

**Virginia Marine Resources Commission
Finfish Management Advisory Committee (FMAC) Meeting**

2600 Washington Avenue, Newport News, VA
VMRC Commission Room, Fourth Floor
Tuesday, January 12, 2010, 6:00 p.m.

ATTENDANCE

Members Present

Hon. Ernest Bowden, Jr.
Jeff Deem
Russell Gaskins
Wynston D. Holbrook
Douglas F. Jenkins, Sr.
David Agee for Dr. Ken Neill, III
Scott MacDonald for Pete Nixon
Darren Foster for Tom Powers
Walter N. Rogers
Samuel P. Swift
Robert Weagley

Members Absent

Andy Hall
Hon. William Laine, Jr.
Chris Vaughan

VMRC Staff

Jack Travelstead
Robert O'Reilly
Joe Grist
Joe Cimino
Lewis Gillingham
Stephanie Iverson
Mike Johnson

Laura M. Lee
Alicia Nelson
Justine Woodward
Sonya Davis
MPO Head

Others Present

Paul Anthony
James Joseph
Robert L. Baker
Frank Daniels, Jr.
Faye B. Daniels
W.T. Nottingham
J.E. Clark
William S. Reynolds
Preston C. Smith
Vern Ricker
Woody Malone
Stanley F. Jester
Jim Dawson
Mark Eastman
Rex Cox
Mark Pierce
John C. "Chris" Ludford
Frank Kearney
Alan Hall
William Crewe

Les Rickman
Roger McCoy
Danny Shoosmith
Larry Struss
Dean A. Shoosmith
Charles Dryden
John Dryden
Jeff Hammer
John Bundick
Ken Smith
Roger Parks
W. (last name illegible)
Keith Casiano
Alden D. Murphy
Larry Peele
C. (last name illegible)
Tom Wilson
Brent Malone
Tim Niels
Steven Lang
Joseph Stephenson
Wilson Cropp
Kelly Place
Harry Kiriakou
Luke Negangard

A quorum was present with 11 members in attendance.

Minutes recorded by Laura M. Lee.

SUMMARY

I. Introductions; Announcements

Chairman Bowden called the meeting to order at 6:05 p.m.

II. Approval of minutes from October 20, 2009 meeting

Mr. Jenkins mentioned that he made a comment at the October meeting that the information available regarding the warm-water honey-hole was misleading. Mr. Jenkins said this comment should have been included in the minutes from the October meeting. Chairman Bowden noted that other comments were left out and said the issue was going to be looked into. Mr. Travelstead said that the printed minutes are meant to be a summary of the meeting and added that audio minutes are available. Mr. Travelstead added that if a member wants a specific comment added to the minutes, it could be done. The minutes from the October 20, 2010 meeting were approved unanimously.

III. Old Business

a. Update on Speckled Trout / hot water discharge fishing areas

Mr. Gillingham handed out a copy of a letter from the Tidewater Anglers Club in which the club endorsed their support for a fall and winter net ban against commercial fishing within the vicinity of Virginia hot water discharge plants in the Elizabeth and York rivers. Mr. Gillingham reminded the committee that the Salt Water Fishing Tournament (SWFT) has a committee that meets annually. He provided a brief background on speckled trout (spotted seatrout) biology. Mr. Gillingham also summarized recent commercial and recreational harvest of speckled trout in Virginia (a supplemental hand-out was provided to the committee). He noted that recreational statistics for 2009 are currently preliminary. Mr. Gillingham reviewed the management options that were discussed by the SWFT committee. The proposal is to impose a 5-fish limit on the commercial and recreational fisheries during December through March. One of the 5 fish can be greater than 24 inches. Commercial harvest during these months has been fairly small. Studies have found that fish tagged in the hot ditch during the winter tend to re-occur in Virginia. The advantage of the proposed regulations to the commercial fishery would be the protection of the brood stock. Mr. Gillingham pointed out that the original purpose of the regulations proposed by the Tidewater Anglers Club was to protect spawning fish.

Mr. Jenkins asked where these fish spawn. Mr. Gillingham responded that spawning takes place in the bay and river systems. Submerged aquatic vegetation (SAV) provides critical spawning habitat. Speckled trout typically spend the cold weather months in deeper water where predation is higher and food availability is lower. In the hot ditch, the water is warm and there are a lot of forage fish. Tagging data have shown that fish that spend the winter in the hot ditch are growing as fast in the winter as during other months, which suggests these fish are growing faster than those that spend the winter in the ocean waters.

Mr. Holbrook asked if limits can be imposed in the sanctuary only.

Mr. Gillingham mentioned that there has been support for the proposal from other recreational clubs. There appears to be general support from the recreational sector.

Mr. Jenkins asked if headboats fish in the hot ditch area as well. Mr. Gillingham said the area has been attracting guide boats (flat skiffs that carry 2 or 3 people) from other states. Mr. Gillingham noted that the commercial statistics given in the hand-out apply to all Virginia state waters; deriving estimates for just the hot ditch area would be very difficult to tease out.

He added that the recreational estimates don't include recreational harvest in January or February because there is no sampling during Wave 1 (January-February). Currently, there is a 10-fish possession limit for commercial and recreational fisheries in Virginia.

Chairman Bowden reviewed the restrictions that have been imposed on the commercial sector and said he can't see imposing a 5-fish limit on the commercial fishery in Virginia.

Mr. Foster said he thought the idea was to protect the hot ditch and the fish that occur there. He asked whether the proposed regulations would apply to the hot ditch area only or all state waters.

Some committee members asked if banning gill nets would affect them. Others asked why gill nets should be banned if they are not a problem. Mr. Gillingham said the only gill nets that he is aware of that operate in the area are attempting to catch bait and that the recreational fishery has been catching the bulk of fish.

Motion

A motion was made by Mr. Holbrook to draw boundaries around the hot ditch and designate the hot ditch as a sanctuary. Inside the sanctuary, a 5-fish possession limit per person for commercial and recreational fisheries will be imposed. The motion was seconded by Mr. Deem.

Public Comment on Motion

Mr. Stanley Jester (audience) commented that these were North Carolina fish to start with.

Mr. Ed Fisher (audience), a commercial fisherman, said he thought imposing a 5-fish possession limit on the commercial fishery was unfair because commercial vessels can't have as many individuals on board as recreational vessels can.

An unidentified person (audience), a commercial hook and line fisherman, said he thought designating the area as a sanctuary is a great idea. He practices recreational catch-and-release fishing in the area. He said he was concerned that recreational anglers may be keeping more than their limit.

Mr. Joe Stephenson (audience), a commercial hook and line fisherman, said he doesn't understand why some support a 5-fish possession limit for the recreational fishery and no fish for the commercial fishery. The commercial fishery has been subject to more restrictions. He didn't agree with imposing limits on commercial fishermen because recreational anglers want it.

Discussion on Motion

Mr. MacDonald asked why the committee wanted to include commercial fisheries in the proposed restrictions. Mr. Bowden said there is a commercial bait fishery.

Mr. Agee requested the motion be amended such that one fish may be greater than 24 inches.

Mr. Deem expressed his concern that allowing one large-size fish would result in high-grading. Mr. Agee said he thought it would happen anyway. Chairman Bowden agreed there would be high-grading but that it would occur in a different way.

The proposed amendment to the motion was rejected.

Mr. Bill Reynolds (audience), a commercial hook and line fisherman, said he can't do a 5-fish possession limit per person for the commercial fishery. He said selling fish caught in the hot ditch would be a violation. The committee said that is not what the proposed motion suggests.

Motion Vote

The motion failed with 3 votes for, 7 against, and 1 abstention.

Motion

A motion was made by Mr. Weagley to table the issue until it becomes a problem. The motion was seconded by Mr. Swift.

Motion Vote

The motion carried with 7 votes for, 4 against, and 3 abstentions.

b. Summer Flounder commercial bycatch issue

Mr. Grist reviewed concerns regarding fishermen loading up on small croaker and bringing in large amounts of flounder bycatch (a supplemental hand-out was provided to committee). The majority of bycatch has been small (1–50 pounds). The number of trips with large bycatch (>500 lb) has increased in the last few years. Mr. Grist showed projections of what would have happened in 2006 through 2009 under different amounts of bycatch allowance. A meeting of the industry proposed some measures.

Chairman Bowden asked about bycatch allowance in other states. Many states allow 500 pounds and below in the bycatch fishery. Virginia probably has the largest allowance during the directed open season. Other states allow 2,000 pounds or less during directed season; some states have no or very limited allowances.

Chairman Bowden expressed his concern about large amounts of croaker going overboard just to land summer flounder. He said some important croaker regulations—probably minimum size limits—would be coming soon.

Mr. Travelstead said the issue will go to the Commission in March as a request for public hearing. He added that the results of the upcoming stock assessment should provide an automatic trigger to lower to 1,500 pounds.

Chairman Bowden and Mr. Travelstead provided more background on how the industry meeting suggestions evolved.

Mr. Swift asked why Virginia doesn't allow a directed allowance for 1,500 pounds instead of bycatch. Mr. Travelstead replied that the industry was divided; some want it to remain a bycatch, while others have a market during the summer months (higher prices).

Mr. Jim Dawson (audience) suggested the regulation add a clause that individuals have to sell fish at the same place they landed summer flounder. Chairman Bowden said that was the intent of the current suggestion. Mr. MacDonald said there are still ways around having to

sell where you land. Chairman Bowden said that there is always an attempt to close loopholes, but it is not always possible.

Mr. Travelstead asked if it was worth offloading lots of croaker just to reload later.

IV. New Business

a. Summer Flounder recreational measures for 2010

Mr. O'Reilly handed out a draft plan of the summer flounder recreational measures for 2010. The ASMFC Management Board will meet in February to approve states' plans. The ASMFC Technical Committee will meet later this month to give final approval regarding the technical aspects of the submitted plans. Mr. O'Reilly said that the estimate of Virginia's 2009 landings was low; Virginia was below its target by 30%, which means Virginia can liberalize in 2010. He noted that the 2009 landings value is an estimate only, because only data through August are currently available. Mr. O'Reilly reviewed Virginia's performance relative to the target in the past few years. He explained how predicted changes in landings resulting from proposed measures are calculated. He said that the amount of information provided from the Saltwater Journal and tagging program has dropped off in the last couple of years. Mr. O'Reilly felt the Maryland Volunteer Angler Survey had better participation numbers in the last few years. Mr. O'Reilly said the 2008 year-class was the largest year-class on a coast-wide basis since 1993. By 2011, that year-class will be growing into 3-year-olds, which will affect management.

b. Summer Flounder commercial hook and line size limit

Mr. Travelstead provided several hand-outs and told the committee that staff has consistently received complaints regarding the difference in the minimum size limit of summer flounder allowed for commercial and recreational fishermen using rod and reel. Currently, commercial fishermen in Virginia are subject to a 14-inch minimum size limit and recreational anglers are subject to a 19-inch minimum size limit. Many in the recreational sector see this as an inequity and feel that anyone that fishes with rod and reel should be subject to the same size limit. The otter trawl is the main commercial gear for summer flounder so the size limit has been kept low to reduce the number of fish thrown back; most summer flounder discarded by trawl are dead. The commercial rod and reel fishery does not have the discard problems experienced by the trawl fishery and so some think there is no need to abide by the 14-inch size limit and, instead, should be subject to the same size limit as the recreational fishery. About ten years ago, a task force was organized to address this issue. A few years after the task force met, the Coastal Conservation Association (CCA) sent a letter in support of the commercial hook and line fishery; however, some commercial fishermen don't want different size limits for different gear types. The summer flounder resource is relatively healthy (not overfished and overfishing not occurring). Though the stock has not yet rebounded to the biomass levels management would like, it has been headed there. Virginia's commercial hook and line fishery is currently a limited-entry fishery. Commercial hook and line harvest has increased in recent years but has remained a small portion of Virginia's total commercial harvest. Virginia's quota is subdivided by area, and most of Virginia's quota is taken offshore. The issue is thought to have little impact on the overall stock. Staff currently has no position. Commercial hook and line licensees are required to register themselves and crew

members; however, not all commercial hook and line licensees are true commercial fishermen, which was not the intent of the original regulation. The original regulation was intended for fishing by true commercial fishermen. Some charter vessels have acquired licenses and allow customers to fish on more than the recreational size limit.

Mr. Foster asked if those fish get reported if they are not sold. Mr. Grist replied that they are supposed to be reported as personal use or retail, but there is no way to audit that catch.

Mr. Travelstead said he has not heard a lot of clamoring for individuals to get into the commercial hook and line fishery. If there was, he would suggest tightening rules for getting into the fishery. He added that anyone in the striped bass fishery automatically qualifies for the commercial hook and line fishery.

Mr. Jenkins said it's harder to get larger size fish in northern areas.

Mr. MacDonald said he felt the issue was a question of fairness. He said that the commercial hook and line fishery is subject to restrictions that the recreational fishery and other commercial gears are not. For example, commercial hook and line fishermen can't fish on certain days in certain areas where others can.

Chairman Bowden asked for comments from the audience.

Audience Comments

Mr. Kelly Place (audience) said he was commercial fisherman with a commercial hook and line license. He said he thought the 14-inch minimum size limit (summer flounder) was allowed for the entire commercial fishery because Virginia took a penalty in quota as a conservation equivalency measure. Mr. Place summarized the restrictions that have been placed on commercial hook and line fishermen over time. He said he felt it was odd to propose changing the limit unless a negative biological or economic effect on the entire stock could be demonstrated.

Mr. Chris Ludford (audience) said he was a commercial hook and line licensee. He asked for confirmation that the crew member list can be changed only once a year. He was told that the list can change twice a year. Mr. Ludford then asked if there was a limit on the crew size. He was told there was not. Mr. Ludford pointed out that the majority of the public audience members were here for this issue. He added that he was not supportive of any changes.

Mr. Ken Smith (audience) would like to see the issue 'killed' tonight. He said the science proves the difference in size limits is not hurting anything.

Mr. Joe Stephenson (audience) said he doesn't think jealousy should affect what fishermen are allowed to do.

Mr. Jim Dawson (audience) said he holds a commercial hook and line license. He felt increasing the commercial hook and line size limit was clearly discriminating by trying to separate one commercial entity from commercial group. He doesn't think there should be different regulations within the commercial sector unless there is a problem. Mr. Dawson expressed his concerns about crew member lists and said he feels it was an enforcement issue. He said he thought a vote on the issue could solve that aspect of the problem.

Mr. Robert Baker (audience) introduced himself as a commercial licensee. He said if the commercial fishery size limit was raised to 19 inches, he might as well quit.

Mr. Bill Reynolds (audience) said he was a member of original task force. The task force met once a month for ten months. There were lot of discussions, a lot of time spent, and a lot of give and take. Mr. Reynolds agreed that the commercial hook and line fishery is not hurting the fishery overall. He added that he would like to see the issue come to a close tonight.

Committee Discussion

Chairman Bowden said the commercial and recreational rod and reel size limits were originally very similar. The commercial fishery is constrained by a quota system, and the recreational is not. Imposing a separate size limit on one small segment of the commercial fishery would not be fair. He asked about commercial watermen that have multiple gears on their boat. He questioned how law enforcement would know what gear brought them in. Chairman Bowden said the current status of the stock and fishery does not indicate a problem. He doesn't feel the issue needs to go any further.

Mr. Foster asked if Virginia ever exceeded the commercial hook and line limit or state waters limit. Mr. Travelstead replied no and added that the unused portion of the quota set aside for state waters is moved to the trawl fishery quota late in the year; in the long run, such regulations will not the change amount of fish being killed, but who's killing them.

Mr. Deem said some recreational fishermen have expressed frustration in that the current regulations only allow them to catch mature females. He said it would really help the fishery out if they were not targeting spawners and taking smaller fish instead. Mr. Deem added that the throw-backs and mortality that could be created by raising the size limit could be embarrassing. He added that something should be done about charter boats that hold commercial hook and line licenses.

Mr. Travelstead said that a limit on the crew size was proposed when the commercial hook and line license was initiated, but was rejected.

The committee suggested that staff look at the crew size issue.

c. ASMFC compliance updates: Weakfish, Sharks, Black Sea Bass

Mr. O'Reilly said the ASMFC Weakfish Management Board imposed more restrictive measures on commercial and recreational weakfish fisheries. There will be a 100 pound trip limit for the commercial fishery and 1 fish creel limit for the recreational fishery. Mr. O'Reilly also said that the Scientific and Statistical Committee (SSC) decided to set specifications for the 2010 black sea bass fishery based on the 2008 fishing mortality rate estimate, which will result in an increased total allowable catch (TAC) and total allowable landings (TAL). He added that the NMFS still has to make a decision as to whether to increase the 2010 TAL or leave it at the 2009 level.

Mr. Gillingham provided a copy of the regulation that was sent to the Plan Review Team for Atlantic Coastal Sharks. The draft regulation has an amendment that requires all smooth dogfish landed by recreational fishermen to have the head, tail, and all fins attached at the

time of landing. This purpose of this amendment is to maintain compliance with the Atlantic Coastal Shark Fishery Management Plan (FMP).

d. Other

Chairman Bowden informed the group that the NMFS decided to open the non-sandbar large coastal shark fishery in the Atlantic region on July 15, 2010.

Mr. Travelstead provided copies of a recent report summarizing blue catfish research in Virginia and told the committee that the blue catfish issue will be going before the General Assembly.

V. Next Meeting

The date and time of the next meeting was not determined.

VI. Adjournment

The meeting was adjourned at 8:55 p.m.