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MEMORANDUM

TO: N.C. Marine Fisheries Commission

FROM: Louis Daniel III, Director
Division of Marine Fisheries, NCDEQ

DATE: Feb. 8, 2016

SUBJECT: Declaratory Ruling Request

Please find attached a request for a declaratory ruling submitted by Mr. Richard Allyn with American Eel Farm, LLC (Petitioner). The Petitioner seeks a ruling regarding the applicability of N.C. Marine Fisheries Commission (Commission) Rule 15A NCAC 03M .0510, as it relates to the harvest, possession, and sale by the Petitioner of eels under nine inches. The N.C. Division of Marine Fisheries (Division) is joining the Petitioner in this request for a declaratory ruling.

As the members may be aware, the administrative rules associated with the American Eel Fishery Management Plan (FMP) is predicated on the FMP adopted by the Atlantic States Marine Fisheries Commission (ASMFC). Through the adoption of Addendum IV to the American Eel FMP, the ASMFC created the opportunity for states to apply for a limited harvest of glass eels under an ASMFC approved Aquaculture Plan. The declaratory ruling request is directly related to the attached Aquaculture Plan submitted by North Carolina and approved by the ASMFC at their February 2-4, 2016 winter meeting.

The Aquaculture Plan was approved by the ASMFC with the additional conditions that 1) no export of glass eel would be allowed and 2) the first year will be exploratory to determine locations in which glass eels are present and after which the state will consult with the technical committee to determine the best methodology to determine useable abundance estimates.

Additional information will be provided during the Commission's upcoming meeting. The Petitioner and Division thank the Commission for its consideration of the attached request.