

## **Fiscal Impact Analysis of Proposed False Albacore Management Rule**

**Rule Proposal:** 15A NCAC 03M .0523 False Albacore

**Name of Commission:** N.C. Marine Fisheries Commission

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**Impact Summary:** State government: No  
Local government: No  
Federal government: No  
Substantial impact: No

### **AUTHORITY**

#### N.C. General Statutes

G.S. 113-134. Rules.  
G.S. 113-182. Regulation of fishing and fisheries.  
G.S. 113-221.1. Proclamations; emergency review.  
G.S. 143B-289.52. Marine Fisheries Commission – powers and duties.

**Necessity:** False albacore (*Euthynnus alletteratus*), also known as “little tunny”, is not managed at the state nor federal level in North Carolina nor in any Atlantic waters on the east coast of the United States. North Carolina does not currently have any means to manage this fishery and the North Carolina Marine Fisheries Commission (MFC) is seeking the ability to do so to be prepared if the fishery continues to expand. Since this fishery is not managed by an interjurisdictional fishery management plan (FMP) nor is it a commission- or council-managed species, this proposed rule would be the first management measure implemented for the fishery in Atlantic waters. The need for management authority arose when there was concern from the recreational fishing industry and the MFC that commercial and recreational landings have increased annually over the last 10 years and that the pressure could continue to increase over time with no tool available to implement management.

### **I. Summary**

False albacore has become a more popular fishery in recent years, especially for the recreational sector. If adopted, the proposed rule would delegate proclamation authority to the Fisheries Director to issue a proclamation to manage the false albacore fishery if landings exceed a predetermined threshold and with prior consent by the MFC. The agency anticipates that if the rule is adopted as proposed, it would not result in any direct or near-term economic impacts as compared to the regulatory baseline to state government, local government, or the regulated

community. Potential long-term, indirect economic impacts (costs and benefits) to the regulated community are possible as a result of the proposed rule. However, we cannot predict the magnitude of costs or benefits (indirectly) attributable to the rule.

The majority of impacts would be realized if/when landings of false albacore exceed the proposed threshold and a proclamation is issued. If implemented in the future, the proposed management measures will help prevent overexpansion of the false albacore fishery. The management measures could result in some recreational fishers switching to other species. The measures are not expected to reduce participation in the sport of recreational fishing as a whole, however, as the majority of false albacore fishing is catch-and-release, which will not be restricted by the proposed management measures. The effect on commercial fishing is likely to be minimal as false albacore have low commercial value in the United States, and they are most often caught incidentally to other species.

The main effect of the proposed rule would be to expedite future management of the species by laying the groundwork for the Director to issue a proclamation. In the absence of proclamation authority, rulemaking would be required, thereby delaying implementation of management measures by many months at a critical point for the false albacore population. Adopting the rule now also gives a degree of certainty to the regulated community about possible future management measures.

## **II. Introduction and Purpose of Rule Proposal**

### False Albacore Life History

False albacore (*Euthynnus alletteratus*), also known as “little tunny”, is one of the most common members of the mackerel/tuna family Scombridae. It is a tuna-shaped fish that is steel blue on top and silver below with wavy stripes along the posterior portion of the dorsal side of the body and scattered dark spots below the pectoral fin. Anglers often confuse false albacore with Atlantic bonito (*Sarda sarda*) due to similarity in size and coloration. False albacore is typically found in tropical to temperate waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea; it is also found in the Mediterranean and Black seas. False albacore is a schooling species that migrate north in the spring and south in the fall and winter (Collette and Nuan 1983).

### Interjurisdictional False Albacore Management

Until 2011, false albacore was part of the South Atlantic Fishery Management Council's (SAFMC) Coastal Migratory Pelagics FMP. Although there were no management measures under the plan, data collection was an important component. Amendment 18 to the plan removed false albacore from the management unit since data would still be collected through current sampling regimes (SAFMC 2011). Based on data available at the time, false albacore did not appear to meet the federal national standard guidance for stocks in need of conservation and management. In North Carolina, false albacore was managed through MFC Rule 15A NCAC 03M .0512 (although no limits were put in place); however, authority to manage under this rule ended when the species was removed from SAFMC's Coastal Migratory Pelagics FMP and subsequently the N.C. FMP for Interjurisdictional Fisheries, which adopts management measures

within approved SAFMC, Mid-Atlantic Fishery Management Council (MAFMC), and Atlantic States Marine Fisheries Commission (ASMFC) FMPs by reference as the minimum standard. Currently, there are no rules in place for false albacore management in North Carolina. Additionally, the MAFMC did not include false albacore in their Unmanaged Forage [fish] Amendment in 2016 because of their large size and higher trophic level (MAFMC 2017). At the August 2016 MAFMC meeting, Council staff recommended the MAFMC consider developing management actions for the species in the future (including a potential small tunas FMP), due to high public concern for the species, particularly from the recreational sector. Management of false albacore through a small tunas FMP has not been pursued yet by a federal management body.

In December 2022, a paper entitled "Little Tunny White Paper" was presented at the SAFMC business meeting that examined if false albacore meets the Magnuson-Stevens Fishery Management and Conservation Act criteria for a stock in need of conservation and management (50 C.F.R. §600.305(c)(1)). More information on the findings contained in the white paper can be found at the SAFMC webpage for the December 2022 business meeting at which the white paper was presented ([https://safmc.net/documents/mc\\_a3\\_littletunny/](https://safmc.net/documents/mc_a3_littletunny/)). Following the presentation of the white paper, the Mackerel Cobia Committee directed Council staff to have the Mackerel Cobia Advisory Panel develop a fishery performance report for false albacore every three years. The report will include international landings, as well as landings along the Atlantic coast in federal versus state waters, catch per unit effort, and length distribution.

The ASMFC Interstate Fisheries Management Policy Board (Policy Board) tasked ASMFC staff in February 2022 to present an options paper on possible paths forward for management of Atlantic bonito and false albacore after concerns were raised regarding increased recreational harvest of juvenile fish in some state waters. Staff presented possible options for developing different paths to management for both Atlantic bonito and false albacore at the May 2023 ASMFC Policy Board meeting. The information also included the states' ability to regulate a species without an ASMFC FMP and timing to implement measures without an ASMFC FMP. It was noted if additional species were added to the ASMFC portfolio, it would increase the workload for ASMFC and state staff, some of which are already at full capacity. Although some states are interested in management measures for these species, ASMFC's Policy Board decided not to pursue management at the interstate level.

#### Proposed N.C. False Albacore Management

At its February 2023 business meeting, the MFC, was presented a white paper it had requested in 2022 about false albacore to frame potential management options for future consideration. The paper included life history, state by state landings, and data limitations for false albacore in North Carolina and the western Atlantic. The MFC passed a motion requesting staff provide rulemaking language with management options for false albacore starting with status quo and allowing for growth at various percentage points. The Division of Marine Fisheries (DMF) defined "Status quo" for false albacore as the five-year average landings for both recreational and commercial sectors combined from 2018 to 2022 and then applied percentage points of growth to this five-year average (2018-2022) at 125%, 150%, 175%, and 200% of status quo. These percentage points of growth from the five-year average landings illustrate a threshold to

implement management measures to limit expansion of new and existing false albacore fisheries in North Carolina. The details on the growth scenarios were provided to the MFC at its May 2023 business meeting. By consensus, the MFC agreed to use a growth scenario of 200% of status quo, defined as the five-year average of North Carolina recreational landings and the five-year average of North Carolina commercial landings from 2018-2022, as the basis for developing a proposed rule. To simplify rulemaking, the DMF later established the threshold would be based on the recreational and commercial landings combined. The DMF developed the requested proposed rule.

Under the proposed rule, the MFC would receive a formal update at its annual August business meeting on false albacore landings through the previous calendar year to monitor whether the 200% threshold of the five-year average has been exceeded. Again, the combined recreational and commercial landings would determine if the threshold had been exceeded. If landings from the previous calendar year exceed the threshold, a memo would be provided to the MFC containing the DMF rationale for any false albacore management, including information on whether it is an anomalous annual harvest estimate. Other influencing factors could include expanding markets for bait or food sources, an unusual year for false albacore movement into N.C. waters, or expansion in the number of participants in the fisheries.

Pursuant to the proposed rule, MFC concurrence would be required for the DMF Director to issue a proclamation to implement management measures to reduce harvest of false albacore. The draft proclamation would also be provided to the MFC for its review. The requirement in the proposed rule for MFC concurrence prior to issuance of the proclamation provides a choice to the MFC to implement harvest restrictions or not implement harvest restrictions. This management scenario allows the MFC to consider other factors that may be influencing an increase in landings to the extent that the threshold has been exceeded. A fishery that shows progressive expansion over several years (versus one anomalous spike in landings as occurred with false albacore in 2020) usually has other factors in play to cause the growth of a fishery where a harvest cap would be more useful and appropriate for preventing further expansion of the fishery. If a significant expansion only occurs in one sector, the rule does not allow for implementing regulations for only one sector. Regulations would be implemented for both the commercial and recreational fisheries once the threshold (based on combined landings) is exceeded.

A delayed January 1 start date from the August MFC business meeting would allow over four months to inform the public of the new restrictions. The public would be notified through usual communications by DMF via a news release, broadcast email through the license holder distribution list, and social media posts. MFC meetings are public meetings and an opportunity at which the public can provide input to the MFC, and the MFC also has the option to refer an issue to its standing and regional advisory committees for input. The delayed effective date for implementing a proclamation to be effective on January 1 the year following the year the determination is made would have the added benefit of shortening the time between the effective date of the proclamation (January 1) and the time data from the next calendar year would be available. The previous calendar year's data can be available as early as April 30, with variability from year to year, and would enable DMF staff to determine if the next year's annual landings of

false albacore fall below the designated threshold. Expiration of the proclamation would be contingent on when the combined annual landings fall below the threshold and would require MFC concurrence per the proposed rule.

False albacore has become a more popular and targeted fishery in recent years, especially for the recreational sector. Participants associated with the fishery have expressed concern over perceived increases in harvest and targeted trips of the species to both the state and federal level managers. As fish stocks change and fishery management reacts to those changes, fishing effort has historically shifted across species. Fisheries that are unregulated are more susceptible to increases in effort as fishing effort moves away from regulated fisheries. Coastwide, there are no known commercial or recreational regulations currently in place to directly manage false albacore fisheries at the state or federal level.

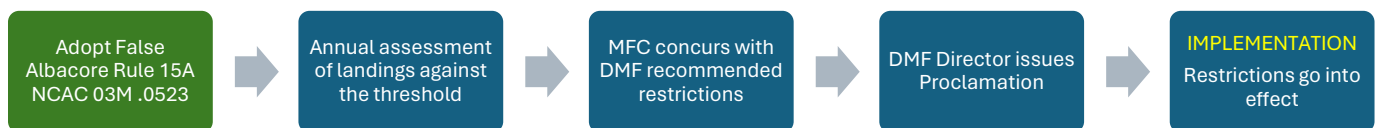
### III. Fiscal Analysis

The purpose of this document is to examine the potential economic impacts (costs and benefits) of the proposed false albacore management rule.

The rule itself will not directly produce costs or benefits for the public, although it would affect the timing of future costs and benefits being realized. Any impacts would occur following implementation of the rule after issuance of a proclamation by the Director of DMF. The need to protect a stock from fishing pressure or to allow expansion of fishing effort is necessary to meet stock management goals while balancing use of the marine and estuarine resources for all users.

Having the rule in place would expedite implementation of these management measures should the landings threshold be exceeded in the future. As shown in Figure 1, there are additional steps that need to occur after adoption of the rule and before implementation can occur.

**Figure 1. Steps from Adoption of Rule to Implementation**



The costs to the public (i.e., regulated community) would be in the form of potential decreases in bag and trip limits. Recreational fishers, primarily, may have to reduce their harvest of false albacore as a result of the proposed management measures. This cost would be incurred only for those recreational fishers who catch (and keep) more than the proposed limit of false albacore. Recreational fishers who catch and release false albacore will not be subject to the same limits.

The proposed rule will not produce costs to the State. In the event that landings exceed the threshold in the future and a proclamation is issued, Marine Patrol would incorporate enforcement of the False Albacore species into its regular enforcement duties without requiring additional resources or funds.

There are potential unquantifiable benefits to stakeholders in the form of regulatory certainty and future regulatory expediency. Providing the public with more certainty around future management measures will allow for small benefits in the form of fishers being able to make more informed decisions about their participation in the fishery. Having the management measures codified in advance of proclamation may also result in incremental improvements to compliance should a proclamation be issued in the future.

While the proposed rule adoption could lead to changes to future harvest restrictions, DMF cannot predict if or when these restrictions will become necessary. Although landings have not exceeded the proposed threshold in the time horizon that the DMF has been monitoring trips and landings reported in Table 1, we cannot say with any certainty whether current trends will increase or decrease in the coming years. This uncertainty makes it impossible to predict the likelihood of realizing costs and benefits related to implementation of management measures. Having the rule in place will, however, give a measure of certainty to the regulated community as to what future management measures could go into effect. Though the benefits from this rule are not explicitly quantifiable, they are real and will help ensure a more sustainable population of false albacore for the benefit of the species and the people of North Carolina.

**Table 1.** Recreational harvest (number of fish landed and weight in pounds) and releases (number of fish) and commercial harvest (weight in pounds) of false albacore from North Carolina for the period 1997–2022. (Source: Marine Recreational Information Program and North Carolina Trip Ticket Program)

Year	Recreational		Weight (lb)	Commercial	Total
	Numbers			Weight (lb)	Weight (lb)
	Landed	# Released	Landed		
1997	31,787	48,106	222,310	370,814	593,124
1998	25,206	75,617	200,843	153,797	354,640
1999	15,895	77,885	90,008	143,359	233,367
2000	13,931	41,591	85,778	106,777	192,555
2001	8,702	78,516	53,955	98,352	152,307
2002	13,717	89,706	61,385	77,798	139,183
2003	12,294	24,662	79,071	86,568	165,639
2004	7,955	62,965	95,088	92,319	187,407
2005	6,937	68,636	69,868	88,741	158,609
2006	3,318	39,902	29,943	106,617	136,560
2007	3,098	115,324	29,494	134,666	164,160
2008	12,377	33,205	76,228	103,743	179,971
2009	17,018	83,454	139,432	146,088	285,520
2010	7,374	66,458	49,290	147,337	196,627
2011	7,807	30,347	55,290	131,549	186,839
2012	18,393	59,160	140,026	157,849	297,875
2013	28,669	108,149	218,471	189,746	408,217
2014	27,469	273,165	189,270	225,797	415,067
2015	22,854	87,239	207,889	164,853	372,742
2016	41,077	145,699	337,841	241,208	579,049
2017	39,214	119,647	334,363	216,557	550,920
2018	47,891	110,716	315,758	204,177	519,935
2019	27,359	80,204	185,093	232,879	417,972
2020	92,899	171,562	594,793	230,685	825,478
2021	17,095	52,787	118,784	105,306	224,090
2022	38,772	127,255	234,923	147,065	381,988
Average	22,658	87,383	162,123	157,579	319,994

## Appendix I.: Proposed Rule Changes

15A NCAC 03M .0523 is proposed for adoption as follows:

### **15A NCAC 03M .0523 FALSE ALBACORE**

(a) If the level of landings of false albacore in a calendar year exceeds 200 percent of the five-year average of North Carolina recreational and commercial landings combined from 2018-2022, the Fisheries Director shall issue a proclamation as set forth in Paragraph (b) of this Rule.

(b) In accordance with Paragraph (a) of this Rule and after prior consent of the Marine Fisheries Commission, the Fisheries Director shall, by proclamation, impose the following requirements on the taking of false albacore:

- (1) for recreational purposes, specify a bag limit not to exceed 10 fish per person per day, not to exceed 30 fish per vessel per day; and
- (2) for a commercial fishing operation, specify a trip limit not to exceed 3,500 pounds in any one day or trip, whichever is more restrictive.

(c) A proclamation issued in accordance with Paragraphs (a) and (b) of this Rule shall become effective January 1 of the year following the year when the determination is made that a proclamation shall be issued. The proclamation shall expire when the level of landings falls below the landings level in Paragraph (a) of this Rule in a subsequent calendar year and after prior consent of the Marine Fisheries Commission.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
Eff. May 1, 2025.



## **Appendix II.: Literature Cited**

Collette B. B., and C. E. Nauen. 1983. FAO species catalogue: Vol. 2. Scombrids of the world. An annotated and illustrated catalogue of tunas, mackerels, bonitos and related species known to date. FAO Fisheries Synopsis 125(2):34-35.

MAFMC (Mid-Atlantic Fisheries Management Council). 2017. Unmanaged Forage Omnibus Amendment. 223 pp. Mid-Atlantic Fishery Management Council 800 North State Street, Suite 201, Dover, D.E. 19901.

SAFMC (South Atlantic Fisheries Management Council). 2011. Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region Including Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis. 399 pp. South Atlantic Fishery Management Council, 4055 Faber Place Drive, Ste 201, Charleston, S.C. 29405.