysters to the bushel. Thats 5,000-7,500 gallons of water filtered per bushel. The oyster rocks that are still there and show signs of life are at the mouth of the river more to the sound. There's a trend happening with mortality rate of oysters working it's way further out. Meaning our water quality is declining year after year. There use to be a fine line of salinity where these oysters would flourish not only wildy but as well as state planted. Similar to a distinct line most are familiar with when fishing Neuse river. Let's say founder, trout, and drum fishing. You know when you have gone too

far up when you start to catch large mouth bass, brim, and catfish. My whole point to all this is that striped bass are a highly migratory fish that are going to stay where it's healthy for them. I'm trying to paint a clear picture as to if a oyster can't survive due to water quality how are these fish going to. What sense does a gill net ban make. Other than a political end game goal that's being played. The nets were never an issue without them the state has no concrete data to go off of. These statements that I am making i wish all to look into. These are the topics that should be shared to the public. local and tourist rather than the regurgitated propaganda that's pushed on these individuals, that clearly don't know any different. The state of North Carolina should be absolutely ashamed. All we would like to have is the rivers back and to be able go to work. As bad as some feel we should be entitled to compensation over this overnight decision making that was held, we just want to be able to go to work. Now apposed to the ladder.... actions speak louder than words. Striped bass alongside the red drum have been heavily protected over the years and don't eat off feeding machines along the bank. They are a predator fish. There's a lot of pressure being put on the smaller fish none the less the blue crabs. There is an entire ecosystem in this sound and rivers that is being destroyed due to skewed data & "science". Can we highlight the amount of planted hybrid striped bass that live year round in these rivers that we can't even harvest. They don't eat for free and the spawn like wildfire. Whose going to take credit for that slip up? Same with the harvest of female flounder for almost a decade. There has been way too many shoot from the hip, jump the gun decisions made over the years that we are paying for now. Removing gill nets above the ferry lines has not made any difference in fish stocks in the past 3 years. All it has

done is put people out of work that fish year round. Everyone needs to keep in mind the states numbers run off of a commercial trip ticket program. Without that we have nothing but a computer based algorithm and "boat ramp surveys". I'm no marine biologist or scientist but what I am is someone who understands what's happens with hands on experience to these issues. I honestly believe the state should overturn this gill net ban and let's focus on the task at hand. That being water quality and trying to get this ecosystem back on its own two feet.

Thank you for your time,  
Tyler Egan

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## 2022 Committee Assignments for Marine Fisheries Commissioners

05/11/2022

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### **FINFISH ADVISORY COMMITTEE**

*Statutorily required standing committee comprised of commissioners and advisers that considers matters related to finfish.*

**Commissioners:** Tom Roller – chair, Sam Romano – vice chair

**DMF Staff Lead:** Lee Paramore - [lee.paramore@ncdenr.gov](mailto:lee.paramore@ncdenr.gov)

**Meeting Frequency:** Can meet quarterly, depending on assignments from MFC

### **HABITAT AND WATER QUALITY ADVISORY COMMITTEE & COASTAL HABITAT PROTECTION PLAN STEERING COMMITTEE**

*Statutorily required standing committee comprised of commissioners and advisers that considers matters concerning habitat and water quality that may affect coastal fisheries resources.*

**Commissioners:** – chair, Dr. Martin Posey – vice chair

**DMF Staff Lead:** Anne Deaton - [anne.deaton@ncdenr.gov](mailto:anne.deaton@ncdenr.gov)

**Meeting Frequency:** Committee can meet quarterly, depending on assignments from MFC. CHPP Steering Committee can meet a couple of times a year.

### **SHELLFISH/CRUSTACEAN ADVISORY COMMITTEE**

*Statutorily required standing committee comprised of commissioners and advisers that considers matters concerning oysters, clams, scallops and other molluscan shellfish, shrimp and crabs.*

**Commissioners:** Sam Romano – chair, Dr. Martin Posey – vice chair

**DMF Staff Lead:** Tina Moore - [tina.moore@ncdenr.gov](mailto:tina.moore@ncdenr.gov)

**Meeting Frequency:** Can meet quarterly, depending on assignments from MFC

### **CONSERVATION FUND COMMITTEE**

*Committee comprised of commissioners that makes recommendations to the MFC for administering funds to be used for marine and estuarine resources management, including education about the importance of conservation.*

**Commissioners:** Sam Romano - chair, Tom Hendrickson and Robert McNeill

**DMF Staff Lead:** Lara Klibansky - [lara.klibansky@ncdenr.gov](mailto:lara.klibansky@ncdenr.gov)

**Meeting Frequency:** Meets as needed

### **LAW ENFORCEMENT AND CIVIL PENALTY COMMITTEE**

*Statutorily required committee comprised of commissioners that makes final agency decisions on civil penalty remission requests.*

**Commissioners:** Rob Bizzell - chair, Doug Cross and Tom Hendrickson

**DMF Staff Lead:** Col. Carter Witten – [carter.witten@ncdenr.gov](mailto:carter.witten@ncdenr.gov)

**Meeting Frequency:** Meets as needed

### **COASTAL RECREATIONAL FISHING LICENSE ADVISORY COMMITTEE**

*Committee consisting of the three recreational seats and the science seat to provide the DMF advice on the projects and grants issued using Coastal Recreational Fishing License trust funds.*

**Commissioners:** – chair, Rob Bizzell, Tom Roller, and Robert McNeill

**DMF Staff Lead:** Jamie Botinovch - [jamie.botinovch@ncdenr.gov](mailto:jamie.botinovch@ncdenr.gov)

**Meeting Frequency:** Meets as needed

## **NOMINATING COMMITTEE**

*Committee comprised of commissioners that makes recommendations to the MFC on at-large and obligatory nominees for the Mid- and South Atlantic Fishery Management Councils.*

**Commissioners:** Robert McNeill – chair, Tom Roller and Mike Blanton

**DMF Staff Lead:** Chris Batsavage - [chris.batsavage@ncdenr.gov](mailto:chris.batsavage@ncdenr.gov)

**Meeting Frequency:** Typically meets once a year

## **STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD**

*Statutorily required three-person board consisting of DEQ, DMF and MFC designees who apply eligibility criteria to determine whether an applicant is eligible for a SCFL.*

**Commission Designee:** Mike Blanton

**DMF Staff Lead:** Marine Patrol Capt. Garland Yopp – [garland.yopp@ncdenr.gov](mailto:garland.yopp@ncdenr.gov)

**Meeting Frequency:** Meets two to three times a year, could need to meet more often depending on volume of applications

## **N.C. COMMERCIAL FISHING RESOURCE FUND COMMITTEE**

*Committee comprised of commissioners that the commission has given authority to make funding decisions on projects to develop and support sustainable commercial fishing in the state.*

**Commissioners:** Doug Cross – chair, Mike Blanton and Sam Romano

**DMF Staff Lead:** William Brantley – [william.brantley@ncdenr.gov](mailto:william.brantley@ncdenr.gov)

**Meeting Frequency:** Meets two to three times a year

## **WRC/MFC JOINT COMMITTEE ON DELINEATION OF FISHING WATERS**

*Committee formed to help integrate the work of the two commissions as they fulfill their statutory responsibilities to jointly determine the boundaries that define North Carolina's Inland, Coastal and Joint Fishing Waters as the agencies go through a statutorily defined periodic review of existing rules.*

**MFC Commissioners:** Rob Bizzell, Dr. Martin Posey

**DMF Staff Lead:** Anne Deaton - [anne.deaton@ncdenr.gov](mailto:anne.deaton@ncdenr.gov)

**Meeting Frequency:** Meets as needed

## **SHELLFISH CULTIVATION LEASE REVIEW COMMITTEE**

*Three-member committee formed to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202.*

**MFC Commissioners:** Rob Bizzell

**DMF Staff Lead:** Jacob Boyd – [jacob.boyd@ncdenr.gov](mailto:jacob.boyd@ncdenr.gov)

**Meeting Frequency:** Meets as needed

## **COASTAL HABITAT PROTECTION PLAN STEERING COMMITTEE**

*The CHPP Steering Committee, which consists of two commissioners from the Marine Fisheries, Coastal Management and Environmental Management commissions reviews and approves the plan, recommendations, and implementation actions.*

**MFC Commissioners:** Dr. Martin Posey

**DMF Staff Lead:** Anne Deaton – [anne.deaton@ncdenr.gov](mailto:anne.deaton@ncdenr.gov)

**Meeting Frequency:** Meets as needed

April 28, 2022

**MEMORANDUM**

**TO:** N.C. Marine Fisheries Commission

**FROM:** William Brantley, Grants Program Manager, Administrative and Maintenance Services Section

**SUBJECT:** March 3, 2022 Commercial Fishing Resource Fund Committee Meeting

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**Issue**

The N.C. Commercial Fishing Resource Funding Committee met jointly with the N.C. Marine Fisheries Commission Commercial Resource Fund Committee at 3:00 p.m. on Thursday, March 3, 2022, through Webex to renew existing DMF projects, and discuss their 2022 Request for Proposals (RFP).

**Findings**

The joint committees approved a continuation of the DMF Commercial Statistics project and a continuation of the DMF Pathology fund. The joint committees also discussed specific project objectives to be included in the 2022 RFP.

**Action Needed**

For informational purposes only, **no action is needed at this time.**

**Attachments**

- 1) Draft meeting minutes from the March 3, 2022 joint meeting
- 2) Email from Dr. Tal Ben-Horin (NCSU) to the “Commercial Fishing Resource Funding Committee or the Marine Fisheries Commission” to participate in a site visit on the Commercial Fishing Resource Fund project, *Understanding spring mortalities in mid-Atlantic oysters.*

## MEMORANDUM

TO: N.C. Marine Fisheries Commission Commercial Resource Fund Committee and the Funding Committee for the N.C. Commercial Fishing Resource Fund

FROM: William Brantley, Grants Program Manager  
Division of Marine Fisheries, NCDEQ

DATE: March 15, 2022

SUBJECT: MFC Commercial Resource Fund Committee and Funding Committee for the N.C. Commercial Fishing Resource Fund Meeting Minutes

The MFC Commercial Resource Fund Committee and the Funding Committee for the N.C. Commercial Fishing Resource Fund met at 3:00 p.m. on Thursday, March 3, 2022 through Webex. The following attended:

MFC Commercial Resource Fund Committee: Chairman Doug Cross, Sam Romano, Mike Blanton

Funding Committee for the N.C. Commercial Fishing Resource Fund Members: Chairman Ernest Doshier, Glenn Skinner, Steve Weeks, Gilbert Baccus, and Doug Todd.

Absent: Britton Shackelford

Public Comment: Public comment was received through webpage and US mail

### **Approval of Agenda and Minutes**

Chairman Ernest Doshier and Chairman Doug Cross called the meeting to order for the Funding Committee for the N.C. Commercial Fishing Resource Fund and the MFC Commercial Resource Fund Committee. William Brantley read the conflict of interest of reminder, and no conflicts were noted. Brantley conducted a roll call for both committees. All members were present from the MFC Commercial Resource Fund Committee. One member was absent from the Funding Committee for the N.C. Commercial Fishing Resource Fund.

The meeting agenda and minutes were reviewed.

**Motion by Steve Weeks to approve the agenda and the minutes. Second by Glenn Skinner. Motion passed unanimously through a roll call vote of present members.**

**Motion by Mike Blanton to approve the agenda and the minutes. Second by Sam Romano. Motion passed unanimously through a roll call vote.**

Chairman Cross had to temporarily vacate the chair during the meeting, and asked Mike Blanton to assume the role of Chairman for the MFC Commercial Resource Fund Committee in his absence.

The committees were briefed on points from Session Law 2020-3 and a brief overview of the agenda.

### **DMF Projects**

The joint committees were briefed on a continuation of the DMF Commercial Statistics project to assist with data collection of commercial harvest statistics through the Trip Ticket Project in North Carolina. This budget requested was \$119,312, and this proposal was to run through December 31, 2023.

**Motion by Sam Romano to approve the DMF Commercial Statistics project as presented. Second by Mike Blanton. Motion passed unanimously through a roll call vote of present members.**

**Motion by Glenn Skinner to approve the DMF Commercial Statistics project as presented. Second by Doug Todd. Motion passed unanimously through a roll call vote of present members.**

The joint committees were briefed on a continuation of the DMF Pathology fund to collect, prepare, and send samples to a designated pathology facility to pay for the facility's expert analysis and report of findings, if needed. This budget requested was \$25,000, and this proposal was to run for one year.

**Motion by Glenn Skinner to approve the DMF Pathology project as presented. Second by Steve Weeks. Motion passed unanimously through a roll call vote of present members.**

**Motion by Sam Romano to approve the DMF Pathology project as presented. Second by Mike Blanton. Motion passed unanimously through a roll call vote of present members.**

### **Request for Proposals**

At the joint committee meeting in November, members requested a Request for Proposals (RFP) for specific projects. In the drafting of the RFP, each member that requested a project was contacted to distinguish which Commercial Fishing Resource Fund Strategic Plan priorities aligned with their project request. The draft RFP was presented to the joint committees. Each committee member was offered the opportunity to speak on behalf of their projects.

**Motion by Sam Romano to approve the RFP as presented. Second by Mike Blanton. Motion passed unanimously through a roll call vote of present members.**

**Motion by Glenn Skinner to approve the RFP as presented. Second by Doug Todd. Motion passed unanimously through a roll call vote of present members.**

### **Issues from Committee Members**

Glenn Skinner asked about the RFP publication timeline. William Brantley stated that he would review available dates and communicate with the committees prior to issuance.

Mike Blanton asked for consideration for allowing ample time between the RFP release date and due dates for proposals, requesting at least 45 days. He also asked for clarification of roles and responsibilities in reviewing funded committee-funded project reports and deviation requests. William



Brantley noted that the reports were included in the committee meeting packets for the members to review and comment on, and all vendors were operating under a State of NC contract.

The 'Always NC Fresh' logo was discussed, and Mike Blanton asked for clarification on ownership. William Brantley reminded the committees that it had been previously mentioned that the MFC members of the joint committees could reach out to the MFC's office of general counsel for advice, and any agenda items to discuss further would be at the request of the Chairmen. Chairmen Doshier noted that it would be beneficial to have the MFC's general counsel available at the next meeting.

Chairman Cross returned to the meeting and Mike Blanton handed the role of chair back to Chairman Cross.

Glenn Skinner asked that Chairman Cross review his RFP requests to make sure they were written to meet his intent. Chairman Cross noted he had read the proposal and was fine with them as they were written.

### **ADJOURNMENT**

**Motion by Sam Romano to adjourn. Second by Mike Blanton. Motion passed unanimously through roll call vote.**

**Motion by Doug Todd to adjourn. Second by Glenn Skinner. Motion passed unanimously through roll call vote of present members.**

**Meeting adjourned.**

WB

**From:** [Tal Ben-Horin](#)  
**To:** [Brantley, William V](#)  
**Subject:** [External] CFRF semi-annual performance report  
**Date:** Wednesday, April 13, 2022 2:45:33 PM  
**Attachments:** [CFRF Semi Annual Report Apr13.2022.pdf](#)

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**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

William,

I realize that we are only a few months removed from me submitting my most recent CFRF semi-annual performance report (Nov 2021), but I initially proposed submitting reports in Feb/Aug and did not want to go too long between keeping the committee up-to-date on our progress. I am attaching a brief financial and progress report here. I also want to pass along an invite for anyone from the Commercial Fishing Resource Funding Committee or the Marine Fisheries Commission to join us in the field and see the work we are doing. Our field sampling is now in full gear across six sites here in NC and two in Virginia, we are sampling all sites biweekly through the fall.

Please let me know if anybody on the committee wants to see more. Thanks for working with us, we appreciate the support.

Kindly,  
Tal

**Tal Ben-Horin**

Assistant Professor  
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[Lab Website](#) | [Zoom Meeting Link](#)

April 27, 2022

**MEMORANDUM**

**TO:** Marine Fisheries Commission  
Finfish Advisory Committee

**FROM:** Lee Paramore, Northern District Manager  
Fisheries Management Section

**SUBJECT:** Meeting of the Marine Fisheries Commission's Finfish Advisory Committee, March 17, 2022. Recommendations for the Estuarine Striped Bass Fishery Management Plan Amendment 2.

The Marine Fisheries Commission's (MFC) Finfish Advisory Committee (AC) held a meeting on March 17, 2022. The meeting was a hybrid meeting; some members of the AC were in person at the Morehead City Central District Office while others attended virtually. Listening sessions for the public were also held in Dare and New Hanover County.

The following Advisory Committee members were in attendance: Thomas Brewer, Jeff Buckel, Brent Fulcher, David Mense, Allyn Powell, Randy Proctor, Sam Romano, Ken Siegler, William Tarplee, Scott Whitley, Tom Roller

DMF Staff: Chris Stewart, Joe Facendola, Garland Yopp, Hope Wade, Corrin Flora, Debbie Manley, Tina Moore, Charlton Godwin, Nathaniel Hancock., Todd Mathes, Lee Paramore, David Behringer, Steve Poland, Kat Rawls, Casey Knight, Mike Loeffler, CJ Schlick, Brandi Salmon, Dan Zapf, Cara Kowalchyk, Anne Markwith, Dee Lupton, Alexander Batchelder, Lorena de la Garza,

WRC Staff: Chris Smith, TD VanMiddlesworth, Kirk Rundle, Ben Ricks, Jeremy McCargo

Public: Glenn Skinner, Stuart Creighton, Bill Gorham, Reese Stecher, Joey Van Dyke, Steve House (Dare County Commissioner), David Sneed

Finfish AC Chair Tom Roller called the meeting to order at 6:07 p.m. A call for attendance was performed and attendance was recorded. The Finfish AC had all eleven members present and a quorum was met.

## **APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES**

**A motion was made to approve the agenda by Randy Proctor. Second by Brent Fulcher. The motion passed without objection.**

**A motion was made to approve the minutes from the Finfish AC meeting held on January 13, 2022. Motion by Randy Proctor to approve minutes. Second by Ken Siegler. The motion passed without objection.**

## **PRESENTATION ON ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

Charlton Godwin, Nathaniel Hancock, Todd Mathes, and Joe Facendola presented the recommendations in the Striped Bass FMP Amendment 2. Staff then fielded questions and comments from AC members.

### ***Questions and comments from AC***

The AC asked for clarification about the section in the FMP that discussed slot limits for the ASMA and whether the slot limits would apply to both the commercial and recreational fisheries. Staff confirmed that it would apply to both for the ASMA. The AC asked for clarification that there was some spawning in the Cape Fear but not for the Neuse or Tar/Pamlico rivers. Staff noted spawning activity does occur in the Cape Fear and genetic analysis does indicate in recent years around 11% of genetically tested fish were of wild origin and some juvenile wild fish have been occurring in our sampling. Staff also noted that there is very limited natural reproduction in the Tar/Pamlico and Neuse systems. Recent sampling initiated in 2017 to capture young of year fish did not yield any wild striped bass until two juvenile fish were captured in 2021. These fish are currently being genetically tested to determine if they may be of wild origin, so there may be some very limited evidence of natural recruitment. Follow-up on recruitment in Cape Fear River and the AC asked if the reason the WRC was recommending opening was because they are assuming it is just a purely stocked resource. Does recent evidence of some natural recruitment change that assumption? Staff did not speak for WRC but noted that sampling does indicate some natural recruitment based on sampling and genetic verification albeit limited. An AC member asked about discard mortality that occurs in the recreational fishery and commercial fishery. If we were to consider harvest, should we not also consider a decrease to the slot limit to potentially reduce discard mortality in the fishery? Staff clarified that different options are being considered for the different management areas. The management option being considered will not increase or decrease the minimum size limit but would put in a slot limit to protect larger females in the ASMA where harvest is currently allowed. Staff also clarified that discard estimates vary by system. Staff referred the AC to a table in the FMP providing discard estimates for the Tar/Pamlico and Neuse systems and noted that the estimates from the ASMA are higher for both the recreational and commercial fisheries.

The AC asked about any potential management occurring where fish are spawning and the impact of catch and release fishing on the spawning stocks. What is the discard mortality and

how is that harming the stock? Staff replied that discard mortality and impacts vary by water temperature. The overall assumed release mortality is 6.4% and those rates are incorporated in the stock assessment. Fishing on the spawning grounds has been allowed during prior stock recoveries. The harvest season on the Roanoke historically ends April 30<sup>th</sup>, but there is still catch and release fishing. Discard numbers can range from 10k to 15k but can be as high as 40k fish a year depending on year class strength. We assume 6.4% of these fish die in the stock assessment. An AC member asked about commercial estimates of discards and whether they are based on the observer program. Staff noted that current estimates are based on onboard observations. A member noted that some question the validity of those estimates.

An AC member asked why we would have two slot limits and would the slot limit increase discards. Two different regulations can be confusing to the public. Staff noted that regulations in the RRMA and the ASMA have been different since the 1990's and that the ASMA has never had a slot but does have a minimum size limit of 18 inches total length. Figures from the FMP providing the length distributions of harvest were then shown to the AC. There is not an expectation from staff that the slot limit will significantly increase discards, but it will provide additional protection for larger spawning females. The reason for the different slots in the RRMA versus the ASMA is to account for the size of fish being most frequently encountered by the fisheries and gears allowed in each of these areas. Some comments from the AC noted that consistent regulations across areas would be beneficial. An AC member asked what the effect would be if we moved the season back two weeks on the spawning grounds to shift harvest towards males and away from female fish. This would also shift harvest to a time period with cooler water reducing discard mortality. Staff noted that this idea could be considered as a possibility.

An AC member brought up water flow and its impact in determining year class strength during the spawning period. What is the status for controlling optimal water flows in the Roanoke River? Staff noted that WRC meets weekly with the Corps during the spawning season and they negotiate the best flow levels possible based on rainfall and water levels in Kerr Lake.

## **PUBLIC COMMENT**

**Steve House**, Dare County Commissioner, read a resolution that was adopted by the Dare County Board of Commissioners in a unanimous vote. The resolution endorses shifting a greater allocation of the A-R stock recreational quota from the RRMA to the ASMA to protect and preserve the striped bass stock. Endorsement of this resolution was based on differences in both the timing and location of the fisheries as well as the overall size of the areas; the RRMA fishery occurs on the spawning grounds during spawning, while the ASMA fishery does not, and the ASMA is much larger in acreage serving a much broader area.

**Stuart Creighton**, member of Striped Bass AC, expressed concern about the A/R stock. It's the last remaining naturally reproducing stock. There are more problems than just the river flow on the Albemarle. Blue catfish are a problem in this system. What is the impact of blue cats? Has it been studied? What are impacts of gill nets and discards? We can't set catch levels as high as we

have in the past. They were too high. As soon as the stock recovered the catch levels were set too high. On the Neuse and the Tar/Pam, the gill net restrictions are working. There are more striped bass now, the benefits are there. On the Cape Fear River and the Tar and Pam we need to consider what the management will look like if this becomes a put-grow-take fishery because we may be there soon.

**Reese Stecher**, a Charter Captain in the Oregon Inlet area since 1997, trying to get back to two fish per day in the ASMA. We need to reallocate the quota between the ASMA and RRMA. There is a kill season on the spawning grounds in the RRMA. We come in under quota in the ASMA so why do we need a slot limit? The RRMA is going over the quota and are being rewarded. They caught more than twice their quota last year. Our season got cut, it's not fair and its needs to be addressed. If this is about economics there 8 counties that border the ASMA, more than RRMA. If the RRMA harvest season is not eliminated, the allocation between the RRMA and the ASMA needs to be based on the size of the water bodies. Eliminating the harvest in RRMA will not impact the economy of that region. Most of the fishing is catch and release and they will continue to have fishing.

**Glenn Skinner**, Executive Director of the NC Fisheries Association, requested that the Finfish AC recommend to the MFC to lift the gill net bans above the ferry lines in the Tar-Pamlico and Neuse Rivers and allow harvest of striped bass. The summer strike net mullet fishery, as well as other fisheries, were heavily impacted by the net bans. In 2019, the MFC forced the DMF Director to issue the proclamation to ban nets above the ferry lines after he had previously declined. The MFC called an emergency meeting with only 48 hours' notice and no public comment, disregarded the science, and forced the Director to issue the proclamation. Shortly after this occurred, DEQ Secretary Regan issued a press release condemning the MFC for their actions. The net ban is not necessary and it needs to go back to how it was before, with the previous tie-down and setback rules in place.

**Joey Van Dyke**, recreational guide from Hatteras, used to fish the Tar, Pam, and Neuse. All the rivers are getting closed. Everything is getting pushed into the Roanoke River and there is more pressure on that system. What we see in the commercial fishery is happening in the recreational fisheries. The WRC and DMF are to blame. The Tar and Neuse have been closed for 5 years now with no recoupment of fish to anglers. We have nothing to show for it. Do we want this to happen to the Albemarle and the Roanoke? No, we don't want to lose these fisheries. People come from all over the country to participate in this fishery. Take pride in this fishery, stock the fish and allow access to the fishery.

**Greg Judy**, commercial fisherman from Washington, NC. My comments are directed to the Tar- Pamlico and Neuse rivers. Last fall I served as an AC member for the Striped Bass FMP. It went well and there was good exchange between participants. Because of the low population and poor natural recruitment, the consensus was to reluctantly support the no possession of striped bass in these rivers until the population rebuilds. What the fishermen requested was to allow gill nets access above the ferry line; specifically, the small mesh fisheries for white perch, striped mullet, and shad. Most of which would be drop nets and strike nets. Due to the limited season and colder water temperatures, discards would be limited from the large mesh gill net fishery for flounder. In the Tar-Pamlico and Neuse rivers, 2013-2018 observer data indicated that there were

only 708 dead fish from small and large mesh gill nets. This was mostly from the large mesh gill net fishery; but the flounder season was 11 months long at that time. There were also regulations (tie downs, distance from shore, etc.) that limited bycatch of striped bass as well. The MFC at the February 2022 meeting eliminated the options for use of nets above the ferry lines and the MFC commissioners who did this have now lined up their positions with the Coastal Conservation Association and the NC Wildlife Federation. The MFC is trying to prevent review and debate by the public and ACs. In the Albemarle Sound there has been a steady decline in the use of gill nets. There has been an 83% reduction in small mesh trips, but striped bass have continued to decline in the Albemarle Sound and Roanoke River. Please allow small mesh gill nets above the ferry lines in the Tar-Pamlico and Neuse rivers.

## **VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION FOR ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

### ***Albemarle-Roanoke Sustainable Harvest Issue Paper***

#### **Manage for Sustainable Harvest Through Harvest Restrictions**

**Motion by Brent Fulcher to support option 1.A, maintain status quo: use of a TAL as recommended by the Division. Second by Randy Proctor**

No discussion on motion.

**Motion passed 10-0, with 1 abstention.**

#### **Commercial Fishery Managed as Bycatch Fishery**

**Motion by Brent Fulcher to support 2.A, maintain status quo: bycatch fishery as recommended by the Division. Second by Allyn Powell.**

One member commented on concern that larger fish tend to occur in Albemarle fishery and that there is greater potential for dead discards. No further discussion occurred.

**Motion passed 9-0, with 2 abstentions.**

#### **Accountability Measures to Address TAL Overages**

**Motion by Allyn Powell to support 3.D, if the landings in any one of the management areas' three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceeds their allocated TAL in a calendar year, any landings in excess of the TAL will be deducted from that fisheries' allocated TAL the next calendar year. Second by Brent Fulcher.**

Member asked for how Northern and Southern ACs voted on this issue. Chair noted that both supported DMF recommendation of 3.D. Discussion on how recreational estimates are derived and if they come from MRIP. Staff explained that for striped bass we have specific surveys designed for the striped bass harvest and we do obtain precise estimates. Some comments that

with a shortened season we could have potential for more error in survey. Member noted that recreational fishery could be regulated with tags, similar to commercial fishery. Staff noted that with commercial tags the tagging takes place at the dealer level and is simple because the number of dealers landing striped bass is manageable. Recreational tagging would be much more expansive and difficult with requirement for self-reporting. The current creel survey should be able to estimate harvest.

**Motion passed 10-0, with 1 abstention.**

Size Limits to Expand Age Structure

**Motion by Brent Fulcher to support option 4.C. and 4.E.; in the ASMA, implement 18-25 inch harvest slot and in the RRMA, maintain slot limit 18-22 inch and no fish greater. Second by Randy Proctor.**

Member asked about discards and if there would be rationale for going lower to reduce the dead discards such as for fish under 18". Staff noted that during most years, the fish discarded are under 16-18". The ASMFC plan compliance requires that we not go below 18" and the size limits match up with size at maturity. Member asked about discards and consideration for controlling discards during warmer water temperatures when release mortality is higher. Staff noted that the harvest season automatically closes by at least April 30 for this reason, but we do not prevent folks from fishing where they may catch and release striped bass after this date. Closing the season does limit the incentive to go striped bass fishing. Another AC member stated that effort does normally drop off during the summer. Staff noted that the creel survey in the ASMA and RRMA does not extend into the summer, but effort certainly does go down. We do have year-round estimates in the Tar/Pam and Neuse River. Discussion occurred about if the DMF and WRC both supported 4.C. and 4.E. Staff noted that this was the case. Member asked if staff considered fish over 27 inches as a slot to avoid additional discards. Staff noted that a slot up to 25 inches as recommended protected most of current harvest and afforded protection of larger spawning fish. Member asked about Northern and Southern AC motions and was noted that both supported options as provided in the motion as made by Finfish AC.

**Motion passed 9-0, with 1 abstention.**

Gear Modifications and Area Closures to Reduce Discard Mortality

**Motion by Allyn Powell to accept options 5.A and 5.E. Allow commercial harvest of striped bass with gill nets and recreational harvest and catch-and-release fishing in the ASMA and RRMA including on the spawning grounds. Require non-offset, barbless circle hooks when fishing live or natural bait in inland waters of the RRMA May 1 through June 30. Second by Brent Fulcher.**

Member offered a friendly amendment to modify the season on the spawning grounds by opening it 2 weeks earlier to allow for a buffer, while water temperatures are cooler, to the harvest of striped bass on the spawning grounds. After discussion by the Chair and AC on the allowance of amendments and motions outside of the options provided in the plan, the committee agreed to move forward with consideration for the amended motion. Member explained his



reasoning for the friendly amendment was to direct more harvest on males on the spawning grounds during a period when water temperatures were cooler and release mortality would be lower. The amendment was discussed and the motion to amend was withdrawn so the original motion could be voted on.

**Motion passed 9-0, with 2 abstentions.**

A motion was then made by Ken Seigler to recommend the harvest season on the spawning grounds be moved 2 weeks earlier to allow a buffer between the arrival of the male fish and the female fish on the spawning grounds and to improve release mortality as it relates to water temperatures.

Motion failed for lack of second.

#### Adaptive Management

**Motion by David Mense to accept the option of adaptive management. Second by Allyn Powell.**

Concern expressed by member that adaptive management appears to have no limitations. Staff clarified that this authority allows for the opening and closing of seasons to manage harvest within the TAL or to change the possession limits as needed to control harvest. Used to manage gill net effort and to control harvest and discards in the commercial fishery. Also used to adjust the TAL to keep the fishery within the fishing mortality targets based on stock assessments. Member noted that there is nothing in the adaptive management related to recruitment and if it continues to be low would we need to use the juvenile index in management to take precautionary action to protect stock. Staff noted that we have used the lack of recruitment to expedite an update of the stock assessment that is planned later this year. This update is based on our recent observation of low recruitment, but we have not specifically considered the juvenile index as a trigger for additional management.

**Motion passed 9-0, with 2 abstentions.**

#### *Tar-Pamlico and Neuse Rivers Sustainable Harvest Issue Paper*

##### Striped Bass Harvest

**Motion by David Mense to support option 1.A, continue the no possession measure as recommended by DMF. Second by Randy Proctor.**

Member asked for clarification as to what regions are covered by the motion. It was clarified that we are discussing the Tar-Pamlico and Neuse systems of the CSMA and that there is currently no harvest allowed for either the commercial or recreational fisheries.

**Motion passed 6-4, with one abstention.**

##### Gill Net Restrictions or Limits

**Motion by David Mense to accept option 2.A, maintain the gill net closure above the ferry lines. Second by Randy Proctor.**

**Substitute Motion by Brent Fulcher to allow the use of gillnets in the Tar-Pamlico and Neuse rivers above the ferry lines. Second by Allyn Powell**

Rationale provided by member for the substitute motion was that the closure of the rivers to gill nets was closed arbitrarily against the Secretary's advice and the standing Director of Marine Fisheries at the time that it was closed. The year class that was intended to be protected should have passed through and we are hindering fisheries with minimal if any benefit to the striped bass stock. Another member expressed concern that the MFC pulled the options from the plan prior to the plan going out to public or to the AC's for input. Existing rules with tie-down nets and distance from shore have taken care of issue for bycatch. Concern was expressed over bycatch estimates for striped bass and if they are reliable. Member noted that many fisheries are being impacted in order to protect this one fishery. Staff, upon request by a member, clarified and provided data on studies that show the effectiveness of tie-downs and distance from shore at reducing striped bass bycatch. Clarification was made that the substitute motion would be intended to revert to regulations previously in place by the Division prior to the closure in 2019. Staff provided a brief summary of regulations in place prior to 2019.

**Substitute motion failed 5-5, with 1 abstention.**

**Original Motion failed 5-5, with 1 abstention.**

Adaptive Management

**Motion by Randy proctor to approve adaptive management. Second by Jeff Buckel.**

Staff clarified that adaptive management purpose would allow for a formal review of data to determine sustainability prior to next Amendment.

**Motion passed 9-0, with 2 abstentions.**

***Cape Fear River Sustainable Harvest Issue Paper***

Harvest or No Possession

**Motion by Ken Seigler to accept option 1, maintain the no possession provision. Second by David Mense.**

Staff clarified that option 2 was the WRC recommendation and in this case the WRC didn't agree with the DMF recommendation. WRC would like to see some harvest of fish since its primarily a hatchery supported system. WRC has also noted that access to the spawning grounds remains very limited making successful spawns unlikely. DMF clarified that they would like to keep the no harvest provision in place to evaluate the modifications at lock and dam 1 and the

newly implemented pulse flows. This action is being taken now to submerge the lock and dams to allow fish passage. Additionally, DMF would like to better understand the level of reproduction we are seeing evidence for in this system. Based on the genetic work there are some wild caught fish showing up in the agency surveys. Around 10% of all the fish tested in 2019 were not hatchery and we do see young of year fish as well. Allowing harvest at this time would target fish that do manage to pass and spawn. A little more time is needed to assess these recent changes. Member asked if there was movement between the CFR and the rest of the CSMA? Staff noted that it is very rare for fish to leave the system, we did have one fish get caught in Chesapeake Bay from the CFR. The majority stay in the river and don't go into the rest of the CSMA.

**Motion passed 8-1, with 2 abstentions.**

Adaptive Management

**Motion by Allyn Powell to adopt option 5, Adaptive Management. Second by Randy Proctor.**

No discussion.

**Motion passed 9-0, with 2 abstentions.**

*Hook and Line as a Commercial Gear Issue Paper*

Commercial Use to Harvest with Hook and Line

**Motion by Randy Proctor accept option 1 (do not allow hook and line as a commercial gear) and 3 (adaptive management). Second by David Mense.**

Member asked why option 1 to not allow hook and line as commercial gear was put forward by the DMF. DMF recommends not allowing this gear at this time due to the low stock abundance and we don't want to encourage any additional harvest at this time. DMF would like to keep this as an option through adaptive management in the future. AC asked how this fishery would be monitored. Staff noted that the dealers in this fishery have to call in their tags/catches harvested daily. Moving to a hook and line gear allowance now could increase participants and be an issue given the current low TAL and this is one reason the DMF does not currently support. The STB AC also didn't recommend this.

**Motion passes 6-0, with 5 abstentions.**

**MARINE FISHERIES COMMISSION UPDATE**

Staff provided an update. In February, the MFC approved the draft Estuarine Striped Bass FMP Amendment 2 for MFC AC review and public comment through April 1, 2022. We are holding the listening sessions a week before the AC meetings. This allows the public to hear presentations from staff about the documents. We allow questions after the presentation to anyone in the session. They are recorded and put online in the 'Hot Topics' section of the

webpage for the species. Amendment 3 for southern flounder was approved with the DMF recommendations. The MFC also approved a two-year delay in reaching 50/50 parity, moving the date from 2021 to 2023 with parity occurring in 2026. The MFC also approved a resolution that they would consider a moratorium if there are continued overages in the commercial and/or recreational fisheries. Amendment 2 to the shrimp FMP was adopted in February and DMF is moving forward on implementation on the management strategy. In May, the MFC will be provided an information updated on the FMP for Interjurisdictional Fisheries. The MFC will have no rule items in May, the next rule package will come to them in August.

### **PLAN AGENDA ITEMS FOR THE NEXT MEETING**

No items are planned at this time. MFC ACs will not likely need to meet again until October 2022 and staff will send an email to all committees with updates as they become available.

The meeting adjourned at 8:45 p.m.

DRAFT

April 25, 2022

**MEMORANDUM**

**TO:** Marine Fisheries Commission  
Northern Region Advisory Committee

**FROM:** David Behringer, Fisheries Biologist  
Lee Paramore, Northern District Manager  
Fisheries Management Section

**SUBJECT:** Meeting of the Marine Fisheries Commission's Northern Regional Advisory Committee, March 15, 2022. Recommendations for the Estuarine Striped Bass Fishery Management Plan Amendment 2.

The Marine Fisheries Commission's (MFC) Northern Advisory Committee (AC) held a meeting on March 15, 2022. The meeting was a hybrid meeting; some members of the AC were in person at the Morehead City Central District Office while others attended virtually. Listening sessions for the public were also held in Dare and New Hanover County.

The following Advisory Committee members were in attendance: Everett Blake, Missy Clark, Carl Hacker, Thomas Newman, Jim Rice, Jamie Winslow, Sara Winslow, Keith Bruno, Raymond Pugh (Absent: Roger Rulifson and Herman Dunbar)

Staff: Charlton Godwin, Nathaniel Hancock, Todd Mathes, Joe Facendola, David Behringer, Lee Paramore, Kathy Rawls, Steve Poland, Deborah Manley, Tina Moore, Chris Stewart, Dan Zapf, Mike Loeffler, Casey Knight, Corrin Flora, Lara Klibansky, Chris Batsavage, Daniel Ipock, Chris Nealon, Ashley Bishop, Garland Yopp, Chris Smith (Wildlife Resources Commission; WRC), David Belkoski (WRC), Lorena de la Garza, Brandi Salmon, Alan Bianchi, Meredith Whitten, Hannah Carter, Chris Lee, Kirk Rundle (WRC), Jesse Bisette, Cara Kowalchyk, Anne Markwith, McLean Seward, Jeremy McCargo (WRC), Jeff Dobbs

Public: Glenn Skinner, Bill Gorham, Reese Stecher, Joey Van Dyke, Steve House (Dare County Commissioner)

Northern AC Chair Sara Winslow called the meeting to order at 6:01 p.m. A call for attendance was performed and attendance was recorded. The Northern AC had nine members present (two absent) and a quorum was met.

## **APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES**

**A motion was made to approve the agenda by Jim Rice. Second by Everett Blake. The motion passed without objection.**

**A motion was made to approve the minutes from the Northern AC meeting held on January 11, 2022. Motion by Missy Clark to approve minutes. Second by Jim Rice. The motion passed without objection.**

## **PRESENTATION ON ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

Charlton Godwin, Nathaniel Hancock, Todd Mathes, and Joe Facendola presented the recommendations in the Striped bass FMP Amendment 2. Staff then fielded questions and comments from AC members.

### ***Questions and comments from AC***

The AC asked for clarification about the section in the FMP that discussed gear restrictions and limits and recreational/commercial discards in the Neuse and Pamlico Rivers (pg 91-96). Staff explained that observer data was used to assess striped bass interactions in the shad fishery above the ferry lines. American and hickory shad are typically more in the middle of the rivers while striped bass are closer to shore. Observer data showed that when nets were greater than 200 yards from shore, there was very little interaction with striped bass. The AC and Staff also discussed a research paper, Rock et al. 2016, that found that there was a 75% reduction in striped bass discards after gear regulations (36-inch tie-downs and nets setbacks 50 yards from shore) went into effect in 2008.

One AC member commented that commercial fishermen do not have access to the area above the ferry lines, but in the past they have had very clean fisheries such as the jack (hickory shad) fishery. The AC member asked why the MFC voted to remove consideration of allowing any gillnet types/sizes, rather than allowing considerations based on mesh size or other gear regulations. Staff stated that the MFC did not give specific justification for why they removed the consideration, but that the MFC did not support the option. The AC member also asked if it is possible to completely shut the area down to recreational fishermen since commercial fishermen are not allowed in the area. Staff noted that the issue paper did consider the differences of different mesh sizes and fishing methods (i.e. strike netting).

An AC member noted that the funding/stocking agreement with the United States Fish and Wildlife Service (USFWS) in 1986 was specifically to restore self-sustaining populations of anadromous species, primarily striped bass. The AC member asked if USFWS will continue to pay to rear and stock fish if the goal is no longer to restore a self-sustaining population? Staff stated that if restoring a self-sustaining population is no longer the goal, USFWS would likely no longer fund stocking. Staff clarified who provides funding and who runs the hatcheries and conducts the stocking in each river: WRC is currently the sole stocker in the Cape Fear River. Tar/Pam/Neuse stocking comes from USFWS Edenton hatchery. USFWS originally stocked all three rivers on a rotating basis. WRC staff noted that they are still hopeful of reaching the goal of

establishing a self-sustaining population in the Tar and Neuse Rivers. If USFWS stopped funding for these systems, alternative funding sources and capacity to stock would need to be determined. Staff also clarified that no stocking of hybrid striped bass occurs. Another AC member commented that recent advancements in hatchery sciences is leading to higher production and less expensive fry.

An AC member brought up the gillnet closures above the ferry lines again. They stated that gillnet closures have not impacted striped bass. The tie-down and setback from shore requirements protected striped bass.

An AC member asked if a near-real-time monitoring system similar to trip tickets will ever be implemented for the recreational sector? Staff responded that the Division and WRC have a specific survey just for collecting recreational striped bass catch data. The data is available within a few weeks, which is much quicker than MRIP survey data. Based on the low TAL, overages will likely occur, but sector- and area-specific paybacks are proposed in this amendment, so that would be a form of accountability for the recreational sector. The AC member re-emphasized their opinion that a trip ticket program should be established for the recreational sector.

An AC member asked if there has been any update to the following research: 1) food chain interruptions in the A-R stock that occurred in the 1990s; 2) Increases in blue/green algae blooms, eutrophication, and low dissolved oxygen in recent years; and 3) Hook & release mortality. Staff replied that it has been at least ten years since there has been direct research on zooplankton abundance as a food source for larval striped bass in the lower Roanoke River. There are also no recent updates to hook & release mortality estimates. The release mortality used for the AR stock is 6.4%. During the most recent coast-wide Atlantic State Marine Fisheries Commission (ASMFC) stock assessment, there was discussion about using monthly/seasonal release mortality values in the assessment. The ASMFC ended up using 9% for all regions and seasons.

An AC member noted that there has been five years of recruitment failure. Can anything else be done to get ideal flows? WRC staff indicated that they speak with the Corps at least once a week during the spawning period. They have tried to keep the lake low at the beginning of the year to increase storage capacity in order to have more ideal flows. Recent years have had high rain in the spring which has exceeded the reservoir's holding capacity. The Corps is willing to start the reservoir levels lower than normal, but they cannot hold additional water because it would cause flooding and other damage.

AC member stated that the cost (1.28\$ per/stage-2 fish) is less than he thought and stated that fishermen want to keep these fish. They suggested raising license fees to fund more stocking. They also commented that it is essentially a put & take fishery. Staff responded that natural spawning is minimal in Cape Fear but the goal is still to restore a naturally supported fishery.

## **PUBLIC COMMENT**

**Glenn Skinner**, Executive Director of the NC Fisheries Association, requested that the Northern AC recommend to the MFC to lift the gill net bans above the ferry lines in the Tar-Pamlico and

Neuse Rivers and allow harvest of striped bass. As previously stated by Staff, gill net restrictions in place prior to net bans (tie-downs and setbacks) were effective in reducing striped bass mortality. The moratorium was put into place to protect an abundance of striped bass that hadn't been seen in a long time. That increase in abundance occurred while harvest in both sectors was allowed. If water flow and other environmental issues are figured out, there is no reason you can't rebuild this stock while allowing harvest of striped bass and other fisheries in the same area. The summer strike net mullet fishery, as well as other fisheries, were heavily impacted by the net bans. In 2019, the MFC forced the DMF Director to issue the proclamation to ban nets above the ferry lines after he had previously declined. The MFC called an emergency meeting with only 48 hours' notice and no public comment, disregarded the science, and forced the Director to issue the proclamation. Shortly after this occurred, DEQ Secretary Regan issued a press release condemning the MFC for their actions. The net ban is not necessary and it needs to go back to how it was before, with the previous tie-down and setback rules in place.

**Steve House**, Dare County Commissioner, read a resolution that was adopted by the Dare County Board of Commissioners in a unanimous vote. The resolution endorses shifting a greater allocation of the A-R stock recreational quota from the RRMA to the ASMA to protect and preserve the striped bass stock. Endorsement of this resolution was based on differences in both the timing and location of the fisheries as well as the overall size of the areas; the RRMA fishery occurs on the spawning grounds during spawning, while the RRMA fishery does not, and the ASMA is larger in acreage.

**Reese Stecher**, a Charter Captain in the Oregon Inlet area since 1997, asked for clarification on appendix 2.3a. He asked: "how does the RRMA still have a season this year even though they exceeded their quota by over 100%?" Staff responded that the table is based on the proposed payback system in Amendment 2, but we are currently operating under the packback system in Amendment 1. Under the current system, the entire TAL (all sectors combined) has to be exceeded before paybacks are made. RRMA exceeded their quota, but because ASMA was under quota, the RRMA was only responsible for part of the previous year's overage. Last year they had a two-week season and this year they have a four-day season. Reese responded that it doesn't seem like a penalty. The past six years we have had really good fishing where I fish and I disagree about the assessment of the stock. However, if there is an issue with the striped bass population, the first thing to do would be to eliminate a harvest season during the spawn on the spawning grounds. RRMA is the only place in the country that has a catch/harvest season on the spawning grounds during the spawn. If the RRMA harvest season is not eliminated, the allocation between the RRMA and the ASMA needs to be based on the size of the water bodies. Eliminating the harvest in RRMA will not affect the economy of that region. Most of the fishing is catch and release and they will continue to have fishing.

**Bill Gorham**, owner of Bowed Up Lures, said that it is impeccable timing that fishing access is restricted for both sectors and then it comes out that the population is not self-sustaining with any level of mortality. The catch and release crowd will be next to be cut out of fisheries, everyone needs to watch what they ask for. If the recreational and commercial sectors, DMF, and NGOs all went to Raleigh and requested more funding, we would probably get much more than we asked for because it is a good return on investment for a put & take fishery in the CSMA. Limiting access to striped bass is adding additional fishing pressure to southern flounder and



spotted seatrout. A recreational reporting app should be implemented. Closures are a death sentence to fisheries. He supports sector-specific paybacks as proposed in Amendment 2.

**VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION  
FOR ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

*Albemarle-Roanoke Sustainable Harvest Issue Paper*

Manage for Sustainable Harvest Through Harvest Restrictions

**A motion was made by Jim Rice to establish a moratorium on all harvest of striped bass in the RRMA and ASMA until quantifiable measures of stock recovery have been met. Second by Carl Hacker.**

Jim Rice stated that the A-R stock is the last remaining self-sustaining stock in NC and it has had five years of recruitment failure. Population trends are dangerously low but options are business as usual. Harvest needs to be eliminated and we should reduce mortality as much as possible until the stock recovers. Jamie Winslow stated that years of closures have not worked in Cape Fear and CSMA so closing the fishery wouldn't make sense. Jim Responded that the Roanoke River has a self-sustaining spawning population and it has recovered before after cut backs were enacted. We need good years of recruitment. Jamie responded that catch and release will still occur which will still impact striped bass. A moratorium will be detrimental to other commercial fisheries and there is not sufficient accountability on recreational sector. Jim agreed that catch & release is a significant contributor to the mortality. Thomas Newman feels that biggest issue is the catch & release/dead discards in the spawning area. Raymond Pugh agrees.

**A substitute motion was made by Raymond Pugh to establish a fishing moratorium on striped bass in the RRMA during spawning season- April and May annually. Second by Jamie Winslow.**

**The substitute motion failed 4-5.**

**The original motion by Jim Rice failed 2-7.**

Commercial Fishery Managed as Bycatch Fishery

**Motion by Jamie Winslow to continue status quo of a bycatch fishery. Second by Thomas Newman.**

No discussion occurred between committee members.

**The motion passed 8-1.**

Accountability Measures to Address TAL Overages

**A motion was made by Thomas Newman to accept option 3.D; if the landings in any one of the management areas' three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceeds their allocated TAL in a calendar year, any landings in excess of the TAL will be deducted from that fisheries' allocated TAL the next calendar year. Second by Missy Clark.**

No discussion occurred between committee members.

**The motion passed without dissent.**

Size Limits to Expand Age Structure

**Motion by Raymond Pugh to support options 4.C and 4.E; implement a 18-25 inch harvest slot in the ASMA and maintain the 18-22 inch slot limit and no fish greater in the RRMA. Second by Thomas Newman.**

Jim Rice reiterated that he thinks there should be no harvest allowed, but he likes that 4.E protects the larger, more fecund fish. Sara Winslow asked Staff what percentage of the recreational harvest is fish that are 22-25 inches. Staff responded that around 90-95% of harvest is between 18 and 24 inches. The majority of striped bass caught commercially in the large mesh gill net fisheries are less than 25 inches. Moving the top end of the slot below 25 inches would increase dead discards in the commercial fisheries. Striped bass fecundity really starts to increase around 25 inches.

**The motion passed 8-1.**

Gear Modifications and Area Closures to Reduce Discard Mortality

**Motion by Thomas Newman to support options 5.A and 5.E; allow commercial harvest of striped bass with gill nets and recreational harvest and catch-and-release fishing in the ASMA and RRMA including on the spawning grounds. Require non-offset, barbless circle hooks when fishing live or natural bait in inland waters of the RRMA May 1 through June 30. Second by Jamie Winslow.**

No discussion occurred between committee members.

**The motion passed 6-3.**

Adaptive Management

**Motion by Thomas Newman to support adaptive management. Second by Missy Clark.**

Keith Bruno acknowledged that sometimes the Division needs to act quickly but adaptive management gives the Division a lot of power to make changes without consulting the ACs and the public. Sara Winslow noted her support for adaptive management because it enables action to occur without having to go through the FMP process which is time consuming.

**The motion passed 8-1.**

***Tar-Pamlico and Neuse Rivers Sustainable Harvest Issue Paper***

Striped Bass Harvest

**Motion by Keith Bruno to support option 1.B; end no-possession measure. Second by Thomas Newman.**

Thomas Newman stated that his reason for supporting 1.B is due to the fact that it is not a self-sustaining population so people should be able to catch stocked fish. Everett Blake noted that possession and size limits need to be considered if no-possession is ended. Jim Rice commented that we currently don't know if these river systems are capable of being self-sustaining because we don't have large, older females in the population. Sara commented the importance of the environmental conditions that need to be addressed. Jamie asked if this would apply to both recreational and commercial. Staff responded that if no-possession ended, nets above the ferry lines would not necessarily be allowed. That would have to be voted on separately. Thomas Newman added that if you created a \$5 striped bass harvest permit, everyone would buy it and you could use all of that money to fund additional stocking. Section Chief Poland noted that license fees are dealt with at the legislative level and not by the MFC, although the MFC could vote to support that idea.

**The motion passed 6-2-1.**

Gill Net Restrictions or Limits

**Motion by Jamie Winslow to end the gill net closure above the ferry lines. Second by Keith Bruno.**

Keith Bruno stated that there needs to be distinction and specificity in different sizes of mesh, target species, fishing style, and other aspects of the proposed gill net fishing in order for the MFC to actually consider it. A friendly amendment to the motion was proposed by Thomas Newman. The final motion was written as follows:

**Motion by Jamie Winslow to end the gill net closure above the ferry lines and return to NCDMF regulations prior to the 2019 closure. Second by Keith Bruno.**

**The Motion passed 7-1-1.**

Adaptive Management

**Motion by Thomas Newman to accept adaptive management. Second by Jim Rice.**

No discussion occurred between committee members.

**The motion passed 8-1.**

***Cape Fear River Sustainable Harvest Issue Paper***

Harvest or No Possession

**Motion by Jim Rice to maintain the no-possession limit. Second by Raymond Pugh.**

Jim Rice supports no-possession due to the recent evidence of some spawning in the Cape Fear as well as the recent changes to the fish passages. A friendly amendment was proposed by Everett Blake. The final motion was written as follows:

**Motion by Jim Rice to support options 1 and 5; maintain the no possession provision and adaptive management. Raymond Pugh.**

Sara Winslow clarified that this motion is applied to all of the tributaries of the Cape Fear River system.

**The motion passed 7-0-2.**

***Hook and Line as a Commercial Gear Issue Paper***

Commercial Use to Harvest with Hook and Line

**Motion by Keith Bruno to support option 1; do not allow hook and line as a commercial gear for estuarine striped bass. Second by Thomas Newman.**

No discussion occurred between committee members.

**Motion passed 8-1.**

Adaptive Management

**Motion by Jim Rice to support adaptive management. Second by Thomas Newman.**

Keith Bruno asked if adaptive management is irrelevant in this instance since the AC just voted to not allow hook and line as a commercial gear for striped bass. Staff confirmed that adaptive management is applying to the use of hook and line.

**The motion was withdrawn.**

**MARINE FISHERIES COMMISSION UPDATE**

Lara Klibansky, MFC liaison, provided the update. In February, the MFC approved the draft Estuarine Striped Bass FMP Amendment 2 for MFC AC review and public comment through April 1, 2022. We are holding the listening sessions a week before the AC meetings. This allows the public to hear presentations from staff about the documents. We allow questions after the presentation to anyone in the session. They are recorded and put online in the 'Hot Topics' section of the webpage for the species. Amendment 3 for southern flounder was approved with the DMF recommendations. The MFC also approved a two-year delay in reaching 50/50 parity, moving the date from 2021 to 2023 with parity occurring in 2026. The MFC also approved a resolution that they would consider a moratorium if there are continued overages in the commercial and/or recreational fisheries. Amendment 2 to the shrimp FMP was adopted in February and DMF is moving forward on implementation on the management strategy. In May, the MFC will be provided an information updated on the FMP for Interjurisdictional Fisheries. The MFC will have no rule items in May, the next rule package will come to them in August.

**PLAN AGENDA ITEMS FOR THE NEXT MEETING**

No items are planned at this time. Klibansky noted the MFC ACs will not likely need to meet again until October 2022 and she will send an email to all committees with updates as they become available. The meeting adjourned at 9:24 p.m.

March 28, 2022

**MEMORANDUM**

**TO:** Marine Fisheries Commission  
Southern Advisory Committee

**FROM:** Tina Moore, Southern District Manager  
Chris Stewart, Biologist Supervisor  
Fisheries Management Section

**SUBJECT:** Meeting of the Marine Fisheries Commission's Southern Regional Advisory Committee, March 16, 2022. Recommendations for the Striped Bass Fishery Management Plan Amendment 2

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The Marine Fisheries Commission's (MFC) Southern Advisory Committee (AC) held a hybrid meeting on March 16, 2022 via webinar and in-person at the Division of Marine Fisheries (DMF) Central District Office in Morehead City, NC. Listening sessions were also provided to the public to gain public comment at the DEQ Wilmington Regional Office in Wilmington, NC and the Dare County administrative building.

The following Advisory Committee members were in attendance: Fred Scharf, Jerry James, Jason Fowler, Tom Smith, Cane Faircloth, Samuel Boyce, Pam Morris, Jeffrey Harrell, Adam Tyler (Absent – James Rochelle and Tim Wilson)

DMF Staff: Chris Stewart, Joe Facendola, Garland Yopp, Carter Witten, Hope Wade, Corrin Flora, Debbie Manley, Lara Klibansky, Tina Moore, Charlton Godwin, Nathaniel Hancock., Todd Mathes, David Behringer, Lee Paramore, Steve Poland, Kathy Rawls, Dan Zapf, Casey Knight, Mike Loeffler, Hannah Carter, Jeff Dobbs, Nolen Vinay, Brandi Salmon, Lorena de la Garza, Anne Markwith, Alexander Batchelder, Chris Nealon, Dee Lupton, Cara Kowalchyk, Ashley Bishop, Edward Mann

NC Wildlife Resource Commission (WRC) Staff: Kirk Rundle, TD VanMiddlesworth, Ben Ricks, Jeremy McCargo

Public: Rich Carpenter, Thomas Newman, David Belkoski, Reese Stecher, Fritz Rohde, Greg Judy, Glenn Skinner

Southern Regional AC Vice-Chair Jerry James called the meeting to order at 6:03 p.m.

A call for attendance was performed and attendance recorded. The Southern AC had nine members present and a quorum was met. Fred Scharf came online into the meeting at 7:10 p.m. just before voting started on the management options.

## **APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES**

**A motion was made to approve the agenda by Pam Morris. Second by Cane Faircloth. The motion passed without objection.**

**A motion was made to approve the minutes from the Southern AC meeting held on January 12, 2022. Motion by James Fowler to approve minutes. Second by Cane Faircloth. Motion passed without objection.**

## **PRESENTATION ON ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

Nathaniel Hancock, Charlton Godwin, Todd Mathes, and Joe Facendola presented the DMF recommendations. After presenting, staff fielded questions and comments from AC members for Amendment 2.

A question was raised whether there was a striped bass fishery historically in the Lockwood Folly or Shallotte River systems. Facendola responded there has been no established population because the spawning habitat is not suitable for reproduction.

Discussion continued on the work done on Lock & Dam 1 (LD1) and whether it will be successful. Facendola noted the original structure was built prior to knowing what the proper dimensions (pool width and openings) are for larger species such as striped bass to pass. The openings have recently been widened with the reasoning that it should improve passage of striped bass as well as other anadromous species, such as sturgeon. The flow pulse regime from Jordan Lake has also recently been monitored more closely to submerge the structure. Passing by there the other day the LD1 was under water. A committee member noted Lock & Dam 2 (LD2) is in poor shape and Lock & Dam 3 (LD3) needs to remain for water supply usage and thought LD3 would still prohibit successful spawning unless fish could navigate over. Is there something that could be done to LD3? Facendola responded there are plans in the work to get passage at LD2 and LD3. It is part of a larger interagency workgroup plan. The timing of this larger plan is unknown.

Jeremy McCargo, with the WRC, noted that operating the locks is another alternative, which was successful in the past at LD1. The Army Corps of Engineers (ACOE) says the LD1 is still operable, but LD2 and LD3 are not operable due to damage during Hurricane Florence. They no longer assess if the modified design is working to move fish upstream at LD1. The ACOE received over 6.5 million dollars from the infrastructure bill to redo the lock chambers at all three lock and dams to pass fish until there are adequate structures at LD2 and LD3 or they are removed. We do know that the historic spawning grounds are above LD3 where the fall line and rocky habitat begins. Until the fish get past LD3, WRC does not believe striped bass will successfully reproduce in the Cape Fear River system. A committee member noted the fisheries had potential in this system before the locks were added, and now they limit us to a stocked only fishery. A question was raised whether the WRC was looking to use some of the funds to remove some of the dams. McCargo responded the ACOE owns the dams and therefore they have to agree to have anything built on them. There is an ongoing disposition study to see if the locks meet the need to allow navigation up and down the rivers. The locks are not meeting navigation and there is not a need to move traffic up and down the river. For the state to take over ownership of the of the dams it would takes an act of Congress to hand them over to the state. It's in the federal government's hand right now.

A committee member asked for further clarification on the limits preferred by the WRC if harvest was allowed. WRC recommends the creel limit for the entire river would be two fish per day, an 18-inch

minimum size, and a limited season for harvest, not year around. The WRC would want to restrict harvest but allow access to those hatchery fish.

The committee requested further information on the hatcheries and where fish are released. McCargo explained the WRC grows and stocks the fish in the Cape Fear River. WRC management has looked at the continued no harvest scenario in the Cape Fear River for over a decade, with no improvement in the sustainability of the stock. Since we are not meeting the restoration objective and the fish don't have access to the spawning grounds, WRC would like to allow harvest of these fish. It is hard to justify stocking fish if the fishery remains closed and the restoration potential is minimal. Based on genetic sampling conducted by the WRC at the lock and dams, over 90% are hatchery fish. There appears to be some natural reproduction in the Northeast Cape Fear River and some in the main stem. If WRC were not stocking the system, access to the majority of striped bass in the Cape Fear River would be lost.

A committee member asked why there is no improvement in recruitment in the Tar-Pamlico and Neuse rivers since the no possession limit was put into place in 2019. Todd Mathes explained it's going to take time to see improvement due to variability. We are starting to see larger fish. In 2021, we had some young-of-year fish that we are trying to determine if they are hatchery or wild fish. We can tell who the fish's' parents are based on the genetic marker; if they came from the hatchery brood stock. But if two hatchery fish spawn and produce offspring then it's not traceable and would be represented as a wild fish.

### **PUBLIC COMMENT**

**Rich Carpenter**, I am commenting on behalf of the Cape Fear River Watch. A nonprofit environmental organization that looks to improve water quality in the Cape Fear River basin. We have put a lot of time and effort in to improving fish passage in the Cape Fear River. We were involved in the original efforts to get passage at LD1. We also participated in the monitoring efforts with that structure. The rock archway worked to pass smaller fish such as shad and river herring, but not so much for larger fish. Riverwatch led an effort to modify LD1 that was completed last fall. A group of different agencies and Clemson University have completed and plan on continuing acoustic tagging studies to assess passage at LD1. Taking fish could comprise these studies, and lead to the loss of expensive acoustic tags. The ACOE with the Nature Conservancy are doing pulse flows which should help passage of fish above LD2 and LD3 to their spawning grounds. It's not in the best interest of the stock or the studies to allow harvest at this time. There are also elevated levels of per- and polyfluoroalkyl substances (PFAS) in striped bass; allowing consumption of these fish before more studies can be done is unwise. There were also high levels of mortality on striped bass in the Cape Fear River after Hurricane Florence due to low dissolved oxygen. Striped bass and other species need more time to see improvement.

**Reese Stecher**, a Charter Captain in Oregon Inlet area since 1997. I know nothing about the southern region. The past six years we have had really good fishing where I fish; especially the last two years. Where we run two trips a day. It's hard to swallow the cuts (80% in the ASMA), given the size of the Albemarle Sound. The recreational quota is divided between the ASMA and the Roanoke River Management Area (RRMA). The RRMA is a smaller area on the spawning grounds. That region caught more than double their quota. Why do we allow fishing on the spawning grounds? The RRMA is not getting penalized for going over the quota and this year have a four-day season. The ASMA is getting penalized. The number one killer of striped bass is dead discards. There are three time the discards in RRMA. We need to reallocate the quota. The netters don't even have this many dead discards. It makes no sense.

**Glenn Skinner**, with NC Fisheries Association, read DEQ Secretary Regan's 2019 letter to the MFC about their emergency meeting and directive to the DMF Director to allow no possession of striped bass above the ferry lines on the Tar-Pamlico and Neuse rivers. The letter was issued after the MFC called an

emergency meeting. There was no science to support this action. The director declined issuing the proclamation and noted in the letter to the MFC that the science didn't support it and the Director wouldn't do it. The MFC called a special meeting to ban all gill nets above the ferry line. I ask you to recommend allowing gill net fisheries above the ferry lines as recommended by the MFC Northern Advisory Committee on March 15, 2022. There were measures put in place before the ban that limited discards. The ban has choked out other fisheries such as shad, striped mullet, and white perch for no reason. Please ask the MFC to lift the gill net ban.

**Fritz Rohde**, I am with NOAA Fisheries and in the past worked for DMF. Currently, I am working on fish passage with NOAA. NOAA is in favor for option 1, no harvest on the Cape Fear River. We have done a lot of work to improve passage. We are seeing reproduction below LD1, if fish get above that I believe things will be much better. The Northeast Cape Fear River has been overlooked, there is spawning. WRC needs to reinstate the spawning survey in that area. Smiley Falls is not the holy grail; I thought that too for a long time. The dams went in 107 years ago, and we have had striped bass in the river ever since. They are spawning somewhere up there. If you stop stocking the river, I don't believe they will completely go away. We are satisfied with the passage of shad at LD1. I believe with the new modifications and new pools and better flow sturgeon may pass and striped bass will pass in higher numbers. The ACOE has been sitting on disposition reporting for too long. LD2 should be taken out. LD3 should be modified. We are getting reproduction in the Cape Fear River below Buckhorn Dam. Back in the early 1960s studies found there was reproduction and juveniles were being locked upstream prior to any stocking by WRC. There is natural production happening in the Cape Fear River.

**Greg Judy**, commercial fisherman from Washington, NC. My comments are directed to the Tar-Pamlico and Neuse rivers. Last fall I served as an AC member for the Striped Bass FMP. It went well and there was good exchange between participants. Because of the low population and poor natural recruitment, the consensus was to reluctantly support the no possession of striped bass in these rivers until the population rebuilds. What the fishermen requested was to allow gill nets access above the ferry line, specifically the small mesh fisheries for white perch, striped mullet, and shad. Most of which would be drop nets and strike nets. Due to the limited season and colder water temperatures discards would be limited from the large mesh gill net fishery for flounder. In the Tar-Pamlico and Neuse rivers, 2013-2018 observer data indicated that there were only 708 dead fish from small and large mesh gill nets. This was mostly from the large mesh gill net fishery; but the founder season was 11 months long at that time. There were also regulations (tie downs, distance from shore, etc.) that limited bycatch of striped bass as well. The MFC at the February 2022 meeting eliminated the options for use of nets above the ferry lines and the MFC commissioners who did this have now lined up their positions with the Coastal Conservation Association and the NC Wildlife Federation. The MFC is trying to prevent review and debate by the public and ACs. In the Albemarle Sound there has been a steady decline in the use of gill nets. There has been an 83% reduction in small mesh trips, but striped bass have continued to decline in the Albemarle Sound and Roanoke River. Please allow small mesh gill nets above the ferry lines in the Tar-Pamlico and Neuse rivers.

## **VOTE ON RECOMMENDATIONS TO THE MARINE FISHERIES COMMISSION FOR ESTUARINE STRIPED BASS FISHERY MANAGEMENT PLAN AMENDMENT 2**

Vice-chair Jerry James asked the committee if they preferred to limit their comments to the just the southern region issues or start with the southern options first? Committee members agreed that wanted to review and make recommendations on all areas in the plan. James directed the committee to the decision document as the outline they would go through to address each of the issues starting on page 4 in the document for the first issue in the ASMA and RRMA management areas.



## *Albemarle-Roanoke Sustainable Harvest Issue Paper*

### Manage for Sustainable Harvest Through Harvest Restrictions

**A motion was made by Fred Scharf to support option 1.A., maintain status quo: use of a TAL. Second by Samuel Boyce.**

No discussion occurred between committee members.

**The motion passed without dissent**

### Commercial Fishery Managed as Bycatch Fishery

**Motion by Adam Tyler to support option 2.A.; maintain status quo: bycatch fishery. Second by Tom Smith.**

No discussion occurred between committee members.

**The motion passed without dissent.**

### Accountability Measures to Address TAL Overages

**Motion by Sam Boyce to support option 3.D.; if the landings in any one of the management areas' three fisheries (RRMA recreational, ASMA recreational, and ASMA commercial) exceeds their allocated TAL in a calendar year, any landings in excess of the TAL will be deducted from that fishery allocated TAL the next calendar year. Second by Adam Tyler.**

Staff confirmed that payback over a TAL would be done by sector. A committee member noted that Option 3.D. provides no room for error by the sector and other options provide some cushion to the recreational sector because of the accuracy to estimate recreational landings. The group noted the WRC initial recommendation was different than the DMF initial recommendation. The WRC initial recommendation instead of pound for pound payback wanted a buffer and any excess would come from above the buffer, not the actual TAL. Anything over the 5% buffer would be taken off.

A committee member requested further information on the rationale about the payback and whether we are legally bound by one measure to meet accountability. Godwin responded when we do projections and come up with the TAL, it's the number we need to get to hit mortality targets. If we don't take the whole overage, we will not meet the targets, and this is not an option under the Fisheries Reform Act. He went on to describe the DMF/WRC striped bass creel survey and the timing of the data collection for recreational landings from that survey. A committee member noted at the federal level the payback is pound for pound over, there is no buffer. Any landings that exceeded in a year must be paid back the next fishing season and the motion on the table now aligns with that approach.

**The motion passed without dissent.**

### Size Limits to Expand Age Structure

**Motion by Tom Smith to support options 4.C. and 4.E.; in the ASMA, implement 18 to 25 inch harvest slot and in the RRMA, maintain slot limit 18 to 22 inch and no fish greater. Second by Adam Tyler.**

Tom Smith noted he was a member of the Striped Bass FMP AC and we all agreed that protecting the bigger fish is the right way. It was noted in the draft plan the WRC initially preferred in the RRMA option D. to maintain the 18-22-inch slot but allow one fish greater than 40-inches. After further discussion with their commission the WRC changed their preferred options and now support options 4 C. and E.

**The motion passed without dissent.**

Gear Modifications and Area Closures to Reduce Discard Mortality

**Motion by Adam Tyler to support options 5.A. and 5.E.; allow commercial harvest of striped bass with gill nets and recreational harvest and catch-and-release fishing in the ASMA and RRMA including on the spawning grounds. Require non-offset, barbless circle hooks when fishing live or natural bait in inland waters of the RRMA May 1 through June 30. Second by Cane Faircloth.**

No discussion occurred between committee members.

**The motion passed without dissent.**

Adaptive Management

**Motion by Tom Smith to support adaptive management. Second by Sam Boyce.**

A Committee member noted difficulties with supporting too much flexibility. Steve Poland, Fisheries Management Section Chief verified there is oversight for proclamation in rule that justifies what goes into proclamation, like specific variable conditions and in particular compliance with FMPs. The plans often provide guidance to the Director of what actions can be taken by proclamation. It was noted the first part of adaptive management for the Albemarle / Roanoke (A-R) striped bass says a stock assessment will be updated. When will the next benchmark assessment will occur? Godwin said the last benchmark assessment was 2017, and DMF plans to update the stock assessment this year.

**The motion passed without dissent.**

*Tar-Pamlico and Neuse Rivers Sustainable Harvest Issue Paper*

Striped Bass Harvest

**Motion by Tom Smith supports option 1.A.; continue the no possession measure. Second by Fred Scharf.**

No discussion occurred between committee members.

**The motion passed 7-2.**

Gill Net Restrictions or Limits

**Motion by Pam Morris to support putting back in the gill nets as an option. Second by Adam Tyler.**

Committee members requested more information on why the MFC removed some of the options in this issue and wanted more information on the fisheries above the ferry lines, what they target and the seasons the fisheries occur. Other species targeted with small mesh gill nets include shad, striped mullet using active strike nets, spotted seatrout, and spot. With the flounder closures you still need to give the people

something to work with and the flounder fishery is almost nonexistent now due to the limited season and water temperatures. Mathes went on to explain the specific options removed from the plan. One was to allow the shad fishery, during a certain time window, based on the observer data. Another was to completely remove the closures and implement 3-foot tie downs and distance from shore. And once the fishery was done then have time tie downs and 200 yards distance from shore requirement from February 14 until the following year. For adaptive management we would continue to review each year the observer data to look at striped bass bycatch. A question was raised on how much reduced was striped bass mortality with the tie-down and distance from shore measures? Mathes said the initial work had an 85-99% reduction of striped bass for tie down measure and a 60% reduction for distance from shore. Another report in 2016 had a 75% reduction in discards from commercial gill net fishery between management regimes. A friendly amendment was agreed upon for the original motion.

**The friendly amendment to the motion by Pam Morris, recommend to the MFC to remove the gill net moratorium above the ferry lines and reimplement the management measures prior to the 2019 closure. Second by Adam Tyler.**

**The motion passed 4-1, with 4 abstentions.**

Adaptive Management

**Motion by Fred Scharf to support adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

*Cape Fear River Sustainable Harvest Issue Paper*

Harvest or No Possession

**Motion by Tom Smith to support option 1; maintain the no possession provision. Second by Samuel Boyce.**

Committee members noted they were not in favor of ending stocking and if stocking is ongoing why not allow some harvest on the hatchery fish. Pam Morris requested a member of the public, Fritz Rohde, if he could speak further on behalf of NOAA. The Vice-chair approved Rohde to speak. Rohde continued that NOAA is looking at fish passage for many species including striped bass and with the current changes on the Cape Fear River I believe we are going to see some improvement. There is a guide fishery on this system too, it's not that recreational fishermen have no access, they just can't keep the fish. Stocking does help striped bass as well as other species. NOAA fisheries doesn't want harvest while all the current work is going on in the river. It's too soon, if nothing changes in five years, then we could consider allowing harvest. WRC stopped stocking Jordan Lake this past year. There are recent modifications at LD1, we are now doing the pulse flow. There have been a lot of changes and that is why we don't want harvest.

A committee member noted we should maintain no harvest because there is some natural reproduction in the Northeast Cape Fear River. We want to minimize their removal. It is hopeful that some natural reproduction will occur. We should not allow harvest until we see if fish passage works; continue to stock the river in the meantime and not allow harvest until we see how the fish passage works and evaluate where we are. Another member supported the continuation of the moratorium in the short term. It is understood where WRC is coming from. It's been 13 years and still only seeing limited spawning and limited access to the spawning grounds. There is evidence that natural reproduction is occurring in a small

part of the system. The modification to the archway only just recently finished at LD1. This will be first spring in 2022 we will get new data for striped bass. It worked for shad, but striped bass didn't pass over. Research at UNCW and NCSU work has shown that the fish don't leave the system. They still migrate upstream; some migrate to the Northeast Cape Fear River and some to mainstem of the Cape Fear River. They repeat their runs each spring and it is still embedded in the stock, they just need to exercise it. There may be conditions in the river that make it not suitable for larval success. I just don't think the time is now. Maybe down road we can open it up.

A committee member asked why not allow some type of slot limit like red drum to allow some harvest of the fish? James asked Cane Faircloth, for-hire fisherman on the committee, whether he fished for striped bass in the Cape Fear River. James further noted that he knows there are striped bass tournaments in the river. Faircloth indicated he does not fish in this system, but others have said to him it is a decent fishery and it's getting better. The guides say it is not a big business for them; however, they would like to see stocking to continue. Sammy Boyd noted he fishes in that fishery and has caught some fish 25-inches and greater at times and would like to see it get back to a naturally supported fishery; but has concerns if stocking is not continued.

**The motion passed 5-1-3.**

Adaptive Management

**Motion by Tom Smith to support option 5; adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

*Hook and Line as a Commercial Gear Issue Paper*

Commercial Use to Harvest with Hook and Line

**Motion by Adam Tyler support option 1; do not allow hook and line as a commercial gear for estuarine striped bass. Second by Tom Smith.**

Godwin noted in the A-R system there has been big reduction in the shad and flounder fisheries. There has been difficulty catching the quota due to the closures from turtle and sturgeon interactions. Adding hook and line as a commercial gear would allow commercial fishermen to harvest these fish if gill nets are not allowed in the water. Other states allow this for certain species. A committee member stated we do have commercial hook and line fisheries in NC. For all those reasons I can see having this as a gear. The option reads as 'do not allow', why would you not allow it? Godwin explained previously it was illegal to harvest striped bass commercially with hook and line. In the last amendment we did remove that rule. The Striped Bass AC also didn't support use of hook and line as a gear for commercial harvest of striped bass.

Tom Smith said he was a member of the Striped Bass AC, one of the options was not to allow the use of gill nets at all, so this would allow access to the fishery. Hook and line was added to replace gill nets if they were removed. Godwin noted this issue came from Amendment 1 from the MFC, date back to the late 1980s and didn't have anything to do with the other options. It was a stand-alone.

**Motion passed 6-2-1.**

Adaptive Management

**Motion by Fred Scharf to support adaptive management. Second by Jason Fowler.**

No discussion occurred between committee members.

**The motion passed without dissent.**

**MARINE FISHERIES COMMISSION UPDATE**

Lara Klibansky, MFC liaison, provided the update. In February, the MFC approved the draft Estuarine Striped Bass FMP Amendment 2 for MFC AC review and public comment through April 1, 2022. We are holding the listening sessions a week before the AC meetings. This allows the public to hear presentations from staff about the documents. We allow questions after the presentation to anyone in the session. They are recorded and put online in the Hot Topics section of the webpage for the species. Amendment 3 for southern flounder was approved with the DMF recommendations. The MFC also approved a two-year delay in reaching 50/50 parity, moving the date from 2021 to 2023 with parity occurring in 2026. The MFC also approved a resolution that they would consider a moratorium continued overages in the commercial and/or recreational fisheries occur. Amendment 2 to the shrimp FMP was adopted in February and DMF is moving forward on implementing the management strategy.

In May, the MFC will be provided an information updated on the FMP for Interjurisdictional Fisheries. The MFC will have no rule items at their May meeting, the next rule package will come to them in August.

**PLAN AGENDA ITEMS FOR THE NEXT MEETING**

No items are planned at this time. Klibansky noted the MFC ACs will not likely need to meet again until October 2022 and she will send an email to all committees with updates as they become available.

The meeting adjourned at 8:16 p.m.