

**NORTH CAROLINA**  
**FISHERY MANAGEMENT PLAN FOR INTERJURISDICTIONAL FISHERIES**  
**INFORMATION UPDATE**

**By**

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## **LIST OF ACRONYMS**

AC – Advisory Committee

ACL – Annual Catch Limit

ACT – Annual Catch Target

AG – Attorney General

AP – Advisory Panel

ACFCMA – Atlantic Coastal Fisheries Cooperative Management Act

AM – Accountability Measure

ASAP – Age Structured Assessment Program

ASMA – Albemarle Sound Management Area for striped bass

ASMFC – Atlantic States Marine Fisheries Commission

Bmsy – Biomass at Maximum Sustainable Yield

BRP – Biological Reference Points

CAP – Compliance Advisory Panel

CFDBS – Commercial Fisheries Database

CIE – Center for Independent Experts

Councils – Federal regional fishery management councils

CPUE – Catch Per Unit Effort

DAS – Days at Sea

DPS – Distinct Population Segment

CSMA – Central Southern Management Area for striped bass

DEQ – North Carolina Department of Environmental Quality

DMF – North Carolina Division of Marine Fisheries

EEZ – Exclusive Economic Zone

EFH – Essential Fish Habitat

ESA – Endangered Species Act

F – Fishing Mortality

Fmsy – Fishing Mortality at Maximum Sustainable Yield

Fmax – Fishing Mortality at Maximum Equilibrium Yield Per Recruit

FMP – Fishery Management Plan

FMU – Fishery Management Unit

FRA – Fisheries Reform Act

GS – General Statute of North Carolina

HAPC – Habitat Area of Particular Concern

HMS – Highly Migratory Species

IJ – Interjurisdictional

ISFMP – ASMFC Interstate Fisheries Management Program

ITQ – Individual Transferable Quota

LCS – Large Coastal Sharks

M – Natural Mortality

MAFMC – Mid-Atlantic Fishery Management Council

MFC – North Carolina Marine Fisheries Commission

MSA – Magnuson-Stevens Fishery Conservation and Management Act

MSP – Maximum Spawning Potential

MSY – Maximum Sustainable Yield

NEFSC – Northeast Fisheries Science Center

NEPA – National Environmental Policy Act

NFMA – Northern Fishery Management Area for monkfish

NMFS – National Marine Fisheries Service

NOAA – National Oceanic and Atmospheric Administration

NPDES – National Pollution Discharge Elimination System

OPR – NOAA Fisheries Office of Protected Resources

OY – Optimum Yield

PDT – Plan Development Team

PIB – Public Information Brochure

PRT – Plan Review Team

RAT – Rules Advisory Team

RRMA – Roanoke River Management Area for striped bass

SAFMC – South Atlantic Fishery Management Council

SARC – Stock Assessment Review Committee

SAW – Stock Assessment Workshop

SCA – Statistical Catch at Age

SCALE – Statistical Catch at Length

SCS – Small Coastal Sharks

SERO – Southeast Regional Office of NOAA Fisheries

SFMA – Southern Fishery Management Area for monkfish

SPR – Spawning Potential Ratio

SSB – Spawning Stock Biomass

SMZ – Special Management Zone

SSC – Scientific and Statistical Committee

TAL – Total Allowable Landings

TAC – Total Allowable Catch

TC – Technical Committee

TL – Total Length

TLA – Traffic Light Approach

USFWS – United States Fish and Wildlife Service

WRC – Wildlife Resources Commission

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## FISHERY MANAGEMENT PLAN, AMENDMENTS AND UPDATES

Management strategies adopted by N.C. Marine Fisheries Commission in 2002 and 2008 N.C. Fishery Management Plan for Interjurisdictional Fisheries.

<b>MANAGEMENT STRATEGY</b>	<b>OBJECTIVES</b>	<b>OUTCOME</b>
Adopt management measures appropriate for North Carolina contained in approved Council or Atlantic States Marine Fisheries Commission (ASMFC) FMPs via N.C. rulemaking (2002)	1 – 8	Reduction in duplication of effort while meeting statutory requirements of N.C. General Statute 113-182.1.
Consolidate proclamation authority contained in multiple separate rules into a single rule for purposes of implementing management measures consistent with federal regional fishery management councils (Councils) and ASMFC FMPs.	2	Elimination of duplicative rule provisions.



## EXECUTIVE SUMMARY

The original N.C. Interjurisdictional Fisheries Management Plan (IJ FMP) was approved by the MFC in September 2002. The goal of the IJ FMP is to adopt FMPs, consistent with N.C. law, approved by the Councils or the ASMFC by reference and implement corresponding fishery regulations in North Carolina to provide compliance or compatibility with approved FMPs and amendments, now and in the future. The goal of these plans, established under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (federal Councils FMPs) and the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA) (ASMFC FMPs), are similar to the goals of the Fisheries Reform Act of 1997 (FRA) to “ensure long-term viability” of these fisheries.

Amendment 1 to the IJ FMP was adopted by the MFC in June 2008. This amendment did not change the goal and objectives of the plan; however, it included a management strategy, with associated rule changes, to streamline and consolidate the use of proclamation authority by the DMF Director to implement management measures to comply with or complement ASMFC and Council FMPs. The amendment also included appendices containing information on applicable federal statutes, species management summaries, and management measures implemented for consistency with ASMFC and Council FMPs.

This document is an information update to the 2015 IJ FMP. An information update is a statutorily-required review of an FMP at least once every five years that results in a determination that the management measures contained in an FMP comply with the requirements of G.S. 113-182.1 for ensuring the long-term viability of the state’s commercially and recreationally significant species or fisheries. An information update only incorporates changes in factual and background data that do not alter management strategies or management measures contained in the prior FMP and does not introduce or address new management issues not previously included in the FMP. An information update refreshes the FMP with the most current statistics, trends, research, etc. available at the time the information update is developed. This document updates the 2008 IJ FMP with additional information regarding the impetus for the original IJ FMP, changes in N.C. statutes, relevant management authorities, federal and interstate public process and the link between overlapping state and ASMFC FMPs.

## **I. PURPOSE**

The FRA and subsequent revisions through 2014 requires the DEQ to prepare FMPs for adoption by the MFC for all commercially and recreationally significant species or fisheries that comprise North Carolina's marine and estuarine resources. FMPs are prepared by the DMF of the DEQ. Many FMPs have been developed and implemented by Councils or the compact of states under the ASMFC. The goal of these plans, established under the MSA (federal Councils FMPs) and the ACFCMA (ASMFC FMPs), are similar to the goals of the FRA to "ensure long-term viability" of these fisheries. For the purposes of this plan, sustainable harvest as defined in the FRA is synonymous with optimum yield (OY) or other recovery targets defined in ASMFC and federal Council FMPs.

The ultimate purpose of the N.C. FMP for Interjurisdictional Fisheries is as follows:

- 1) Adopt management measures appropriate for North Carolina contained in approved Council or ASMFC FMPs by reference as minimum standard(s);
- 2) Avoid duplication of effort in the development of plans under the FRA for species or species groups where equivalent Council or ASMFC FMPs have been developed and adopted with full participation from the state of North Carolina; and
- 3) Ensure that no inconsistencies exist with regard to Endangered Species Act (ESA) considerations for species managed under this FMP or under the ESA.

Several N.C. general statutes (G.S.) clearly acknowledge the overlapping authority of the State with the ASMFC and Councils; they also define the hierarchy within which the MFC's authority lies in establishing provisions to comply with the mandates of these management bodies. Namely, management measures established by the MFC must be consistent for those resources for which the Councils and ASMFC have primary jurisdiction. G.S. 113-182 clarifies that regulation of fish and fisheries in the Atlantic Ocean out to the limit of the federal Exclusive Economic Zone (EEZ) should be consistent with the MSA. Additionally, Article 19 of Chapter 113 of the General Statutes (G.S. 113-251 through 113-258) fully incorporates the ASMFC compact.

Notwithstanding the similar goal but differing legal basis, the Council and ASMFC FMPs when adopted by the MFC as a N.C. FMP are held to the standards established in G.S. 113-182.1 and associated policies:

- 1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- 2) Recommend management actions pertaining to the fishery or fisheries.
- 3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest [revised effective 2004].

- 4) Specify a time period, not to exceed two years from the date of the adoption of the plan, to end overfishing. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management [effective 2010].
- 5) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management [effective 2010].
- 6) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management [effective 2010].

The revised FRA adjusted several definitions in G.S. 113-129 [effective 2004]:

Sustainable Harvest (14a) is defined as the amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.

Overfished (12c) is defined as the condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.

Overfishing (12d) is defined as fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.

Many of the subsequent revisions to the general statutes that comprise the FRA have focused on providing greater clarity in terminology, as well as greater accountability with regard to management measures designed to end overfishing and achieve sustainable harvest for fisheries under sole jurisdiction of the MFC and the DEQ. Several of these changes are broadly reflective of similar provisions in federal law (i.e., the MSA) and/or practices employed by the ASMFC. In 2014, the DMF undertook the development of resource policies to formalize interpretation of the statutory requirements above.

## **II. GOAL AND OBJECTIVES**

The goal of the IJ FMP is to adopt FMPs, consistent with N.C. law, approved by the Councils or ASMFC by reference and implement corresponding fishery regulations in North Carolina to provide compliance or compatibility with approved FMPs and amendments, now and in the future. To achieve this goal, the following objectives shall be met:

1. Participate fully, consistent with N.C. law, in all levels (advisory panels, technical committees, stock assessment subcommittees, plan development and review teams, management boards, monitoring committees and other committees) of the ASMFC and

Council processes for developing FMPs and amendments through appropriately informed DMF staff, MFC members, citizen advisors, and the public at large.

2. Adopt management measures appropriate for North Carolina coastal waters to implement measures promulgated by the Secretary of Commerce or approved by the ASMFC necessary to implement federal FMPs, as well as to achieve the sustainable harvest for Council and ASMFC managed species.
3. Develop a program of education and public information to help identify the causes and nature of problems in the fish stocks managed by the Councils or ASMFC, their habitat and fisheries, and the rationale for management efforts to solve these problems.
4. Develop and implement a management and regulatory process that provides adequate resource protection, optimizes yield from the fishery, and considers the needs of all user groups.
5. Promote harvesting practices, methodologies, and technologies that minimize bycatch.
6. Restore, improve and protect essential, critical fisheries habitat and environmental quality to increase growth, survival, and reproduction of fish stocks.
7. Identify, encourage, and conduct research to improve understanding of population ecology and dynamics.
8. Initiate, enhance, and conduct studies to collect the socioeconomic data needed to properly monitor and manage the fisheries.

### **III. BACKGROUND**

The original IJ FMP was approved in September 2002 and updated through Amendment 1 to the FMP in 2008. The impetus behind the development of the FMP was not only to reduce duplication of effort, but also to foster improved communication and opportunities for input between the MFC, its advisory committees, and the ASMFC and Councils. The MFC had a lengthy discussion after its approval of the original FMP regarding the communication process on issues of interest, as well as the “due diligence” necessary on the part of both the DMF Director (to ensure items are brought forward) and the MFC (to review said items and ensure that any concerns or input are provided to the decision-making authority). The MFC recognized and acknowledged that the state’s ASMFC commissioners and Council representatives are often in a position of compromise in achieving management goals for a species. Accordingly, while the concerns of the MFC on a particular topic may be conveyed by the state’s representatives at Council and ASMFC meetings, the management body’s ultimate decision on a particular issue may not align with the MFC’s position.

### **IV. MANAGEMENT AUTHORITY**

The ACFCMA and the 2006 reauthorization of the MSA confer the authority for management of coastal, interjurisdictional fisheries to the ASMFC and the Councils (See Appendix A). The purpose of these acts is to provide for the preparation and implementation, in accordance with

standards contained in the respective Acts, of FMPs that will achieve and maintain the availability of coastal fishery resources on a long-term basis (sustainable harvest).

North Carolina is an active, voting member on the ASMFC as well as the South and Mid-Atlantic Fishery Management Councils (SAFMC and MAFMC, respectively). North Carolina's participation in these organizations is critical to ensure that North Carolina's fishermen and fisheries resources are considered and adequately protected. To that end, North Carolina through its DMF staff, ASMFC or Council members, and citizen advisors participates fully in the development of these federal FMPs that have an impact on commercial and recreational fisheries in North Carolina.

Several N.C. general statutes deal with the adoption of federal regulations developed under authority of the ASMFC or adopted through the federal Councils by the Secretary of Commerce under authority of the MSA. G.S. 150B-21.6 states "an agency may incorporate the following material by reference in a rule without repeating the text of the referenced material: (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association." G.S. 113-228 states that the MFC "in its discretion may by reference in its rules adopt relevant provisions of federal laws and regulations as State rules." Additionally, this statute provides for the MFC to be "exempt from any conflicting limitations in G.S. 150B-21.6 so that it may provide for automatic incorporation by reference into its rules of future changes within any particular set of federal laws or regulations relating to some subject clearly within the jurisdiction of the Department."

G.S. 143B-289.51 describes the creation and purpose and G.S. 143B-289.52 the powers and duties of the MFC. These statutes provide for the MFC to advise the State regarding ocean and marine fisheries within the jurisdiction of the ASMFC and federal Councils, to manage or regulate fishing in the Atlantic Ocean and to adopt relevant State rules for compliance with or implementation of ASMFC or Council FMPs. Consequently, the MFC and DMF have the authority to develop an FMP that adopts ASMFC and federal Council plans by reference.

## **V. MANAGEMENT UNIT: FISH STOCKS MANAGED BY THE COUNCILS AND COMMISSION**

Table 1 is a summary of the finfish species managed under FMPs developed by the Councils and the ASMFC as of the 2015 information update to the IJ FMP. This list constitutes the management unit for this FMP. Other species may be added to this list in the future from subsequent Council or ASMFC amendments as other fish stocks require Council or ASMFC action. Conversely, if a species is removed from a Council or ASMFC management unit, then the species is no longer contained in the IJ FMP management unit. The intent of this IJ FMP is to incorporate any species added or removed via amendments that are developed in the future. Appendices B and C provide detailed descriptions of the FMPs and North Carolina involvement in the development of those FMPs. For species that are also managed under a state FMP, new sections regarding ESA considerations, aquaculture and commercial hook-and-line fisheries are being added to the state FMP format. Please consult the appropriate state FMP for information on these topics for a particular species.

Table 1. Species or species groups managed under the jurisdiction of the ASMFC, South and/or Mid-Atlantic Councils and the N.C. MFC.

Species or species group	Atlantic States Marine Fisheries Commission	South Atlantic Fishery Management Council	Mid-Atlantic Fishery Management Council	North Carolina <sup>1</sup> Marine Fisheries Commission
American Eel	X			
Atlantic Croaker	X			
Atlantic Menhaden	X			
Atlantic Striped Bass	X			X
Atlantic Sturgeon*	X			
Black Drum <sup>2</sup>	X			
<b>Black Sea Bass – North</b>	X		X	
<b>Bluefish</b>	X		X	
Red Drum	X			X
<b>Scup</b>	X		X	
Shad and River Herring	X			X
<b>Sharks</b>	X			
<b>Spanish Mackerel</b>	X	X		
<b>Spiny Dogfish</b>	X		X	
Spot	X			
Spotted Seatrout	X			X
<b>Summer Flounder</b>	X		X	
Tautog	X			
Weakfish	X			
<b>Dolphin/Wahoo</b>		X		
<b>King Mackerel</b>		X		
<b>Snapper Grouper Complex (includes Black Sea Bass – South)<sup>3</sup></b>		X		
<b>Monkfish</b>			X	

<sup>1</sup> State FMPs have been developed for these species prior or subsequent to those developed by ASMFC or the Councils.

<sup>2</sup>Black drum added to IJ FMP management unit subsequent to approval of ASMFC FMP in 2013.

<sup>3</sup>Tiger grouper, black margate, blue-striped grunt, French grunt, Spanish grunt, smallmouth grunt, porkfish, queen triggerfish, crevalle jack, yellow jack, grass porgy, sheepshead and puddingwife were removed from the Snapper Grouper Complex in April 2012; blue runner was removed from the Snapper Grouper Complex in January 2013.

\*Listed as endangered under the ESA.

Species or species groups in **bold** require federal permits for fishermen.

## VI. FISHERY MANAGEMENT PLANS

FMPs and their subsequent amendments have been prepared or are in the process of being prepared by the Councils or ASMFC for the species listed in Table 1. Several of these plans

have many regulatory amendments and/or full plan amendments. The intent of this FMP is to adopt these plans as North Carolina FMPs by reference, including subsequent amendments and additions, in order that management measures developed through these federal processes can be implemented in the state waters of North Carolina. All original plans and amendments are maintained electronically on Council and ASMFC websites, and may be obtained by contacting the DMF headquarters office in Morehead City, the South or Mid-Atlantic Fishery Management Councils (<http://www.nmfs.noaa.gov/councils.htm>), or the ASMFC ([www.asmfc.org](http://www.asmfc.org)). State contacts for each federal FMP are listed in Appendix C.

This FMP document is an information update that proposes no new management actions or any actions more restrictive than those required for compliance with FMPs developed by the ASMFC or Councils. An information update is the statutorily-required review of an FMP at least once every five years that results in a determination that the management measures contained in an FMP comply with the requirements of G.S. 113-182.1 for ensuring the long-term viability of the state's commercially and recreationally significant species or fisheries. An information update to an FMP only incorporates changes in factual and background data that do not alter management strategies or management measures contained in the prior FMP and does not introduce or address new management issues not previously included in the FMP. An information update refreshes the FMP with the most current statistics, trends, research, etc. available at the time the information update is developed. An information update is developed without the assistance of an FMP advisory committee and does not require review by regional or standing advisory committees of the MFC.

A variety of MFC rules and DMF proclamations are utilized to implement management actions in order for the State to be in compliance with the ASMFC and Council plans. A 2007 review of these rules was undertaken to determine if they provide the most efficient and consistent approach. Appendix D contains a more thorough discussion of this review and all recommended rule changes that were implemented (effective Oct. 1, 2008) to improve the compliance process. No rule changes are proposed in this information update.

## **VII. FEDERAL MANAGEMENT**

### Atlantic States Marine Fisheries Commission and the Atlantic Coastal Fisheries Cooperative Management Act

The ASMFC is a compact of the 15 coastal states along the U.S. Atlantic coast from Maine to Florida. The ASMFC mission is "to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of physical waste of the fisheries from any cause". The Commission's Interstate Fisheries Management Program (ISFMP) began in 1981. The goal of the program is to promote cooperative management through interstate FMPs.

The ISFMP operates under the direction of the ISFMP Policy Board and the species management boards. The ISFMP Policy Board is composed of one representative from each member state, the District of Columbia, the Potomac River Fisheries Commission, National Oceanic and Atmospheric Administration (NOAA) Fisheries, and United States Fish and Wildlife Service (USFWS). The Policy Board provides overall guidance and ensures consistency with the ISFMP

Charter and between FMPs. The species management boards consider and approve the development and implementation of FMPs, including the integration of scientific information and proposed management measures. In this process, the species management boards primarily rely on input from two main sources – species technical committees and species advisory panels. North Carolina and the DMF have staff and citizens who serve as members of ASMFC management boards, technical committees, and advisory panels. The Director of the DMF, along with legislative and governor’s appointees are the key voting members on the ASMFC, with DMF staff and citizen advisors representing the scientific, environmental, commercial, and recreational interests of North Carolina.

The importance of a cooperative program to protect and enhance the fisheries under the jurisdiction of the ASMFC has long been recognized as the most critical component of the ASMFC mission. In 1993, Congress enacted the ACFCMA (Appendix A). This Act charges all Atlantic states with implementing coastal FMPs (for fisheries occurring out to three miles from shore) adopted by the ASMFC to safeguard the future of Atlantic coastal fisheries in the best interest of both the fishermen and the nation. The powers of the ASMFC were expanded by the Act and the purposes of the ASMFC were also altered. The ASMFC became the agency charged by Congress with establishing and implementing fisheries management for migratory fish stocks along the Atlantic coast that had historically been state-controlled. In so doing, the ASMFC now exercises the sovereignty of the United States, rather than the collective power of the subscribing compact states. The Act also expanded the ASMFC’s jurisdiction to include conservation of the “marine environment” in order to assure the availability of coastal fisheries resources on a long-term basis. (Attorney General Advisory Opinion, 1996)

#### Federal Regional Fishery Management Councils and the Magnuson-Stevens Fishery Conservation and Management Act

The 2006 reauthorization of the MSA (Appendix A), maintains the establishment of the Councils (e.g., South Atlantic and Mid-Atlantic Councils) to “exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of Fishery Management Plans which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans and which take into account the social and economic needs of the States.” Jurisdiction of the councils is for all fish within the EEZ and fishery management authority beyond the EEZ over anadromous species and Continental Shelf fishery resources. In the 2006 reauthorization, the Act calls for the FMPs to set catch levels to prevent overfishing, based on scientific advice, by 2010 for stocks subject to overfishing. The Act states that Councils shall “establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability”. Management measures must be prepared and implemented to end overfishing immediately within two years of notification. In 2013, Congress began the process of reauthorization of the existing MSA, which continues at the time of this writing. The IJ FMP adopts by reference the MSA and any subsequent editions.

The Councils are comprised of the state division director or his designee, obligatory, and at-large positions appointed by the U.S. Secretary of Commerce. Similar to the ASMFC, the Councils appoint citizen advisors from states that have an interest in the specific fishery, to serve on



advisory panels to assist in the development of FMPs. Due to its geographic position as a transition zone between northern and southern fish populations, North Carolina is a member of both the Mid-Atlantic and South Atlantic Fishery Management Councils.

The clear intent of Congress in these two acts is to establish federal and state partnerships to ensure that the nation's fisheries are adequately protected and managed for optimum yield. The public participation in these processes is likewise emphasized, and the mechanisms to ensure public involvement are built into the acts. Similarly, North Carolina embraces this philosophy and strives to ensure adequate opportunities for public input and comment.

### Endangered Species Act of 1973

The ESA was enacted by Congress in 1973 "to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, (and) to provide a program for the conservation of such endangered species and threatened species." The ESA is a comprehensive act that covers many aspects of endangered species protection and management. The USFWS and the NOAA Fisheries Office of Protected Resources (OPR) share responsibility for implementing the provisions of the ESA. Generally, the USFWS manages terrestrial and freshwater species, while NOAA Fisheries OPR has jurisdiction over marine and anadromous species. A species is considered "endangered" if it is in danger of extinction throughout all or a significant part of its range, and "threatened" if it is likely to become an endangered species within the foreseeable future.

The ESA prohibits the "take" of any listed species, which is defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct." Exceptions to the take prohibition are provided for in Sections 6, 7, and 10 of the Act through permits specific to certain activities. Section 6 allows for cooperative agreements with states actively engaged in research and monitoring that directly benefits the conservation of listed species, Section 7 relates to interagency cooperation amongst federal agencies, while Section 10 allows for takes that are incidental to otherwise lawful activities, such as fishing.

There are two primary provisions to Section 7: 1) all federal agencies shall utilize their authorities towards the furtherance of the goals of the ESA; and 2) each federal agency must consult with NOAA Fisheries or USFWS to insure that any action funded, authorized, or carried out by the agency is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. Although this section relates to federal agency cooperation, it can impact state projects through a federal nexus. If a project has federal authorization, funding, or other participation, it is subject to Section 7 consultation between the federal agency and NOAA Fisheries. DMF has received biological opinions in regards to Section 7 consultations on several grants.

Section 10 permits are an important tool for the regulated community, as they allow for a fishery to continue (under constraints and other conditions) that would otherwise have to be shut down. DMF has worked with NOAA Fisheries OPR in the development of Section 10 permits for inshore gill net and shrimp trawl fisheries over the years. The permits have allowed for the use of alternate management measures for the fisheries under an approved conservation plan designed to minimize impacts to threatened and endangered species.

Ideally, all measures needed to conserve the marine and estuarine resources of North Carolina would be developed and implemented solely under the FRA FMP process. In reality, state and federal authorities and initiatives overlap for many species, and this IJ FMP establishes which management processes take precedence. Section X. describes the implementation of these management processes.

As noted in Section I. Purpose, the IJ FMP must ensure that no inconsistencies in management strategies exist in regard to the ESA requirements for species managed under this FMP or under the ESA. The approach taken will consider how best to address the goals of the ESA and minimize activities that jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat. The ESA requirements take precedence over any potential conflicting FMP management considerations. Mechanisms that further this goal are DMF programs that collect relevant data on ESA species, coordination of sampling activities under Section 7 permits, the receipt of Section 10 permits for identified fisheries, and staff participation at the federal level on technical and review panels.

### **VIII. COUNCIL AND ASMFC PLAN DEVELOPMENT**

The process for developing FMPs is similar at the ASMFC and Council levels and is likewise similar to the process set forth in North Carolina by the FRA. The development of an FMP or amendment begins with a scoping document and scoping hearings (scoping process). This is the stage when issues are identified by the ASMFC or Councils with input from the public. A public hearing document is produced by the plan development teams and the Council or ASMFC. It contains management options aimed at rebuilding an overfished fishery or maintaining a sustainable fishery. After the scoping process, issues are discussed and included for additional analysis or rejected from further consideration. Proposed actions are reviewed by technical scientific committees to determine which alternatives achieve the conservation goals of the FMP.

A draft FMP or amendment is then developed by a species management board or Council committee and plan development team and taken out for public hearings (FMP development). Citizen advisory panels provide input during the scoping phase as well as prior to final action being taken. For Council FMPs, public hearings are usually held in each representative state. For ASMFC FMPs, public hearings may be held in the states that declare an interest in the fishery. At this point in the process, formal public comment is taken from individuals and organizations with an interest in the FMP. The Council or ASMFC reviews public comments and selects preferred alternatives. Council-approved FMPs must be subsequently reviewed by NOAA Fisheries, published in the Federal Register for a public comment period as required under the National Environmental Policy Act (NEPA) and approved by the Secretary of Commerce. For FMPs developed by the ASMFC, final species management board approval is followed by final approval by the full Commission and enacted with no further comments accepted. For FMPs developed by the Councils, comments are accepted again after the proposed rule to implement management changes is published by the Secretary of Commerce. Management measures contained in FMPs approved by the full ASMFC go to the individual states for implementation through each state's administrative process.

An abbreviated process for implementing a defined set of management changes that does not require scoping is available for both Councils and the ASMFC. For Council FMPs, both the

management changes and abbreviated process are outlined in each FMP's "framework procedure," and the public instrument used to describe the changes under consideration is called a "framework amendment" or "regulatory amendment." Similarly for ASMFC FMPs, this defined set of management changes and abbreviated process are outlined in each FMP's "adaptive management" section, and the public instrument used to describe the changes under consideration is called an "addendum." For both Council and ASMFC FMPs, the suite of management changes allowed under this abbreviated process usually includes such items as size limits, recreational bag limits, commercial trip limits, closed seasons and quotas. For Council FMPs, a 30-day comment period on the proposed rule to implement management changes is noticed; unlike the full amendment process, there is no accompanying comment period on the amendment document itself. However, Councils will accept public comment on a regulatory amendment as part of their normal public comment process both during and between Council meetings. For ASMFC FMPs, an addendum is also noticed for a 30-day public comment period, and states may request a public hearing be conducted in their jurisdictions during that timeframe. Finally, as part of the ISFMP under the ASMFC process, states and jurisdictions are allowed to implement management measures more restrictive than those required for compliance with an interstate FMP, but may not be less restrictive than the minimum standards.

## **IX. COORDINATION OF FMP DEVELOPMENT WITH THE N.C. MFC**

Numerous individuals from member states are involved in the development of interjurisdictional FMPs; however, there is a need for specific roles to be identified for the DMF and the MFC to ensure that both are well-informed on the issues surrounding the development and approval of these federal plans. The MFC has expressed its concern to the DMF, the ASMFC and NOAA Fisheries about a lack of involvement and understanding of FMP management issues while these issues are undergoing deliberation in the federal FMP development process. Since the MFC must ultimately adopt compliance rules for state waters, stakeholders felt they should have more active involvement in the process. A joint meeting with the MFC and ASMFC was held in October 2006 to discuss this topic. The main conclusion from the meeting was the need to improve the lines of communication between all involved management entities.

In order to facilitate improved information exchange the MFC is informed of FMP scoping and development activities being undertaken by the ASMFC or federal Councils. Copies of any scoping documents, ASMFC or Council meeting summary memoranda, as well as annual compliance reports, implementation plans or Public Information Brochures (PIBs) pertinent to North Carolina are made available to the MFC. The DMF MFC Liaison office staff is responsible for circulating these documents to the MFC.

Additionally, the MFC may refer any of these materials to its committees for review. The MFC may also recommend any additional alternatives it feels are appropriate for committee review and feedback. The DMF submits any comments from the MFC to the appropriate management agency as part of that agency's public input process. The DMF MFC Liaison office staff provides resulting documents, notices of hearings, notice of final actions, and proposed rules to the MFC for review. Also, the DMF Public Information Officer forwards announcements regarding relevant Council and ASMFC issues to stakeholders via email distribution lists.

## **X. IMPLEMENTATION OF COUNCIL/COMMISSION PLANS**

Federal law requires that the conservation management actions approved through an ASMFC or Council FMP be implemented by the State of North Carolina. Both the ACFCMA and the MSA contain measures that may be taken by the federal government should actions be taken, or fail to be taken, that will substantially and adversely affect the carrying out of such FMPs (Appendix A). The MFC, through the adoption of the IJ FMP, adopts management measures appropriate for North Carolina as the minimum standards for the management unit species or species group. This includes compliance requirements of ASMFC plans that are a product of the initial FMP or an amendment. An example of this is the requirement pursuant to Amendment 3 to the ASMFC Interstate FMP for Shad and River Herring that all states must have an approved Sustainable Fishery Plan in order to allow harvest of American shad within their jurisdictions.

During the interim between federal FMP approval and MFC rule action (if necessary) for compliance, the DMF Director may implement any approved management measure by proclamation as authorized by MFC rule 15A NCAC 03M .0512. Per G.S. 113-221.1, there are three required elements that establish the authority for the DMF Director to suspend or implement management measures by proclamation. The MFC must specifically authorize the DMF Director the ability to issue a proclamation, there must be a particular rule in place, and the rule must be affected by a variable condition. If a federally-managed species continues to be subject to variable conditions, it will continue to be managed via proclamation authority; this has generally been the practice since 2008. Conversely, should a set of conditions for a federally managed species become stable, the MFC may consider rulemaking to adopt a particular rule for that species.

The intent of this FMP is not to restrict the State of North Carolina or the MFC from implementing additional measures deemed appropriate by the best available information and in the best interest of the fisheries resources of North Carolina. The four species in Table 1 that also have N.C.-specific FMPs illustrate this point. The state FMP development process provides N.C. citizens a more in-depth or timely consideration of the stock condition, enhanced public involvement on management issues through the existing regional advisory committees, and direct authority of the MFC to implement resulting management strategies. Also, G.S. 150B-19.1 sets forth the principles of rulemaking to require that FMP rules, when appropriate, “shall be based on sound, reasonably available scientific, technical, economic, and other relevant information” and does not place an undue burden upon those persons or entities who must comply with the management action. The following brief overview of the four species with dual plans (N.C. IJ FMP and an individual N.C. FMP) describes the specific conditions that prompted development of each individual N.C. FMP.

### Striped Bass

Atlantic striped bass abundance from North Carolina to Maine declined dramatically in the late 1970s. Because of the historical importance of striped bass to both the commercial and recreational sectors throughout the entire region, as well as the interjurisdictional migratory behavior of striped bass, the U.S. Congress passed the Atlantic Striped Bass Conservation Act – P.L. 98-613 on October 31, 1984 (98 stat. 3187, 16 U.S.C. 5151-5158). The historical Act established a unique state-based, federally-backed management scheme; however, the Act only

applied to Atlantic Ocean migratory stocks, so the more southern N.C. riverine endemic stocks were excluded.

The MFC and the N.C. Wildlife Resources Commission (WRC) in cooperation with USFWS implemented a Memorandum of Agreement in 1990 to address management of striped bass in the Albemarle Sound and Roanoke River (covered by the Act). The original Estuarine Striped Bass FMP was approved by the MFC in 1994 and was targeted at the continued recovery of the Albemarle/Roanoke stock, which at the time was at historically low levels of abundance and was experiencing chronic spawning failures. This comprehensive plan also, for the first time, addressed the management of all estuarine stocks of striped bass in the state, including a commercial quota for the Central/Southern stocks. The plan also satisfied the recommendation contained in the 1992 U.S. Fish and Wildlife Service Report to Congress for the North Carolina Striped Bass Study that such a plan be prepared. The N.C. Estuarine Striped Bass FMP that conformed to the requirements set out in the N.C. FRA of 1997 proceeded in order to fully address management for all the N.C. estuarine stocks and was approved in 2004.

#### River Herring

The ASMFC Interstate FMP for Shad and River Herring was initially approved in 1985, but no restrictions were included. Amendment 1 to that plan was approved in 1998 that provided for restrictions on the American shad fisheries in the ocean, but made no specific regulatory recommendations concerning river herring. The FMP included greater biological monitoring and reporting requirements for river herring and recommended that existing management regimes be maintained or strengthened. Concern over continued reductions in both landings and juvenile survey values led to imposition of seasonal closures and harvest quotas in the early 1990s and adoption of the N.C. River Herring FMP in 2000 to comprehensively manage the fishery in state waters.

#### Red Drum

The red drum stocks in North Carolina were classified as stressed-declining in the 1997 DMF Stock Status Report and based on initial MFC FMP Guidelines, red drum were given high priority by the MFC for immediate FMP development. The guidelines also provided for a provisional plan required within 90 days of a listing of stressed-declining in the DMF Stock Status Report. Interim measures were implemented in October 1998 to prevent any further decline in the status of the red drum stocks and the MFC also initiated the state red drum FMP which was completed in March 2001. At that time, the MFC determined additional state measures were crucial to protect a large year class of 14- to 15-inch red drum and to move toward reaching the SAFMC goal of an OY of 40 percent spawning potential ratio (SPR) and an overfishing definition of 30 percent SPR.

Prior to the time interim measures were implemented in 1998, red drum along the Atlantic coast, including North Carolina, were already managed jointly by the ASMFC and the SAFMC. The SAFMC Red Drum FMP was developed and passed in 1990 and subsequently adopted as Amendment 1 to the ASMFC Red Drum FMP. This joint FMP, or Amendment 1, stated that intense fishing mortality on juvenile red drum in state waters was resulting in reduced recruitment to the adult spawning stock. Management measures in place prior to October 1998 were the result of these plans. The N.C. Red Drum FMP proceeded because measures taken as part of the ASMFC/SAFMC plan had been inadequate to prevent overfishing on the stock and no

plan was in place for further action with the ASMFC/SAFMC plan. The N.C. Red Drum FMP adopted the 30 percent overfishing and 40 percent target used in the ASMFC/SAFMC plans.

### Spotted Seatrout

Spotted seatrout are currently managed under the 2012 N.C. Spotted Seatrout FMP with guidance provided by the ASMFC Omnibus Amendment to the Interstate ASMFC FMP for Spotted Seatrout. While North Carolina is in compliance with the ASMFC minimum size limit for both recreational and commercial sectors and has adopted the recommended 20% SPR threshold, a separate N.C. FMP for spotted seatrout was developed to fully address the status of the stock through the state stock assessment process and to ensure long-term sustainability for the spotted seatrout stock in North Carolina.

For the species managed by both an individual N.C. FMP and the N.C. IJ FMP, measures implemented to maintain compliance with an ASMFC or Council FMP are documented in writing through a revision to the individual N.C. FMP. These changes in management strategies are documented in an information paper that is part of the FMP as a dated revision. The information paper provides the rationale agreed to by the DMF and the MFC for change in management under the authority of existing adaptive management (which provides a way to adapt to changing circumstances of a fishery.) The adaptive management measures implemented via the revision shall be considered in the next review or change to the individual N.C. FMP. Since public comment is received during the development of the ASMFC or Council FMP that contains adaptive management, seeking additional public comment preceding state implementation would be redundant, would potentially delay implementation, and is not required. Again, if additional measures beyond those required by the ASMFC or Council FMP are deemed appropriate for North Carolina, the state FMP development process would be employed as mentioned above.

It is important to note that significant DMF resources are invested to create and review state FMPs. Plan development takes upwards of two years, and the promulgation of rules under the Administrative Procedure Act (G.S. 150B) adds additional time. The DMF is considering ways to do more with less as budgets are reduced and demands on staff continue to increase. The DMF Strategic Plan notes developing a process of exempting issues from inclusion in FMPs that do not impact the long-term viability of the species and achieving efficiencies to reduce workload where possible. Consideration of “retiring” a state FMP when the corresponding federal FMP adequately includes all elements that would be addressed under a state plan will be formalized in a forthcoming DMF resource policy.

At the same time, should management actions be approved by the ASMFC or Councils that fail to meet legislative requirements (such as those set forth in G.S. 113-182.1), or are deemed contrary to the best interest of the resources or fishermen of the state of North Carolina, the MFC may challenge those restrictions, realizing the implications of a finding that determines the actions or inactions of the state will substantially and adversely affect the carrying out of such FMPs. A majority vote of the MFC would be required to go out of compliance with an ASMFC FMP or to not complement the management measures contained in a Council FMP in state waters. For ASMFC FMPs, a determination of non-compliance for North Carolina by the ASMFC would be forwarded to the Secretary of Commerce. If the Secretary concurs and determines that the measures the state failed to implement and enforce are necessary for

conservation, a moratorium for the fishery in question is imposed within the waters of the non-complying state. Enforcement of the moratorium is by federal agents and the United States Coast Guard. For the Council FMPs, the Secretary of Commerce may regulate the applicable fishery within the state boundaries (for fisheries occurring out to three miles from shore) in the event that a state takes an action or fails to take any action that substantially and adversely affects the carrying out of a Council FMP.

An alternative to a decision by the MFC to go out of compliance with an ASMFC FMP or not complement measures contained in a Council FMP is appointment of a Compliance Advisory Panel (CAP) by the MFC chairman to first review whether consistency with an ASMFC or Council FMP should be challenged. Additionally, in cases where options exist, a CAP may be formed and recommend management actions necessary to meet the requirements of FMPs that permit management options to be developed at the state level. Many of the FMPs and amendments developed by ASMFC require an implementation plan to outline how a state will comply with required management measures. States may be provided with options to reduce harvest in overfished fisheries or expand harvest in recovered fisheries that are differentially suited to the needs of the various fisheries in each state. For example, Amendment 3 to the ASMFC FMP for weakfish provided the states with options to reduce the commercial and recreational weakfish harvest. The recreational fishery had a choice of bag and size limits, while the commercial fishery could be regulated by size limits, mesh sizes, closed seasons, and closed areas. Review by a CAP can contribute to development of a plan that best suits the recreational and commercial fishing interests of North Carolina. Alternatively, within time constraints, the MFC may elect to develop management measures for review by one of its existing advisory committees rather than appointing a CAP.

The recommendations developed by the CAP are required to go through the MFC's Finfish Advisory Committee, regional advisory committees and full MFC for review and recommendations to DMF for presentation to the Councils/ASMFC. Once the compliance plan is approved by the Council/ASMFC, the MFC is required to adopt the rules necessary for compliance with the ASMFC plan and should complement actions in the federal Council plan. Some FMPs, however, impose mandatory fishery management measures, including quotas, bag limits, size limits, trip limits, etc., for which there are no options or exceptions. These management measures are required to be adopted by each state affected, including North Carolina, as the minimum standard for that fishery except as noted in the challenge process previously described.

Finally, North Carolina has considered withdrawing from the ASMFC compact on two occasions. The implications of withdrawal from the compact have been reviewed by the North Carolina Attorney General's office and addressed in the 1995 legislative session with the creation of the Atlantic States Marine Fisheries Compact Withdrawal Committee that reported their findings in 1996. In both instances, the rationale against withdrawal is based on the finding that a state is still subject to the ASMFC actions, regardless of its membership in the compact (See Appendix A for advisory memorandum from office of N.C. Attorney General). The ASMFC does have an appeal process that a state may employ to have a decision made by a species management board reconsidered by the policy board (Appendix A). The ISFMP charter also allows an appeal to the ISFMP Board in regards to challenging out-of-compliance determinations by the ASMFC.

In conclusion, a variety of tools exist within the framework of the IJ FMP to ensure the differential needs of North Carolina's fisheries are considered during both the development and implementation of interstate and federal FMPs. These tools are intended to assist in achieving the goals of minimizing duplication of management effort while meeting all relevant state and federal statutes.



## APPENDIX A LEGAL REFERENCES

### Appendix A-1

#### MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT Public Law 94-265

As amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act 2006 (P.L. 109-479), *Italic indicates amended sections, Shaded text shown in detail.*

AN ACT

To provide for the conservation and management of the fisheries,  
and for other purposes.

<http://www.nmfs.noaa.gov/msa2007/>,

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### **SEC. 2. FINDINGS, PURPOSES, AND POLICY 16 U.S.C. 1801**

**(b) PURPOSES.**--It is therefore declared to be the purposes of the Congress in this Act--  
**99-659, 101-627, 102-251**

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources[, and fishery resources in the special areas]\*;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

**104-297**

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

**101-627**

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

**95-354, 96-561, 104-297**

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

**104-297**

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

**SEC. 306. STATE JURISDICTION (16 U.S.C. 1856)  
97-453, 98-623**

**(a) IN GENERAL.--**

(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend

(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are--

(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

**104-297**

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the

fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.

**99-659, 104-297**

**(b) EXCEPTION.--**

(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that--

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the exclusive economic zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan; the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).

## Appendix A-2

### **TITLE 16 - CONSERVATION CHAPTER 71 - ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT**

#### **Sec. 5101. - Findings and purpose**

##### (a) Findings

The Congress finds the following:

##### (1)

Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

##### (2)

Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

##### (3)

Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and

intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

##### (4)

The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

##### (5)

The failure by one or more Atlantic States to fully implement a coastal fishery management plan can affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

##### (6)

It is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

##### (b) Purpose

The purpose of this chapter is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

#### **Sec. 5102. - Definitions**

In this chapter, the following definitions apply:

##### (1)

The term "coastal fishery management plan" means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that -

##### (A)

contains information regarding the status of the resource and related fisheries; and

##### (B)

specifies conservation and management actions to be taken by the States.

(2)

The term "coastal fishery resource" means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3)

The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(4)

The term "conservation" means the restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(5)

The term "Councils" means Regional Fishery Management Councils established under section 1852 of this title.

(6)

The term "exclusive economic zone" means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1983. For the purposes of this chapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(7)

The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(8)

The term "fishery" means -

(A)

one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B)

any fishing for such stocks.

(9)

The term "fishing" means -

(A)

the catching, taking, or harvesting of fish;

(B)

the attempted catching, taking, or harvesting of fish;

(C)

any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D)

any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C). Such term does not include any scientific research activity or the catching, taking, or harvesting of fish in an aquaculture operation.

(10)

The term "implement and enforce" means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(11)

The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(12)

The term "Secretary" means the Secretary of Commerce.

(13)

The term "State" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission

**Sec. 5103. - State-Federal cooperation in Atlantic coastal fishery management**

(a) Federal support for State coastal fisheries programs

The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) Federal regulation in exclusive economic zone

(1)

In the absence of an approved and implemented fishery management plan under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are -

(A)

compatible with the effective implementation of a coastal fishery management plan; and

(B)

consistent with the national standards set forth in section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851). The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2)

The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

**Sec. 5104. - State implementation of coastal fishery management plans**

(a) Coastal fishery management plans

(1)

The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(2)

Within 1 year after December 20, 1993, the Commission shall establish standards and procedures to govern the preparation of coastal fishery management plans under this chapter, including standards and procedures to ensure that -

(A)

such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available; and

(B)

the Commission provides adequate opportunity for public participation in the plan preparation process, including at least four public hearings and procedures for the submission of written comments to the Commission.

(b) State implementation and enforcement

(1)

Each State identified under subsection (a) of this section with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the timeframe established in the plan.

(2)

Within 90 days after December 20, 1993, the Commission shall establish a schedule of timeframes within which States shall implement and enforce the measures of coastal fishery management plans in existence before December 20, 1993. No such timeframe shall exceed 12 months after the date on which the schedule is adopted.

(c) Commission monitoring of State implementation and enforcement

The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries

#### **Sec. 5105. - State noncompliance with coastal fishery management plans**

(a) Noncompliance determination

The Commission shall determine that a State is not in compliance with the provisions of a coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the timeframes established under the plan or under section 5104 of this title.

(b) Notification

Upon making any determination under subsection (a) of this section, the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) Withdrawal of noncompliance determination



After making a determination under subsection (a) of this section, the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b) of this section, the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal

**Sec. 5106. - Secretarial action**

(a) Secretarial review of Commission determination of noncompliance

Within 30 days after receiving a notification from the Commission under section 5105(b) of this title and after review of the Commission's determination of noncompliance, the Secretary shall make a finding on -

(1)

whether the State in question has failed to carry out its responsibility under section 5104 of this title; and

(2)

if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation of the fishery in question.

(b) Consideration of comments

In making a finding under subsection (a) of this section, the Secretary shall -

(A)

give careful consideration to the comments of the State that the Commission has determined under section 5105(a) of this title is not in compliance with a coastal fishery management plan, and provide such State, upon request, with the opportunity to meet with and present its comments directly to the Secretary; and

(B)

solicit and consider the comments of the Commission and the appropriate Councils.

(c) Moratorium

(1)

Upon making a finding under subsection (a) of this section that a State has failed to carry out its responsibility under section 5104 of this title and that the measures it failed to implement and enforce are necessary for conservation, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2)

If after a moratorium is declared under paragraph (1) the Secretary is notified by the Commission that the Commission is withdrawing under section 5105(c) of this title the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) Implementing regulations

The Secretary may issue regulations necessary to implement this section. Such regulations -

(1)

may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(2)

shall allow for retention of fish that are subject to a moratorium declared under this section and unavoidably taken as incidental catch in fisheries directed toward menhaden if -

(A)

discarding the retained fish is impracticable;

(B)

the retained fish do not constitute a significant portion of the catch of the vessel; and

(C)

retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(e) Prohibited acts during moratorium

During the time in which a moratorium under this section is in effect, it is unlawful for any person to -

(1)

violate the terms of the moratorium or of any implementing regulation issued under subsection

(d)

of this section;

(2)

engage in fishing for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3)

land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d) of this section;

(4)

fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations issued under subsection (d) of this section;

(5)

refuse to permit any officer authorized to enforce the provisions of this chapter to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter;

(6)

forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this chapter;

(7)

resist a lawful arrest for any act prohibited by this section;

(8)

ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this chapter; or

(9)

interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(f) Civil and criminal penalties

(1)

Any person who commits any act that is unlawful under subsection (e) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson-Stevens

Fishery Conservation and Management Act ([16 U.S.C. 1858](#)).

(2)

Any person who commits an act prohibited by paragraph (5), (6), (7), or (9) of subsection (e) of

this section is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) Civil forfeitures

(1)

Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e) of this section, shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1860).

(2)

Any fish seized pursuant to this chapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) Enforcement

A person authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement

**Sec. 5107. - Financial assistance**

The Secretary and the Secretary of the Interior may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this chapter, including -

(1)

the preparation, implementation, and enforcement of coastal fishery management plans; and

(2)

State activities that are specifically required within such plans

## Appendix A-3

Atlantic States Marine Fisheries Commission

### **APPEALS PROCESS**

Approved by the ISFMP Policy Board

August 18, 2004

#### **Background**

The Atlantic States Marine Fisheries Commission's interstate management process is based on the voluntary commitment and cooperation of the states. The involved states have frequently demonstrated their willingness to compromise and the overall process has proven to be very successful. However, there have been instances where a state/jurisdiction has expressed concern that the Board decisions have not been consistent with language of an FMP, resulted in unforeseen circumstances or impacts, did not follow established processes, or were based on flawed technical information. In order to address these concerns, the ISFMP Policy Board charged the Administrative Oversight Committee with "exploring and further developing an appeals process".

Under the current management process the primary policy development responsibility lies with species management boards. And, in the case of development of new fishery management plans or amendments the full Commission has final approval authority prior to implementation. The purpose of the appeals process is to provide a mechanism for a state/jurisdiction to petition for a management decision to be reconsidered, repealed or altered. The appeals process is intended to only be used in extraordinary circumstances where all other options have been exhausted. The management boards have the ability to go back and correct errors or address additional technical information through the recently clarified process on "amending or rescinding previous board actions".

During the December 2003 ISFMP Policy Board meeting, the decision was made to continue to have the Policy Board serve as the deliberative body that will consider valid appeals. This decision is consistent with the language that is included in the ISFMP Charter. However, the Charter does not provide detailed guidance on how an appeal is to be addressed.

This paper details for the Commission appeals process.

**Appeal Criteria** –The intent of the appeals process is to provide a state with the opportunity to have a decision made by a species management board or section reconsidered by the Policy Board. The following criteria will be used to guide what type of decisions can be appealed. In general, management measures established through the FMP/amendment/addendum process can be appealed. However, the appellant must use one of the following criteria to justify an appeal:

1. Decision not consistent with FMP
2. Failure to follow process
3. Insufficient/inaccurate/incorrect application of technical information
4. Historical landings period not adequately addressed
5. Management actions resulting in unforeseen circumstances/impacts

The following issues could not be appealed:

1. Management measures established via emergency action
2. Out-of-compliance findings (this can be appealed but, through a separate, established process)
3. Changes to the ISFMP Charter

**Appeal Initiation** – The ISFMP Charter provides that a state aggrieved by a management board action can appeal to the ISFMP Policy Board. Any state can request to initiate an appeal; also a group of states can submit a unified request for an appeal. The states are represented on the Commission by three representatives that have the responsibility of acting on behalf of the states’ Executive and Legislative branches of government. Therefore, in order to initiate an appeal all seated Commissioners (not proxies) of a state’s caucus must agree that an appeal is warranted and must sign the letter submitted to the Commission. If a multi-state appeal is requested all the Commissioners from the requesting states must sign the letter submitted to the Commission. During meetings where an appeal is discussed proxies will be able to participate in the deliberations. Meeting specific proxies will not be permitted to vote on the final appeal determination, consistent with Commission policy.

A state (or group of states) can request and appeal on behalf of the Potomac River Fisheries Commission, District of Columbia, National Marine Fisheries Service, or the United States Fish and Wildlife Service.

The letter requesting an appeal will be submitted to the Chair of the Commission and include the measure(s) or issue(s) being appealed, the justification for the appeal, and the commitment to comply with the finding of the Policy Board. This letter must also include a demonstration that all other options to gain relief at the management board level have been exhausted. This letter must be submitted via certified mail at least **45 days** prior to a scheduled ASMFC Meeting Week. The Commission Chair, Vice-Chair and immediate past Chair will determine if the appeal meets the qualifying guidelines and notify the Policy Board of their decision. If the immediate past chair is no longer a commissioner the Chair will select an alternate from a state that is not affected by the appeal.

**Convene a “Fact Finding” Committee (optional)** -- Upon review of the appeal documentation, the Commission Chair, Vice-Chair and immediate past Chair (or alternate if necessary, as described above) may establish a “Fact Finding” Committee to conduct analyses and/or compile additional information if necessary. This group will be made up of individuals with the technical expertise (including legal, administrative, social, economic, or habitat expertise if necessary) and familiarity with the fishery to conduct the necessary analysis. If such a committee is convened the schedule included in the last section of this document may need to be adjusted to provide time for the Committee to conduct analyses. The Commission Chair, Vice-Chair and immediate past Chair (or alternate if necessary, as described above) may set a deadline for the Committee to complete its work to ensure the appeal is addressed in a timely manner.

**ISFMP Policy Board Meeting** –Following the determination that an appeal has met the qualifying guidelines, a meeting of the Policy Board will be convened at a scheduled ASMFC

meeting week. The agenda of this meeting will be set to allow sufficient time for all necessary presentations and discussions. The Chair of the Commission will serve as the facilitator of the meeting. If the Chair is unable to attend the meeting or would like to more fully participate in the deliberations, the Vice-Chair of the Commission will facilitate the meeting. The ISFMP Director will provide the background on the development of the management program as well as a summary of the justification provided in the record for the management board's action. The ISFMP Director will also present the potential impacts of the appeal on other affected states. The appellant Commissioners will present their rationale for appealing the decision and provide a suggested solution. The Policy Board will then discuss the presentations and ask any necessary questions. The Board will vote to determine if the management board's action was justified. A simple majority of the Policy Board is required to forward a recommendation to a management board for corrective action. If the Policy Board determines that the existing management program should be modified, it will issue a finding to that effect as well as any guidance regarding corrective action to the appropriate species management board. The referral may be worded to allow the management board flexibility in determining the details of the corrective action.

Upon receipt of the Policy Board's recommendation the management board will discuss the findings and make the necessary changes to address the appeal. The management board is obligated to make changes that respond to the findings of the Policy Board. A simple majority of the management board will be necessary to approve the changes.

**Appeal Products and Policy Board Authority**—Following the Policy Board meeting a summary of the meeting will be developed. This summary will include a detailed description of the findings and will be forwarded to the appropriate management board and Policy Board upon completion. If the Policy Board determines that changes to the management program are necessary, the summary may include guidance to the management board for corrective action. The report of the Policy Board will be presented to the management board for action at the next scheduled meeting.

**Considerations to Prevent Abuse of the Appeals Process** – The appeals process is intended to be used only in extraordinary situations and is in no way intended to provide a potential avenue to preempt the established board process. The initiation of an appeal will not delay the Commission process for finding a state out of compliance nor delay or impede the imposition of penalties for delayed compliance.

**Limiting Impacts of Appeal Findings** – If a state is successful in an appeal and the management program is altered, another state may be negatively impacted by the appeals decision. In order to prevent an appeals “chain reaction,” the Policy Board's recommendation and the resulting management board's decision will be binding on all states. All states with an interest in the fishery will be obligated to implement the changes as approved by the management board. Upon completion of the appeals process, a state is not precluded from taking further action beyond the Commission process to seek relief.

If the Policy Board supports the appeal and determines that corrective action is warranted, the potential for management changes to negatively impact other states will be evaluated by the Policy Board and the species management board.

### **Appeals Process Timeline**

1. Within **15 working days** of receipt of a complete appeal request the Commission Chair, Vice-Chair, and immediate past chair (or alternate) will determine if the state has an appeal which meets the qualifying guidelines.
2. Upon a finding that the appeal meets the qualifying guidelines, the appeal will be included on the agenda of the ISFMP Policy Board meeting scheduled during the next ASMFC Meeting Week (provided an adequate time period is available for preparation of the necessary documentation).
3. Following the finding that an appeal meets the qualifying guidelines, Commission staff and the appellant commissioners will have a minimum of **15 working days** to prepare the necessary background documents.
4. The background documents will be distributed at least **15 days** prior to the Policy Board meeting.
5. A summary of the Policy Board meeting will be developed and distributed to all Commissioners within **15 working days** of the conclusion of the meeting.

## Appendix A-4



ROY COOPER  
ATTORNEY GENERAL

State of North Carolina  
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REPLY TO: Francis W. Crawley  
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### MEMORANDUM

**TO:** North Carolina Marine Fisheries Commission

**FROM:** Francis W. Crawley *fwc*  
Special Deputy Attorney General

**DATE:** May 19, 2006

**RE** The Commission's Relationship with the Atlantic States Marine Fisheries Commission and the United States in Fisheries Management Matters

Two memoranda authored by Assistant Attorney General Tim Nifong in 1993 and 1995 addressed the Atlantic States Marine Fisheries Commission's (ASMFC) authority over striped bass in State waters and the effect of withdrawal from the ASMFC. The relevant conclusions in these detailed memoranda are incorporated into this memorandum but Mr. Nifong's writings need not be fully reproduced; they are available from the Division of Marine Fisheries.<sup>1</sup>

The following questions were asked during the April 2006 Commission meeting and will be addressed.

- I. Is the ASMFC covered under the Magnuson-Stevens Fishery Conservation Act, 16 USC 1801, et seq.? Answer: No

The ASMFC was created by an interstate compact entered into by the Atlantic coastal states. In 1949, the General Assembly codified the terms of the Compact in G.S. § 113-251 to § 113-253, and North Carolina became a member of the Commission that year. Originally the ASMFC made recommendations to the states for joint fishery management at the state level. Today the ASMFC is authorized by the Atlantic Coastal Fisheries Cooperative Management Act, 16 USC §§ 5101, et seq., to adopt Fishery Management Plans (FMP) for coastal fisheries resources that are located in or move between several states, or which occur in both state and federal waters. The Act requires the member States to implement the FMPs and comply with the management

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<sup>1</sup> This is an advisory memorandum. It has not been reviewed and approved in accordance with procedures for issuing an Attorney General's opinion.



requirements set forth in the Plans. If the ASMFC determines that a State is not in compliance with the requirements of a plan, the U.S. Secretary of Commerce, after making required findings may impose a moratorium on fishing in the fishery with the State's waters. The Act authorizes the Secretary of Commerce to enforce a moratorium and incorporates the civil and criminal penalty provisions found in the Magnuson-Stevens Act.

II. How can the State withdraw from the ASMFC? Answer: The State May Withdraw by Following the Procedure in Article XII of the Compact.

North Carolina joined the ASMFC by the action of the General Assembly in passing G.S. § 113-252, *et seq.* The legislation specifies the three members from North Carolina and the Marine Fisheries Commission is not represented. Article XII of the Compact provides "this compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this Compact must be preceded by sending six month's notice in writing of intention to withdraw from the Compact to the other states party hereto." G.S. § 113-252. Furthermore, the governor is required to execute and transmit the notice of intention to withdraw in accordance with Article XII. G.S. § 113-253. The decision to withdraw from the Compact rests with the General Assembly. Withdrawal would be accomplished by the General Assembly's directing the Governor to send the notice of intention required by Article XII which would be followed by the repeal to Article 19 of Chapter 113 of the General Statutes, the current statutes concerning the Compact.

III. What Consequences Would Result from Withdrawal from the ASMFC?

If North Carolina acts in accord with Article XII and effects a withdrawal from ASMFC, the State will no longer have any rights or powers concerning the Commission as set forth in the Compact. North Carolina will lose its representation and its right to vote on the adoption of FMPs that affect coastal fishery resources occurring in State waters.

A second consequence would be that North Carolina would continue to be held to the requirements of FMPs adopted by the ASMFC, but would not have a vote or any way to influence FMP development. The Atlantic Coastal Cooperative Management Act, 16 USC § 1501 *et seq.*, extends to all jurisdictions on the Atlantic where coastal fishery resources within the meaning of the Act occur, not just to the current members of the Compact. Therefore, North Carolina would continue to be subject to the Act's requirement that the State implement and enforce the fishery management plans for its fisheries even after a withdrawal from the ASMFC.<sup>2</sup>

The ultimate consequence following from the State's failure to implement and enforce ASMFC fishery management plans applicable to coastal fishery resources occurring in North Carolina would be federal closure of any fisheries that are not being conducted in compliance with an ASMFC plan. Individuals violating the closure would

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<sup>2</sup> Nifong memo to Sherri Evans-Stanton, 29 March 1995.

be subject to federal civil and criminal penalties. In addition the State would be unable to enforce its regulations in the E-E-Z to the extent the States rules are inconsistent with federal plans.

In carrying out the General Assembly's directive to adopt FMPs for commercially or recreationally significant species of fisheries, G.S. § 113-182-1, the Marine Fisheries Commission adopted the Interjurisdictional Fishery Management Plan. The FMP adopts by reference the management measures required by FMPs approved by the Councils and the ASMFC. These management measures are then adopted as the State's management measures for the affected fisheries. A consequence of withdrawal from the ASMFC and rejection of the federal management measures would be a possible finding of non-compliance by the ASMFC and the Secretary of Commerce's closing the affected fisheries in the State's coastal waters.

- IV. What is the Relevant Authority of the Marine Fisheries Commission?  
Answer: The Commission Exercises Regulatory Authority Through Rulemaking.

The Marine Fisheries Commission exercises only those powers that have been delegated to it by the General Assembly, State ex. rel. Commissioner of Insurance v. North Carolina Rate Bureau, 300 N.C. 381, 269 S.E.2d 547, reh'g denied, 301 N.C. 107, 273 S.E. 2d 300 (1980). The Commission is authorized to regulate all marine and estuarine resources in coastal fishing waters, and exercises this authority through rulemaking. Additionally, the Commission is given authority to adopt rules to comply with a FMP adopted by the ASMFC or the U.S. Secretary of Commerce. § 143B-289.52(e).

The authority to administer and enforce the statutes and regulations pertaining to coastal fisheries is expressly given to the Department. G.S. § 113-181. By statute, the commission is authorized to initiate a legal action only to contest the claim of title or claimed right of fishery in any navigable water that was registered as required by G.S. § 113-206.

Challenges to regulations implementing federal FMPs have been filed in the Federal District Court by fisherman or associations of fisherman who have been directly affected by the regulation. See Fisherman's Dock Cooperative v. Brown, 75 3d 164 (4<sup>th</sup> Circuit) (1996); NC Fisheries Association, Inc., et al. v Evans, 172 F Supp 2d 792 (Eastern District Va) (2001); NC Fisheries Association, Inc., et al. v. Brown, 917 F Supp 1108 (Eastern District Va) (1996). In several instances the State of North Carolina has intervened as a plaintiff on relation of the Governor. NC Fisheries Association, Inc., et al. v. Brown, 917 F Supp 1108; NC Fisheries Association, Inc. et al. v. Evans, 152 F Supp 2d 870, (Eastern District Va) (2001); NC Fisheries Association, Inc. et al. v Daley, 16 F Supp 2d 647, (Eastern District Va) (1997).

In conclusion, the decision to continue membership in the ASMFC rests with the General Assembly and, regardless of the State's membership status, North Carolina coastal waters will be subject to FMPs adopted by the ASMFC.

## APPENDIX B SPECIES SUMMARY

The state of North Carolina currently participates in the development and implementation of the following ASMFC or federal Council FMPs that comprise the management units for the North Carolina Interjurisdictional Fishery Management Plan. These FMPs are being placed in an appendix to facilitate updates, acknowledging the changing nature of rules and regulations developed under these FMPs with which North Carolina must comply. The information contained in this appendix is current through July 2015. Annual updates to these summaries may be found at <http://portal.ncdenr.org/web/mf/fmps-under-development> (“FMP Review”). North Carolina representatives (DMF staff and North Carolina citizens) involved in plan development may likewise change over time and are thus contained in Appendix C.

### ATLANTIC STATES MARINE FISHERIES COMMISSION

#### American Eel:

American eel, at the coast wide level, are managed as a single unit stock under the ASMFC Interstate Fisheries Management Plan (FMP) for American eel. Since the initial adoption of the ASMFC Interstate FMP there have been two stock assessments, three addenda, and a fourth addendum is being developed.

The ASMFC Interstate FMP for American Eel was initially developed and approved in 1999, in response to concerns about a decline in the abundance of American eel. American eel abundance declined from historical levels but remained relatively stable until the 1970s. Since the 1970s fishermen, resource managers, and scientists hypothesized that the stock may have further declined. However, at that time, the stock status was poorly understood; thus, the status was listed as unknown. This was due mainly to an overall lack of data, which resulted from inconsistent harvest data, short time series, and lack of standardized methodology. In the absence of reliable data and reference points and adequate information for management decisions, the FMP focused on data collection, as well as habitat protection and restoration. The plan initially implemented a six-inch minimum size limit for the recreational fishery and a 50-fish per person per day creel limit. It also required states to keep in place their current or more restrictive management measures for the commercial fisheries.

In 2006, the ASMFC American Eel Management Board (Management Board) approved Addendum I to the ASMFC Interstate FMP for American Eel. This addendum was developed to mandate data collection as a result of the 2006 stock assessment peer review, which highlighted a lack of eel catch and effort data. Addendum I mandated a catch and effort monitoring program, which in North Carolina is met through the North Carolina Eel Logbook Program.

In 2008, the Management Board approved Addendum II to the ASMFC Interstate FMP for American Eel. This addendum was developed to protect out-migrating silver eels using options such as gear restrictions, size limits, and seasonal closures to allow increased silver eel escapement. However, the Management Board chose to delay action on the commercial fishery management measures in order to incorporate upcoming stock assessment results.

In 2012, the ASMFC completed its American Eel Benchmark Stock Assessment. The stock

assessment found the coast wide American eel stock to be depleted as a result of historical overfishing, habitat loss, river damming, *Anguillacolla*, toxic pollutants, and climate change. In response to the 2012 ASMFC American Eel Benchmark Stock Assessment the Management Board initiated Addendum III.

In 2013, Addendum III to the ASMFC Interstate FMP for American Eel was approved for management use. This addendum implemented size and mesh restrictions, seasonal gear closures, and sampling mandates. The minimum size limit was increased from six inches total length (TL) to nine inches TL for recreational and commercial fisheries. A ½ x ½ inch minimum pot mesh size was implemented coastwide. It also implemented a harvest moratorium for all gears other than baited traps and pots from September 1<sup>st</sup> through December 31<sup>st</sup>. Additionally, it requires states with fishery-independent surveys that routinely collect American eel to continue them. For North Carolina, the Beaufort Bridgenet Survey (conducted by NOAA Fisheries) and the Estuarine Trawl Survey (conducted by DMF) are the two surveys that must be continued.

In 2013, upon approval of Addendum III the Management Board initiated Addendum IV to the ASMFC Interstate FMP for American Eel. Addendum IV was approved in October 2014 and addressed concerns in the glass eel, yellow eel, and silver eel fisheries. It reduced Maine's glass eel quota, established a payback provision for overages of any state or jurisdiction's glass eel quota, and required development of a life cycle survey for any state or jurisdiction with a glass eel quota. It also established a requirement for daily electronic reporting by both harvesters and dealers of glass eels, and allowed a limited harvest of glass eels for domestic aquaculture purposes within a state or jurisdiction under an approved aquaculture plan. Additionally, the addendum included a coastwide quota for yellow eels, with management triggers to implement state-by-state quotas if necessary, and allowed for the continuation of the Delaware River silver eel weir fishery.

#### Atlantic Croaker:

Atlantic croaker is currently managed as a single unit stock with a range from New Jersey to the east coast of Florida. The ASMFC initially approved the Interstate FMP for Atlantic Croaker in 1987. In November 2005, ASMFC approved Amendment 1 to the FMP which established biological reference points to allow for resource management on a coast wide basis, emphasized the restoration and maintenance of essential habitat, and developed research needs to improve future stock assessments. Amendment 1 also required stock assessments every five years, and established management triggers based on annual evaluation of specific metrics; depending on the results, a stock assessment could be conducted sooner than the prescribed five-year interval. The primary trigger was based on landings data, and required a stock assessment to be conducted if the most recent year's commercial or recreational landings were less than 70% of the previous two years' average landings.

The 2005 stock assessment divided the population into Mid-Atlantic and South Atlantic regions, but only assessed the Atlantic croaker population in Mid-Atlantic; it determined the stock in this region was not overfished and overfishing was not occurring. The fishing mortality (F) target and threshold rates, 0.29 and 0.39 respectively, were used to determine if croaker was experiencing overfishing. The target and threshold spawning stock biomass (SSB), 28,932 metric tons and 20,252 metric tons respectively, were used to determine if croaker was in an

overfished state. However, the estimates of F and SSB did not include bycatch from the shrimp fishery, a potentially significant source of mortality. Atlantic croaker is a recruitment-driven stock where abundance appears to be dependent on natural environmental conditions.

The 2010 benchmark assessment used data from the Mid-Atlantic and South Atlantic regions to produce a single, coast-wide assessment. A statistical catch-at-age (SCA) model was used in the assessment. The model was run with varying shrimp trawl fishing mortality, and in all instances overfishing was not occurring. Because of the high degree of uncertainty in the estimates of shrimp trawl bycatch, the model estimates of stock size and fishing mortality were not considered reliable. Therefore, the assessment can only provide trends in spawning stock biomass and estimates of relative fishing mortality, not absolute numbers. However, given that biomass had been increasing and the age-structure of the population had been expanding since the late 1980s, it is unlikely the stock is depleted.

Following the 2010 stock assessment the ASMFC's South Atlantic State/Federal Fisheries Management Board approved Addendum I to Amendment I to the Interstate FMP for Atlantic Croaker in 2011. The addendum changed the management unit to one region (New Jersey through the east coast of Florida) and modified the biological reference points (BRPs) used to assess stock condition based on the results of the 2010 assessment. The BRPs for the coastwide resource are:

- $F \text{ target} = 0.75 * F_{MSY}$ ;  $F \text{ threshold} = F_{MSY}$
- $SSB \text{ target} = SSB_{MSY}$ ;  $SSB \text{ threshold} = 0.70 * SSB_{MSY}$  (MSY = maximum sustainable yield)

In 2013, the board initiated the development of new management options in response to concerns over trends in the spot and Atlantic croaker fisheries and the extent of bycatch and discards of both species in the shrimp trawl fishery. Addendum II, approved in August 2014, adopted a new method (Traffic Light Approach, TLA) to annually evaluate trends in fisheries indicators and to develop state-specified management actions (e.g. bag limits, size restrictions, time and area closures, and gear restrictions) based on the annual fisheries evaluation if indicator thresholds are exceeded. The TLA will remain in use until the completion of the next benchmark stock assessment, scheduled for 2016.

#### Atlantic Menhaden:

Management of Atlantic menhaden falls under the jurisdiction of the ASMFC Interstate FMP for Atlantic Menhaden. It is managed as a single unit stock with a range from the Gulf of Maine to central Florida. The Atlantic Menhaden FMP was originally approved by the ASMFC in 1981. Amendment 1 replaced that plan in 1992. Neither the original FMP nor Amendment 1 included restrictions on fishing. The stock was considered to be recruitment overfished during the mid-1960s to the mid-1970s, but recovered well by the mid-1980s. Although the spawning stock is considered adequate, recruitment has been poor since the late 1980s because of unidentified environmental factors that control spawning success. The fishery has declined greatly over the last 25 years, primarily for economic and social reasons, as the coastal areas occupied by the plants have become urbanized. Only one processing plant located in Virginia remains in the Atlantic coast reduction fishery, but those vessels land a greater volume of fish than any other

Atlantic coast commercial fishery.

Addendum I was passed in August of 2004 and modified the plan's biological reference points, schedule for stock assessments and habitat section. These actions were based on recommendations of the Menhaden Technical Committee subsequent to the 2003 stock assessment, which found that menhaden were not overfished and overfishing was not occurring on a coastwide basis. The assessment used a forward-projecting model and fecundity-based biological reference points to determine stock status. These reference points are more accurate and take into account the number of mature ova (eggs). This was a significant departure from the way menhaden assessments were conducted previously. The Addendum changed the fishing mortality target and threshold levels as recommended by the Menhaden Technical Committee and supported by the peer review. Rather than conducting a full-scale annual assessment, the addendum proposed a three-year assessment cycle to allow for the increased complexity and data requirements of the new model. The addendum also required the Technical Committee to annually review landings, catch-per-unit-effort (CPUE) and indices used in the stock assessment to determine if the following triggers were met:

- The CPUE index falls below the 5th percentile for the past 20 years
- The ratio of ages 2-4 to the total catch of all ages falls below the second standard deviation unit over the last 20 years

Based on review of the data and calculation of the triggers, if the Technical Committee determined a significant change in status occurred, a full assessment would be conducted for that year. Since 2003, the triggers have not been met.

Addendum II was passed by the Menhaden Management Board in October 2005 and addressed concerns about the possibility of localized depletion of menhaden stocks in the Chesapeake Bay. This addendum instituted a harvest cap on Atlantic menhaden by the reduction fishery in Chesapeake Bay at 106,000 metric tons (the average landings from 2000-2004). Harvest overages would be deducted from the following year's quota but any amount of under-harvest would not be transferred. It also addressed research priorities necessary to determine the status of menhaden populations in the Chesapeake Bay and assess whether localized depletion was occurring.

The Atlantic Menhaden Stock Assessment Subcommittee conducted an assessment update for 2006 as required by Addendum I. The 2005 estimate of fishing mortality was determined to be 56% of its limit (and 91% of its target) and population fecundity was estimated at 158% of its fecundity target (and 317% of its limit). Therefore the stock was not considered to be overfished, nor was overfishing occurring.

Subsequent to the 2006 stock assessment update, Addendum III was passed in October 2006 and revised the annual harvest cap for the Chesapeake Bay reduction fishery established under Addendum II with final 2005 landings. The revised cap was 109,020 metric tons, based on the average landings from 2001 – 2005, and was effective from 2006 through 2010. The Addendum also included a provision allowing under-harvest in one year to be credited only to the following year's harvest, not to exceed 122,740 metric tons. Addendum IV was approved in November 2009 and extended the provisions of Addendum III through 2013.

A benchmark stock assessment was conducted in 2010 and determined that although the stock was not overfished, overfishing was occurring in the terminal year (2008) of the assessment. As a result, Addendum V was passed in November 2011 and modified the fishing mortality reference points (F) adopted in Addendum I. A “maximum spawning potential” (MSP) approach was implemented, with interim reference points of F30%MSP (target) and F15% MSP (threshold) adopted in order to reduce overfishing and increase abundance and spawning stock biomass.

Atlantic menhaden is currently managed under Amendment 2, which was approved in December 2012 after an update to the 2010 benchmark assessment confirmed that overfishing was still occurring. Amendment 2 established a 170,800 metric ton total allowable catch that is allocated by state based on landings from 2009-2011; this allocation will be revisited three years after implementation. Quota transfers between states are allowed and any harvest overages are required to be paid back the following year. The amendment also established a bycatch allowance for non-directed fisheries once a state’s directed quota has been caught. Additionally, new biological reference points for spawning stock biomass based on maximum spawning potential (MSP) were adopted, with the goal of increasing abundance, spawning stock biomass, and menhaden availability as a forage species. The new abundance points use the same metric (i.e., MSP) as that used to define overfishing (fishing mortality target and threshold of F30% and F15% MSP, respectively).

A new benchmark assessment was completed in 2014 and approved by ASMFC for management use in February 2015. A number of significant changes were made to address issues of concern from the 2010 benchmark assessment and the 2012 update, including exploration of new datasets and new model configurations. The results of the final peer-reviewed assessment indicated that the coastwide population of menhaden was not undergoing overfishing, and that the fishing mortality rate (F) had fluctuated around the target for most of the time series, and has been below the target F since 1999. Consistent with the previous assessment, the 2014 benchmark also indicated the stock was not overfished. In response to these positive findings, a 10 percent increase in the total allowable catch for 2015 and 2016 was approved by the management board. Additionally, the board is currently developing an amendment to re-examine the existing state quotas, as well as address ecological reference points that will account for menhaden’s role as a forage species.

#### Atlantic Striped Bass:

In 1981 the ASMFC developed and adopted the Interstate FMP for Atlantic Striped Bass. Striped bass constitute major recreational and commercial fisheries from Maine to North Carolina. Commercial landings along the east coast peaked at nearly 15 million pounds in 1973. Harvest declined by 77% to 3.5 million pounds in 1983, resulting in a moratorium on the harvest of the Atlantic migratory (coastal stock) population. The fishery reopened in 1990, and the stock was declared recovered in 1997.

Striped bass is currently managed through Amendment 6 to the Interstate FMP for Atlantic Striped Bass (February 2003) and its subsequent addenda (Addendum I-IV). The management program includes target and threshold biological reference points and sets regulations aimed at



achieving the targets. Required regulatory measures include recreational and commercial minimum size limits, recreational creel limits, commercial quotas and commercial harvest tags. States can implement alternative management measures that are deemed to be equivalent to the preferred measures in Amendment 6.

In response to the results of the 2013 benchmark stock assessment, the ASMFC Striped Bass Management Board approved Addendum IV to Amendment 6 in October 2014. The addendum adopted new fishing mortality reference points for the coastal stock as well as stock-specific reference points for the Albemarle/Roanoke stock. Coastal states and jurisdictions were required to implement a 25 percent reduction from 2013 harvest levels, while the Chesapeake Bay jurisdictions were required to implement a 20.5 percent reduction from 2012 harvest levels.

Fisheries in the Albemarle Sound Management Area (ASMA) and Roanoke River Management Area (RRMA) are also managed under an ASMFC harvest quota via the N.C. Estuarine Striped Bass FMP. Because the Albemarle/Roanoke stock contributes minimally to the coastal migratory stock, the stock-specific biological reference points noted above are set using the results of assessments conducted by the N.C. Division of Marine Fisheries. Amendment 1 to the N.C. Estuarine Striped Bass FMP was approved by the N.C. Marine Fisheries Commission in February of 2013 and by the N. C. Wildlife Resources Commission in May 2013. The rules implementing the amendment became effective for the respective commissions June 1 and August 1, 2013. There were no major changes to the existing commercial and recreational striped bass management measures. The N.C. Estuarine Striped bass FMP also includes the Central Southern Management Area (CSMA). The CSMA is managed solely by North Carolina. Regulations differ by management area, but include an 18-inch total length minimum size limit, a slot limit, season closures, no more than three fish daily creel limit (recreational only), gill net restrictions, commercial trip limits, a 50% bycatch provision for commercial trips (not in CSMA), as well as recreational (not in CSMA) and commercial quotas. Additionally, the North Carolina Striped Bass Cooperative must submit a fishing plan annually to the ASMFC for the ASMA and the RRMA. The ASMFC Striped Bass Management Board must approve any changes in the upcoming year's fishing plan before the seasons open.

As required by the ASMFC, a new assessment for the Albemarle/Roanoke stock was conducted in late 2013, in conjunction with the benchmark assessment for the coastal migratory stock. The results indicated a need to significantly reduce the existing 550,000 pound harvest quota for the stock. The November 2014 Revision to Amendment 1 to the N.C. Estuarine Striped Bass FMP implemented a 50 percent reduction in the harvest quota, effective January 1, 2015.

#### Atlantic Sturgeon:

The ASMFC adopted an Interstate FMP for Atlantic Sturgeon in 1990. Among the management recommendations of that plan were the following:

- Minimum size limit of 2.13 meters total length (TL) and institute a monitoring plan;
- A moratorium on all harvest; or
- An alternative measure to be submitted to the Plan Review Team for determination of conservation equivalency.

In North Carolina, effective September 1, 1991, the N.C. Marine Fisheries Commission

voluntarily implemented a harvest moratorium for sturgeon.

Because the voluntary measures under the original FMP proved insufficient to halt the decline of sturgeon populations, Amendment 1 to the Atlantic Sturgeon FMP was approved in July 1998. This amendment brought the FMP into compliance with the ACFCMA, and implemented a mandatory coastwide harvest and possession moratorium as the primary management measure. The goal of this amendment was to restore Atlantic sturgeon spawning stocks to population levels that would provide for sustainable fisheries and ensure viable spawning populations. In order to achieve this goal the plan set forth the following objectives:

- Establish 20 protected year classes of females in each spawning stock;
- Close the fishery for a sufficient time period to reestablish spawning stocks and increase numbers in current spawning stocks;
- Reduce or eliminate bycatch mortality;
- Determine the spawning sites and provide protection of spawning habitats for each spawning stock;
- Where feasible, reestablish access to historical spawning habitats for Atlantic sturgeon; and
- Conduct appropriate research as needed.

Addendum I to Amendment 1 was approved by the Sturgeon Management Board (Board) in January 2001, and provided an exemption from the possession moratorium for the state of Florida to allow development of private aquaculture facilities for the propagation of the species. At the request of North Carolina, the Board approved Addendum II in May 2005 to provide a similar exemption to LaPaz Group LLC, permitting it to import Atlantic sturgeon fry/fingerlings, produce fish, and sell the meat of the fish. It also provided an exemption to Acadian Sturgeon and Caviar to allow for the importation of its Atlantic sturgeon into North Carolina. Addendum III, approved in November 2006, complements Addendum II by providing the Sturgeon Management Board the ability to modify the details of the exemption in these addenda through a Board vote. This addendum also provides exemptions to allow LaPaz to import Atlantic sturgeon from Supreme Sturgeon and Caviar of Penfield, New Brunswick, for commercial aquaculture production and sale in North Carolina. These actions are intended to provide a domestic product through an environmentally and socially sound aquaculture operation.

Addendum IV to Amendment 1 to the interstate Fishery Management Plan for Atlantic sturgeon was completed September 2012. This addendum describes the habitats necessary for all life stages of Atlantic sturgeon, water quality requirements, habitat protection and restoration, and research recommendations.

In April 2012, NOAA Fisheries listed the Carolina Distinct Population Segment (DPS), as well as the New York Bight, Chesapeake Bay and South Atlantic DPSs of Atlantic sturgeon as endangered under the ESA, and listed the Gulf of Maine DPS as threatened. The ASMFC identified members to serve on a stock assessment subcommittee and began the initial steps of reviewing available data and preparing for the first data workshop, held in late summer 2013. The estimated completion for a peer-reviewed stock assessment at that time was early 2015. At the August 2014 ASMFC business meeting the Interstate Fisheries Management Program Policy

Board delayed the Atlantic sturgeon assessment until 2017. This delay is intended to allow the stock assessment subcommittee to conduct a more comprehensive assessment on a stock or distinct population segment scale as well as include recent data collected through federal ESA Section 6 grants research currently underway.

### Black Drum

In May 2013, the ASMFC adopted the Interstate FMP for Black Drum. The FMP includes all states from Florida to New Jersey. The management unit is defined as the black drum (*Pogonias cromis*) resource throughout the range of the species within U.S. waters of the northwest Atlantic Ocean from the estuaries eastward to the offshore boundaries of the EEZ. This definition is based on the distribution of the species along the Atlantic coast, as noted in tagging studies from Maryland, Virginia, South Carolina, and Georgia, and historical harvest patterns that have identified fisheries for black drum from Florida north through New Jersey.

The management measures contained in the FMP required all states to maintain their current regulations for black drum and implement a maximum possession limit and minimum size limit (of no less than 12 inches total length) by January 1, 2014. States were also required to further increase the minimum size limit (to no less than 14 inches total length) by January 1, 2016. In response, the N.C. Marine Fisheries Commission implemented a 14- to 25-inch total length slot limit (with one fish over 25 inches), a 10-fish recreational bag limit and a 500-pound commercial trip limit effective January 1, 2014.

A coastwide stock assessment for black drum was conducted in 2014 and approved for management use by ASMFC in February 2015. The results of the assessment indicate that the black drum stock is not overfished and overfishing is not occurring. While there has been a very gradual decline in biomass, it is still well above the level considered necessary to produce maximum sustainable yield. Given the outcome of the assessment, the management board elected not to modify the management program at this time.

### Black Sea Bass (North of Cape Hatteras):

The black sea bass stock north of Cape Hatteras is managed under the joint ASMFC/MAFMC Summer Flounder, Scup, and Black Sea Bass FMP. The joint FMP for black sea bass became effective in 1996, and was adopted by the MAFMC as Amendment 9 to the existing Summer Flounder FMP. Based on landings data from 1983-1992, 49% of the Total Allowable Landings (TAL) is allocated to the commercial fishery and 51% is allocated to the recreational fishery. While both the ASMFC and MAFMC have established joint management measures, they have done so through their respective administrative processes; these consist of amendments and shorter addenda at the ASMFC level, and of amendments and shorter framework actions at the MAFMC level. This summary focuses primarily on the ASMFC actions relative to the FMP, while council-related actions are found in the section pertaining to MAFMC FMPs.

The goals of the FMP are to:

- Reduce fishing mortality in the summer flounder, scup and black sea bass fisheries to assure that overfishing does not occur;
- Reduce fishing mortality on immature summer flounder, scup and black sea bass to increase spawning stock biomass (SSB);

- Improve the yield from these fisheries;
- Promote compatible management regulations between state and federal jurisdictions;
- Promote uniform and effective enforcement of regulations;
- Minimize regulations to achieve the management objectives stated above.

Management measures in the original FMP included commercial quotas, minimum mesh sizes for trawls, escape vents for pots, and minimum fish size limits. Amendment 13 to the FMP implemented state-specific allocations of the coastwide commercial quota for black sea bass for 2003 and 2004, and removed the necessity for fishermen who have both a Northeast Region Black Sea Bass permit and a Southeast Region Snapper Grouper permit to relinquish their permits for a six-month period prior to fishing south of Cape Hatteras during a northern closure. North Carolina's share of the coastwide commercial quota is 11 percent.

Addenda XII, XIII and XIX continued the use of the commercial state-specific allocation system indefinitely, modified the annual specifications process to allow for setting of multi-year TALs, and allowed for incorporation of new or revised stock status determination criteria (i.e., criteria that define whether a stock is overfished or overfishing is occurring) into the annual management measures for all three species in the FMP.

Addendum XX modified and streamlined the commercial quota transfer process between states, set clear policies and guidelines for transferring and receiving states, and established a mechanism to reconcile small quota overages.

Addendum XXIII established regional management measures only for the 2013 recreational black sea bass season. Previously, the FMP only allowed for coastwide recreational measures (minimum size, possession limit, and seasons), which were disproportionately impacting different states due to the broad geographic range of the species. Addendum XXV continued the use of regional measures to manage the 2014 black sea bass recreational fishery. Two regions were created for this purpose, Massachusetts to New Jersey (northern) and Delaware to North Carolina (southern).

The most recent benchmark stock assessment for the black sea bass stock north of Hatteras was completed in 2008, using a statistical catch at length (SCALE) model, a significant change from the previous simple, index-based models. This assessment approach was accepted by the Data Poor Workshop review panel (conducted by the NOAA Fisheries Northeast Fisheries Science Center (NEFSC) 2009) and involved estimates of fishing mortality and population size determined from changes in size composition of the population. However, the stock was still considered to be data poor with significant uncertainty in the results. In addition, tagging studies suggested spatial partitioning of the stock along the coast that was not accounted for in the assessment model; therefore the results may not reflect the stock condition in all local groups of black sea bass. In 2012 an update to the 2008 SCALE model was conducted, but results were not used for determining stock status. The model results indicated fishing mortality declined in 2001 through 2011, while biomass increased over the same period. For management (catch limits, etc.) a constant catch-based strategy was used with support from the 2012 stock assessment review panel. Recommendations from a Black Sea Bass Data Workshop in June 2013 included postponing the next benchmark stock assessment until 2016 (with no updates to be done in the interim). Research is currently underway to resolve concerns about data inputs.

## Bluefish:

The ASMFC and MAFMC jointly manage bluefish under Amendment 1 to the Bluefish FMP. The original FMP (adopted in 1989) defines the management unit as bluefish occurring in U.S. waters of the western Atlantic Ocean and is considered a single stock of fish. It also implemented a state-by-state commercial quota system and a recreational harvest limit to control fishing mortality.

Amendment 1 (implemented in 2001) initiated a ten-year rebuilding schedule to eliminate overfishing and allow for stock rebuilding to a level which would support harvests at or near maximum sustainable yield (MSY) by the year 2010 or earlier. It also established an annual specification setting process to adjust the commercial quota and recreational harvest limit. It allocated 83 percent of the coastwide quota to the recreational sector and 17 percent to the commercial sector, with an option to increase the commercial allocation up to 10.5 million pounds in any given year if the recreational sector is not projected to harvest its entire allocation. Additionally, the amendment outlined a series of permitting and reporting requirements such as: operator permits for commercial, party, and charter boats; vessel permits for commercial, party and charter boats; and dealer permits.

A benchmark stock assessment was completed in 2005. The assessment passed peer review (Stock Assessment Review Committee (SARC) 41) and was approved by the ASMFC Bluefish Management Board and the MAFMC Coastal Migratory Species Committee. The assessment developed reference points for both bluefish biomass and fishing mortality. The Age Structured Assessment Program (ASAP) model used to calculate population abundance in this assessment has been updated annually with landings and survey indices, and the output from the model is used to set the annual Total Allowable Catch (TAC). The 2014 stock assessment update (utilizing 2013 catch data) indicated that bluefish are not overfished and overfishing is not occurring. Estimates from the model show a decreasing trend in fishing mortality, an increasing trend in population biomass, and an increasing trend in population numbers from 1997 to 2007 followed by a decline from 2007 (86 million fish) to 2012 (59 million fish). This decreasing trend in biomass is likely due to poor incoming age classes.

Based on the stock assessment update, the Council and ASMFC Bluefish Management Board adopted a TAL of 18.19 million pounds for bluefish for 2015. As such, the commercial TAL is 3,662,407 lbs (quota) and the recreational TAL is 14,530,134 lbs (harvest limit) for 2015. Based on recreational landings in the past 10 years, it is expected that the recreational sector will land less than the 83% recreational harvest limit.

Each state is required to constrain commercial landings to its respective state quota allocation, while the recreational fishery is managed through an annual framework of possession limits, size limits, and seasonal closures. Due to a decrease in recreational harvest, the MAFMC recommended an increase in the recreational possession limit from 10 to 15 fish in 2001. North Carolina increased the bluefish recreational possession limit to 15 fish (proclamation effective 6/19/2001), and the N.C. Marine Fisheries Commission adopted a rule whereby only 5 of the 15 fish could be >24" TL (effective 4/01/2003). The possession limits have remained at 15 fish since 6/19/2001 and the ASMFC and MAFMC have recommended that the possession limit

remain at 15 per day through 2015.

### Sharks:

In 1989, the five Atlantic Fishery Management Councils asked the Secretary of Commerce to develop a Shark FMP. The Councils were concerned about the late maturity and low fecundity of sharks, the increase in fishing mortality and the possibility of the resource being overfished. In 1993, NOAA Fisheries implemented the FMP for Sharks of the Atlantic Ocean. The FMP established a fishery management unit (FMU) consisting of 39 frequently caught species of Atlantic sharks, separated into three groups for assessment and regulatory purposes (Large Coastal Sharks (LCS), Small Coastal Shark (SCS) and pelagic sharks). At that time, NOAA Fisheries identified LCS as overfished and pelagic and SCS as fully fished. NOAA Fisheries implemented commercial quotas for LCS and established recreational harvest limits for all sharks. Under the rebuilding plan established in the 1993 FMP, the LCS quota was expected to increase every year up to the maximum sustainable yield estimated in the 1992 stock assessment; however, to date this has not happened.

The 1999 FMP for Atlantic Tunas, Swordfish and Sharks replaced the existing Atlantic Shark and Atlantic Swordfish FMPs and established the first FMP for Atlantic Tunas. Management measures related to sharks in the 1999 FMP included: reductions in commercial LCS and SCS quotas, reductions in recreational retention limits for all sharks, establishment of a recreational minimum size limit for all sharks except Atlantic sharpnose, an expanded list of prohibited shark species, implementation of limited access in commercial fisheries and establishment of new procedures for counting dead discards and state landings of sharks after federal fishing season closures against federal quotas. Some of the non-species specific management measures included establishing the threshold levels to determine if a stock is overfished, if overfishing is occurring or if the stock is rebuilt, as well as identifying essential fish habitat (EFH) for all Atlantic tunas, swordfish and sharks.

Results of the 2002 SCS stock assessment indicated that overfishing was occurring on finetooth sharks while the three other species in the SCS complex (Atlantic sharpnose, bonnethead and blacknose) were not overfished, nor was overfishing occurring. Results of the 2002 LCS stock assessment indicated that the LCS complex was still overfished and overfishing was occurring. Additionally, the assessment found that sandbar sharks were no longer overfished but that overfishing was still occurring, and that blacktip sharks were rebuilt and not experiencing overfishing.

In 2003, NOAA Fisheries amended the measures enacted in the 1999 FMP based on the 2002 LCS and SCS stock assessments, litigation and public comments. Implementing regulations for Amendment 1 to the 1999 FMP were published on December 24, 2003 (68 FR 74746). Management measures enacted in the amendment included: re-aggregating the large coastal stock complex; revising the rebuilding timeframe for LCS; using maximum sustainable yield (MSY) as a basis for setting commercial quotas; eliminating the commercial minimum size restrictions; establishing three regional commercial quotas (Gulf of Mexico, South Atlantic and North Atlantic) for LCS and SCS management units; implementing trimester commercial fishing seasons effective January 1, 2005; adjusting the recreational bag limit; establishing gear restrictions to reduce bycatch and bycatch mortality; establishing a time/area closure off the

coast of North Carolina effective January 1, 2005; updating several shark EFH identifications; establishing criteria to add or remove species to the prohibited shark list; and establishing vessel monitoring system (VMS) requirements for bottom longline and gillnet fishermen.

The regional commercial quotas established in Amendment 1 to the Highly Migratory Species (HMS) FMP for LCS and SCS were intended to improve overall management of the stocks by tailoring quotas to specific regions based on landing information. These quotas were based upon average historical landings (1999-2001) from the canvass and quota monitoring databases. The canvass database provides a near-census of the landings at major dealers in the southeast U.S. (including state landings) and the quota monitoring database collects information from dealers in the South Atlantic and Gulf of Mexico.

On November 30, 2004, NOAA Fisheries issued a final rule (69 FR 69537), which established, among other measures, new regional quotas based on updated landings information from 1999-2003. This final rule did not change the overall quotas for LCS and SCS established in Amendment 1, only the percentages allocated to each of the regions. The updated information was based on several different databases, including the canvass and quota monitoring databases, the Northeast Commercial Fisheries Database (CFDBS) and the snapper grouper logbook. The new regional quotas and trimester seasons for the commercial Atlantic shark fishery became effective January 1, 2005.

In July 2006 NOAA Fisheries finalized the Consolidated Atlantic Highly Migratory Species (HMS) FMP. This FMP consolidated the Atlantic Billfish and the Atlantic tunas, swordfish and sharks FMP and included a range of management measures for all HMS fisheries. This consolidated FMP augmented and combined the 1999 Atlantic Tunas, Swordfish and Sharks FMP, Amendment 1 to the 1999 Atlantic Tunas, Swordfish and Shark FMP, the 1988 Billfish FMP and Amendment 1 to the Billfish FMP into a single fishery management plan.

Amendment 2 to the 2006 Consolidated HMS FMP implemented management measures consistent with recent stock assessments for sandbar, porbeagle, dusky, blacktip, and LCS; initiated rebuilding plans for porbeagle, dusky, and sandbar sharks; implemented commercial quotas and retention limits; modified recreational measures to reduce fishing mortality; modified reporting requirements; modified timing of shark stock assessments; clarified timing of release for annual SAFE reports; updated dehooking requirements for smalltooth sawfish; implemented a shark research program; and established time/area closures proposed by the SAFMC. The final rule implementing Amendment 2 published in April 2008.

Amendment 3 implemented management measures consistent with recent stock assessments for SCS and shortfin mako sharks; established a rebuilding plan for blacknose sharks; implemented commercial quotas consistent with stock assessment recommendations; and modified the Atlantic HMS management unit to include smooth dogfish. The final rule for Amendment 3 was issued in March 2010.

Amendment 5a implemented management measures consistent with recent stock assessments for sandbar, scalloped hammerhead, Gulf of Mexico blacktip, and Atlantic and Gulf of Mexico blacknose sharks; established a rebuilding plan for Atlantic blacknose and scalloped hammerhead sharks; implemented commercial quota limits consistent with stock assessment

recommendations; and modified recreational measures or prohibited the retention of overfished stocks. The final rule for Amendment 5a published in July 2013. Amendment 5b pertains to dusky shark management, and is still under development. It was separated from Amendment 5a based on the need for further analyses.

Amendment 6 to the consolidated HMS FMP considers a range of actions intended to address flexibility in management of commercial shark fisheries including: options for permit stacking; adjusting the LCS trip limit for shark directed limited access permit holders; creating sub-regional quotas in the Atlantic and Gulf of Mexico regions for LCS and SCS; modifying the LCS and SCS quota linkages; implementing total allowable catches (TACs) and adjusting the non-blacknose SCS commercial quotas in the Atlantic and Gulf of Mexico regions based on the 2013 Atlantic sharpnose and bonnethead sharks stock assessments; and modifying upgrading restrictions for shark permit holders. While development of the amendment began in 2010, multiple large-scale changes to commercial shark fisheries resulted in significant modification to the proposed actions and a delay in publication of the final amendment. The proposed rule was issued in January 2015 and comments were accepted until April 2015. A final rule has not yet been published.

Amendment 9 to the consolidated HMS FMP addresses management of smoothhound sharks (smooth dogfish, Florida smoothhound, Gulf smoothhound) and was developed during 2014, just prior to a stock assessment for these species (see below). The amendment includes actions to: establish an effective date for previously-adopted smoothhound shark management measures finalized in Amendment 3 to the 2006 Consolidated HMS FMP, and in the 2011 HMS Trawl Rule; adjust the commercial quota for the smoothhound shark fishery; consider implementation of the smooth dogfish-specific provisions of the Shark Conservation Act of 2010; implement the shark biological opinion; and modify Atlantic shark gillnet VMS requirements. The proposed rule was published in August 2014 and was open for comment until November 2014. A final rule has not yet been published. The stock assessment was completed in January 2015, and underwent peer-review in February 2015.

To complement the actions of NOAA Fisheries in state waters, the ASMFC approved the Interstate Fishery Management Plan for Coastal Sharks (FMP) in August 2008. Coastal sharks are managed under this plan as six different complexes: prohibited, research, small coastal (SCS), non-sandbar large coastal (LCS), pelagic and smooth dogfish (smoothhound shark). The Spiny Dogfish and Coastal Shark Management Board (Board) does not set quotas and follows NOAA Fisheries openings and closures for small coastal sharks, non-sandbar large coastal shark and pelagic sharks. The management unit encompassed by the FMP covers the entire coastwide distribution of the resource from the estuaries eastward to the inshore boundary of the EEZ.

Currently, there are no amendments to the ASMFC FMP. Addendum I to the FMP was approved in 2009 to allow limited smooth dogfish processing at sea (removal of fins from the carcass) from March through June as long as the total wet weight of fins found on board the vessel did not exceed 5% of the total dressed weight of the smooth dogfish carcasses. Addendum I also removed smooth dogfish recreational possession limits and removed gillnet check requirements for smooth dogfish fishermen.

Addendum II and Addendum III were both implemented in 2013, and addressed changes in the



federal management of coastal sharks. Addendum II allocated state shares of the smooth dogfish coastwide quota, modified the FMP to allow year round smooth dogfish processing at sea and modified the maximum fin-to-carcass ratio from 5% to 12% of the total dressed weight of the smooth dogfish carcasses, consistent with the Shark Conservation Act of 2010. Addendum III created two new species groups ('Hammerhead' and 'Blacknose') and increased the recreational size limit for hammerheads.

It is important to note that the FMP and its three addendums continue to prohibit the finning of sharks. Finning is defined as the removal of the fins of a shark while discarding the carcass at sea. Fin-to-carcass ratios are used in high volume fisheries to allow fishermen to process the catch at sea, so long as the weight of the fins corresponds to the correct ratio of carcasses on board the vessel.

Stock status is assessed by species complex for most coastal shark species and by species group for species with enough data for an individual assessment. A number of assessments have been conducted through the SouthEast Data, Assessment and Review (SEDAR) process. SEDAR 11 (2006) assessed the LCS complex and blacktip sharks. The LCS assessment suggested it was inappropriate to assess the LCS complex as a whole due to the variation in life history parameters, different intrinsic rates of increase, and different catch and abundance data for all species in the complex. Based on these results, NOAA Fisheries changed the status of the LCS complex from overfished to unknown. As part of SEDAR 11, blacktip sharks were assessed for the first time as two separate populations: Gulf of Mexico and Atlantic. The results indicated that the Gulf of Mexico stock is not overfished and overfishing is not occurring, while the current status of blacktip sharks in the Atlantic region is unknown.

SEDAR 13 (2007) assessed the SCS complex, finetooth, Atlantic sharpnose, and bonnethead sharks. The SEDAR 13 peer reviewers considered the data to be the 'best available at the time' and determined the status of the SCS complex to be 'adequate.' Finetooth, Atlantic sharpnose and bonnethead were all considered to be not overfished and not experiencing overfishing. Porbeagle sharks were assessed by the International Commission for the Conservation of Atlantic Tunas (ICCAT) Standing Committee on Research and Statistics in 2009. The assessment found that while the Northwest Atlantic stock is increasing in biomass, the stock is considered to be overfished with overfishing not occurring. A 2011 benchmark assessment of dusky, sandbar, and blacknose sharks (SEDAR 34) indicates that both sandbar and dusky sharks continue to be overfished with overfishing occurring for dusky sharks. Blacknose sharks, part of the SCS complex, are overfished with overfishing occurring. The smoothhound complex (smooth dogfish, Florida smoothhound, Gulf smoothhound) were assessed in 2014 through SEDAR 39 and peer-reviewed in early 2015. The conclusion was that Atlantic smooth dogfish were unlikely to be overfished and unlikely to be experiencing overfishing.

#### Red Drum:

Red drum in North Carolina is managed both by a state FMP and an ASMFC Interstate FMP. The most recent plans are Amendment 1 to the N.C. Red Drum FMP (2008) and Amendment 2 to the ASMFC Red Drum FMP (2002).

The primary goal of both the state and ASMFC plans is to prevent overfishing, and both plans have set a threshold of 30 percent static spawner potential ratio (sSPR) as an overfishing definition and 40 percent sSPR as the management target for the fishery. Specifically, the management goal for Amendment 2 to the ASMFC plan is to achieve and maintain the Optimum Yield for the Atlantic coast red drum fishery as the amount of harvest that can be taken by U.S. fishermen while maintaining the sSPR at or above 40%. The regulatory requirements of Amendment 2 state that:

- All states are required to implement red drum harvest controls (e.g. bag and size limits) in order to achieve a minimum 40% sSPR.
- A maximum size limit of 27 inches or less shall be implemented for all red drum fisheries.
- All states must maintain current or more restrictive commercial fishery regulations for red drum, i.e. no relaxation of current fisheries management measures.

Prior to the development of Amendment 2 to the ASMFC FMP, North Carolina established a suite of preventative measures in the red drum fishery to reduce fishing mortality through implementation of the state Red Drum FMP in 2001. As a result, at the time Amendment 2 to the ASMFC FMP was approved, North Carolina regulations included: a slot limit ranging from 18 to 27 inches total length in all fisheries, a one fish recreational bag limit, the continuation of a 250,000 pound commercial harvest cap, and a bycatch allowance of seven red drum as a daily commercial trip limit. As a result of these proactive measures taken prior to the development of Amendment 2, North Carolina had no additional regulatory changes to implement when Amendment 2 was approved.

Since the development of Amendment 2 (August 2003), the ASMFC South Atlantic State/Federal Fisheries Management Board approved a motion to allow the N.C. Fisheries Director to raise or lower the current seven-fish commercial trip limit while maintaining the 250,000 pound harvest cap. Since this time, the trip limit has ranged from 4 to 10 fish. It is important to note that by enacting the 7-fish commercial trip limit, North Carolina realized a decrease in commercial landings of over 40 percent when compared to the previous management program, which did not restrict red drum harvest at the trip level. In addition, North Carolina requires that commercially harvested fish be landed as bycatch, with no more than 50 percent of the total trip weight comprised of red drum. These commercial restrictions along with the recreational bag limit of one fish 18-27 inches TL have reduced fishing mortality and red drum in North Carolina are no longer experiencing overfishing as of the most recent Atlantic coast stock assessment completed in 2009. Findings from this assessment indicate that as of 2007, both the threshold and target sSPR values set forth in the goals of Amendment 2 were being met. A new ASMFC stock assessment is underway and is scheduled to be completed in the fall of 2015.

### Scup:

Scup is one of four species jointly managed by the ASMFC and MAFMC. In 1996, both the Commission and the Council adopted the Fishery Management Plan and Addendum 1 for Scup. (In the MAFMC plan, this is Amendment 8 and the Regulatory Amendment to the FMP for Summer Flounder, Scup and Black Sea Bass). The FMP defined the management unit as scup in

U.S. waters from Cape Hatteras northward to the U.S.-Canadian border, and included a seven-year plan for reducing fishing effort and restoring the stock. Due to concerns about the near collapse of the stock, exploitation rates were significantly reduced between 1997 and 2002 through coastwide commercial quotas and recreational season, size and possession limits. The FMP allocates a TAC 78 percent to the commercial sector and 22 percent to the recreational sector. Discard estimates are deducted from both commercial and recreational TACs to establish total allowable landings for both sectors. The FMP has been amended several times since its initial implementation, with each amendment enacting comprehensive management measures to attain annual fishing targets and address overfishing.

Addendum 1 to the Summer Flounder, Scup, and Black Sea Bass FMP established the procedure for management and distribution of the coastwide commercial quota that was approved in September 1996 and implemented as a coastwide TAC in 1997. The addendum divided the annual coastwide commercial quota among three periods: winter I (Jan-Apr), summer (May-Oct), and winter II (Nov-Dec). During the winter periods, the quota is available coastwide and is restricted through the implementation of trip limits, while a state-by-state quota system is in effect during the summer period. In the state-by-state system, quotas are distributed to the states based on their percentage share of commercial landings for the period May-October, 1983-1992. As such, North Carolina's commercial allocation is only 0.02 percent of the summer period.

Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass FMP, which established revised overfishing definitions (F<sub>max</sub> serving as a proxy for F<sub>msy</sub>), identified essential fish habitat, and defined the framework adjustment process, was approved by the ASMFC and MAFMC in October 1998. The amendment established a biomass threshold for scup (2.77 kg/tow) based on the maximum value of the 3-year moving average of the NEFSC spring bottom trawl survey index of spawning stock biomass. The stock was considered overfished if the index was below the threshold value.

The 2002 stock assessment indicated scup were no longer overfished, but could not be evaluated with respect to overfishing, despite relative declines in exploitation rates. Therefore, no comparison with the F threshold specified in the FMP could be made, and the rebuilding schedule was disapproved. However, based on the NEFSC spring bottom trawl survey estimates, the index values for 2004 and 2005 were below the threshold (2.77 kg/tow), and the stock was considered overfished in 2004 and 2005.

Despite an apparent increase of scup abundance and a decline in relative exploitation rates, the lack of an assessment led both management authorities to take a precautionary approach in establishing the 2007 TAL for scup. The recommended TAL for scup was within the range of long-term potential catches associated with a stock at approximately ½ B<sub>msy</sub>.

In 2002, the ASMFC developed Addendum V to the FMP to avoid the necessity of developing emergency rules for summer period quota management. This addendum revised the commercial landings dataset used to establish state shares of the summer period quota to include previously unavailable landings from Massachusetts added to the NOAA Fisheries database in 2000.

Addendum VII established a state specific management program for the 2002 recreational fishery, and Addendum IX established a state specific management program for the 2003

recreational fishery; both were based on the average landings (number of fish) for 1998-2001. Only the states of Massachusetts through New York were permitted to develop individual management programs. Due to the extremely limited data available, the Board developed specific management measures for the states of New Jersey, Delaware, Maryland, Virginia and North Carolina.

Amendment 13 to the Summer Flounder, Scup and Black Sea Bass FMP, implemented by the ASMFC and MAFMC in 2003, established a coastwide quota, established  $F_{max}$  (0.26) as the overfishing threshold, and developed a fishing mortality rate reduction strategy that included minimum fish sizes and gear restrictions.

Addendum X allowed for any unused quota from the commercial winter I scup fishery to be rolled over into the winter II fishery period. It also increased the possession limit by 500 lbs per 500,000 pounds of scup that are rolled over. It established an alternative to the summer period start date such that states can allow for landings of scup by state permit holders beginning on April 15th. If there is a closure prior to April 15th, state permit holders could land and sell scup caught exclusively in state waters to state and federally permitted dealers after April 15th and prior to the federal opening of the summer period on May 1.

Addendum XI, approved in January 2004, allowed states to customize management measures for the recreational fishery and provided for a process to minimize administrative burdens when implementing conservation equivalency.

Addendum XIII (August 2004) allowed for multiple-year specification of TALs for the summer flounder, scup, and/or black sea bass fisheries in any given year for up to three years (this is also MAFMC Framework 5).

The MAFMC also approved the development of a framework (2005) that mirrored the provisions in ASMFC Addendum X, allowed the transfer of scup at sea, and modified mesh size requirements for trawls.

Addendum XX, adopted in 2009, established a process to annually reconcile minor overages in state commercial quotas for the scup summer period and black sea bass.

Addenda XXI and XXII (approved in 2011 and 2012, respectively) pertained to recreational scup management. Addendum XXI established state-specific measures to achieve a required reduction in recreational harvest, while Addendum XXII allowed for a regional liberalization in recreational harvest for northern states.

A statistical catch at age model was used in the 2008 peer-reviewed and accepted scup assessment. The stock was considered rebuilt in 2009. Based on the June 2011 update, the scup stock was not overfished and overfishing was not occurring in 2010. The fishing mortality rate ( $F$ ) was estimated to be below the threshold reference point, while spawning stock biomass was estimated to be above the biomass target reference point. Notably, the 2010 year class was estimated to be well below average.

The 2011 MAFMC Omnibus Amendment contains Amendment 15 to the Summer Flounder,

Black Sea Bass and Scup FMP (the most recent Amendment that impacts the scup fishery). The amendment is intended to formalize the process of addressing scientific and management uncertainty when setting catch limits for the upcoming fishing year(s) and to establish a comprehensive system of accountability for catch (including both landings and discards) relative to those limits.

#### Shad and River Herring:

The ASMFC Interstate FMP for Shad and River Herring was adopted in 1985. In 1994, the Plan Review Team and the Management Board determined that the original FMP was no longer adequate for protecting or restoring the remaining shad and river herring stocks. As a result, Amendment 1 was adopted in October 1998 (completed April 1999) with an amended goal to protect, enhance, and restore East Coast migratory spawning stocks of American shad, hickory shad, and river herring (collectively alewife and blueback herring) in order to achieve stock restoration and maintain sustainable levels of spawning stock biomass. Amendment 1 focused on American shad regulations and monitoring programs, but also required states to initiate fishery-dependent monitoring programs for river herring and hickory shad in addition to existing fishery-independent programs. The goal was to improve data collection and stock assessment capabilities.

Amendment 1 also contained specific measures to control exploitation of American shad populations, including a five-year phase-out of the ocean intercept fishery beginning January 1, 2000. States with a non-directed harvest of American shad in ocean fisheries are allowed bycatch landings that do not exceed five percent of the total landings (pounds) per trip. For recreational fisheries, a 10-fish/person/day creel limit for American and hickory shad was implemented. In addition, the N.C. Marine Fisheries Commission has made it unlawful to take shad by any method other than hook-and-line from April 15 through December 31. Finally, states and jurisdictions were required to maintain existing or more conservation regulations for in-river fisheries, and to submit recovery plans for stocks identified for restoration.

Technical Addendum I to Amendment 1 of the Interstate FMP for Shad and River Herring was created by the Shad and River Herring Technical Committee and approved by the Management Board in 2000. This technical addendum was created to address modifications to the state's fishery-dependent and independent monitoring programs for American shad.

In February 2002, the Plan Review Team and the Technical Committee recommended several changes to both Amendment 1 and Technical Addendum I. Addendum I was developed and included the following: changed the conditions for marking hatchery-reared alosines; clarified the definition and intent of *de minimis* status for the American shad fishery; and modified and clarified the fishery-independent and dependent monitoring requirements of Technical Addendum I. These measures went into effect on January 1, 2003.

Amendment 2 to the Interstate FMP was adopted in August 2009 and focused on river herring management. It prohibited commercial and recreational fisheries for river herring beginning January 1, 2012 unless a state or jurisdiction has Sustainable Fishery Plan that has been reviewed by the Technical Committee and approved by the Management Board. The amendment defines a sustainable fishery as “a commercial and/or recreational fishery that will not diminish the

potential future stock reproduction and recruitment.” The states of Maine, New Hampshire, New York, North Carolina and South Carolina have approved sustainable fishery plans for river herring.

In February 2010, the Management Board approved Amendment 3, which modified the management program for American shad. The amendment was developed in response to the 2007 update to the American shad stock assessment, which indicated that most stocks were either at low levels of abundance or not recovering. Similar to Amendment 2, Amendment 3 implemented a requirement for states to have an approved sustainable fishery plan or close commercial and recreational fisheries for American shad (with the exception of catch and release recreational fisheries) by January 1, 2013. States with approved plans are Florida, Georgia, South Carolina, North Carolina, the Potomac River Fisheries Commission, and the Delaware River Basin Fish and Wildlife Management Cooperative (on behalf of New York, Delaware, New Jersey, and Pennsylvania) and Connecticut. Additionally, states and jurisdictions were required to develop a habitat plan to identify threats and prioritize opportunities for restoration of American shad habitat.

A benchmark stock assessment for river herring was conducted in 2011 and approved for management use in May 2012. The assessment was conducted on a river-by-river basis where data allowed. Many river systems did not have sufficient information for a model-based approach; for these systems, trend analyses were used to identify patterns in existing datasets. Of the 52 stock for which data were available, 23 were depleted relative to historic levels, one was increasing and 28 were unknown.

River herring in North Carolina are also managed under a state FMP. The original N.C. River Herring FMP was adopted in 2000 due to concerns regarding significant decreases in landings and juvenile abundance indices, and the lack of conservation measures for river herring in the ASMFC FMP at that time. Original management measures included commercial harvest quotas for the Albemarle Sound gill net fishery and Chowan River pound net fishery, and a 25-fish recreational bag limit. Amendment 1 (approved in 2007) implemented a harvest moratorium for both sectors, with the exception of a limited research set-aside; this was intended to provide a small amount of product to support local herring festivals as well as provide data for future assessments. The amendment also established four stock recovery indicators that currently are the basis for N.C.’s approved River Herring Sustainable Fishery Plan.

Amendment 2 to the N.C. River Herring FMP was approved in April 2015 and eliminates the discretionary harvest provision, as it was not meeting its intended purpose of providing data or product for local herring festivals. Additionally, the amendment revised the stock recovery indicators to “stock status indicators” and proposed a regulation to prohibit possession of river herring greater than 6 inches while fishing or boating in coastal waters. The latter measure is intended to complement a similar regulation implemented by the N.C. Wildlife Resources Commission in Inland Waters.

#### Spanish Mackerel:

The South Atlantic Fishery Management Council (SAFMC) manages the king and Spanish mackerel fisheries through the Coastal Migratory Pelagics FMP. A complementary ASMFC

plan was adopted for state waters in 1990 and complements the actions of the SAFMC FMP. Please see the section on South Atlantic Fishery Management Council FMPs for further information.

Omnibus Amendment 1 to the ASMFC FMPs for Spot, Spotted Seatrout and Spanish Mackerel was adopted in 2011 to update the plans with the requirements of the ISFMP. Specific to Spanish mackerel, the amendment includes commercial and recreational management measures, adaptive management measures, and a process for Board review and action in response to changes in the federal regulations. This allows for complementary management throughout the range of the species.

Addendum I to the FMP was adopted in August 2013 established a two-year pilot program to allow for a seasonal exemption from the minimum size limit during the months of July through September for pound nets only. The program allows for harvest of Spanish mackerel that are 11.5 inches fork length and is intended to reduce waste of these shorter fish, which are discarded dead in the summer months, by converting them to landed fish that will be counted against the quota. The program will be evaluated after the 2014 fishing year to determine if it will continue in the future.

#### Spiny Dogfish:

The FMP for spiny dogfish in federal waters was jointly adopted by the MAFMC and the New England Fishery Management Council (NEFMC) with an effective date of May 1, 2000. The joint Spiny Dogfish Committee and the Spiny Dogfish Industry Advisory Panel oversees development of the plan. The ASMFC Interstate FMP for Spiny Dogfish in state waters was adopted in November 2002 became effective on May 1, 2003. The ASMFC Spiny Dogfish Management Board, Technical Committee, Plan Development Team, and Advisory Panel oversee the development of the plan. The plans were developed to rebuild the spiny dogfish stock that was declared overfished by NOAA Fisheries in 1998.

Both federal and interstate FMPs used annual quotas and trip limits to allow a non-directed commercial fishery during the rebuilding period. Both FMPs established a fishing year starting May 1 divided into two six-month periods (May 1- October 31 and November 1- April 30). In addition, dealer permits with weekly reporting requirements are mandatory for the purchase of spiny dogfish. Each state must also report weekly commercial landings to the NOAA Fisheries.

In November 2005, the ASMFC approved Addendum I to the Spiny Dogfish FMP, which allowed for multiple-year specification of total allowable landings (TALs) for spiny dogfish. Within any given year, TALs for spiny dogfish can be specified for up to five years, but annual review of updated fishery and stock information is required. In January 2006, the MAFMC implemented Framework 1 to the federal FMP that also would allow for multiple-year specifications in federal waters, but without the requirement for annual review.

ASMFC Addendum II was approved in October 2008. It maintained a May 1 start date to the fishing year, but dissolved the 6-month seasonal quota allocation and instead established regional allocations of the annual quota. The northern region (Maine to Connecticut) received 58 percent, the southern region (New York through Virginia) received 26 percent, and North Carolina

received 16 percent. This was due to North Carolina's geographic disadvantage in having access to the resource when the fish are available under a May 1 start date. Addendum III dissolved the southern region allocation, established state quota shares for states from New York to North Carolina, and allowed for quota transfers, rollovers of up to five percent, state-specified possession limits, and a three-year reevaluation of management measures. North Carolina is allocated 14.036% of the southern quota. Addendum IV, approved in August 2012, addressed the differences in the definitions of overfishing between the NEFMC, MAFMC and the ASMFC.

The 2006 Northeast Regional Stock Assessment Workshop (SAW-43) determined that the spiny dogfish stock was not overfished, with an estimated stock size of mature females of 106,000 mt, and overfishing was not occurring. However, recruitment estimates from 1997 to 2003 represented the seven lowest values in the entire series, resulting in concerns regarding future stock growth. However, spiny dogfish were declared 'rebuilt' in 2008 when the spawning stock biomass (SSB) exceeded the target for the first time since the ASMFC began managing spiny dogfish in 2002. The interstate FMP allows for quotas based on the fishing mortality target once the mature female portion of the spawning stock has reached the biomass target.

The F target and threshold and SSB target and threshold were updated in the 2010 NEFSC Spiny Dogfish BRP report. The NEFSC Update on the Status of Spiny Dogfish in 2011 and Initial Evaluation of Alternative Harvest Strategies predicted SSB to remain above the target and then decline around 2019 because of poor recruitment from 1997 to 2003. The same NEFSC report estimated that SSB continued to exceed the target in 2011, for the fourth year in a row. Other positive trends included increases in pup biomass over the last few years and recruitment in 2009 that was the fifth highest in the 42-year NEFSC Spring Survey.

The 2013 stock assessment update, conducted by the NEFSC, estimated spiny dogfish are not overfished and not experiencing overfishing. SSB was estimated at 465.99 million pounds in 2013 and has exceeded the target (351.23 million pounds) for the past six years. Fishing mortality was estimated to be 0.15 in 2012, well below the plan's threshold (0.2439). The recommendation from the MAFMC Science and Statistical Committee (SSC) took into account the projected record low recruitment from 1997 to 2003; the recommended quotas are not expected to cause SSB to decline below the biomass threshold.

Discards have remained relatively stable at 11 million pounds over the past decade and are expected to remain near that level in the future fishing seasons. Canadian and foreign landings have also decreased significantly in recent years. It is anticipated the Canadian dogfish harvest will not increase in the near future given the lack of demand for the product and the subsequent closure of Canadian spiny dogfish processors.

#### Spot:

Spot are managed by the ASMFC South Atlantic State/Federal Fisheries Management Board. Spot support important commercial and recreational fisheries in the South Atlantic, particularly from the Chesapeake Bay southward. A Fishery Management Plan (FMP) for spot was adopted by the ASMFC in 1987. Unlike many of the Commission's FMPs, the plan did not contain mandatory management measures but instead provided recommendations for states to follow in order to reach the plan's goals.



Annual FMP reviews have been conducted by a Spot Plan Review Team (PRT) and presented to the South Atlantic Board. In 2006, the PRT recommended the development of an amended spot FMP with objective compliance criteria. This recommendation was made based on concerns over the continuing declines in commercial landings. To better inform future compliance criteria and to better track stock trends, the PRT began reviewing and analyzing available fishery-dependent and fishery-independent datasets on an annual basis beginning in 2008.

In 2011, the Atlantic States Marine Fisheries Commission approved the Omnibus Amendment for spot, spotted seatrout, and Spanish mackerel. The amendment updated all three plans with requirements under the ACFCMA and the ISFMP Charter (1995). The updates to the plans included commercial and recreational management measures and recommendations, adaptive management options, *de minimis* thresholds and exemptions, and monitoring recommendations. The Omnibus Amendment also included management triggers for spot, to assist the management board in monitoring the status of the stock until a full coast-wide stock assessment could be completed. The results of the annual review of the management triggers would determine if the management board should consider additional action.

In February 2014, South Atlantic State/Federal Fisheries Management Board approved a motion to initiate the development of an addendum to the Interstate FMP for spot to employ the traffic light approach in order to better manage this species. While establishment of the management triggers established in the Omnibus Amendment was a positive step, they were limited in their ability to illustrate long-term declines in abundance. The high level of inter-annual variability in the indices used made it difficult to respond to gradual but persistent decreases in the trigger indices without a formal response mechanism. The traffic light approach provides that management framework, with action triggered based on the relative proportions of indicators meeting a threshold level. Addendum I was approved in August 2014.

In June 2015, ASMFC announced preparations for the first benchmark stock assessment for spot, to be completed in 2016.

#### Spotted Seatrout:

Spotted seatrout in North Carolina are managed under both a state FMP and an ASMFC FMP. The ASMFC adopted the Interstate FMP for Spotted Seatrout in 1984, with the states of Florida through Maryland having a declared interest in the FMP. Amendment 1 to this FMP was approved by the ISFMP Policy Board in November 1991. The goal of Amendment 1 to the spotted seatrout FMP was “to perpetuate the spotted seatrout resource in fishable abundance throughout its range and generate the greatest possible economic and social benefits from its harvest and utilization overtime.” This amendment added an objective of maintaining a spawning potential ratio (SPR) of at least 20% to minimize the possibility of recruitment failure. Overall, the plan’s objectives are to: 1) attain over time optimum yield; 2) maintain a spawning potential ratio of at least 20% to minimize the possibility of recruitment failure; 3) promote conservation of the stocks in order to reduce the inter-annual variation in availability and increase yield per recruit; 4) promote the collection of economic, social, and biological data required to effectively monitor and assess management efforts relative to the overall goal; 5) promote research that improves understanding of the biology and fisheries of spotted seatrout; 6) promote harmonious use of the resource among various components of the fishery through

coordination of management efforts among the various political entities having jurisdiction over the spotted seatrout resource; and 7) promote determination and adoption of standard of environmental quality and provide habitat protection necessary for the maximum natural protection of spotted seatrout.

The initial adoption of the spotted seatrout FMP was adopted prior to the passage of the Atlantic Coastal Fisheries Cooperative Management Act (1993) and the ASMFC ISFMP Charter (1995). While both the Advisory Committee and Spotted Seatrout Plan Review Team believed the goal and objectives of the plan were still valid, they determined that full implementation of the FMP had not been achieved across the entire management unit due to lack of standards as required by both ACFCMA and the charter. The adoption of the Omnibus Amendment to the Spot, Spotted Seatrout and Spanish Mackerel FMPs (Amendment 2 to the Interstate FMP for Spotted Seatrout) in August 2011 updates the FMP with ACFCMA and ISFMP Charter requirements, implementing compliance requirements for each state. The minimum requirements adopted include a 12-inch minimum size limit for both recreational and commercial sectors, adaptive management that may include; seasons, area closures, and many other measures, and a recommended SPR threshold of 20%. All states in the management unit (Maryland through Florida) have implemented a minimum size limit of at least 12 inches total length.

A formal coastwide stock assessment of spotted seatrout has not been conducted and is impractical considering the biology and population dynamics of this species. The 1984 FMP recognized the lack of biological and fisheries data necessary for a stock assessment and effective management of the resource. Spotted seatrout life history information and fisheries data have generally been localized and conducted at different levels of population abundance. Detailed information on incidental bycatch, release mortality, and the size and age structure of releases has become a more important component of assessments of the condition of spotted seatrout populations.

Tagging studies and genetic analyses have shown little evidence of stock mixing and support the regional scope of recent state assessments. Florida, South Carolina and Georgia have conducted virtual population analyses on local stocks of spotted seatrout. Florida's spotted seatrout management plan has a goal of a 35 percent SPR. The most recent (2001) estimates of transitional SPR for Florida are 57 percent in the northeast region north of Volusia County and 33 percent in the southeast region from Volusia County south (Murphy 2003). The analysis conducted in South Carolina indicated that fishing mortality needed to be reduced approximately 20 percent to meet the plan objective of a 20 percent SPR. The 2002 Georgia assessment was conducted, but results were highly questionable due to substantial data limitations.

North Carolina's initial stock assessment on local spotted seatrout stocks was completed in 2009 conjunction with the state's established FMP process. The 2009 North Carolina Spotted Seatrout Stock Assessment indicated that the stock in North Carolina and Virginia was overfished and that overfishing was occurring throughout the entire 18-year time series, with SPR below the ASMFC recommendation of 20 percent. The N.C. Spotted Seatrout FMP was developed subsequent to the stock assessment and approved in February 2012 with the following management measures: a 14-inch total length minimum size limit; a 4-fish recreational bag limit; a 75-fish commercial trip limit; and no use of gill nets in Joint Waters on weekends. Additionally, the FMP included a provision that allowed the director to close harvest through

June 15 should a significant cold stun event occur. The FMP also required re-examination of management measures within three years of adoption to determine if management measures were achieving sustainable harvest.

In March 2014, Supplement A to the N.C. Spotted Seatrout FMP was adopted to allow for the continuation of the management measures adopted in 2012 as interim measures while sources of uncertainty from the 2009 stock assessment were analyzed in preparation for the mandatory three-year review.

In early 2015 a new stock assessment was completed that included several changes: additional fishery-independent indices; age data from the Virginia portion of the stock; and tag-return data that provided additional insight regarding natural mortality. The assessment determined that the stock is not overfished, although biomass levels have decreased to near the time series average since 2007. Furthermore, the assessment determined that overfishing was not occurring, but the F rate was close to the target. Based on these results, the N.C. Marine Fisheries Commission elected to maintain the status quo management measures approved in 2012. The next review of the FMP will occur in 2017.

#### Summer Flounder:

The ASMFC and the MAFMC manage summer flounder, scup and black sea bass under a joint FMP. The management unit includes summer flounder in U.S. waters in the western Atlantic Ocean from the southern border of North Carolina to the U.S.-Canadian border. The original ASMFC FMP for summer flounder was approved in 1982. The objectives of the FMP are to: 1) reduce fishing mortality of summer flounder to assure overfishing does not occur; 2) reduce fishing mortality of immature summer flounder to increase spawning stock biomass; 3) improve yield from the fishery; 4) promote compatible management regulations between state and federal jurisdictions; 5) promote uniform and effective enforcement of regulations; and 6) minimize regulations to achieve the stated objectives. The MAFMC FMP for summer flounder, prepared in 1988, mirrored the ASMFC FMP and established a 13" minimum size limit.

Over the years, multiple amendments and addenda to the ASMFC FMP have occurred. Amendment 12, approved by the ASMFC in October 1998, was developed to bring the Summer Flounder, Scup, and Black Sea Bass Fishery management Plan in to compliance with the new and revised National Standards and other required provisions of the 1996 reauthorization of the MSA. Specifically, the amendment revised the overfishing definitions (National Standard 1) for all three species and identified Essential Fish Habitat.

Addenda III and IV were approved on January 29, 2001. Addendum IV provided that, upon the recommendation of the relevant monitoring committee and joint consideration with the MAFMC, the ASMFC will make a decision concerning what state regulations will be rather than forward a recommendation to NOAA Fisheries. The states will then be responsible for implementing the Board's decision. Addendum III established specifications for the 2001 recreational summer flounder fishery.

Addendum VIII, adopted in 2003, established state-specific recreational allocations based on the coastwide harvest in 1998.

The commission approved Addendum XIII in August of 2004. This addendum modifies the FMP so that, within a given year, TALs for the summer flounder, scup, and/or black sea bass can be specified for up to three years.

Addendum XV developed a process to allocate increases in the coastwide commercial quotas for 2005 and 2006.

Addenda XVII (August 2005) and XVIII (February 2006) pertained to recreational harvest. The former provided for use of multiple years of data in developing recreational harvest measures, while the latter implemented a system to mitigate drastic cuts in recreational harvest for three states in the northeast.

Addendum XXIV to the Summer Flounder Fishery Management Plan, established a mechanism to allow states access to the 2013 summer flounder recreational harvest limit (RHL) that is projected to not be harvested. The Addendum only applied to the 2013 fishery.

Addendum XXV allowed for the use of regional measures to manage the 2014 summer flounder recreational fishery. The application of a single coastwide minimum size, possession limit, and season restrictions does not affect all areas involved in the fishery the same way; and the application of state-by-state conservation equivalency has resulted in disparate measures by neighboring states. Dividing the coastal states into regions allowed states the flexibility to pursue more equitable harvest opportunities, while providing consistent measures to states within the same region, in many cases sharing the same fishing grounds. The coastwide recreational harvest limit was divided into four regions: 1) Massachusetts-Rhode Island 2) Connecticut-New Jersey 3) Delaware-Virginia and 4) North Carolina. Each state within a region had the same regulations.

Despite many amendments and addenda to both MAFMC and ASMFC FMPs described above, the basic framework of the management program has been fairly consistent. Commercial fishery management measures include an annual quota with state-by-state allocations, a 14-inch minimum size limit, a federal (EEZ) moratorium on entry into the commercial fishery, vessel and dealer permitting and reporting requirements, and a minimum mesh size of 5 ½ inch stretched diamond mesh between the wings and the cod end of the trawls with an exemption program. Recreational fishery measures include an annual quota with state-by-state allocations, size limits, possession limits and seasonal closures. The states from Massachusetts to North Carolina establish state-specific seasons, size and possession limits through conservation equivalency to manage their recreational summer flounder fisheries. An ASMFC Plan Review Team and Management Board and the MAFMC Demersal Species Committee provide management input to both organizations. A joint ASMFC-MAFMC Technical Monitoring Committee that is comprised of staff members from state agencies, MAFMC, ASMFC, NOAA Fisheries and USFWS, provides annual technical and framework adjustment advice.

The summer flounder stock was under a rebuilding plan that required the stock to be rebuilt by January 1, 2013. The summer flounder stock assessment is updated annually. An update and peer review of the summer flounder stock assessment in September 2006 resulted in revised fishing mortality (F) and spawning stock biomass (SSB) estimates and biological reference

points. The peer review found it more appropriate to use SSB and average recruitment as biological reference points instead of total stock biomass and median recruitment. The 2007 annual stock assessment update determined the stock was overfished and overfishing was occurring compared to the revised biological reference points, although F was significantly lower than in past years and biomass was close to the reference point. Retrospective analysis showed a tendency to overestimate the spawning stock biomass and underestimate the fishing mortality rate in the most recent years in the stock assessment, which has delayed stock rebuilding. A benchmark stock assessment in 2008 found that the stock was not overfished and overfishing was not occurring. The stock reached the biomass target in 2010, therefore the stock was considered rebuilt and viable. The 2013 benchmark stock assessment indicated the stock was not overfished and overfishing was not occurring.

#### Tautog:

The Atlantic coastwide tautog FMP is overseen by the ASMFC Tautog Management Board. States must request *de minimus* status each year and requests for *de minimis* status are reviewed by the Tautog Plan Review Team as part of the annual FMP review process. *De minimis* status has been extended to North Carolina since the inception of the coastwide FMP. Specific management measures required of *de minimis* states include: commercial and recreational 14-inch total lengths minimum size limits, degradable fastener provisions for pots, and commercial regulations consistent with recreational requirements.

When the FMP was developed there were inadequate data to prepare recreational bag and season requirements for North Carolina. No recreational measures have since been urged by the ASMFC, nor adopted by North Carolina. Degradable pot fasteners are currently enforced in the state. North Carolina has not implemented size limits for either sector, yet this has not affected the extension of *de minimis* status to North Carolina.

The Management Board had previously expressed concern that fishermen from northern states might attempt to land fish in North Carolina to avoid more restrictive regulations. Prior to 2001, DMF had considered rules that provided protection against expansion in recreational landings. Since most recreational trips in North Carolina land one or two tautog, a five-fish possession limit for commercial and recreational fisheries was proposed as a reasonable alternative that would prevent excessive expansion of the fishery, but not an undue burden (J. Carmichael; DMF staff). To date, however, no rules have been considered necessary by ASMFC.

The first tautog assessment was performed in 1995. A coastwide virtual population analysis was performed but rejected during the SAW/SARC peer-review. Nonetheless, an F estimate from that assessment was incorporated into the initial FMP (ASMFC 1996). At that time, it was estimated that the coastwide stock of tautog was overfished and that overfishing was occurring.

Addendum I of the FMP (May 1997) required all states reach the interim fishing mortality target (F=0.24) and a 14-inch size limit by April 1, 1998. Furthermore, it required all states achieve the F target of 0.15 by April 1, 2000. Addendum I also adjusted the compliance schedule and added *de minimis* specifications.

A second benchmark coastwide stock assessment was performed in 1999, based upon a virtual

population analysis run and corroborative tag-based survival estimates, peer-reviewed and accepted through the SAW/SARC process. The 1999 assessment determined that the terminal year F value had dropped to close to the interim target, but well above the final plan target. Addendum II (November 1999) was developed in response to the assessment and extended the compliance schedule such that states had until April 2, 2002 to meet the target overfishing definition.

A 2002 stock assessment update found that recreational catch rates had returned to levels prior to the minimum size increase and that F had increased above the overfishing definition. This required reductions in recreational harvest starting in 2003, in an attempt to return F to the FMP target value. Addendum III (ASMFC 2002) required the states to develop and implement plans to reduce F in their respective recreational fisheries by April 1, 2003 and revised the plan F target to F40% Spawning Stock Biomass (SSB).

The 2007 Addendum V proposed removing North Carolina from the tautog management plan. North Carolina's annual commercial and recreational harvest have made up less than 1% of the coastwide fishery meeting the requirement for *de minimis* status since the Atlantic States Marine Fisheries Commission began regulating tautog in 1996. Because North Carolina tautog fishery was insignificant, the State requested their removal from the plan to relieve them from all burdens that accompany their inclusion. Future expansion in the North Carolina fishery is highly unlikely considering North Carolina's low latitude in the context of tautog's distinctively temperate, geographical distribution. The ASMFC declined to support this request so North Carolina will remain in the management unit with *de minimis* status.

A peer-reviewed benchmark assessment was conducted in 2006, and was the first full benchmark since 1999. The tautog assessment was delayed to allow incorporation of two years of harvest information since the previous management changes. The stock assessment report indicated the tautog resource continued to be at low biomass levels. A substantial decrease in biomass had occurred since the mid-1980's and while total stock biomass had been stable since 1999, it remained at a low level of abundance. Since the plan did not define a specific biomass target, it could not be determined if the population was overfished. Although F was marginally over the threshold, the assessment concluded that overfishing was occurring.

Addendum V, approved in 2007, contained an action to remove North Carolina from the tautog management plan. North Carolina's annual commercial and recreational harvests were less than 1% of the coastwide fishery (qualifying the state for *de minimus* status) since the ASMFC began regulating tautog in 1996. Future expansion in the North Carolina fishery is highly unlikely considering North Carolina's low latitude in the context of tautog's distinctively temperate, geographical distribution. The ASMFC declined to support this request so North Carolina remained in the management unit with *de minimis* status. The addendum also provided flexibility to states in reducing recreational and commercial harvests, since commercial harvest had expanded in some states.

The 2011 stock assessment update determined that the coastwide tautog stock was overfished and overfishing was occurring relative to the biological reference points established in Addendum IV. In order to end overfishing and initiate stock rebuilding, Addendum VI (2011) lowered the F target to 0.15 and required states to implement measures to achieve a 39 percent

reduction in exploitation by January 1, 2012. It also required all states to prohibit the possession of undersized tautog in excess of bag and possession limits. The measure was intended to deter illegal harvest of tautog for the live market.

A new benchmark stock assessment for tautog was approved for management use in February 2015. Unlike previous assessments, a regional approach was used to better reflect life history differences. Two different approaches, each with three regions, were offered for the management board's consideration in developing future management measures. Regardless of the approach, tautog remain overfished, with overfishing occurring in the most northern part of the range (Massachusetts and Rhode Island), while the southern portion of the range (Delaware and south) is not subject to overfishing. Based on the results of the assessment, in May 2015 the Tautog Management Board initiated the development of an amendment that includes both regional approaches, each with different stock units, for the public's consideration. The amendment will be completed in late 2015 or early 2016.

#### Weakfish:

The Interstate FMP for Weakfish was adopted in 1985 by the ASMFC. The weakfish program functions under the ISFMP with immediate oversight provided by the Weakfish Management Board (Board). The FMP has been amended in 1991, 1994, 1996 and most recently by Amendment 4 in 2002. Amendment 3, adopted in June 1996, was designed to provide an expanded age structure, and to restore fish to their full geographical extent. As a result, specific restrictions were required by the various states. For North Carolina these included: BRD requirements for shrimp trawls; 12-inch commercial minimum size limit for all but estuarine pound net and long haul seine fisheries (seasonal 10 inch size limit); minimum mesh sizes for gill nets and trawls; 150-pound bycatch allowance in non-directed fisheries; and recreational bag and size limits. In addition, North Carolina was required to reduce harvest by 35%. The harvest reduction was achieved by closing the area south of Cape Hatteras to flynets.

When Amendment 4 was adopted in November 2002, states were allowed to choose from a suite of recreational size and creel limit options and were required to maintain the commercial measures developed under Amendment 3, with the one exception of increasing the commercial bycatch allowance from 150 to 300 pounds. While management measures implemented through Amendments 3 and 4 resulted in an initial positive response to rebuilding the overfished stocks of weakfish along the Atlantic coast, the 2006 stock assessment indicated that spawning stock biomass declined rapidly after 1999 and was at the lowest level in the time series. The decline in biomass was reflected in landings along the Atlantic coast which were at historic lows. While the 2006 stock assessment was not upheld by a peer review panel, the Board accepted five conclusions (supported by significant evidence) for management use: 1) the stock is declining; 2) total mortality is increasing; 3) there is not much evidence of overfishing; 4) something other than fishing mortality is causing the decline in the stock; and 5) there is a strong chance that regulating the fishery will not, in itself, reverse stock decline.

The Commission's Weakfish Management Board approved Addendum II to Amendment 4 to the FMP in 2007. The Addendum considered several options to restrict and/or constrain harvest but also recognized that further restriction would do little to recover the weakfish stocks if fishing mortality was not the culprit in the decline. Under the Addendum, the states of Massachusetts

through North Carolina were required to implement a six-fish recreational bag limit at their current size limit for the recreational fishery. The addendum established a coastwide commercial landings limit of approximately 3.7 million pounds (based on the average landings for 2000-2004), and reduced the allowable bycatch limit from 300 pounds to 150 pounds per day or trip. The addendum also included a trigger for re-evaluation of the management measures.

Addendum III to Amendment 4 was also approved in 2007, and updated the bycatch reduction certification requirements to conform with those in the SAFMC's Shrimp FMP.

The most recent weakfish stock assessment was conducted in 2009 and indicated that weakfish were depleted, with no overfishing occurring. While juvenile abundance surveys demonstrated strong year classes, this production has not translated into higher adult biomass. Addendum IV was developed in response to this assessment and implemented a one-fish recreational creel limit, a 100-pound commercial trip limit, a 100-pound commercial bycatch limit during closed seasons, and a 100 undersized fish per trip allowance for the finfish trawl fishery. These measures are intended to reduce the level of harvest without creating a large amount of discards and poise the stock for recovery should natural mortality decrease in the future.

## MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

### Black Sea Bass (north of Hatteras):

As noted in the previous section, black sea bass is managed cooperatively between the ASMFC and MAFMC (please see previous section for information on ASMFC actions and addenda). The following is a brief summary of amendments and actions taken by the MAFMC to address black sea bass management through the Council's Summer Flounder, Scup and Black Sea Bass FMP:

Amendment 9 incorporated Black Sea Bass into the Summer Flounder FMP and established black sea bass measures, including commercial quotas, recreational harvest limits, size limits, gear restrictions, permits, and reporting requirements.

Amendment 11 modified certain provisions related to vessel replacement and upgrading, permit history transfer, splitting, and permit renewal regulations.

Amendment 12 revised the FMP to comply with the Sustainable Fisheries Act and established a framework adjustment process; a quota set-aside for research for summer flounder, scup, and black sea bass; established state-specific conservation equivalency measures; allowed the rollover of winter scup quota; revised the start date for summer quota period for scup fishery; established a system to transfer scup at sea.

Amendment 13 revised the black sea bass commercial quota system and addressed other black sea bass management measures. It also established multi-year specification setting of quota for all three species, region-specific conservation equivalency measures for summer flounder, and built flexibility into the process to define and update status determination criteria for each plan species.



Amendment 15 - Established Annual Catch Limits (ACLs) and Accountability Measures, while Amendment 16 established a standardized bycatch reporting methodology.

Bluefish:

Bluefish is jointly managed by the ASMFC and MAFMC. Please refer to the previous section on ASMFC FMPs for information on bluefish.

Monkfish:

The NEFMC and MAFMC jointly manage monkfish, with the NEFMC as the administrative lead. The original Monkfish FMP became effective in November 1999 and established a 10-year rebuilding plan for the fishery. The FMP is designed to stop overfishing and rebuild the stocks through a number of measures, including: limiting the number of vessels with access to the fishery and allocating days-at-sea for those vessels; setting limits for vessels fishing for monkfish; minimum fish size limits; gear restrictions; mandatory time out of the fishery during spawning season; and a framework adjustment process. The councils manage the fishery as two stocks, Southern Fishery Management Area (SFMA) and Northern Fishery Management Area (NFMA). North Carolina is in the SFMA (SFMA) that ranges from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina.

Federal laws to protect harbor porpoise, large Atlantic whales, and sea turtles from entanglement regulate the North Carolina large mesh gill net monkfish fishery. These federal laws allow a one-month window, March 16 - April 14, to utilize large mesh gill nets. Further, participants in this fishery must hold a Monkfish Large Mesh Gill Net Permit, confine their fishing efforts to waters from the NC/VA state line to Wimble Shoals (out 2 miles but not more than 3), and report any sea turtle or marine mammal interactions.

The original FMP was modified and amended to include an annual measure of the status of the stocks and adjustment to management measures as needed to maintain a 10-year rebuilding schedule. In April 1999, the councils adopted Amendment 1 to the monkfish FMP, which described and identified the essential fish habitat (EFH) for the monkfish fishery, compliant with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Framework Adjustment 2, effective May 2004, established a process to determine an annual total allowable catch (TAC) and appropriate fishing measures for each management area. This method is based upon the relationship between the 3-year running average of NOAA Fisheries fall trawl survey biomass index and established biomass index targets. The data indicated that the biomass indices were less than the current targets for both management areas. Due to concern about the ability of the stocks to rebuild to target levels by the end of the 10-year rebuilding period under this process, the Councils modified the management measures in the NMFA and changed the annual adjustment process.

Amendment 2, effective May 2005, included measures to address EFH and bycatch issues, as well as other issues raised during the public scoping process. Amendment 2 did not modify the stock-rebuilding program established in Framework 2. Amendment 2 implemented the

following measures: a new limited access permit for qualified vessels fishing south of 38°20' N latitude; an offshore monkfish fishery in the Southern Fishery Management Area (SFMA); a maximum roller-gear disc diameter of 6 inches in the SFMA; closure of two deep-sea canyon areas to all gears when fishing under monkfish days at sea (DAS); establishment of a research DAS set-aside program and a DAS exemption program; a North Atlantic Fisheries Organization Regulated Area Exemptions Program; adjustments to the monkfish incidental catch limits; a decrease in the monkfish minimum size in the SFMA; removal of the 20-day block requirement; and new additions to the list of actions that can be taken under the framework adjustment process contained in the FMP.

A stock assessment (SAW 40) from November of 2004 showed that monkfish were not overfished in either the NFMA or the SFMA based on existing reference points. Fishing mortality rates estimated from NEFSC and Cooperative survey data were not reliable for evaluation of fishing mortality with respect to reference points.

In 2006, North Carolina and NOAA Fisheries Southeast Regional Office (SERO) entered into an agreement enabling limited large mesh gill net fisheries for striped bass and monkfish in state waters. The large mesh monkfish fishery, for gill nets with a stretched mesh greater than seven inches, is open by proclamation from March 16 through April 14 unless closed sooner by proclamation. The Atlantic Ocean is closed to the use of gill nets greater than seven inches stretched mesh from December 22 through April 14 by proclamation, with the exception of the monkfish and striped bass fisheries. The agreement allows the state to implement Atlantic sturgeon, sea turtle and marine mammal conservation measures under its proclamation authority as well as gear restrictions on large mesh gillnets. Participants in this fishery must confine their fishing efforts to waters from the NC/VA state line to Wimble Shoals (out 2 miles but not more than 3), and report any sea turtle or marine mammal interactions. Each year, North Carolina contacts the NOAA Fisheries SERO to ensure that they have enough days-at-sea observer coverage for the opening of the fishery. Once NOAA Fisheries has confirmed observer coverage a proclamation is issued opening the large mesh fishery to gill nets greater than seven inches in the Atlantic Ocean. Large mesh gill nets are required to be fished every 48 hours, weather permitting. The area could be closed if reliable sea surface temperature data indicated water temperatures greater than 11° C or if an interaction occurred between large mesh gill nets and marine mammals or sea turtles. Masters of vessels that fish for monkfish in the specified area are required to possess a current year monkfish large mesh gill net permit issued by DMF to valid commercial license holders. The permit requires holders to report weekly trip information to DMF and mandated participation in the NOAA Fisheries observer program, in order to monitor interactions with protected species.

Despite several years of increase in biomass in both stocks, by the fall of 2006 both stocks were considered to be in decline with approximately 50% of the biomass being below the annual biomass index targets. Framework 3, effective November 2006 and included in Framework 42 to the Northeast Multispecies FMP, prohibited targeting monkfish on Multispecies permit B-regular days-at-sea (DAS). In 2007, Framework 4 was proposed by the Council to revise the monkfish management program so that the goals of the rebuilding plan could be met. Framework 4 included, among other measures, a backstop provision that would adjust and potentially close, the directed monkfish fishery in 2009 if the landings in the 2007 fishing year exceeded the target total allowable catch by more than 30 percent.

Amendment 3, effective February 2008, included monkfish in part of the standardized bycatch reporting methodology omnibus amendment. The omnibus amendment was applied to FMPs of the MAFMC and NEFMC and was developed to address the requirements of the MSA to include, in all FMPs, a standardized bycatch reporting methodology.

In July 2007, the Northeast Data Poor Stocks Working Group (DPWG) completed a new stock assessment which indicated that the monkfish stocks were not overfished and overfishing was no longer occurring. The council adopted these new revised reference points recommended by the DPWG in May 2008, and implemented Framework 5. Framework 6 was also implemented in 2008, eliminating the backstop provision adopted in Framework 4. The backstop provision was no longer necessary because both stocks were considered rebuilt.

Amendment 5, effective May 2011, was issued to bring the Monkfish FMP into compliance with the 2007 re-authorization of the Magnuson-Stevens Act. The Magnuson-Stevens Act was reauthorized and revised; it included the requirement that all FMPs establish Annual Catch Limits (ACLs) and measures to ensure accountability (AMs). For stocks not subject to overfishing, such as monkfish, the Act set a deadline of 2011 for the implementation of ACLs and AMs. Amendment 5 established the mechanism for specifying ACLs, AMs, annual catch target (ACT) and associated measures for DAS. Amendment 5 also brought the biological and management reference points in the FMP into compliance with the revised 2009 National Standard 1 (NS1) Guidelines.

In June 2010, another stock assessment, Stock Assessment Review Committee (SARC 50), concluded that both stocks are above their respective current biomass thresholds, and above the new biomass thresholds recommended by the assessment, indicating that both stocks are not overfished. The current estimated fishing mortality rate for each stock is below its respective fishing mortality threshold, therefore over fishing is not occurring on either stock. The SARC 50 Report also emphasized the continuing high degree of uncertainty in the assessment.

As a result of SARC 50, the NEFMC's SSC revised the estimate of ACLs for both stocks. The revised ACL for the NFMA is below the proactive AM annual catch target (ACT) for that area proposed in Amendment 5. Framework Adjustment 7, effective October 2011, adjusted the ACT for the NFMA to be consistent with the most recent scientific advice regarding the acceptable biological catch (ABC) for monkfish. Framework Adjustment 7 also specified a new DAS allocation and trip limits for the NFMA consistent with the new ACT and established revised biomass reference points for the NFMA and SFMA.

#### Summer Flounder:

As noted in the previous section regarding ASMFC FMPs, summer flounder are managed jointly between the MAFMC and ASMFC. The MAFMC Summer Flounder, Scup, and Black Sea Bass FMP uses output controls (catch and landings limits) as the primary management tool, with landings divided between the commercial and recreational fisheries. The FMP also includes minimum fish sizes, bag limits, seasons, gear restrictions, permit requirements, and other provisions to prevent overfishing and ensure sustainability of the fisheries. Recreational bag/size limits and seasons are determined on a state-by-state basis using conservation equivalency. The

commercial quota is divided into state-by-state quotas based on historical landings. The following is a brief summary of MAFMC-specific actions and amendments. Please see the previous section on ASMFC FMPs for further information.

Amendment 1 established an overfishing definition for summer flounder, while Amendment 2 established a rebuilding schedule, commercial quotas, recreational harvest limits, size limits, gear restrictions, permits, reporting requirements and created the Summer Flounder Monitoring Committee.

Amendment 3 revised the exempted fishery line for summer flounder; increased the large mesh net threshold for summer flounder; and established otter trawl retention requirements for large mesh use in the summer flounder fishery.

Amendment 4 revised state-specific shares for summer flounder commercial quota allocation while Amendment 5 allowed states to combine or transfer summer flounder commercial quota.

Amendment 6 set criteria for allowance of multiple nets on board commercial vessels for summer flounder; established deadline for publishing catch limits; and established commercial management measures for summer flounder.

Amendment 7 revised the fishing mortality rate reduction schedule for summer flounder.

Amendment 10 modified commercial minimum mesh requirements; continued the commercial vessel moratorium; prohibited transfer of summer flounder at sea; and established a special permit for the party/charter sector for summer flounder.

Amendment 11 modified certain provisions related to vessel replacement and upgrading, permit history transfer, splitting, and permit renewal regulations.

Amendment 12 revised the FMP to comply with the Sustainable Fisheries Act and established a framework adjustment process; established quota set-aside for research for summer flounder, scup, and black sea bass; and established state-specific conservation equivalency measures.

Amendment 13 established multi-year specification setting of quota for all three species; and region-specific conservation equivalency measures for summer flounder. It also built flexibility into process to define and update status determination criteria for each plan species.

Amendment 15 established ACLs and AMs, and Amendment 16 established a standardized bycatch reporting methodology.

## SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

### Dolphin and Wahoo:

The SAFMC, in cooperation with the MAFMC and NEFMC, developed FMP for Dolphin and Wahoo of the Atlantic in 2004. The FMP establishes the management unit for dolphin and wahoo as that portion of the stocks found in the EEZ along the U.S. Atlantic coast from Maine

through the east coast of Florida. While dolphin was not overfished, the Council adopted a precautionary and risk-averse approach to management for this fishery and to maintain status quo over the years 1993 through 1997. The FMP established recreational bag limits for both species, as well as vessel, operator and dealer permits, and established EFH designations.

Amendment 1 revised EFH Habitat Areas of Particular Concern, while Amendment 2 was included as part of the SAFMC's Comprehensive ACL Amendment of 2011. It established ACLs, AMs and established no recreational sale provisions for dolphin. In 2013, Amendment 5 was approved and adopted by the SAMFC and was the most comprehensive amendment to the Dolphin/Wahoo FMP, in terms of management measures and process updates. Amendment 5 updated the ABC and ACLs for both species, and set an ACT for the recreational fishery in an effort to achieve optimum yield (OY) of the stock. This amendment also set up an abbreviated framework procedure whereby modifications to the ACLs, ACTs, and AMs can be implemented by NOAA Fisheries without a full regulatory amendment. .

#### King Mackerel:

The original Gulf of Mexico (GMFMC) and SAFMC's FMP for Coastal Migratory Pelagic Resources (king and Spanish mackerel, cobia) was approved in 1983. This plan treated king mackerel as one U.S. stock. Allocations were established for recreational and commercial fisheries, and the commercial allocation was divided between net and hook-and-line fishermen. The FMP established procedures for the Secretary to take action by regulatory amendment to resolve possible future conflicts in the fishery, such as establish fishing zones and local quotas for each gear or user group. Numerous amendments have been implemented since the first FMP and are described below:

Amendment 1, established in 1985, provided a framework for pre-season adjustment of total allowable catch (TAC), revised king mackerel maximum sustainable yield (MSY) downward, recognized separate Atlantic and Gulf migratory groups of king mackerel, and established fishing permits and bag limits for king mackerel. Commercial allocations among gear users were eliminated.

Amendment 3 (1998) prohibited drift gill nets for coastal pelagics and purse seines and run-around gillnets for the overfished groups of mackerels. The habitat section of the FMP was updated and vessel safety considerations were included in the plan. A new objective to minimize waste and bycatch in the fishery was added to the plan.

Amendment 5 (1990) extended the management area for the Atlantic groups of mackerels through MAFMC jurisdiction. It revised problems in the fishery and plan objectives, revised the definition of "overfishing", added cobia to the annual stock assessment procedure, provided that the SAFMC will be responsible for pre-season adjustments of TACs and bag limits for the Atlantic migratory groups of mackerels, and redefined recreational bag limits as daily limits. It created a provision specifying that the bag limit catch of mackerel may be sold, provided guidelines for corporate commercial vessel permits, imposed a bag limit of two cobia per person per day for all fishermen, established a minimum size of 12 inches (30.5 cm.) fork length or 14 inches total length for king mackerel and included a definition of "conflict" to provide guidance to the Secretary.

Amendment 6 (1992) identified additional problems and an objective in the fishery, provided for rebuilding overfished stocks of mackerels within specific periods, provided for biennial assessments and adjustments, and provided for more seasonal adjustment actions, including size limits, vessel trip limits, closed seasons or areas, and gear restrictions. It provided for commercial Atlantic Spanish mackerel possession limits, changed commercial permit requirements to allow qualification in one of three preceding years, discontinued the reversion of the bag limit to zero when the recreational quota is filled, modified the recreational fishing year to the calendar year, changed the minimum size limit for king mackerel to 20 inches fork length, and changed all size limit measures to fork length only.

Amendment 7 (1994) equally divided the Gulf king mackerel commercial allocation in the Eastern Zone at the Dade–Monroe County line in Florida. The sub-allocation for the area from Monroe County through Western Florida was equally divided between commercial hook–and–line and net gear users.

Amendment 8 (1996) identified additional problems in the fishery, specified allowable gear, established a moratorium on new commercial king mackerel permits and provided for transferability of permits during the moratorium, revised qualifications for a commercial permit, extended the management area of cobia through New York, allowed retention of up to 5 damaged king mackerel on vessels with commercial trip limits, revised the seasonal framework procedures to a) delete a procedure for subdividing the Gulf migratory group of king mackerel, b) request that the stock assessment panel provide additional information on spawning potential ratios and mixing of king mackerel migratory groups, c) provide for consideration of public comment, d) redefine overfishing and allow for adjustment by framework procedure, e) allow changes in allocation ratio of Atlantic Spanish mackerel, f) allow setting zero bag limits, g) allow gear regulation including prohibition.

Amendment 9 (2000) changed the percentage of the commercial allocation of king mackerel TAC for the Florida east coast (North Area) and Florida west coast (South/West Area) of the Eastern Zone to 46.15 percent North and 53.85 percent South/West (previously, this allocation was 50%/50%). It also allowed possession of cut-off (damaged) king or Spanish mackerel that comply with the minimum size limits and the trip limits in the Gulf, Mid-Atlantic, or South Atlantic EEZ (sale of such cut-off fish is allowed and is in addition to the existing allowance for possession and retention of a maximum of 5 cut-off (damaged) king mackerel that are not subject to the size limits or trip limits, but that cannot be sold or purchased, nor counted against the trip limit). (Note: Several other changes were made involving allocation and gear restrictions that affected the Florida west coast and Gulf fisheries).

Amendment 10 (1998) designated Essential Fish Habitat (EFH) and EFH-Habitat Areas of Particular Concerns for coastal migratory pelagics.

Amendment 11 (1998) amended the FMP as required to make definitions of MSY, OY, overfishing and overfished consistent with the MSA National Standard Guidelines. It also identified and defined fishing communities and addressed bycatch management measures.

Amendment 12 (1999) extended the commercial king mackerel permit moratorium from October

15, 2000 to October 15, 2005, or until replaced with a license limitation, limited access, and/or individual fishing quota or individual transferable quota system (ITQ), whichever occurs earlier.

Amendment 13 (2002) established two marine reserves in the exclusive economic zone (EEZ) of the Gulf of Mexico in the vicinity of the Dry Tortugas, Florida known as Tortugas North and Tortugas South, in which fishing for coastal migratory pelagic species is prohibited. This action complements previous actions taken under the National Marine Sanctuaries Act.

Amendment 14 (2002) established a 3-year moratorium on the issuance of charter vessel and headboat Gulf group king mackerel permits in the Gulf unless replaced by a comprehensive effort limitation system. The control date for eligibility was established as March 29, 2001. The amendment also included other provisions for eligibility, application, appeals, and transferability of permits.

Amendment 15 (2005) established an indefinite limited access program for king mackerel in the EEZ under the jurisdiction of the Gulf of Mexico, South Atlantic, and Mid-Atlantic Fishery Management Councils and changed the fishing year to March 1 through February 28/29 for Atlantic group king and Spanish mackerels.

Amendment 18 established Annual Catch Limits and Accountability Measures for king and Spanish mackerel, as well as cobia as per the 2006 reauthorization of the MSA.

Amendment 20a prohibited the sale of king mackerel caught under the bag limit unless the fish are caught as part of a state-permitted tournament and the proceeds from the sale are donated to charity. In addition, the rule removes the income qualification requirement for king mackerel commercial vessel permits.

Amendment 20b eliminated the 500-pound trip limit that is effective when 75 percent of the respective quotas are landed for king mackerel in the Florida west coast Northern and Southern subzones, and allows transit of commercial vessels with king mackerel through areas closed to king mackerel fishing, if gear is appropriately stowed. It also created Northern and Southern Zones for Atlantic migratory group king and Spanish mackerel, each with separate quotas. NOAA Fisheries will close each zone when the respective quota is met or expected to be met. The dividing line between the zones is at the North Carolina/South Carolina state line.

A stock assessment was completed for king mackerel in the South Atlantic in 2014, concluding that the stock was not overfished and overfishing was not occurring.

### Spanish Mackerel

As noted above, the SAFMC and GMFMC jointly manage Spanish mackerel under the Coastal Migratory Pelagics FMP. All of the amendments described in the above section regarding king mackerel also contain measures that apply to Spanish mackerel. The only additional amendments to the FMP that are specific to Spanish mackerel are as follows:

Amendment 2, established in 1987 revised Spanish mackerel maximum sustainable yield (MSY) downward, recognized two migratory groups, and set commercial quotas and bag limits. Charter

boat permits were required, and it was clarified that Total allowable catch (TAC) for overfished stocks must be set below the upper range of acceptable biological catch (ABC). The use of purse seines on overfished stocks was prohibited.

Amendment 4 (1989) reallocated Atlantic group Spanish mackerel equally between recreational and commercial fishermen with an increase in TAC.

Framework Amendment 2013 established provisions to allow transfer at sea of Spanish mackerel caught in gillnets when one set exceeds the trip limit. The amendment also modified the trip limit for the Florida East Coast subzone by moving the potential step-up to 75 fish per day in the last month of the season and if less than 70 percent of the subzone's ACL has been met.

Framework Amendment 1 (2014) updated the ACLs for Atlantic group and Gulf group Spanish mackerel based on the recent stock assessment (SEDAR 28).

Snapper Grouper (includes black sea bass south of Cape Hatteras)

Of the 75 species managed by the SAFMC, 59 of these are included in the Snapper Grouper FMP. Because of its mixed species nature, this fishery offers the greatest challenge for SAFMC to manage successfully. The original FMP was implemented in 1983. Initially, FMP regulations consisted of minimum sizes, gear restrictions and a provision for the designation of special management zones (SMZs). Early attempts to develop more effective management measures were thwarted by lack of data on both the resource and the fishery. The condition of many of the species within the snapper grouper complex was, and still is, unknown. Improved data collection (in terms of quantity and quality) during the 1980's and 90's has provided more management information on some of the more commercially and recreationally valuable species, but lack of basic management data on many of the species still remains the major obstacle to successful management.

Snapper grouper management is also difficult because many of these species are slow growing, late maturing, hermaphroditic, and long lived, so rebuilding efforts for some species will take years to produce full recovery. Strict management measures, including prohibition of harvest in some cases, have been implemented to rebuild overfished species in the snapper grouper complex. Such harvesting restrictions are beneficial not only in rebuilding species, but also in helping to alleviate the need for these species to be listed in the future.

Regulatory Amendment 1 (1987) prohibited fishing in Special Management Zones (SMZs) except with hand-held hook-and-line and spearfishing gear; prohibited harvest of goliath grouper in SMZs; and implemented SMZs off SC and GA.

Regulatory Amendment 2 (1989) established two artificial reefs off Ft. Pierce, FL as SMZs.

Amendment 1 (1988) prohibited use of trawl gear to harvest fish in the snapper grouper fishery south of Cape Hatteras, NC and north of Cape Canaveral, FL; defined the directed snapper grouper fishery as a vessel with trawl gear and greater than or equal to 200 pounds of snapper grouper species onboard; and established the assumption that vessels with snapper grouper species onboard harvested these fish in the EEZ.

Regulatory Amendment 3 established an artificial reef at Key Biscayne, FL as an SMZ in Dade County, FL and prohibited fish trapping, bottom longlining, spearfishing and harvesting of



Goliath grouper in SMZs.

Amendment 2 (1990) prohibited harvest or possession of Goliath grouper in or from the EEZ in the South Atlantic, and defined overfishing for snapper grouper species according to existing NOAA Fisheries guidelines.

Amendment 3 (1990) established a management program for the wreckfish fishery which: added wreckfish to the snapper grouper management unit; defined OY and overfishing; required an annual permit to fish for, land or sell wreckfish; established a control date of March 28, 1990 for the area bounded by 33° and 30° N. latitude; established a fishing year beginning April 16; established a process whereby annual quotas would be specified; implemented a 10,000 pound trip limit and a January 15 – April 15 spawning season closure.

Amendment 4 (1991) prohibited the use of various gear, including fish traps, the use of bottom longlines for wreckfish, and powerheads in SMZs off South Carolina; established bag limits and minimum size limits for several species; established income requirements to qualify for permits; and required that all snapper grouper species possessed in the South Atlantic EEZ must have heads and fins intact through landing.

Amendment 5 (1991) established an Individual Transferable Quota (ITQ) management program for the wreckfish fishery.

Regulatory Amendment 4 (1992) modified the definition of black sea bass pots and allowed for multi-gear trips and the retention of incidentally caught fish.

Regulatory Amendment 5 (1992) established eight additional SMZs off the coast of South Carolina.

Amendment 6 (1993) established commercial quotas for snowy grouper and golden tilefish; established commercial trip limits for snowy grouper, golden tilefish, speckled hind, and warsaw grouper; included golden tilefish in grouper recreational aggregate bag limits; prohibited sale of warsaw grouper and speckled hind; created the Oculina Experimental Closed Area; and specified data collection needs for evaluation of possible future Individual Fishing Quota system.

Amendment 7 (1994) established size limits and bag limits for hogfish and mutton snapper; specified allowable gear; prohibited the use of explosive charges, including powerheads, off South Carolina; and required dealer, charter and headboat federal permits.

Regulatory Amendment 6 (1994) included provisions to rebuild and protect hogfish by implementing a recreational bag limit of 5 fish per person off Florida; protect cubera snapper by implementing a recreational bag limit of 2 per person for fish 30 inches TL or larger off Florida; and protected gray triggerfish by implementing a minimum size limit of 12 inches TL off Florida.

Amendment 8 (1997) established a limited entry system for the snapper grouper fishery.

Regulatory Amendment 7 (1999) established ten SMZs at artificial reefs off South Carolina.

Amendment 9 (1998) increased the minimum size limits on red porgy, black sea bass, vermillion snapper (recreational only), gag, and black grouper; changed recreational bag limits for red porgy, black sea bass, greater amberjack, gag, and black grouper; established an aggregate recreational bag limit of 20 fish per person per day inclusive of all snapper grouper species currently not under a bag limit, excluding tomtate and blue runners; and specified that vessels with bottom longline gear aboard may only possess snowy grouper, warsaw grouper, yellowedge

grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish.

Amendment 10 (1998) identified EFH and EFH-Habitat Areas of Particular Concern for species in the snapper grouper management unit.

Amendment 11 (1998) amended the FMP as required by the MSA to make definitions of MSY, OY, overfishing and overfished consistent with the National Standard Guidelines; identified and defined fishing communities; and addressed bycatch management measures.

Regulatory Amendment 8 (2000) established 12 SMZs at artificial reefs off Georgia; revised boundaries of seven existing SMZs off Georgia to meet Coast Guard permit requirements; and restricted fishing in new and revised SMZs.

Amendment 12 (2000) set regulatory limits for red porgy including a recreational bag limit, a commercial incidental catch limit, and a recreational and commercial size limit. It also permitted the transfer of the 225-pound trip limited commercial permit to another vessel (not another person) regardless of vessel size.

Amendment 13A (2003) extended regulations within the Oculina Experimental Closed Area off the east coast of Florida that prohibit fishing for and retention of snapper grouper species for an indefinite period with a 10 year re-evaluation by the Council. It provided for the Council to review the configuration and size of the area within 3 years of publication of the final rule.

Amendment 13C (2006) addressed overfishing for snowy grouper, golden tilefish, black sea bass and vermilion snapper. The amendment also allowed for a moderate increase in the harvest of red porgy as stock continued to rebuild.

Amendment 14 (2007) established a series of deepwater marine protected areas in the South Atlantic Exclusive Economic Zone.

Amendment 15A (2008) updated management reference points for snowy grouper, black sea bass, and red porgy; modified rebuilding schedules for snowy grouper and black sea bass; defined rebuilding strategies for snowy grouper, black sea bass, and red porgy; and redefined the minimum stock size threshold (MSST) for the snowy grouper stock.

Amendment 15B (2008) prohibited the sale of bag-limit caught snapper grouper species; reduced the effects of incidental hooking on sea turtles and smalltooth sawfish; changed the commercial permit renewal period and transferability requirements; implemented a plan to monitor and address bycatch; and established management reference points for golden tilefish. Amendment 15B also established allocations between recreational and commercial fishermen for snowy grouper and red porgy.

Amendment 16 (2009) included measures to end overfishing for gag grouper and vermilion snapper; established commercial and recreational allocations for both species; established a January through April spawning season closure for gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, tiger grouper, yellowfin grouper, graysby, and coney; reduced the aggregate grouper bag limit from five fish to three fish, and within that, reduced the gag bag limit from two fish to one gag or black grouper, combined; reduced the vermilion snapper bag limit from ten fish to five fish; established a recreational closed season for vermilion snapper of November through March; excluded captain and crew on for-hire vessels from retaining a bag limit of groupers; and required the use of dehooking tools to reduce bycatch mortality.

Amendment 19 (2009) was included under the Comprehensive Ecosystem-Based Amendment 1 (CE-BA 1) and included measures to provide presentation of spatial information for EFH and EFH-Habitat Areas of Particular Concern (EFH-HAPC) designations under the Snapper Grouper FMP; and designation of deepwater coral HAPCs.

Amendment 17A (2010) addressed management measures to end overfishing of red snapper and rebuild the stock, including ACLs and AMs. It extended the prohibition of red snapper in federal waters throughout the South Atlantic EEZ effective immediately. Amendment 17A also included a regulation requiring the use of non-stainless circle hooks north of 28 degrees N. latitude effective March 3, 2011.

Amendment 17B (2010) established ACLs and AMs and addressed overfishing for nine species in the snapper grouper management complex: golden tilefish, snowy grouper, speckled hind, warsaw grouper, black grouper, black sea bass, gag, red grouper, and vermilion snapper. Measures in Amendment 17B included a deepwater closure (240 ft. seaward) for deepwater species to help protect warsaw grouper and speckled hind. Additional measures in the amendment included a reduction in the snowy grouper bag limit; establishment of a combined ACL for gag, black grouper, and red grouper; an allocation of 97% commercial and 3% recreational for the golden tilefish fishery based on landings history; and establishment of accountability measures as necessary.

Regulatory Amendment 10 (2010) eliminated the large area closure in Amendment 17A for all snapper grouper species off the coasts of southern Georgia and north/central Florida. The regulatory amendment modified measures implemented in Amendment 17A to end overfishing for red snapper.

Regulatory Amendment 9 (2011) reduced the bag limit for black sea bass from 15 fish per person to five fish per person, established trip limits on vermilion snapper and gag, and increased the trip limit for greater amberjack.

Regulatory Amendment 11 (2011) eliminated a restriction on the possession or harvest of some deepwater snapper grouper species in waters greater than 240 feet deep.

Amendment 25 (Comprehensive Annual Catch Limit Amendment) (2011) met the 2011 deadline mandated by the MSA to establish ACLs and AMs for species managed by the Council that were not undergoing overfishing.

Amendment 24 (2011) implemented measures to end overfishing and establish a rebuilding plan for red grouper. The amendment also implemented or revised parameters such as MSY, MSST, ACLs and AMs and specified allocations for the commercial and recreational sectors.

Amendment 23 (Comprehensive Ecosystem-Based Amendment 2) (2011) included measures to designate the Deepwater MPAs as EFH-HAPCs; limited harvest of snapper grouper species in S.C. SMZs to the bag limit; and modified sea turtle release gear.

Amendment 18A (2012) established management actions to limit participation and effort in the black sea bass fishery. Measures included establishment of an endorsement program and other modifications to the commercial black sea bass pot fishery; establishment of a commercial trip limit (all gear-types) for black sea bass; and increased minimum size limits for both commercial and recreational black sea bass fisheries.

Amendment 20A (2012) defined and reverted inactive shares within the wreckfish ITQ program;

redistributed reverted shares to active shareholders; established a share cap; and implemented an appeals process.

Regulatory Amendment 12 (2012) adjusted the ACL and OY for golden tilefish; specified a commercial ACT; and revised recreational AMs for golden tilefish.

Amendment 18B (2013) addressed management of golden tilefish. Actions included in the amendment are: An endorsement program for the longline sector of the golden tilefish component of the snapper-grouper fishery; establishment of landings criteria to determine who will receive endorsements; an appeals process for the golden tilefish endorsement program; establishment of a procedure to allow transferability of golden tilefish endorsements; allocation of 75 percent of the commercial annual catch limit to the longline sector and 25 percent to the hook-and-line sector; and modification of the golden tilefish trip limit.

Regulatory Amendment 13 (2012) revised the ABCs, ACLs (including sector ACLs), and ACTs for 37 unassessed snapper grouper species. The revisions incorporated updates to the recreational data for these species, as per the new Marine Recreational Information Program, as well as revisions to commercial and for-hire landings. Regulatory Amendment 13 was necessary to avoid triggering accountability measures for these snapper-grouper species based on annual catch limits that were established by the Comprehensive Annual Catch Limit Amendment in April 2012, using recreational data under the Marine Recreational Fisheries Statistics Survey system.

Regulatory Amendment 14 (2013) modified the fishing year for greater amberjack; revised the minimum size limit measurement for gray triggerfish; increased the minimum size limit for hogfish; modified the commercial and recreational fishing year for black sea bass; adjusted the commercial fishing season for vermilion snapper; modified the aggregate grouper bag limit; and revised the Accountability Measures for gag and vermilion snapper.

Regulatory Amendment 15 (2013) modified the existing specification of optimum yield and annual catch limit for yellowtail snapper in the South Atlantic; modified existing regulations for yellowtail snapper in the South Atlantic; and modified the existing gag commercial ACL and AM that requires a closure of all other shallow water groupers (black grouper, red grouper, scamp, red hind, rock hind, graysby, coney, yellowmouth grouper, and yellowfin grouper) in the South Atlantic when the gag commercial annual catch limit is met or projected to be met.

Amendment 27 (2013) assumed management of Nassau grouper in the Gulf of Mexico; modified the crew size restriction for dual-permitted vessels (those with a Snapper Grouper Unlimited or 225-Pound Permit and a Charter/Headboat Permit for Snapper Grouper); modified the bag limit retention restriction for captain and crew of for-hire vessels; changed the existing snapper grouper framework procedure to allow for more timely adjustments to annual catch limits; and removed blue runner from the fishery management unit.

Amendment 28 (2013) established a process to determine if a red snapper fishing season will occur each year, including specification of the allowable harvest for both sectors and season length for the recreational sector; an equation to determine the ACL for red snapper for each sector; and management measures if fishing for red snapper is allowed.

Regulatory Amendment 18 (2013) adjusted the ACL (and sector ACLs) for vermilion snapper and red pogy based on the stock assessment updates for those two species and removed the annual recreational closure for vermilion snapper.

Regulatory Amendment 19 (2013) adjusted the black sea bass ACLs based on the results of the 2013 assessment. Because the increase to the ACL was substantial, there was concern that this could extend fishing with pots into the calving season for right whales and create a risk of entanglement for large migratory whales during the fall months. To minimize this risk, the amendment also established a closure to black sea bass pot gear from November 1 to April 30.

Regulatory Amendment 21 (2014) prevents snapper-grouper species with low natural mortality rates (red snapper, blueline tilefish, gag, black grouper, yellowtail snapper, vermilion snapper, red porgy, and greater amberjack) from being unnecessarily classified as overfished. For these species, even small fluctuations in biomass due to natural conditions rather than fishing mortality may cause a stock to be classified as overfished. Modification of the MSST definition (used in determining whether a species is overfished) prevents these species from being classified as overfished unnecessarily.

Amendment 32 (2014) addressed the determination that blueline tilefish are overfished and undergoing overfishing. The amendment removed blueline tilefish from the deep-water complex; established blueline tilefish commercial and recreational sector ACLs and AMs; revised the deep-water complex ACLs and AMs; established a blueline tilefish commercial trip limit; and revised the blueline tilefish recreational bag limit and harvest season.

Amendment 29 (2014) revised ACLs and recreational ACTs for four unassessed snapper grouper species and three snapper grouper species complexes based on an update to the ABC control rule, and revised ABCs for 14 snapper-grouper stocks. Additionally, this final rule revises management measures for gray triggerfish in the EEZ in the South Atlantic region, including modifying minimum size limits, establishing a split commercial season, and establishing a commercial trip limit.

Table B-1 Management measures implemented to comply with or complement ASMFC or Council FMPs as of the adoption of Amendment 1 to the N.C. IJ FMP (2008). This information is included as reference.

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
American eel	ASMFC	FMP 1999 Add #1 2006 (maintain current restrictions)	3J .0301	(f) It is unlawful to use eel pots with mesh sizes smaller than one inch by one-half inch unless such pots contain an escape panel that is at least four inches square with a mesh size of 1 inch by one-half inch located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots, except that not more than two eel pots per fishing operation with a mesh of any size may be used to take eels for bait.	No-Daily reports required via a DMF letter to fishers		3M .0512 Conditional Proclamation *see note at end of Table
			3M .0510	Unlawful to: (1) Possess, sell or take eels less than six inches in length; and (2) Possess more than 50 eels per person per day for recreational purposes			
Atlantic croaker	ASMFC	FMP 1997 Amen #1 2005	No comply rules		No		3M .0512 Conditional Proclamation
Atlantic menhaden	ASMFC	FMP 1981 Add #1-#3 2004-2006	No comply rules		No		3M .0512 Conditional Proclamation
Atlantic Striped Bass (Ocean)	ASMFC	FMP 1981 Amen #6 2003	3M .0201 General	(a) Striped bass is defined as striped bass ( <i>Morone saxatilis</i> ) and its hybrids taken in coastal and joint waters. (b) Hook-and-line fishing equipment is not commercial fishing equipment in the striped bass fishery. It is unlawful to sell or purchase striped bass taken by hook-and-line. Striped bass taken legally with hook-and-line may be	Various annuallyFF -30-07	effective at 12:01 A.M., Sunday, April 1, 2007, the season for the harvest of striped bass with ocean trawls in the Atlantic Ocean waters of North Carolina SHALL OPEN. The following restrictions will apply:  I. SIZE LIMIT  No person may possess, transport,	3M .0204 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>possessed and transported.</p> <p>(c) It is unlawful to possess striped bass imported from other states less than 18 inches long (total length).</p> <p>(d) It is unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except:</p> <p>(1) during the open season in internal coastal waters established in 15A NCAC 03M .0202;</p> <p>(2) during any open season established for the Atlantic Ocean in 15A NCAC 03M .0204; or</p> <p>(3) during any open season of another state without possession of the following:</p> <p>(A) A bill of lading as described in 15A NCAC 03I .0114;</p> <p>(B) A numbered, state-issued tag from the State of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.</p> <p>(e) The management units and recreational fishery management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.</p>		<p>buy, sell, or offer for sale striped bass less than 28 inches total length taken with ocean trawls from the Atlantic Ocean.</p> <p>II. HARVEST RESTRICTIONS</p> <p>A. No ocean trawl operation, regardless of the number of persons or vessels involved, may land or sell more than 100 striped bass during the harvest period beginning at 12:01 A.M. Sunday, April 1, 2007 and ending at 6:00 P.M., Sunday, April 15, 2007.</p> <p>B. Striped bass may not be transferred from the harvesting vessel to any other vessel during harvesting operations or be transported by any vessel other than the vessel in which they are harvested.</p> <p>III. GEAR RESTRICTIONS</p> <p>A. For purposes of this proclamation, a trawl is defined as a net made of multi-strand nylon consisting of wings, a body and a codend.</p> <p>B. No gill nets may be possessed on board a vessel used in the taking or landing of striped bass.</p> <p>Plus permits, tags, reporting, etc</p>	
<b>Atlantic Striped Bass</b>	ASMFC		3M .0204 Season,	(a) It is unlawful to possess striped bass taken from the Atlantic Ocean			3M .0204 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
(Ocean)			Size, Etc. Ocean	<p>less than the size limit as determined by the Atlantic States Marine Fisheries Commission in their Interstate Fisheries Management Plan for striped bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fisheries Management Plan.</p> <p>(b) It is unlawful to buy, sell, transport, or possess striped bass from the Atlantic Ocean by any means except that the Fisheries Director may establish an open season at any time, and is further empowered to impose any or all of the following restrictions:</p> <p>(1) Specify number of days,  (2) Specify areas,  (3) Specify means and methods which may be employed in the taking,  (4) Specify time period,  (5) Limit the quantity, both commercially and recreationally, and  (6) Provide for biological sampling of fish harvested.</p>			
<b>Atlantic striped bass (internal, ASMA, RRMA)</b>	ASMFC	FMP 1981 Amen #6 2003	3M.0202 Season, Size, Etc. Internal	<p>(a) The Fisheries Director may, by proclamation, impose any or all the following restrictions on the taking of striped bass in internal coastal waters:</p> <p>(1) Specify season or seasons:  (A) for recreational purposes;  (B) for commercial fishing operations from October 1 through April 30,  (2) Specify areas,</p>	Several annually FF-35-07 rec.	<p>effective at 8:01 P.M., Monday, April 30, 2007 the season for striped bass taken for recreational purposes in the Albemarle Sound Management Area shall open with the following restrictions:</p> <p>AREA DESCRIPTION:</p> <p>The Albemarle Sound Management Area as defined in</p>	3M.0202 Explicit



Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>(3) Specify quantity,</p> <p>(4) Specify means/methods,</p> <p>(5) Specify size, but the minimum size specified shall not be less than 18 inches total length, and Require submission of statistical and biological data.</p> <p>Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.</p> <p>(b) The Fisheries Director may, by proclamation, impose any or all the following restrictions on the taking of striped bass by hook-and-line or for recreational purposes in internal coastal waters in order to comply with the management requirements incorporated in the North Carolina Estuarine Striped Bass Plan:</p> <p>(1) Specify quantity, but shall not exceed possession of more than three fish in any one day, and</p> <p>(2) Specify size, but the minimum size specified shall not be less than 18 inches total length.</p>	FF-33-07	<p>Marine Fisheries Rule 15A NCAC 3R .0201 (a), excluding Inland fishing waters.</p> <p>II. SEASON, MEANS AND METHODS:</p> <p>A. Striped bass may be taken for recreational purposes seven days a week during the open season.</p> <p>B. Recreational Commercial Gear License (RCGL) gill net(s) with a mesh length of 5 ½ inches and larger are required to be equipped with floats that do not exceed 2 inches in diameter and 6 inches in length, with float placement no less than 10 yards apart. The net(s) shall be set so as to fish on the bottom not to exceed a vertical fishing height of 48 inches. The net(s) shall be attended when used from one hour after sunrise through one hour before sunset.</p> <p>C. The recreational season for striped bass in the Albemarle Sound Management Area shall close at 8:00 P.M., Sunday, May 6, 2007, unless closed earlier by a proclamation.</p> <p>III. SIZE AND CREEL LIMITS:</p> <p>A. No person shall take or possess striped bass less than 18 inches total length taken for recreational</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
					M-5-07	<p>purposes from the Albemarle Sound Management Area.</p> <p>B. No person, including RCGL holders, shall take or possess more than three (3) striped bass taken in any one day for recreational purposes from the Albemarle Sound Management Area.</p> <p>effective at 8:01 P.M., Saturday, April 14, 2007, the harvest of striped bass with COMMERCIAL FISHING OPERATIONS IN THE ALBEMARLE SOUND MANAGEMENT AREA WILL OPEN and the following provisions shall apply:</p> <p>I. AREA DESCRIPTION</p> <p>Albemarle Sound Management Area as described in Marine Fisheries Rule 15A NCAC 3R .0201 (a), excluding Inland fishing waters.</p> <p>II. SIZE AND HARVEST RESTRICTIONS:</p> <p>A. It is unlawful to take, possess, transport, buy, sell, or offer for sale striped bass less than 18 inches total length taken by commercial fishing operations from the Albemarle Sound Management Area.</p> <p>B. It is unlawful for an individual</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>or commercial fishing operation regardless of the number of persons or vessels involved, to possess, land, sell or offer for sale more than five (5) striped bass, unless taken in conjunction with other commercially important finfish. Striped bass shall be limited to 50% by weight, of the combined daily harvest, not to exceed 5 fish per day, per Standard Commercial Fishing License (SCFL) holder. The daily harvest limit of 5 striped bass shall not be exceeded, regardless of where taken from internal waters, unless the fish are taken in accordance with II. C. below.</p> <p>C. It is unlawful for any operation consisting of more than one SCFL holder to be in possession of more than two daily harvest limits. A SCFL holder must accompany each single harvest limit until the time of sale to a dealer possessing a valid 2006/2007 STRIPED BASS DEALER PERMIT validated for the Albemarle Sound Management Area.</p> <p>Plus permits, tags, etc.</p> <p>effective at 12:01 A.M., Sunday, April 15, 2007 the following provisions shall apply to the use of gill nets in the ALBEMARLE SOUND MANAGEMENT AREA.</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>I. AREA DESCRIPTION: The Albemarle Sound Management Area as described in Marine Fisheries Rule 15A NCAC 3R .0201 (a) excluding Inland Fishing Waters.</p> <p>II. COMMERCIAL NET RESTRICTIONS: Only gill nets meeting the specified mesh lengths shall be used in the following areas identified below. A fishing operation, regardless of the number of vessels or persons involved, shall not use more than the lengths of gill nets specified for the following areas:</p> <p>Albemarle Sound, Currituck Sound, Croatan Sound and Roanoke Sound and their Joint Water Tributaries</p> <p>A. Gill nets with a mesh length of 3 ¼ inches shall not exceed 800 yards in length.....</p> <p>Gill nets with a mesh length of 5 1/2 inches and larger that are equipped with floats that do not exceed 2 inches in diameter and 6 inches in length placed a minimum of 10 yards apart, not to exceed 11 floats per 100 yards of net. Nets must not exceed 3,000 yards in length and must be set so as to fish on the bottom not to exceed a vertical height of 48</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>inches.</p> <p>Gill nets with a mesh length of 5 1/2 inches and larger not meeting the criteria in Section II. D. for floats are required to be equipped with tie downs spaced no farther apart than 30 feet restricting the vertical distance between the top and bottom lines to 48 inches or less. Nets must not exceed 3000 yards in length and must be set so as to fish on the bottom not to exceed a vertical height of 48 inches.</p> <p>F. No gill nets may be used in the area southwest of a line from Black Walnut Point 35° 59 .3833' N- 76° 41 .0060' W, running 138° (M) to a point 35° 56 .3333' N- 76° 36 .0333' W at the mouth of Mackey's Creek, including Roanoke, Cashie, Middle and Eastmost rivers.</p>	
<b>Atlantic Sturgeon</b>	ASMFC	FMP 1990 Amen # 1 1998 Add #2 2004	3M .0508	It is unlawful to possess sturgeon in North Carolina.	No		3M .0512 Conditional Proclamation
<b>Black sea bass-North</b>  <b>&amp;</b>  <b>Black sea</b>	ASMFC & MAFMC  SAFMC	FMP ?? Amen #13 ??  ??	3M. 0506	(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fisheries for species of the snapper-grouper complex and black sea bass in order to comply with the	FF-40-07	Effective at 12:01 A.M., Tuesday, May 1, 2007, the following restrictions shall apply to the commercial black sea bass fishery north of Cape Hatteras (35°	3M.0506 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
bass-South				<p>management requirements incorporated in the Fishery Management Plans for Snapper-Grouper and Sea Bass developed by the South Atlantic Fishery Management Council or Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission:</p> <ol style="list-style-type: none"> <li>(1) Specify size;</li> <li>(2) Specify seasons;</li> <li>(3) Specify areas;</li> <li>(4) Specify quantity;</li> <li>(5) Specify means/methods; and</li> <li>(6) Require submission of statistical and biological data.</li> </ol>		<p>15.3'N. Latitude):</p> <p><b>SIZE LIMIT</b> It is unlawful to possess black sea bass less than 11 inches total length north of Cape Hatteras. Total length shall be measured along the lateral midline from the tip of the nose to the tip tail, excluding the caudal fin filament.</p> <p><b>HARVEST LIMITS</b> During the period beginning at 12:01 A.M., Tuesday, May 1, 2007 and ending at 6:00 P.M., Tuesday, May 15, 2007, no commercial trawl, fish pot or hook and line fishing operation, regardless of the number of people involved, may have total landings of more than 15,000 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras. The Atlantic Ocean black sea bass fishery will close immediately after the Director issues a public notice that the quota of black sea bass has been landed from the Atlantic Ocean north of Cape Hatteras, or at 6:00 P.M., May 15, 2007, whichever occurs first.</p> <p>B. During any closed season, vessels may land up to 100 pounds of black sea bass per trip taken from the Atlantic Ocean.</p> <p><b>III. GEAR RESTRICTIONS</b></p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>FISH TRAPS/POTS: Black sea bass pots or traps must conform with the Federal rule requirements for escape vents specified in 50 CFR 648.144 (b)(2) and for degradable fasteners specified in 50 CFR 648.144 (b)(3)(i), (ii) and (iii). (See Section IV.H).</p> <p>IV. PERMITS A. Finfish dealers may not buy more than 100 pounds of black sea bass caught north of Cape Hatteras per day per commercial fishing operation unless the dealer has a valid 2007 Black Sea Bass – North of Cape Hatteras Dealer Permit from the North Carolina Division of Marine Fisheries. Permits will be issued only to those licensed fish dealers holding a valid license as authorized in G.S. 113-169.3. Dealers must abide by all conditions of the 2007 Black Sea Bass-North of Cape Hatteras Dealer Permit as set out in Proclamation FF-53-2006, dated November 21, 2006.</p> <p>B. Dealers possessing a 2007 Black Sea Bass – North of Cape Hatteras Dealer Permit shall report daily by noon through FAX transmittal (252-726-3903) to the Division of Marine Fisheries black sea bass landings from the Atlantic Ocean for the previous day.</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
			3M. 0506 (Pots)	(s) Fish Traps/Pots: (1) It is unlawful to use or have on board a vessel fish traps for taking snappers and groupers except sea bass pots as allowed in Subparagraph (2) of this Paragraph. (2) Sea bass may be taken with pots that conform with the federal rule requirements for mesh sizes and pot size as specified in 50 CFR Part 646.2, openings and degradable fasteners specified in 50 CFR Part 646.22(c)(2)(i), and escape vents and degradable materials as specified in 50 CFR Part 622.40 (b)(3)(i) and rules published in 50 CFR pertaining to sea bass north of Cape Hatteras (35° 15' N Latitude). Copies of these rules are available via the Federal Register posted on the Internet at <a href="http://www.gpoaccess.gov/fr">www.gpoaccess.gov/fr</a> and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.			
<b>Black sea bass-South</b>	SAFMC		3M .0506	(b) Black sea bass, south of Cape Hatteras (35° 15.0321'): (1) It is unlawful to possess black sea bass less than ten inches total length. (2) It is unlawful to take or possess more than 20 black sea bass per person per day without a valid Federal Commercial Snapper-Grouper permit.	FF-39-07	Effective at 12:01 A.M., Sunday, April 29, 2007, the following restrictions will apply to the taking of snapper-grouper from the Atlantic Ocean for recreational and commercial purposes: I. SIZE AND POSSESSION LIMITS  A. The size and possession limits of N.C. Fisheries Rules for Coastal Waters 15A NCAC 3M .0506 that <u>were suspended in</u>	G.S 113-221.1 Suspend Rule



Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p><u>Proclamation FF-19-2007, dated February 23, 2007</u> are replaced with the following provisions in accordance with proclamation authority in the same Rule:</p> <p>1. It is unlawful to possess black sea bass south of Cape Hatteras (35 ° 15.0321' N) less than eleven inches total length when taken for recreational purposes.</p> <p>It is unlawful to take or possess more than 15 black sea bass per person per day south of Cape Hatteras without a valid Federal Commercial Snapper-Grouper permit.</p> <p>Sea bass may be taken with pots that conform with the federal rule requirements for mesh sizes and pot size as specified in 50 CFR Part 622.40 and rules published in 50 CFR pertaining to sea bass north of Cape Hatteras (35° 15'N Latitude).</p>	
<b>Bluefish</b>	ASMFC & MAFMC	FMP ?? Amen #1 2000	3M .0511	(a) In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Bluefish developed cooperatively by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, take any or all of the following actions for bluefish:  (1) Taken by a commercial fishing operation: (A) Specify size;	FF-26-03	<p>effective at 12:01 A.M., Tuesday, April 1, 2003, the following change will apply to the taking of bluefish for recreational purposes:</p> <p>Proclamation FF-42-2001, dated June 19, 2001, is RESCINDED. That proclamation specified the possession limit of 15 bluefish per person per day for recreational purposes.</p> <p>GENERAL INFORMATION</p> <p>C) The recreational</p>	3M .0511 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				(B) Specify seasons; (C) Specify areas; (D) Specify quantity; (E) Specify means/methods; and (F) Require submission of statistical and biological data. (2) Taken for recreational purposes: (A) Specify size; (B) Specify quantity. (b) It is unlawful to possess more than 15 bluefish per person per day for recreational purposes. Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length.		possession limit for blue fish (15 fish per person per day) now appears in N.C. Marine Fisheries Rule 15A NCAC 3M .0511. Also included in this rule is a provision which states, "Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length."  D) This proclamation rescinds Proclamation FF-42-2001, dated June 19, 2001.	
<b>Dolphin &amp; Wahoo</b>	SAFMC	FMP 2004	3M .0515 dolphin	(a) It is unlawful to possess more than 10 dolphin per person per day taken by hook and line for recreational purposes except charter vessels with a valid National Marine Fisheries Service Coastal Migratory Pelagic Permit and licensed by the U.S. Coast Guard to carry six or less passengers for hire, may possess a maximum of 60 dolphin per day regardless of the number of people on board. (b) Vessels, including charterboats when fishing with three or less persons (including captain and mate) on board, with a valid Standard or Retired Standard Commercial Fishing License or a Land or Sell License, may possess more than 60 dolphin per day.	No		G.S 113-221.1 Suspend Rule  3M .0512 Conditional Proclamation
			3M .0517 wahoo	(a) It is unlawful to possess more than two wahoo per person per day	No		G.S 113-221.1

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>taken by hook and line for recreational purposes.</p> <p>(b) It is unlawful to take or possess more than two wahoo per person per day, or sell wahoo without a Federal Commercial Dolphin/Wahoo permit and either a Standard Commercial Fishing License, Retired Standard Commercial Fishing License, or a Land or Sell License.</p> <p>(c) It is unlawful to possess aboard or land more than 500 pounds of wahoo per trip in a commercial fishing operation</p>			<p>Suspend Rule</p> <p>3M .0512 Conditional Proclamation</p>
<b>Mackerel, king</b>	SAFMC	FMP 1983 Amen 1-13 2004	3M .0301	<p>(b) King mackerel:</p> <p>(1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions for king mackerel:</p> <p>(A) Specify areas.</p> <p>(B) Specify seasons.</p> <p>(C) Specify quantity.</p> <p>(D) Specify means/methods.</p> <p>(E) Specify size.</p> <p>(2) It is unlawful to possess king mackerel less than 24 inches fork length.</p> <p>(3) It is unlawful to possess more than three king mackerel per person per day taken for recreational purposes.</p> <p>(4) It is unlawful to possess more than three king mackerel per person per day in the Atlantic Ocean:</p> <p>(A) by hook and line except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit; or</p>			<p>3M .0301 Explicit</p>

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>(B) between three miles and 200 miles from the State's mean low water mark in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit.</p> <p>(5) It is unlawful to use gill nets in the Atlantic Ocean to take more than three king mackerel per person per day south of 34° 37.3000' N (Cape Lookout).</p> <p>(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the king mackerel and Spanish mackerel possession limits established in Subparagraphs (a)(3) and (b)(3) of this Rule when fishing with more than three persons (including the captain and mate) on board.</p> <p>(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.</p>			
<b>Mackerel, Spanish</b>	SAFMC & ASMFC	FMP 1983 Amen 1-13 2004	3M .0301	<p>(a) Spanish Mackerel:</p> <p>(1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions for Spanish mackerel:</p> <p>(A) Specify areas.</p> <p>(B) Specify seasons.</p> <p>(C) Specify quantity.</p> <p>(D) Specify means/methods.</p> <p>(E) Specify size.</p> <p>(2) It is unlawful to possess</p>			3M .0301 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>Spanish mackerel less than 12 inches fork length.</p> <p>(3) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.</p> <p>It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.</p> <p>c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the king mackerel and Spanish mackerel possession limits established in Subparagraphs (a)(3) and (b)(3) of this Rule when fishing with more than three persons (including the captain and mate) on board.</p> <p>(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.</p>			
<b>Monkfish</b>	MAFMC	FMP ?? Amen #2 2005	No Comply Rules		(Turtle related)		3M .0512 Conditional
<b>Red Drum</b>	ASMFC	FMP ?? Amen #2 2002 (maintain current restrictions)	3M .0501	<p>(a) The Fisheries Director, may by proclamation, impose any or all of the following restrictions on the taking of red drum:</p> <p>(1) Specify areas.</p> <p>(2) Specify seasons.</p> <p>(3) Specify quantity.</p>	FF-47-01	<p>effective at 6:00 P.M. Thursday, September 6, 2001, the following restrictions will apply to the taking of red drum (channel bass) in a commercial fishing operation:</p> <p>I. HARVEST LIMIT</p>	3M .0501 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				(4) Specify means/methods. (5) Specify size. (b) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device. (c) It is unlawful to possess red drum less than 18 inches total length or greater than 27 inches total length. (d) It is unlawful to possess more than one red drum per person per day taken-by hook-and-line or for recreational purposes. (e) The annual commercial harvest limit (September 1 through August 31) for red drum is 250,000 pounds. If the harvest limit is projected to be taken, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation.		A. It is unlawful to possess more than seven (7) red drum per day taken in a commercial fishing operation, regardless of the number of individuals or vessels involved.  B. Subject to I. A. above, no person may possess red drum incidental to any commercial fishing operation unless the weight of the combined catch of all other finfish (excluding menhaden) exceeds the weight of the red drum retained.	
Reef fish	SAFMC	FMP?? Amen 1-15	3M .0506	(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fisheries for species of the snapper-grouper complex and black sea bass in order to comply with the management requirements incorporated in the Fishery Management Plans for Snapper-Grouper and Sea Bass developed by the South Atlantic Fishery Management Council or Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission: (1) Specify size; (2) Specify seasons; (3) Specify areas;	FF-39-07	Effective at 12:01 A.M., Sunday, April 29, 2007, the following restrictions will apply to the taking of snapper-grouper from the Atlantic Ocean for recreational and commercial purposes: <b>I. SIZE AND POSSESSION LIMITS</b>  A. The size and possession limits of N.C. Fisheries Rules for Coastal Waters 15A NCAC 3M .0506 that were suspended in Proclamation FF-19-2007, dated February 23, 2007 are replaced with the following provisions in accordance with proclamation	G.S 113-221.1 Suspend Rule  3M .0506 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				(4) Specify quantity; (5) Specify means/methods; and (6) Require submission of statistical and biological data. The species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region are hereby incorporated by reference and copies are available via the Federal Register posted on the Internet at <a href="http://www.gpoaccess.gov/fr">www.gpoaccess.gov/fr</a> and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost. <u>See rule for species size and creels</u>		authority in the same Rule: 1.... It is unlawful to possess vermillion snapper (beeliner) less than 12 inches total length. It is unlawful to possess more than three red porgy per person per day without a valid Federal Commercial Snapper-Grouper permit. It is unlawful to land more than 120 individual red porgy from May 1 through December 31 in a commercial fishing operation. B. The following is to be added to Marine Fisheries Rule 15A NCAC 3M .0506 (p)(2) Combined Bag Limits: It is unlawful to possess more than five grouper without a Federal Commercial Snapper-Grouper permit of which: No more than one per person per day may be a snowy grouper; No more than one per person per day may be a golden tilefish	
			3M. 0516 (Cobia)	(a) It is unlawful to possess cobia less than 33 inches fork length. (b) It is unlawful to possess more than two cobia per person per day.			
<b>Scup</b>	ASMFC & MAFMC	FMP 1996 Add #1 1996	3M .0514	In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Scup developed cooperatively by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by	FF-31-07	effective at 9:00 A.M., Sunday, April 1, 2007, the following restrictions will apply to the commercial scup fishery in coastal waters including the Atlantic Ocean north of Cape Hatteras (35° 15' N. Latitude):  I. SIZE AND HARVEST	3M .0514 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>proclamation, take any or all of the following actions in the scup fishery:</p> <p>(1) Specify size;</p> <p>(2) Specify seasons;</p> <p>(3) Specify areas;</p> <p>(4) Specify quantity;</p> <p>(5) Specify means/methods; and</p> <p>(6) Require submission of statistical and biological data.</p>		<p>LIMITS</p> <p>No person may take, possess, buy, sell or offer for sale scup less than 9 inches in length.</p> <p>No person may possess, sell or offer for sale more than 30,000 pounds of scup during each of the following two week periods when taken with commercial fishing equipment or for commercial purposes during the Winter I Harvest Period.</p> <p>1. From 9:00 A.M., April 1 through 9:00 P.M., April 15, 2007. From 9:01 A.M., April 16 through 9:00 P.M., April 30, 2007.</p> <p>II. TRAWL MESH REQUIREMENTS</p> <p>The minimum mesh size for the commercial scup fishery will be 5 inches stretched mesh with a minimum length of 75 meshes from the terminus of the net. For small nets with less than 75 mesh codends, the entire net will be 5 inches.</p>	
<b>Shad &amp; River herring</b>	ASMFC	FMP 1985 Amen1 1999 Add #1 2003 (maintain current restrictions)	3M .0513	(a) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the blueback	FF-71-06	effective at 12:01 A.M., Monday, January 1, 2007, the following restrictions shall apply to the harvest of American and hickory	3M .0513 Explicit



Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>herring, alewife, American shad and hickory shad fisheries:</p> <p>(1) Specify size;</p> <p>(2) Specify season;</p> <p>(3) Specify area;</p> <p>(4) Specify quantity;</p> <p>(5) Specify means/methods; and</p> <p>(6) Require submission of statistical and biological data.</p> <p>e) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.</p> <p>(f) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.</p>		<p>shad:</p> <p>I. SEASON</p> <p>The American shad harvest season in the internal Coastal and Joint fishing waters of the state, <u>excluding the Atlantic Ocean</u>, will open. The hickory shad harvest season in the Atlantic Ocean, Internal Coastal and Joint fishing waters of the state will open. The season for the commercial harvest of American shad and hickory shad shall close at 12:00 midnight, Saturday, April 14, 2007.</p> <p>II. RECREATIONAL HARVEST LIMITS</p> <p>It is unlawful to possess more than ten (10) American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.</p>	
Sharks coastal	ASMFC (pending)& NMFS	FMP 1999 Amen #1 2003	3M .0505	<p>The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the shark fishery:</p> <p>(1) Specify size;</p> <p>(2) Specify seasons;</p> <p>(3) Specify areas;</p> <p>(4) Specify quantity;</p> <p>(5) Specify means/methods; and</p> <p>(6) Require submission of</p>	FF-24-04	<p>Effective at 6:00 A.M. Monday, March 8, 2004, the harvest of sharks taken in state waters is restricted as follows:</p> <p>I. COMMERCIAL HARVEST RESTRICTIONS:</p> <p>A. Seasons:</p> <p>The possession of sharks taken for commercial purposes may only occur during an open portion</p>	3M .0505 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				statistical and biological data.		<p>of the seasons established by this proclamation. Open seasons in state waters shall be the same as open seasons established by the National Marine Fisheries Service (NMFS) for federal waters. These open seasons are dependent on established quotas. The fishing seasons are defined herein as:.....</p> <p>B. Limits</p> <p>1. No person may possess more than one (1) shark per vessel per day during an open season taken in internal coastal waters or in the Atlantic Ocean within three nautical miles of shore by any gear for commercial purposes.</p> <p>2. The one shark possession may be made up of a shark from any of the three following shark categories: Large Coastal, Small Coastal, and Pelagic (see General Information Section). If NMFS closes any of these categories, then possession or sale of sharks from that category is prohibited.</p> <p>3. The possession of all sharks, except for tiger (<i>Galeocerdo cuvieri</i>), thresher (<i>Alopias vulpinus</i>), bigeye thresher (<i>Alopias superciliosus</i>), shortfin mako (<i>Isurus oxyrinchus</i>), and hammerhead species, genus (<i>Sphyrna</i>), greater than 84 inches fork length is prohibited.</p> <p>4. The shark species, Atlantic sharpnose (<i>Rhizoprionodon terraenovae</i>) is exempt from these harvest and size restrictions.</p> <p>5. Smooth dogfish (<i>Mustelis canis</i>) are exempt from</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>the season, harvest and size restrictions listed above.</p> <p>6. Spiny dogfish (<i>Squalus acanthias</i>) seasons and harvest limits are established under the Mid-Atlantic/New England Council Spiny Dogfish Fishery Management Plan or the ASMFC Spiny Dogfish FMP.</p> <p>7. All sharks not retained must be returned to the water in a manner to ensure the highest likelihood of survival.</p> <p>8. In accordance with Federal Rule 50 CFR §635.30 (c) (2), a person may eviscerate (dress) and remove the head and fins from a shark at sea, but must retain the fins with the dressed carcass and land all fins and corresponding carcasses from the vessel at the same point of landing. This applies to Atlantic sharpnose sharks.</p> <p>9. Smooth dogfish may be dressed at sea and are exempt from the requirement to retain and land fins and corresponding carcasses together as specified in I.B.8 above.</p> <p><b>II. RECREATIONAL PURPOSES AND HOOK-AND-LINE POSSESSION LIMITS:</b></p> <p>A. The possession of any shark species, excluding smooth dogfish (<i>Mustelus canis</i>), and spiny dogfish (<i>Squalus acanthias</i>), is limited to one (1) shark per vessel per day, for vessels other than charter and head boat vessels for hire.</p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>B. The possession limit for charter and head boat vessels, excluding smooth dogfish (<i>Mustelus canis</i>), and spiny dogfish (<i>Squalus acanthias</i>), is one (1) shark per person per day excluding captain and crew. The sale of a charter or head boat vessel possession limit is prohibited. The catch cannot be transferred from individual anglers to the captain or crew.</p> <p>C. If no vessel is involved, the possession limit is one (1) shark per person per day.</p> <p>D. All sharks except Atlantic sharpnose (<i>Rhizoprionodon terraenovae</i>), smooth dogfish, and spiny dogfish must be a minimum size of 54 inches fork length.</p> <p>E. The possession of all sharks, except for tiger (<i>Galeocerdo cuvieri</i>), thresher (<i>Alopias vulpinus</i>), bigeye thresher (<i>Alopias superciliosus</i>), shortfin mako (<i>Isurus oxyrinchus</i>) and hammerhead species, genus (<i>Sphyrna</i>), greater than 84 inches fork length is prohibited.</p> <p>F. Any shark retained must have head, tail, and fins intact with the carcass through the point of landing.</p> <p>G. All sharks not retained must be returned to the water in a manner to ensure the highest likelihood of survival.</p> <p>III. PROHIBITED SPECIES:</p> <p>Possession of the following shark species is prohibited in state waters: basking (<i>Cetorhinus</i></p>	

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						maximus), white (Carcharodon carcharias), sand tiger (Odontaspis taurus) and whale (Rhincodon typus).	
<b>Spiny Dogfish</b>	ASMFC & MAFMC	FMP 2003 Add #1 2005	3M .0505	The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the shark fishery: (1) Specify size; (2) Specify seasons; (3) Specify areas; (4) Specify quantity; (5) Specify means/methods; and (6) Require submission of statistical and biological data.	FF-8-07	effective at 6:00 A.M., Monday, February 5, 2007 the following restrictions will apply to the harvest of spiny dogfish in the Atlantic Ocean waters of North Carolina.  I. HARVEST PERIODS  The fishing year for spiny dogfish is divided into two periods: Quota Period I and Quota Period II. Period I is from May 1 through October 1 each year, and Period II is from November 1 through April 30.  II. TRIP LIMITS  No commercial fishing operation, regardless of the number of people involved, may possess more than 4,000 pounds per trip of spiny dogfish during this portion of Period II.	3M .0505 Explicit
<b>Spot</b>	ASMFC	FMP 1987	No comply rules		No		3M .0512 Conditional Proclamation
<b>Spotted seatrout</b>	ASMFC	FMP 1984 Amen #1 1991	No comply rules		No		3M .0512 Conditional Proclamation
<b>Summer flounder</b>	ASMFC & MAFMC	FMP 1982 Amen 1-15	3M .0503	(a)It is unlawful to possess flounder less than 14 inches total length taken	FF-9-07 rec ocean	effective at 12:01 A.M., Thursday, February 8, 2007, the	3M .0503 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>from the Atlantic Ocean in a commercial fishing operation  <u>See Rule for license to land flounder, and gear restrictions</u></p> <p>(j) The Fisheries Director may, by proclamation, establish trip limits for the taking of flounder from the Atlantic Ocean to assure that the individual state quota allocated to North Carolina in the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is not exceeded.</p> <p>(k) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the flounder fishery:</p> <p>(1) Specify size;  (2) Specify season;  (3) Specify area;  (4) Specify quantity;  (5) Specify means/methods;  and  (6) Require submission of statistical and biological data.</p>	<p>FF-10-07  set internal at 14 comm &amp; rec</p> <p>FF-24-07</p>	<p>following restrictions will apply to the taking of flounder for recreational purposes from the Atlantic Ocean:</p> <p>I. A. MINIMUM SIZE LIMIT</p> <p>No person may possess flounder <u>less than 14½ inches</u> total length taken from the Atlantic Ocean for recreational purposes.</p> <p>POSSESSION LIMIT</p> <p>It is unlawful to possess more than eight flounder taken in the Atlantic Ocean for recreational purposes per person per day or per trip if a trip occurs on more than one calendar day. The possession limit shall apply to flounder taken in the Atlantic Ocean by all gears, including gigs, if possession is for a recreational purpose.</p> <p>effective at 12:01 A.M., Friday, March 2, 2007, the following restrictions shall apply to the commercial flounder fishery:</p> <p>I. HARVEST LIMITS</p> <p>During the period beginning at 12:01 A.M., Friday, March 2, 2007 and ending at 6:00 P.M., Friday, March 16, 2007, no commercial fishing operation, regardless of the number of</p>	<p>G.S 113-221.1  Suspend Rule</p>

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						<p>people involved, may have total landings of more than 10,000 pounds of flounder taken from the Atlantic Ocean. These operations require a valid License to Land Flounder from the Atlantic Ocean. The Atlantic Ocean flounder fishery will close immediately after the Director issues a public notice that the spring quota of flounder has been landed from the Atlantic Ocean, or at 6:00 P.M., March 16, 2007, whichever occurs first.</p> <p>Plus permits, reporting</p>	
<b>Tautog</b>	ASMFC	FMP 1996 Add 1-3	No Comply rules				3M .0512 Conditional Proclamation
<b>Weakfish</b>	ASMFC	FMP 1985 Amen 1-4 Add 1	3M .0504	<p>(b) Weakfish (gray trout).</p> <p>(1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish by commercial fishing operations:</p> <p>(A) Specify areas.  (B) Specify seasons.  (C) Specify quantity.  (D) Specify means/methods.  (E) Specify size, but the minimum size shall not be greater than 12 inches total length.</p> <p>(2) The Fisheries Director may, by proclamation, in order to comply with or utilize conservation equivalency to comply with the Atlantic States Marine Fisheries Commission Weakfish Management Plan, impose any or all of the</p>	FF-24-06	<p>effective at 12:00 Noon, Friday, March 17, 2006, the following restrictions will apply to the commercial weakfish fishery:</p> <p><b>I. COMMERCIAL FISHING OPERATIONS, EXCLUDING HOOK-AND-LINE, SIZE LIMITS:</b></p> <p>A. No person may take, possess, transport, buy, sell, or offer for sale weakfish less than 12 inches total length in state waters or within 200 miles of shore in the Atlantic Ocean except as provided in I.(B) below.</p> <p>B. From April 1 through</p>	3M .0504 Explicit

Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
				<p>following restrictions on the taking of weakfish by hook-and-line or for recreational purposes:</p> <p>(A) Specify quantity.</p> <p>(B) Specify size.</p>		<p>November 15, weakfish 10 inches total length or more may lawfully be taken in North Carolina internal waters by use of long haul seines or pound nets only and possessed, transported, bought, sold, or offered for sale.</p> <p>GEAR RESTRICTIONS:</p> <p>A. GILL NETS:</p> <p>No person may possess aboard or land from, any vessel using or having on board a gill net with a mesh length less than 2 7/8 inches stretched mesh, more than 300 pounds of weakfish during any one day or on any trip, whichever is longer, in state waters or within 200 miles of the shore in the Atlantic Ocean.</p> <p>B. FLYNETS:</p> <p>No person may possess aboard or land from any vessel using a flynet more than 300 pounds of weakfish during any one day or trip, whichever is longer, in state waters or within 200 miles of the shore in the Atlantic Ocean, unless all flynets on board meet the following requirements:.....</p> <p>C. For commercial fishing operations operating with gill nets and flynets that do not meet the requirements of II. (A) and (B) above, weakfish may be taken as</p>	



Species	Federal	Federal Plan, Amendments or Addendum	State Actions to Implement Compliance Requirements				Comply Venue Authority
			Rule(s)	Measures	Proc(s) Example	Measures	
						bycatch incidental to those gill net and flynet operations provided that the weight of the weakfish shall not exceed 50% of the total weight of the combined catch up to 300 pounds of weakfish.  D. SHRIMP/CRAB TRAWLS: No person may possess more than 150 pounds of weakfish (12 inches or more in total length) taken with a shrimp or crab trawl. The weight of the weakfish shall not exceed 50% of the total weight of the combined catch up to 150 pounds of weakfish. This limit does not apply to a Recreational Commercial Gear License shrimp trawl.	

\* Broad proclamation authority is given in rule 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS:

In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans, the Fisheries Director may, by proclamation, suspend the minimum size and harvest limits established by the Marine Fisheries Commission, and implement different minimum size and harvest limits. Proclamations issued under this Section shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to G.S. 113-221(e1).

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.4; Eff. March 1, 1996. Note G.S. 113-221(e1) was repealed in 2003.

\*\*Note (2015) that the above rule NCAC 03M .0512 was modified to its present form with the adoption of Amendment 1 to the N.C. FMP for Interjurisdictional Fisheries in 2008 (see Appendix D for the 2008 issue paper with proposed rule changes).

Also rule 03O .0506 SPECIAL PERMIT REQUIRED FOR SPECIFIC MANAGEMENT PURPOSES is used for compliance actions and it states

“The Fisheries Director may, by proclamation, require individuals taking marine and estuarine resources regulated by the Marine Fisheries Commission, to obtain a special permit.”

## APPENDIX C STATE CONTACTS

The following website links provide the names and contact information for individuals currently serving as North Carolina representatives on the ASMFC, Councils, Technical Committees (TC), Scientific and Statistical Committees (SSC) and Advisory Panels (AP) that pertain to the various plans included in this FMP.

### **Atlantic States Marine Fisheries Commission**

The ASMFC policy-making body is represented by the DMF Director, a Legislative Appointee and a Governor's Appointee. Contact information for these individuals can be found here: <http://www.asmfc.org/about-us/commissioners>.

The following website links provide contact information for state agency TC representatives and citizen AP representatives for the various finfish species management boards (note: the South Atlantic Species AP serves as the citizen AP for Atlantic croaker, black drum, red drum, Spanish mackerel, spot and spotted seatrout). An overview of the ASMFC Fisheries Management Program, as well as links to individual species management board pages can be found here: <http://www.asmfc.org/fisheries-management/program-overview>.

#### **American Eel** (<http://www.asmfc.org/species/american-eel>)

TC: <http://www.asmfc.org/uploads/file//54877630AmEelTC.pdf>.

AP: [http://www.asmfc.org/uploads/file//542c7cfbamericanEel\\_AP.pdf](http://www.asmfc.org/uploads/file//542c7cfbamericanEel_AP.pdf).

#### **Atlantic Croaker** (<http://www.asmfc.org/species/atlantic-croaker>)

TC: <http://www.asmfc.org/uploads/file//53b2ff35atlanticCroakerTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53bd83bcsouthAtlanticAP.pdf>

#### **Atlantic Menhaden** (<http://www.asmfc.org/species/atlantic-menhaden>)

TC: <http://www.asmfc.org/uploads/file//53b1caf2atlanticMenhadenTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53b1cb59atlanticMenhadenAP.pdf>

#### **Atlantic Striped Bass** (<http://www.asmfc.org/species/atlantic-striped-bass>)

TC: <http://www.asmfc.org/uploads/file//548777b6AtlStripedBassTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53602121atlanticStripedBassAP.pdf>

#### **Atlantic Sturgeon** (<http://www.asmfc.org/species/atlantic-sturgeon>)

TC: <http://www.asmfc.org/uploads/file//54c93c81SturgeonTechnicalCommittee.pdf>

AP: <http://www.asmfc.org/uploads/file//53bbf8a9atlanticSturgeonAP.pdf>

#### **Black Drum** (<http://www.asmfc.org/species/black-drum>)

TC: <http://www.asmfc.org/species/black-drum>

AP: <http://www.asmfc.org/uploads/file//53bd83a7southAtlanticAP.pdf>

#### **Black Sea Bass** (north of Cape Hatteras, <http://www.asmfc.org/species/black-sea-bass>)

TC: [http://www.asmfc.org/uploads/file//54877a05SFlounderScupBSB\\_TC.pdf](http://www.asmfc.org/uploads/file//54877a05SFlounderScupBSB_TC.pdf)

AP: <http://www.asmfc.org/uploads/file//53d675afblackSeaBassAP.pdf>

**Bluefish** (<http://www.asmfc.org/species/bluefish>)

TC: <http://www.asmfc.org/uploads/file//54877825BluefishTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53bc158fbluefishAP.pdf>

**Coastal Sharks** (<http://www.asmfc.org/species/coastal-sharks>)

TC: <http://www.asmfc.org/uploads/file//5487789aCoastalSharksTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53baf01dcoastalSharkAdvisoryPanel.pdf>

**Red Drum** (<http://www.asmfc.org/species/red-drum>)

TC: <http://www.asmfc.org/uploads/file//548779b5RedDrumTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53bd830asouthAtlanticAP.pdf>

**Scup** (<http://www.asmfc.org/species/scup>)

TC: [http://www.asmfc.org/uploads/file//548779f0SFlounderScupBSB\\_TC.pdf](http://www.asmfc.org/uploads/file//548779f0SFlounderScupBSB_TC.pdf)

AP: <http://www.asmfc.org/uploads/file//53d68a8cscupAP.pdf>

**Shad & River Herring** (<http://www.asmfc.org/species/shad-river-herring>)

TC: [http://www.asmfc.org/uploads/file//548b194eShad\\_RiverHerringTC.pdf](http://www.asmfc.org/uploads/file//548b194eShad_RiverHerringTC.pdf)

AP: <http://www.asmfc.org/uploads/file//53b1cc75shadRiverHerringAP.pdf>

**Spanish Mackerel** (<http://www.asmfc.org/species/spanish-mackerel>)

TC: no TC for Spanish mackerel; all technical recommendations from SAFMC

AP: <http://www.asmfc.org/uploads/file//53bd823asouthAtlanticAP.pdf>

**Spiny Dogfish** (<http://www.asmfc.org/species/spiny-dogfish>)

TC: <http://www.asmfc.org/uploads/file//54877ae8SpinyDogfishTC.pdf>

AP: <http://www.asmfc.org/uploads/file//53be9b28spinyDogfishAP.pdf>

**Spot** (<http://www.asmfc.org/species/spot>)

TC: none listed

AP: <http://www.asmfc.org/uploads/file//53bd8261southAtlanticAP.pdf>

**Spotted Seatrout** (<http://www.asmfc.org/species/spotted-seatrout>)

TC: none listed

AP: <http://www.asmfc.org/uploads/file//53bd82f0southAtlanticAP.pdf>

**Summer Flounder** (<http://www.asmfc.org/species/summer-flounder>)

TC: [http://www.asmfc.org/uploads/file//548779faSFlounderScupBSB\\_TC.pdf](http://www.asmfc.org/uploads/file//548779faSFlounderScupBSB_TC.pdf)

AP: <http://www.asmfc.org/uploads/file//53d66224summerFlounderAP.pdf>

**Tautog** (<http://www.asmfc.org/species/tautog>)

TC: <http://www.asmfc.org/uploads/file//54877b76TautogTC.pdf>

AP: [http://www.asmfc.org/uploads/file/tautog\\_AP0710.pdf](http://www.asmfc.org/uploads/file/tautog_AP0710.pdf)

**Weakfish** (<http://www.asmfc.org/species/weakfish>)

TC: <http://www.asmfc.org/uploads/file//54877bd1WeakfishTC.pdf>

AP: <http://www.asmfc.org/uploads/file//5356e849weakfishAP.pdf>

## **South Atlantic Fishery Management Council**

Voting members on the SAFMC from North Carolina include the DMF Director (or his designee), an obligatory member and an at-large member. Contact information for these individuals can be found here: <http://safmc.net/about-us/council-members>.

Unlike the ASMFC, the SAFMC does not have separate technical advisory bodies (TCs) for each of its managed species. As mandated under the MSA, all federal Councils have an SSC (Scientific and Statistical Committee) that reviews all species technical information, including stock assessments, and provides catch level scientific advice that the Councils must adhere to. In addition to its SSC, the SAFMC also has a Socio-Economic Panel (SEP) that focuses specifically on the social and economic impacts of potential management measures. Contact information for SSC and SEP members is found here: <http://safmc.net/science-and-statistics/scientific-and-statistical-committee>.

The SAFMC does have citizen advisory panels for all managed species (<http://safmc.net/AboutUs/AdvisoryPanels>). Information regarding the Council's finfish FMPs and contact information for advisory panel members can be found via the website links below.

**Dolphin/Wahoo** (<http://safmc.net/Library/Dolphin-Wahoo>)

AP: <http://safmc.net/AboutUs/AdvisoryPanels/DolphinWahoo>

**King/Spanish Mackerel, Cobia** (<http://safmc.net/Library/CoastalMigratoryPelagicSmackerel>)

AP: <http://safmc.net/AboutUs/AdvisoryPanels/KingandSpanishMackerel>

**Snapper Grouper** (<http://safmc.net/resource-library/snapper-grouper>)

AP: <http://safmc.net/AboutUs/AdvisoryPanels/SnapperGrouper>

## **Mid-Atlantic Fishery Management Council**

Voting members on the MAFMC from North Carolina include the DMF Director (or his designee), an obligatory member and an at-large member. Contact information for these individuals can be found here: <http://www.mafmc.org/members/>.

Similar to the SAFMC, the MAFMC has a statutorily-mandated SSC (Scientific and Statistical Committee) that reviews all species technical information, including stock assessments, and provides catch level scientific advice. Information regarding SSC members is found here: <http://www.mafmc.org/ssc>. Because of the joint management responsibility the MAFMC shares with the ASMFC for several species, the Council also utilizes Monitoring Committees that review advice from the SSC and recommend changes in management, in conjunction with ASMFC TCs. State agency TC members often serve as Monitoring Committee members as well.

**Bluefish** (<http://www.mafmc.org/bluefish/>)

AP: <http://www.mafmc.org/advisors/bluefish>

**Mackerel, Squid, Butterfish** (<http://www.mafmc.org/msb/>)

AP: <http://www.mafmc.org/advisors/msb>

**Monkfish** (<http://www.mafmc.org/monkfish/>)

AP: <http://www.mafmc.org/advisors/monkfish>

**Spiny Dogfish** (<http://www.mafmc.org/dogfish/>)

AP: <http://www.mafmc.org/advisors/spiny-dogfish>

**Summer Flounder, Scup, Black Sea Bass (north)** (<http://www.mafmc.org/sf-s-bsb/>)

AP: <http://www.mafmc.org/advisors/sf-s-bsb>

## **APPENDIX D PROPOSED RULE CHANGES FROM 2008**

### **RULES FOR IJA FMP June 2008**

#### **I. ISSUE**

Review of current MFC rules to determine if they provide the most efficient and effective means of complying with federal Council and ASMFC requirements adopted by reference in the North Carolina Interjurisdictional Fisheries Management Plan (IJA FMP).

#### **II. ORIGINATION**

The Division's PDT for the IJA FMP

#### **III. BACKGROUND**

The IJA FMP was initially adopted by the MFC in August 2002. It is undergoing the five year review as required by the Fisheries Reform Act (FRA) of 1997. The IJA FMP adopts by reference existing fisheries management plans for 23 finfish species or species group developed by the Atlantic States Marine Fisheries Commission (ASMFC) or federal regional management Councils (South Atlantic and Mid-Atlantic.). A variety of MFC rules and Division proclamations are utilized to put in place management actions in order for the state to be in compliance with the ASMFC and Council plans. The first systematic review of these IJA FMP compliance rules was undertaken by the PDT in 2007 and a number of rules changes are brought forth for consideration.

#### **IV. AUTHORITY**

North Carolina General Statutes

113-134. MFC adopt rules implementing subchapter  
113-182. Regulation of fishing and fisheries  
113-182.1 Fishery Management Plans  
113-221.1 Proclamations, emergency review  
143B-289.52 MFC powers and duties

#### **V. DISCUSSION**

A wide range of approaches are found in the MFC rules that deal with compliance issues. In some cases each rule is very explicit and the text contains all the actions in effect (American eel, Atlantic sturgeon, dolphin, wahoo, cobia). In other instances the rule grants broad proclamation authority to the Fisheries Directors (sharks, scup,) and for most others the rule is a mix of proclamation authority combined with some explicit text. Several species (Atlantic croaker, Atlantic menhaden, monkfish, spot, spotted seatrout, and tautog) have no MFC compliance rules at all.

A single rule, 03M .0512 (compliance with fishery management plans), allows for the suspension of only existing size or harvest limits by proclamation and the implementation of different size or harvest limits by proclamation. Actions taken under this rule are in effect till and subject to review at the next MFC meeting. The Division is proposing to modify the text of this rule to include a correction to a General Statute reference [GS 113-221(e1) was repealed in 2003] and to broaden the types of actions that may be implemented by proclamation. The Director's proclamation authority to comply with Council or ASMFC plans would be maintained and provide for subsequent approval, cancellation, or modification by the MFC. Rule 03O .0506 (special permit required for specific management purposes) is often utilized to implement the more administrative measures for compliance such as quota monitoring and reporting requirements. No changes are recommended in this rule.

Also the existing text in certain species specific rules that confers proclamation authority should be deleted, in order to consistently use the broader authority provided by the proposed modified rule 03M .0512. In this way any conflict with the species rules that may have different parameters for the utilization of proclamation authority can be

avoided. The following species rules will not be modified because the existing proclamation authority in these rules is needed to implement state management actions, often associated with a state FMP: 03M .0202 – striped bass season, size and harvest limit: internal coastal waters; and 03M.0503 – flounder.

## VI. PROPOSED RULE(S)

### MODIFY SUBCHAPTER 3M - FINFISH

#### SECTION .0200 – STRIPED BASS

**15A NCAC 03M .0201 GENERAL** is proposed for amendment as follows:

#### **15A NCAC 03M .0201 GENERAL**

- (a) Striped bass is defined as striped bass (*Morone saxatilis*) and its hybrids taken in coastal and joint waters.
- (b) Hook-and-line fishing equipment is not commercial fishing equipment in the striped bass fishery. It is unlawful to sell or purchase striped bass taken by hook-and-line. Striped bass taken legally with hook-and-line may be possessed and transported.
- (c) It is unlawful to possess striped bass imported from other states less than 18 inches long (total length).
- (d) It is unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass ~~except:~~ except during any:
  - (1) ~~during the open striped bass season in established for internal coastal waters established in 15A NCAC 03M .0202; waters;~~
  - (2) ~~during any open striped bass season established for the Atlantic Ocean in 15A NCAC 03M .0204; Ocean; or~~
  - (3) ~~during any open striped bass season of another state without possession of the following:~~
    - (A) A bill of lading as described in 15A NCAC 03I .0114;
    - (B) A numbered, state-issued tag from the State of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.
- (e) The management units and recreational fishery management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.

*Authority G.S. 113-134; 113-182; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1994; September 1, 1991;*

*Temporary Amendment Eff. May 1, 2000;*

*Amended Eff. October 1, 2004; April 1, 2001.*

**15A NCAC 03M .0204 SEASON, SIZE AND HARVEST LIMIT: ATLANTIC OCEAN** is proposed for amendment as follows:

#### **15A NCAC 03M .0204 SEASON, SIZE AND HARVEST LIMIT: ATLANTIC OCEAN**

- ~~(a)~~ It is unlawful to possess striped bass taken from the Atlantic Ocean less than the size limit as determined by the Atlantic States Marine Fisheries Commission in their Interstate Fisheries Management Plan for striped bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fisheries Management Plan.
- ~~(b) It is unlawful to buy, sell, transport, or possess striped bass from the Atlantic Ocean by any means except that the Fisheries Director may establish an open season at any time, and is further empowered to impose any or all of the following restrictions:~~
  - ~~(1) Specify number of days;~~
  - ~~(2) Specify areas;~~
  - ~~(3) Specify means and methods which may be employed in the taking;~~
  - ~~(4) Specify time period;~~
  - ~~(5) Limit the quantity, both commercially and recreationally, and~~
  - ~~(6) Provide for biological sampling of fish harvested.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1996;*

Temporary Amendment Eff. October 1, 1996;  
Amended Eff. July 1, 1998.

**SECTION .0300 – SPANISH AND KING MACKEREL**

**15A NCAC 03M .0301 SPANISH AND KING MACKEREL** is proposed for amendment as follows:

**15A NCAC 03M .0301 SPANISH AND KING MACKEREL**

(a) Spanish Mackerel:

~~(1)~~ The Fisheries Director may, by proclamation, impose any or all of the following restrictions for Spanish mackerel:

~~(A)~~ Specify areas.

~~(B)~~ Specify seasons.

~~(C)~~ Specify quantity.

~~(D)~~ Specify means/methods.

~~(E)~~ Specify size.

~~(2)~~(1) It is unlawful to possess Spanish mackerel less than 12 inches fork length.

~~(3)~~(2) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.

~~(4)~~(3) It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.

(b) King mackerel:

~~(1)~~ The Fisheries Director may, by proclamation, impose any or all of the following restrictions for king mackerel:

~~(A)~~ Specify areas.

~~(B)~~ Specify seasons.

~~(C)~~ Specify quantity.

~~(D)~~ Specify means/methods.

~~(E)~~ Specify size.

~~(2)~~(1) It is unlawful to possess king mackerel less than 24 inches fork length.

~~(3)~~(2) It is unlawful to possess more than three king mackerel per person per day taken for recreational purposes.

~~(4)~~(3) It is unlawful to possess more than three king mackerel per person per day in the Atlantic Ocean:

(A) by hook and line except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit; or

(B) between three miles and 200 miles from the State's mean low water mark in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit.

~~(5)~~(4) It is unlawful to use gill nets in the Atlantic Ocean to take more than three king mackerel per person per day south of 34° 37.3000' N (Cape Lookout).

(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the king mackerel and Spanish mackerel possession limits established in Subparagraphs ~~(a)(3)~~ (a)(2) and ~~(b)(3)~~ (b)(2) of this Rule when fishing with more than three persons (including the captain and mate) on board.

(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;

Eff. January 1, 1991;

Amended Eff. March 1, 1996;

Temporary Amendment Eff. January 1, 2000; July 1, 1999;

Amended Eff. August 1, 2002; April 1, 2001.

**SECTION .0500 – OTHER FINFISH**

**15A NCAC 03M .0501 Red Drum** is proposed for amendment: (RULE ALSO CHANGES VIA DRUM FMP)

**15A NCAC 03M .0501 RED DRUM**



~~(a) The Fisheries Director, may by proclamation, impose any or all of the following restrictions on the taking of red drum:~~

- ~~(1) Specify areas.~~
- ~~(2) Specify seasons.~~
- ~~(3) Specify quantity.~~
- ~~(4) Specify means/methods.~~
- ~~(5) Specify size.~~

~~(b)(a) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.~~

~~(c)(b) It is unlawful to possess red drum less than 18 inches total length or greater than 27 inches total length.~~

~~(d)(c) It is unlawful to possess more than one red drum per person per day taken-by hook-and-line or for recreational purposes.~~

~~(e)(d) The annual commercial harvest limit (September 1 through August 31) for red drum is 250,000 pounds. If the harvest limit is projected to be taken, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1996; October 1, 1992; September 1, 1991;*

*Temporary Amendment Eff. May 1, 2000; July 1, 1999; October 22, 1998;*

*Amended Eff. April 1, 2001;*

*Temporary Amendment Eff. May 1, 2001;*

*Amended Eff. August 1, 2002.*

**15A NCAC 03M .0504 TROUT** is proposed for amendment:

**15A NCAC 03M .0504 TROUT**

~~(a) Spotted seatrout (speckled trout).~~

- ~~(1) It is unlawful to possess spotted seatrout less than 12 inches total length.~~
- ~~(2) It is unlawful to possess more than 10 spotted seatrout per person per day taken by hook-and-line or for recreational purposes.~~

~~(b) Weakfish (gray trout):~~

- ~~(1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish by commercial fishing operations:
  - ~~(A) Specify areas.~~
  - ~~(B) Specify seasons.~~
  - ~~(C) Specify quantity.~~
  - ~~(D) Specify means/methods.~~
  - ~~(E) Specify size, but the minimum size shall not be greater than 12 inches total length.~~~~
- ~~(2) The Fisheries Director may, by proclamation, in order to comply with or utilize conservation equivalency to comply with the Atlantic States Marine Fisheries Commission Weakfish Management Plan, impose any or all of the following restrictions on the taking of weakfish by hook and line or for recreational purposes:
  - ~~(A) Specify quantity.~~
  - ~~(B) Specify size.~~~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. March 1, 1996; March 1, 1995; February 1, 1992;*

*Temporary Amendment Eff. September 9, 1996;*

**15A NCAC 03M .0505 SHARK** is proposed for **REPEAL:**

**.0505 SHARK**

The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the shark fishery:

- (1) — Specify size;
- (2) — Specify seasons;
- (3) — Specify areas;
- (4) — Specify quantity;
- (5) — Specify means/methods; and
- (6) — Require submission of statistical and biological data.

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.4;  
Eff. January 1, 1991;  
Amended Eff. September 1, 1991.*

**15A NCAC 03M .0506 SNAPPER-GROUPER** is proposed for amendment as follows:

**15A NCAC 03M .0506 SNAPPER-GROUPER COMPLEX**

~~(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fisheries for species of the snapper-grouper complex and black sea bass in order to comply with the management requirements incorporated in the Fishery Management Plans for Snapper Grouper and Sea Bass developed by the South Atlantic Fishery Management Council or Mid Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission:~~

- (1) — Specify size;
- (2) — Specify seasons;
- (3) — Specify areas;
- (4) — Specify quantity;
- (5) — Specify means/methods; and
- (6) — Require submission of statistical and biological data.

~~(a) The species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region are hereby incorporated by reference and copies are available via the Federal Register posted on the Internet at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr) [www.safmc.net](http://www.safmc.net) and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.~~

~~(b) Black sea bass, south of Cape Hatteras (35°-15.0321°):~~

- (1) — It is unlawful to possess black sea bass less than ten inches total length.
- (2) — It is unlawful to take or possess more than 20 black sea bass per person per day without a valid Federal Commercial Snapper-Grouper permit.

~~(c) Gag grouper:~~

- (1) — It is unlawful to possess gag grouper (gray grouper) less than 24 inches total length.
- (2) — It is unlawful to possess more than two gag grouper (gray grouper) per person per day without a valid Federal Commercial Snapper-Grouper Permit.
- (3) — It is unlawful to possess more than two gag grouper (gray grouper) per person per day during the months of March and April.
- (4) — It is unlawful to sell or purchase gag grouper (gray grouper) taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.

~~(d) Black grouper:~~

- (1) — It is unlawful to possess black grouper less than 24 inches total length.
- (2) — It is unlawful to possess more than two black grouper per person per day without a valid Federal Commercial Snapper-Grouper Permit.
- (3) — It is unlawful to take or possess more than two black grouper per person per day during the months of March and April.
- (4) — It is unlawful to sell or purchase black grouper taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.

~~(e) It is unlawful to possess red grouper less than 20 inches total length.~~

~~(f) It is unlawful to possess yellowfin grouper (fireback grouper) less than 20 inches total length.~~

~~(g) It is unlawful to possess scamp less than 20 inches total length.~~

~~(h) It is unlawful to possess yellowmouth grouper less than 20 inches total length.~~

~~(i) Speckled hind (kitty mitchell) and warsaw grouper:~~

- (1) ~~It is unlawful to sell or purchase speckled hind or warsaw grouper.~~
- (2) ~~It is unlawful to possess more than one speckled hind or one warsaw grouper per vessel per trip.~~
- (j) ~~Greater amberjack:~~
  - (1) ~~For recreational purposes:~~
    - (A) ~~It is unlawful to possess greater amberjack less than 28 inches fork length.~~
    - (B) ~~It is unlawful to possess more than one greater amberjack per person per day.~~
  - (2) ~~It is unlawful to sell or purchase greater amberjack less than 36 inches fork length.~~
  - (3) ~~It is unlawful to possess more than one greater amberjack per person per day without a valid Federal Commercial Snapper Grouper Permit.~~
  - (4) ~~It is unlawful to possess more than one greater amberjack per person per day during the month of April.~~
  - (5) ~~It is unlawful to sell or purchase greater amberjack during any season closure for greater amberjack.~~
- (k) ~~Red Snapper:~~
  - (1) ~~It is unlawful to possess red snapper less than 20 inches total length.~~
  - (2) ~~It is unlawful to possess more than two red snapper per person per day without a valid Federal Commercial Snapper Grouper permit.~~
- (l) ~~Vermilion Snapper:~~
  - (1) ~~For recreational purposes:~~
    - (A) ~~It is unlawful to possess vermilion snapper (beeliner) less than 11 inches total length.~~
    - (B) ~~It is unlawful to possess more than 10 vermilion snapper per person per day.~~
  - (2) ~~It is unlawful to possess or sell vermilion snapper (beeliner) less than 12 inches total length with a valid Federal Commercial Snapper Grouper permit.~~
- (m) ~~It is unlawful to possess silk snapper (yelloweye snapper) less than 12 inches total length.~~
- (n) ~~It is unlawful to possess blackfin snapper (hambone snapper) less than 12 inches total length.~~
- (o) ~~Red Porgy (Pagrus pagrus):~~
  - (1) ~~It is unlawful to possess red porgy less than 14 inches total length.~~
  - (2) ~~It is unlawful to possess more than one red porgy per person per day without a valid Federal Commercial Snapper Grouper permit.~~
  - (3) ~~It is unlawful to sell or offer for sale red porgy from January 1 through April 30.~~
  - (4) ~~It is unlawful to land more than 50 pounds of red porgy from May 1 through December 31 in a commercial fishing operation.~~
- (p) ~~Combined Bag Limits:~~
  - (1) ~~It is unlawful to possess more than 10 vermilion snapper and 10 other snappers per person per day of which no more than two may be red snapper without a valid Federal Commercial Snapper Grouper permit.~~
  - (2) ~~It is unlawful to possess more than five grouper without a valid Federal Commercial Snapper Grouper permit of which:~~
    - (A) ~~no more than two may be gag or black grouper (individually or in combination) per person per day;~~
    - (B) ~~no more than one may be speckled hind or one warsaw grouper per vessel per trip.~~
  - (3) ~~It is unlawful to possess more than 20 fish in the aggregate per person per day of the following species without a valid Federal Commercial Snapper Grouper permit: whitebone porgy, jolthead porgy, knobbed porgy, longspine porgy, sheepshead, gray triggerfish, queen triggerfish, yellow jack, crevalle jack, bar jack, almaco jack, lesser amberjack, banded rudderfish, white grunt, margates, spadefish, and hogfish.~~
- (q) ~~It is unlawful to possess any species of the Snapper Grouper complex except snowy, warsaw, yellowedge, and misty groupers; blueline, golden and sand tilefishes; while having longline gear aboard a vessel.~~
- (r) ~~It is unlawful to possess Nassau grouper or jewfish.~~
- (s) ~~Fish Traps/Pots:~~
  - (1) ~~It is unlawful to use or have on board a vessel fish traps for taking snappers and groupers except sea bass pots as allowed in Subparagraph (2) of this Paragraph.~~
  - (2) ~~Sea bass may be taken with pots that conform with the federal rule requirements for mesh sizes and pot size as specified in 50 CFR Part 646.2, openings and degradable fasteners specified in 50 CFR Part 646.22(c)(2)(i), and escape vents and degradable materials as specified in 50 CFR Part 622.40 (b)(3)(i) and rules published in 50 CFR pertaining to sea bass north of Cape Hatteras (35<sup>o</sup>~~

15' N Latitude). Copies of these rules are available via the Federal Register posted on the Internet at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr) and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.

~~(t)~~ It is unlawful for persons in possession of a valid National Marine Fisheries Service Snapper Grouper Permit for Charter Vessels to exceed the creel restrictions established in Paragraphs (b), (j), (o), and (p) of this Rule when fishing with more than three persons (including the captain and mate) on board.

~~(u)~~(b) In the Atlantic Ocean, it is unlawful for an individual fishing under a Recreational Commercial Gear License with seines, shrimp trawls, pots, trotlines or gill nets to take any species of the Snapper- Grouper complex.

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. April 1, 1997; March 1, 1996; September 1, 1991;*

*Temporary Amendment Eff. December 23, 1996;*

*Amended Eff. August 1, 1998; April 1, 1997;*

*Temporary Amendment Eff. January 1, 2002; August 29, 2000; January 1, 2000; May 24, 1999;*

*Amended Eff. May 1, 2004; July 1, 2003; April 1, 2003; August 1, 2002.*

**15A NCAC 03M .0511 BLUEFISH** is proposed for amendment as follows:

**15A NCAC 03M .0511 BLUEFISH**

~~(a)~~ In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Bluefish developed cooperatively by the Mid Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, take any or all of the following actions for bluefish:

~~(1) Taken by a commercial fishing operation:~~

~~(A) Specify size;~~

~~(B) Specify seasons;~~

~~(C) Specify areas;~~

~~(D) Specify quantity;~~

~~(E) Specify means/methods; and~~

~~(F) Require submission of statistical and biological data.~~

~~(2) Taken for recreational purposes:~~

~~(A) Specify size;~~

~~(B) Specify quantity.~~

~~(b)~~ It is unlawful to possess more than 15 bluefish per person per day for recreational purposes. Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length.

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*

*Eff. March 1, 1994;*

*Amended Eff. March 1, 1996;*

*Temporary Amendment Eff. September 9, 1996;*

*Amended Eff. April 1, 1997;*

*Temporary Amendment Eff. July 1, 1999;*

**15A NCAC 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS** is proposed for amendment as follows:

**15A NCAC 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS**

In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management Plans, Plans or to implement state management measures, the Fisheries Director may, by proclamation, ~~suspend the minimum size and harvest limits established by the Marine Fisheries Commission, and implement different minimum size and harvest limits.~~ take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

(1) Specify size;

(2) Specify seasons;

- (3) ~~Specify areas;~~
- (4) ~~Specify quantity;~~
- (5) ~~Specify means and methods; and~~
- (6) ~~Require submission of statistical and biological data.~~

Proclamations issued under this ~~Section~~ Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to ~~G.S. 113-221(e1)~~; G.S. 113-221.1.

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

*History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.4;  
Eff. March 1, 1996.*

**15A NCAC 03M .0513 RIVER HERRING AND SHAD** is proposed for amendment as follows:

**15A NCAC 03M .0513 RIVER HERRING AND SHAD**

- (a) It is unlawful to possess river herring taken from coastal fishing waters unless the river herring season is open.
- (b) ~~The take of river herring shall be set forth in the North Carolina River Herring Fishery Management Plan for implementation under Paragraph (e) of the Rule.~~
- (c) ~~The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the commercial and recreational blueback herring, alewife, American shad and hickory shad fisheries:~~
  - (1) ~~Specify size;~~
  - (2) ~~Specify season;~~
  - (3) ~~Specify area;~~
  - (4) ~~Specify quantity;~~
  - (5) ~~Specify means/methods; and~~
  - (6) ~~Require submission of statistical and biological data.~~
- (d) ~~It is unlawful to take American shad and hickory shad by any method except hook and line from April 15 through December 31.~~
- (e) ~~It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook and line or for recreational purposes.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.*

*History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
Eff. March 1, 1995;  
Amended Eff. August 1, 1998;  
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; March 1, 1999;  
Amended Eff. April 1, 2001.*

**15A NCAC 03M .0514 SCUP** is proposed for **REPEAL**

**15A NCAC 03M .0514 SCUP**

~~In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Scup developed cooperatively by the Mid Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, take any or all of the following actions in the scup fishery:~~

- (1) ~~Specify size;~~
- (2) ~~Specify seasons;~~
- (3) ~~Specify areas;~~
- (4) ~~Specify quantity;~~
- (5) ~~Specify means/methods; and~~
- (6) ~~Require submission of statistical and biological data.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

*History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.4;  
Eff. March 1, 1996.*

**15A NCAC 03M .0519 SHAD** is proposed for **Adoption**

## **15A NCAC 03M .0519 SHAD**

(a) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.

(b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

## **VII. ADVISORY COMMITTEE RECOMMENDATIONS AND PUBLIC COMMENT**

### **Finfish AC, Met Washington 7 August 2007**

Approve by consensus to take to regional review.

### **Southeast Regional AC, Met Wilmington 14 August 2007**

Motion to accept the IJ FMP amendment and rule changes as presented and it was passed unanimously.

### **Central Regional AC, Met Washington 17 October 2007**

Motion made by John Stone, seconded by Steve Dillon to take no action. Motion passed without debate, vote 3 to 1. (Note the late hour of the presentation).

### **Northeast Regional AC, Met Manteo 18 October 2007**

Owen Maxwell made a motion to accept the IJ FMP amendment and rule changes as presented. Fred Waterfield seconded the motion and it was passed unanimously. Kelly Schoolcraft raised the issue of a 2.5 million pound reduction on king mackerel in the commercial fishery. If this had been in place would have resulted in early closure last year. Mr. Schoolcraft wants to see a state managed quota and not a regional quota. The king mackerel fishery is expanding to more northern states. Damon Tatem informed the AC that he agreed with what DMF was proposing relative to more involvement by the MFC and the public in the early process of federal management councils and Atlantic States Marine Fisheries FMP development. During the public comment period several individuals raised objections to the Director being granted broader proclamation authority.

### **Inland AC, Met Raleigh 23 October 2007**

Jim Rice made a motion to accept the IJ FMP amendment and rule changes as presented. Hans Vogelsong seconded the motion and it was passed unanimously. Committee discussed whether the tuna rules would be a burden on Marine Patrol, and Marine Patrol staff member clarified he did not think so.

Reviewed by Joint Legislative Study Commission of Seafood and Aquaculture on November 29, 2008 with no revisions offered.

Proposed rules for the Marine Fisheries Commission (MFC) were published in Volume 22, Issue 20 of the *North Carolina Register* on April 15, 2008. There were four public hearings to collect comments about these proposed rules, as follows:

- Monday, May 12, 2008, 7:00 p.m., Roanoke Island Festival Park, One Festival Park, Manteo, NC 27954
- Tuesday, May 13, 2008, 7:00 p.m., Pitt Community College, Reddrick Building, Room 242, 1986 Pitt Tech Road, Winterville, NC 28590
- Wednesday, May 14, 2008, 7:00 p.m., DENR Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, NC 28405
- Monday, May 19, 2008, 7:00 p.m., Center for Marine Science and Technology, 303 College Circle, Room 306, Morehead City, NC 28557.

There was no public comment on the IJ FMP rules.

## **VIII. RECOMMENDATION**

DMF recommends MFC adoption of the IJ FMP rules and Amendment 1 to the FMP.

Prepared by     Katy West  
                    12 July 2007

Modified 21 August 2007  
Modified 10 June 2008

**NOTICE OF TEXT ATTACHMENT**

In order to effectively comply with mandated measures contained in federal Fishery Management Plans (FMPs) for species in the North Carolina Interjurisdictional FMP broad proclamation authority is granted in rule 15A NCAC 03M.0512 to the Division Director, along with a subsequent review by the Marine Fisheries Commission. Potentially conflicting proclamation authority is being removed from selected species rules.(Ocean striped bass, Spanish mackerel, king mackerel, weakfish, snapper-grouper complex including black sea bass, bluefish, and scup).