



ROY COOPER  
*Governor*

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*Director*

Apr. 20, 2023

**MEMORANDUM**

**TO:** Marine Fisheries Commission  
Shellfish/Crustacean Advisory Committee

**FROM:** Anne Deaton, Habitat Program Manager, Habitat and Enhancement Section  
Tina Moore, Southern District Manager, Fisheries Management Section

**SUBJECT:** Meeting of the Marine Fisheries Commission's Shellfish Crustacean Advisory Committee, April 18, 2023

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The Marine Fisheries Commission's Shellfish/Crustacean advisory committee (AC) held an in-person meeting on Apr. 18, 2023, at the Division of Marine Fisheries, Central District Office, Morehead City, NC, or attend virtually if needed.

The following AC members were in attendance: Ana Shellem, Mike Marshall, Ted Wilgis. Online: Lauren Burch, Jim Hardin, Tim Willis, Mike Blanton, Doug Cross. Absent: Brian Shepard, Adam Tyler, Bruce Morris, Mary Sue Hamann,

Division of Marine Fisheries (DMF) Staff: Lara Klibansky, Paula Farnell, Hope Wade, Corrin Flora, Tina Moore, Anne Deaton, Carter Witten, Jason Rock

Public: Kelly Schoolcraft, Glen Skinner. Five viewers watched on YouTube.

Shellfish/Crustacean AC Chair Ana Shellem called the meeting to order at 6:08 p.m.

Chair Shellem provided some introductory remarks and let AC members introduce themselves. The Shellfish/Crustacean AC did not meet quorum initially but did once three AC members arrived late.

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

**A motion was made by Mike Marshall to approve the agenda. Second by Jim Hardin. The motion passed without objection.**

**A motion was made by Mike Marshall to approve the minutes from the Shellfish/Crustacean AC meeting held on Jan. 17, 2023. Second by Jim Hardin. The motion passed without objection.**

**MARINE FISHERIES COMMISSION UPDATE**

Lara Klibansky provided an update on the February MFC meeting. The Feb. MFC business meeting was held in New Bern. A recording of the meeting can be found on the NC Department of Environmental Quality YouTube channel and additional information can be found on the Division's website. The commission reviewed a false albacore information paper specific to North Carolina. This paper was

prepared at the commission's request and is an update to the 2017 false albacore information paper. A motion was made to develop state-level rulemaking language with management options starting with status quo and allowing for growth for the fishery at various percentage points. Staff are evaluating data, defining terms (i.e., status quo), and will present the analysis at the MFC's May meeting. A final issue paper with management options will be presented at the Aug. or Nov. 2023 business meetings.

Staff gave the commission an overview of the spotted sea trout fishery. The commission provided input on the development of the FMP and Commissioner Cross gave specific management options for consideration. The scoping period for spotted sea trout recently closed and staff will provide the AC an overview later tonight. Public input is a very important part of the FMP process.

The development of the striped mullet supplement and amendment were also discussed at the February MFC meeting. In November, the commission unanimously approved Supplement A to Amendment 1 to go out for public comment for striped mullet which includes a Nov. 7<sup>th</sup> – Dec. 31<sup>st</sup> closure to achieve a 22.1% reduction. At the February meeting, the commission was to make its final approval of the supplement; however, after much discussion, no decision was made. Staff are currently working on regional options at the request of the commission to be presented at the May business meeting. Supplement A will only be a temporary measure to address overfishing and will potentially only impact the 2023 season while comprehensive management is developed through Amendment 2, which should be complete prior to the 2024 season.

The Coastal Habitat Protection Plan (CHPP) Amendment was adopted in 2021 and initiated the development of the Stakeholder Engagement for Collaborative Coastal Habitat Initiative (SECCHI). This initiative is meant to develop a public-private partnership to encourage stakeholder engagement. Recently, the SECCHI drafted a coastal habitat resolution requesting the state legislature provide additional cost share funding specific to water quality issues such as nutrient loading and run-off. The resolution was brought before the Marine Fisheries, Environmental Management, Coastal Resources, and Soil and Water Conservation commissions. The MFC as well as the other commissions voted to support this resolution for more funding and encourage people to participate in these types of programs to improve water quality.

## **SHELLFISH LEASE PROGRAM AND ENTERPRISE AREAS**

Owen Mulvey-McFerron, Shellfish Lease Coordinator, provided an overview of lease application activity and recent changes in the shellfish lease program to improve program efficiency. He summarized past application activity – in 2022 DMF received 84 shellfish lease applications. From February through April 2023, public hearings were held in Carteret, Onslow, Pamlico, Pender, Hyde, and Dare counties. Final determination on those lease applications is pending. The 2023 shellfish lease application period opened on March 1st, and will close on August 1st. So far, DMF has received five applications and it's expected to be another busy application season.

Procedural changes in the shellfish lease program included consolidating the annual rent notices, production reports, and work authorizations into a single mailing which is sent to all leaseholders in January. A one-page summary of newly adopted rules was included in the mailouts so leaseholders are aware of any impacts these rule changes may have on their operations.

Shellfish lease renewal packets, which are sent out at the end of the 10-year shellfish lease contract period, will now include copies of the original shellfish lease application and management plan for reference to aid the leaseholders in filling the renewal application. On a similar note, staff developed template forms to assist leaseholders with, and expedite the shellfish lease transfer process, which has shown increased interest over the past few years. They are also increasing the availability of lease siting, storm preparedness, gear and marine debris management, and technical guidance resources for applicants

and leaseholders, developing new resource guides, and making new and existing resources available on the website.

The Aquaculture Operations Permit (AOP) renewal packet was streamlined with a one-page renewal form, fillable PDFs, and digital filing. This has facilitated a 10-day turnaround time for AOPs, as well as a 48 hour to 72 hour turnaround for Intro and Aquaculture Seed Transplant Permits. Lastly, the development of the AOP inspection tool will facilitate expedited inspections and ensure consistency throughout the annual inspection process.

Zach Harrison, Aquaculture Permits Coordinator, provided an update to the relay program. The Relay Program allows Shellfish Lease and Franchise holders to harvest shellfish in designated polluted areas and transport them to their lease or franchise between April 1 and May 15. In 2022, DMF made the public aware that phasing out the Relay Program had begun, with three final seasons. The Relay Program is being phased out for several factors:

- The 2019 Aquaculture Bill removed the ability of shellfish lease and franchise holders from meeting annual production requirements through the Relay Program.
- The National Shellfish Sanitation Program's (NSSP) requires all shellfish moved from polluted areas to be monitored by Marine Patrol. Officers must oversee the harvest, transport, and placement of relayed shellfish. Marine Patrol staff shortages have made this requirement challenging, particularly due to the relatively low participation rates.
- There has been a continuous decrease in the participation of this program in the past ten years.

As a result of these last two factors, DMF limited the relay season in 2019 to two days per week in two areas. 2021 Relay season included three locations in Carteret County and three locations in the Southern Onslow Bay counties, New Hanover, Pender, and Onslow. Based on input from participants, the 2022 season was modified to incorporate three additional southern locations that were rotated. Relay activity remained limited to two days/week for six weeks. A limiting factor with the extent of relay is availability of Marine Patrol officers. There were 32 participants in 2021 and 37 in 2022, with daily average participation across all locations at five to eight transplanter per day, and the daily average by location was three and four transplanters. The end date for relay is set for May 1, 2024.

At the February 2022 MFC meeting, a commissioner voiced concern that phasing out the relay program would eliminate a means for bottom lease holders to produce shellfish without cages/gear. Harrison explained that the total number of bottom and water column leases in the past four years increased but the total number of bottom-only leases has remained steady and that the majority of bottom leases and franchises are meeting production without utilizing the relay program.

Committee members had specific questions on the locations relayed in 2022 and the reporting requirements for the relayed oysters. Tim Willis noted the benefits of oysters to improve water quality and if DMF is considering adding more leases to the systems due to the benefits to the ecosystem? Mulvey-McFerron agreed on the benefits of oysters to improving water quality and indicated the number of lease applications annually has been growing. Shellem said she exclusively harvests wild shellfish and would be discouraged if all harvest was exclusive to private bottom. Ted Wilgis had questions about the different amounts relayed between districts. Harrison noted it depends on the proximity to leases; for example there is no relay occurring in Pamlico Sound due to the distances to travel to transport to a lease. District 3 counties – Onslow, Pender, and New Hanover – tend to have more relay activity due to the more compressed waterbodies and proximity to active leases. Wilgis asked if a red tide happened again would the rules allow relay to open up again? Harrison noted the style of leases have diversified and are more like farming, so there should not be as much risk as in the past. The Aquaculture Bill allows production to come from planting seed, but relay will no longer count. Wilgis noted research has identified polluted areas act like sanctuaries so long as the oysters are healthy. Mike Marshall asked what

the mechanism was to remove relay? Harrison identified rule changes are in process to remove relay and Seed Oyster Management Areas (SOMA) are still in effect to relay seed to leases. Marshall noted the red tide relay did not work in most areas, only in small creeks down south. It was more a means to keep fishermen employed. Marshall noted both relay from polluted areas and SOMA originated well before the red tide event in 1987/88.

### **SPOTTED SEATROUT SCOPING PERIOD DISCUSSION**

Jason Rock gave a brief overview of comments received during the March 14-24 spotted sea trout scoping period. Overall, there was a lot of participation with over 700 people providing comments online or in person. Comments ranged from strongly “for” or “against” and everything in between. Regarding sustainable harvest, comments included arguments for and against a quota, seasonal closures, bag limit reduction, trip limit reduction, and an increase in minimum size. For recreational management there was support for making spotted seatrout a game fish, outreach for catch and release best practices, ending the use of recreational commercial gear licenses, boat limits, eliminating captain and crew limits, and limited entry into the fishery. General recreational comments included reducing the impact of catch and release tournaments and implementation of gear requirements. Commercial comments included making it entirely a hook and line fishery with limited entry. General commercial comments included gill net limits, closing the personal consumption loophole, area limits, phasing out gill net limits, increased gill net mesh size, gill net attendance regardless of area or time, and limited entry. Regarding protecting spawning stock biomass, comments included bag limit reductions, increased minimum size, and modifying cold stun protocols. Area management came up quite a lot during the scoping period and included closing certain areas to gill nets and/or all spotted sea trout fishing as well as regional management. Commissioner Cross’s strategy was also discussed at the scoping meetings and the public was overwhelmingly against quota allocation. Overall, there was general opposition to a quota and ending catch and release fishing. Multispecies management, stocking, increasing enforcement, considering management in other states, and developing a recreational reporting app (mandatory and optional reporting) were also brought up.

Wilgis asked how the CHPP plays into the spotted seatrout amendment. Anne Deaton responded staff continue to work on Strategic Habitat Areas (SHA) ground truthing. Sampling has been completed in the SHAs from Core Sound south to the SC/NC line and staff are working on the report. There is higher diversity in SHAs than non-SHAs. Habitat staff on the spotted seatrout PDT will provide a literature update on habitats known to be used by the species in the amendment.

### **JULY JOINT MFC ADVISORY COMMITTEES MEETING PLANNING**

Klibansky noted the meeting will be held on Monday July 10<sup>th</sup> at the Pine Knoll Shores Aquarium and will likely be held from 10 am to 3 pm. There will be a virtual option and travel will be covered. The goal is to have presentations on some of the topics discussed earlier (stock assessment, FMP development, bycatch, etc.). There may be one or two outside presentations (water quality, climate change). We want discussion amongst the ACs and staff. The event will be recorded if you can’t be there in person or virtual and it will be on the web to be viewed by the public only.

### **PUBLIC COMMENT**

Kelly Schoolcraft runs a charter boat business out of Hatteras where he has customers go clamming, shelling, and fishing on a trip. Every year he is seeing an increase in bay scallops. He can’t understand why Carteret County has had an opening for bay scallops this season but not in Pamlico Sound with the abundance of scallops. He would like to see an opening to bay scallops in his area especially in the warmer months (April – August) so he can have his customers enjoy their harvest. He has seen hundreds of small bay scallops. It is a public resource that people should access. Tina Moore, former bay scallop

biologist, noted bay scallops are annual and the opening to harvest is timed to winter (late Jan. through Apr.) when adults are present from that one cohort and less overlap with next year's juveniles. We are trying to get them back to historic levels present prior to the red tide. In the Bay Scallop FMP there are regional triggers associated with DMF sampling in Oct-Dec to determine if sampling abundance meets the required thresholds for opening the third Monday in Jan. through Apr. 1. She provided an overview of the sampling of set sites as well as at-will sites which we will go to based on information from what people see on the water and would appreciate coordinates of any known areas with scallops. Schoolcraft noted some areas where he observed scallops included Sandy Bay, behind the bath house at Frisco, and behind Portsmouth Island. The last opening to harvest bay scallops in the Pamlico Sound region was in 2009. Moore noted that scallops are often concentrated in patches but overall there is not enough to meet the trigger threshold for opening when sampling across the region. Staff will follow up with Mr. Schoolcraft. Shellem noted she has seen bay scallops where she shellfishes down south as well and asked Mr. Schoolcraft if he has tried harvesting ribbed mussels. She said a hori hori knife is an excellent tool for taking the mussels from their attachment.

Glen Skinner wanted to clarify that it wasn't accurate to say that there was no appetite for doing away with catch and release. Skinner said he did say at one of the scoping meetings there is a problem with dead discards because of the amount of catch and release ongoing in the recreational fishery. He noted that the biggest problem for spotted seatrout is the amount of dead discards, which has to be addressed. We cannot just cut landings.

### **ISSUES FROM AC MEMBERS**

Ted Wilgis mentioned Oyster Summit May 9-10 in Raleigh. Can go to [NCCoast.org](http://NCCoast.org) to get information and register. Lara mentioned the DMF Jamboree will occur June 10<sup>th</sup> at the DMF Headquarters office location in Morehead City.

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

No additional items were requested.

The meeting adjourned by consensus at 7:21 p.m.