



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
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: Neal Robbins
Director of Legislative Affairs

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

DATE: Sept. 1, 2013

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 Neal.Robbins@ncdenr.gov.

cc: Assistant Secretary Brad Ives
Division of Marine Fisheries Director Louis Daniel

Division of Marine Fisheries

N.C. Fishery Management Plan

2013 Annual Legislative Report



The Fisheries Reform Act of 1997 and its 1998, 2001 and 2004 amendments established the requirement to create fishery management plans 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 secretary and the Joint Legislative Commission on Governmental Operations are mandated.

The original 1997 legislation mandated that the Blue Crab Fishery Management Plan 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. All initial fishery management plans identified on the priority list have been developed. Fishery management plans normally take about two years to complete and are required to be reviewed at least once every five years. Upon review, amendment of a plan is required when changes to management strategies are necessary. A revision of a plan, which includes changes in factual and background data only, is completed if there are no management changes. The division and the Marine Fisheries Commission adopted an annual rule cycle in 2009 to reduce overall confusion and consolidate efforts in the development of fishery management plans and the associated implementing rules.

In 2013, the General Assembly passed revisions to two statutes that affect the fishery management plan process. The first revision was to G.S. 113-182.1, which sets out requirements for fishery management plans. An amendment to this statute provides an exemption from the requirement to end overfishing within two years of adoption of a fishery management plan if the division director determines that the biology of the fish, environmental conditions, or lack of sufficient data make doing so incompatible with professional standards for fisheries management. This change is consistent with identical, existing exemptions for the requirements for achieving a sustainable harvest within 10 years of adoption of a fishery management plan and for including a standard of at least 50 percent probability of achieving sustainable harvest for a fishery. The change provides management flexibility within the goal of fishery management plans 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-289.52 which provides the powers and duties of the Marine Fisheries Commission. This statute currently authorizes the Marine Fisheries Commission to regulate participation in a fishery that is subject to a federal fishery management plan that imposes a quota on the state for the harvest or landing of fish in the fishery. Previously, the Marine Fisheries Commission was limited to using the criteria of holding a commercial license for and participation in such a fishery during only two of three select years to develop limited entry. Changes to this statute expand the authority to allow additional criteria be used aside from holding a commercial license.

The division formed a fishery management plan process committee in 2010 that audited the current plan guidelines, procedures, internal processes, and capabilities to determine how to improve and streamline the entire process. Results of that analysis have been completed and continue to be implemented and refined to maximize efficiencies in the process.

Fishery Management Plan Updates

Nine of 13 state plans are currently underway. These are amendments to the Blue Crab, Oyster, Shrimp, River Herring, and Bay Scallop fishery management plans. Reviews of the Striped Mullet, Hard Clam, Interjurisdictional, and Kingfishes fishery management plans have also begun. A table indicating the schedule for the plan reviews is included at the end of the report.

The draft **Blue Crab Fishery Management Plan Amendment 2** is complete. The plan was sent to the Department of Environment and Natural Resources and the Joint Legislative Commission on Governmental Operations for review in 2012; there were no comments. Due to statutory changes and position vacancies, there was a delay in obtaining the required fiscal analysis of the proposed implementing rules. The rules were presented to the Marine Fisheries Commission at its May 2013 meeting for approval to begin the rulemaking process. Public hearings on the proposed rules are scheduled for the fall.

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 Fishery Management Plan Amendment 3**. The rules were presented to the Marine Fisheries Commission at its May 2013 meeting for approval to begin the rulemaking process. Public hearings on the proposed rules are scheduled for the fall. The comprehensive five-year review of the **Oyster Fishery Management Plan** has also just begun; the 2010 supplement to the plan must be addressed in this review as well as any additional issues.

The **Shrimp Fishery Management Plan** review began in June 2011. A draft revision of the plan, including public comments, was presented to the Marine Fisheries Commission at its November 2012 meeting, at which time it voted to begin the process of an amendment with a focus on bycatch and associated issues. The division, with the assistance of an advisory committee, is developing the amendment to the plan. The draft amendment will be presented to the Marine Fisheries Commission at its November 2013 meeting for approval to send the plan to public meetings for comment.

The **Division of Marine Fisheries-Wildlife Resources Commission Joint River Herring Fishery Management Plan Amendment 2** and **Bay Scallop Fishery Management Plan Amendment 2** began in July 2012. The division, with the assistance of advisory committees, is developing the amendments. The draft amendments will be presented to the Marine Fisheries Commission at its November 2013 meeting for approval to send the plans to public meetings for comment.

The **Striped Mullet Fishery Management Plan** review began in July 2010. Position vacancies for the lead staff and stock assessment scientist delayed the plan; however, a stock assessment has been completed and peer reviews have been received. Once the assessment is finalized, the division will initiate a revision or an amendment to the plan.

Reviews of the **Hard Clam, Interjurisdictional and Kingfishes fishery management plans** have just begun. The division is examining the existing plans and their supporting data and associated studies to determine if changes in management strategies are necessary.

The Marine Fisheries Commission gave final approval of the **Spotted Seatrout Fishery Management Plan** in February 2012. In accordance with G.S. 113-182.1, the plan contains management measures to end overfishing within two years of final adoption of the plan. At the time of plan 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 the usual five. This change is reflected in the fishery management plan schedule.

The **Red Drum Fishery Management Plan** review is currently scheduled to begin in July 2014, but the Marine Fisheries Commission will be asked for a one-year delay in this schedule at its August 2013 meeting. A red drum stock assessment by the National Oceanic and Atmospheric Administration's Southeast Data, Assessment and Review is scheduled for 2015. The earliest a red drum stock assessment for North Carolina could occur is 2014. The division recommends waiting for and using the results of Southeast Data, Assessment and Review to assess the condition of the stock in order to avoid the unnecessary risk of differing results and significant duplication in effort.

At its February 2013 meeting, the Marine Fisheries Commission gave final approval of the **Southern Flounder Fishery Management Plan Amendment 1** and the **Division of Marine Fisheries-Wildlife Resources Commission Joint Estuarine Striped Bass Fishery Management Plan Amendment 1**. Implementing rules for the Estuarine Striped Bass Fishery Management Plan became effective June 1, 2013. Changes in management measures for the Southern Flounder Fishery Management Plan were previously implemented via the division director's proclamation authority.

At its August 2012 meeting, the Marine Fisheries Commission approved removal of the **Yellow Perch Fishery Management Plan** (which included white perch and the catfishes) from the fishery management plan priority list and schedule. These species were placed on the priority list and schedule in 1997, but were continually pushed back due to lack of data. This action resulted in all initial fishery management plan development being complete, allowing the division to focus on plan reviews.

FISHERY MANAGEMENT PLAN REVIEW SCHEDULE (July 2013 – June 2018)

Revised August 2013

SPECIES (Last FMP)	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018
BLUE CRAB (12/04)					
SHRIMP (4/06)					
RIVER HERRING (9/07)					
BAY SCALLOP (11/07)					
STRIPED MULLET (4/06)					
HARD CLAM (6/08)					
INTERJURISDICTIONAL (6/08)					
KINGFISHES (6/08)					
OYSTER (6/08)					
SPOTTED SEA TROUT (2/12)					
RED DRUM (11/08)					
SOUTHERN FLOUNDER (2/13)					
ESTUARINE STRIPED BASS (2/13)					