



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
Director of Legislative and Intergovernmental Affairs

SUBJECT: North Carolina Fishery Management Plan Annual Report
Division of Marine Fisheries

DATE: Sept. 1, 2011

Pursuant to General Statute 113-182.1(e) the Division of Marine Fisheries shall submit to the Joint Legislative Commission on Seafood and Aquaculture a report on the 2011 Fishery Management Plans by Sept. 1 of each year. Please consider the attached as the formal submission of this report. The reports will now be presented to the Joint Legislative Commission on Governmental Operations since the Joint Legislative Committee on Seafood and Aquaculture was eliminated in Session Law 2011-291.

If you have any questions or need additional information, please contact me by phone at (919) 715-4189 or via email at Kari.Barsness@ncdenr.gov.

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Division of Marine Fisheries N.C. Fishery Management Plan 2011 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 Seafood and Aquaculture were mandated. Session Law 2011-291 abolished the Joint Legislative Commission on Seafood and Aquaculture from the review process and placed that responsibility with the Joint Legislative Commission on Governmental Operations. It is uncertain at this time how the Joint Legislative Commission on Governmental Operations will handle the FMP review process.

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 2010 to reduce overall confusion and consolidate efforts in the development of FMPs and their associated implementing rules.

In 2010, the General Assembly passed two revisions to G.S. 113-182.1 that dealt with FMP supplements and the 50 percent probability of success provision. The first [G.S. 113-182.1 (e1)] created additional flexibility "to develop temporary management measures to supplement an existing Fishery Management Plan..." The supplement process is an expedited process for temporarily amending FMPs when the DENR Secretary determines that addressing the issue outside of the normal review schedule is in the best interest of the long-term viability of the fishery. According to the statute, changes in FMPs made by this process shall either be incorporated into the FMP at the time of its next amendment or they will expire on the date the revised FMP amendment is adopted. The Marine Fisheries Commission adopted implementing criteria for these changes at its Nov. 4-5, 2010, meeting. Supplement A to Amendment 2 of the Oyster FMP last fall was the first use of that management tool.

The second revision [G.S. 113-182.1 (b)] required FMPs to specify a time period not to exceed two years from the date of adoption of the plan, for ending overfishing on plans for species that are not producing a sustainable harvest. It also requires a time period not to exceed 10 years from the date of adoption of the plan, for achieving sustainable harvest and requires plans to include a standard of at least a 50 percent probability of achieving sustainable harvest for the fishery or fisheries. These last two items shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing this incompatible with professional standards for fisheries management. The Spotted Seatrout

FMP fell within the requirement to end overfishing in two years and the Marine Fisheries Commission is scheduled to adopt measures to meet the required reductions at its Nov. 3-4, 2011, business meeting.

The Division of Marine Fisheries formed a FMP Process subgroup last year 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

Four FMPs are currently underway. They are the amendments to the Estuarine Striped Bass, Blue Crab, Striped Mullet and Shrimp FMPs. The original Spotted Seatrout and the amendment of the Southern Flounder FMPs are completed, but have not received final approval.

The **Spotted Seatrout FMP** was presented to the Joint Legislative Commission on Seafood and Aquaculture for review at its Sept. 15, 2010, meeting. The legislative commission discussed the need to exempt this FMP from Session Law 2010-13, which is a new law requiring overfishing to be ended within two years of final adoption of a FMP. The Spotted Seatrout FMP was not intended to fall under the mandates of this legislation, but timing issues in the plan development delayed final adoption, making the plan subject to the new law. The legislative commission directed its staff to draft a clarifying amendment to be considered at its next meeting. At its Nov. 30, 2010, meeting, the Joint Legislative Commission on Seafood and Aquaculture favorably endorsed a clarifying amendment and H 136 – Clarify 2010 Improve Success of FMPs was filed on Feb. 17, 2011. However, this bill did not pass so the Spotted Seatrout FMP is required to end overfishing within two years of final adoption of the plan. The Marine Fisheries Commission is scheduled to vote on final adoption at its Nov. 3-4, 2011, meeting.

The **Southern Flounder FMP Amendment I** has been through the entire process and was tentatively approved by the Marine Fisheries Commission in November 2010. It has not received final approval because it needs to be reviewed by the Joint Legislative Commission on Governmental Operations.

The **Division of Marine Fisheries-Wildlife Resources Commission Joint Striped Bass Estuarine FMP Amendment 1** began in July 2009. The draft plan is being presented to the Marine Fisheries Commission at its Aug. 31-Sept. 1, 2011, meeting and then it will be released for review and public comment to the four regional advisory committees and the Finfish Advisory Committee. Selection of preferred management options and approval of the draft FMP are slated for the commission's Nov. 3-4, 2011, meeting.

The **Blue Crab FMP Amendment 2** is underway. It was determined that the existing data on blue crabs was insufficient and that a "formal" quantitative stock assessment could not be conducted. The Division of Marine Fisheries is using a new assessment approach called the Traffic Light method, which was explained in a presentation to the Marine Fisheries Commission in August. A draft Blue Crab FMP is being presented to the Marine Fisheries Commission at its Nov. 3-4, 2011, meeting and then it will be released for review and public comment to the four regional advisory committees and the Crustacean Advisory Committee. Selection of preferred management options and approval of the draft FMP are slated to occur in 2012.

The first review of the **Striped Mullet FMP** began in July 2010. The assessment has been delayed due to a stock assessment scientist vacancy. Data workshops have been held and the model to use in assessing that stock (Stock Synthesis, version 3.0) has been determined.

The **Shrimp FMP** is just beginning to be reviewed at this time and a plan development team is being formed to determine whether a revision or an amendment should be done.

The remaining species for the development of an FMP are **Yellow Perch, White Perch and the Catfishes**. A federally-funded Sport Fish Restoration grant to collect basic life history data on these species began in 2004, and the Division of Marine Fisheries continues to gather information on them from fish house sampling and other existing programs. Even so, there is not enough information yet to do a stock assessment, catch curves or even a trends analysis.

In addition, two FMP supplements have been developed and implemented over the last year. The first supplement to a FMP was **Supplement A to Amendment 2 of the Oyster FMP**. Both that supplement and an unscheduled **Amendment to the Bay Scallop FMP** were approved in November 2010. A supplement to the original Southern Flounder FMP that implemented recreational harvest limits was approved in February 2011.

FISHERY MANAGEMENT PLAN SCHEDULE (July 2011 – June 2016) – Revised August 2011					
SPECIES (last FMP)	2011- 2012	2012- 2013	2013- 2014	2014- 2015	2015- 2016
OYSTER (6/08)					
CLAM (6/08)					
IJA (6/08)					
STRIPED BASS (5/04)					
SOUTHERN FLOUNDER (2/05)					
STRIPED MULLET (4/06)					
BAY SCALLOP (11/07)					
KINGFISHES (6/08)					
BLUE CRAB (12/04)					
RIVER HERRING (9/07)					
RED DRUM (11/08)					
SHRIMP (4/06)					
SPOTTED SEA TROUT					
YELLOW PERCH					
	<i>New Plan</i>		Existing Plan Review		