

**Southern Regional Advisory Committee
Morehead City – Central District Office
April 12, 2023
6 p.m.**

- 6:00 p.m. Call to Order*
- Vote on the Approval of the Agenda****
- Vote on the Approval of the Minutes from January 11, 2023 ****
- 6:05 p.m. Marine Fisheries Commission Update – Lara Klibansky
- 6:15 p.m. July Joint Meeting Planning
- 6:30 p.m. Spotted Seatrout Scoping Period Discussion (no presentation) – Lucas Pensinger, Jason Rock
- 7:00 p.m. Cape Fear Fish Passage Study Overview (verbal update) – Fred Scharf
- 7:20 p.m. Public Comment
- 7:30 p.m. Issues from AC Members
- 8:00 p.m. Adjourn

** Times indicated are merely for guidance. The committee will proceed through the agenda until completed.*

***Action Items*

****Applies only to Marine Fisheries Commission members*

*N.C.G.S. 138A-15(e) mandates at the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest under Chapter 138. The chair also shall inquire as to whether there is any known conflict of interest with respect to any matters coming before the board at that time.****

*N.C.G.S. 143B-289.54(g)(2) states a member of the Marine Fisheries Commission shall not vote on any issue before the Commission that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link between the decision of the Commission and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Commission shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Commission shall not use the member's official position as a member of the Commission to secure any special privilege or exemption of substantial value for any person. No member of the Commission shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties. ****

*Commissioners having questions about a conflict of interest or appearance of conflict should consult with counsel to the Marine Fisheries Commission or the secretary's ethics liaison. Upon discovering a conflict, the commissioner should inform the chair of the commission in accordance with N.C.G.S. 138A-15(e). ****



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

Jan. 13, 2023

MEMORANDUM

TO: Marine Fisheries Commission
Southern Regional Advisory Committee

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

SUBJECT: Meeting of the Marine Fisheries Commission's Southern Regional Advisory Committee, Jan. 11, 2023 for orientation of new members and updates.

The Marine Fisheries Commission's (MFC) Southern Regional Advisory Committee (AC) held a meeting on Jan. 11, 2023, via webinar and a listening station at the Division of Marine Fisheries Central District Office, Morehead City, North Carolina. Advisory Committee members could attend in either setting and communicate with other committee members. Public comment could occur online if the public signed up in advance and also if public attended at the listening station.

The following Advisory Committee members were in attendance: Fred Scharf, Samuel Boyce (came online at 6:16 pm), Jason Fowler, Tom Smith, Pam Morris, Jerry James, Scott (Jeff) Harrell, Truby Proctor (came online at 6:15 pm), Kenneth Siegler, Michael Yates (Absent – Tim Wilson).

Division of Marine Fisheries (DMF) Staff: Lara Klibansky, Hope Wade, Debbie Manley, Corrin Flora, Tina Moore, Chris Stewart, Garland Yopp, Jeff Dobbs, Dan Zapf, Paula Farnell, Laura Lee, Steve Poland, Willow Patten,

Public: Online via Webex: Rob Eberle and Drew Smedley. No public were in attendance at the listening station. Twenty viewers watched on YouTube.

The Southern Regional AC had eight members present at the start of the meeting and a quorum was met.

Southern Regional AC Chair Fred Scharf called the meeting to order at 6:05 p.m. The Chair opened the floor for new members to provide introductions to the committee and welcomed the reappointments of Pam Morris, Tom Smith, and Tim Wilson. New members included: Truby Proctor, Kenneth Siegler, Michael Yates.

APPROVAL OF THE AGENDA AND APPROVAL OF THE MINUTES

A motion was made to approve the agenda by Jason Fowler. Second by Kenneth Siegler. The motion passed without objection.

Siegler asked if the AC was providing the MFC a recommendation for the supplement to the Striped Mullet FMP Amendment 1 tonight. Lara Klibansky indicated the ACs are not providing recommendations on the supplement. The purpose of this meeting is to give the AC an update on the supplement and allow the committee members a chance to ask the species leads questions.

A motion was made to approve the minutes from the Southern Regional AC meeting held on October 19, 2022. Motion by Tom Smith to approve the minutes. Second by Jason Fowler. The motion passed without objection.

2023 ANNUAL ADVISORY COMMITTEE'S ORIENTATION PRESENTATION

Lara Klibansky thanked all members for volunteering their service on the committee. This presentation focused on the duties of the AC. She started with a brief history on the Division of Marine Fisheries, celebrating its 200-year anniversary this year. The first fisheries specific legislation was passed in 1822 for oysters. Fisheries management has been ongoing in NC for a long time and expanded from legislation from a single fishery to many fisheries with both commercial and recreational interests. The Fisheries Reform Act (FRA) adopted in 1997 ushered in new ways to manage fisheries in the state. The FRA is comprehensive legislation forming cooperation between stakeholders, restructured the MFC, mandated the creation of state managed Fishery Management Plans (FMPs) as well as the Coastal Habitat Protection Plan (CHPP), and a new licensing system. General Statute 143B-289.57 establishes the MFC ACs and provides the objectives of the committees to assist the MFC in the performance of its duties.

Klibansky described FMP process, showed the steps of development, and where the MFC ACs are formally brought the FMPs for their review and input. She noted there are other informal opportunities to provide feedback as well. This meeting is an example of an informal opportunity to provide feedback. There are 13 FMPs reviewed approximately every five years. Scheduling the reviews can fill up meetings quickly and DMF staff provides the MFC a Workplan as a tracking tool to monitor varying work steps in a plan in development. It is recommended the AC members review the Workplan at least once a year to see when a plan comes to the AC for your review and input. Many other tools are available on the website – meeting recordings, annual FMP reviews, and the statistics report otherwise known as the “Big Book”. A lot of resources are available to you. Klibansky noted the three DMF staff in the MFC Office. Herself as the Liaison between DMF and the MFC. She introduced Paula Farnell the new Program Assistant and identified Catherine Blum the DMF Rule Coordinator. We also have an attorney with the Department of Justice. Klibansky and Farnell are the two main points of contacts in the MFC office for the MFC advisory Committees and MFC Commissioners. Farnell went over some of the material provided to the AC and noted members can reach out to her by cell phone. After the January AC meetings the office will be sending the committees an overview of the year ahead and links to documents on the website.

Scharf noted other states do not have the same approach with a mandated FMP process having clear steps for public input as the FMPs are developed and adopted. There are a lot of steps in the development of an FMP to follow. So if any members have question anytime please reach out to staff. Scharf said Klibansky as well as staff leads of this committee, Chris Stewart and Tina Moore attend all the meetings so talk to them or call them with your questions.

Discussion of Stock Assessment 101 Presentation

A video was sent to the AC to review prior to the meeting to provide resources available to you online. Laura Lee, Stock Assessment Scientist was also available online to address any questions on stock assessments. No questions were asked. Scharf noted Lee leads a team of scientists who work on stock assessments at both the State and Federal level and if you have questions reach out to her as needed.

MARINE FISHERIES COMMISSION UPDATE

Klibansky gave an update on the newly appointed MFC commissioner, Sarah Gardner. Sworn in before the Finfish Standing AC in October and she participated at the MFC meeting in November. At their meeting in November the MFC discussed joint fishing waters delineation on the rules shared by MFC and NC Wildlife Resource Commission (WRC). The MFC tasked DMF to work with WRC to make progress on a plan moving forward. The MFC approved nominees for Mid-Atlantic Council Appointments. Nominees included: Mike Blanton, Thomas Newman, Robert Ruhle, and Jess Hawkins. The Striped Bass FMP Amendment 2 was adopted, which includes continuing the closure of gill nets above the Ferry Line on the Tar/Pamlico and Neuse rivers. The division is currently developing Amendment 2 to the Striped Mullet FMP as well as a supplement to Amendment 1 to allow management measures to be in place sooner than what can be developed through Amendment 2. The Supplement looking at about a 22 percent reduction with a season closure from Nov. 7 – Dec. 31.

The upcoming MFC meeting is Feb 22 – 24, 2023 at the Doubletree Hotel in New Bern. Items on the agenda include an information paper on False albacore, overviews of the spotted seatrout and striped mullet fisheries, the revision to the latest Blue Crab FMP amendment to look at diamondback terrapin excluder devices. The blue crab revision will also be provided next week at the Shellfish/Crustacean AC for their consultation. In February, the MFC will vote on final approval of the striped mullet supplement and final approval on three rules, one of most interest on mutilated finfish.

Striped Mullet FMP Supplement Update

Dan Zapf, Striped Mullet FMP co-lead, started talking about issues being explored in the latest amendment. The plan was taken out for scoping to gain input from the public. Feedback received from the public to achieve sustainable harvest of the stock included: quotas, season closures, area closures, the desire to maintain the closures to gill nets on the Tar/Pamlico and Neuse rivers above the Ferry Lines, and day of the week closures. We heard we need to protect larger and smaller fish, so minimum and maximum sizes of fish will be explored and measures to extend the season. We will also look further into the small mesh gill net fishery as directed by the MFC in species-specific plans. The division will look at primary gears used to harvest striped mullet, regulations in place to support sustainable harvest, and consider ways to reduce regulatory complexity and user conflicts. An information paper will be developed to look specifically in more detail on the recreational fishery. Recreational statistics are limited because striped mullet are mostly used for live bait and are released or rarely brought back to the dock. A DMF cast study found that 29% of recreationally caught mullet are striped mullet and the rest are white mullet. We want to identify the uncertainty in the data and any holes that can be fixed moving forward. Staff are also delving into the stop net fishery; historical it was a high volume and major component of the removals but not so much now since it is restricted to an area along Bogue Banks. The division will also explore migration corridors, this topic has come up across several plans and could be applied to striped mullet. The division would appreciate additional ideas from the AC.

Scharf noted the seasonal closure in the supplement is a short-term approach to achieve sustainable harvest and Amendment 2 will introduce a long-term solution. Siegler identified his concern the Nov. 7 – Dec. 31 closure will solely impact the striped mullet fishery south of Bogue Sound. Another concern is the landings data. The 2021 landings are the highest in ten years and 2021 is the tenth highest since 1972. Siegler noted that under Amendment 1 these landings do not meet the triggers; therefore, a supplement is not needed. In regard to the spawning period for mullet, Siegler discussed regional differences in the spawning periods and how it impacts the fishery. In the southern part of the state the striped mullet are coming in later in the year (Mid-Nov.) with roe of enough size to sell. The supplement would close the fishery when the fish are row up. The southern region sees spawned out striped mullet (snakes) in

December coming back to aggregate with the ones that didn't leave the sounds. They go back up to Beaufort Inlet and Morehead City area, you know they are spawned out because we see mud in their guts or entrails. When they are full of mud they are not spawning; they stop eating when they are spawning. They'll go back up the river, but they won't spawn, they will just reabsorb the roe; therefore, we should be allowed to harvest these fish.

Zapf thanked Mr. Siegler for the striped mullet behavior prior and post spawning run. The supplement does not account for area management because it is meant to implement simple measures to end overfishing immediately. As part of Amendment 2, the division will look at the area component and regional differences in the fishery. During the scoping period the public and members of the MFC specifically asked that we incorporate regional differences in the plan. Also, I want to be clear the trigger for management is the stock assessment and not the landings, the assessment found that the stock is overfished and overfishing is occurring. The DEQ secretary directed DMF to complete the supplement to end overfishing immediately and the MFC recommended moving forward with the supplement. The previous trigger you are describing is for landings above and below levels established in Amendment 1. Once these triggers are hit, the data is reviewed to determine why the triggers got hit. Under Amendment 1, the only time since its adoption that landings fell below the trigger was in 2016 and we completed a stock assessment update which determined the stock was not overfished and overfishing was not occurring.

Siegler said we are still under Amendment 1 triggers and not the supplement. That is not the way it is supposed to work. The supplement should not be used to shut down the fishery. The stock has no issues, there are no reductions needed. What are you protecting by eliminating harvest of the large fish? Zapf said we are not eliminating the harvest of large fish. The intent of the seasonal closures is to protect spawners. An end of year closure allows fish to move out to the ocean and spawn regardless their size. Once in the ocean, harvest is minimal, so there is an added layer of protection. Siegler added that the vast majority of fish or "snakes" coming back into the estuary break up into small groups and do not spawn. The fish have already gone through the spawning process when they start to show back up in the catch.

Klibansky clarified that the amendment is where the management is housed; however, the larger process dictates the steps moving forward when a stock assessment is completed with new information. Scharf added the supplement is a stop gap measure to address overfishing while staff and the PDT work on Amendment 2. Siegler again questioned what triggers a supplement. Scharf clarified, the triggers get the division to look at the data and the stock assessment results dictated the need for a supplement. The 2022 assessment determined that harvest was too high and spawning stock biomass is too low; therefore, the DEQ secretary recommended moving forward with a supplement while staff develop Amendment 2. Siegler said the assessment is changing history because it raised the trigger point by five percent four years ago. There is no problem with the stock and there is a problem with the model being used in the assessment. Zapf noted a correction, in that the threshold to determine overfishing has been the same since original 2002 assessment at 25%. The target was moved from 30% to 35% in the 2016 update.

Tom Smith asked when the reductions are calculated do you also estimate the probability of it meeting its goal? Zapf noted that we do not look at the chance of success for ending overfishing but do for long-term rebuilding. DMF recommend managing to target to increase chances the ending the overfished status. Klibansky noted that supplement has not had final approval yet. Scharf asked about the timing of Amendment 2 and asked when it will be brought back to the AC for recommendations. Scharf further noted that it would be nice to have some lead time for AC members to reach out to stakeholders prior to the next meeting. Klibansky indicated that she will send out a workplan of when the FMPs will come to the AC and that workplans are always subject to change. Currently, the amendment is expected for MFC ACs review in October with final adoption by the MFC in February 2024. Scharf said the AC could set aside some time for more discussion about Amendment 2 in April. Siegler again expressed his concerned

with the supplement and the proposed seasonal closures that will shut down half the state. Zapf said the division plans to have the amendment adopted in February 2024 and unless items in the supplement are adopted under Amendment 2, they will go away.

Siegler asked why management measures are focused on the most valuable part of the fishery (spawners/roe mullet) rather than on the recruitment side (finger mullet) of the fishery? We're still targeting the spawning stock for southern flounder now and they have a similar age structure and migration pattern. How does closing to spawning mullet have a better effect? Zapf explained, the majority of striped mullet commercial landings occur from Oct. 15 – Nov. 15. It's a pulse fishery that occurs over a short period of time. It's very consistent over time; however, the 2022 landings extended further into end of year. The suggested closure period allows fish to move out of estuaries into the ocean to spawn. If the closure occurred earlier in year, say January through July, we would not achieve the needed reductions. Landings from those months combined do not account for much and any the landings could be recouped later in the year. What's good for the fishery is not always what is good for the spawning stock. Siegler noted that he thinks you would get more bang for the buck putting in measures to improve recruitment. Zapf indicated that the supplement should allow for greater recruitment because you are putting more eggs in the system. Siegler had questions on the age structure of the harvested fish. Zapf said the division typically sees fish between 13 and 15-inches at the fish houses; most of these fish are two years of age. Their weight is variable depending on the time of year. Siegler indicated that the two-pound fish make up most of the spawning stock and he would like to see more information on market grades. Zapf indicated that the division plan on exploring this data further in Amendment 2.

PUBLIC COMMENT

No public signed up in advance to speak.

PLAN AGENDA ITEMS FOR THE NEXT MEETING

The next meeting in April will be held in-person. Currently there is no new information to bring to the committees except the striped mullet amendment in October. The committee determined the next meeting will be held in Morehead City and will offer the online option for members who wish to be virtual. Scharf requested agenda topics be sent to the Chair and Vice-Chair for future discussion since this is our committee and our chance to get together and talk about issues for a southern region perspective.

Tom Smith motioned to adjourn; it was seconded by Ken Siegler. The meeting adjourned at 7:38 p.m.