

**Virginia Marine Resources Commission
Finfish Management Advisory Committee Meeting
VMRC Conference Room**

September 24, 2012

Members Present

Jeff Deem (Co-chair)
David Agee (for Ken Neill)
Jack Austin
Ernest Bowden Jr.
Skip Feller
Wayne France
Wynston Holbrook
Scott MacDonald
Tom Powers
Walter Rogers
Beth Synowiec
Robert Weagley

Members Absent

Percy Blackburn
Russell Gaskins
Andy Hall
Hon. William Laine, Jr.
Hon. Joseph Palmer, Jr.
Chris Vaughan

Others Present

Bob Allen
Frank Kearney
Dusty Crump
Robert Weagley, Jr.

VMRC Staff

Joe Cimino
Lewis Gillingham
Joe Grist
Alicia Nelson
Robert O'Reilly

The minutes were recorded by Alicia Nelson.

I. Introductions/Announcements

Mr. Deem welcomed and introduced three new members, Mr. Jack Austin, Mr. Skip Feller, and Ms. Beth Synowiec, to the committee.

II. Minutes from the January 23, 2012 meeting

Mr. Weagley noted that he was not listed as present on the January 23rd meeting minutes. Mr. MacDonald motioned to approve the minutes as amended, and Mr. Agee seconded. The motion passed unanimously.

III. Spiny Dogfish: request to allow transfers

Joe Grist described the current spiny dogfish provisions and reminded the committee that transfers are currently not allowed unless for specific exceptions involving illness, military leave, family retirement, or death.

Mr. Grist described the history of the limited entry spiny dogfish fishery. He said that, initially, 101 permits were awarded, but several individuals were granted entrance into the fishery after the Commission adjusted the criteria to recognize any “dogfish” reported from November through February, 2006 through 2008, as spiny dogfish (there are now 108 permits). The management control date is April 30, 2011.

Recently, there were requests to the Commissioner to allow transfers in the spiny dogfish fishery. Mr. Grist said it would be a way to allow new entrants into the fishery and to decrease bycatch in the fall. However, allowing transfers would also add increased effort to a fishery that is already experiencing overcapacity despite the recent restrictions. Some believe that the number of industry participants should be limited to 50 members. He said that in 2011, out of 106 permitted, less than 50 actively participated.

Mr. Deem asked if there was interest in getting licenses back from those who aren't using them. Mr. Grist answered that is a question for the Committee.

Mr. Deem asked if the quota was caught last year, and Mr. Grist replied that we actually went slightly over quota, and that the overage was deducted from this year's quota. Mr. Powers asked about the price per pound, and Mr. MacDonald clarified that it is generally 20 to 25 cents per pound.

Audience member Michael Shackleford, commercial fisherman, described that a reporting mistake kept him from qualifying for the permit, and that he had been forced to go out with other individuals to get spiny dogfish. He mentioned that some individuals that don't really fish got permits. He asked for a one-time spiny dogfish permit transfer to allow him to accept another harvester's permit.

Mr. Deem asked if a 2 for 1 swap would be a possibility, and Mr. Shackleford responded that he only knew one person willing to transfer their permit to him.

Mr. Bowden said that he was on the Spiny Dogfish Subcommittee and didn't see how they could have made it any easier to qualify for a permit. The only requirement was one pound of harvest. He said that many people qualified that don't fish (including helpers and people who no longer fish). He mentioned that, with the high number of people in the fishery there would only be a few working days before the quota was reached. He said that he felt for Mr. Shackleford's situation, but we were looking at ways to lower the number of permittees, and we can't make a rule for one person. He also mentioned the upcoming issues with marine mammal regulations and Atlantic sturgeon that will affect all large mesh gillnet fisheries.

Ms. Synowiec and Mr. Deem discussed the possibility of returning permits to be redistributed or expiration dates on unused permits. Mr. Grist reminded the group that even if a harvester surrenders a permit for someone else to use, you are still going to have the problem of overcapacity (assuming the new permittee would be active). Ms. Synowiec suggested limiting the licenses available (for example, for every 10 that submitted, only 4 be reissued). Mr. Grist mentioned in that case, 4 could be issued by lottery.

Mr. Holbrook asked what happened when a permit gets turned in, and Mr. Grist responded that there are no criteria to maintain the permit. A harvester is qualified until they don't have a commercial fishing license for over a year, and the only way it can be transferred is if someone dies or enters the military or claims some other hardship. Mr. Holbrook also asked about the possibility that allowing transfers would create a market for the permits (for those selling them). Mr. Bowden predicted that those who didn't use the permits would get a lot of money for them.

Mr. Powers said that the same issue comes up with crab license transfers. Anytime a license is transferred, there is a high possibility that that license will then be used heavily (if someone put out the money to purchase it). He asked what the long-term goal was for members in the fishery. He said the right number of individuals for this fishery is probably 40 or 50 (\$10,000 a year/fisherman). He also mentioned the possibility of harvesters falsifying reports.

Mr. Grist mentioned that all spiny dogfish must be sold to a federally permitted dealer, meaning that all reports can be audited to test for validity.

The committee discussed the problems with having too many individuals (boats) in the fishery. In the early 1990's, when the fishery was open, there were only 30 to 35 people participating. With the large number of people permitted, the fishery can produce more than the cutting houses can handle at any one time. It would be better to have fewer participants and a longer, more gradual season.

Mr. Grist clarified the Commission's decision on not allowing latent reports to count for qualification. He said that only reports turned in on time and in compliance with Regulation 610 counted. He also mentioned that the subcommittee chose to only use the state reporting system (not federal).

Mr. Bowden clarified that those who had entered the fishery based on incorrect reports had reported on time, but reported dogfish or smooth dogfish. Based on the time of year, it was clear those landings were spiny dogfish.

Mr. Shackleford reiterated that he had turned in all his reports on time they included other species harvested, just not dogfish which were on separate tickets. He said that it was an honest mistake.

Mr. Weagley asked about the possibility of allowing only 2 transfers per year, and Mr. O'Reilly said that transfer provisions like that would need to go to the Commission.

Mr. O'Reilly said that the spiny dogfish subcommittee went as far as they could when developing the criteria to allow as many people in as they could. He said that the big picture is that the 2.14 million-pound quota that Virginia enjoys right now is going to decrease. He mentioned that there were other people in Mr. Shackelford's situation. If something is done for one person, it has to be available for all. Mr. O'Reilly invited Mr. Shackelford to come to the public comment period at the following day's Commission meeting. He summarized the committee's overall feeling that his situation may be a little different (he had reported but left out those tickets).

Mr. Powers said that a FMAC recommendation should be based on the rules that are in place; he felt that the committee did not have the authority to make exceptions, only to suggest that the Commission reconsider the issue.

Mr. Bowden felt that a lot of things needed to be discussed before making recommendations to the Commission, and that those decisions would not be made at the current meeting. Mr. Deem was concerned that delaying could allow effort to increase, and Mr. Bowden reminded the group that the control date would keep that from happening.

Mr. Powers suggested that staff report on the catch statistics (what the fishery looked like prior to and after the control date) at the next meeting. This should tell us if 10,000 pounds would be a good cut off. He said that this risk with this type of system is that every time we have a limited entry, everyone is going to try to make 5,000 to 10,000 pounds per year of landings just to make sure they keep their permit.

Mr. O'Reilly said that we wouldn't have a special meeting of the Finfish Committee for this issue, but staff can report that information as part of the next agenda.

Mr. O'Reilly told the committee that the North Atlantic fishery for spiny dogfish has received MSC (Marine Stewardship Council) certification for a sustainable and well-managed fishery. Products from the fishery are now able to carry the MSC eco-label. This will have marketing implications for the fishery.

IV. Tautog: 2013 fishery management plan

Joe Cimino gave a PowerPoint presentation on the proposed management measures for the 2013 tautog fishery. He said that the currently proposed management measures are a product of commercial and recreational cuts

approved in the fall (2011) for a 50% reduction in the fishery. Months later, the ASMFC came back with a smaller required reduction (39% reduction instead of 50%). It was May before the Commission could take action to relieve some of the measures. By that time, certain changes could not be made mid-season. This presentation is to consider options for changes in the 2013 fishery. Recreational and commercial ad hoc committee members have been polled prior to this meeting.

Recreational Options

Mr. Agree said that the Peninsula Salt Water Sport Fisherman's Association preferred keeping the regulation the same (16 inches and 4 fish bag limit) to keep it consistent so the everyday fisherman could keep up with it. Mr. Austin also said tautog fishermen in Portsmouth would rather keep the 16-inch size limit and have fewer closed days.

Mr. Feller asked if the dates could be moved up. He suggested keeping the 16-inch size limit and 4 fish, and keeping the season open in April. He said that the season could be closed in August.

Mr. Powers said that with that option, there wouldn't be much savings credit for the month of August, and that the spring closure was set up to protect the spawning fish.

Mr. Cimino said that it could be an option. He mentioned that it is not uncommon for spawning to occur during the last two weeks of April.

This option was not supported by several committee members, but was agreed to be entertained as an option for the public to weigh in.

Mr. Gillingham suggested changing the bag limit from 4 fish to 3 fish, and Mr. Feller asked if that would allow us to get back days in the fall. Mr. Deem asked if most anglers caught all four fish, and Mr. Feller answered that they didn't usually.

Mr. Powers said that this new option takes 19 days from the fall and puts back 15 days in the spring. He motioned to suggest two options to the Commission. The first is a 16-inch size limit, with a 4-fish bag limit, and a closed season from April 20 through July 1. The second would be a 16-inch size limit, with a 3-fish bag limit, and a closed season May 1 through September 19th. The motion was seconded by Skip Feller. The motion passed unanimously.

Commercial Options:

Mr. Cimino described two commercial options (15-inch minimum size and a closed season January 22 through February 28 and May 1 through October 31, or a 16-inch minimum size limit with a closed season beginning February 1 through February 28 and May 1 through October 31). He said that many of the ad hoc

members supported the first option. There were no comments from the committee.

V. ASMFC and MAFMC fishery management updates

Mr. O'Reilly gave updates from the recent fisheries management commission meetings. For summer flounder, there will be a 2-year approach (instead of yearly) to management specifications. The coastwide quota will be 11.44 million pounds for 2013 and 11.39 million pounds for 2014. This is a cut from the 2012 coastwide quota of 12.73 million pounds. Both the commercial and recreational quotas have been decreasing. As of 2009, the stock has been considered restored; however, because year classes drive the quota management, the estimate for recruitment in the 2009 year class reduced by over 40%. This is reflected in the estimated spawning stock, and quotas are reduced to make up for it. Both fisheries took approximately a 35% reduction since 2011.

For black sea bass, estimates and quotas have been fairly low since 2011 (1.76 million pounds for commercial sector and 1.04 million pounds for recreational sector). It improved for the recreational sector in 2012 (1.32 million pounds) and commercial went down slightly (1.71). The council debated using a management scheme that covered multiple years for black sea bass, but determined that more data is needed. The 2013 black sea bass quota will go up to 1.78 million pounds for the commercial sector, and the recreational harvest limit will be 1.85 million pounds. There have been improvements; however, there is still a lot of conservatism built into the process. Once the scientific committee makes a recommendation on acceptable biological catch, it cannot be made higher.

Mr. O'Reilly said that bluefish year classes have not been doing well for several years. The commercial quota for 2013 will be 9.4 million pounds and recreational harvest limit will be 14.5 million pounds (down from 17.88 million pounds in 2011). As long as the Council and ASMFC are managing together, they are going to be fairly cautious because many years have been spent on conservation of these species.

Mr. O'Reilly explained that a new addendum for striped bass tagging will be heard at upcoming meetings. This is a result of the sting operation in the Potomac River that involved Virginia fishermen resulting in 1.6 million dollars in fines against 19 individuals and 4 corporations for illegally harvesting striped bass. There will not be a universal tagging process for the coastwide fishery, so the current Virginia tagging program can remain unchanged. Requirements described in the addendum are already (more than) met by the Virginia tags. Massachusetts does not currently have a tagging program, and Rhode Island has dealer-based tagging, and these new rules should do an effective job at closing those loopholes. Mr. O'Reilly also described the jurisdictional challenges from those who have licenses for both Potomac and Virginia.

The Shad and River Herring Management Board also recently met. Virginia has sent in a sustainability plan for the small bycatch fishery for American shad. In the plan, we had to indicate that we had a sustainable allowance based on several factors (VIMS uses those fish for research, only anchored or staked gillnet gear is allowed, reduces waste in the system, structured reporting system).

For menhaden the recent stock assessment update was not successful (there were problems with the new scientific approach). The main issue is to stop overfishing coastwide and to determine the quota allocation between the two fisheries (bait and reduction). The draft amendment could allocate more quota to the bait fishery. He mentioned that the VMRC does not have management authority over menhaden (the General Assembly has management authority).

Mr. O'Reilly also updated the committee on American eel. He said that American eel is on the fast road to a protected species listing, but we don't know which kind (threatened or endangered). Three species are in the listing process (Atlantic sturgeon has been listed as endangered, a river herring listing is being considered, and American eel would be the third). The US Fish and Wildlife Service has said that if there is a good conservation effort, there might not be a listing on American eels. We currently have a 6-inch size limit.

Mr. Weagley asked about red drum, and Mr. O'Reilly said that there are tons of puppy drum and a good crop of the larger drum. There is supposed to be a big pulse all the way up to Delaware. They discussed problems with individuals catching large red drum illegally.

Mr. Rogers asked about Potomac River shad bycatch, and Mr. O'Reilly said that AC Carpenter (PRFC) was able to come up with sustainability plan for the shad bycatch fishery, and they are able to have pound nets (Virginia can only fish with anchored or staked gillnets). In the pound net fishery in the Potomac, they were able to get an idea of the discards. Mr. Rogers and Mr. O'Reilly discussed the discard monitoring issues with Virginia pound nets and the technical committee analysis.

Mr. Deem asked about a short class to educate the committee on fisheries management issues. Mr. O'Reilly said that we could bring the committee up to speed on why management works the ways it does. Mr. Deem and Mr. O'Reilly discussed a 1-hour education session during the next committee meeting.

VI. Reconsideration of fisheries violations in terms of sanctions

Mr. O'Reilly said that Commissioner Travelstead is interested in discussing the penalties for fisheries violations and law enforcement. The Fisheries Management Division is conducting interviews with law enforcement in all areas. This effort is in addition to what is being done with the regulatory review committee.

Mr. O'Reilly described the requirements involving repeat violations. Currently, three court-adjudicated violations are required before someone is brought before the Commission for a hearing. Someone could have five or six violations before three would be taken through the court system. He said that more extreme violations should bring individuals before the Commission sooner. The idea is to create a matrix of violations based on severity (can be species specific).

Mr. Powers asked about meeting timing and changes in the Code of Virginia. Mr. O'Reilly said that with our system, we generally have to have any legislation ready in August to pass on to the Secretary of Natural Resources. He reminded the committee that anyone can contact their delegate and have the delegate sponsor a change. In many cases, the substantive changes are brought up that way. Mr. O'Reilly clarified that the governor and secretary have to be in support.

VII. Next Meeting Date

The next meeting date was set for December 3rd.

VIII. Adjournment

The meeting adjourned at 8:10 pm.