

VIRGINIA MARINE RESOURCES COMMISSION
FINFISH MANAGEMENT ADVISORY COMMITTEE
2600 WASHINGTON AVENUE, NEWPORT NEWS, VA

VMRC COMMISSION ROOM, 4TH FLOOR

WEDNESDAY, JANUARY 9, 2019 – 6:00 P.M.

Members Present

Jeff Deem (Chairman)
Hon. Ken Neill
John Bello
Scott MacDonald
Tom Powers
Bob Sinclair
Robert Weagley

Members Absent

Meade Amory
Ernest Bowden
Hon. James Minor
Skip Feller
Andy Hall
Walter Rogers

VMRC Staff Present

Rob O'Reilly
Pat Geer
Alex Aspinwall

Sara Blachman
Lewis Gillingham
Alexa Kretsch
Adam Kenyon

Others Present

Theresa Vaughan
Butch Eaton
Ronnie Nixon
Stan Sillerman
Will Bransom
Max King
Mike Hubert
Mike Avery
Dave Anderson
Ashlee MacDonald
Charles Dryden
Mike Insley
Jerry Hughes
Wes Blow
Denny Dobbins

I. FMAC Introductions; Announcements – J. Deem

The meeting was called to order at 6:03pm.

Fisheries Chief Rob O'Reilly announced that the Committee would be looking to replace Jack Austin, who has retired from the Committee. He also passed word on from Commissioner Bowman that he is concerned with the lack of attendance by members. Often, the Committee has been lacking a quorum with which to vote. Often proxies have stood in for absent Committee members. Commissioner Bowman is looking for better attendance from members. Chief O'Reilly also said to expect more meetings than typical this year, as a lot of decisions and proposals will be coming down from ASMFC.

II. Approval of minutes for the September 24, 2018 meeting – J. Deem

Minutes from the September meeting were approved unanimously without objection.

III. New Business

A). Discussion on February recreational Black Sea Bass season

Fisheries Management staff member Alex Aspinwall briefed the committee on the increasing interest in a February Black sea bass fishery and the necessity in adjusting recreational black sea bass harvest accordingly during the normal fishing season. Mr. Aspinwall explained that the previous year's February recreational harvest was covered by a surplus in the regional allocation, but that due to changes in black sea bass management, Virginia no longer had an allocation surplus to work with. Therefore, the expected poundage caught, based on the previous year's catch, would need to be cut from the rest of the year. Mr. Aspinwall presented several options for shortening the black sea bass season during the year, based on the average daily catch during other waves. Fewer days would need to be cut from Wave 3, increasing through the year with the most days needing to be cut in Wave 6. All comments from the Committee and from the public were in favor of opening a February fishery. Reasons given included: less species being available to fish for in February, the importance of gathering data on February harvest and biological profiles, less waste of black sea bass bycatch and concerns of high release mortality during winter tautog and golden tilefish fisheries, and making a statement that having a February fishery is desirable by Virginia. Mr. Tom Powers made a motion to support the opening of a February recreational black sea bass fishery. With no objections, the motion passed.

The Committee next discussed how to account for the February catch. Mr. John Bello, Mr. Bob Sinclair, and two members of the public expressed interest in seeing alternatives to season closures, like a bag limit. Mr. Aspinwall said he would look into other options, but that bag limits often have a lesser impact than seasonal adjustments. Mr. Bello asked how the suggested September closure was decided upon. Mr. Aspinwall explained it was the same closure used in 2017. Mr. Powers recommended a September closure when summer flounder are still available. Two other members indicated agreement. Several public comments were made in support of adjusting Wave 3 or 4 when fewer days need to be closed. Members of the Committee agreed that there are other fishing opportunities in May and June. Mr. Powers noted that since the tautog season closes May 15, there would be less black sea bass bycatch so that would be a good time to close. Chief O'Reilly said VMRC can make multiple proposals to ASMFC. There will be a public hearing on this issue at the January 22 Commission meeting. Mr. Powers made a motion to take 14 days from Wave 3 to account for February catch. Mr. Bello seconded. With no objections, the motion passed.

Chief O'Reilly asked for those present to spread the word that VMRC needs input on the February fishery. As the "poster child" of the Wave 1 fishery, VMRC will need boats to call in from trips so staff can collect biological samples. Staff are arranging for a 1-800 number to be available for reporting.

B). Update on Gill Net Incidental Take Permit (ITP)

Fisheries Management staff member Ms. Sara Blachman presented the details of Virginia's application for an incidental take permit for the five threatened and endangered sea turtle species found in Virginia waters. A second permit will cover Atlantic sturgeon; the details of the sturgeon application can be found in the FMAC minutes from the February and March 2017 meetings. That plan has been tentatively agreed upon by NOAA and should be formally accepted once the sea turtle ITP application has also been submitted. Since so few turtle interactions have been observed in Virginia (0 by the VMRC protected species observer program, and 1 by the Northeast Fishery Observer Program since 2005), the state's gill net fishery will be allotted only a small number of allowable takes. The ITP application requests that state waters be divided into seven management areas. This will allow any new bycatch reductions measures put in place as a result of take overages to be focused on the most relevant region rather than the entire fishery. Staff is also requesting that the first five years of the 25-year take permit be considered a data-collection period, with no penalties incurred so as to not disrupt data collection. If necessary the number of allowable takes may be re-estimated at the end of that period. Two potential new regulations were presented for the committee's input: a requirement for fishermen to take observers if asked and reporting sea turtle takes within 24 hours of the interaction. Mr. Powers expressed concern that fishers could make false reports to pad the allowable take re-estimate. Mr. Scott MacDonald says this is unlikely because fishermen generally do not report takes for fear of the fishery being closed. Chairman Deem asked if one area can give up their take to another that goes over. Ms. Blachman said this could be written into the proposal. Mr. MacDonald said fishermen will not be in favor of being required to carry an observer. He says many will assent to take an observer, but sometimes they lack the space or don't feel like it. Mr. Charles Dryden, gillnetter, echoed this, saying he usually takes observers but sometimes doesn't have the space on deck.

C). Discussion on Management of Spot and Croaker

Fisheries Management Deputy Chief Pat Geer presented an update on the status of the spot and croaker fisheries, seeking comments at ASMFC's behest. No stock assessments have been approved for management due to the lack of data on shrimp trawl bycatch. The harvest and abundance metrics explained by the traffic light graphs (green means performing well, red means performing poorly, yellow means status quo)

are conflicting, with abundance appearing healthy, harvest appears to shrink, while catch per unit effort is constant. Some of this can be explained by decreasing weights and lengths per fish. ASMFC is preparing proposals to split croaker into northern and southern areas at the NC-VA border and to trigger management actions when the traffic light indices are below a threshold for 2 of 3 previous years. This motion did not pass the ASMFC's South Atlantic State/Federal Board because states did not have management responses ready. Deputy Chief Geer says VMRC wants to work with FMAC and the public to create acceptable management responses. Several members of the Committee and the public spoke against size limits, which could eliminate the keeping of small fish for bait. Chief O'Reilly agreed, saying size limits for smaller species are difficult when several year classes can all be the same size. Mike Insley, a haul seiner from Poquoson, said the reason effort is down is that small fish aren't worth the expenses of catching them. They try increasing mesh size, installing release panels, and backing down the net, but the small fish stay in the net. He said cutting fishing days wouldn't work because the fishery is already doing that. Mr. Powers said he would be in favor of a bag limit, that twenty fish are enough to fill a bucket for bait. Several members of the public expressed a preference for a higher bag limit, to allow filling up on bait for offshore trips. There was discussion of bycatch in the shrimp fishery; several members of the public said NC shrimp trawls catch so many croaker a day that any Virginia regulation would have negligible effect.

D). Update on the Striped Bass Stock Assessment

Staff member Alex Aspinwall presented an update on the Striped Bass Stock Assessment, which went through peer review in November 2018. A coastwide model showed that the fishing threshold was exceeded, meaning that overfishing was occurring, and that the spawning stock biomass was below its threshold, meaning the stock is overfished. This assessment did use the calibrated MRIP data, which caused recreational harvest to be estimated 2-2.5 times higher than previously thought. Chairman Deem asked if the higher MRIP estimates also meant the spawning stock biomass was higher. Mr. Aspinwall said SSB did increase, but not as much as the harvest estimates did. He will have those numbers available as soon as the peer review summary has been distributed. Chief O'Reilly added that according to harvest at age, there are less large fish now and pointed out that the Potomac River Fisheries Commission has a maximum size of 36 inches. Staff is looking to put a maximum size limit in place at the April Commission meeting. Mr. Bello said he has heard there is momentum gathering in other states for proactive management. Chief O'Reilly said any action now would be proactive; he doesn't expect any action from ASMFC within the year. Mr. Bello and Mr. Sinclair both expressed concern about the mortality rate when discarding large fish. Mr. Robert Weagley was also concerned about the mortality of fish outside the 18-28 inch spring slot size and said he would prefer to catch his

quota and get out of the fishery to reduce discards. Mr. Powers expressed support for a no-take slot-size to allow people to keep true trophies; Mr. Sinclair agreed. Mr. Neill said that he would prefer to still see a fishery for trophy size fish in the fall. Mr. Sinclair had concerns about catfish eating striped bass spawn. Chief O'Reilly said if people want to see less catfish, Virginia would need to increase the catfish processing sectors and markets. Mike Avery, President of the Virginia Saltwater Sportfishing Association, stated that while he's in favor of conservation measures, he is not in favor of Virginia taking unilateral action when it is a coastwide species. He recommended VMRC present the ASMFC with a coastwide plan. Mr. Powers suggested instead that Chief O'Reilly make a motion at ASMFC to recognize that Virginia is taking strong action and that should count towards any forthcoming ASMFC conservation actions.

E). Briefing on December MAFMC Meeting

Chief O'Reilly discussed the results of the December MAFMC meeting. Addendums 31 and 32 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan were approved, allowing conservation equivalency in the management of black sea bass and creating a new process for annual summer flounder and black sea bass recreational management measures. Chief O'Reilly said that there was talk of lawsuits surrounding the summer flounder discussion and New York only wanted their option for receiving more allocation. Failing to pass that motion, the Council decided to readdress the issue at the February meeting.

F). Other Business

1. River Herring on the Chickahominy River

Mr. Weagley asked for an update on a river herring fishery on the Chickahominy. Deputy Chief Geer said that Eric Hilton of VIMS is currently working on a sustainability plan, which would likely be for 2020 to allow for collection of another year of data prior. Deputy Chief agreed with Mr. Weagley that there are financial concerns, as an approved river herring fishery requires monitoring moving forward.

2. Response to Striped Bass Towing

Chief O'Reilly passed word from Commissioner Bowman that there will quickly be regulation on fish towing due to the recent increase in media and public attention. Fisheries Management staff member Lewis Gillingham gave context to the issue: fishermen had been seen adding weight to striped bass by towing them behind the boat, forcing water into their stomachs. This often occurred during tournaments with cash prizes. The increase in striped bass towing was brought to the attention of VMRC staff in December. Staff then drafted a tentative definition of towing for adding a prohibition

into regulation: “Towing of fish means a cable, rope, line or other similar material with one end attached to a vessel, the other end secured to a harvested fish and placing the fish in the water when the engine of vessel is running and in gear.” Several commenters felt the inclusion of “running and in gear” to be important so that low speed kayaking or drifting with a fish tied up to stay fresh could not be implicated. Mr. Sinclair expressed concern that the towing of sharks to bleed them out and safely bring them on board would be included. Mr. Gillingham clarified that this regulation would only apply within state waters. Mr. Scott MacDonald suggested specifying application of the regulation to striped bass and cobia to avoid shark fishing being targeted. Mr. Bransom gave an example that when fishing for large drum, boats might stay in gear to maintain their position while the fish is on a lip grip in the water. Mr. Powers asked if trolling, or any other active fishing, would fall under this definition. Chief O’Reilly said law enforcement would use judgment. Mr. Powers said he does not want the definition to be subject to judgment calls. Mr. Sinclair argued that tournaments should be putting this in their rules and that many tournaments are now. There were several comments in agreements, that the appearance of a hole for a rope to be tied through could be grounds for disqualification. Mr. Bello and Jerry Hughes, a recreational angler, both had concerns about small boats that can’t fit large fish on board or in live wells. Mr. Gillingham said it sounds like everyone is against the practice of towing and the definition should be narrowed to striped bass and cobia. Max King, striped bass fisherman, estimates that 25% of boats engage in fish towing and high grading practices. Towing causes great stress to the fish. Mr. King tried dragging a striped bass once, found that it added four pounds after an hour of towing.

IV. Old Business

There was no old business

V. Adjournment

The meeting was adjourned at 9:38 pm.