

## Nongame Fish Species

- 1) I realize that the 36 inch limit on blue cats was essentially a compromise that should afford protection for our big fish but I don't believe that the rule alone is sufficient. If we had better law enforcement on the lakes the existing law would probably work. There is considerable non compliance and/or breach of the spirit of the law with both recreational and some commercial fishermen.

*Comment acknowledged.*

- 2) Section 50-13-1147 Line 30 is missing the word "measure" although measuring a twisting turning slimy eel will probably prove to be difficult.

*The language of Section 50-13-1147 has been amended to read, "It is unlawful for a recreational fisherman to take more than fifty eels a day. Each eel must be at least six inches long."*

- 3) Look very good. Have needed these length and creel limits for long time. One question: My father fishes mainly for white perch. Last year, we heard there was no limit on those due to over-population. This is true, and if not, what is the correct creel limits?

*In 2008, white perch were removed from the list of game fish. Because white perch are now considered a nongame fish, there is no creel limit on this species.*

- 4) I am curious why Section 50-13-2016 prohibits Herring fishing within one hundred feet of the fish lift at St. Stephens Powerhouse but then does not mention herring fishing or cast netting at the Broad River fish ladder. I suppose the restriction at St. Stephens is related to Homeland Security. Park rangers will not allow fishermen to use cast nets at the Broad River fish ladder either so should this restriction also be put into regulation? If the reg remains silent on the Broad River fish ladder then perhaps fishermen will be allowed to catch bait there again at some point in the future. I don't really have a personal preference now but if the Striped Bass fishing gets better in the Broad River, I could see this area also becoming more popular as a place to catch bait.

*Herring fishing is indeed prohibited within one hundred feet of the fish lift at St. Stephens for homeland security reasons. The SCDNR does have some concerns about herring fishing below the Broad River fish ladder. These concerns may be addressed by the establishment of a fish sanctuary below the fish ladder. Discussions about such a sanctuary are ongoing with the City of Columbia.*

- 5) Our current trotline law allows trotlines to be left in the water to be checked every 24hours. This summer as well as previous summers I've seen more dead catfish, especially larger ones, than dead striped bass. These fish are being discarded after succumbing to being left on trotlines in hot water. Some float to the top still attached to the trot lines. I'd suggest that we disallow trotlines to be left in the water continuously in the summer time. The lines are left unchecked very frequently. Our law enforcement allows the benefit of the doubt regarding the inability to check trotlines due to inclement weather. This tolerance is abused. Trotlines should be removed daily between June 1 and

## Nongame Fish Species

October 1. This will impact recreational trotliner's more than commercial fishermen. Most commercial trotliners remove their lines daily since they can't afford the losses from low DO mortalities in summer. We may also effect putting a little less pressure on catfish from compliant fishermen who may not bother with the more intensive effort to trotline recreationally.

*During review of the proposed changes to the fishing statutes by the constituent groups, the SCDNR was informed by several members that they witnessed abandoned trot lines or trot lines that were not being checked on a regular basis. This information was passed along to the SCDNR Law Enforcement Division.*

*Checking trot lines daily is currently a requirement in the fishing statutes and will remain a requirement. The SCDNR will continue to monitor the use of trotlines as it relates to catfish populations and will continue to work with the SCDNR Law Enforcement Division as they enforce fishing statutes. If and when the SCDNR determines that trot lines are affecting the catfish fishery, steps will be taken to address that issue.*

- 6) My suggestions are based on results of blue catfish gill net catch during the preceding six years. Catches of smaller fish are significantly lower in these years than in previous years. This is probably quite significant and probably warrants at least some temporary measure of protection of blue cats in the Santee Cooper lakes. Scott may be on the same page with some conservative approach. We had a couple of discussions about the issue before I retired.

*The blue catfish fishery is recognized as a significant recreational and economic resource in South Carolina. The SCDNR will continue to monitor populations of blue catfish and will work to maintain this viable fishery for the public.*

- 7) Commercial fishermen who use straight shank 7/16" gap hooks are noticing that they are not catching as many "little" fish as in the past. This is likely a validation of gill net results. I realize the differences in "sampling" technique between gill nets and trotlines from a purely scientific perspective. This comparison may, however, be the only way to have some relative parallel to gill net sampling. Rod and reel anglers typically won't catch these smaller blue cats because of bait and hook sizes.

*Comment acknowledged.*

- 8) My perspective is that there are fewer blue catfish in the system. Some decrease may be good for the species and potentially other species. Nonetheless, six years of apparent poor recruitment will result in a decrease in angler creels in a renowned blue catfish fishery.

I doubt that we know whether other species have had recruitment issues during the past six years.

## Nongame Fish Species

If there is some systemic issue then there may likely be some issues with other species I suppose. I would say speculatively that drought may play a part in any multiple species declines. There is at least a perception among fishermen that is the case.

*Comment acknowledged.*

- 9) We do have evidence (gill net sampling) of the likely decline in blue catfish numbers. Some management action seems warranted since the blue catfish fishery is so valuable. Management efforts can be refined.

*Comment acknowledged.*

- 10) I would suggest that we not allow circle hooks on trotlines. These hooks can and do retain larger fish. This change would be consistent with the spirit of the original rule of the 7/15" gap size hook toward protecting our bigger fish.

*The lack of standardization of hooks in the tackle industry makes it difficult to regulate terminal tackle through legislation. Several attempts have been made to refine the use of circle hooks and hooks with specific gap sizes as the SCDNR seeks compliance with the spirit of the legislation; we will continue to do so.*

- 11) Another suggestion is to not allow the sale of live catfish for out of state market. Typically some commercial fishermen have fudged the rules and supply pay ponds with the larger fish and possess more than the allowed daily limit of big fish. They are sold for \$0.50 to \$1.00 a pound. This just puts more pressure on the quality size fish. As you know the recreational value is much more.

*The trafficking of lawfully obtained fish across state lines is governed by federal statutes. It is difficult for SCDNR to limit the movement of any lawfully obtained fish in a constitutionally valid manner without interfering with interstate commerce.*

- 12) Because of our apparent understanding of blue catfish in Santee Cooper we can and should continue a commercial fishery. My personal observations of the trotline commercial fishery suggest that fish are still fairly abundant but without sufficient "replacement" numbers to prevent a significant decline in abundance to sustain both recreational and commercial harvests in the near future.

Blue cats have and probably will continue to proliferate. I would like to see us take some stop gap measures in an attempt to sustain the fishery without an interim of less than desirable creels. I believe it is possible to approach that dilemma if we have not already. Conditions this winter have sullied my confidence in my interpretation of my catches. That just means catch rate has been down and biased toward fish 12 to 25 lbs. generally.

Thanks for taking time for this intrusion. I hope the timing is right to consider these proposals. I suspect that implementation of these proposals would be viewed very favorably by the rest of the catfishing community

## Nongame Fish Species

*Comment acknowledged.*

- 13) The way the law is written concerning number of devices is confusing and he has had several comments from folks he knows about this issue.

*The SCDNR has been very clear about the number of devices and the location at which those devices can be used. The extensive list in Section 50-13-1192 is extremely precise to ensure that anglers are aware of what they can and cannot do throughout the state. The number and type of allowable devices has changed in some areas as we increased numbers some portions of the state, decreased numbers in others and even added or removed certain river segments from the list. These changes are based on input from fisheries biologists, law enforcement officers, and constituent groups and were developed to be most protective of nongame fisheries while allowing opportunities for anglers in the state.*

- 14) Thank you for the opportunity to comment on this Bill. I wish to propose that “Hoop Nets” be allowed in any areas of Black River, Pee Dee River, Sampit River and Santee River that “Traps” are permitted. This would be a proposed change to Section 50-13-1192. Please advise as to why this would not be a logical addition as I intend to lobby my delegation members to support this proposal.

*The SCDNR has limited the use of hoop nets based on input from fisheries biologists, law enforcement officers and members of the constituent groups. Identifying areas for the use of hoop nets was done to limit potential user conflicts and to be protective of the fisheries resources throughout the state.*

- 15) **“SECTION 50-13-1185.** Set hooks to be attached only during certain hours. All set hooks ~~shall~~ must be removed from the water and from the vegetation or structure to which they are attached not later than one hour after sunrise each day and ~~shall~~ must not be reattached earlier than one hour before official sunset.”

Why do they have to be removed from the vegetation. If you are running 50 of these, it can take a couple of hours to set them - if you don't get them set during the daylight, it can be very difficult to find them later.

I understand them being out of the water - but unbaited hooks hanging from a branch is really no different than a hook on a pole sitting on the bank.

I know many people that hit the river and camp for several days - and want to put the lines out on the first day and take them down the last day. IF they are not being fished, I don't understand the issue with them hanging in the brush.

*This statute requires that set hooks be removed from the vegetation or structure to which they are attached. This is a safety issue; it is required to protect the public/other resource users from injury caused by a number of hooks hanging in the vegetation.*

## Nongame Fish Species

- 16) “**SECTION 50-13-1186.** Jug fishing devices; allowable capacity and prohibitions regarding. All jugs used in fishing in freshwaters ~~shall range between~~ must be sizes that are between a minimum capacity of one pint and a maximum capacity of one gallon inclusive with the licensee’s name and address department customer identification number clearly marked on each jug. All jugs ~~shall~~ must be removed from the water not later than one hour after sunrise each day and may not be replaced ~~before~~ earlier than one hour before official sunset. The attachment of more than one hook and line to a jug fishing device is prohibited.”

I think you should be able to fish jugs during the day - as long as they are being attended. boaters and jet skiers should be on the lookout for floating things anyway.

*Because several different types of users are present in our waterbodies, the SCDNR must balance all of their needs and desires when developing statutes. Jugs are limited to night use to allow users, such as boaters, skiers and swimmers the opportunity to use the resource during the day. Restricting the use of jugs during the day is done to address the safety issue that would result as other resource users move around on and in our waterbodies.*

- 17) “(A) Except as provided in subsections (B) and (C), no game fish, live bait, or other bait other than bait listed below may be used with trotlines, set hooks, and jugs:
- i. soap;
  - ii. dough balls;
  - iii. cut fish which must be nongame fish cut into at least three equal parts;
  - iv. shrimp;
  - v. meat scraps which may not include insects, worms, or other invertebrates;
  - vi. grapes.”

Are bream considered game fish? If so - everyone violates this regulation - bream are the primary bait that are used. Why must fish be cut into 3+ equal parts? Seems to me this is a LE standard to ensure that live bait is not being used. Why can't worms be used? Realistically - how much is this being enforced.... if its not, why have it? Additionally, the next section says that bream (even live bream) are legal in certain waters. So why can't bream be used everywhere, and why must bait be cut in 3 pieces in some bodies of water and live bait is legal in others? Is there really a biological reason for this?

*As defined in Section 50-1-30, “For the purpose of this title, the following classifications are recognized: (5) Freshwater game fish: Bream: bluegill, flier, green sunfish; pumpkinseed, redbreast, redear (shellcracker), spotted sunfish; warmouth; Black bass: largemouth bass, smallmouth bass, spotted bass, redeye bass (coosae bass); striped bass or rockfish; white bass; hybrid striped bass-white bass; white crappie, black crappie, Trout: rainbow, brown and brook, chain pickerel (jackfish), red fin pickerel, sauger, walleye, and yellow perch. (6) Freshwater nongame fish: any freshwater fish species not classified as a game fish.*

## Nongame Fish Species

*As evident from Section 50-1-30, bream are considered game fish. Bream are afforded protection from use as bait to keep them from being overexploited.*

*The use of bream for bait on a very limited number and type of nongame devices is allowed in proposed Section 50-13-1187(B) Notwithstanding any other provisions of law, on the, Black, Edisto, Great Pee Dee (including the navigable oxbows and sloughs), Little Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill and Muddy Creeks), Sampit and Waccamaw Rivers, live nongame fish and live bream may be used with single barbed set hooks that have a shank-to-point gap of one and three sixteenths inches or greater. However, it is unlawful for any person to have in possession more than the lawful creel limit of bream while fishing with nongame tackle on these rivers. (C): "Live nongame fish and live bream may be used on trotlines having not more than twenty hooks and have a shank-to-point gap of one and three-sixteenths inches or grater on the Black, Great Pee Dee (including the navigable oxbows and sloughs), Little Pee Dee (including the navigable oxbows and sloughs), Lumber, Lynches (including Clarks, Mill and Muddy Creeks) and Waccamaw Rivers. However, it is unlawful for any person to have in possession more than the lawful creel limit of bream while fishing with nongame tackle on these rivers." The reason this exception was made allowing live bream for use as bait was to target expanding flathead catfish populations.*

*Worms may not be used as they are live bait. Live bait has a greater tendency to catch game fish than bait that is not alive. Therefore, use of live bait of any kind, with the exception noted above to address flathead catfish populations, is not permitted on nongame devices.*

*Your comment concerning cutting fish into three equal parts is acknowledged. After reviewing your comment and discussing this issue with fisheries biologists and law enforcement officers, the SCDNR has determined that the statute can be amended. The reason for cutting the fish is so the bait does not look like and/or mimic live bait. However, there was not a clear reason for the bait to be cut into **three** equal size pieces. The new proposed statute in Section 50-13-1187(A)(3) is as follows: "nongame fish cut into two or more equal parts." This change was made to address your comment.*

- 18) **"SECTION 50-13-1189.** Possession of game fish or game fish ~~tackles devices~~ while fishing for nongame fish prohibited. It is unlawful for any person to have in ~~his~~ possession game fish ~~or fishing tackle capable of catching game fish while fishing for nongame fish with nongame tackle authorized for use by this chapter , except live bream on those water bodies where permitted as live bait, or game fish devices while possessing or using nongame devices.~~ The provisions of this section do not apply to a person ~~whose nongame tackle consists of bows and arrows using archery equipment~~ or cast nets."

It appears here that bream are considered a game fish. It also appears that some areas have lobbied better for the ability to use live bait than others. Why can't this just be a

## Nongame Fish Species

statewide regulation that live bait can be used anywhere its legal to jug or set hook? My real problem with this however is that according to this regulation I can't have rod and reels in the boat while I am jug fishing. So I can't put out jugs, let them float for a while and bottom fish for catfish on a rod and reel at the same time. That is crazy. It's also crazy that I can't put out jugs for catfish in cove, and while they are soaking, be running a buzz bait near the shore for bass. The only logic I see behind this law is for Law Enforcement... so that people are not catching live fish and using it for bait. bust them if they break the law. Most people keep tackle boxes stored in their boat. that is a violation as well, because it would contain game fishing devices.

Don't limit their opportunity because they MIGHT break the law if they have the gear in their boat. What difference does it make if they are catching fish for bait if they are killing it and cutting it into pieces? Again, bust them if they break the law - don't make it difficult to enjoy the sport because people might break the law.

Here's an analogy - It is against the law to speed. If I speed I can get a ticket, etc. However there is no law that says that I have to have a governor on my engine to limit my speed to 55mph so that I don't have the opportunity to break the law.

This regulation is a good way for SC DNR to phase out many of these traditional recreational opportunities. I CAN'T STAND THIS REGULATION! (did I make my point known?! ;)

I have a hard time believing that LE regularly enforces this law... its there if they really want to put the screws to someone. But keeps the people that try hard to not break the law from participating in some of these activities.

*As stated above in the response to Question #17, live bait has a greater tendency to attract and catch game fish, so it is not allowed on nongame devices.*

*Both game and nongame gear cannot be used simultaneously because it is illegal to catch game fish with nongame devices. If an angler is using both simultaneously and a law enforcement officer discovers game fish in that angler's possession, that officer will be unable to determine which device was actually used to harvest the fish. The SCDNR needs to maintain a clear demarcation between anglers taking fish on nongame devices and those fishing with recreational devices. However, you are able to set your jugs, without your rod and reel, then retrieve the rod and reel and fish while the jugs are set. The rod and reel must be removed from the boat while retrieving the jugs.*

- 19) **“SECTION 50-13-1192.** Type and number of nongame fishing devices and methods which may be used in certain bodies of freshwater.”

I think this whole section is kind of silly when it comes to set hooks, etc. I believe that you should be able to use them where ever... I think this is social limitations not biological limitations... just my opinion. For example, If I want to use set hooks on Thurmond, and I can find a place where it is effective, why can't I do that? In most

## Nongame Fish Species

places at most times, it would be a waste of time to try... so I would not. But if the water is up, the back of some of the coves would be a good place to do this. Why not give me the opportunity?

*All natural resource statutes are a balance between biological, social and political components. These statutes are established to protect the natural resource, manage user conflicts and allocate the resources between all user groups. The SCDNR attempts to balance the needs of the public and the resources for which we are responsible with clear statutes that can be effectively adjudicated through the magistrate system.*

- 20) Currently, 50 hoop nets are allowed in the Congaree River. The proposal reduces the number to 10. What is the biological reason for the reduction? Is a hoop net deemed by DNR to be an inherently evil device?

*This proposed significant reduction in hoop nets in the Congaree River was based largely on the input from the two commercial fishermen that still actively fish in that area. They both stated that neither they nor anyone they knew currently fished the Congaree River with any type of gear. Further, they stated that most commercial catfishing in rivers was done using traps because that gear was more efficient, less cumbersome and easier to maintain.*

*Therefore, there is no biological reason for this reduction. In a legislative state such as South Carolina, resource management decisions are frequently made in the absence of biological data. Although the SCDNR agrees that it is desirable to base all regulations on biological evidence, such evidence does not always exist and given our current fiscal situation, gathering that evidence is not possible. However, given that those currently using the resource state that the need for 50 hoop nets in the Congaree River is currently unnecessary, the SCDNR felt that maintaining consistency with other river systems in number of hoop nets allowed would be reasonable for this body of water.*

- 21) Currently, 50 traps are allowed in the Congaree River. The proposal reduces the number to 10. What is the biological reason? Is a trap also an inherently evil device?

During our previous conversation, you indicated that the people you all talked to said that traps were a more efficient/effective way to catch catfish. Why are both methods being reduced?

Set hooks *are* currently allowed in the Congaree River. The matrix is wrong. Let's not try to make people think that DNR is "throwing us a bone"!

*The draft of Chapter 13 does indeed reduce the number of traps to 10. However, in the definition of traps, the allowable trap size has been increased significantly. This was done to address the fact that many fishermen use a "modified" hoop net. When this net is modified, it essentially becomes a trap. As the current law is written, such a device would be illegal. By increasing the trap size allowed, commercial fishermen would likely be able to harvest fish more effectively than with fewer devices. The commercial*



## Nongame Fish Species

*fishermen in the constituent group felt that increasing the trap size and decreasing the number of traps allowed would be beneficial.*

*Again, this reduction is not based on biological evidence. Please see the response to Question #20, above for more information about collection of biological data.*

*It is correct that the matrix was, in part, incorrect. The matrix he was sent does note that no set hooks are presently allowed in the Congaree River. Set hooks are in fact allowed from I-77 downstream to the confluence but not from I-77 upstream to Gervais Street. SCDNR has proposed to do away with this segmentation of the river under the new definition of the Congaree's boundaries. In essence, this will result in increasing the area in which set hooks will be allowed.*

- 22) Currently, 50 traps may be used in the Wateree River. The proposed change reduces the number to 40. What is the biological reason?

*As state in Question #20, above, this reduction is not based on biological evidence but on input from local fishermen. The fishermen stated that forty traps were acceptable based on their ability to process their catch.*

- 23) The trap limit in the Congaree River is being reduced by 80% (50 to 10) and that in the Wateree River by 20% (50 to 40). Do 80% more catfish from the Santee River swim up the Wateree than up the Congaree? Or was the input to the working group from a Wateree River commercial fisherman who was protecting his own interests?

*Generally, more catfish are found in the Wateree River than in the Congaree River. More commercial fishermen indicated that they would target catfish in the Wateree and Santee Rivers than in the Congaree River. This is particularly true for those targeting flathead catfish.*

- 24) Why is the same disparity proposed to the trotline hook reductions for the Wateree River versus the Congaree River?

*The matrix is incorrect. The draft statute for trot lines is the same in both rivers.*

- 25) Why are live bream not allowed as bait on trotlines and set hooks statewide as they are in the Edisto River, Waccamaw River, Little Pee Dee River, etc.?

*The SCDNR is generally opposed to the use of game fish as bait on nongame devices. This use further increases the pressure on game fish populations. The areas where live bream are allowed resulted from a legislative compromise in areas where flathead catfish had become established. This allowance was granted in an attempt to increase the take of flatheads. For additional information, please see the response to Question #17, above.*

## Nongame Fish Species

26) Why are cut game fish not allowed as bait on trotlines and set hooks?

*The SCDNR continues to want to minimize the use of game fish as bait on nongame devices. Because of their economic and recreational value, game fish are afforded a higher level of protection. For more information, please see the response to Question #17, above.*

27) Why are non-game devices not allowed in Lake Monticello? What is the biological reason?

*Monticello is a fairly small (about 6,000 acres) impoundment that goes through daily water level fluctuations due to its operation as a bump back storage reservoir. The daily fluctuations would likely make it more difficult to secure nongame devices that are deployed. More importantly, the SCDNR wants to manage Lake Monticello for recreational fishing only. Because it is a small lake, prohibiting the use of nongame gear in Monticello will not result in a significant area of exclusion for commercial anglers.*

28) It appears that non-game fishing devices are allowed in the Parr Reservoir and the Broad River. Is this correct? Are not the Parr Reservoir and Lake Monticello adjoining reservoirs which are connected by a fish grinder, AKA pumped storage? If the water (pH, hardness, nutrient level, etc.) is the same, then why the radical differences in the fishing regulations?

*As stated above in the answer to Question #27, this is a resource allocation issue; nongame devices can be used in Parr and the Broad River, but not in Monticello due to the fact that the latter is managed for recreational and not commercial fishing.*

29) Why are the Twelve Mile Creek changes so radical?

*Changes to Twelve Mile Creek in Pickens County are radical (disallowing the use of nongame devices) because the dams on this system are scheduled for removal, which will result in changes to fish habitat resources. Such changes are not conducive to nongame fishing.*

30) What is the biological reason for the Great Pee Dee River trotline hook reduction from 2000 to 150?

*There is no biological reason (based on sampling data) for this reduction. However, there is not adequate space to set 2000 hooks on one line. The reason for the reduction is a resource allocation issue.*

31) The focus group recommendations that were implemented show increases in traps and trotlines in Lakes Marion and Moultrie and the upper Santee River. The matrix shows exactly the opposite. Which version is correct?

## Nongame Fish Species

*The original proposal was to reduce traps to 2 recreationally and 10 commercially in the Santee River and Lakes Marion and Moultrie. However, following stakeholder discussions, we increased the recommendation to 25 traps commercially.*

*The original proposal was to reduce trot lines to 2 lines, 500 hooks in length commercially. After discussions with stakeholders we increased our recommendation to 3 lines, 500 hooks in length commercially.*

*Therefore, although the final recommendations represent a reduction in gear use, the matrix shows this as an increase because the original recommendations of the SCDNR were for even larger reductions.*

- 32) It appears that in every category commercial fisherman gained zero and in some cases actually lost out. What is the biological reason for the gear reductions for commercial fisherman? Is there hard data from a biological survey (creel survey, gill net survey, etc.) to support the changes?

*There are about 120 cases where no changes are proposed, about 9 cases where opportunities to use nongame devices are liberalized and about 36 changes where the use of nongame devices is made more restrictive. The majority of the increased restrictions are associated with the take of eels, which is primarily driven by the need to better document eel take and to reduce eel take in order to address pending management recommendations for eel from ASMFC.*