



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

MEMORANDUM

TO: JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS
The Honorable Thom Tillis, Speaker of the House of Representatives
The Honorable Phil Berger, President Pro Tempore

FROM: Kari Barsness *KB*
Director of Legislative and Intergovernmental Affairs

SUBJECT: N.C. Fishery Management Plan Annual Report
Division of Marine Fisheries

DATE: Sept. 1, 2012

Pursuant to General Statute 113-182.1(e) the Division of Marine Fisheries shall submit to the Joint Legislative Commission on Governmental Operations a report on progress in developing and implementing the Fishery Management Plans by Sept. 1 of each year. Please consider the attached as the formal submission of this report.

If you have any questions or need additional information, please contact me by phone at 919-707-8618 or via email at Kari.Barsness@ncdenr.gov.

cc: Assistant Secretary David Knight
Division of Marine Fisheries Director Louis Daniel
Kristin Walker, Fiscal Research Division
Lanier McRee, Fiscal Research Division
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Division of Marine Fisheries N.C. Fishery Management Plan 2012 Annual Legislative Report



The Fisheries Reform Act of 1997 and its 1998, 2001 and 2004 amendments established the requirement to create Fishery Management Plans (FMPs) for all of North Carolina's commercially and recreationally significant species or fisheries. The contents of the plans are specified, advisory committees are required and reviews by the Department of Environment and Natural Resources (DENR) Secretary and the Joint Legislative Commission on Governmental Operations are mandated. Session Law 2011-291 transferred the duty for legislative review from the Joint Legislative Commission on Seafood and Aquaculture. The Joint Legislative Commission on Governmental Operations reviewed two FMPs in 2012 and the process went smoothly.

The original 1997 legislation mandated that the Blue Crab FMP be completed first and the Marine Fisheries Commission used the Division of Marine Fisheries' annual stock status review to prioritize the order of species that would be addressed in subsequent plans. FMPs normally take about two years to complete and are required to be reviewed at least once every five years. The Division of Marine Fisheries and the Marine Fisheries Commission adopted an annual rule cycle in 2009 to reduce overall confusion and consolidate efforts in the development of FMPs and the associated implementing rules.

In 2012, the General Assembly passed revisions to two statutes that affect the FMP process. The first revision was to G.S. 143B-289.52, which provides the powers and duties of the Marine Fisheries Commission. An addition to this statute stipulates a supermajority of the Marine Fisheries Commission is six members and is necessary to override recommendations from the Division of Marine Fisheries for management "measures needed to end overfishing or to rebuild overfished stocks." Such management measures are the foundation of the FMPs and are necessary to ensure the long-term viability of the State's commercially and recreationally significant species and fisheries.

The second revision was to G.S. 143B-289.57, which established the advisory committees to the Marine Fisheries Commission. Changes to this statute reduced the number of standing advisory committees from four to three and regional advisory committees from four to two. These changes help to streamline the FMP process while still ensuring adequate opportunities for public input and review of FMPs.

The Division of Marine Fisheries formed a FMP process committee in 2010 that audited the current FMP guidelines, procedures, internal processes and capabilities to determine how to improve and streamline the entire process. Results of that analysis have been completed and are being implemented at this time.

FMP Updates

Eight FMPs are currently underway. These are the amendments to the Estuarine Striped Bass, Blue Crab, Southern Flounder, Shrimp, Oyster, Striped Mullet, River Herring and Bay Scallop FMPs. The original Spotted Seatrout FMP was completed in February 2012.

The draft **Division of Marine Fisheries-Wildlife Resources Commission Joint Estuarine Striped Bass FMP Amendment 1** and **Blue Crab FMP Amendment 2** are complete. Both FMPs were sent to DENR and the Joint Legislative Commission on Governmental Operations for review in early 2012; there were no comments. The proposed implementing rules will be presented to the Marine Fisheries Commission at its August 2012 meeting for approval to begin the rulemaking process. Public hearings on the proposed rules are scheduled for late fall.

Completion of the **Southern Flounder FMP Amendment 1** has been delayed since 2010 due to the changing nature of effort reduction from restrictions implemented as part of the sea turtle lawsuit settlement agreement. The Marine Fisheries Commission is scheduled to receive updates on the proposed management measures and resulting effort reduction for this FMP at its August 2012 meeting.

The **Shrimp FMP** review began in June 2011. A draft revision of the FMP will be presented to the Marine Fisheries Commission at its August 2012 meeting for approval to send the FMP to public meetings for comment.

The Marine Fisheries Commission received a petition for rulemaking in 2012 from shellfish leaseholders to designate two areas in Onslow County as seed oyster management areas. The petition is being addressed in the **Oyster FMP Amendment 3**. The full review of the FMP is scheduled to begin in 2013.

The **Striped Mullet FMP** review began in July 2010. Position vacancies for the lead staff and stock assessment scientist have delayed the FMP. However, staff held data workshops and determined the model to use in assessing that stock (Stock Synthesis, version 3.0). The model runs and initial results have been unstable due to the lack of contrast in the landings data during the period that the fisheries independent indices are available (2004 to present). Staff is examining additional indices that provide information prior to 2004. There is no indication of any major problem with the stock. The time for completion of the assessment depends on the assessment scientists' availability as they are involved in calculating allowable takes for sturgeon and sea turtle incidental take permit applications and other needs in support of reducing interactions with protected species.

The **Division of Marine Fisheries-Wildlife Resources Commission Joint River Herring FMP Amendment 1** and **Bay Scallop FMP Amendment 2** began in July 2012. Staff is reviewing potential issues that may need to be addressed during the review of these FMPs.

The Marine Fisheries Commission gave final approval of the **Spotted Seatrout FMP** in February 2012. In accordance with G.S. 113-182.1, the FMP contains management measures to end overfishing within two years of final adoption of the plan. At the time of FMP adoption the fishery was not producing a sustainable harvest. As a result, the Marine Fisheries Commission requested a review of the plan three years after adoption, instead of five. This change is reflected in the schedule below.

The remaining species for the development of an FMP are yellow perch, white perch and the catfishes. These species were placed on the FMP priority list and schedule in 1997, but have continually been pushed back due to lack of data. A federally-funded project has provided data on these species for eight years; however, enough information is unavailable to complete a stock assessment on the individual species of perch (white and yellow) or catfish (white, channel, brown bullhead and yellow bullhead). Introductions of non-native catfish have further complicated efforts toward development of the FMP. Inadequate data, coupled with the recent listing of Atlantic sturgeon as endangered by the National Marine Fisheries Service, caused the Division of Marine Fisheries to end the federal perch and catfish program so resources can be focused on items of higher priority. For these reasons, the Marine Fisheries Commission will be asked to consider removal of the **Yellow Perch FMP** (which includes white perch and the catfishes) from the FMP priority list and schedule at its August 2012 meeting.

FISHERY MANAGEMENT PLAN SCHEDULE (July 2012 – June 2017)					
Revised August 2012					
SPECIES (Last FMP)	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
ESTUARINE STRIPED BASS (5/04)					
BLUE CRAB (12/04)					
SOUTHERN FLOUNDER (2/05)					
SHRIMP (4/06)					
STRIPED MULLET (4/06)					
RIVER HERRING (9/07)					
BAY SCALLOP (11/07)					
HARD CLAM (6/08)					
OYSTER (6/08)					
INTERJURISDICTIONAL (6/08)					
KINGFISHES (6/08)					
RED DRUM (11/08)					
SPOTTED SEA TROUT (2/12)					
YELLOW PERCH					

Existing Plan Review

New Plan